

Chapter 1

Introduction

Background

1.1 On 12 September 2005, the committee tabled the first of two reports in relation to its inquiry into protection visas and deportation matters. The first report examined the government's response to Mr Chen Yonglin's request for political asylum.

1.2 The second report, tabled on 15 September 2005, was an interim report on a second high profile case: that of Ms Vivian Solon, an Australian citizen who was removed from Australia to the Philippines in July 2001.

1.3 The committee did not have the opportunity to examine any of the officers directly involved in the removal, search for and discovery of Ms Solon because the Commonwealth Ombudsman was conducting an investigation into this matter at the same time. Mr Neil Comrie, who conducted the inquiry, requested that no officers involved in the Ms Solon matter be approached in relation to their dealings with her until his investigation was finalised. The committee decided to table its preliminary findings in an interim report and to await the publication of the Ombudsman's report before tabling a final report on this matter.¹

1.4 On 6 October 2005, the Commonwealth Ombudsman released the report prepared by Mr Neil Comrie.

1.5 This is the committee's final report which focuses on the committee's response to the report by Mr Comrie. Taking into consideration the findings and recommendations made by Mr Comrie and Mr Mick Palmer,² where relevant, the committee makes further comment and recommendations. The committee does this where certain issues were not addressed by the other two reports or where the committee considered comment needed to be further strengthened with a recommendation.

1.6 The committee was asked to examine issues surrounding Ms Solon's removal, search and discovery, concentrating in particular on the involvement of the Department of Foreign Affairs and Trade (DFAT). However, the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) played the central role in Ms Solon's removal, and the decisions taken by DIMIA are critical to understanding the context for DFAT involvement. To provide this context for the

1 For a detailed discussion of this issue, please see pp. 1–6 of the committee's interim report.

2 Mr Palmer produced the report on the *Inquiry into the circumstances of the Immigration Detention of Cornelia Rau* in July 2005. It also contained preliminary comments and findings regarding Ms Solon.

reader and ensure clarification of the role played by each department, DIMIA's actions and questions arising from its actions are also addressed in this report.

Establishment of the inquiry

Terms of reference

1.7 On 16 June 2005, the Senate, on the motion of Senator Bob Brown, referred the following matters to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 9 August 2005:

- (a) The response of Department of Immigration Multicultural and Indigenous Affairs, Department of Foreign Affairs and Trade, Attorney-General's Department and their respective Ministers to Mr Chen Yonglin's approaches or requests to the Australian Government for asylum and/or a protection visa;
- (b) The application of the Migration Act 1958, its regulations and guidelines concerning the maintenance of confidentiality for any consular officials or staff (including Mr Chen Yonglin, and any other former consular officials or staff) who were applicants for territorial asylum and/or protection visas by Department of Immigration Multicultural and Indigenous Affairs, Department of Foreign Affairs and Trade and their respective Ministers;
- (c) The involvement of the Department of Foreign Affairs and Trade and the Minister in the deportation, search and discovery of Vivian Solon, and;
- (d) any related matters.

This report addresses terms of reference (c) and (d).

Conduct of the inquiry

1.8 The committee advertised the inquiry in *The Australian* on 22 June 2005 and on its website. It wrote to relevant Ministers and departments, interested individuals and groups inviting submissions. The committee received nine public submissions and one confidential submission from a range of organisations and individuals. A list of individuals and organisations who made a public submission or provided other information that was authorised for publication by the committee is in Appendix 1.

1.9 The committee held a public hearing in Sydney and four public hearings in Canberra. A list of witnesses who gave evidence at the public hearings is in Appendix 2.

Acknowledgment

1.10 The committee is grateful to, and wishes to thank, all those who assisted with its inquiry.