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To whom it may concern,

Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015

The Australian Psychological Society (APS) welcomes the opportunity to make a submission to the Senate Legal and Constitutional Affairs Committee's Consultation on the Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015. The APS is not in a position to comment in detail on all the proposed measures. However, based on the weight of evidence from psychological research and practice, the Society has concerns about each of the measures outlined, as well as the intent of the Bill.

Along with this submission, the APS draws the committee's attention to its Position Statement on the psychological wellbeing of refugees and asylum seekers, comprehensive Literature Review on the psychological wellbeing of refugees resettling in Australia, and numerous submissions made to Government and Human Rights inquiries into detention and migration policy and reforms over the past 10 years. These resources can be accessed at: <http://www.psychology.org.au/community/public-interest/refugees/>

Responding to the proposed Bill

The APS understands that the introduction of the Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015 aims to increase the powers of authorised officers to use force against people in immigration detention. The Bill does not define the terms "reasonable force" or "good order", nor does it clearly set out the circumstances in which it would be acceptable to use force against people in detention. The APS therefore believes that the Bill places detainees at serious risk of being subjected to unnecessary force which may cause them serious mental and physical harm.

The proposed extension of powers (and lack of accountability associated with this measure) is concerning for the APS. Psychologists are well aware of the dangers of unfettered power from compelling evidence gathered in classic experiments by social psychologists such as Stanley Milgram and Philip Zimbardo. The proposed measures would increase the risk of Immigration Detention Facility (IDF) staff exhibiting exactly the kinds of behaviours predicted by such research: unquestioning compliance with unethical and dangerous directives, increasing inability to display empathy, and misuse of assigned power.

The extensive powers that would be sanctioned by this Bill appear to leave the door wide open for the use of 'cruel, inhuman or degrading treatment' on the part of 'authorised officers' of an IDF, with very little accountability beyond a 'reasonable belief' that conditions warrant it. The APS Statement on Torture (2007) makes it clear that any psychologist who perpetrates or is party to such treatment would be in breach of the Society's Code of Ethics, and hence psychologists employed in any IDF would likely be seriously compromised:

The Australian Psychological Society, as a member of the International Union of Psychological Science, fully endorses the United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1997.

The Australian Psychological Society regards all forms of torture, as defined in Article 1 of the United Nations Declaration and Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment 1997, as breaches of the Society's Code of Ethics (2003) General Principle III Propriety.

Furthermore, while the aim of this Bill is to maintain the 'good' order of Australia's immigration detention facilities, it fails to address the real problems with our detention system.

There is an unfortunate predictability about disturbances experienced in detention facilities. Social psychologists have documented that extreme behaviour is a common outcome in situations where people lack personal control, social connection and hope. Long-term detention can be a dehumanising experience for detainees, and it is recommended that elevated rates of aggression directed outwards and inwards as self-harm be understood as predictable responses to this context and not as manipulative or attention-seeking behaviour. Such research highlights the situational attribution of behaviour (whereby the situation causes individual behaviour, rather than anything inherent or lacking in the individual). In particular, the research evidence attests to the harmful effects of institutionalization and alerts us to the risk of the proposed measures actually increasing discontent and violence as a form of resistance to oppression, by people with limited sense of their own agency and very limited power.

This Bill does not address the core problem which is the policy of indefinite mandatory detention, both offshore and onshore. The APS believes the following measures are imperative to address concerns around the detention of asylum seekers and ensure optimal mental health and wellbeing among refugees.

Policies that protect rights and minimise psychological harm

The APS recommends that the Australian Government prioritise policies which protect the human rights of those seeking asylum in Australia and minimise psychological harm to an already vulnerable group.

The APS Position Statement on the Psychological Wellbeing of Refugees and Asylum Seekers in Australia (2010) considers it imperative that Australia meet its obligations under the UN Refugee Convention and uphold the fundamental right of refugees to seek protection, by adopting a fair refugee status determination process. This should include onshore processing of asylum seekers who come to Australia seeking our protection. Once security and health checks have been completed, asylum seekers should not be held in detention but allowed to live in the community while their claims for refugee status are being assessed. This is commensurate with international human rights standards as well as psychological research and best practice.

Furthermore, rather than policies of deterrence which risk lives, compromise human rights and exacerbate poor mental health, policies that provide refugees with viable alternatives to boarding boats in the first place would provide more durable solutions for asylum seekers and refugees in the region. These should involve developing a comprehensive regional framework that works with the UNHCR to increase annual intake and ensure more efficient processing of applications for asylum. The framework should also provide safeguards to guarantee that people are treated with dignity throughout the asylum process to prevent further distress and trauma.

Social psychology research has found widespread community prejudice against asylum seekers, exacerbated by the rhetoric of both the media and successive governments which has perpetuated misunderstanding and misrepresentation of those seeking asylum and their circumstances (APS, 2010; Pederson et al, 2012). The positive and accurate representation of refugee issues, including the magnitude of the issue (e.g., relatively low numbers of asylum seekers arriving by boat, and Australia's refugee intake in the global context) is also an essential part of a just and lasting response. This should include the use of accurate language in reference to refugees and asylum seekers, education about the contexts within which refugees have fled, anti-racism education, the promotion of positive survival stories and the identification of the contribution refugees make to the broader community (APS, 2010).

We would be happy to provide further comment on this Bill; for further information about our submission please contact me

Yours sincerely,

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Manager, Public Interest

About the APS

The APS is the premier professional association for psychologists in Australia, representing more than 21,000 members. Psychology is a discipline that systematically addresses the many facets of human experience and functioning at individual, family and societal levels. Psychology covers many highly specialised areas, but all psychologists share foundational training in human development and the constructs of healthy functioning.

A key goal of the APS is to actively contribute psychological knowledge for the promotion and enhancement of community wellbeing. Psychology in the Public Interest is the section of the APS dedicated to the communication and application of psychological knowledge to enhance community wellbeing and promote equitable and just treatment of all segments of society.

For over a decade, psychologists have been actively involved in advocating for the mental health needs and human rights of those seeking asylum in Australia. The APS, in consultation with psychologists working directly with asylum seekers, has long expressed concern regarding the impact of policies of deterrence such as mandatory detention and temporary visas on the mental health and wellbeing of asylum seekers.