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4th May 2014
Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO BOX 6100
Parliament House
Canberra ACT 2066

By email: legcon.sen@aph.gov.au

Dear Committee Secretary,

Inquiry into the incident at Manus Island Detention Centre during 16 – 18 February 2014

Please accept this late submission into the inquiry into the incident at Manus Island Detention Centre during 16 – 18th February 2014. I write this submission in my capacity as a former CAPs provider at the Manus Island Regional Processing Centre (“MIRPC”), present at the MIRPC for almost two weeks before the incidents.

I was first deployed to MIRPC for a two-week period beginning 1st August 2013, as an employee of Playfair, the sole contractor providing Claims Assistance to transferees at MIRPC. I departed Manus Island on 15th August 2013. My second deployment to Manus Island began on 5th February 2014. I resigned in protest from Playfair Visa and Migration Services on 19th February 2014 and departed Manus Island on 20th February 2014. My submission will cover most of the terms of reference.

I am a registered migrant agent, working predominantly in the Immigration Advice and Application Assistance Scheme (IAAAS) as a subcontractor, since April 2011. I have worked as a subcontractor predominantly with Australian Migration Options, an IAAAS provider based in Adelaide and Playfair Visa and Migration Services (“Playfair”), the Claims Assistance Provider (CAPs) service provider for MIRPC. Except for my time at MIRPC, I have otherwise been engaged as a subcontractor with Playfair. My comments on the refugee processing arrangements at MIRPC are based on my extensive experience representing asylum seekers both in detention and in the community. The views expressed herein are my own except where expressly stated otherwise.

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Documents provided to CAPs employees and clients:

Prior to our first deployment to Manus Island, Playfair staff were provided with draft “PNG Procedural Guidance Manual v3” (Attachment 1); “Manus Island Living and Working Guide v8” (Attachment 2); as well as Disclosure and Confidentiality agreements (both Commonwealth and Playfair – Attachments 3, 4, 5) to sign. We were also asked to sign documents at the last minute related to our accommodation on the HMAS Choules, but I don’t believe these are relevant to the terms of reference.

I was informed by my employer, Petra Playfair, that the document “PNG Procedural Guidance Manual v3” (Attachment 1) was being drafted by Department of Immigration and Citizenship (DIAC) employee Wendy Brown, of Onshore Protection in Victoria.

I was never provided with a finalised copy of this document and am unclear as to its current status. It did strike me as odd that an Australian DIAC employee was drafting what appeared to be Papua New Guinean government documents. The CAPs providers deployed in February 2014 were not provided with this document. It seemed more alarming that such a document was not finalised before we were to provide advice to clients on how their claims were to be assessed.

Some of documents provided to clients in interviews beginning on 3rd August 2013 appeared to have been finalised in July 2013 or earlier. These documents include information that points to third country resettlement as a live option for clients (Attachment 6 – Information sheet: Refugee Status Determination Process at Manus Island Regional Processing Centre”). The English version of this document states in part:

“People who the Minister determines to be refugees will be resettled or transferred to another country. That country will not necessarily be Australia.

The timing for resettlement or transfer will be in accordance with the principle that people who seek refugee status by travelling irregularly (including by using people smugglers) should receive no advantage and be resettled no faster than people who access regular refugee processing opportunities closer to their country of origin)”

This is the only information about processing times I ever received or provided to clients at Manus Island RPC. This information leaflet was withdrawn from circulation by our team leader on the 7th February 2014, a few days in to my second deployment. We were instructed not to give this information sheet out to clients from this date.

During both deployments, we were provided with a document called “Papua New Guinea Immigration and Citizenship Service Authority Application for Refugee Determination.” A header on the document reads: “ISCA document last updated 3rd July 2013.” [Attachment 7]. This document contained a declaration that CAPs required clients to sign, which reads:

I consent to the release of information from this application and authorize consultation by the Papua New Guinea Government for the purposes of any of the assessment of my claims for refugee determination, as well as consultation required with resettlement countries and international organisations such as UNHCR and IOM.

Attachment 8 is the TIL provided to clients up until the 12th February 2014. Attachment 9 is the TIL provided to clients from 15th February 2014. All these documents refer to legal advice as being independent of the government of Australia and government of PNG. I was provided these documents by Playfair, but am not sure who produced the documents.

The documents that I provided to clients at the MIRPC during my first deployment in August 2013 included documents stating that clients would be either resettled or transferred to another country. The documents stated that this country would not necessarily be Australia.

On my first and second deployments to Manus Island, we provided clients with the UNHCR definition of a refugee (in their preferred language) [Attachment 10].

Up until the afternoon of the 12th February 2014, I was providing to clients one version of the TIL provided by Playfair (Attachment 8). The English version of this document states, at question 16: “*We understand that if you are found to be a refugee*

you will be resettled in the Regional Processing Country or in a different resettlement country. We also understand that there are no plans for you to be resettled in Australia." I provided what I was led to believe was an accurate translation of this document in client's preferred language to them during their CAPs interview with me.

During team meetings up until the 12th February 2014, I heard my colleague, LH, raise repeatedly with our team leader, Nick A, that question 16 of the Transferee Information Leaflet [Attachment 8] clearly stated that resettlement, including to a third country, was a possible outcome of the refugee status determination process. This made it a little difficult to avoid the topic with clients though we were instructed under the threat of removal from MIRPC to do just that.

On the 12th February 2014, CAPs team members, including myself, were told to stop handing out the Transferee Information Leaflet. We were provided with a new Transferee Information Leaflet [Attachment 9] a few days later. During this time we were still required to get client signatures on the English version of the Transferee Information Leaflet, stating that we, the CAPs providers, had explained the contents of the Transferee Information Leaflet to the clients.

During my deployment, I assisted to prepare the following documents which, when duly completed and signed, together made up a client's Refugee Status Determination application. These documents are attached as Attachment 7, 7A, 7B, 7C.

Attachment 7A is a word attachment to Attachment 7 which answers questions 2, 3, 5, B13, 6, 8, 9 10 of Attachment 7. Attachment 7B is A statement of claims which answers questions B2 to B9 of Attachment 7. Attachment 7C is an English-language copy of the signature page of the TIL provided to clients in their preferred language, signed by clients, confirming their appointment of Playfair as their representatives for both the initial RSD process and the review process and confirming that they had the contents of the TIL explained to them through an interpreter.

Every client who completed an RSD application with me signed Attachment 7C. I believe that the same is true for my colleagues, as we were informed that without this signature the application for RSD would be invalid.

Initial deployment to MIRPC August 2013:

In August 2013 and February 2014, I was employed as a Claims Assistance Provider, by Playfair Visa and Migration Services, to work at the MIRPC. I worked at the MIRPC from the 1st August 2013 until the 15th August 2013. I was deployed there again from the 5th until the 20th February 2014.

During my first deployment in August 2013 our access to our clients was delayed for a number of days after we had arrived on Manus Island. During this time we were told we could not interview clients for operational reasons. An interpreter informed me that the International Organisation for Migration (“IOM”) staff was speaking to the transferees, trying to convince them of the benefits of returning home. I asked the interpreter if the transferees knew that we had arrived at MIRPC to provide them with claims assistance. He indicated they he did not believe transferees were aware we were at MIRPC. I reported to my team leader and manager that I believed this behavior to be extremely inappropriate, if in fact IOM was interviewing transferees without knowing we were at the MIRPC. I expressed the same opinion to IOM staff directly.

During my first deployment to MIRPC, a number of clients expressed to me during interviews that they were aware of themselves and others being filmed as they were leaving appointments with other service providers. The clients told me that they were being filmed by IOM. I am aware that this footage was later used in Department of Immigration and Border Protection (“DIBP”) videos of MIRPC transferees discouraging other asylum seekers from travelling by boat to Australia. During client interviews, my clients expressed confusion about what the footage would be used for, fearing it may be broadcast on television or provided to authorities in their home countries.

Our initial schedule over my two week deployment in August 2013 included first CAPs interview [during which we meet a client for the first time, take a statement of claims from them about why they fear persecution in their home country and fill in

the PNG RSD immigration forms] and then Refugee Status Determination (RSD) interviews during which clients are interviewed about their claims by an immigration official, with their CAPs provider present. This is similar to how onshore “taskforce” deployments used to work in onshore detention centres: the IAAAS provider has perhaps a week or 10 days to conduct ideally 2 but sometimes 3 client interviews a day: instead of a CAPs interview, we would call this an IAAAS interview. The following week or two weeks later, depending on the length of the deployment, we would have the RSD interviews scheduled in such a way that the same individual IAAAS agent would work with the same clients at their RSD interview.

This schedule, however was suspended on 11th August 2013, when we were informed that our CAPs interviews had to be suspended because many of our clients had not had “transferee” interviews.¹ Our interviews were suspended for 2 and a half days while transferee interviews were rescheduled. We were supposed to conduct RSD interviews, but these were suspended and we continued with CAPs interviews for the entire two weeks.

Though in theory the process for transferees should look like this: transferee interview → CAPs interview → RSD interview - in practice, it appeared the schedule had been thrown together in such haste that someone had forgotten to conduct the transferee interviews. This meant that I was not able to personally attend the RSD interview for any of my clients, which puts them at a distinct disadvantage.

¹ “transferee interviews” are similar to the entry interview conducted by Australian authorities as part of the “screening in” process. That is: the interview is conducted by Immigration authorities prior to the allocation of the client to a service provider to do claims assistance/protection visa application. Though PNG authorities have access to this interview as part of the refugee status determination process, asylum seekers and their claims assistance providers are NOT provided with a copy of the interview record. Nauruan authorities and Australian authorities provide the entry interview/transferee interview to representatives. The PNG information leaflet (Attachment 6) states that this interview is not part of the RSD process. However on Thursday 3rd April 2014, Minister Scott Morrison issued a joint release with his PNG counterpart, the Hon. Rimbak Pato, stating that “The process of Refugee Status Determination is well advanced, with two-thirds of transferees having had initial interviews at the Regional Processing Centre.” I believe these interviews can only be the “transferee interviews” as CAPs could not have completed their interviews for anything like this number of clients at the time the release was issued.

<http://www.minister.immi.gov.au/media/sm/2014/sm213227.htm>

When I was deployed at MIRPC, I was responsible for documenting client refugee claims and assisting them to prepare their cases. This includes confirming details of their arrival on Christmas Island and involuntary removal to Manus Island. I noted the following concerns in particular about the interception and involuntary removal of clients from Christmas Island:

During my deployment in August 2013, I had a Faili Kurd client, 36 years of age, who had been separated from his adult sister and her young children when he was involuntarily removed from Manus Island. The sister and her children remained on Christmas Island.

During this same deployment another client, a 49 year-old Afghan Hazara with a 17 year-old son on Christmas Island who had arrived before him, told me that he not been allowed by Australian authorities to see his son before he was involuntarily removed to Manus Island.

Another client, a 37 year-old Iranian male, has a wife living in the community in Brisbane. This client explained to me that he had sent his wife ahead of him from Indonesia because she was ill and running out of medication. He begged a smuggler to take her despite his limited funds. Despite his wife being in community detention in Australia, he was involuntarily removed to Manus Island.

A 24 year-old Iranian male, was photographed by an Australian Department of Immigration and Citizenship staff member he named as "Tara", whilst on Christmas Island. He claimed that Tara had told him the photographs would not be made public. This client was also photographed by the media leaving the plane at Manus Island. He complained of the humiliation, stating that his family now believed him to be a criminal, having seen his picture on the news. He also raised concerns that the Iranian authorities may seek to harm him because they would now know him to be an asylum seeker who had attempted to enter Australia.

During my August 2013 deployment, I interviewed a 17 year-old boy. This boy had travelled to Australia with his paternal uncle, on the same boat. This boy had documentation proving his age and his relationship to his uncle, documentation I have

seen and had translated to me. This boy told me that at Christmas Island, staff documented his date of birth as 18 years of age, though he had copies of his identification documents from his home country on his person. He was separated from his uncle and removed to Manus Island.

Staff members of IHMS and the Salvation Army approached me during and after my claims assistance interview with this 17 year-old boy. Both staff expressed their concerns that the boy had been sexually assaulted whilst in the MIRPC. The boy expressed extreme fear of the other clients in the MIRPC to me during our interview. During our interview he became very distressed and had to seek medical assistance.

I have since been informed that the boy was moved to Christmas Island at the end of 2013. I have reported his case to the Royal Commission into Institutional Responses to Child Sexual Abuse. I have no way to understand why it would be considered appropriate to separate a child from a close family member and then deport the child to a facility designed for single adult males.

At the time of my first deployment to Manus Island, in August 2013, we were informed that there was no specialized torture and trauma (“T&T”) support at the MIRPC. International Health and Medical Services (“IHMS”) staff was available to assist clients with psychological problems, but we were informed that there was no T&T staff on the island to assist vulnerable clients. At the time of my first deployment, we were interviewing 2 clients a day. This changed to 3 a day during my second deployment.

My second deployment to MIRPC February 2014:

I was initially scheduled for deployment to Manus Island on 16th February 2014. However in early February, I was informed that we could be leaving early. In the end I was given 24 hours notice to depart for Manus Island.

On 5th February 2014, prior to my deployment and whilst still in Melbourne, I participated in a pre-departure briefing over the telephone, given by a woman named Jo Boardman, who I was told was from DIBP Canberra. Petra Playfair, Managing Partner, and Shanil Nanayakkara, Practice Manager from Playfair advised us we were

not to speak or ask questions during the briefing. Jo Boardmann from DIBP Canberra did most of the talking.

At this briefing it was discussed that Playfair would be provided with a “script”, by DIBP to use when we held group meetings with transferees. It was also discussed that transferees who engaged in protest activity could be denied access to a migration agent.

My second deployment began on 6th February 2014, when we arrived on Manus Island. After a few inductions conducted on the Bibbi Progress, I headed to the MIRPC.

As soon as we arrived at the detention centre, a DIBP staff member whose name I was told was Andrew Kniepp (not sure of spelling) asked myself and fellow CAPs staff member Charlotte C where Nick A [CAPS team leader] was and when we were going to start the groupmeeting. We explained that we felt we needed Nick to help us prepare for client interviews which had been scheduled by DIBP for first thing the following day. Andrew was aggressive, stating that we [CAPS] were brought to assist them [DIBP] and we needed to go where we were asked by DIBP. I stated that if we were to do our jobs we needed appropriate preparation time, which we had not received considering how rapid the deployment was. This interaction pretty much set the tone for all DIBP interactions with CAPs staff over the period of the deployment.

My notes from February 7th 2014, after only one day of client interviews, indicate that several times, the CAPs staff were informed of rumours being fed back to Playfair by DIBP Canberra, making allegations about things we were supposedly saying to clients or supposedly saying to other staff on the island or at the Bibby. Either this day or the next day I told my team leader, Nick A, that I did not think it was appropriate for Playfair management to be reporting rumours to us as staff and that any complaints from DIBP needed to be appropriately documented and formalized, or else quarantined and handled by Playfair management without pushing it down to us. At some point over the next few days I told Nick A that I considered it an OH&S issue (bullying) for Playfair to continue to handle unsubstantiated and frankly childish rumour-mongering from DIBP in this way. I reaffirmed that I and

other CAPS were employees and that as a Commonwealth agency, DIBP had obligations to ensure that we worked in an environment free of harassment and bullying from their staff, especially if, as it appeared, they were in effective control of our work environment. In this I was guided by page 20 of Attachment 2, which refers to the obligations under the APS Code of Conduct. In the early days of our deployment, CAPs were advised that we should avoid talking to or socialising with any staff outside the CAPs team, at least once a day. This made for an extremely isolating and hostile environment, in which we felt like we were effectively being spied on both in our client interviews and during our time off work.

From the 7th to the 16th February 2014, I interviewed 2 - 3 clients per day from Mike, Oscar and Foxtrot compounds in particular, in order to prepare their claims for Refugee Status Determination. I am aware that, overwhelmingly, clients in these compounds have been at MIRPC significantly longer than clients in Delta compound. Our interview rooms were alongside Oscar compound. The aim was 3 clients a day, though because of scheduling issues or just the particularities of the cases, this was not always possible. This gave us significantly less time for actual case preparation, in particular handover notes to the next CAPs who would be handling the case, given that we likely not be seeing our individual clients through to their Refugee Status Determination (RSD) interview. Our previous deployment had involved interviewing no more than 2 clients a day.

I interviewed 2 – 3 clients per day, every day, from the 7th February until the end of the day, 16th February 2014.

Other welfare, scheduling and legal issues during February 2014 deployment:

I have redacted my timeline to protect client identities.

I had a gay client one morning. For his own protection, I advised him about the existence of PNG sodomy laws and the potential legal ramifications for him if he was discovered engaging in unlawful activity, given that the character assessment is built into the refugee status determination process in PNG. At first he laughed and said that it would be difficult to engage in any “jiggy-jiggy” (his words) in the camp

considering the routine bed checks. He asked me what PNG sodomy laws meant for resettlement and I advised him that Playfair was aware that this was an issue and that we recognised that PNG was not an appropriate resettlement location for a gay man. This is based on previous conversations we had amongst the Playfair team on the previous deployment, where we had discussed the need to carefully monitor and document sexuality claims, given our knowledge of PNG sodomy laws. This was an area of significant discussion within the Playfair team deployed in August 2013.

Later that day, our team leader pulled us out of our interviews for an emergency team meeting, where we were told again not to discuss resettlement under any circumstances with clients.

We were informed at this meeting that the information that we were doing so had come from a client talking with a friend in the compound, which was then somehow intercepted by the Salvation Army, who then reported it to G4S, who in turn passed it on to DIBP on Manus. From there the information went to DIBP in Canberra. DIBP Canberra apparently called Playfair in Sydney who then called our team leader. Nick A warned us against entering into any discussion with clients about third country resettlement. I objected that I simply could not tell a gay client that he could face criminal sanction for homosexual activity in PNG and then simply refuse to discuss resettlement. I told my team leader that I had simply advised that Playfair was aware this was an issue.

I heard my colleague, LH, raise repeatedly with our team leader, Nick A, that question 16 of the Transferee Information Leaflet [Attachment 8] clearly stated that resettlement, including to a third country, was a possible outcome of the refugee status determination process. As she emphasised, whether we were raising it or not, this made it a little difficult to avoid the topic with clients.

At around this time Nick A also pulled the “Transferee Information Leaflet” and replaced it with a new one [Attachment 9].

Supply of Interpreters

At least one client of mine did not want to go ahead with his RSD interview with a Persian interpreter, as he is an Ahwazi Arab and his first language is Arabic. We were told we could only provide a Persian interpreter. As we had already been informed that we had very limited access to alternative interpreters and my team leader had emphasised to we simply could not accommodate alternative interpreter requests, I tried to pressure the client into accepting a Persian interpreter. The Persian interpreter rightly objected to pressure being put on the client, which he considered a breach of his professional ethics. I reported to Nick A that both myself and the interpreter were uncomfortable with the amount of pressure the client was under because of inappropriate interpreter scheduling. Nick A came in to tell the client it may be months before his interview was scheduled if we did not go ahead with the interview in Persian. This is an issue that came up a number of times over the first week of the deployment. A number of the Arabic background clients from Iran expressed concern that they were once again being forced to use the Persian language and that many had had their preferred language incorrectly recorded. This is particularly grievous for Arabic clients from Ahwaz, many of whom have suffered discrimination and worse for speaking in their native language of Arabic or wearing Arabic clothes. Being forced to use the language of their persecutors (Persian) when outlining exactly this persecution is something a number of clients objected to.

I spent one morning writing out interview slips for clients and providing a schedule for G4S as it didn't appear this work was being done by anyone else. Later that evening, my files became corrupted – I suspect as a result of Playfair putting all their agent information on what I was told were discounted, wiped and re-used “One Direction Australian tour” branded flashdrives: very cheap and poor quality flashdrives. Yes, I mean the boy band.

On one day, G4S garbled a message about getting my client to come back later in the afternoon (to accommodate another client interview running over time) and ended up delaying all the Mike clients, pushing the schedule further back. My third client never turned up because he never received his interview slip.

I worked on my scheduled day off in an attempt to ameliorate some of the issues that had arisen with clients falling off the schedule because we were running behind. We

were informed that it may not be possible to interview clients who had missed their interviews for several months. It became clear that the Salvation Army, who were responsible for providing slips to clients in their compounds the night before the interview, had not handed out slips to some clients, putting them at risk of delaying their CAPs interview for months. When we asked what had happened, G4S would report to us that the client refused to attend the interview. Myself and other CAPs took to taking the slips to clients themselves – with the help of other transferees, we were able to ensure our clients were aware of their interview times by going into the compounds ourselves to hand out slips.

Lack of email and other facilities seriously hampering client’s capacity to put forward their claims

I had at least two clients who claimed to have substantial documentation supporting their claims, both of which were extremely complex cases involving court proceedings and documentation from legal counsel in Iran. CAPs are required to carefully document any criminal proceedings in which clients have been involved, as can be seen from Attachment 7. It should be noted that the front page of Attachment 7 is supposed to outline section 14 (2) of the relevant Regulation in relation to criminal history and character: the page finishes before the regulation does and we did not provide any alternative document outlining this regulation in full.

Since both were in Oscar compound, they could not get access to their emails to download the documentation to provide to us. A system was supposed to be established to facilitate client access to their email, but this did not happen during our deployment. This significantly hampered my ability to effectively represent these clients. These clients in Oscar have now had internet access for a few weeks. It is already too late for at least those two clients.

Not having access to this documentation made it extremely difficult to provide accurate information on these forms. Clients who have been in the MIRPC for so long struggle to remember dates and other important information contained in these documents.

When we were on the island in August 2013 we were in rooms with internet access. While we were on deployment in February 2014, these rooms were now being used by the DIBP staff.

Destruction of personal identification, theft of valuables during interception and involuntary removal to Manus Island

During my deployment in February 2014 a number of clients from the boat codenamed GRL independently claimed to me during their claims assistance interviews that the Australian Navy had sunk their vessel without allowing them to retrieve their valuables. Clients stated to me during interviews that they had lost passports, money and other forms of irreplaceable personal identification. This type of personal documentation, including proof of identity, is of fundamental importance to the refugee status determination process.

During the same deployment, a client on the KNS boat, a 28 year old Iranian male, alleged to me during his interview that property was stolen from him by SERCO guards on Christmas Island, including valuable gold jewellery, a religious necklace, an expensive sports watch and a phone charger.

Constantly changing information provided to clients about resettlement and the RSD process, at the behest of DIBP:

On our first deployment, information was provided to clients about a “Review Team”. However, no further information was provided to me about the composition of this review team and the leaflet that mentioned this team [Attachment 6] was pulled from circulation. Instead, we handed out only the TIL. This leaflet went through a number of revisions during my second deployment to MIRPC.

All versions of the TIL leaflet in English (Attachments 8 & 9) explain that part of the role of Playfair was to “explain what you need to show in order to qualify for protection” and “answer any questions you have about the decision-making process in the Regional Processing Country”. **It is these parts of the role that I do not believe Playfair was able to adequately provide to our clients, largely because of what I experienced as the intimidating and controlling behavior of DIBP.**

Up until the afternoon of the 12th February 2014, I was providing to clients one version of the “Transferee Information Leaflet” provided by Playfair. The English version of this document states, at question 16: *“We understand that if you are found to be a refugee you will be resettled in the Regional Processing Country or in a different resettlement country. We also understand that there are no plans for you to be resettled in Australia.”* I provided what I was led to believe was an accurate translation of this document in client’s preferred language to them during their CAPs interview with me.

During team meetings up until the 12th February 2014, I heard my colleague, LH, raise repeatedly with our team leader, Nick A, that question 16 of the Transferee Information Leaflet [Attachment 8] clearly stated that resettlement, including to a third country, was a possible outcome of the refugee status determination process. This made it a little difficult to avoid the topic with clients.

On the 12th February 2014, CAPs team members, including myself, were told to stop handing out the Transferee Information Leaflet. We were provided with a new Transferee Information Leaflet [Attachment 9] a few days later. During this time we were still required to get client signatures on the English version of the Transferee Information Leaflet, stating that we, the CAPs providers, had explained the contents of the Transferee Information Leaflet to the clients.

Given that I had no new version of the leaflet to refer to during these few days, I explained to clients that I could not give them the document in their own language but that it broadly outlined that Playfair were their representatives and that we would assist them with each stage of the refugee determination process if they wished. When they asked about resettlement, which occurred in most client interviews, I told them I was not sure what I could actually tell them about resettlement. This, as you can imagine, did not inspire great confidence in the service we provided.

During the second week of my February 2014 deployment to Manus, my team leader, interrupted an interview I was conducting with a client in order to question the client about why he was telling other clients there were third country resettlement options and where he had received this information. It seemed from the discussion with the

client, which myself and the interpreter were witness to, that someone had instructed my team leader to find out why this client was telling other clients that there were third country resettlement options. After my team leader left the room, I expressed to the client my apologies. I told him that I believed my team leader's behavior was inappropriate and it wouldn't happen again.

Later that day I informed my team leader that if he ever spoke to a client of mine like this again, I would lodge a formal complaint. I wrote about the incident in strong and colourful language in my daily work sheet. I believe that this behavior utterly undermined any claim that Playfair had to be impartial and working on behalf of the transferees at MIRPC. Nowhere in my employment contract does it suggest part of our role was to spy on clients and report back to DIBP.

I believe that Nick A was directed to carry out this action by Playfair under pressure from DIBP. I do not know this to be true, but I believe it to be true. I believe he, Petra Playfair and DIBP Canberra should be asked questions about this incident and what Playfair staff were being ordered to do by DIBP more broadly in the weeks leading up to February 16th.

Information that I provided in client interviews was being routinely reported back to DIBP in Canberra. For the first few days, our team leader would remind us several times a day that information we provided in client interviews was being provided by the Salvation Army staff and G4S to DIBP staff. Nick told us that once this information got to DIBP Canberra, they would call the Playfair office in Sydney and threaten to remove the CAPs team from MIRPC. This information would be relayed to us at least once and sometimes twice a day during our deployment. We were also told not to socialise with other staff at the MIRPC or the Bibbi Progress, in order to avoid interactions that may spark concerns from DIBP. We were warned in particular not to speak to interpreters, because we might get them in trouble with DIBP.

I became aware that my colleague CC had been issued with similar instructions for the 4 weeks she had been deployed at MIRPC as the only Playfair staff member.

Though I did not sit with clients during their Refugee Status Determination process, I was advised by Playfair that Australian DIBP staff conduct the interviews whilst their PNG counterparts sit quietly in the room. This is what clients at the MIRPC have informed me also, subsequent to my return to Australia.

All of our work, including travel schedules, interview schedules, was controlled by staff I knew as Department of Immigration and Citizenship (now Department of Immigration and Border Protection) staff from Australia.

The attitude of DIBP staff that we dealt with during the deployment was one of unremitting hostility. Playfair management did nothing to try to ameliorate or manage their bullying behavior, but rather reinforced it through threats to take us off the island for doing our jobs: providing impartial and professional advice to transferees about the RSD process as we understood it. It was evident that DIBP wanted us to reinforce the message that there was no alternative to resettlement on PNG despite the fact that no process whatsoever for resettlement in PNG existed and that the PNG authorities confirmed publically during our deployment that this was the case.

Impact of lack of procedures on capacity to effectively provide advice to transferees:

I was not in a position to advise clients how their cases would be assessed, as the RSD Guidelines were never completed. I was not a position to advise clients about the review process. I was in no position to provide any information to a client whom I might advise had *weak* convention claims about the pros and cons of continuing with the process, versus the risks of returning home. This is an important part of the advice that any migration advisor provides to an asylum seeker. Not every threat to a person's life fits within the terms of the Refugee Convention, therefore it is extremely important to provide information to those whose life may be at risk, how their claim will be assessed and what the advantages and disadvantages of continuing with an asylum claim could be, versus pursuing alternative options. An asylum seeker is often in a position of having to make a decision to risk their life by either returning to their home country or moving forward to another one, driven by considerations such as ongoing capacity to provide for their family or capacity to reunite with their family. I provide this information regularly to asylum applicants in Australia.

While MIRPC is a facility that holds single males, in fact many of our clients have wives and children. Providing advice about family reunion rights, travel rights and the ability to work and send money home to their families is a crucial part of the decision-making process, even for those with a high likelihood of persecution in their home countries. The problems clients confront when advisers are unable to provide this information were clear in the situation of a number of Syrian transferees at the MIRPC.

During the February 2014 deployment, my team leader reported to our team that he met with the Syrian clients, a few of whom demanded to return home because they were concerned for their families still stuck in Syria. The clients asked if they could return home. My team leader reported that the clients were told it was too dangerous and no agency would assist them to return to Syria, for this reason. The Syrians asked if, given that the danger in Syria was recognised by such agencies, they could be processed as a priority or given any information about when their cases might be processed. They were told by DIBP that this was not possible. At the time I was deployed at MIRPC in February 2013, a number of the Syrian clients were on some kind of suicide watch. I was aware that our team leader was called in to meet with these clients and the STARTTs team.

All versions of the TIL leaflet emphasise that Playfair works for transferees, not for the Government of the Regional Processing Country of the Government of Australia. By the second week of our deployment in February 2014, I did not believe this to be an accurate representation of our position, because of the level of control DIBP was asserting over our work and over us.

During my February 2014 deployment to Manus, I had a number of clients who asked for further information about the client declaration, in particular the references to resettlement, the UNHCR and IOM. I clearly remember that by the 11th February 2014, when clients were asking about the declaration, including the reference to the UNHCR and whether this meant they could be resettled, I was told to say to clients, by my team leader: “I have no further information about resettlement.”

On 12th February 2014, I watched a report on the internet that I believe, from discussion with other members of the CAPs team, was the same news report which I had witnessed G4S, Salvation Army, interpreters and other service providers watching in the mess at the MIRPC. This news report contained footage of members of the Papua New Guinean Parliament confirming that there was not yet a decision that those determined to be refugees could in fact be settled on Papua New Guinea. I know that at least one colleague sent an email to our team leader, alerting him to this report and the fact that PNG had not actually agreed to resettlement those recognised as refugees. We were aware that our clients would have questions about this and that we were essentially expected to act as if this discussion was not taking place. Our team leader continually re-emphasised that we needed to just tell clients that we could not talk about resettlement, only about RSD: as if you can talk meaningfully about an RSD process without giving some idea of where a person might end up.

On 13th February 2014, I made a note that protests were still happening at the MIRPC and that guards armed with riot gear still seemed to be entering the compounds regularly. I had heard that they were preparing for a raid on compounds because of a rumour of a planned fence breach (fence between compounds, not perimeter fence).

Several days later, I interviewed a client who was also a delegate for one of the nationality groups. He begged me for further information about resettlement, including whether there was actually a visa to apply for and whether there were alternatives to being settled on PNG. I informed him that there was no visa to apply for, but that I believed that the Refugee Status Determination process I was assisting him with would have to be the first step of any process that might eventuate. He said to me that in order to make decisions about their future the transferees he was delegated to represent needed to know whether there were any processes to allow for their resettlement and whether their families would be able to join them. I told him that I fully understood that he could not make decisions about his future without further information about resettlement or further information about how refugee claims would be processed on PNG. I told him that I could not give further information because it was clear that whatever I said in client interviews was being reported back to the Department and that CAPs had been warned not to enter into any discussion whatsoever about resettlement or give any impression that there may

eventually be “third country” options. I advised him that I had been informed that information we were giving to clients in our interviews was being passed back up to DIBP Canberra. He assured me that he would not tell anyone in the compounds what we had discussed.

I told him that I had been warned by my team leader that if I continued to enter into discussions about resettlement with clients that our entire team could be removed from the MIRPC, on the orders of DIBP. I told him that because I believed we were brought to the MIRPC as a demand of the detainees I felt a responsibility not to jeopardise their access to the limited claims assistance that we provided. I said to him that I appreciated that he was also in a difficult position as a representative of transferees but that all I could offer him was speculation, given the lack of procedures. I explained to him that it was difficult to answer questions about the likelihood that he would in fact be found to be a refugee given that there was no finalised RSD guidelines made available to the CAPs providers.

I advised him that I was being entirely honest with him about what I knew and what I didn't know. I advised him that in the absence of any documented process at all for resettlement, I could not tell him what would happen if he was found to be a refugee. I told him that I was aware that in the last few days, the Papua New Guinean parliament had debated the issue and confirmed that there was not in fact a decision that those found to be refugees would be settled in PNG.

I advised him, when he asked, that I thought he had strong refugee claims, based on my experience in Australia and my knowledge of the UNHCR handbook. I informed him that that was all the advice I could give him in the absence of any guidance on how his case would be processed. I explained to him that normally we would have some guidance as to how claims were to be assessed, but we had not been provided with any such document in relation to Papua New Guinea's processes other than a draft document no longer in circulation.

This is the only client I had such a frank discussion with about resettlement. Other clients I simply advised that I had no further information about resettlement, though I was fully aware of the latest information from the Papua New Guinean parliament

that there was actually no decision from the Papua New Guinean Parliament allowing for recognised refugees to be resettled in Papua New Guinea and no process to facilitate such an outcome.

Over the course of my deployment in February 2014, I asked to be provided with the “script” that DIBP had provided to my team leader to read out to transferees at group meetings. This script was never provided to me and I am not aware of its contents.

Medical issues before the assaults on the compounds on 16th and 17th February 2014:

One of my clients, a 28 year-old Iranian male, complained of torn ligaments, a result of injuring himself in the recreation area of Mike compound, which I have seen myself has no grassed area. He explained that he had received the injury one and half months prior to our discussion. He stated that he had been given Tramadol for 3 or 4 days, but stopped taking it because he was concerned he would become addicted. He stated that he lodged a complaint with IHMS and was told they would send his medical documents through to another service provider. He stated that had not been sent for an X-ray. He walked with a severe limp and complained of the pain. I provided this information to my team leader and in my daily work sheet to Playfair.

While walking in Mike compound, handing out interview slips for my clients, I met with a client from a former deployment, a 51 year-old Iranian male. He complained that he had received treatment at IHMS that had damaged his hearing in one ear. He wished to make a complaint about medical treatment and asked for my assistance. I informed him that I would tell my team leader.

On the same walk through Mike Compound, I met a 47 year-old Iranian male transferee. He had very few teeth and looked extremely fragile. He asked for my help to access medical assistance. I informed him that I would tell my team leader.

When I talked to my team leader after this walk, I was informed that these men would have to organise their own appointments to talk to the Salvation Army about these issues.

Whilst walking through Mike Compound I spoke to a number of transferees who expressed concern about the impact of their lack of freedom of movement on their access to medical treatment. I met two diabetic transferees in Mike, one who complained to me at length of long waits for his insulin treatment.

I also met this transferee on the deck of the Bibbi Maritime sometime after Sunday 16th February 2014. He told me that was afraid that with all the activity at the MIRPC, he may not be able to easily access his insulin if he needed it. He expressed this fear to medical staff when they told him he could last until the following morning without his insulin without any medical issues. At the time I walked away from this conversation, IHMS staff were reassuring this transferee that they would try to get his insulin that night.

A few days before Sunday 16th, one of our CAPs staff fell and broke her ankle in the walkway between our offices and the mess, an area all CAPs and interpreters, as well as plenty of G4S staff used dozens of times a day. The concreted pathway, covered in holes you could not see when it rained (which was all the time) was sealed off for a day or two after this incident. Nothing else appeared to be done about this OH&S hazard after that.

Lack of Freedom of Movement:

Clients do not have freedom of movement within the camp. All movement between compounds is organised via vehicles that transport clients between compounds, to medical appointments, appointments with immigration and other service providers. Clients do not seem able to visit friends in other compounds, except as they happen to meet each other while being transported or at service provider appointments.

Clients are not able to leave the MIRPC except when they are escorted to specifically scheduled appointments such as church services.

When I walked through Mike Compound, I was shadowed at all times by G4S guards, even when I attempted to have conversations with my who had asked questions about their cases

TIMELINE: The Incidents of 16th and 17th February 2014:

This timeline has been pieced together from my own contemporaneous notes as well as the file notes of a colleague who was at the MIRPC, and then the Bibbi Progress.

Our client interviews were scheduled as usual for 16th February 2014. On the morning of 16th February 2014, I asked my team leader, if CAPs could attend the information session scheduled for delegates of the transferees. He told me that it was best if we did not attend. I asked if CAPs could have information about what the transferees were being told, given that I understood the information session was called to answer questions about the RSD process and resettlement. I never received any written information from Playfair or DIBP about what information was provided to transferees at the meeting held on February 16th 2014. Given that we were the staff tasked with answering transferee's questions about the refugee status determination process it struck me as absurd that we were not provided with this information.

At 3pm on Sunday 16th February, whilst we were all in the interviews rooms alongside Oscar compound, LH heard noises in Oscar. LH went out of her interview room, which is across from the gate that separates our interview rooms from Oscar. LH saw at least 30 or 30 transferees banging on the fence. LH returned to her room. When LH next left the room, the area was boarded up, which it hadn't been before.

[this was another irritation during our interviews. It seemed that the rooms next to ours were being converted into accommodation for some of the PNG national staff while we were conducting interviews there. From what I could gather, this is where the riot squad or IRT kept their shields and other riot gear. A partition was placed between us, but I found toothbrushes and other such items in my interview room in the morning and there were towels slung over the partition constructed during the week, which led me to believe it was staff living quarters. Loud banging noises are hardly conducive to interviewing asylum seekers, particularly those with trauma history.]

At 3:30pm on Sunday 16th, LH saw staff getting into riot gear. She asked for her client to be assisted to return to Mike compound immediately.

At 4pm, there was knock on my door and an Australian G4S guard told us to get out of our rooms quickly. My client was taken by G4S guards to the area near the DIBP interview rooms and myself and the interpreter moved to the staff mess area. It was here that I struck up a conversation with some interpreters. They described the meeting that had taken place at 2pm that day, with DIBP and PNG staff addressing delegates of the transferees. An interpreter informed me that the transferees were told they would have to organise resettlement services themselves if they wanted to leave PNG.

It became clear that our clients were not able to be sent back to their rooms (my client was from Oscar), so myself and an interpreter settled in to continue the claims assistance process sitting on the steps of the DIBP and STARTTS office in the breezeway, adjacent to Delta compound.

I was told at 5:15pm that we could leave this area and return to our rooms next to Oscar. I declined because the conditions in the breezeway, away from the compounds, seemed more likely to settle my client. My client had a very long story to tell, so I was there for another hour.

During this time LH made her way back to the Bibbi Progress. She recalls that at 5:45pm she heard banging on the doors in the hallway and DIBP staff yelling "all interpreters get downstairs!" She and another colleague, CC were yelled at by Stephanie Trethgowan of DIBP to get downstairs and were asked "*where are your people?*" LH informed ST that we (myself, another colleague and our team leader Nick A) were still at the detention MIRPC.

At 6:15pm, having finished the statement with the client, but having no printing facilities in the breezeway, I returned to my interview room next door to Oscar, with my Oscar client and the interpreter. Suddenly, at 6:24pm, there was another knock on the door and G4S staff told us to stay in our rooms.

The following took place between 6:24 and about 8:15pm:

I could and see hear the riot squad putting their riot gear on – shields, helmets and body padding. We could hear yelling in Oscar. My client became very anxious. I could hear the sound of the riot squad moving into Oscar through the gate next to our rooms. The staff sounded panicked. Both Australian/NZ and PNG staff were yelling. I could hear the clients shouting. I could hear what sounded like a commotion at the perimeter fence out to the road, but, though I ducked out of the room to take a look, I could not get close enough to see. The Australian/NZ guards were directing the PNG staff. I could hear at least 20 or 30 transferees shouting and whistling. At one point an Australian guard offered to evacuate us but since my client is from Oscar, I stayed with him until I felt we could guarantee he would be returned safely to the compound. The interpreter also stayed with us.

At some point during this time, I realised that another claims assistance provider, was next door with her client (who she stated was also from Oscar) and an interpreter. We decided to go to the mess area, and get some food for our clients: the kitchen was being shut down at this point. Things seemed quieter. We all moved into my interview room at one point and tried to keep the clients calm by talking and playing some music on my laptop.

At 7:35pm we are still not able to leave the area. But we were able to mill around outside our rooms. We can't hear much happening inside the compounds but we could hear radio chatter. We did hear a Code Red (fire) in one compound and a Code Green for Mike (breaking down the fence), over the G4S radios.

At 7:42pm, we heard chatter over the radios that some clients have been taken to the police station.

At approximately 8:15pm, we were evacuated from the MIRPC and put on buses to return to our accommodation at the Bibbi Progress. On the bus with us was a man I believed to be PNG Immigration and Citizenship Service Authority Centre Coordinator, Mr Jeffrey Kiangali.

I was sitting in the middle of the bus, I remember my colleague who had been interviewing the Oscar client, was in front of me. Whilst on the way to the centre, Mr Kiangali became agitated. There was a (Australian or NZ) G4S guard standing guard at the entrance to the bus. Mr Kiangali asked to be let off the bus and the (Australian or NZ) G4S guard initially refused. Mr Kiangali stood up in the bus and said something to the effect of "*I am Jeffrey, you know me. I am getting off this bus.*" Mr Kiangali seemed agitated and upset and exited the bus before we reached the Bibbi Progress. I remember that he was so agitated, he stepped over my colleague and stepped on her foot on the way out. This did not appear to be deliberate in any way, but Mr Kiangali was so anxious to be out of the bus that I don't believe he noticed.

I was later informed my team leader from Playfair, that at the meeting on the 16th February 2014, Mr Jeffrey Kiangali had gone "off script" (Nick A's words) and had given information to transferees which was different to what DIBP had provided. I don't know where Nick A got this information.

Monday 17th February 2014

On the morning of Monday 17th February 2014, a meeting was called on the Bibbi Progress, attended by the interpreters and the other CAPs providers employed by Playfair Visa and Migration Services. This meeting was addressed by DIBP staff.

At this meeting, one of the DIBP staff (a woman with very short blonde hair, whose name I do not know) gave a briefing about safety, advising staff not to take walks unescorted. The DIBP staff member then asked if there were any questions.

A male interpreter, whose name I do not know asked: "*so, what happened last night?*" The DIBP staff member jokingly replied that the interpreter was making her life difficult and there were smiles in the room and chuckling. The interpreter repeated: "*no, really: what happened last night?*" At this point, DIBP staff were instructed to wait outside by DIBP: most of them left the room.

Then, the DIBP staff member, who was joined by a DIBP staff member who had been identified to me by Nick A as Andrew Kniepp, stated words to the effect of: "*you do*

not need to know what happened last night. You are all here to do a particular job and the information about what happened last night does not help you to do your jobs.”

Another male interpreter, whose name I do not know, asked exactly who the DIBP staff member (woman with very short blonde hair, whose name I do not know) was, and what her role was. She answered: *“you don't need to know that. You need to take direction from all people in blue shirts.”* I understood this to mean DIBP staff, who were all wearing blue shirts with the Department insignia on them.

There was audible dissatisfaction with this response. A few other staff attempted to ask questions. Andrew Kniepp repeated words to the effect that we did not need this information to do our jobs and that he would not be changing his mind on that point. He asked if there were any questions. I interjected, saying *“what's the point?”* The meeting dissolved soon after.

DIBP response to the events of Sunday 16th 2014:

I have concerns about the refusal of DIBP to share information with anyone in Playfair or with interpreters, which would have allowed us to make our own decisions about whether we felt like we could safely continue to provide services at the MIRPC. Manus Island MP Ronnie Knight was publically assigning blame to transferees for the incidents on Feb 16th 2014, stating that the disturbance at the MIRPC was a fight between transferees.² This type of deliberate misinformation, coupled with absolutely no information provided by DIBP, who were exercising effective control over our entire work environment and movements on the ship, meant we had no way to make decisions about our own personal safety. While I have never felt threatened by a client, at least one of my colleagues was expressing concerns that in this environment, transferees may have trouble distinguishing friend from foe. We were concerned that we were expected to go into small confined rooms with - angry?? distressed?? injured?? – clients the following day to continue interviews, with no insight into what

² Emma Griffiths, Liam Cochrane, 17th Feb 2014, “Manus Island: Eight arrested after breakout at PNG immigration detention centre”
<http://www.abc.net.au/news/2014-02-16/eight-arrested-manus-island-detention-centre-breakout-morrison/5263324>

the disturbance the night before was about or how badly the transferees had been hurt. I believed that our failure to provide accurate information about resettlement was a contributing factor to the continuation of protests at the MIRPC: it seemed reasonable for us to be provided with information about exactly what had happened on Sunday night so we could make decisions about how we were to engage with our clients.

In the end, we were informed that client interviews that were scheduled for Monday 17th February could not take place because slips had not been handed out the night before. We were still not provided with information about what exactly was said at the meeting on Sunday 16th February 2014.

Given what I now know about the levels of extreme violence meted out to transferees on the Sunday night, by security staff employed by G4S, I am even more concerned about DIBP's utter refusal to communicate with us and interpreters about what was really going on at the MIRPC. If it was clear that locally-engaged security staff were beating our clients, why should we expect to rely on them for our own safety?

Later on the morning of Monday 17th February, myself and another Playfair employee walked to the beach next to Mike compound to check on our clients.

I saw a one of my young clients and asked if he and his brother were safe. The client looked terrified and seemed like he did not wish to be near the perimeter fence. He stated that his brother was not physically badly hurt but "not okay". He indicated that we should leave. I left the area after a few minutes and returned to the Bibbi Progress. We had communication with clients later that day on Facebook, warning us not to come down to Mike compound for our own safety.

Later on that afternoon, I saw three of my young Iranian clients, two 23 year-olds and one 28 year-old. I spoke to them through the fence of Oscar compound. They all had hand injuries. I asked them how they received their injuries. They described raising their hands to protect their heads from what they called "big rocks" which they stated were thrown by PNG staff working as G4S guards at the MIRPC. One of the 23 year-old clients took off his bandage to reveal a badly swollen and disfigured right hand. The other 23 year-old client stated that PNG staff had been laughing at them and

making throat-cutting gestures throughout the day, threatening to return in the evening. He asked me for help to get out of the MIRPC. He was very distressed. Transferees in the Oscar accommodation block closest to the DIBP rooms (I believe it is the same accommodation block seen in this footage)³ brought a transferee out to see me. He could not walk unaided and was helped by two other transferees holding him up. The man they were holding up had bandages around his head. The transferees holding him told me he had needed 70 stitches in his head. I spoke to other transferees in Oscar, transferees I had not met before. They begged for my help to get out of the compound, saying they were afraid of what would happen that night.

I went back into the main CAPs office (in the DIBP section) and continued working, scanning completed client applications for RSD. I heard what sounded like a demonstration starting in Oscar. At about 5:15pm I ducked my head out to see. A male DIBP staff member, who I was informed was named Sam, said to me in an aggressive tone *"I think its time you left"*. I actually mistook him for a G4S guard given that he was ordering me to leave the MIRPC. I could see at least two of my injured clients and about 40 others chanting slogans in the corner of Oscar compound closest to the mess and DIBP offices. A few minutes later, while back in our office, a G4S guard did come to the office and tell us we needed to evacuate the MIRPC.

At 6pm on 17th February 2014, I made a note that I could hear what I believed to be G4S radio chatter, while standing at the front gate of the MIRPC, waiting for the bus. It sounded like a G4S staff member warning other staff that they were to tell local staff gathering at the gates to leave and that they were not needed.

We were given no further information about what was happening at the centre that evening.

At approximately midnight I was woken by a phone call from a refugee advocate in Australia. He informed me that he was receiving phone calls indicating that all Australian staff had been evacuated from the MIRPC and that he was told words to the effect that "it will be a miracle if no one dies tonight". He informed me that shots

³ <http://media.brisbanetimes.com.au/news/national-news/exclusive-inside-the-manus-island-riot-5366336.html>

had been fired within the MIRPC. I panicked and looked out of my window. I could see G4S and IHMS staff running around in the lobby below. I could not see the deck of the Bibbi Progress from my room. I had no idea that transferees were on the deck of the Bibbi Progress, though I found this out the next morning.

Colleagues whose room had a window out to the ocean informed me the following day that they had heard gunshots at approximately 10:30pm that night.

Tuesday 18th February, Wednesday 19th February 2014

I can't remember how long we had been up for on the morning of the 18th, I think we got up pretty early that morning to try to get information about what was going on. Some of us had barely slept the night before as we had been checking the internet to find any information about what had happened the night before. I spent the early part of the morning sneaking around the ship trying to get information about my clients from some of the interpreters and a G4s guard who I know was quite friendly with one of my clients. The interpreters looked awful: strung out, traumatised, incredibly tired. I spoke to one in the stairwell who could only mutter about seeing "*so much bloody and jelly*".

On the morning of the 18th February 2014 another telephone briefing was scheduled. It began at approximately 9:50am. Petra Playfair, speaking to us from Sydney, again warned us not to speak and to allow Jo Boardman to do the talking. Petra Playfair asked us light-heartedly if we had managed to keep our sense of humour. I yelled at her that one of our clients was dead and that I didn't find this remotely amusing.

Jo Boardman from DIBP came on the line and started to talk about organizing schedules and the need to get CAPs interviews going again. She also informed us that there were, amongst G4S and transferees, 22 minor injuries, 13 serious injuries and one dead. In relation to the Reza Berati's death, she said "*this occurred as a result of the transferee breaching the fence.*" Soon after this, I stormed out of the meeting in disgust.

Later that day, after returning from the centre, Nick A informed me that he had seen a PNG national G4S guard standing on the road between the Bibbi Progress and the

MIRPC holding a sword. He also informed us that there were guards in the bushes, apparently to try to intercept ABC journalist Liam Cochrane.

Over the course of the following 48 hours, I spoke with all members of the CAPs team about what I believed was the inappropriate insistence that we return to work. I expressed that I believed our clients would be deeply traumatised and that we were being manipulated by DIBP to try to return the MIRPC to “business as usual”. Some members of the CAPs team suggested that it could be therapeutic for clients to talk to us and they needed someone to talk to. I suggested that this was a role for the staff of STARTTS (The NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors) who were at the MIRPC to provide this service to transferees. I found out later that day that the T&T staff were both going to leave the island on Thursday the 20th February 2014.

I discussed with STARTTS staff that I believed it was inappropriate to consider doing any interviews with clients under the current circumstances, but in particular in the absence of their support. They expressed an opposing view and I stated to them that I believed they were under the false impression that the process clients were engaging in with us was leading to any real permanent resolution of their status. I told them I believed that the fake process we were engaged in was part of the problem and likely to be a source of aggravation.

On 19th February 2014, I was ready for work at 7am. I was informed that other colleagues would be conducting CAPs interviews, with clients from Delta compound. I expressed concerns that if CAPs were going to be interviewing anyone at all, it should be Mike, Oscar and Foxtrot clients who had been at the RPC longer than most of the Delta clients. I was concerned that interviewing Delta clients could be interpreted as punishment by Mike, Oscar and Foxtrot clients who we had been interviewing up until the violence.

I went to the CAPs office at the MIRPC. I tried to see clients in Oscar at the fence and tried to get access to Mike compound but was not allowed by G4S. I walked around to Mike compound and could see from the outside what appeared to be all the transferees in the compound sleeping under a structure outside the accommodation

block. They appeared to be sleeping on stretchers. It appeared to be only PNG guards at the far end of Mike compound so I decided it wasn't safe to try to venture down to the beach.

During the day I received a phone call from Petra Playfair, during which she was weepy and largely incoherent, but eventually extremely hostile. Petra started telling me that she knew I cared about the clients and this is why I had to continue working. When I expressed my concerns that I believed we should not be conducting CAPs interviews in this environment, Petra told me that she and another colleague of mine (not a manager) were disappointed in me, that I had abandoned the clients and that I would be responsible if they no longer received any legal advice. I terminated the call after informing Petra Playfair that she could put any concerns in writing to me. I informed Nick A that I would not be answering any more phone calls from Petra. I never received anything in writing from her, though I did receive some communication from Shanil, Playfair Practice Manager, via email.

Later in the evening of 19th February 2014, I discussed the day's work with the CAPs who had tried to conduct interviews. They informed us that several transferees had gone to IOM, wishing to return to their home countries because they were now afraid of being murdered in their beds. Playfair employees told me that at least one client from Delta was incapable of participating in the interview because he simply hadn't slept in days.

Around this time, in discussion with my colleague LH, we both formally tendered our resignations to Playfair. Nick A and Vanessa B suggested to us that our behavior was like abandoning a suicidal person begging for help. LH reinforced that we were not counsellors, and that our clients would be in no position to provide us with instructions in their current state. We raised concerns that returning to business as usual given that a client had been killed seemed callous and unprofessional and that the entire RSD process was now in question.

We asked if our resignations were required in writing and we were told they were not. We reiterated that we were resigning because we felt the environment was pushing us beyond our professional and ethical boundaries into problematic territory and that we

felt that Playfair as a whole should withdraw from working at MIRPC for the foreseeable future.

Comments on the provision of torture and trauma support to transferees

As a Claims Assistance Provider, I was in a position to discuss asylum seekers claims in some depth with them. I am aware that there are a number of clients who, whilst detained in prison in their home countries, have been victim of torture and sexual assault at the hands of state authorities in prison. In my experience as a migration agent, torture and sexual assault by state agents against those in custody is particularly prevalent in Iran and Sri Lanka. Given the nationality groups detained on Manus Island, there is an urgent need to provide an environment more conducive to allowing survivors of torture and trauma to receive appropriate support.

One of the worst things about the aftermath of the murder of Reza Barati was the realisation that, while the department appeared to be making an effort to fly in psychological support services for staff and contractors (though not Playfair), the specialized torture and trauma support staff at the MIRPC to assist the detainees were leaving the island, to return in a week. The transferees, many of whom have already suffered torture and trauma at the hands of state and non-state agents in their home countries had been dragged from their beds, beaten, shot at. They had witnessed the murder of one of their friends, within the confines of their accommodation, by members of staff employed at the MIRPC to take care of them. Yet they would receive no specialized support from T&T staff they trusted for a full week. This is not a criticism of STARTTS (The NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors) staff, but of resource allocation by DIBP.

I have some experience working with victims of torture and trauma. In the week before Reza's murder, I interviewed a client who had suffered experiences of torture in Iran. His physical presentation in the interview was indicative of significant trauma. Over the course of several hours he literally crumbled before my eyes as he was interviewed. He went from sitting up straight and engaging with my questions to, slowly and almost indiscernibly, slumping in his chair and becoming less and less responsive. He simply wouldn't speak about what had happened to him at the hands of state agents except to say he had been kept for a week and had been seeing a

psychiatrist for a year afterwards in Iran to cope. I confirmed that this client had been receiving support from STARTTS and spoke to them directly afterwards.

Given the constant pressure to churn through clients placed on CAPS/IAAAS providers in a detention setting, it is extremely difficult to ensure the safety and well-being of an asylum seeker who has been tortured, without the support and back-up of STARTTS or similar organisations. The CAPs process involves an essentially random stranger with no previous relationship to a client questioning a person about their experiences of torture, probably the most traumatic experiences they have ever had, under extreme time restrictions. Migration agents are not trained counsellors. We rely on the provision of T&T support so that when we send a client out of the room, we know that there is a professional, ideally one the asylum seeker has already worked with, but at least someone they recognise and whose role they understand, to support them and to keep them safe, from themselves.

I spoke to one STARTTS staff member, a few times in the days after Reza's murder. She informed me that both staff needed to leave the island for a week from the Thursday. For one staff member at least, this was the normal end of her rotation. I don't know if this was the case for the STARTTS team leader.

STARTTS suggested to us that we continue with the interviews. I raised concerns that, given recent events, it was likely that clients would raise issues to do with what they had witnessed and we would have nowhere to refer people. Given that it was clear that the entire camp had witnessed extreme violence (even Delta) and the terrifying break down of security and safety procedures in the camp, it seemed wildly inappropriate to continue to interviews, without so much as an acknowledgement of what had happened and in an environment where clients did not feel physically safe.

CAPs were given no information about whether there was any kind of memorial service being organised. As I have already noted, when we did attempt to interview clients, we discovered that several had gone to IOM, wishing to return to their home countries because they were now afraid of being murdered in their beds. Others were incapable of participating in the interview because they simply hadn't slept in days. Most of the interviews we had conducted with clients in the weeks prior were with

clients in Mike and Oscar compounds (those who had arrived earliest) but now we were told to conduct interviews with Delta clients.

Fears of persecution on PNG: gay transferees

I will not repeat well-documented concerns about the obvious problems with putting gay refugees under the care of PNG authorities, let alone resettling gay refugees on Manus Island. Needless to say, any transferee with sexuality-based claims should not be sent to PNG.

It is clear that despite the public protestations of DIBP staff, the Department was and is fully aware that there are gay asylum seekers on Manus Island. This is clear from my own discussions with clients, as well as the Amnesty International report:

“Amnesty International interviewed several gay asylum seekers at the detention centre. One detainee informed us that he was asked on Christmas Island, prior to transfer, whether there was any reason he should not be sent to Manus Island. He objected on the grounds of his sexual orientation—the basis for his asylum claim—along with a pre-existing health condition. He said, “The staff were sympathetic but told me I was going [to Papua New Guinea] anyway.”⁴

Transferees on Manus Island who have fled their home countries because they fear harm on the basis of their sexuality are being held in a country in which same-sex acts are illegal. It is manifestly the case that they have a legitimate fear of persecution in PNG. The Australian government is therefore deliberately, knowingly, putting gay asylum seekers at risk of harm as a deterrent to others.

**Fear of persecution on the basis of membership of the particular social group:
MIRPC transferee**

As a registered migration agent, I believe the incidents on Manus Island on the 16th and 17th February give rise to refugee claims on the basis of membership of the particular social group of MIRPC detainees.

⁴ Amnesty International, December 2013, “This Is Breaking People Human Rights Violations at Australia’s Asylum Seeker Processing Centre on Manus Island, Papua New Guinea”, pg 75

There are a number of factors that contribute to the fear of serious harm and persecution in Papua New Guinea for any and all transferees at MIRPC:

- intense publicity surrounding the assaults on asylum seekers on Manus: this includes reporting of unsubstantiated but nonetheless explosive allegations that asylum seekers insulted the nation of PNG and made threats of sexual assault broadly against female PNG nationals
- overt hostility between PNG locally engaged staff and transferees, including the murder of a transferee and the brutal bashing of other transferees for no apparent reason other than that their identity as MIRPC transferees
- the absence of any pre-existing community of co-ethnics in which MIRPC transferees could settle and adjust to live in Papua New Guinea
- Documented hostility towards PNG's indigenous Muslim community – this includes recent attempts by state authorities in PNG to formally declare PNG Christian and ban non-Christian religions.⁵
- Concerns documented by human rights organisations about the culture of payback and the lack of witness protection, in the light of the open investigation into the murder of Reza Berati. This leaves all MIRPC transferees at risk of harm from families or communities of those who may be suspected of or charged with the murder of Reza Berati.⁶

A very large proportion of transferees at MIRPC are either Muslim or from predominantly Muslim countries. They are religiously, ethnically and culturally distinct from the vast majority of the population of PNG.

One of the issues confronting former detainees of MIRPC is that they appear to be locked out of dispute resolution mechanisms available to other residents of PNG who

⁵ Radio Australia, "Pacific Beat" 16th July 2013, "Archbishop cautious on declaring PNG officially Christian"

⁶ Preliminary Observations on the official visit to Papua New Guinea by Mr. Christof Heyns, United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, 3-14 March 2014 – Press <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14373&LangID=E>

have access to tribal mechanisms. Given the lack of access to land for those outside the PNG clan structure, it is highly likely that disputes will arise if and when large numbers of refugees are settled.⁷

This is not to suggest that Papua New Guinea is a “hell-hole” or that its people are the kind of savages sometimes portrayed in Australian media reporting of MIRPC. It is simply to point out the obvious: that the MIRPC is a controversial project that continues to cause consternation and disquiet within the PNG parliament and community. PNG is a nation with its own challenges, including poverty and conflict over land ownership. As my client, a delegate of transferees put it, before the violence of 16th and 17th February: “these are poor people; they cannot help us and we cannot help them”.

The events of February 16th and 17th, in my opinion have rendered resettlement on PNG not simply inappropriate, but dangerous, for MIRPC transferees. Given how ethnically and culturally distinct MIRPC transferees are from the population of PNG, they will always be easily identifiable to anyone seeking to harm them. Given the evidence of the violent hostility towards MIRPC transferees from members of the PNG population and state authorities, there is sufficient evidence of a risk of serious harm.

MIRPC must be closed down and its inhabitants transferred to the Australian mainland. DIBP has created such an environment of hostility to the transferees on MIRPC that there is no prospect of safe resettlement. There can be no proper investigation into the events of the 16th and 17th February until the hundreds of witnesses to the events are brought to Australia where they feel safe to give evidence.

CONCLUSION:

I was one of two Claims Assistance Providers who resigned from Playfair Visa and Migration Services following the murder of Reza Berati.

⁷ Preliminary Observations on the official visit to Papua New Guinea by Mr. Christof Heyns, United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, 3-14 March 2014 – Press <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14373&LangID=E>

Myself and my colleague, LH, resigned because we felt that the Department of Immigration and Border Protection were attempting to use the contracted CAPs in a way that was inappropriate and potentially dangerous to our clients and even ourselves. We feel that the meeting on Sunday 16th February 2014 effectively ended the capacity of the CAPs to provide an impartial and professional service consistent with our professional obligations as migration agents and lawyers. It became clear to us that there was no process for us to assist clients with and that we should not be attempting to assist DIBP to pretend that there was a process. It seemed to us that as the objections of the PNG government to resettlement of transferees with refugee status became louder and more public, the more was pressure was put on us and indeed clients, to get the message across to clients that they were never leaving PNG.

DIBP's response to the incidents on 16th and 17th February 2014, including their appalling treatment of front-line staff such as interpreters, their attempts to get CAPs to continue interviewing clients, the failure to provide psychological support, debrief or any other support for clients, and the misinformation provided to us by DIBP about how and where Reza was killed made us deeply uncomfortable about continuing. We advised our colleagues that we felt that Playfair could not continue to provide the service it had promised to our clients on Manus in this environment. We tried to strongly encourage others to leave.

It is my belief that Playfair has now allowed itself to become effectively an agent of DIBP and is no longer acting in the best interests of its clients on MIRPC. I have been in contact with a number of clients and other transferees since my return to Australia. They complain of pressure and intimidation from Playfair staff to continue with a process that do not understand and a lack of faith in Playfair.

Questions need to be asked about the decision to rush the deployment of CAPS to the island on February 5th 2014; the level of control that DIBP attempted to exercise over what was supposed to be an independent service provider as well as the decision to push ahead with the meeting with asylum seekers on February 16th. We gained the distinct impression that DIBP saw us as strike-breakers to be used as they saw fit.

Questions need to be asked about why it was considered an appropriate response to Reza Barati's murder, to rush terrified, sleep-deprived and traumatised transferees into CAPs interviews.

Questions need to be asked about whether DIBP's decision to conduct this dangerous experiment in managing the difficult environment at MIRPC was influenced by the imminent handover of responsibilities from G4S to Transfield. It is my belief that DIBP manufactured an atmosphere of extreme hostility, suspicion and tension through its actions in the weeks leading up to February 16th and displayed utter disregard for the welfare of injured and traumatised asylum seekers and frontline staff such as interpreters in the immediate aftermath. The horrendous treatment dished out to Ms Azita Bokan, well documented by the media, is entirely consistent with what CAPs staff witnessed of the treatment of all interpreters by certain DIBP staff on site at MIRPC.

My concerns about DIBP's actions on Manus Island are not confined to the 48 hours leading up to Reza Berati's murder. The behavior of DIBP and its relationship to the CAPs provider and process deserves scrutiny, including its very hands-on approach to actually drafting the RSD procedures and conducting RSD interviews.

This includes placing enormous pressure on the CAPs provider, Playfair Visa and Migration Services and individual CAPs, to provide information consistent with DIBP "messaging", but increasingly inconsistent with the reality on the ground as articulated by the Papua New Guinean government itself – in particular in televised reports that Papua New Guinea had made no decisions confirming the right to resettlement in PNG for those determined to be refugees, which staff and asylum seekers at Manus Island became aware of on February 12th 2014. This is up to and including gathering intelligence on what CAPs were saying to clients in their supposedly confidential client interviews and pressuring Playfair to interrogate clients about where their information about "third country" settlement options was coming from. DIBP demonstrated total and complete disregard for the welfare of transferees and interpreters in particular.

It is clear that DIBP was fully aware of the violent response of local staff to asylum seekers on Sunday night 16th February, yet refused to provide information to interpreters and CAPs providers about what had happened on Sunday night and refused to take effective action to secure the safety of transferees at the MIRPC, leading directly to the events of Monday 17th February 2014, during which Reza Berati was murdered.

I believe that what happened on MIRPC was predictable and preventable, but that DIBP allowed these events to unfold because MIRPC is not designed as a processing centre as much as it is a deterrence facility. I believe that DIBP's actions and attitude in the lead up events of Monday 16th and 17th February 2014, as well as its response to those events, is indicative of the logic of deterrence: if you try to come to Australia by boat, this is what will happen to you. I believe that this policy imperative is being placed about all considerations, including the health and safety of MIRPC transferees. I believe that this was the motivation behind the insistence on sending CAPs back in to conduct interviews so quickly after Reza's death: the machine of deterrence rolls on, no matter how many are crushed in the process.

We were not given any information about the right of our clients to challenge their detention under Papua New Guinean law. I had no idea that such a right existed under Papua New Guinean law until my second deployment in February 2014. Even then I had no knowledge of how to facilitate client's access to legal representation on PNG to enable them to challenge their detention.

None of the CAPs providers at MIRPC at the time of my deployments held practicing certificates as solicitors to practice in PNG, nor were any of us registered as migration agents with PNG authorities. Though all employees were either solicitors or registered migration agents duly registered and authorized to practice in Australia, this is not a requirement for provision of CAPs services.

I note with concern that recent refugee determination decisions provided to transferees at the MIRPC refer to the need for transferee representatives to hold PNG practicing certificates. This appears to be a way to get around growing concerns amongst transferees about the impartiality and professionalism of the CAPs service

provider, Playfair and the reality that many transferees have sought to engage Australian barristers and solicitors to represent them.

I would like to be invited to provide further information to the Committee at a public hearing.

Yours sincerely,

Elizabeth Maree Thompson

Migration Agents Registration Number #1171762

Appendix 1: An account of the violence on February 16th 2014, sent to me on Monday 17th February, late evening, by transferees in Mike compound:

An account of the violence on February 16th 2014, sent to me on Monday 17th February, late evening, by transferees in Mike compound:

“It's all of story:

Everything started from yesterday meeting representatives of countries with: AUSTRALIA'S IMMIGRATION & PNG GOVERNMENT & TSA & G4S agents

They were supposed to bring back our questions answers following up of our meeting in 05/02/2014.

They started telling us truly bullshit answers, and we got angry, we got out of there and passed the message to our communities, they decided to start protest, it started around 6:00 pm the locals started throwing stones to MIKE & FOXTROT & OSCAR compounds, some of OSCAR guys escaped trough the fences outside, and went to jungle, but 8 of them have been arrested and rest of them got beaten by local people and had been taken to IHMS, the guys of FOXTROT broke the fences between FOXTROT and MIKE and came to MIKE, after that SPECIAL FORCE got involved and they went back to foxtrot and everything was calm till 8:00 pm, and this time the local PNG G4S and local people attacked to OSCAR & MIKE they entered OSCAR compound and started beating the asylum seekers with swords and bats, and about 15 person got wounded : cut in neck, cut in shoulder, cut in thigh, back damage, head cut, and had been taken to IHMS, but the local ones couldn't enter the MIKE compound and started throwing stones to asylum seekers from 3 sides of MIKE, and 4 persons got injured in feet and head and shoulder, and they even hit the Australian G4S by stone, but we didn't have stone inside to answer them back because the cleaners had cleaned up all the stones from MIKE compound, the guys from FOXTROT want to come to MIKE to help our guys, but SPECIAL FORCE entered and forced them back, and finally all of this chaos finished, but nobody let the PNG staffs in till now, and our guys are doing all the facilities and cleaning up the compound, even now we're running the internet and phones we are truly in danger of mad people of MANUS ISLAND, every time they might attack us, and our lives are in danger please let everyone knows to help us what are we supposed to do?!

Appendix 2: Complaint drafted by Manus Island transferees dated 26th February 2014

“This complaint is in reference to the incident which happened on Manus Island on 17th February 2014.

The peaceful protests started on 1st February in Oscar, Foxtrot and Delta compounds, the next day Mike also became involved in the peaceful protest. The main reason for the protest was to get specific answers about how long we have to stay in this detention centre and where we are going to end up. There was a meeting between Immigration, G4S, TSA Staff and representatives of the Transferees and they were supposed to respond to these questions within 10-12 days. The peaceful protests continued in all compounds until 13th February after which they stopped for 3 days. The protests were only of one hour duration a day from 10-11pm. The protestors voiced the message “we want freedom, PNG we like you, and PNG help us”.

On 6th February the cleaners and G4S cleaned stones and rocks from Mike compound and made the compound clean of any stones and rocks, during this time some transferees’ property and belongings were lost. The transferees also witnessed the theft of their property. Some of the local G4S staff stole transferee’s belongings, after interrogation by Australian G4S supervisor staff, confessed that they stole property from transferees’ rooms during lunch time.

There was a meeting on 16th February, during this meeting between Immigration and representatives of the transferees, they were supposed to give a definite response to the transferees’ questions. The answers which Immigration gave was unclear and inaccurate, that triggered another protest. On the same day 16th February at 6:15pm some of transferees escaped from Oscar compound and after 20 minutes a group of locals and police caught them and were beating them like animals. One of the transferees had his throat slit by a machete another had his nose broken and a number of escaped transferees were beaten with sticks. The news of the event of Oscar compound spread to all of the compounds and all the transferees were scared. They did not expect the locals to be as harsh and brutal as they were. A few moments later approximately 100 locals with big sticks, swords and machetes stood in front of Mike and Foxtrot compounds. The Foxtrot transferees were trying to break the fences to enter Mike compound which is next to Foxtrot compound, so as to increase their abilities to protect themselves against possible invasion of locals. The national G4S who were dressed in riot clothing came in front of the fences, while G4S were breaking into the compound to suppress the protest, one of the Australian G4S “Amy” had started throwing stones at the transferees, all Asylum Seekers were shouting because of her misbehaviour, and then more stones were thrown at transferees by national G4S. Asylum Seekers were scared and threw stones back, approximately 40 local G4S with 15 local people began to throw rocks from the beach side of Mike compound and as I mentioned there was no rocks in Mike compound. When Australian G4S were aware that locals were throwing rocks, they tried to stop them but they could not control the situation, consequently local G4S began throwing stones at the Australian G4S as well. When the locals stopped throwing stones, Australian G4S came back into the compound but they did not let any local enter any of the compounds such as, cleaners, G4S and Salvation Army.

That night most of the transferees went to the supervisor of G4S, they explained their concerns to him and requested for a safe place, he responded that one of G4S guards will come around and write down the names of those who were scared, he also mentioned they will be moved to a safe place by the end of the day. They did not provide dinner until 2am and most of the transferees were waiting to be moved until 5am but nothing had happened.

The next day on the 17th from 8am until 12pm in front of each compound around 150 locals and police were standing with machetes and long sticks and they were threatening all the transferees, stating “we will kill you”. When the Asylum seekers passed the messages to the Australian G4S guard they said: “we are already aware and advised us that we all should stick together and be ready for any attack from them,” they also mentioned “we will protect you as much as we can”. Mike compound was calm until 9:30pm, suddenly and intentionally the power was cut off and the locals started throwing stones and rocks from the road side and beach side, some Asylum seekers tried to break the Foxtrot fences again to help Mike transferees’, some of the transferees’ tried to stop the locals attack by hosing water at

them using fire hoses, they even covered the main entrance door using trunks to prevent locals from invading, then the police started shooting their guns, the sound of gunfire scared the transferees' and all of them went back to their rooms, while the national G4S and locals had broken the fences and the main gate, they had invaded from both sides. The locals, PNG Police and riot G4S were beating all of the transferees' and aiming for their heads, like they were aiming to kill and they stole all of transferees' belongings. The value of a transferee's life had come down to only one packet of cigarette and if we did not give them one they would beat us. The worst and most terrifying behaviour of the PNG Police was that they were coming and firing at the innocent transferees' with their guns. Even now the containers which were transferees' rooms and shelters are full of tracks of bullet holes. After beating a multitude of Asylum Seekers, they gathered all of them in the main yard and they were verbally cursing and abusing us, they also stated "you all should go back to your country, we don't want you to be in our lands".

Amongst the local people, a local employed by the Salvation Army was identified as an offender, he was witnessed using a bat to repeatedly strike a client over the head. Most of the windows and lights were broken and smashed by locals to create fear. After the incident when the attack and shooting ceased, some of the Asylum Seekers were denied to go to medical for treating their wounds, the reason was that few of the transferees' had been beaten in the ambulance by national G4S, National G4S in the ambulance also tried to choke transferees' on the way to medical.

Following this, all accommodation was sealed off from transferees', however one of the victims of that attack was found unconscious in his room after 24 hours. There has not been any access to internet and phones since 17th February, because they are scared to expose the real truth to the media and the world. The final consequences of that vicious attack is one dead, one blind, one person got shot in buttock, 350 people had been beaten and 147 got serious injuries.

26.02.14 Papua New Guinea, Manus Island (main statement from multitude of Asylum Seekers)"