



Premier of Queensland

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The Honourable Michael Danby MP
Chairman
Joint Standing Committee on Migration
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RECEIVED
15 AUG 2008

Dear Minister Danby

BY: M/G

Thank you for your letter of 12 June 2008 inviting the Queensland Government to prepare a submission to the Joint Standing Committee inquiry on immigration detention.

As you are aware, in November 2007, the Commonwealth Government opened an Immigration Transit Accommodation (ITA) facility in Brisbane to provide temporary accommodation for people assessed as a low security risk and spending a short time in detention. I am pleased to hear that the establishment of this facility has resulted in a decline in immigration detainee admissions to secure custody environments (such as corrective services facilities and police watchhouses) which are not designed for the specific, long-term needs of detainees.

Given these factors, Queensland does not have, or require, an immigration detention centre and, therefore, is not well positioned to provide specific comments on some of the terms of reference. However, my Government is committed to assisting the Commonwealth to improve conditions for immigration detainees and their families and the attached submission highlights opportunities for collaboration in this regard.

Should you require further information regarding Queensland's submission to the inquiry, please contact Mr Anthony Knobloch, Senior Policy Officer, Social Policy, on telephone (07) 3234 0951 or email Anthony.Knobloch@premiers.qld.gov.au.

Yours sincerely

ANNA BLIGH MP
PREMIER OF QUEENSLAND



Queensland
Government

**Submission to the Joint Standing Committee on Migration
Inquiry into Immigration Detention in Australia
July 2008**

Introduction

Queensland welcomes the opportunity to respond to the Joint Standing Committee's inquiry on immigration detention in Australia.

Queensland does not have (or require) a designated immigration detention facility.

However, in November 2007, the Commonwealth opened an Immigration Transit Accommodation (ITA) facility in Brisbane to provide temporary accommodation for people assessed as low security risk and spending a short time in detention.

The establishment of the ITA has resulted in a marked decline in immigration detainee admissions to secure custody facilities such as corrective services facilities and police watch-houses.

Given the lack of direct experience of immigration detention in this jurisdiction, Queensland is not well positioned to provide specific comments on some of the terms of reference. However, Queensland is willing to assist the Commonwealth to improve conditions for immigration detainees and their families and has made comment on opportunities for collaboration in this regard. Queensland will continue to monitor the progress of the inquiry and provide further advice where appropriate.

The two main justifications offered for Australia's mandatory detention regime are that it provides both immigration control and a deterrent to unauthorised arrivals. While there is general acceptance of the need for immigration control, a fundamental consideration is the economic, social and political costs of the regime.

On this basis, the Queensland Government supports the development of a new approach to immigration detention based on the following characteristics:

- humane – minimal individual suffering and hardship, with all duty of care to detainees fulfilled; responsive to individual circumstances; minimal time spent in detention, and no indefinite detention;
- flexible – incorporating multiple stages and the flexibility to move asylum-seekers quickly from one stage to another as their circumstances change;
- equitable – to the greatest extent possible, treatment of asylum-seekers who are (or have been) in detention (i.e. 'unauthorised arrivals') should reflect treatment of those not detained;
- whole-of-Government focus – immigration detainees and their families are best served by government's working together;
- cost-effective – minimal use of closed/secure detention, which is the most costly form;
- addresses community concerns about treatment of asylum-seekers;
- consistent with international guidelines – including various relevant United Nations and United Nations High Commission for Refugees conventions, protocols and guidelines;
- transparent and accountable.

Queensland's Response to the Terms of Reference

- *The criteria that should be applied in determining how long a person should be held in immigration detention;*
- *The criteria that should be applied in determining when a person should be released from immigration detention following health and security checks;*

The Queensland Government supports the release of detainees in the shortest practicable time following necessary health and security checks. The Human Rights and Equal Opportunity Commission (HREOC) has identified that the mental health and well-being of detainees is compromised by lengthy processing and uncertainty about their release.¹

Queensland recognises the importance of gathering a reliable evidence base to inform decision-making on important matters such as health and security checks and suitability for release, and scope exists to assist the Commonwealth on this issue. Enhanced information sharing across government is likely to improve responsiveness, security coordination, and case management and ensure the specific needs of immigration detainees are met.

For example, the Queensland Government, through Queensland Corrective Services (QCS) and Queensland Health, collects data at the induction, planning and pre-release phases of a prisoner's sentence. Immigration detainees held in custody for "dual"² matters will undergo the usual health and immediate risk needs assessment that is conducted on all prisoners within 24 hours of their arrival. The assessment conducted by a psychologist or correctional counsellor identifies any mental health and personal safety issues the individual may have about being placed in the correctional facility.

Further, a Medical in Confidence assessment is conducted by the QCS Health and Medical Services team. This too identifies any mental health problems, but also addresses any health issues the individual may have, including pre-existing conditions which may require ongoing treatment whilst in custody or in the community.

There may also be additional avenues for information sharing between (for example) the Commonwealth and the Queensland Police Service, the Department of Justice and Attorney-General and the Department of Communities.

- *Options to expand the transparency and visibility of immigration detention centres;*

As Queensland has no immigration detention centres, no comment is posited for this matter.

¹ Human Rights and Equal Opportunity Commission (HREOC) (2007). Summary of observations following the inspection of mainland immigration detention facilities. Available at www.humanrights.gov.au/human_rights/idc/idc2007.html

² Persons detained under 'dual' matters are persons detained under the Migration Act and on remand or under sentence.

Attachment 2

- *The preferred infrastructure options for contemporary immigration detention;*

In November 2007, the Commonwealth opened an Immigration Transit Accommodation (ITA) facility at Pinkenba, Brisbane, which provides temporary accommodation for people assessed as low security risk and spending a short time in detention prior to transfer to other centres or returned home. As at 13 June 2008, five immigration detainees were held at this facility which was less than similar facilities in other States and Territories.

Given that this facility has only recently commenced operation and is likely to minimise the number of admissions to secure custody environments, Queensland has no requirements for changes to existing infrastructure options.

- *Options for the provision of detention services and detention health services across the range of current detention facilities, including Immigration Detention Centres (IDCs), Immigration Residential Housing, Immigration Transit Accommodation (ITA) and community detention;*

In 2004, QCS housed Anna Brotmeyer, otherwise known as Cornelia Rau in the Brisbane Women's Correctional Centre for approximately six months. It was later found that Cornelia Rau had been wrongfully detained.

As a result of this detention, the then Department of Immigration and Multiculturalism and Indigenous Affairs (DIMIA) commissioned a report into the treatment of immigration detainees.

The Palmer Report, handed down in July 2005, recommended:

DIMIA and QCS formalise an agreement on the detention of immigration detainees, to ensure the arrangements reflect the standards of care and treatment necessary for detainees and that the responsibilities, accountabilities and reporting arrangements of all parties are clarified and understood.

DIMIA adopt and confirm the principle that, unless there are exceptional circumstances, detainees will be held in correctional facilities only until alternative arrangements can be made for their immigration detention.

Since the findings of the Palmer Report, QCS has amended practices and procedures in relation to person/s who are detained under the Migration Act and placed within a correctional facility.

QCS continues to support the development of a MoU with the Department of Immigration and Citizenship (DIAC) to outline the responsibilities of agencies when an immigration detainee is housed in a custodial centre and to allow for information sharing. QCS will continue to work with the Commonwealth to ensure this goal is achieved, however, as the primary purpose of these facilities is the safe and secure detention of persons charged, remanded in custody, or convicted of a criminal offence, QCS maintains the position that all detainees should be removed from a correctional facility within two days of completing a custodial sentence or remand period. In most cases this would involve transfer to a purpose-built facility such as an immigration detention centre, an immigration transit accommodation facility or a

community based accommodation option.

The Palmer Report also noted that the detainee population requires a much higher level of mental health care than the Australian community. Queensland mental health services provide assessment, treatment and care to people in a variety of inpatient and community settings. In response to the recommendations of the Palmer Report, specifically to develop clinical pathways for the provision of health services to people in immigration detention, Queensland Health has developed a draft Memorandum of Understanding between the Commonwealth of Australia (as represented by DIAC) and the State of Queensland (as represented by Queensland Health) in relation to the Provision of Health Services to People in Immigration Detention ('the draft MoU').

The draft MoU provides a framework regarding:

- a) the provision of hospital services by QH, through its Health Service Districts, to Detainees on request from DIAC and the Detention Health Services Provider;
- b) the provision of training, where requested by either party on health issues relevant to Detainees; and
- c) determining costs and payment for health services under this MoU.

Queensland Health will continue to examine and review the services provided to immigration detainees in accordance with the MoU and the *Queensland Plan for Mental Health 2007-2017* ('the Plan'), which promotes a whole-of-Government approach to mental health treatment and care. The Plan and associated mental health funding significantly increases the capacity of Queensland mental health services to provide assistance to people with mental illness on a continuum of care across inpatient and community settings.

As mentioned previously, Queensland supports the exploration of opportunities to collaborate with the Commonwealth to strengthen services to immigration detainees and their families.

Options for additional community-based alternatives to immigration detention by

- a) inquiring into international experience;*
- b) considering the manner in which such alternatives may be utilised in Australia to broaden the options available within the current immigration detention framework; and*
- c) comparing the cost effectiveness of these alternatives with current options.*

While Queensland supports further inquiry on the viability of additional community based alternatives to immigration detention, an overarching priority is to reduce the period of time a 'person of interest' is detained (refer 'Queensland's approach' above).

Further, given the implications to national security, decisions to transfer immigration detainees to community based settings must be conditional; supported by robust assessment processes; and involve regular monitoring activities.

It is also recommended that the inquiry's work incorporate gender analysis. Office for Women Queensland is well positioned to provide further advice on the different and specific needs and issues of refugee men and women.