

Chapter 6

Response to the incident and subsequent developments

6.1 This chapter examines the response of service providers, PNG authorities, the department and the minister following the events of 16-18 February 2014 at the Manus Island RPC. It also discusses developments at the centre in the weeks and months following these events, including the transition of garrison and welfare service providers to Transfield Services (Transfield).

Response of service providers and immediately after the incident

6.2 The committee received evidence in relation to several issues and actions taken by service providers at the centre in the aftermath of the violent incidents at the centre.

Additional health practitioners

6.3 IHMS deployed nine additional mental health practitioners to Manus Island RPC to deal with the psychological impact of the events of 16 to 18 February on the asylum seekers, particularly an increase in the number of people suffering from post-traumatic stress disorder.¹ However, some evidence to the committee suggested that access to mental health professionals remained inadequate in the weeks after the incidents of 16 to 18 February 2014. A case worker who was deployed to the Manus Island RPC after the incidents and worked there until at least 9 March 2014 stated that:

To my knowledge, at the time I was on Manus Island there was only one psychologist or mental health nurse available to the 1300 detainees and one STTARS (torture and trauma) counsellor. Given the numbers of traumatised men this was totally inadequate.²

6.4 In response to questions on this issue, IHMS stated that, at the time of the disturbance in February 2014, its mental health team on Manus Island included: six mental health nurses, one psychiatrist, one psychologist, three counsellors.³

Additional security personnel

6.5 In response to the events of the night of 17 February, 100 additional security staff were placed on standby for possible deployment to Manus Island.⁴ 51 of these

1 Mr Robert Cornall AO, *Review into the events of 16-18 February 2014 at the Manus Regional Processing Centre*, 23 May 2014, pp 8 and 58. See also Dr Mark Parrish, International Health and Medical Services, *Committee Hansard*, 11 July 2014, p. 2.

2 Name withheld, *Submission 33*, [p. 4].

3 IHMS, *Answers to questions taken on notice at the public hearing 11 July 2014* (received 1 August 2014), [p. 1].

4 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island incident', *Press conference*, 18 February 2014, Canberra, at: www.minister.immi.gov.au/media/sm/2014/sm211891.htm (accessed 24 September 2014).

additional staff were subsequently deployed to Manus Island on 19 February 2014,⁵ and the remaining 50 had been deployed by 23 February 2014.⁶

Access to telephones and the internet

6.6 Several submitters and witnesses told the committee that asylum seekers' access to the internet was interrupted for several days after the incidents. For example, Amnesty International submitted that:

After the violence, access to the internet was turned off (one report claims from 17 February to 3 March), preventing the asylum seekers from contacting the outside world.⁷

6.7 The department submitted that the disruption to telecommunications services, including the internet, was a result of damage to telecommunications equipment which occurred during the incidents of 16 to 18 February and that repairs to this equipment were completed by 7 March 2014.⁸

PNG criminal investigation

6.8 In a press conference on the afternoon of 18 February 2014, the Minister for Immigration and Border Protection confirmed that Prime Minister Abbott had spoken with PNG Prime Minister O'Neill earlier that day in relation to the incident at the Manus Island RPC, and that Prime Minister O'Neill had given an assurance that appropriate investigations would be undertaken by PNG authorities wherever appropriate.⁹ On 20 February 2014 minister Morrison stated:

The Papua New Guinea authorities will be conducting an appropriate police investigation, particularly into the matter of the person who is deceased, which is entirely appropriate, and we've had those assurances from none less than the Prime Minister. And our Attorney-General will be liaising with PNG to provide whatever assistance they need, if they request it, to

5 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Visit by Malaysian Minister for Home Affairs, Manus Island', *Remarks and Press Conference*, 20 February 2014, Sydney, at: <http://www.minister.immi.gov.au/media/sm/2014/sm211967.htm> (accessed 30 October 2014).

6 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island incident, review into Nauru riot', 23 February 2014, Sydney, at: <http://www.minister.immi.gov.au/media/sm/2014/sm212047.htm> (accessed 30 October 2014).

7 *Submission 22*, p. 7. See also Ms Elizabeth Thompson, *Submission 19*, Appendix 2, p. 45; Name withheld, *Submission 33*, [p. 2].

8 Department of Immigration and Border Protection and the Joint Agency Taskforce, *Answers to questions taken on notice at the public hearing on 11 July 2014, and written questions* (received 25 August 2014), [p.8]; Mr Kenneth Douglas, First Assistant Secretary, Department of Immigration and Border Protection, *Committee Hansard*, 11 July 2014, p. 36.

9 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island incident', *Press conference*, 18 February 2014, Canberra, at: www.minister.immi.gov.au/media/sm/2014/sm211891.htm (accessed 24 September 2014).

ensure those investigations are thorough and complete and get to the heart of those matters.¹⁰

Involvement of the AFP and service providers

6.9 As noted in chapter 5, the criminal investigation of the events of 17 February was the responsibility of the PNG police. However, the Australian Federal Police (AFP) made a broad offer of assistance to the PNG police in relation to the investigation. The AFP described the assistance which was requested and provided:

...on 21 February, the AFP received a request for assistance with respect to the capability of undertaking a post-mortem. Upon receipt of that we arranged for the deployment of two Victorian Institute of Forensic Medicine personnel to travel to Papua New Guinea to assist the PNG coroner with undertaking the post-mortem of the deceased. The VIFM personnel travelled to PNG on 23 February 2014. On 24 February 2014 a post-mortem of the deceased was completed. The following day, on 25 February, as part of normal practice the forensic pathologist travelled to Manus Island and met with the coroner and, I understand, also, consistent with undertaking the post-mortem, reviewed the site of the alleged incident.¹¹

6.10 An AFP officer indicated to the committee that it had also declined a subsequent request from PNG police in late March 2014 to be further involved in the investigation:

[A] request was made of the AFP to undertake what I would couch as being an independent witness during interview of some witnesses. The AFP declined and offered some alternative solutions... We offered a number of alternatives, noting that the AFP does not have operational jurisdiction and it would confuse the situation for the role of the AFP. That was understood and accepted by the [Royal Papua New Guinea Constabulary]. It was a matter for them to make arrangements. We suggested that they could use other sources of witnesses, such as social welfare providers, the IHMS or other diplomatic consular assistance, and the RPNGC accepted that advice.¹²

6.11 Transfield also indicated that it had been requested to facilitate access by PNG police to staff and transferees at the centre as part of their criminal investigations.¹³

10 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Visit by Malaysian Minister for Home Affairs, Manus Island', *Remarks and Press Conference*, 20 February 2014, Sydney, at: <http://www.minister.immi.gov.au/media/sm/2014/sm211967.htm> (accessed 30 October 2014).

11 Mr Clive Murray, Acting Assistant Commissioner, Australian Federal Police, *Committee Hansard*, 10 June 2014, pp 25-26.

12 Mr Clive Murray, Acting Assistant Commissioner, Serious and Organised Crime, Australian Federal Police, *Committee Hansard*, 10 June 2014, pp 25-26.

13 Transfield Services, *Responses to questions taken on notice at a public hearing on 11 June 2014* (received 23 July 2014), p. 1.

Arrests relating to the death of Mr Barati

6.12 The Cornall Review noted that, by the end of April 2014, 'some PNG police investigations, including interviews with transferees on Manus Island, were well advanced'.¹⁴

6.13 In August 2014, Australian media outlets reported that PNG police had arrested two suspects and charged them with murder in relation to the death of Mr Barati. The two individuals charged were reported to be a former Salvation Army employee, Joshua Kaluvia, and Louis Efi, another PNG national believed to have been a G4S employee at the time of the incident.¹⁵ It was also indicated that three more individuals were still wanted by police in relation to the incident, one Papua New Guinean and two expatriates.¹⁶ One of the suspects who was charged had reportedly fled Manus Island and travelled across PNG in an attempt to avoid capture before being arrested.¹⁷

6.14 In early November 2014 it was reported that the trial of the two suspects charged with the murder of Mr Barati had been delayed after the two suspects were not provided with a lawyer at a court appearance.¹⁸

Other assaults that occurred during the incidents

6.15 In his review of the incident, Mr Robert Cornall AO indicated that he had received 270 feedback forms from transferees in relation to the incident, and had compiled all of those forms which contained allegations by transferees that they were the subject of a criminal offence, as well as those forms containing statements by transferees that they witnessed criminal offences against other transferees. This and

14 Mr Robert Cornall AO, *Review into the events of 16-18 February 2014 at the Manus Regional Processing Centre*, p. 87.

15 See: Liam Cochrane, 'Manus Island riot: Papua New Guinea police charge two men over Reza Barati's death, search for wanted expats', *ABC News Online*, 20 August 2014, <http://www.abc.net.au/news/2014-08-19/two-men-charged-over-reza-baratis-death-on-manus-is/5681882> (accessed 29 October 2014); David Wroe and Sarah Whyte, 'Reza Barati: Two men arrested over death of asylum seeker at PNG detention centre', *Sydney Morning Herald*, 19 August 2014, at: <http://www.smh.com.au/federal-politics/political-news/reza-barati-two-men-arrested-over-death-of-asylum-seeker-at-png-detention-centre-20140819-3dyf3.html> (accessed 1 November 2014).

16 Liam Cochrane, 'Manus Island riot: Papua New Guinea police charge two men over Reza Barati's death, search for wanted expats', *ABC News Online*, 20 August 2014.

17 Liam Cochrane, 'Reza Barati: Salvation Army suspect in Manus Island riot murder tried to fake own death to evade capture, police say', *ABC News Online*, 22 August 2014, at: <http://www.abc.net.au/news/2014-08-21/reza-barati-murder-suspect-tried-to-fake-own-death/5687550> (accessed 29 October 2014).

18 Liam Cochrane, 'Reza Barati murder trial delayed after suspects not provided with defence lawyers', *ABC News Online*, 3 November 2014, at: <http://www.abc.net.au/news/2014-11-03/barati-murder-trial-delayed-after-suspects-not-provided-lawyers/5862986> (accessed 3 November 2014).

other relevant material was provided by Mr Cornall to the RPNGC in Port Moresby on 7 May 2014.¹⁹

6.16 In relation to G4S employees that may have been involved in the violence against transferees, Mr Darren Boyd from G4S informed the committee that G4S had provided information to the PNG authorities in relation to the incidents, however it was largely unclear which individuals had been involved:

Mr Boyd: I think the efforts we have gone to have been twofold. One is that any information that we actually have received we have provided to the PNG police. But, on the second part of that, the accounts that we have actually got just seem to refer to G4S PNG locals or nationals. They do not name specifically who those PNG people are.

...

Mr Boyd: Before we departed the island, we have at different times had some accounts provided to us that potentially had some—I cannot say if they had names on them, but they certainly had information on them that we deemed relevant and we provided that directly to the police as the correct authority to investigate exactly what happened that night.

Senator SESELJA: But from an employer perspective, you obviously do not have enough information to even take disciplinary action against any of your staff, quite aside from any criminal potential action.

Mr Boyd: That is correct.²⁰

6.17 The committee is not aware of any arrests or charges being laid in relation to other assaults perpetrated on transferees during the incidents of 16-18 February 2014.

Response of the department and the minister following the incident

6.18 The terms of reference for the committee's inquiry include the involvement and response of both the department and the Minister for Immigration and Border Protection, the Hon Scott Morrison MP, in relation to the violent incidents that occurred from 16 to 18 February 2014 at the Manus Island RPC. This section of this chapter examines the public statements made by the Minister in the aftermath of the incidents, some of which were factually incorrect, with reference to the information available to the department during the incidents and in the days following.

Public statements by the Minister for Immigration and Border Protection

6.19 On the morning of 18 February 2014, the minister issued a statement in relation to the incident at Manus Island RPC on 17 February. The minister stated that he was advised that there had been a more serious incident overnight 'involving transferees breaching internal and external perimeter fences at the centre'. The minister further stated 'that during the events PNG Police did not enter the centre and

19 Mr Robert Cornall AO, *Review into the events of 16-18 February 2014 at the Manus Regional Processing Centre*, p. 69.

20 Mr Darren Boyd, Southern Pacific Regional Managing Director, G4S, *Committee Hansard*, 10 June 2014, pp 40-41.

that their activities related only to dealing with transferees who breached the external perimeter'.²¹ This statement did not mention that a fatality had occurred during the incident.

6.20 The minister subsequently held two press conferences on 18 February 2014, one during the morning in Darwin, and a second on the afternoon of 18 February in Canberra following further briefings. At the first press conference in Darwin, the minister stated that one person was confirmed as deceased as a result of a head injury sustained during the incident, and that this 'injury was sustained outside the centre'. The minister also referred to another serious injury involving a gunshot wound to the buttock of a transferee, stating that the 'gunshot wound occurred also outside the centre itself'.²² The minister stated further:

This is a tragedy but this was a very dangerous situation where people decided to protest in a very violent way and to take themselves outside the centre and place themselves at great risk. In those situations our security people need to undertake the tasks that they need to undertake to restore the facility to a place of safety and equally those who are maintaining the safety of the security environment outside the centre need to use their powers and various accoutrements that they have available to them in order to restore in the way that is provided for under PNG law.

...clearly the outcome where someone has absconded, gone outside the safety of that facility and put themselves at risk, resulting in such a tragic outcome is terrible.²³

6.21 In relation to whether PNG police had entered the centre, the minister stated:

[M]y statement early today made it very clear there were no PNG police inside the centre last night. That is the report that was provided to me overnight. That is the information that I have available to me. So the suggestion that PNG police were in the centre is not correct on the information that I have.

G4S have advised that there was no one who came from outside and sought to disrupt or attack people on the inside which lead to the perimeter fence being breached.²⁴

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- 21 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Statement on further incident at Manus Island OPC', *Media release*, 18 February 2014, at: <http://www.minister.immi.gov.au/media/sm/2014/sm211867.htm> (accessed 9 September 2014). This inaccurate statement may have been based on: 'SitRep#13 - Cat 3 – Critical Disturbance and Death- Manus OPC – 16 February 2014 as at 0430 hours AEDST Tuesday 18 February 2014', *Additional Information provided by the Department of Immigration and Border Protection – incident reports* (received 6 June 2014), [p.6].
- 22 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island Incident', *Press Conference*, 18 February 2014, Darwin, at: <http://www.minister.immi.gov.au/media/sm/2014/sm211887.htm> (accessed 30 October 2014).
- 23 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island Incident', *Press Conference*, 18 February 2014, Darwin.

6.22 At the subsequent press conference in Canberra, later the same afternoon, the minister gave a more detailed chronology of events, noting:

The demonstration flared again at around 9.45pm local time with transferees pushing down internal fences between compounds...A number of transferees moved from the facility to the adjoining road where they had also pushed down fences...

Just after 11.20pm local time PNG police were reported to have fired shots. At around midnight local time, at the height of the disturbance, G4S staff withdrew to the internal perimeter and the PNG police intervened with those transferees who had breached the external perimeter. At 1am the PNG police were once again reported to have fired shots, at 2am order was restored to the centre.²⁵

6.23 When questioned whether he could guarantee the safety of transferees at the centre, the minister stated:

I can guarantee their safety when they remain in the centre and act co-operatively with those who are trying to provide them with support and accommodation. When people engage in violent acts and in disorderly behaviour and breach fences and get involved in that sort of behaviour and go to the other side of the fence, well they will be subject to law enforcement as applies in Papua New Guinea. But when people co-operate and conduct themselves appropriately within the centre then yes I can.²⁶

6.24 The minister rejected reports that individuals outside the centre had pushed down fences and entered the centre in order to attack transferees:

That's not consistent with the reports that I've received, in particular I'm aware that those reports say that the fence was pushed over from outside with people allegedly trying to come in to attack those who were inside. That is not how the fence went down, as I've been advised.²⁷

6.25 The minister acknowledged that there were 'conflicting reports' about where the deceased transferee had sustained his injuries. The minister also announced that a full review of the events would be initiated by the department.²⁸ On 21 February 2014,

24 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island Incident', *Press Conference*, 18 February 2014, Darwin.

25 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island incident', *Press conference*, 18 February 2014, Canberra, available at: www.minister.immi.gov.au/media/sm/2014/sm211891.htm (accessed 24 September 2014).

26 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island incident', *Press conference*, 18 February 2014, Canberra.

27 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island incident', *Press conference*, 18 February 2014, Canberra.

28 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island incident', *Press conference*, 18 February 2014, Canberra; Mr Robert Cornall AO, *Committee Hansard*, 12 June 2014, p. 9.

the minister announced that the independent review would be undertaken by Mr Robert Cornall AO.²⁹

6.26 It was not until late on 22 February 2014 that the minister issued a media release confirming that 'the majority of the riotous behaviour that occurred, and the response to that behaviour to restore order to the centre, took place within the perimeter of the centre'.³⁰ At a press conference in Sydney on 23 February 2014, the minister offered an explanation as to this change from his initial reports, stating that that he had received the updated information in relation to the incident the previous day, and 'over the course of the day...went through a process of when that information could be made available and I could be confident that when it was released it was accurate'.³¹

6.27 The minister further clarified on 24 February 2014 that:

...over the balance of the week, I received further information and on Saturday [22 February] I received information that made it clear that it was essential to correct the record, which I did on Saturday.³²

Information provided to the department and the minister

6.28 During this inquiry, the department provided the committee with situation reports and incident reports from the department and G4S as well as internal departmental correspondence, generated during the incidents of 16-18 February and in subsequent days.³³ G4S also provided the committee with a summarised version of its chronology of events for the afternoon and night of 17 February, based directly on the Emergency Control Organisation (ECO) log made during the incident.³⁴ These documents provide further context for the public statements made by the Minister in the days after.

29 Mr Robert Cornall AO, *Review into the events of 16-18 February 2014 at the Manus Regional Processing Centre*, p. 14; The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Man us Island incident, Operation Sovereign Borders, joint review', *Press Conference*, 21 February 2014, Canberra, at: <http://www.minister.immi.gov.au/media/sm/2014/sm212027.htm> (accessed 30 October 2014).

30 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island Update', *Media release*, 22 February 2014, at: www.minister.immi.gov.au/media/sm/2014/sm212031.htm (accessed 9 September 2014).

31 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Manus Island incident, review into Nauru riot', 23 February 2014, Sydney.

32 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, *House of Representatives Hansard*, 24 February 2014, p. 554.

33 *Additional Information provided by the Department of Immigration and Border Protection – incident reports* (received 6 June 2014); and *Additional Information provided by the Department of Immigration and Border Protection – communications* (received 6 June 2014).

34 *Submission 29*, Attachment 4.

6.29 The two main points of contention relate to:

- where the violence and riotous behaviour occurred on the night of 17 February (outside the centre, as first stated by the minister, or inside the centre as he later acknowledged); and
- whether the PNG police entered the centre and were involved in quelling the disturbance inside the centre.

6.30 It should also be noted that the written records provided to the committee do not represent the sum of communications between staff on Manus Island and departmental and service provider staff in Australia; the department noted that 'a number of teleconferences took place during the night of 17 February 2014 and early into the morning of 18 February 2014', involving members of the ECO at the centre, departmental staff in Canberra and G4S head office in Melbourne.³⁵

Departmental situation reports, G4S chronology and incident reports

6.31 Departmental officers filed at least 21 situation reports (SitReps) in relation to events on Manus Island at various times during 16-19 February 2014.³⁶ Two of these reports contained incorrect information relating to transferees breaching perimeter fences and the role of PNG police on the night of 17 February.

6.32 SitRep #12, made at 8.50 pm AEDT time (9.50 pm PNG time) on the evening of 17 February 2014, included information that transferees in Mike compound had begun to 'push the fences down' at 9.44 pm, and at 9.45 pm 'transferees breached the fences and moved onto Paugrash (sic) road', before being moved back into the compound by the emergency response team.³⁷

6.33 The ECO occurrence log made during the incident, provided by G4S, noted at 9.44 pm 'Mike Transferees rush low fence to Green Zone trying to breach fence between Mike and Foxtrot',³⁸ and contained no reference to transferees breaching an external fence and moving onto route Pugwash. The ECO log states that the fencing between Mike and Foxtrot compounds was subsequently broken through at 10.01 pm.³⁹

35 Department of Immigration and Border Protection, *Answers to questions on notice* (received 25 November 2014), pp 1-3. See also: G4S, 'Incident Report number: MI 0580', *Additional Information provided by the Department of Immigration and Border Protection – incident reports* (received 6 June 2014), [p. 22]; Mr Robert Cornall AO, *Committee Hansard*, 12 June 2014, pp 15-16.

36 See *Information provided by the Department of Immigration and Border Protection – incident reports* (received 6 June 2014), [pp 2-13].

37 'SitRep#12 - Cat 3 – Critical Disturbance - Manus OPC – 16 February 2014 as at 2050 hours Monday 17 February 2014', *Additional Information provided by the Department of Immigration and Border Protection - incident reports* (received 6 June 2014), [p. 7].

38 G4S, *Submission 29*, Attachment 4, p. 6.

39 G4S, *Submission 29*, Attachment 4, p. 7.

6.34 The next SitRep provided by the department, made at 4.30 am AEDT on 18 February 2014 (5.30 am PNG time), included information that:

- All staff were evacuated from the facility when the situation deteriorated about midnight. The PNG Police mobile squad took action to restore order to the site and encourage transferees to return inside the perimeter of facility.
- It is believed several hundred transferees were involved in the disturbance, with a number of those moving from the facility to the adjoining road.
- At the height of the disturbance at about lam, the PNG Police fired shots. PNG Police did not enter the facility at any time.⁴⁰

6.35 These SitReps give the impression that a significant proportion of the unrest and riotous activity had occurred outside the centre, as well as explicitly stating that PNG police were involved in returning transferees to the centre and taking other actions to attempt to quell the disturbance, without actually entering the centre.

6.36 In response to a question on these issues, the department stated that reports provided to it by G4S staff at the RPC during the incident formed the basis of the information used in the departmental SitReps, including that PNG police had not entered the centre and that transferees had breached the fences at the centre.⁴¹ The department stated further:

G4S led the teleconferences over the course of the evening of 17 February 2014 and morning of 18 February 2014 to discuss the unfolding situation on Manus... During the teleconferences held between 1:30 am and 6:00am on 18 February 2014, the information that RPNGC did not enter the centre was provided by G4S onsite.⁴²

6.37 G4S' chronology of events from the night, as well as a G4S incident report subsequently created on 18 February 2014, noted that PNG police units had been sighted in Mike compound by members of the G4S incident response team at 11.27 pm.⁴³

6.38 G4S noted that a departmental officer was present with G4S and other service provider staff in the Command Centre at the RPC on the night of 17 February, and as

40 'SitRep#13 - Cat 3 – Critical Disturbance and Death - Manus OPC – 16 February 2014 as at 0430 hours AEDST Tuesday 18 February 2014', *Additional Information provided by the Department of Immigration and Border Protection – incident reports* (received 6 June 2014), [p. 6].

41 Department of Immigration and Border Protection, *Answers to questions on notice* (received 25 November 2014), p. 3.

42 Department of Immigration and Border Protection, *Answer to questions on notice* (received 25 November 2014), pp 1-2.

43 G4S, 'Incident Report number: MI 0580', *Additional Information provided by the Department of Immigration and Border Protection – incident reports* (received 6 June 2014), [p. 32].

such as 'privy to all of the radio reports, verbal reports and discussions which took place in the Command Centre'.⁴⁴

Clarifying information relating to the events of 17 February

6.39 The veracity of some information in the departmental SitReps from the events at the centre was being questioned internally by the afternoon of 18 February. The department informed the committee that G4S provided it with a copy of the ECO occurrence log at 1.32 pm on 18 February 2014, information which alerted the department that the police mobile squad had entered the compound during the incident.⁴⁵

6.40 G4S told the committee that it had alerted the department that PNG police had entered the centre even earlier than this, stating that it informed departmental officials during a teleconference at approximately 10.30 am on the morning of 18 February that PNG police had breached the fence of Mike compound and entered the centre the night before.⁴⁶

6.41 Copies of communications provided to the committee by the department show that on 19 February, departmental officials in Canberra requested further information from staff on Manus Island in relation to the chronology of events for the incident on 17 February, noting that some information in the SitReps provided on the night conflicted with information in the G4S log of events.⁴⁷

6.42 The information provided by G4S and departmental staff on Manus Island in response to this request clarified that the G4S chronology stating that the police mobile squad had entered Mike compound during the incident was correct (contrary to SitReps #12 and #13 provided by departmental officials on the night).⁴⁸

6.43 Copies of communications provided to the committee by the department reveal that several requests for information were made by the minister's office in the days after the incidents at the Manus Island RPC. An internal departmental email on the afternoon of 19 February 2014 notes a request for information from the minister's office in relation to how many police were deployed on the night and how many G4S

44 G4S, *Answers to written questions on notice* (received 28 November 2014), pp 1 and 2.

45 Department of Immigration and Border Protection, *Answers to questions on notice* (received 25 November 2014), p. 2.

46 G4S, *Answers to written questions on notice* (received 28 November 2014), pp 1 and 2.

47 Email correspondence dated 19 February 2014, *Additional Information provided by the Department of Immigration and Border Protection – communications* (received 6 June 2014), [pp 119-124].

48 Email correspondence dated 19 February 2014, *Additional Information provided by the Department of Immigration and Border Protection –communications* (received 6 June 2014), [p. 119]. The advice provided at that stage was that 'it was identified that police mobile squad had entered Mike compound' at 11.37 pm on 17 February 2014.

guards were involved in the use of shields,⁴⁹ while a further email on the same afternoon notes an 'urgent request from the MO' (minister's office), asking how many sweeps and searches were undertaken of the Manus OPC in the preceding week, as well as how many walk throughs were undertaken by police and when those walk throughs started.⁵⁰

Submitter comments

6.44 Some submitters asserted that the minister's early statements in relation to the events at the centre had sought to unfairly blame asylum seekers for the violence ultimately perpetrated against them during the incidents of 16-18 February by emphasising riotous or aggressive behaviour on the part of transferees. For example, the Human Rights Law Centre argued:

[I]n the immediate aftermath of the incident the Minister of Immigration and Border Protection made comments which appeared to seek to shift blame for the violence to its victims...

The focus on asylum seekers' behaviour during that important period in the immediate aftermath of the events had the potential to colour subsequent investigations into the events and undermine their perceived independence. Equally, victim-blaming took the place of what ought to have been a comprehensive review by the Government of its own responsibility and the steps to be taken to ensure such events are never repeated.⁵¹

Transition to Transfield Services and subsequent developments

6.45 As noted in chapter 2, a decision was made in late 2013 to replace G4S and the Salvation Army as garrison and welfare service providers at the Manus Island RPC, with Transfield Services (Transfield) taking over those functions.

6.46 Transfield took over operational responsibility at the Manus Island centre on 28 March 2014 following a transition period with G4S and the Salvation Army, which occurred from 22 February 2014.⁵² Transfield representatives informed the committee that the initial stages of this transition was limited to the welfare aspects of the contract, and the Salvation Army's contract to provide services at the Manus Island centre officially finished on 20 March 2014.⁵³

49 Email correspondence dated 19 February 2014, *Additional Information provided by the Department of Immigration and Border Protection – communications* (received 6 June 2014), [p. 124].

50 Email correspondence dated 19 February 2014, *Additional Information provided by the Department of Immigration and Border Protection – communications* (received 6 June 2014), [p. 149].

51 *Submission 17*, pp 11 and 12. See also: Asylum Seeker Resource Centre, *Submission 23*, pp 4-5.

52 Transfield Services, *Responses to questions taken on notice at a public hearing on 11 June 2014* (received 23 July 2014), p. 1.

53 Mr Fraser Douglass, *Committee Hansard*, 11 June 2014, pp 56-57.

6.47 Mr Fraser Douglass, Executive General Manager, Government Business at Transfield, outlined to the committee Transfield's priorities in operating at the Manus Island centre:

It is a responsibility that we take extremely seriously, and for us there are two key priorities. The first is to take a humane and respectful approach to the provision of services. A strong set of values guides our behaviours and decisions, no matter where we are or what we do. This applies to all of our employees, particularly our front-line workers, who deliver services on our behalf.

Our second key priority is to provide the best possible environment for transferees in both centres, given the resources available and the scale of this large and complex support operation. We are highly experienced in efficiently and effectively managing facilities and remote locations around the world, and often at the end of complex logistics supply chains. With that in mind we do not take for granted the welfare and security challenges involved in this particular case.⁵⁴

Recommendations of the Cornall Review relating to Transfield

6.48 Several of the recommendations made by the Cornall Review of the events of 16-18 February 2014 were directed specifically to Transfield as the ongoing provider of garrison and welfare services at the centre. When asked about how it was implementing those recommendations relating to its activities at the Manus Island RPC, Transfield provided the following response:

Transfield Services can advise that as a part of normal business we are, by default, addressing various issues raised in the Cornall Report. All specific recommendations that Cornall has made are subject to Department of Immigration and Border Protection approval and direction. Accordingly Transfield Services is awaiting the Department of Immigration and Border Protection's approval and direction prior to implementing any specific action.⁵⁵

6.49 More specific information in relation to the implementation of some of these recommendations was provided by the department, as follows.

Role of security service provider, provincial police and police mobile squad

6.50 The Cornall Review recommended that Transfield Services (and its security services subcontractor, Wilson Security), the RPNGC provincial police and the mobile squad clearly establish and understand their respective roles and responsibilities in regard to the maintenance of law and order within the Manus RPC (including

54 *Committee Hansard*, 11 June 2014, p. 57.

55 Transfield Services, *Responses to questions taken on notice at a public hearing on 11 June 2014* (received 23 July 2014), pp 2-3.

agreement on a process for handover and handback of an incident that is beyond the control of the garrison security provider and the levels of force to be used).⁵⁶

6.51 In relation to advancing these arrangements, the then departmental Secretary Mr Martin Bowles PSM stated:

[This recommendation] has been progressed through a number of measures. These measures include regular engagement between stakeholders, weekly meetings of the joint intelligence group and desk-based exercises to name a few. I am also advised that Transfield have established a police liaison officer for the sole purpose of directly engaging with the PNG provincial police and mobile squad.⁵⁷

Interactions between service providers and transferees

6.52 The Cornall Review made several recommendations in relation to actions to be taken by the department and Transfield in order to improve interactions with transferees. These were:

- that the department encourage and support initiatives by Transfield Services to maximise the opportunity offered by the change of service providers to restore trust and cooperation between service providers and transferees;
- that the department and Transfield improve communication with transferees;
- that Transfield consider recommendations made in other reports about conditions and possible welfare improvements which can be made at the centre and, where practical, implement those welfare improvements it considers appropriate; and
- that Transfield assist transferees to replace personal items lost or stolen during the incidents.⁵⁸

6.53 Mr Bowles informed the committee in relation to some of these matters:

In keeping with Mr Cornall's recommendations to encourage and support initiatives to restore trust and cooperation between service providers and transferees, the department has supported Transfield to introduce a number of initiatives. These included opening the gates between compounds to provide transferees with greater access to friends in other compounds and the opportunity to engage in external excursions. Transfield have implemented a significant cultural shift in the way the security team engages and interacts with transferees, with a strong emphasis on the engagement in a respectful and considered manner. Similarly, Mr Cornall recommended improvements to communications with the transferees. I am pleased to advise the PNG's ICSA, which is their immigration service, my

56 Mr Robert Cornall AO, *Review of the events of 16-18 February 2014 at the Manus Regional Processing Centre*, p. 13 (Recommendation 5).

57 *Committee Hansard*, 10 June 2014, p. 2.

58 Mr Robert Cornall AO, *Review of the events of 16-18 February 2014 at the Manus Regional Processing Centre*, p. 13 (Recommendations 7, 9, 11 and 12).

department and Transfield continue to work collaboratively to enhance communication with transferees. For example, in developing a recent video presentation to transferees outlining the PNG refugee determination process. I understand this presentation was well received.⁵⁹

Engagement of staff involved in the violence between 16 and 18 February 2014

6.54 The Cornall Review recommended that Transfield carefully considers all the information provided to it by the Cornall Review to ascertain if it has unwittingly engaged employees who have been identified as assaulting transferees between 16-18 February 2014 and, if so, deal appropriately with them (including dismissal).⁶⁰

6.55 Transfield informed the committee that while it had not compiled a definitive list of people it believed to have been present at the centre during the incidents, it understood that 'at least 19 of its expat staff were previously employed by others and were likely to have been at the centre on the night' of Mr Barati's death.⁶¹ Transfield further advised the committee that it had not rejected any person's application for employment at the centre on the grounds that that person carried out an assault on the night of 17 February 2014.⁶² Mr Derek Osborn from Transfield explained:

We have worked very hard through a number of processes through our recruitment process to do everything we can to ensure that anyone who was involved in an assault has not been employed by Transfield Services... We have undertaken a range of things [to ensure that]. Obviously, we have got a range of witness information. We have been able to talk to a range of stakeholders on the island. We have been able to interview people. We have obviously conducted our own interviews and asked people to sign stat decs and those sorts of things. We have gone through a series of processes to ensure that we have done everything we can.⁶³

6.56 When asked whether its employment checks also covered subcontracted security staff employed by Wilson Security, Mr Osborn stated that Transfield has not overseen the recruitment of those staff directly, but that it has required Wilson Security 'to be absolutely certain that they have done everything possible to ensure that anyone who was involved in the assaults over the course of the nights is not to be employed'.⁶⁴

59 *Committee Hansard*, 10 June 2014, pp 2-3.

60 Mr Robert Cornall AO, *Review of the events of 16-18 February 2014 at the Manus Regional Processing Centre*, p. 13 (Recommendation 8).

61 Transfield Services, *Responses to questions taken on notice at a public hearing on 11 June 2014* (received 23 July 2014), p. 2.

62 Transfield Services, *Responses to questions taken on notice at a public hearing on 11 June 2014* (received 23 July 2014), p. 2.

63 Mr Derek Osborn, Executive General Manager, Logistics and Facilities Management, Transfield Services, *Committee Hansard*, 11 June 2014, p. 58.

64 *Committee Hansard*, 11 June 2014, p. 60.

6.57 Other evidence presented to the committee contested the claim that no individuals involved in assaults on asylum seekers were now employed at the centre. Humanitarian Research Partners (HRP) contended that 'at least two of the alleged 17 February assailants are now back working in the centre and terrifying their victims by their mere presence'.⁶⁵ Mr Ben Pynt, Director of Human Rights Advocacy at HRP, told the committee that asylum seekers at the centre had reported to him on multiple occasions that perpetrators were still working at the centre.⁶⁶ Mr Pynt expanded:

[The transferees] do not feel that they are being adequately protected by the guards that are employed at the centre. In fact, they feel threatened by a number of the guards at the centre. I know of one story that chilled me to the bone. An asylum seeker contacted me shortly after he had been to medical. He was in Mike compound. From Mike compound you get in the back of a ute and they take you through to IHMS, because you are not meant to walk through. He got into the ute, screamed, and got out of the ute, because the person driving the ute was one of the people who attacked him. This is happening all the time. The mental harm that is created simply by having the attackers remain at the centre is unbelievable and unconscionable.⁶⁷

Community engagement and training

6.58 The Cornall Review made two recommendations in relation to community engagement and training, namely:

- that the department puts in place a comprehensive and continuing community liaison program to more fully inform the local population about the RPC and the direct benefits it brings to the Manus community; and
- that Transfield implements a comprehensive and ongoing training program for PNG national staff to develop their professional skills and improve their future employment prospects.

6.59 In relation to enhancing liaison with the local community, Mr Bowles informed the committee that the department already had a permanent community liaison officer in place at the Manus centre, and that the duties of this officer had been enhanced in line with Mr Cornall's recommendation.⁶⁸ In relation to providing training opportunities for PNG national staff, Mr Bowles stated:

Specific training and development obligations are part of the Transfield contract. In line with this obligation, I am informed that Transfield have been in discussions with the Lorengau TAFE to develop work placement opportunities. I also understand that Transfield are looking at opportunities to assist with agricultural type initiatives, which may include community projects or school-based projects. Additionally, Decmil, the managing

65 *Submission 26*, [p. 9]. See also: Refugee Rights Action Network WA, *Submission 28*, [p. 4].

66 *Committee Hansard*, 13 June 2014, p. 33.

67 *Committee Hansard*, 13 June 2014, p. 33.

68 Mr Martin Bowles, DIBP, *Committee Hansard*, 10 June 2014, p. 3.

contractor of the construction work, provides a professional development training program for PNG local staff employed on its sites, and IHMS, the health services provider, has initiated a range of training programs for local national staff.⁶⁹

RSD processing and resettlement arrangements

6.60 The Cornall Review recommended that current measures and any further initiatives which will expedite the finalisation of PNG refugee status determinations and resettlement and removal processes be implemented as quickly as possible with appropriate assistance.⁷⁰

6.61 Mr Bowles informed the committee that 'the department continues to work closely with the PNG government to expedite the finalisation of PNG refugee determinations and settlement and removal processes'.⁷¹

6.62 Despite these efforts, the Minister for Immigration and Border Protection noted on 10 September 2014 that 'there remain difficult and frustrating problems' in attempting to establish a resettlement program in PNG:

The resettlement plan has now been before the PNG Cabinet for several months, following the extensive consultations conducted by their Expert Panel...It is important that this now proceed.

We remain committed to working through the remaining issues with the government of PNG to ensure that the agreement delivers the resettlement of refugees in PNG in return for the increased aid and infrastructure funding that is being delivered.⁷²

6.63 On 20 October 2014, a statement from the Papua New Guinea Prime Minister, the Hon. Peter O'Neill CMG MP, noted that a refugee resettlement policy had still not been finalised:

[D]ue to lack of understanding and support for refugee resettlement in PNG communities [Prime Minister O'Neill] has instructed that a new policy be prepared with increased focus on consultations and building public awareness and support.⁷³

69 Mr Martin Bowles, DIBP, *Committee Hansard*, 10 June 2014, p. 3.

70 Mr Robert Cornall AO, *Review of the events of 16-18 February 2014 at the Manus Regional Processing Centre*, p. 12 (Recommendation 3).

71 Mr Martin Bowles, Department of Immigration and Border Protection, *Committee Hansard*, 10 June 2014, p. 2.

72 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'Restoring integrity and public confidence in Immigration and Border Protection' *Address to the National Press Club*, Canberra, 10 September 2014, at: <http://www.minister.immi.gov.au/media/sm/2014/sm217736.htm> (accessed 4 November 2014).

73 The Hon Peter O'Neill, Prime Minister of Papua New Guinea, 'Papua New Guinea-Australia PM's Meeting on Manus Asylum Seekers', 20 October 2014, at: <http://www.officeofprimeminister.com/#!/october-2014/c1nq8> (accessed 5 November 2014).

6.64 Prime Minister O'Neill stated that this new policy would not be considered by cabinet until after comprehensive public awareness campaigns and consultations are completed.⁷⁴

6.65 As noted in chapter 4, the PNG Minister for Foreign Affairs and Immigration, the Hon Rimbink Pato MP, made final refugee status determination decisions for ten transferees on 12 November 2014, the first final decisions to be handed down for individuals detained at the Manus Island RPC. However these individuals have still not been offered permanent settlement in PNG, instead receiving a 12 month refugee visas and being moved from the Manus Island RPC to a newly constructed facility in East Lorengau. It was announced that these refugees would also be given language and cultural training and help finding jobs in PNG.⁷⁵

Comcare compliance inspections

Site inspection in December 2013

6.66 Prior to the events of February 2014, an official from Comcare had conducted a site inspection of the Manus Island RPC in December 2013 in order to review workplace health and safety arrangements at the centre. The Comcare inspector's report recommended several changes be implemented at the centre to manage health and safety risks to workers and third parties, including to:

- removal of an old kitchen facility and remediation of a surrounding area of ground contamination;
- construction of security fencing in the area of the kitchens;
- rectify an apparent design flaw in the new kitchen facility at the centre and removal of built-up mould in the kitchen;
- improve security capability at the RPC entry gate; and
- improve systems for tracking workers present at the Bibby Progress accommodation barge.⁷⁶

6.67 The report also observed that office and administration facilities at the centre were cramped and subject to high temperatures. Further, it observed that IHMS's capability to provide contracted health services seemed to be under strain due to the increase in transferee numbers without a proportionate increase in medical services

74 The Hon Peter O'Neill, Prime Minister of Papua New Guinea, 'Papua New Guinea-Australia PM's Meeting on Manus Asylum Seekers', 20 October 2014, at: <http://www.officeofprimeminister.com/#!/october-2014/c1nq8> (accessed 5 November 2014).

75 The Hon Rimbink Pato, LLB, OBE, MP, Papua New Guinea Minister for Foreign Affairs and Immigration, 'Refugees to start new lives in PNG', *Media Release*, 12 November 2014. See also: The Hon Scott Morrison MP, Minister for Immigration and Border Protection, 'More progress on PNG resettlement arrangement as first refugee determinations handed down', *Media Release*, 12 November 2014.

76 Comcare, 'Inspector Report', 8 January 2014 (pp 1-2), *Additional information provided by Comcare – documents relating to December 2013 site inspection* (received 10 July 2014), [pp 3-4].

provision capability, and in particular that IHMS's capacity to deal with a critical injury or mass casualty event was limited.⁷⁷

6.68 Documents provided to the committee also show that a staff member at the centre raised further WHS concerns with Comcare in January 2014, noting harsh conditions at the centre, lack of sanitation facilities and the risk of contracting infectious disease. Comcare responded by noting that it was monitoring the ongoing WHS environment at the centre and would take the concerns into account in future monitoring activities.⁷⁸

Compliance inspection following February incident

6.69 Following the incident of 16 February to 18 February 2014, Comcare initiated a compliance inspection to determine whether the department had breached the *Workplace Relations Act 2011* (which governs workplace health and safety requirements for Commonwealth employees) in relation to the incident. Comcare did not conduct a site visit to the centre as part of this inspection, but did inspect a range of material in relation to the incident, including documents provided by the department and G4S and the report of the Cornall Review.⁷⁹

6.70 Comcare finalised its inspection in June 2014, finding that:

- the department 'provided a safe workplace as far as reasonably practicable' at the RPC;
- the department 'exhibited no control over the events that transpired between 16-18 February that led to the death of Mr Barati'; and
- it was 'apparent that the injuries and death that occurred were the direct result of criminal actions, not as a result of inadequate WHS practices, processes or systems'.⁸⁰

6.71 The inspection report recommended that consideration be given to implementing the recommendations from the Cornall Review, particularly those recommendations with a direct or indirect relationship with workplace safety, and that a series of recommendations made in a 2013 review of the Nauru RPC be adapted and

77 Comcare, 'Inspector Report', 8 January 2014 (p. 4), *Additional information provided by Comcare – documents relating to December 2013 site inspection* (received 10 July 2014), [p. 6].

78 Email correspondence and Letter of Complaint dated 8 January 2014, *Additional information provided by Comcare – other documents relating to the Manus Island RPC* (received 10 July 2014), [pp 1-11].

79 Comcare, 'Inspector Report', 26 June 2014 (p. 3), *Additional information provided by Comcare – documents relating to 2014 compliance inspection* (received 10 July 2014), [p. 3].

80 Comcare, 'Inspector Report', 26 June 2014 (pp 1-2), *Additional information provided by Comcare – documents relating to 2014 compliance inspection* (received 10 July 2014), [pp 1-2].

implemented at the Manus RPC. It also recommended that Comcare inspectors undertake a further site visit to the Manus Island RPC prior to the end of 2014.⁸¹

Other developments in operations at the Manus Island RPC

6.72 Submitters and witnesses commented on several aspects of ongoing operations at the Manus Island RPC in the months after the events February 2014, including the ongoing impact on asylum seekers at the centre, and access to healthcare and other services at the centre.

Ongoing impact on asylum seekers detained at the Manus Island RPC

6.73 The committee heard evidence that re-traumatisation is a significant issue for asylum seekers held at the Manus Island RPC, particularly after the events of 16-18 February, for individuals who have previously experienced persecution in their home countries. Mr Ben Pynt of HRP commented:

Retraumatization is a huge problem at Manus Island. It occurs, as you rightly say, from the events that they experienced in their home countries that made them flee in the first place, from the trauma of the boat journey... Then there are the events of 16 and 17 February that left people with a profound sense that nothing they can do can make them safe. It is retraumatization on a daily basis when they see locals from outside the centre, through the fence making the sign of slitting their throat, or staff members who are within the centre threatening to kill them. I do not think I can describe how profoundly it affects the men. They are at breaking point.

Some research that we have recently conducted shows that about 60 per cent of asylum seekers have a history or trauma before they arrive in Australia. On Manus Island I would say, after the events that have occurred, it would be close to 100 per cent.⁸²

6.74 The committee heard further that many asylum seekers were not sleeping or had taken to keeping guard during the night out of fear of further attacks. Mr Pynt commented:

[P]eople are still keeping guard at night. There is somebody in each of the hard-shell tents and somebody in each of the rooms who stays awake at all times, because they are petrified of being attacked again.⁸³

6.75 Submitters and witnesses who claimed to be in contact with asylum seekers at the centre reported numerous instances of attempted suicides or serious self-harm at the centre in the weeks and months following the disturbances.⁸⁴

81 Comcare, 'Inspector Report', 26 June 2014 (p. 3), *Additional information provided by Comcare – documents relating to 2014 compliance inspection* (received 10 July 2014), [p. 3].

82 *Committee Hansard*, 13 June 2014, pp 33-34.

83 *Committee Hansard*, 13 June 2014, p. 33. See also: Ms Kristi Moffatt, *Submission 36*, [p. 2].

84 Refugee Rights Action Network WA, *Submission 28*, [p. 4]; Mr Ben Pynt, Humanitarian Research Partners, *Committee Hansard*, 13 June 2014, p. 36.

Allegations of mistreatment and interference with witnesses

6.76 Media reports in September 2014 detailed the use of a "managed behaviour area" outside the main centre by Transfield to isolate aggressive or non-compliant asylum seekers.⁸⁵ Further reports contained allegations from an asylum seeker held at the Manus Island RPC that he and another transferee had been forcibly held in this area for three days and subjected to beatings and threats, allegations which have been denied by the Australian Government.⁸⁶

6.77 It has also been reported that asylum seekers who wish to return home and have provided witness statements to PNG police in relation to the death of Mr Reza Barati have been told that they may not leave PNG until the investigation and judicial process is complete,⁸⁷ and that other witnesses have been either threatened or offered inducements in order to withdraw their statements.⁸⁸

Concerns relating to healthcare treatment at the centre

6.78 As discussed in chapter 3, concerns were raised by submitters and witnesses in relation to the adequacy of healthcare services at the Manus Island RPC, particularly in relation to delays in transferees receiving appropriate treatment. Amnesty International submitted that this is an ongoing issue for transferees who were injured during the protests:

Amnesty International continues to receive first hand testimony to the effect that injuries sustained during the violence are not being adequately cared for and detainees are not receiving sufficient or appropriate access to medical care. It is entirely unacceptable that months after this horrific event,

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- 85 Liam Cochrane, 'Asylum seekers on Manus Island sent to isolation units: leaked report', *ABC News Online*, 4 September 2014, at: <http://www.abc.net.au/news/2014-09-04/isolation-units-being-used-to-control-asylum-seekers-on-manus-i/5718084> (accessed 5 November 2014).
- 86 Michael Gordon, 'Human rights activist calls for investigation following reports of abuse at Manus Island detention centre', *Sydney Morning Herald*, 4 September 2014, at: <http://www.smh.com.au/national/human-rights-activist-calls-for-investigation-following-reports-of-abuse-at-manus-island-detention-centre-20140903-10bv83.html> (accessed 5 November 2014); Mandie Sami, 'Manus Island asylum seekers allegedly tortured, threatened with rape by guards in secret compound over Reza Barati death', *PM*, 4 November 2014, at: <http://www.abc.net.au/news/2014-11-03/asylum-seekers-on-manus-island-allegedly-tortured-and-threatene/5861120> (accessed 5 November 2014).
- 87 Mandie Sami, 'Manus Island asylum seekers allegedly tortured, threatened with rape by guards in secret compound over Reza Barati death', *PM*, 4 November 2014.
- 88 Michael Gordon, 'Human rights activist calls for investigation following reports of abuse at Manus Island detention centre', *Sydney Morning Herald*, 4 September 2014; Sue Lannin, 'Asylum seekers offered relocation if witness statements on Reza Barati's death withdrawn: Julian Burnside', *ABC News Online*, 6 November 2014, at: <http://www.abc.net.au/news/2014-11-06/julian-burnside-slams-federal-government-for-human-rights-abuse/5870280> (accessed 6 November 2014).

the victims may be forced to endure constant pain and suffering due to receiving little in the way of care.⁸⁹

Transparency and access to the Manus Island RPC

6.79 Several submitters and witnesses raised concerns in relation to the difficulty associated with access to the Manus Island RPC.

Limited access for lawyers and journalists

6.80 Amnesty International noted in its submission that on 27 February 2014, the National Court of PNG launched a human rights inquiry under section 57 of the PNG Constitution into conditions at the Manus Island RPC.⁹⁰ Under the auspices of this inquiry, Justice David Canning visited the Manus Island RPC on 21 March 2014, accompanied by representatives from Amnesty International, the Human Rights Law Centre (HRLC) and Australian journalists.⁹¹ This inquiry was subsequently challenged by the PNG government in the PNG Supreme Court, preventing the inquiry from continuing.⁹²

6.81 HRLC noted that the 21 March 2014 visit is the only instance of journalists being allowed inside the centre since the centre reopened in November 2012:

Prior to the grant of specific orders by the National Court of Papua New Guinea in a recent Court case, no Australian journalist had been granted access to the RPC. It also took court orders for lawyers from the PNG Public Solicitor's office to be granted access to speak to their clients inside the centre.

It is a matter of great concern that achieving this minimal level of access to an Australian built, funded and run facility has taken forceful orders from the National Court of another country.⁹³

6.82 Further orders from the National Court of PNG in March 2014 to allow access to the centre by an Australian barrister seeking to represent some asylum seekers held at the centre were also blocked, with the barrister refused entry to the Manus Island RPC and subsequently deported from PNG on the basis that he did not have a

89 *Submission 22*, p. 8. See also: Melissa Davey, 'Manus Island asylum seeker writes to UN in bid to access healthcare', *The Guardian Australia*, 27 October 2014, at: <http://www.theguardian.com/australia-news/2014/oct/27/manus-island-asylum-seeker-writes-to-un-in-bid-to-access-healthcare> (accessed 6 November 2014).

90 *Submission 22*, p. 7.

91 Amnesty International, *Submission 22*, p. 7. See also: 'Manus Island: Damage from riots visible during media's tour of detention centre', *ABC News Online*, 23 March 2014, at: <http://www.abc.net.au/news/2014-03-21/media-tour-of-manus-island-detention-centre/5337660> (accessed 6 November 2014).

92 Michael Gordon, 'Manus inquiry cruelled', *The Age*, 23 March 2014, at: <http://www.theage.com.au/national/manus-inquiry-cruelled-20140322-35adw.html> (accessed 6 November 2014).

93 Human Rights Law Centre, *Submission 17*, p. 10.

certificate to practice law in PNG.⁹⁴ Representatives from the Australian Lawyers Alliance (ALA) argued that access to the centre should be granted in such cases:

Mr [Jay] Williams was the barrister who went to PNG. That was particularly troubling. One would have thought that the Commonwealth ought to be making it very clear to the government of Papua New Guinea that properly qualified lawyers from Australia ought to be able to have access to clients on Manus Island and they should not be subjected to violence or threats of violence, as was the case with Mr Williams.⁹⁵

6.83 Dr Andrew Morrison from the ALA expressed particular concern that asylum seekers who had been injured in the violence in February 2014 had not been given adequate access to legal advice:

In relation to the individual rights of those who were injured, it is very troubling that there has not been access to lawyers even for those brought back to Australia. In some cases the most seriously injured have not been able to speak to someone who can tell them what their rights are... [P]eople should have access to legal advice and an opportunity to pursue any rights they might have.⁹⁶

6.84 The HRLC argued that the Australian Government should proactively work with PNG to increase transparency and access to the centre:

Transparency is vital to ensuring scrutiny and accountability for the conditions in which asylum seekers are being detained. It is also vital to the Australian people's ability to evaluate current asylum seeker policy and the manner of its implementation...

The Australian Government has maintained that access to the RPC is a matter for PNG. Australia built the centre and underwrites it at considerable taxpayer expense. Asylum seekers are only detained therein because Australia sends them there. Australia plainly has a responsibility to push for independent scrutiny of their treatment.

The Australian Government should work with PNG to ensure appropriate access, not hide behind PNG sovereignty when access is denied.⁹⁷

94 'Australian lawyer Jay Williams, who represents Manus Island asylum seekers, deported from PNG again', *ABC News Online*, 1 April 2014, at: <http://www.abc.net.au/news/2014-04-01/lawyer-jay-williams-deported-from-png/5359916> (accessed 7 November 2014).

95 Mr Greg Barns, Australian Lawyers Alliance, *Committee Hansard*, 13 June 2014, p. 6.

96 Dr Andrew Morrison RFD QC, Australian Lawyers Alliance, *Committee Hansard*, 13 June 2014, p. 6.

97 Human Rights Law Centre, *Submission 17*, pp 10-11.

UN Special rapporteur official visit to PNG

6.85 In addition to lawyers and journalists being barred from access to the Manus Island RPC, submitters also referred to the fact that the UN Special Rapporteur on extrajudicial, summary or arbitrary executions was denied access to the centre during a visit to PNG in March 2014, and was unable to meet with G4S or asylum seekers at the centre.⁹⁸

98 Human Rights Law Centre, *Submission 17*, p. 10. See also: 'Preliminary Observations on the official visit to Papua New Guinea by Mr. Christof Heyns, United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions', *Press Statement*, 14 March 2014, at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14373&LangID=E> (accessed 6 November 2014).