

LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE

EXAMINATION OF ADDITIONAL ESTIMATES 2001 – 2002

**ADDITIONAL INFORMATION
VOLUME 3**

**IMMIGRATION AND MULTICULTURAL AND INDIGENOUS
AFFAIRS PORTFOLIO**

**Additional Information Relating to the
Examination of Expenditure 2001 – 2002**

May 2002

Attachments to Question Nos. 59, 72, 78 and 99 are not available electronically - please call the Secretariat on (02) 6277 3560 if you require copies.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(30) Output 1.3: Enforcement of Immigration Law

Senator Ray (L&C 269) asked Senator Ellison to ask Mr Ruddock where he got confirmation on what he had been informed (on 7 October).

Answer:

Mr Ruddock's office has advised that the Office of National Assessments (ONA) report was taken as confirmation of the Department's advice on 7 October 2001 that children had been thrown overboard. No other advice, written or oral, was received to either confirm or refute the initial advice from the Taskforce and the subsequent ONA report.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(31) Output 1.3: Enforcement of Immigration Law

Senator Cooney (L&C 230) asked, " When these matters (28-day time limit to appeal to the Court) came on before the Court, did the Department take the bar as a defence to the action? Was the bar argued? Was the time limit argued in the court case?"

Answer:

Applications lodged outside the 28 day period are invalid and the Federal Court is unable to extend time by the terms of s477(2) of the Migration Act (previously s478(2)).

There is no option in relation to the time limit. Under s477 compliance with the 28 day time limit is mandatory to effect a valid application to the Federal Court. It is not a " defence" to establish whether the Federal Court has jurisdiction. The Federal Court is obliged to satisfy itself of its jurisdiction before proceeding to hear the substance of the review. If the Federal Court lacks jurisdiction, then it is simply not empowered to deal with the review application.

The issue before the Federal Court in the 10 matters decided by Mansfield J on 1 August 2001 (leading matter *Salehi v MIMA*) was whether the applications were lodged outside the 28 day limit. The Court heard evidence as to why the applications were lodged outside the 28 day time limit. The Court accepted that under the then s478 of the Migration Act and upon reliance on existing binding authority, the Court was deprived of jurisdiction to deal with the applications as the 28 day limit was not met. The Court also held that s478(2) deprived it of any power to extend the 28 day time limit.

Two of the 10 matters decided by Mansfield J on 1 August 2001 are currently on appeal in the Full Federal Court.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(32) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked: In relation to the temporary processing centre in Darwin:

- (a) When was the decision made to construct this centre?
- (b) Who made that decision?
- (c) How was it constructed: Put out to tender or did Defence do it?
- (d) What was the cost?
- (e) Are there plans to landscape the area and plant some trees etc?
- (f) Has it been used?
- (g) What is the capacity?
- (h) A news report on 31/01/02 suggests that the next boatload of people to Darwin will be sent there, is that true?
- (i) When is it planned to be used?
- (j) If the Pacific solution is working, why not remove it?

Answer:

(a)-(b) The Government's decision to establish contingency detention facilities including a reception centre at HMAS Coonawarra was announced on 23 August 2001.

(c) Existing defence accommodation units were supplemented with demountable buildings from a former engineering camp near Collie, Western Australia.

The work was undertaken as part of a larger contract for the construction of the Baxter IRPC near Port Augusta, South Australia.

(d) While the centre is available for occupation there are minor works still being completed. The expenditure should total around \$7.4m.

(e) Yes. Fast growing shrubs and trees are being planted to provide visual screening along the Stuart Highway and Amy Johnson Drive frontages.

(f) No.

(g) Up to 650.

(h)-(i) There are no current plans relating to the use of HMAS Coonawarra. HMAS Coonawarra is a contingency reception centre.

Any use of the facility will be made at the time on the basis of operational requirements.

(j) The Government will continue to ensure that it has contingency capacity to deal with any circumstances, now or in the future.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(33) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked has DIMIA been using the pavilion at the showground to process illegal entrants? If so,

- when was it last used?
- How many times has it been used in the last 12 months?
- How many people have been processed there?
- How long does each processing procedure take at the showgrounds?

Answer:

DIMIA has been using the showground as a staging place when unlawful boat arrivals are disembarked in Darwin for onward travel to an Immigration Reception and Processing Centre elsewhere in Australia.

It was last used in December 2001 for reception of a group of illegal fishermen.

It has been used 15 times in the last 12 months.

1576 people have been processed there.

Each processing procedure usually takes one day. Processing in this context covers basic reception issues only.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(34) Output 1.3 Enforcement of Immigration Law

Senator McKiernan asked:

In relation to the permanent centre in Darwin:

- What was the amount stated in the 1999-2000 budget for the detention centre in Darwin?
- How many people will that centre hold?
- What stage is the planning at?
- Have any plans been drawn up?
- Who is involved in the planning of the Centre?
- Have any locations for the Centre been identified?
- How much of the \$40 million has been spent? Can the Department provide a breakdown of what the money has been spent on?

Answer:

- The intention to establish an IRPC in Darwin was announced in the 2000-2001 Budget - pages 18 and 30 of the DIMA Portfolio Budget Statements 2000-01 refer. It was proposed that the new facility be financed through a private financing arrangement, and a capital injection of \$3m in 2000-01. The rental stream for the proposed new facility would be financed by estimated lower operating costs for the Darwin facility.
- The facility is intended to have core accommodation supporting up to 500 people on an ongoing basis and surge capacity for an additional 1500.
- A design brief for the Darwin facility is nearing completion.
- Designs have not been drawn up as yet.
- The Detention Infrastructure Branch of DIMIA's Offshore Centre Management & Infrastructure Division is responsible for coordinating the development of the facility.
- A preferred site has been identified.
- The Department has not determined a capital cost for the Darwin IRPC as designs have not yet been developed. Costs incurred on the project to date relate to legal, financial, strategic and probity advice and total some \$108,000.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(35) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked, 'In an interview on the ABC Lateline on 29/01/02 the Minister said: "When you want to establish detention centres, you go into a community and you say, would you like a detention centre in your district?" What consultation occurred in relation to the centre planned for Darwin? Who was involved? If no one was consulted, why did the Minister make this statement on ABC?'

Answer:

The development of the Darwin Immigration Reception and Processing Centre (IRPC) was announced in Budget 2000. The Minister wrote to the Northern Territory Chief Minister, Mr Denis Burke, several NT Ministers, the Lord Mayor of Darwin and the Mayors of surrounding areas on 28 March 2001 advising that a search for a site for the new facility was about to begin and seeking their advice on potential locations for the facility. The Secretary, Mr Bill Farmer, wrote in similar terms on 23 April 2001 to senior officers in several Northern Territory Government Departments.

Senior officials from the Department met with Northern Territory Government officials from several agencies and the Darwin City Lord Mayor on 8/9 May 2001. Subsequent meetings were conducted with Northern Territory Government officials over a number of months.

In addition to the consultation that has already taken place between officials, on his recent trip to Darwin the Minister advised that he would seek further comment from the Northern Territory Government on the preferred site before a final decision is taken. The announcement of the preferred site will enable community views to be sought. The timing of that announcement has not yet been determined.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(36) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked:

In relation to the centre planned for Darwin:

- When is it planned that this centre will open?
- Who is expected to ensure the delivery of such services like education, health, safety and child protection?
- What arrangements will be negotiated with the NT Government?
- Will DIMIA be responsible for all costs as per Christmas Island?
- Are there plans to re locate people from Woomera once the detention centre has been finalised?
- Again, if the Pacific solution is working, why is there the need to continue with this proposal?

Answer:

The Government has not made a final decision on the timing of a new detention facility in Darwin.

Accordingly, there are no plans to transfer detainees from Woomera to Darwin and issues of service delivery are not relevant at this time.

DIMIA meets the full costs of operating all of Australia's immigration detention facilities.

The Government will continue to ensure that it has contingency capacity to deal with any circumstances, now or in the future.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(37) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked, " Did anyone from DIMIA go to Christmas Island with Ministers Ruddock and MacDonald last September? If so, who went? If not, why?"

Answer:

The following persons from DIMIA accompanied the Ministers:

Mr Bill Farmer	Secretary DIMIA
Mr Vincent McMahon	First Assistant Secretary DIMIA Offshore Centre Management & Infrastructure Division
Ms Philippa Godwin	First Assistant Secretary DIMIA Unauthorised Arrivals & Detention Division

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(38) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked, "What was the purpose of the visit (by Ministers Ruddock and MacDonald to Christmas Island)?"

Answer:

The visit was to explain to the local community:

- the Government's proposed legislation excising Christmas Island from the migration zone for unauthorised arrivals;
- to announce the proposal to build a contingency reception centre for asylum seekers at Phosphate Hill; and
- the construction of a dual purpose sports hall that could be used to accommodate asylum seekers as required and to be made available to the Island community at other times.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(39) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked, " Who did they (Ministers Ruddock and MacDonald) meet on the Island? Was the Shire Council specifically consulted?"

Answer:

The Ministers met with the Christmas Island Shire Council and they subsequently attended a public meeting. Meetings were also held with the Administrator and the Chamber of Commerce.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(40) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked in relation to the visit by Ministers Ruddock and MacDonald to Christmas Island:

- When was a decision made to build the Centre on that site?
- Who made that decision?
- When and how was it conveyed to the Island community?
- What are the costs involved?
- When did construction commence?
- What additional costs are being met by the DIMIA, such as education?
- What educational services are being provided and to whom?

Answer:

Mr Ruddock announced the establishment of a temporary Reception Centre at Phosphate Hill on Christmas Island on 23 September 2001.

Mr Ruddock and Mr MacDonald met with the Shire Council and attended a public meeting with the Island community on 23 September 2001 to explain the decision.

Although minor works are still being completed, the expenditure to date is \$5.1m.

Earthworks commenced in mid September and installation of demountable buildings commenced in early October 2001 immediately following their arrival on the Island.

All detention costs are being met by DIMIA. Services are provided by Australasian Correctional Services Pty Ltd (ACS). The provision of services for Christmas Island includes educational costs.

Activity programs and informal English classes have been provided on Christmas Island for detainees since the arrival of a dedicated ACM Activities Officer on 17 November 2001. An ACM qualified teacher also taught in the detention facility for the month of January 2002 until the transfer of detainees to Manus and Nauru on 26-28 January 2002. The teacher provided daily Primary; Secondary and Adult English classes as well as Mathematics and Art and Craft tuition for Primary School aged children. Creche and Preschoolers were also catered for each day. Since 4 March 2002 a local retired headmaster has been engaged to provide appropriate educational tuition to the 82 children and adults currently accommodated

at the Christmas Island Reception Facility.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(41) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked: In relation to Christmas Island, is it the Government's intention to build a more permanent processing centre on the island, and if so, where is it proposed to be built and what consultation has there been with the Christmas Island Shire Council?

Answer:

On 12 March 2002, the Minister for Immigration and Multicultural and Indigenous Affairs, the Hon Philip Ruddock MP, and the Minister for Territories, Regional Services and Local Government, the Hon Wilson Tuckey MP, announced that a permanent Immigration Reception and Processing Centre (IRPC) will be built on Christmas Island.

The facility will be built on a portion of mining lease 138, which is located in the north west corner of the Island some 12 km from the Settlement.

During a visit to the Island in early February 2002 Mr Tuckey consulted with the broad community including the Christmas Island Shire Council, the Union of Christmas Island Workers, the Chamber of Commerce, Tourism Association and the Island mining operator, Phosphate Resources Limited, to determine local support for the prospect of a permanent detention facility being established on the Island.

This was followed by a further visit by the Minister to the Island on 12 March 2002 where he announced at a public meeting the Government's decision to construct a permanent IRPC and associated infrastructure. After the public meeting Mr Tuckey held meetings with the Shire Council, business groups, and the Union of Christmas Island Workers to discuss the decision.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(42) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked what are the rights that people have on Christmas and Cocos Islands?

Answer:

Flowing from the provisions of the Migration Amendment (Excision from Migration Zone) Act 2001 the Territory of Christmas Island, the Territory of Ashmore and Cartier Islands, and the Territory of Cocos (Keeling) Islands are excised offshore places. Persons who enter Australia at these places after the excision time (for Christmas Island, 2pm on 8 September 2001; for Cocos Islands, 12 noon on 17 September 2001) and who became unlawful non-citizens because of that entry are offshore entry persons. These persons cannot make a valid application in Australia for a visa unless the Minister determines that it is in the public interest for the person to do so.

The Migration Amendment (Excision from the Migration Zone) (Consequential Provisions) Act provides a discretionary power to detain unlawful non-citizens in excised offshore places and a power to take an offshore entry person to a declared country.

Offshore entry persons may undergo a refugee status determination process in either an excised offshore place or a declared country.

These provisions do not affect permanent residents of Australia or other non-citizens who hold visas that are in effect in these external territories. These persons can enter and remain in Australia lawfully in accordance with the conditions of their visas.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(43) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked, "Is it the government's intention to close the facility on Cocos and relocate asylum seekers there to other centres, such as the one on Christmas Island?"

Answer:

The requirement for individual detention centres is reviewed in the light of demand.

Cocos Island has been used for housing small numbers and direct arrivals. The future of the centre will depend on operational requirements, with some 31 detainees being held at 12 March 2002.

Decisions to relocate asylum seekers to centres are made on the basis of operational requirements.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(44) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked what is the attitude of the Cocos Islanders to the centre on Cocos? How long is it intended to keep people on Cocos Island in the centre?

Answer:

As with any issue that impacts on a community there are differing viewpoints and attitudes. Initially, there was a small group within the Cocos (Keeling) Islands community who were vocal in their opposition to the centre. However, since the numbers at the centre were greatly reduced following the transfer of residents to Christmas Island in February, there have been no issues raised by the community of which the Department is aware.

Arrangements are in place to move the remaining detainees as soon as practicable.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(45) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked, " In relation to the Christmas Island facility, does the Government propose to address the issue of accommodation (essentially, there are only 2 dormitories)? Is it the intention to ensure that there is appropriate family accommodation, or single and married accommodation? For example, is there appropriate recognition of religious beliefs including the provision of a prayer room?"

Answer:

The Government announced on 12 March 2002 its intention to develop a new, purpose built facility on Christmas Island. The new facility will enable the full range of amenity to be provided for unauthorised arrivals detained on Christmas Island.

In respect of the Phosphate Hill Reception Centre there is a designated area within the dormitories set aside as a prayer area.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(46) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked, " Can DIMIA confirm that its contract with Australian Correctional Management requires ACM to provide educational services to school age children in detention?"

Answer:

DIMIA can confirm that its contract with Australasian Correctional Services requires ACS to provide educational services to school aged children in detention under Immigration Detention Standard 9.4.1 which states " Social and educational programs appropriate to the child's age and abilities are available to all children in detention" .

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(47) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked, " Can DIMIA explain how it monitors and enforces such provisions?"

Answer:

The Department makes a formal assessment of ACM performance on a quarterly basis. To do this DIMIA assesses ACM performance against the Immigration Detention Standards and their benchmarks as outlined in the contract. A range of incentives and sanctions exists in the Performance Linked Fee Matrix (PLFM) that are linked to the IDS and the benchmarks.

In order to form a view on the performance of ACM during the previous quarter DIMIA takes into account information from a number of sources including:

- Daily and ongoing analysis of incident reports;
- Monthly analysis of incident reports for systemic issues;
- On site monitoring by IRPC, IDC and Departmental Managers;
- Departmental, IRPC and IDC Managers' Monthly Reports;
- Weekly teleconferences with IRPC and IDC Departmental Managers;
- Investigations of specific incidents either by ACM or DIMIA or in some cases both organisations; and
- An analysis of issues raised by HREOC and the Commonwealth Ombudsman.

In addition to the quarterly performance assessment, DIMIA ensures that contract obligations are being met on an ongoing basis through two forums which meet regularly to discuss service delivery issues and performance standards.

The first forum is the Contract Management Group (CMG) which involves quarterly meetings held between high level members of the Department and ACM. This meeting is chaired by the contract administrator, First Assistant Secretary, Unauthorised Arrivals and Detention Division. This meeting considers broad, strategic directions and major operational issues.

The second forum is the Contract Operations Group (COG) which is held monthly between senior members of the Department and ACM. COG considers systemic service delivery issues and continuous improvement concepts.

Audits and reviews of specific elements of service delivery are also undertaken on a regular basis to ensure the standard of service delivery is met. Recent audits have included: health services, retention of detainee property; and ACM officer training.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(48) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked what other services are required to be provided for children in detention?

Answer:

The Immigration Detention Standards in the Detention Services Contract set out the requirements for service delivery for all detainees including children of all ages and unaccompanied minors. The contract (IDS 9.1 - 9.5.3) requires that the individual care needs of detainees with special needs, are identified and programs provided to enhance their quality of life and care.

Within this framework, services for children include:

- programs for pre-school aged children;
- provision of after school activities such as sports, arts and crafts;
- Entertainment facilities, such as videos, PCs;
- Playgrounds;
- Excursions; and
- Case Management of Unaccompanied Minors.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(49) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked, 'In relation to a letter from Stewart Foster of DIMIA in the Daily Telegraph on Thursday 14 February 2002 where he states that " The Department insists the detention services provider offers appropriate facilities and services to meet the special needs of the children ..." :

- Can DIMIA explain precisely how it " insists" education services, for example, are provided to children in detention?
- How does DIMIA monitor or enforce any such provisions against ACM in facilities?'

Answer:

The department takes seriously its obligations under the contract to provide educational services to school aged children and to monitor such provisions.

See questions 46 and 47 and the attached table, which sets out the educational services available in detention centres.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(50) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked:

1. Does the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) have officers allocated to the monitoring of foreign registered vessels operating in Australia for extended periods?
2. If so, how many vessels have those officers visited over the last year and how many persons have those officers interviewed during such visits?
3. How many persons so interviewed have been working in Australia contrary to the law?

Answer:

1. No, the Australian Customs Service (ACS) undertakes the seaports function on behalf of DIMIA.
2. DIMIA does not have statistics on visits to vessels, which are undertaken by ACS (for a number of purposes, including DIMIA related).
3. ACS monitors the stay of foreign vessels in Australian waters and gives consideration to whether a vessel is imported or not. If ACS assesses a vessel to be non-imported (temporarily in Australian waters), the crew will hold Special Purpose Visas by operation of law. Crew members on non-imported vessels are not unlawfully in Australia.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(51) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked:

Does DIMIA have any other mechanism for ascertaining whether foreign vessels are operating in Australian waters contrary to the Migration Act 1958 [i.e. operating for extended periods using personnel who do not have Australian work visas]?

Answer:

DIMIA relies on ACS for assessment of a vessel's status (that is, whether it is imported or non-imported) and for assessing the status of crew on vessels.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(52) Output 1.3: Enforcement of Immigration Law

Senator McKiernan asked:

Does the DIMIA have regular (or any) liaison with other relevant State and/or Federal Departments and/or agencies to identify foreign registered vessels operating in Australia.

Answer:

DIMIA has a range of contacts with Federal and State bodies to assist with monitoring of foreign vessels. Regular meetings are held with ACS and DOTaRS.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(53) Output 1.3: Enforcement of Immigration Law

Senator Harradine asked in relation to deaths at Villawood:

- When will the coronial enquiry into the death of a young Vietnamese woman at Villawood on September 26, 2001 be conducted?
- If the enquiry has already taken place, what were the findings? If it has not taken place, what are the reasons for the delay?
- Will there be a coronial enquiry into the death of a Vietnamese woman at Villawood on January 13, 2002?
- If there is a coronial enquiry into this death, when will it be held?
- Given that this woman had already made one serious suicide attempt before she died of injuries from a second attempt, was she being monitored, and how was she able to make a second attempt?
- Does the Department know of any other deaths and/or attempted suicides of women in Villawood or any other detention centres?

Answer:

All deaths that occur at immigration detention facilities are referred to the relevant State Coroner for further investigation. The Coroner decides on whether or not an inquest into the death will be held, and advises the Department of when this is likely to happen. Timing of Coroner's inquiries is a matter for the Coroner. The Department is not advised about reasons for delay if there are any.

In the case of the young Vietnamese woman who died at Villawood on 26 September, the Department is awaiting the Coroner's report.

The death of the female detainee at Liverpool Hospital on 13 January 2002 was also referred to the Coroner for investigation and the Department is awaiting the Coroner's report.

Although it has been reported in the media that the detainee in question had made a previous suicide attempt, there is no current evidence to confirm that her action did constitute a suicide attempt. Her behaviour at the Centre had prompted an ACM decision to place her under observation. This decision was made by qualified personnel. As the detainee's death is the subject of a Coronial inquiry, it would be inappropriate to comment further at this point in time.

There have been no other deaths of female detainees at Villawood or any other detention centre. There is no specific data available regarding the number of

attempted suicides in immigration detention centres. An incident tracking database is used to record incidents of self harm. Self harm is defined as “self inflicted injury or the act of causing harm to oneself (includes cutting of body parts, voluntary starvation, etc)”. The incident tracking database does not distinguish between the various types of self harm nor the seriousness of those incidents and therefore information on suicide attempts is not available.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(54) Output 1.3: Enforcement of Immigration Law

Senator Harradine asked:

Removal of women found in brothels:

1. Are women detained in brothels and then removed from Australia questioned during DIMIA debriefing about how they arrived in Australia, in order to ascertain if they have been trafficked?
2. How many women have been deported from Australia after having been located in brothels (please provide a breakdown by specific year)?
3. What were the countries of origin of the trafficked women?
4. Under what visas did the women arrive in Australia?
5. What were the ages of the women deported?
6. What is the cost to the Department per woman of deportation?
7. Do any of the women awaiting deportation apply for asylum? If so how many and what was the basis of each claim? (for example, would such claims be considered under the 'Women at Risk?' category)? If such applications have been made, how many have been successful to date?
8. How many women (whether trafficked for the specific purpose of prostitution or otherwise) removed from brothels were trying to pay off debts to people smugglers?
9. Is it correct that women and children trafficked to Australia are currently removed from the country by DIMIA without being referred to NGOs here or in the sending country?
10. Has the department considered research carried out in the United Kingdom (for example, *Stopping Traffic: Exploring the extent of, and responses to, trafficking in women for sexual exploitation in the UK*, Liz Kelly and Linda Regan, Police Research Series Paper 125, Home Office (UK)) and other countries which indicates that when trafficked women are given access to support services in either the country to which they have been trafficked and/or the country from which they were trafficked, their willingness to testify against traffickers increases significantly, with up to 50% testifying?

11. Does the Department recognise the importance of providing such support to reducing the global trafficking in women and children which is one of the fastest growing crimes in the world? If so, does the Department have any plans to inform detainees of support services for trafficked women available in the country they will be returned to, either verbally and/or by written, translated materials being made available to immigration detainees apprehended in brothels? If no, please give reasons.
12. Does the Department have estimates on the earnings of organisers of the Australian sex trafficking industry from the trade?
13. What level of coordination is there between DIMIA and policing authorities on the issue of trafficking?

Answer:

1. In recent years no women located by DIMIA working illegally in the sex industry have made allegations suggesting they were forced against their will to work as prostitutes in Australia. When illegal sex workers located in brothels claim that they were brought into the country specifically to undertake this work, DIMIA's investigations focus on the organisers and the methods used to bring them in. Any evidence of possible sex slavery or sexual servitude is passed to the Australian Federal Police for further investigation and if appropriate, prosecution under the *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999*.
2. 3. 4 .5. and 6. DIMIA's current electronic systems do not have the capacity to report on locations by the industry in which illegal workers are employed.

In relation to 3 - historical information indicates that illegal sex workers in Australia originate mainly from Thailand, Malaysia, PRC, Indonesia, South Korea, Ukraine, Philippines, Vietnam and Singapore.

In relation to 4 - anecdotal evidence indicates that the majority of illegal sex workers enter Australia with visitor or student visas.

7. Yes. Some sex workers seek protection in Australia and are considered under the provisions for on-shore protection visa applicants. Details of occupation are not recorded in the Protection Visa System. The *Woman At Risk* category is a component of the off-shore refugee resettlement program and is not available to women in Australia.
8. No data is available to DIMIA on the number of women with debts to people smugglers.
9. There are no formal arrangements in place with NGOs in Australia or overseas to refer people being removed from

Australia. However, DIMIA works closely with the authorities in the countries of origin of people working illegally in the sex industry to arrange their safe return.

10. and 11. DIMIA has not seen the paper referred to but will study it. DIMIA supports and participates in government initiatives aimed at combating international people trafficking. DIMIA works closely with the authorities in the countries of origin of people working illegally in the sex industry to arrange their safe return. DIMIA has no current information on services that may be available to women in their countries of origin as this has been seen primarily as a function of receiving countries.

DIMIA is aware of international initiatives to combat the problem of the trafficking of women. DIMIA contributed to the development by the Attorney-General's Department of *The Criminal Code Amendment (Sexual Slavery and Servitude) Act 1999*, which provides the powers to prosecute those involved in the trafficking and exploitation of non-citizens sex workers.

12. No data is available to DIMIA regarding the earnings of sex trade organisers.
13. Amendments to *The Criminal Code Amendment (Sexual Slavery and Servitude) Act 1999* introduced in 1999, created offences against people who recruit, organise or profit from sex trade activities. The Attorney-General's Department and the Australian Federal Police are responsible for the enforcement of this legislation.

DIMIA works closely with state and federal law enforcement agencies in an attempt to stop this unlawful activity. Where departmental officers become aware of possible trafficking activity, this is immediately referred to the relevant police agency.

There are provisions in the Migration Act for persons to be granted Criminal Justice Entry Visas or Criminal Justice Stay Visas to allow them to travel or stay in Australia for the purpose of assisting law enforcement agencies in the prosecution of criminal cases.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(55) Output 1.3: Enforcement of Immigration Law

Senator Harradine asked in relation to Freedom of Religion in detention centres:

- Are Roman Catholics in all detention centres able to attend Mass on a weekly basis?
- Are Protestants in all detention centres able to attend church services on a weekly basis?
- Are Protestants in all detention centres able to attend church services at Christmas?
- Are Orthodox Christians in all detention centres able to attend Holy Liturgy on a weekly basis?
- Are Assyrian Christians in all detention centres able to attend Qurbana on a weekly basis?
- Are Assyrian Christians in all detention centres facilitated in observing the fasting requirements for the Little Fast (Advent), Fast of the Ninevites and the Great Fast (Lent)?
- In all detention centres, are Eastern Christians who follow the Julian Calendar (eg Russian Orthodox, Old Believers and Assyrians) facilitated in observing Christmas on 7 January and Easter as determined by Julian Calendar rules?
- Are suitable rooms made available in all detention centres for the various forms of Christian worship?
- Are Christians in all detention centres able to receive Holy Communion according to their respective traditions?
- Are all clergymen permitted to take alcoholic wine into all detention centres for use in the celebration of Holy Communion and are all clergymen permitted to give Holy Communion (including in the form of alcoholic wine) to detainees of the relevant faiths who wish to receive it?
- Are all detainees in detention centres who wish to receive Christian Baptism able to do so?
- Are clergymen permitted to administer the Sacrament of Baptism to all detainees in detention centres who wish to receive it?
- Are Christians in detention centres able to receive pastoral counselling? If so, what provision is made in this regard?
- Are Christians in detention centres able to go to Confession?
- What restrictions are placed on the entry of Christian clergy into detention centres?
- Within detention centres, is a clergyman visiting the centre permitted to speak with a detainee whose name the clergyman has not specified on the Visitors Form when entering the detention centre?
- What restrictions are placed upon Christian worship,

- observance, practice and teaching in detention centres?
- What provision is made in detention centres for the celebration by Hindus of festivals such as *Theepabali*, *First Grains* and *Hindu New Year*?
 - What provision is made in detention centres for a *puja* place for Hindus?
 - Are Hindus in detention centres facilitated in the observance of Hindu fasting requirements?
 - Are Hindus in detention centres facilitated in the use of Hindu holy ash to apply *thiruneeru* lines to the foreheads or to apply a red *pottu* mark to their foreheads?
 - Are Hindus in detention centres facilitated in the obtaining of flowers to offer in *puja*?
 - Are Hindus in detention centres facilitated in performing ritual ablutions?
 - What restrictions are placed upon Hindu worship, observance, practice and teaching in detention centres?
 - What provision is made in detention centres for Mandaean (Disciples of John the Baptist) worship?
 - Are Mandaeans in detention centres facilitated in undergoing Mandaean Baptism?
 - Are Mandaeans in detention centres facilitated in performing ritual ablutions?
 - What restrictions are placed upon Mandaean worship, observance, practice and teaching in detention centres?
 - Are there any Jews in detention centres? If so, are they facilitated in observing *kashrut* and what facilities are provided for Jewish worship?
 - Are there any Zoroastrians in detention centres? If so, what provision is made for Zoroastrian worship?

Answer:

All detainees are encouraged to practise their own religion of choice and are provided with the necessary resources to do so where possible. In some circumstances there are some limitations, eg. the unavailability of a religious adviser for the particular faith of the detainee or the location where the detainee is. To the extent possible, the Department and the service provider work with the detainees to ensure they have access to appropriate advisers and facilities.

Apart from persons providing services under contracts with the Service Provider, all visits by members of interested groups must be approved by the Department. If there is an existing practice of regular visits/religious services conducted by local, accredited religious personnel, then such visits would normally be facilitated. Similarly, if detainees sought such services, then they would be facilitated where possible.

Religious visitors, such as priests and imams, are therefore permitted to visit the centres. They are subject to the same security provisions and general conditions of entry as apply to all visitors.

The attached table provides further details in response to Senator Harradine's questions and needs to be read in the context of the general approach taken to visitors.

Information / material to be provided	Response
<ul style="list-style-type: none"> Are Roman Catholics in all detention centres able to attend Mass on a weekly basis? 	<p>Yes, when requested and when an appropriate Minister or other 'practitioner' is available in the location where the centre is.</p>
<ul style="list-style-type: none"> Are Protestants in all detention centres able to attend church services on a weekly basis? 	<p>Yes, when requested and when an appropriate Minister or other 'practitioner' is available in the location where the centre is.</p>
<ul style="list-style-type: none"> Are Protestants in all detention centres able to attend services at Christmas? 	<p>Yes, when requested and when an appropriate Minister or other 'practitioner' is available in the location where the centre is.</p>
<ul style="list-style-type: none"> Are Orthodox Christians in all detention centres able to attend Holy Liturgy on a weekly basis? 	<p>Yes, when requested and when an appropriate Minister or other 'practitioner' is available in the location where the centre is.</p>
<ul style="list-style-type: none"> Are Assyrian Christians in all detention centres able to attend Qurbana on a weekly basis? 	<p>Yes, when requested and when an appropriate Minister or other 'practitioner' is available in the location where the centre is.</p>
<ul style="list-style-type: none"> Are Assyrian Christians in all detention centres facilitated in observing the fasting requirements for the Little Fast (Advent), Fast of the Ninevitee and the Great Fast (Lent)? 	<p>Yes, when requested.</p>
<ul style="list-style-type: none"> In all detention centres, are Eastern Christians who follow the Julian Calendar (eg Russian Orthodox, Old Believers and Assyrians) facilitated in observing Christmas on 7 January and Easter as determined by Julian Calendar rules 	<p>Yes, when requested.</p>
<ul style="list-style-type: none"> Are suitable rooms made available in all detention centres for the various forms of Christian worship? 	<p>Yes. However, where there are space limitations, worship is held in suitable open areas.</p>
<ul style="list-style-type: none"> Are Christians in all detention centres able to receive Holy Communion according to their respective traditions? 	<p>Yes.</p>
<ul style="list-style-type: none"> Are all clergymen permitted to take alcoholic wine into all detention centres for use in the celebration of Holy Communion (including in the form of alcoholic wine) to detainees of the relevant faiths who wish to receive it? 	<p>Yes.</p>
<ul style="list-style-type: none"> Are all detainees in detention centres who wish to receive Christian Baptism able to do so? 	<p>Yes.</p>

<ul style="list-style-type: none"> • Are clergymen permitted to administer the Sacrament of Baptism to all detainees in detention centres who wish to receive it? 	<p>Yes.</p>
<ul style="list-style-type: none"> • Are Christians in detention centres able to receive pastoral counselling? If so, what provision is made in this regard? 	<p>Yes, all arrangements are made with the relevant centre manager. There is no priest on Christmas Island; however, this service is available to detainees when a priest visits the island.</p>
<ul style="list-style-type: none"> • Are Christians in detention centres able to go to Confession? 	<p>Yes. However, on Christmas Island, Confession is only available when a priest visits the island.</p>
<ul style="list-style-type: none"> • What restrictions are placed on the entry of Christian clergy into detention centres? 	<p>None, provided they have been approved by DIMIA and meet the security requirements of the centre.</p>
<ul style="list-style-type: none"> • Within detention centres, are clergymen visiting the centre permitted to speak with a detainee whose name has not been specified on the Visitors Form when entering into the detention centre? 	<p>Yes, provided the visit has been approved by DIMIA.</p>
<ul style="list-style-type: none"> • What restrictions are placed upon Christian worship, observance, practice and teaching in detention centres? 	<p>None, provided they meet the general guidelines and security requirements of the centre.</p>
<ul style="list-style-type: none"> • What provision is made in detention centres for the celebration by Hindus of festivals such as Theeoabali, First Grains and Hindu New Year? 	<p>If requested, it is facilitated if possible.</p>
<ul style="list-style-type: none"> • What provision is made in detention centres for a puja place for Hindus? 	<p>Available upon request.</p>
<ul style="list-style-type: none"> • Are Hindus in detention centres facilitated on the observance of Hindu fasting requirements? 	<p>Yes.</p>
<ul style="list-style-type: none"> • Are Hindus in detention centres facilitated in the use of Hindu holy ash to apply thiruneeru lines to the foreheads or to apply a red pottu mark to their foreheads? 	<p>Yes, where possible.</p>
<ul style="list-style-type: none"> • What restrictions are placed upon Hindu worship, observance, practice and teaching in detention centres? 	<p>None, provided they meet the general guidelines and security requirements of the centre.</p>
<ul style="list-style-type: none"> • Are Hindus in detention centres facilitated in the obtaining of flowers to offer in puja? 	<p>Yes, when requested.</p>

<ul style="list-style-type: none"> • Are Hindus in detention centres facilitated in performing ritual ablutions? 	<p>Yes, when requested.</p>
<ul style="list-style-type: none"> • What provision is made in detention centres for Mandaean (Disciples of John the Baptist) worship? 	<p>Currently there are only two centres that contain Mandaeans – Port Hedland and Woomera. At those centres, Mandaeans have access to open and free worship, and visits by clergy are arranged when requested.</p>
<ul style="list-style-type: none"> • Are Mandaeans in detention centres facilitated in undergoing Mandaean Baptism? 	<p>Yes, when requested.</p>
<ul style="list-style-type: none"> • Are Mandaeans in detention centres facilitated in performing ritual ablutions? 	<p>Yes, when requested.</p>
<ul style="list-style-type: none"> • What restrictions are placed upon Mandaean worship, observance, practice and teaching in detention centres? 	<p>None, provided they meet the general guidelines and security requirements of the centre.</p>
<ul style="list-style-type: none"> • Are there any Jews in detention centres? If so, are they facilitated in observing kashrut and what facilities are provided for Jewish worship? 	<p>As at 22 March 2002, there were no Jews in detention. However, facilities are provided if requested and when an appropriate Minister or other ‘practitioner’ is available in the location where the centre is.</p>
<ul style="list-style-type: none"> • Are there any Zoroastrians in detention centres? If so, what provision is made for Zoroastrian worship? 	<p>As at 22 March 2002, there were no Zoroastrians in detention. However, facilities are provided if requested and when an appropriate Minister or other ‘practitioner’ is available in the location where the centre is.</p>

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(56) Output 1.3: Enforcement of Immigration Law

Senator Faulkner (L&C 255) asked for advice on who the contact in the Minister's office was on Saturday night.

Answer:

The contact in the Minister's office on Saturday 6 October 2001 was Ms Ann Duffield, the Chief-of-Staff.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(57) Output 1.3: Enforcement of Immigration Law

Senator Robert Ray (L&C 268) asked were any immigration officers on Christmas Island between 7 October and 7 November.

Answer:

Yes.

During this period two officers were seconded for lengthy periods of time. The first officer was on Christmas Island from 17 September - 4 November and 11 November - 25 November 2001. The second officer was on the island from 12 - 26 October and 1 November - 1 December 2001.

There were four immigration officers on the Island between 20-23 October 2001 to facilitate the transfer of detainees to Manus, PNG on 21 October 2001.

Another immigration officer was on Christmas Island in the capacity of media liaison from 12 October - 24 October 2001.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(58) Output 1.3: Enforcement of Immigration Law

Senator Robert Ray (L&C 268) asked, " Are officers able to verify the Navy scuttlebutt on the claims that children were thrown overboard if they were on the island at the time?"

Answer:

No.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(59) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 292) asked for a copy of the MOU between DIMIA and the Department of Human Services in South Australia.

Answer:

A copy of the MOU is attached.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(60) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 293) asked that in relation to children in Woomera whose lips were sewn, provide a copy of the documentation that was provided to DIMIA by the Department of Human Services in South Australia.

Answer:

As these documents are provided by the SA Department of Human Services, we have sought their advice regarding the provision of these documents.

In addition, as the documents contain personal information (such as the name of a detainee minor, their age and, in some cases, family relationships) there are privacy concerns with the provision of these documents. Such concerns stem from the Department's obligations in relation to the disclosure of personal information in accordance with the Commonwealth *Privacy Act 1988*, in particular with Information Privacy Principle 11.

As suggested at the Senate Estimates hearing, details of the advice from the DHS can be provided at a private briefing for the members of the Legal and Constitutional Legislation Committee.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(61) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 294) asked that in relation to the investigators into the lip sewing incident in Woomera, provide the Committee with what their roles or jobs were, whether they were social workers, doctors, psychologists or whatever and who they spoke with as part of their investigations.

Answer:

As the investigation was conducted by Department of Human Services (South Australia), DIMIA has requested this information. We will provide this as soon as possible.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(62) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 295) asked for a copy of any written advice or any documentation provided by the state department in relation to those allegations [lip sewing] or in relation to their investigation and provide a copy of the file note Ms Sykes has of the conversation with the state department

Answer:

As these documents were provided by the SA Department of Human Services, we have sought their advice regarding the provision of these documents.

In addition, as the documents contain personal information (such as the name of a detainee minor, their age and, in some cases, family relationships) there are privacy concerns with the provision of these documents. Such concerns stem from the Department's obligations in relation to the disclosure of personal information in accordance with the Commonwealth *Privacy Act 1988*, in particular with Information Privacy Principle 11.

As requested at the Senate Estimates hearing, details of the advice from the DHA can be provided at a private briefing for members of the Legal and Constitutional Legislation Committee.

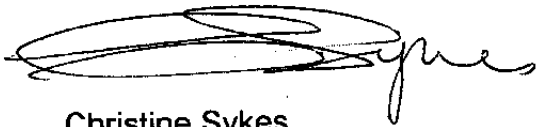
A copy of the file note of the conversation Ms Sykes had with SA Department of Human Services is attached.

File Note

Conversation with DHS officer (Executive Director, Country and Disability Services, Family and Youth Services) on 6 February, 2002

- The information from the children and adults was that the adults had not been involved [in the sewing of children's lips]
- Concerned that , given the culture, the kids are wanting to be seen as adults and that the lip-sewing was something they should do, ie encouraged [to participate in the lip-sewing]
- GP had said that the way the lips [of some children] was sewn suggested there could have been someone else involved in the lip-sewing
- Would usually have psychologists make a call [on the families]
- Not enough evidence to make a statement either way

Typed from personal notes. Items in brackets are my memory of what was said/meant.

A handwritten signature in black ink, appearing to read 'Christine Sykes', with a large, stylized flourish at the end.

Christine Sykes

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(63) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 298) asked that DIMIA advise the Committee whether the Human Rights and Equal Opportunity (HREOC) investigators were able to gain unfettered access to the children.

Answer:

Access by HREOC investigators to the children at Woomera IRPC was unfettered by ACM and DIMIA. HREOC spoke to a number of children in all compounds at the centre with assistance of ACM officers.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(64) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 299) asked in relation to the lip sewing at Woomera have the police been involved in any way, shape or form with regard to these allegations of abuse of children, and that abuse being confined to the lip sewing incidents?

Answer:

All allegations of abuse of children are reported to the relevant State welfare authorities as a matter of course. This includes notification to the police. This process is followed as soon as an allegation is made or brought to the attention of either ACM or DIMIA.

In the case of children at Woomera, DHS and Family and Youth Services (FAYS) indicated that there was no evidence to show whether parents were involved in stitching the lips of children. Hence no action was taken by Police, as they did not believe that there was sufficient information to take the matter further.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(65) Output 1.3: Enforcement of Immigration Law

Senator Scullion (L&C 301) asked DIMIA to advise whether a child was dropped in the water from a boat in November at Ashmore Reef, as claimed by Rear Admiral Shackelton at the estimates hearing on 21 February.

Answer:

The Royal Australian Navy was in charge of operations at Ashmore Islands. There were no DIMIA officers present. DIMIA has no first-hand information on this matter and is, therefore, unable to answer this question.

This question needs to be addressed to the Minister for Defence.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(66) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 302) asked, " In relation to the six children involved in the lip sewing incident, provide the guardian status of them - that is, whether they were accompanied, whether they had one parent, two parents, an uncle or whatever."

Answer:

	Details	Status	Relationships
1	14 year old male	Accompanied	Father Mother 4 siblings
2	12 year old male	Accompanied	Father Mother 4 siblings
3	14 year old male	Accompanied	Mother 4 siblings Uncle
4	12 year old male	Accompanied	Mother 4 siblings
5	15 year old male	Unaccompanied	Placed in alternative detention on 27/1/02 under the care of the Department of Human Services
6	13 year old male	Unaccompanied	Placed in alternative detention on 24/1/02 under the care of the Department of Human Services

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(67) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 302) asked in relation to these six children involved in the lip sewing at Woomera, is it possible to ascertain the extent of the stitching - that is, whether it was one stitch or whether it was four or five?

Answer:

All six minors involved in the lip sewing at Woomera IRPC, had a single cotton stitch in both the upper and lower lips.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(68) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 303) asked in relation to counselling and life skills and those issues and the work of health workers in the detention centres since the incidents, could you outline whether or not there has been an increase service provision to detainees?

Answer:

Five detention facilities - Curtin, Christmas Island, Maribyrnong, Perth and Port Hedland - have maintained their existing services. Both Woomera and Villawood have increased the level of psychological and counselling services to detainees during this period.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(69) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 303-304) asked whether all of the children but one involved in the lip sewing had the stitches out by the Monday.

Answer:

Yes, five children had the stitches removed from their lips on Sunday 20 January 2002.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(70) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 304) asked that DIMIA provide the Committee with some more information on the trigger of duty of care for department with relation to children.

Answer:

Senator McKiernan's request for information on the trigger of duty of care for the department with relation to children requires some clarification. The use of the term 'trigger' could suggest that the duty of care owed by the Department to children in detention has to be especially initiated, namely 'triggered' by particular circumstances, in order to come into effect. Such a reading of duty of care, however, does not reflect the fact that a general duty of care exists at all times in relation to all people in detention, including children. The Commonwealth takes this duty of care very seriously.

The Department understands its duty of care towards children in detention as an ongoing obligation to ensure the welfare and safety of children in detention. This obligation exists from the moment that a child arrives in Australia as an unauthorised arrival, or enters a detention facility, until the child leaves detention.

While DIMIA maintains ultimate responsibility for all detainees, DIMIA exercises its duty of care commitments through the contract with the Detention Services Provider. The contract operates within the framework of relevant legislation, such as child protection legislation. Comprehensive monitoring and reporting mechanisms under the contract provide a means for the Commonwealth to oversight operations in the facilities and ensure that DIMIA's duty of care is appropriately discharged.

In addition to the provision of basic needs such as accommodation, food and clothing, duty of care obligations include:

- respecting the rights and dignity of the detainees and acting with consideration and good judgement when dealing with them;
- acting at all times in accordance with Australian law and DIMIA's policies, procedures, and instructions;
- respecting detainees' right to personal privacy, at all times;

- recognising that physical, verbal or cultural abuse, sexual harassment, neglect or any other type of abuse of detainees is unacceptable;
- providing the detainees with a safe and secure physical environment and adequate welfare facilities;
- monitoring detainees' health, and using qualified persons to provide health services and safety advice;
- providing access to appropriate educational programs; and
- recognising an additional 'special' duty of care towards children in detention as outlined below.

Child protection

Australia is a signatory to the United Nations Convention on the Rights of the Child (CROC). Under the Convention the best interests of the child must be of primary consideration. This provision includes children who are not citizens or permanent residents of Australia.

In all but a limited number of cases it is likely to be in the best interest of children to remain with their parents in detention.

- Children in detention require special measures of protection. Clear policies and procedures are in place for dealing with allegations or suspicions of abuse or neglect, which are consistent with relevant State/Territory legislation.

Relationships with state authorities

Cooperative and collaborative relationships with State child welfare authorities ensure that the safety and wellbeing of children is protected and expert advice and assistance received. Allegations or suspicions of abuse or neglect are reported to the appropriate State authority for investigation.

State authorities with responsibilities for child welfare and protection also have responsibilities for all children in detention centres in their States. The department is working to conclude appropriate protocols with State child welfare authorities. The aim of these Memoranda of Understanding (MOUs) is to:

- assist in the provision of a safe, supportive environment for children in detention and to ensure that the best interests of all children in detention are met;
- establish clear lines of responsibility and communication in relation to the reporting and handling of allegations of child abuse, assault and neglect; and
- build on the existing cooperative and collaborative relationships between the Department and child welfare agencies in the states and territories.

An MOU with the South Australian Department of Human

Services covering child protection and welfare for children in immigration detention was signed on 6 December 2001.

In exceptional circumstances, the Department takes steps to remove minors from potential exposure to harm where the relevant State child welfare authority determines that the child is at risk. For example, most unaccompanied minors have been removed from Woomera IRPC on the expert advice of the South Australian Family and Youth Services (FAYS).

Role of parents

In addition to the Department's overall duty of care, it is important to recognise the important role of parents in caring for their children, in particular in meeting the duty of care. Where children in detention are with their parents, the parents are fully responsible for them and remain their guardians.

This means parents remain responsible for the care and protection of their children. If incidents occur, however, and there are concerns about the safety or welfare of a child, then the Department also has an obligation to ensure that the matter is notified to the appropriate authorities so that they can undertake necessary investigations. The Department is responsible for following up any recommendations which may result from such investigations.

Unaccompanied minors

In addition to the duty of care which the Minister and the Department have towards all children in detention, the *Immigration and Guardianship of Children Act (1946)* (IGOC) provides that the Minister is the guardian of certain non-citizen children who enter Australia without being in the care of relatives and intending to become permanent residents. In the case of these unaccompanied minors, DIMIA officers and employees of the Services Provider are required to implement special provisions to ensure that the particular needs of those children are met. Amongst such requirements are, for instance, case management plans developed for individual unaccompanied minors. Particular officers in all detention centres are delegated as guardians of unaccompanied minors and must therefore discharge the Minister's duty of care.

The MOU signed between DIMIA and the South Australian Department of Human Services outlines these responsibilities, including particular references of the special needs of unaccompanied minors.

Within detention facilities there may also be some minors who are not regarded as 'unaccompanied' for the purposes of the IGOC Act, such as children arriving in Australia in the company of an older sibling or a distant relative. The Department requires, however, that the Service Provider monitor such children in the same way as unaccompanied minors. This includes special needs assessments of these children as well as implementing other measures to ensure their safety and

wellbeing.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(71) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 324) asked in relation to the 67 people at Woomera awaiting removal, provide a breakdown of the periods in detention.

Answer:

Of the 82 people at Woomera awaiting removal as at 1 March 2002:

5	have been in detention between 5 - 6 months;
8	have been in detention between 6 - 9 months;
20	have been in detention between 9 - 12 months;
42	have been in detention between 12 - 18 months;
5	have been in detention between 18 - 24 months; and
2	have been in detention between 24 - 36 months.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(72) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 325) asked that DIMIA provide a copy of the letter to the detainees in Woomera giving assurances that they do not have to speak with the Afghani government delegation.

Answer:

Please see attached.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(73) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 325) asked for an update of question no. 40 asked by Senator Ludwig at the last Estimates hearing, pertaining to prosecutions for people smuggling offences under sections 232A and 233 of the Migration Act 1958:

- (a) How many people have been prosecuted for their involvement in people trafficking activities?
- (b) Along with the number of prosecutions, can you provide me with the number of convictions that have been secured?
- (c) The penalties that go with those convictions?
- (d) The nationalities of the persons who were convicted of people smuggling or indeed the countries they have been operating in?
- (e) If the persons were charged whilst in Australia, can you inform the Committee what form of publicly funded legal assistance they are receiving, if they are receiving any?

Answer:

- (a) According to figures provided by the Commonwealth DPP to 31 December 2001, 471 people were charged for people smuggling offences against Sections 232A and 233 of the Migration Act 1958, since the introduction of the legislation on 22 July 1999.
- (b) The number of convictions since the introduction of the legislation to 31 December 2001 was 386.
- (c) Penalties under the Migration Act 1958:
 - Section 233. Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.
 - Section 232A. Penalty: Imprisonment for 20 years or 2,000 penalty units, or both.

The longest term for a people smuggler, eight years imprisonment, was imposed on an Indonesian fisherman on 4.2.02 in WA. The man admitted trying to smuggle 359 people into Australia on the boat identified by DIMIA as the 'Conara' which was caught near Christmas Island on 22.8.2001.

Introduction of mandatory minimum penalties

Changes to the *Migration Act 1958* came into effect on 27.9.01 which provide for mandatory minimum penalties in relation to people smuggling offences, (section 232A or 233A). In matters where persons aged 18 years or over are convicted of these offences, the court must impose a sentence of at least 8 years imprisonment for a repeat offence, and at least 5 years imprisonment in any other case. The changes also provide for mandatory minimum non-parole periods in relation to persons convicted of these offences.

- (d) We do not maintain statistics on the nationality of those convicted of people smuggling or the country they have been operating in.
- (e) The Australian Federal Police and the Director of Public Prosecutions have previously advised that at the time of arrest boat crews are offered legal aid. They all have access to Legal Aid when they first attend court and during the entire court process.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(74) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 325) asked for an update of question no. 40 asked by Senator Ludwig at the last estimates hearing concerning overstayer numbers:

- (1) Are most of the overstayers that you catch of that nature - that have been here for only a short time after the visa ran out - or are you catching people who have been here for years as overstayers?
- (2) Have the three-quarters who are not caught been here for a long time? Is it possible to give, of the approximately 50,000 illegal overstayers, the time? Is it 10 per cent that have been here illegally for five years and just disappeared into the community?

Answer:

(1) In 2000-01, the department located 5,247 overstayers in field operations.

The table below shows length of overstaying for these overstayers.

Length of overstaying	Number	%
1 year or less	2,927	55.78
More than 1 year, up to 2 years	1,205	22.96
More than 2 years, up to 3 years	652	12.43
More than 3 years, up to 4 years	301	5.74
More than 4 years, up to 5 years	96	1.83
More than 5 years, up to 6 years	61	1.16
More than 6 years, up to 7 years	5	0.10
More than 7 years, up to 8 years	0	0.00
More than 8 years, up to 9 years	0	0.00
More than 9 years, up to 10 years	0	0.00
More than 10 years	0	0.00
TOTAL	5,247	100.00

(2) As at 30 June 2001 there were an estimated 60,000 overstayers which represented an increase of 1.7% over the December 2000 total of 59,000.

The table below shows the length of overstaying of these overstayers.

Length of overstaying	Number	%
12 Months or less	14,700	24.50
Between 1 and 2 years	8,900	14.83
Between 2 and 3 years	6,000	10.00
Between 3 and 4 years	4,000	6.67
Between 4 and 5 years	3,000	5.00
Between 5 and 6 years	2,000	3.33
Between 6 and 7 years	1,700	2.83
Between 7 and 8 years	1,600	2.67
Between 8 and 9 years	1,300	2.17
Between 9 and 10 years	1,300	2.17
More than 10 years	15,500	25.83
TOTAL	60,000	100.00

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(75) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 325) asked for an update of question no. 42 asked by Senator Ludwig at the last estimates hearing concerning the detection of overstayers:

How many are actually - after you detect them as overstayers - defined as being risky: people who, if you gave them a bridging visa, would disappear back into the community until next time they were unlucky enough, in their view, to be caught again? At any one stage, do we have 50 of these people detained as overstayers who are a risk until we get them out of the country? Is it 500?

Answer:

For the financial year ending 30 June 2001, the department located 5,247 overstayers in field operations. Of these:

- 3,295 were granted Bridging E Visas to make arrangements for departing Australia
- 1,952 were considered to be at risk of absconding. These people were not granted Bridging E Visas and were detained.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(76) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 325) asked for an update of question no. 43 asked by Senator Ludwig at the last estimates hearing concerning UK overstay rates:

Of that 5,000 (UK overstayers), how many are literally the backpackers who stayed an extra month and how many have just disappeared into the system for years?

Answer:

- (1) At 30 June 2001 there were an estimated 6,300 UK overstayers in Australia. The following table shows the length of overstay of those 6,300 UK citizens.

Length of overstaying	All UK Overstayers (irrespective of age)
One Month or less	260
More than 1 month, up to 3 months	330
More than 3 months, up to 6 months	470
More than 6 months, up to 1 year	480
More than 1 year, up to 2 years	850
More than 2 years, up to 3 years	490
More than 3 years, up to 4 years	350
More than 4 years, up to 5 years	320
More than 5 years, up to 6 years	230
More than 6 years, up to 7 years	210
More than 7 years, up to 8 years	210
More than 8 years, up to 9 years	210
More than 9 years, up to 10 years	170
More than 10 years	1,700
TOTAL*	6,300

* Components may not add to total due to rounding errors.

- (2) There is no visa category for backpackers as such, but generally young people from the UK aged between 18 and 30 who backpack in Australia hold Working Holiday Maker or Tourist-Visitor visas.

At 30 June 2001 the Department's records show that 360 UK Working Holiday Makers (WHM) and 670 UK Tourist Visitors aged between 18 and 30 years were overstayers.

The table below shows the length of overstaying of these two groups.

Length of overstaying	WHMs	Tourists (aged 18-30)
Less than 1 month	20	50
More than 1 month, up to 3 months	20	60
More than 3 months, up to 6 months	30	90
More than 6 months, up to 1 year	60	70
More than 1 year	230	400
TOTAL	360	670

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(77) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 325-326) asked for an update of question no. 47 asked by Senator Ludwig at the last estimates hearing concerning the number of people who are awaiting criminal deportation from the country:

- Provide a breakdown of nationals that are held in prisons awaiting deportation by state and by length of stay.

Answer:

As at 28 February 2002, there were 18 people detained in state correctional facilities awaiting criminal deportation from Australia.¹

A breakdown of criminal deportees held in prisons include:

NEW SOUTH WALES

Nationality	Time in prison past end of sentence
Cuban	29 months – case subject to ongoing negotiations to obtain a travel document.
El Salvador	8 months – case subject to litigation in the AAT. The decision is reserved.
Romanian	37 months – case subject to ongoing negotiations to obtain a travel document.
Turkish	24 months – as above
Vietnamese	12 months – case subject to return arrangements for consideration under the MOU with Vietnam.
Vietnamese	27 months – as above
Vietnamese	43 months – scheduled to be removed from Australia on 3 April 2002 under the MOU with Vietnam.

Total persons: 7

VICTORIA

Nationality	Time in prison past end of sentence
Iranian	38 months – case subject to UNHRC involvement and consideration by the Minister.
Vietnamese	30 months – case subject to return arrangements for consideration under the MOU with Vietnam.

Total persons: 2

SOUTH AUSTRALIA

Nationality	Time in prison past end of sentence
Vietnamese	8 months – case subject to return arrangements for consideration under the MOU with Vietnam.
Vietnamese	36 months – as above
Bosnian	9 months – case subject to litigation in the Federal Court and ongoing negotiations to obtain a travel document.
New Zealander	20 days

Total persons: 4

QUEENSLAND

Nationality	Time in prison past end of sentence
Vietnamese	25 months – case subject to return arrangements for consideration under the MOU with Vietnam.
Vietnamese	26 months – as above
Vietnamese	38 months – as above
Vietnamese	5 months – as above
New Zealander	17 days

Total persons: 5

Queensland does not currently have an Immigration Detention Centre and therefore all immigration detainees are held in Queensland prisons. The majority are held in a dedicated wing of the Arthur Gorrie Correctional Centre.

- 1. The period past end of sentence does not necessarily mean the detainee is available for removal as in some cases various other processes have commenced or have been undertaken by the detainee in the intervening period.**

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(78) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 326) asked that updated statistics on people in detention are provided.

Answer:

Tables for 8 February 2002 were provided to the Secretariat on 7 March 2002.

The tables provided then have now been updated to 1 March 2002 and are attached.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(79) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 328) asked, "Earlier, you gave a figure of 730 who were awaiting removal. How do we equate that number with the later numbers that you have given me?"

Answer:

For detention management and removals management purposes, the Unauthorised Arrivals and Detention Division, maintains two sets of statistics. The first is data concerning persons in detention and, inter alia, their current processing stage. The second is data on persons in detention who are awaiting removal. This data is compiled every two weeks.

The figure 730 persons in detention awaiting removal as at 4 February 2002 comprises the number of boat arrivals, air arrivals, overstayers and others in Australia awaiting removal in mainland centres (ie Port Hedland, Villawood etc). The figure for persons in detention (2268) as at 8 February 2002 includes persons located on the mainland and on Christmas and Cocos Island.

The persons in detention data is sorted into a number of categories. In general persons at the "PV finalised" and "No application" stages are ready for removal. However, both categories include a number of persons who are not necessarily ready for removal. For example, persons who have been detained for less than 15 days and may yet lodge an application and persons at the PV finalised stage that may yet lodge Federal Court or s417 applications. Persons can move in and out of the PV finalised stage.

The persons in detention awaiting removal data is derived from the same basic data, but to avoid over counting the number of persons available for removal, a number of statistical rules are applied to the base data to arrive at the awaiting removal statistics. The outcome is an accurate approximation of the number of persons awaiting removal. The actual number of persons available for removal on any given day can vary according to the individual circumstances of a case.

Where possible the Department cross-matched the awaiting removal figures and the number of persons in detention figures. Once the number of persons detained at Christmas Island and Cocos Island are removed from the persons in detention figures there are 423 persons at PV finalised stage ready for removal, 301 persons who have been detained longer than 14 days and have no application who are ready for

removal, and 3 persons screened out ready for removal. A total of 727 persons are ready for removal.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(80) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 329) asked for a breakdown by nationality of those that are in detention.

Answer:

Please see table below.

As at COB 01/03/2002

Nationality	Detainees
IRAQ	415
AFGHANISTAN	399
IRAN	368
SRI LANKA	130
CHINA, PEOPLES REPUBLIC OF	88
PALESTINIAN AUTHORITY	76
VIETNAM	69
INDONESIA	60
INDIA	47
MALAYSIA	31
	1683

Others (comprising 77 separate nationalities)	427
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2110

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(81) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 333) asked 'Provide a breakdown of the 301 persons in detention involved in judicial review. The number who are involved at the Federal Court itself, at appeal to the Full Federal Court or may be going to the High Court of Australia and break it down to applications since the enactment of the judicial review bill?'

Answer:

As at 15.3.2002 there were 321 applications for judicial review before the courts by persons in detention. A breakdown of those matters by court and whether or not they are affected by the privative clause follows:

Court	Non-privative clause matters	Privative clause matters	Total
Federal Court	56	156	212
Full Federal Court	74	11	85
High Court	22	2	24
Total	152	169	321

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(82) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 335) asked, "How many of those bridging visas [granted to children in detention] are currently in operation?"

Answer:

There are ten minors from three families who have been released from Immigration detention on BVE subclass 051 and whose bridging visas are currently in effect.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(83) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 336) asked what would be the duration that a family would stay in the Woomera community trial?

Answer:

There is no set length of time stipulated for a family's stay in the Woomera Residential Housing Project. The minimum time a person has stayed in the Project has been 14 days; the maximum, 72 days. The average length of stay is approximately 7 weeks. As at 11 March 2002 no family members had returned to the Woomera IRPC from the Project. Any participants leaving the Project had been released on a visa.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(84) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 338) asked whether there were any visas refused as a result of the referral to the International Criminal Tribunal (during 2000/2001).

Answer:

During 2000/2001, no visas were refused as a result of referral to the International Criminal Tribunal (ICT).

One applicant who was of interest to the ICT withdrew his application before the decision on visa grant was finalised.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(85) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 339) asked, "Provide a breakdown between Federal and High Courts of those 1,549 matters that were resolved in the Courts."

Answer:

There were 1,546 litigation matters resolved by the Federal Court, the Full Federal Court and the High Court during the period 1.7.2000 to 30.6.2001 inclusive. The difference from the previously published figure of 1,549 incorporated in the question and the actual number of resolutions at 1,546 is resultant from 3 matters which were previously dismissed for non appearance being reinstated by the Court following hearing of notices of motion from the applicants. A breakdown of those resolutions by Court and outcome type follows:

Federal Court at first instance	
Applicant withdrawals	396
Department withdrawals	205
Department wins	611
Department losses	71
Other (matter adjourned sine die and then abandoned)	1
Total	1284

Full Federal Court	
Appellant withdrawals	35
Department withdrawals	9
Department wins	96
Department losses	25
Other (duplicated appeal administratively amalgamated)	1
Total	166

High Court original jurisdiction	
Applicant withdrawals	27
Department withdrawals	2
Department wins	22
Department losses	5
Other (matters remitted in full to the Federal Court or adjourned sine die then abandoned)	3
Total	59

High Court special leave	
Applicant withdrawals	12
Department withdrawals	3
Department wins	17
Department losses	-
Total	32

High Court substantive appeals following grant of special leave	
Applicant withdrawals	-
Department withdrawals	-
Department wins	5
Department losses	-
Total	5

Summary of all Courts	
Applicant withdrawals	470
Department withdrawals	219
Department wins	751
Department losses	101
Other	5
Total	1546

QUESTION TAKEN ON NOTICE**ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002**

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(86) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 339) asked, "Provide a more descriptive breakdown of the litigation in relation to the previous financial year and the year to date, distinguishing between the period before commencement of the judicial review amendments and the period after".

Answer:

New applications received

2000 - 2001 Financial year			
Jurisdiction	2000 - 2001	1999 -2000	% change
Administrative Appeals Tribunal	347	314	10.5%
Federal Magistrates Court	1	-	100%
Federal Court at first instance	1341	968	38.5%
Full Federal Court	203	171	18.7%
High Court original jurisdiction	62	85	(27.1%)
High Court special leave	36	37	(2.7%)
High Court substantive appeal following grant of special leave	5	6	(16.7%)
Other Courts	10	10	-
Totals	2005	1591	26.0%

1.7.2001 to 1.10.2001 (pre privative clause period)			
Jurisdiction	1.7.2001 - 1.10.2001	1.7.2000 - 1.10.2000	% change
Administrative Appeals Tribunal	107	91	17.6%
Federal Magistrates Court	-	-	-
Federal Court at first instance	395	332	19.0%
Full Federal Court	129	36	258.3%
High Court original jurisdiction	36	18	100%
High Court special leave	14	11	27.3%
High Court substantive appeal following grant of special leave	2	1	100%
Other Courts	7	3	133.3%
Totals	690	492	40.2%

2.10.2001 to 4.3.2002 (post privative clause)					
Jurisdiction	Non privative	Privative	2.10.2001 to 4.3.2002	2.10.2000 to 4.3.2001	% change
Administrative Appeals Tribunal	161	-	161	129	24.8%
Federal Magistrates Court	-	3	3	-	300%
Federal Court at first instance	24	538	562	521	7.9%
Full Federal Court	100	22	122	74	64.9%
High Court original jurisdiction	8	32	40	20	100%
High Court special leave	22	-	22	9	144.4%
High Court substantive appeal following grant of special leave	1	-	1	1	-
Other Courts	7	-	7	6	16.7%
Totals	323	595	918	754	21.8%

Matters resolved

Administrative Appeals Tribunal			
Outcome type	1.7.2001 to 4.3.2002	2000 to 2001	1999 to 2000
Applicant withdrew	46	78	51
Department withdrew	74	31	21
Department win	51	146	88
Department loss	49	66	61
Totals	220	321	221

Federal Magistrates Court	2000 to 2001	1.7.2001 to 1.10.2001	2.10.2001 to 4.3.2002		Totals 1.7.2001 to 4.3.2002
Outcome type		Pre privative clause	Privative	Non privative	
Applicant withdrawal	-	-	-	-	-
Department withdrawal	-	-	-	-	-
Department win	-	-	2	1	3
Department loss	-	-	-	-	-
Other	-	-	-	-	-
Totals	-	-	2	1	3

Federal Court	2000 to 2001	1.7.2001 to 1.10.2001	2.10.2001 to 4.3.2002		Totals 1.7.2001 to 4.3.2002
Outcome type		Pre privative clause	Privative	Non privative	
Applicant withdrawal	396	102	60	89	251
Department withdrawal	205	59	1	54	114
Department win	611	288	50	173	511
Department loss	71	27	1	25	53
Other (applications abandoned or amalgamated)	1	1	3	-	4
Totals	1284	477	115	341	933

Full Federal Court	2000 to 2001	1.7.2001 to 1.10.2001	2.10.2001 to 4.3.2002		Totals 1.7.2001 to 4.3.2002
Outcome type		Pre privative clause	Privative	Non privative	
Appellant withdrawal	35	11	3	45	59
Department withdrawal	9	2	-	7	9
Department win	96	38	-	86	124
Department loss	25	3	-	8	11
Other (duplicate amalgamated)	1	-	-	-	-
Totals	166	54	3	146	203

High Court original jurisdiction	2000 to 2001	1.7.2001 to 1.10.2001	2.10.2001 to 4.3.2002		Totals 1.7.2001 to 4.3.2002
Outcome type		Pre privative clause	Privative	Non privative	
Applicant withdrawal	27	3	-	28	31
Department withdrawal	2	*23	1	13	37
Department win	22	3	-	6	9
Department loss	5	-	-	-	-
Other (applications remitted or abandoned)	3	1	-	1	2
Totals	59	30	1	48	79

* During this period a group of 20 original jurisdiction matters related to the "Muin" and "Herijanto" class actions were filed and immediately remitted by consent to the RRT for reconsideration.

High Court special leave	2000 to 2001	1.7.2001 to 1.10.2001	2.10.2001 to 4.3.2002		Totals 1.7.2001 to 4.3.2002
Outcome type		Pre privative clause	Privative	Non privative	
Applicant withdrawal	12	2	-	6	8
Department withdrawal	3	-	-	2	2
Department win	17	1	-	8	9
Department loss	-	-	-	-	-
Other	-	-	-	-	-
Totals	32	3	-	16	19

High Court substantive appeal following grant of special leave	2000 to 2001	1.7.2001 to 1.10.2001	2.10.2001 to 4.3.2002		Totals 1.7.2001 to 4.3.2002
Outcome type		Pre privative clause	Privative	Non privative	
Applicant withdrawal	-	-	-	-	-
Department withdrawal	-	-	-	2	2
Department win	5	-	-	-	-
Department loss	-	-	-	-	-
Other	-	-	-	-	-
Totals	5	-	-	2	2

Other Courts	2000 to 2001	1.7.2001 to 1.10.2001	2.10.2001 to 4.3.2002		Totals 1.7.2001 to 4.3.2002
Outcome type		Pre privative clause	Privative	Non privative	
Applicant withdrawal	-	2	-	3	5
Department withdrawal	1	-	-	-	-
Department win	3	1	-	-	1
Department loss	-	1	-	-	1
Other (applications abandoned or MIMIA struck off as a respondent)	4	-	-	3	3
Totals	8	4	-	6	10

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(87) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 342-343) asked, " In the context of what the Federal Court had to say in response to questioning earlier this week about the court officer not being able to decline - to not accept - an application, could you provide advice as to whether or not a group of individuals seeking to make a class action could still lodge a class action that would in some way cause the delay of their removal or the prolonging of their detention."

Answer:

No. The legislation passed in September 2001 provides a general bar on class, representative or otherwise grouped court actions in migration proceedings in the High Court, the Federal Court or the Federal Magistrates Court (see section 486B).

There are some very limited exceptions to this general bar, including where a court is satisfied that it would be desirable to consolidate proceedings in the interests of efficient administration and this would be otherwise permitted under other relevant laws such as the relevant Rules of Court.

This consolidation is only possible after each individual applicant has made a separate application to the relevant court, which must be made within the relevant time limits. Further a decision of a court not to consolidate proceedings cannot be appealed (see subsection 486B(4)).

There are other limited exceptions to the general bar on class actions as set out in subsection 486B(7) of the *Migration Act*.

These exceptions provide for persons defined in the Regulations as " family" of an applicant (reg 5.43) or persons performing statutory functions or the Attorney-General of the Commonwealth or of a State or Territory and any other person prescribed in the Regulations (reg 5.44) to be a party to proceedings.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(88) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 343) asked for an update of question no. 52 that was asked by Senator Ludwig at the last estimates hearing pertaining to the overall cost of detention by centre and the cost per detainee per day.

Answer:

The attached table provides the direct cost for detention, for each centre and on a cost per detainee day basis. The costs include payments made under the contract for managing the detention centres as well as departmental expenses such as those for employees, travel, motor vehicles, telephones, interpreting costs, depreciation and other administrative costs. The costs shown do not include Departmental head office corporate costs, capital costs or those for detainees located in state correctional facilities.

It should be noted, however, that these figures are taken for the part year and are not necessarily reflective of what the final figures will be for the full financial year. Therefore, these figures are not directly comparable to those provided for the full year 2000-01.

Centres	Expenses	Total Detainee Days	Cost per Day
Immigration Detention Centres			
Villawood	\$5,869,723	90,946	\$65
Maribyrnong	\$2,298,956	14,186	\$162
Perth	\$1,453,867	8,953	\$162
sub total	\$9,622,546	114,085	\$84
Immigration Reception and Processing Centres			
Port Hedland	\$8,394,166	96,395	\$87
Curtin	\$16,352,884	137,152	\$119
Woomera	\$22,500,816	219,788	\$102
Christmas Island	\$10,609,885	36,271	\$293
Cocos Island	\$2,193,166	9,290	\$236
Singleton	\$735,448	0	NA
Coonawarra	\$2,050	0	NA
El Alamein	\$70	0	NA
sub total	\$60,788,485	\$498,896	\$122
Cost/Days for Centres	\$70,411,030	612,981	\$115
Central Office			
Detention Operations Section	\$1,015,039	0	NA
sub total	\$1,015,039	0	NA
Total	\$71,426,070	612,981	\$117

Note: Woomera housing trial costs are included in the Woomera total.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(89) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 343) asked for the establishment costs that were incurred in the establishment of Cocos, Christmas, Baxter and the Coonawarra facility at Darwin.

Answer:

Minor works are still continuing at some centres. Expenditure to date is \$0.3m for Cocos and \$5.1m for Christmas Island with any further works plans being reviewed in the light of the Government's decision to build a new purpose-built facility. The estimated expenditure for Coonawarra is \$7.4m.

Construction work at Baxter is continuing and is expected to be complete by June 2002. The estimated cost is \$39m.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(90) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 344) asked for information on the detainee who escaped to New Zealand.

Answer:

The detainee who escaped to New Zealand had been held at the Villawood IDC prior to his escape on 19 July 2001. He was one of the twenty-three detainees who escaped on that date.

The Department was advised that this detainee arrived in New Zealand on 6 September 2001 where he applied for protection. He was returned to Australia under New Zealand Police escort on 30 November 2001. The detainee is currently held at the Villawood IDC.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(91) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 345) asked for details of the damage that has been done to detention facilities since the May estimates of last year.

Answer:

Minor damage occurs at the centres on a daily basis and is repaired as soon as possible.

The only centre that has sustained substantial damages since May last year is the Woomera IRPC.

During a number of incidents in November and December 2001 considerable damage was sustained to all compounds, 26 buildings were destroyed and 14 damaged, including: the officers' station, program rooms, accommodation blocks, ablutions, storage room, laundry, recreation and education rooms. The estimated cost of damages in those incidents is \$2.5m.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(92) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 345) asked, " Have there been any charges laid or prosecutions that have resulted from the disturbances that have occurred at detention centres and, if the matter has progressed on to court?"

Answer:

The table attached provides details of the number of charges and convictions resulting from disturbances at each immigration detention facility for this financial year 2001-02. To date, Woomera is the only detention centre to have detainees charged and convicted for this financial year.

Woomera IRPC

Offence	Date	Cautioned	Charged	Remanded	Sentenced	<6 mths	6-12 mths	1-3 yrs	> 3 yrs
Property Damage - fire	24/7/01	0	1	0	0	0	0	0	0
Property Damage	26/7/01	1	0	0	0	0	0	0	0
Property Damage	27/7/01	1	0	0	0	0	0	0	0
Property Damage	01/8/01	1	0	0	0	0	0	0	0
Property Damage	07/8/01	1	0	0	0	0	0	0	0
Throwing Missiles	09/8/01	1	0	0	0	0	0	0	0
Property Damage	10/8/01	0	1	0	0	0	0	0	0
Property Damage	13/8/01	0	1	0	0	0	0	0	0
Property Damage	13/8/01	0	1	0	0	0	0	0	0
Property Damage	16/8/01	1	0	0	0	0	0	0	0
Property Damage	28/8/01	0	1	0	0	0	0	0	0
Property Damage	29/8/01	0	1	0	0	0	0	0	0
Property Damage	02/9/01	0	1	0	0	0	0	0	0
Property Damage	03/9/01	0	1	0	0	0	0	0	0
Property Damage	11/9/01	1	0	0	0	0	0	0	0
Property Damage	18/9/01	0	1	0	0	0	0	0	0
Harm CwltH Off Poss. weapon, inciting		0	1	0	0	0	0	0	0
Launching Projectile	01/2/02	0	1	0	0	0	0	0	0
Total		7	11	0	0	0	0	0	0

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(93) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 346) asked in relation to the Maribyrnong detention centre, for a more detailed explanation of what the education arrangements have been over a period of time.

Answer:

When required, appropriate arrangements can be made for both primary and secondary aged children to receive their education either onsite or at external schools. There are currently no school aged children at the Centre, but provision was made previously for a family with two secondary school aged children for the students to attend a local secondary school.

The centre currently has three minors that receive kindergarten activities conducted by an ACM teacher onsite. They are given basic literacy and numeracy classes and also attend the local library and playground weekly. The qualified teacher is at the Centre five days per week, and in addition to the minors, she also teaches the adults.

When children attend external schools, transportation, meals, uniforms and books are arranged by ACM.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(94) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 347) asked whether the kitchen facility in Port Hedland is operational.

Answer:

The kitchen is operational.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(95) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 348) asked for further information in relation to paralegals having access to detainees.

Answer:

Access for paralegals purporting to assist lawyers entering for the purposes of section 256 of the Act is limited to persons:

- a) accompanying the lawyer;
- b) for whom proof has been provided in advance that they are actually employed or engaged by that lawyer as a paralegal or articulated clerk; and
- c) producing at the point of entry proof of identification.

Paralegals are required to record their name, address and purpose of their visit in the visitor's register and provide evidence of their bona fides.

Each visitor is asked to sign his or her record of entry in the visitor's register. They are informed that they are permitted to enter the detention facility only for the purpose which they have indicated and not for any other purpose.

Providing false information in the visitor's register could lead to an offence under s.137.1 of the Criminal Code. All visitors are advised that 'Giving false or misleading information is a serious offence'.

Lawyers and paralegals are subject to the same entry conditions as other visitors, as specified in section 252G of the Act, and may be refused entry under subsection 252G(7) if they do not comply with requests made under this section.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(96) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 350) asked, 'Does the Department itself have the power either to undertake phone taps and things like that or to ask the AFP to do so?'

Answer:

Under the *Telecommunications (Interception) Act 1979*, DIMIA is not empowered to undertake telecommunications interceptions, nor can the AFP undertake these to assist an investigation being conducted by DIMIA.

In the Federal sphere, only the AFP and National Crime Authority can undertake telecommunication interceptions. In limited circumstances these may extend to the most serious *Migration Act 1958* offences, namely, sections 232A, 233, 233A, 234 or 236. These offences carry penalties ranging from 10 to 20 years imprisonment.

Should DIMIA arrive at a conclusion that a telecommunication interception was necessary as part of an investigation that it is undertaking, then that investigation would need to be referred to the AFP in accordance with the Fraud Control Policy of the Commonwealth and the AFP/DIMIA Service Agreement. In other words, the whole investigation would be referred to the AFP.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(97) Output 1.3: Enforcement of Immigration Law

Senator McKiernan (L&C 351) asked, 'With regard to the legal action about the East Timorese in Australia - the SSRP case - which I think is an AAT case, there were about 1,650 people involved in that. Can information be given to the Committee on where this matter is currently up to?'

Answer:

On 5 October 2000, the Administrative Appeals Tribunal (O'Connor J, Dr Nygh and Forgie DP) set aside the decision refusing SRPP a protection visa and remitting the matter with the direction that SRPP is a person to whom Australia has protection obligations under the Refugees Convention.

The AAT found that:

- SRPP held a well-founded fear of persecution;
- that he was unable, at the time, to gain effective protection in East Timor, despite the progress that UNTAET had made in rebuilding the systems of domestic protection; and
- he was not able to gain effective protection in either Indonesia or Portugal.

SRPP was granted a protection visa on 2 August 2001.

The Minister for Immigration and Multicultural and Indigenous Affairs announced on 25 March 2002 that East Timorese asylum seekers in Australia would be invited to provide additional information in support of their claims so that decision making could proceed.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(98) Output 1.4: Safe Haven

Senator Bartlett (L&C 352) asked:

- a) I want to clarify that there are now 15 people on safe haven visas in Australia. I notice that the Minister tabled a statement under section 91L(3) that in effect lifted the bar on two others in the first half of last year.
- b) Could I have confirmation that those two were basically to enable them to receive ongoing medical treatment in Australia and, if possible, could I be informed where those people were from - whether they were Ambonese or Kosovar or from elsewhere?
- c) As well as confirming that the 15 that are here are all Ambonese, could I get information about how long it is since those people actually first arrived in Australia and whether they have had repeated renewals of their safe haven visas?
- d) Could you provide us with exactly how many different times they have been rolled over and tell us when they first arrived.

Answer:

- a) There are currently 18 people in Australia on subclass 449 Humanitarian Stay (Temporary) Safe Haven visas. These comprise 15 Ambonese, 1 Kosovar, 1 Iranian and 1 Afghani boy.
- b) The tabling statement covering the period 1 January and 30 June 2001, tabled on 14 September 2001, related to two persons, a Kosovar who was the holder of a subclass 448 Safe Haven visa and an East Timorese person who was the holder of a subclass 449. The bar was lifted to enable them to apply for visas in Australia to continue receiving ongoing medical treatment.
- c) It has been 25 months since the group of Ambonese first arrived. Their Safe Haven visas have been extended.
- d) The Ambonese 449 visa holders arrived on 23 January 2000. They were first granted Safe Haven visas on 7 April 2000 for 1 month. The visa was again extended on the following dates:

6 May 2000 for 28 days
30 May 2000 for 28 days
25 June 2000 for 3 months
26 September 2000 for 6 months
27 March 2001 for 6 months
14 September 2001 for 6 months
25 March 2002 for 12 months.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(99) Output 1.5: Offshore Asylum Seeker Management

Senator Cooney (L&C 266 & 288) asked: " Is there any problem with making all of the material you have from the asylum seekers on the various islands available to the public? I wonder if we could do that. I am talking about not only the material relating to whether or not people were thrown overboard and not only in respect of SIEV4 but all material that has been obtained from the people on Manus Island."

Answer:

The Department's records contain various letters from asylum seekers in the Manus processing facility. Various personal documents and other personal material are also held in the processing centre. Further, the Department has conducted detailed interviews with many asylum seekers in which information from the asylum seekers has been documented.

In regard to this request it is clear from the *Privacy Act 1988* that the Department cannot disclose a record that contains personal information.

However, in the interest of assisting the Senator with his inquiry, there are a number of letters of a general nature, some of which are already in the public domain, attached with this response. Given privacy limitations, letters containing personal information are not provided.

TABLE OF LETTERS

Letter no.	Date	Nature of Correspondence
1	received by fax 29/10/01	Letter from Iraqis who are staying in Manus in PNG to the Prime Minister.
2	received by fax 29/10/01	Letter from Iraqis who are staying in Manus in PNG to the manager of IOM.
3	Passed to Ed Killesteyn on 25/11/01	Letter from the Iraqis living in Lombrum Camp - Manus Island to the Prime Minister.

4	PM&C received fax on 19/12/01, DIMIA received fax from PM&C on 4/4/02.	Letter from the Iraqis living in Lombrum Camp - Manus Island to the Prime Minister.
5	Received by fax 21/1/02	Letter from The Committee of the Iraqis to PM&C.
6	Received by fax 15/2/02	Letter from Iraqis staying in Manus Island to the leader of the Australian Labor Party.
7	Handed to Vince McMahon 2/3/02	Letter from the Iraqis in Manus Island.
8	Received by fax 5/3/02	Letter from the Iraqi asylum seekers in Manus Island to DIMIA.
9	Received by fax 5/3/02	Letter from a group of asylum seekers.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(100) Output 1.5: Offshore Asylum Seeker Management

Senator Bartlett (L&C 353) asked whether it was possible to actually get a breakdown of what that \$159 million constitutes and to break it down into various components.

Answer:

The estimated costs were as follows:

	Nauru	Manus	Cocos Is	Christma s Is	Regional Conferenc e	Total
	\$m	\$m	\$m	\$m	\$m	\$m
Establishment provision/infrastructure	10.0	10.0	0.5	3.2		23.7
IOM - management of facility	46.0	28.0				74.0
ACM - management of facility			5.5	26.0		31.5
APS - additional security *	4.5					4.5
UNHCR payment for processing	1.0					1.0
DIMIA staffing and support costs	2.7	2.0	0.4	1.5		6.6
Asylum seeker transportation	2.0	1.5	0.8	3.1		7.4
Other, including medical and health	1.3	1.0	0.5	1.6		4.4
Offshore operations contingency *	4.5					4.5
Regional Conference - Indonesia					0.5	0.5
Humanitarian assistance to MV Tampa				1.2		1.2
	<u>72.0</u>	<u>42.5</u>	<u>7.6</u>	<u>36.6</u>	<u>0.5</u>	<u>159.2</u>

* Available for Nauru and Manus

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(101) Output 1.3 Enforcement of Immigration Law

Senator McKiernan (L&C 354) asked for details of the charter of the aircraft which was reported in the *West Australian*.

Answer:

DIMIA chartered a Lockheed L1011 Tristar owned by a Portuguese company, Euro Atlantic, to transfer asylum seekers from Christmas Island to Nauru in December 2001. The decision to use the Tristar aircraft was made after Australian air operators were unable to provide aircraft during the busy pre-Christmas travel period, and the Joint Movement Group (Department of Defence) advised that no suitable RAAF aircraft were available until the end of January 2002. Charter brokers contacted were unable to source suitable and available regional aircraft. One broker, All Trans International, eventually located the Tristar aircraft operated by Euro Atlantic. The Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) was advised the Tristar was the only available aircraft suitable to undertake the long-range task in the timeframe required.

Alfa Aerospace, an Australian company, operated the aircraft and had company representatives on board the aircraft during the flights from Christmas Island to Nauru. Also on board were DIMIA and Australasian Correctional Management (ACM) staff. The Euro Atlantic aircrews were fluent in English and conversed with the asylum seekers throughout the flights.

The Tristar encountered an engine problem after landing at Nauru on the morning of 21 December 2001, and the aircraft owner decided the aircraft was unserviceable. The aircraft owner considered the use of available replacement aircraft to complete the transfer but was unable to source any suitable aircraft given the Christmas peak load period and finally chose to airfreight a replacement engine to Nauru, accompanied by a team of engineers. A replacement engine was fitted to the aircraft over the Christmas period and the aircraft returned to Christmas Island on 30 December and transferred the remaining 180 asylum seekers to Nauru. Euro Atlantic bore the costs associated with replacing the engine.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(102) Output 2.1: Settlement Services

Senator McKiernan asked, " Who is conducting the settlement services client survey referred to on p.19 of the additional estimates PBS? What is the timetable for the completion of this study?"

Answer:

A service provider has not yet been chosen to conduct the settlement services client survey. DIMIA will use a tender process to select the most suitable provider.

The timetable for the completion of this study is July 2002.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(103) Output 2.1: Settlement Services

Senator McKiernan asked: Has DIMIA commissioned any studies of the settlement experience of Temporary Protection Visa holders, who are not eligible to access DIMIA-funded settlement services? If so, what are the details; if not, why not?

Answer:

TPV holders are temporary residents who are expected to leave Australia at the end of their visa unless they have an ongoing need for protection. Therefore, the Government does not provide settlement services for TPV holders and has not commissioned any research into their settlement experience.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(104) Output 2.1: Settlement Services

Senator McKiernan asked:

On page 26 of the Budget PBS the Dept said that new AMEP tuition contracts needed to be in place in WA and Victoria by January 2003 and by July 2003 in the rest of Australia and that the tender models and Statement of Requirements would be finalised by "late 2001". Now DIMIA says (p.21) that new contracts are to be in place by July 2003 with the Statement of Requirements expected in April 2002 and the RFT in July 2002. What is the explanation for this delay? When do the current AMEP tuition contracts for WA and Victoria actually expire (and if this is before July 2003 does DIMIA propose to extend them)?

Answer:

The 2001/02 PBS reflected the tender planning schedule based on the Western Australian and Victorian contract end date of 1 January 2003, six months earlier than the other states and territories contract expiry dates. Since publication of the PBS, it was decided to extend the AMEP tuition contract end dates in Western Australia and Victoria by six months from 1 January 2003 to 30 June 2003, bringing them in line with contract end dates for the rest of Australia.

The current tender schedule, as released in the 2001/02 PAES, has the draft Statement of Requirement expected to be released in April 2002 reflecting the alignment of all AMEP tuition contracts to the contract end date of 30 June 2003.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(105) Output 2.1: Settlement services

Senator McKiernan asked:

An additional \$9.4m is sought for AMEP tuition contracts in 2001-02 (see p.28 of the additional estimates PBS). The explanation says this is due to 'a new funding model... including the annual application of CPI and an increase in contract prices' (p.23). How does this 10% increase relate to the existing tuition contracts?

Answer:

The additional funding for the AMEP tuition and all other contracts for 2001/02 is as result of:

- An increase in the contracted price per hour of tuition after a price review for one contractor. This was provided for in this contract.
- The application of indexation to all AMEP contracts.
- A revision of the agreed funding model between the Department of Finance and Administration and DIMIA to more accurately predict the contracted delivery costs.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(106) Output 2.1: Settlement Services

Senator McKiernan asked:

What is the explanation for the \$5.658m increase in the allocation for settlement services provided by DIMIA staff (see p.28 of the additional estimate PBS)?

Answer:

The \$5.658m increase in output 2.1 is a result of the reclassification of the ARMS asset and its associated maintenance and depreciation funding from Administered Items to the Departmental Output. This has occurred in accordance with Australian Accounting Standards and in consultation with the Australian National Audit Office.

ARMS is the AMEP (Adult Migrant English Program) Reporting and Management System. The ARMS asset is an IT database application used by the department and AMEP service providers to:

- Establish a prospective AMEP client's entitlement;
- Track the clients usage;
- Provide for the recording of learning outcomes; and
- Assist with the planning of course locations, curriculum and client groupings.

The transfer of the asset and associated support funding from Administered classification to the Departmental Output is based on the fact that the ARMS asset has become an integral part of the delivery of the Adult Migrant English Program and since 1999 has been integrated with mainstream DIMIA departmental systems. Therefore it was concluded that, in consideration of AAS 29 *Financial Reporting by Government Departments* and in consultation with ANAO, the ARMS asset would be more appropriately classified as a departmental item.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO
(107) Output 2.1: Settlement Services

Senator McKiernan asked:

- (1) Has DIMIA conducted an assessment of the likely financial impact on funded services of the revised Social and Community Services (SACS) award in NSW and if so what was the finding of the assessment?
- (2) Has the Dept discussed the matter with the Dept of Finance and Administration?
- (3) What are the envisaged *'adjustments to current CSSS work programs in order to manage the impact of the award rise'* referred to in Minister Ruddock's letter to the NSW Council of Social Service of 7 January?

Answer:

- (1) The Department assessed a small sample of NSW Community Settlement Services Scheme (CSSS) grants and Migrant Resource Centre (MRC)/Migrant Services Agency (MSA) core funding to determine the likely impact of the revised SACS award for all community service worker grades. It is estimated that within the sample the extra cost to these projects will be on average approximately \$1, 830 per project in 2001-2002, and approximately a further \$60 per project in 2002-2003, after a further increase of 3 percent to all pay rates on 28 November 2002.
- (2) The Department has not discussed the issue with the Department of Finance and Administration.
- (3) The Department will, where necessary, negotiate adjustments to current CSSS work programs in order to manage the impact of the award rise in NSW. These adjustments do not necessarily involve a reduction in service hours or a cut in client caseloads. The shortfall may be managed by some changes to the more discretionary aspects of work programs and operational plans. While a small number of organisations have raised this issue with the Department, as at February 2002, no work programs have had to be adjusted.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(108) Output 2.1: Settlement Services

Senator McKiernan asked, " Minister Ruddock announced on 28 September that the Refugee Resettlement Advisory Council had been given a 'new term' with a slightly changed membership. When does the Council's term of office expire (or do they just hold office at Minister Ruddock's pleasure)?"

Answer:

The expiry date of the Refugee Resettlement Advisory Council's term is 16 March 2004.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO (109) Output 2.1: Settlement Services

Senator McKiernan (L&C 351) asked for details of where the unaccompanied minors are domiciled and in whose care they are domiciled. Are they under the guardianship of the respective state governments or are they in alternative accommodation? How many are there and how long are they provided with support? Is 18 the cut-off age for support for those people?

Answer:

Unaccompanied minor is the broad term used to describe a non-citizen minor, under 18 years of age who is not in the care of a parent in Australia. Those in the care of a relative (who is over the age of 21) are the responsibility of the relative. Those unaccompanied minors not in the care of an adult relative are wards who fall within the provisions of the Immigration (Guardianship of Children) Act 1946 (IGOC Act).

The Minister for Immigration and Multicultural and Indigenous Affairs delegates most of his powers and functions under the Immigration (Guardianship of Children) Act 1946 to various officers of the state or territory child welfare departments. They assume responsibility for wards when they are granted a protection visa and released from detention or when they arrive in Australia under the humanitarian offshore program.

The state child welfare department assesses the maturity and level of independence of a ward before deciding on the most appropriate care arrangements, such as foster care, residential care or supported independent living.

The Minister for Immigration and Multicultural and Indigenous Affairs legal responsibility ceases once a ward turns 18 years of age and hence, the Unaccompanied Humanitarian Program provides support to unaccompanied minors up until such time. There are currently 258 unaccompanied minors under the program.

With respect to unaccompanied minors in detention, where there are concerns for the well-being of particular children the Department takes steps to ensure their safety and welfare. This may include consideration of a bridging visa or an alternative place of detention. Such arrangements include, for those minors in detention in South Australia, the Woomera Residential Housing Project for women and children or foster care arrangements through Family and Youth Services, the South Australian child welfare agency.

Foster care arrangements are considered in exceptional circumstances, such as the recent move of most unaccompanied minors from Woomera IRPC during the tensions in January 2002.

Such decisions are only taken with the expert advice and assistance of the relevant state child welfare authority. In all instances, the child's best interests are assessed on the basis of the particular circumstances of the case.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(110) Output 2.4: Appreciation of Cultural Diversity

Senator McKiernan asked:

Living in Harmony initiative:

What were the findings of the completed evaluation of the Living in Harmony initiative referred to on p.19 of the additional estimates PBS? Has the evaluation report been published? If not, can a copy be provided to members of the Committee?

Answer:

The Living in Harmony initiative is primarily a community based education program that encourages communities to play a positive role in promoting community harmony through the initiative's three linked elements:

- a community grants program;
- a partnerships program; and
- a public information strategy, incorporating Harmony Day.

Its objectives are to challenge all Australians to:

- help build a peaceful and productive future for our children and set an example of how to live in harmony, making the most of our racial, cultural, social and religious diversity;
- take a stand against racism, prejudice and intolerance; and
- put into practice the best of traditional Australian values - justice, equality, fairness and friendship.

The Evaluation of the Living in Harmony initiative was undertaken in late 2001 and examined the first phase of the initiative following its launch on 14 August 1998. Specifically, phase one incorporated one hundred community grants, thirty-eight partnerships and three Harmony Days celebrated annually on 21 March from 1999 - 2001.

The Evaluation found that each of the three elements provided a solid framework for the Living in Harmony initiative and contributed to meeting its overall objectives. Amongst other findings, the Evaluation estimated that the one hundred funded grants projects attracted 133,519 participants with outreach to over 4.5 million people (outreach is defined as other

people who may have received messages including audiences at events, radio listeners and print media readers). Many partnerships broke new ground by highlighting cultural diversity issues in areas such as sport, volunteering, religion and the arts. The three national Harmony Days demonstrated increasing and more broadly based participation rates each year, with a twelve-fold increase in number of organisations participating in Harmony Day 2001 compared to that of the previous year.

The Evaluation report is in the process of being finalised for submission to the Minister. Once cleared by the Minister, the Department would be pleased to brief the Committee on the contents of the report at the Committee's convenience. Decisions are yet to be taken on future options for the format, release and distribution of the Evaluation findings.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 19 and 22 February 2002

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(111) Output 2.4: Appreciation of Cultural Diversity

Senator McKiernan asked:

Media portrayal of migrants:

Minister Hardgrave told AAP on 5 February that he proposes to meet with Australia's media groups to 'discuss the way migrant issues are reported'.

1. Is DIMIA involved in this proposal and if so what are the details?
2. Does DIMIA regularly track the portrayal of migrants in the media, and if so, what methodology does it use to do it?
3. Since the last Budget, has DIMIA provided Ministers with any written commentary on the level of adverse media comment on migrants and on any associated reduction in community harmony?
4. Apart from the *Living in Harmony* initiative, does DIMIA have any ongoing strategy to combat racism and vilification of migrants?

Answer:

1. DIMIA is working on a number of proposals with the Minister's office aimed at communicating on migrant issues.
2. DIMIA has a regular media monitoring service provided to cover all aspects of its activity and responsibilities reported in the English-language print media and, to some extent, the electronic media. There are also procedures in place for relevant items in non-English language media to be translated and reported. Some journals and magazines, and overseas publications, are also monitored.
3. DIMIA provides Ministers with written commentary on the level of adverse media comment on migrants and any associated reduction in community harmony, through ad hoc situation reports and subject-specific briefs (for example, Possible Parliamentary Questions and Current Information Briefs).
4. Apart from the *Living in Harmony* initiative, DIMIA has also been involved in a number of significant initiatives

to develop community-based education programs designed to counter racism and racist vilification. For example:

- the *Immigration the Facts* program provides a factual basis for discussion of immigration.
 - This program has been revised several times since its development in 1998 to address different audiences. Last year saw the launch of *Australia 2030: Investigating the FACTS of Immigration*, a multimedia project aimed at informing high school students about immigration and multiculturalism, including issues such as racism.
 - This project was sent to every secondary school in Australia last year. The Australia 2030 website, www.Australia2030.gov.au was presented as a gift to the nation at the completion of last year's activities, and a permanent display at the National Museum of Australia exposes many thousands of visitors each year to the Australia 2030 project.
 - This year the project will again address multiculturalism and citizenship issues, with a strong emphasis on regional, rural and remote Australia.
- DIMIA contributed to the *Discovering Democracy* education package developed by the Department of Education, Science and Training (DEST), including primary, secondary and adult learning packages incorporating information about multiculturalism.
- The *Racism. No Way!* project has been developed by State and Territory education systems through a *Living in Harmony* 2000 grant and DEST funding. It has been endorsed by the Ministerial Council on Education, Training and Youth Affairs.
- Departmental fact sheets and other information on the DIMIA website provide a solid basis for public discourse on immigration and multiculturalism.
- The activities of the *Council for Multicultural Australia* are also geared towards countering racism.

Senate Legal and Constitutional Legislation Committee
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37.	Written	2 April
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99.	266 & 288	15 April
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107.	Written	2 April
108.	Written	2 April
109.	351	17 April
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111.	Written	17 April