

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(76) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 60) asked:

Did the honorary consul in Cairns provide a report to DIMIA about the meeting with Ms Rau and did the honorary consul report that Ms Rau needed urgent medical attention?

Answer:

A written report was not provided by the Honorary Consul in Cairns. A brief Departmental record of the meeting is attached.

DIMIA has no record that Ms Rau's (Anna Brotmeyer aka Schmidt) health was raised as an issue.

Event/Decision Detail

Select to view Removed Additional Information Items. Press ALT+V and spacebar.

Event Detail

Event: By: MOOLENSCHOT, AIDAN

Qualifier: Recorded On: 04/04/2004

Client Name	DOB	Client Role	Milestone

Permission Type:

Event Occured Date: Office:

Event Additional Information (*2 notes) Include Removed Information

Type	Information	Notes	Recorded By	Recorded On
Note	Detainee requested contact with German Consul.		MOOLENSCHOT, AIDAN	04/04/2004
Note	Honorary German Consul visited detainee.	*	MOOLENSCHOT, AIDAN	04/04/2004

Information Type:

Sebastian Powney

Event/Decision Detail

Event Additional Information Detail

Note (Mandatory)

Information

Notes

||Honorary German Consul attended Watchhouse and interviewed SUNC. Belief of Consul is that she is not a naturally speaking German, possible Russian. No extra info provided to Consul. They will refer info to Consulate in Sydney but without further info they will not be able to assist SUNC.

Sebastian Powney

Sebastian Powney

Sebastian Powney

ICSE NOTE

Occurred date : 02/04/2004

Recorded date : 04/04/2004

“Honorary German Consul attended Watchouse and interviewed SUNC. Belief of Consul is that she is not a naturally speaking German, possible Russian. No extra info provided to Consul. They will refer info to Consulate in Sydney but without further info they will not be able to assist SUNC.”

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(77) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 76) asked:

Provide the criteria for mental illness that was used in Brisbane to assess Ms Rau.

Answer:

The Department does not hold the information requested. The assessment done in Brisbane was undertaken by a qualified Medical Practitioner operating within the Queensland public health system.

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(78) Output 1.3: Enforcement of Immigration Law

Senators Nettle and Evans (L&C 81) asked:

What obligations do DIMIA and the Commonwealth place on their contractors and their staff in terms of privacy and confidentiality?

Answer.

The privacy and confidentiality obligations are set out in the contract between the Commonwealth and the Detention Services Provider. The public version of the contract, which includes this information, is on the DIMIA website at www.immi.gov.au. The Detention Services Provider and their employees are required to adhere strictly to relevant legislation such as the *Privacy Act 1988*. Indeed, the contract provides, among other things, "All staff of the Services Provider must understand the legal constraints on providing personal information about detainees and must ensure that they only provide such information to those legally entitled to receive it".

Additional reference is made to the importance of appropriate use of information in Operational Procedures that have been approved by the Contract Administrator.

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(79) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 83) asked:

Provide a list of the available health services in all detention centres and indicate whether interpreters are available for assisting the health professionals and the amount of time the health professionals are able to spend with detainees.

Answer:

The table below indicates the on-site health staff arrangements.

ON-SITE WEEKLY HEALTH STAFFING ARRANGEMENTS - Baxter	
STAFF	HOURS
Nurses	Mon - Fri 8am-8pm: <ul style="list-style-type: none">- Health Services Manager- 3 nurses- 1 enrolled nurse Mon - Fri 8pm-8am: <ul style="list-style-type: none">- 1 nurse- 1 nurse on call Saturday: <ul style="list-style-type: none">- 1 nurse (5 hours)- 1 nurse (12 hours)- 1 nurse night- 1 nurse on call Sunday: <ul style="list-style-type: none">- 1 nurse day- 1 nurse night- 1 nurse on call
Doctors	Mon – Fri: <ul style="list-style-type: none">- 1 doctor for daily General Practitioner clinic 24/7: <ul style="list-style-type: none">- 1 doctor on call
Psychologists/ counsellors	Mon-Fri (business hours): <ul style="list-style-type: none">- 1 psychologist- 1 counsellor
Psychiatrists	<ul style="list-style-type: none">- Psychiatrist visits around every 6 weeks depending on case requirements

ON-SITE WEEKLY HEALTH STAFFING ARRANGEMENTS - Villawood	
STAFF	HOURS
Nurses	Mon – Fri (business hours): <ul style="list-style-type: none"> - Health Services Manager - Clinical Nurse Co-ordinator - 3 nurses Sat (business hours): <ul style="list-style-type: none"> - 2 nurses Otherwise: <ul style="list-style-type: none"> - 1 nurse (7pm-7am) - 1 nurse on call
Doctors	Mon-Fri: <ul style="list-style-type: none"> - 3 doctors provide 5 clinics W/end: <ul style="list-style-type: none"> - 1 doctor provides clinic every Saturday 24/7: <ul style="list-style-type: none"> - 1 doctor on call
Psychologists/ counsellors	<ul style="list-style-type: none"> - 1 psychologist (full-time) - 3 part-time psychologists
Psychiatrists	<ul style="list-style-type: none"> - Onsite GP refers to private psychiatrist (offsite) - Acute, urgent treatment accessed via Bankstown Emergency department which has a Mental Health Unit attached – Banks House.
ON-SITE WEEKLY HEALTH STAFFING ARRANGEMENTS - Maribyrnong	
STAFF	HOURS
Nurses	Mon – Fri (business hours): <ul style="list-style-type: none"> - 1 senior health nurse - 2 part-time nurses Sat: <ul style="list-style-type: none"> - 1 nurse (8am-1pm) Otherwise: <ul style="list-style-type: none"> - 1 nurse on call
Doctors	Mon-Fri: <ul style="list-style-type: none"> - 1 doctor provides 2 clinics/wk 24/7: <ul style="list-style-type: none"> - 1 doctor on call
Psychologists/ counsellors	<ul style="list-style-type: none"> - 1 psychologist (full-time) - 1 psychologist (on call to see detainees on needs basis) - 1 part-time counsellor

Psychiatrists	<ul style="list-style-type: none"> - Visiting psychiatrist every 4-6wks - Acute, urgent treatment accessed via Outpatient appointment – Werribee Mercy Hospital Psychiatric Unit; Tele-consultation – CAT Service
ON-SITE WEEKLY HEALTH STAFFING ARRANGEMENTS - Perth	
STAFF	HOURS
Nurses	5 days (business hours): <ul style="list-style-type: none"> - 1 senior health nurse Otherwise: <ul style="list-style-type: none"> - 1 nurse on call
Doctors	Tues: <ul style="list-style-type: none"> - 1 doctor clinic 24/7: <ul style="list-style-type: none"> - 1 doctor on call
Psychologists/ counsellors	<ul style="list-style-type: none"> - 1 part-time psychologist
Psychiatrists	<ul style="list-style-type: none"> - Non-emergency, tele-consultations with psychiatrist, outpatient appointments via Bentley Clinic - Acute, non-acute, non-voluntary admissions via Bentley Hospital and Greylands Hospital
ON-SITE WEEKLY HEALTH STAFFING ARRANGEMENTS – Christmas Island	
STAFF	HOURS
Nurses	7 days (business hours - extended): <ul style="list-style-type: none"> - 1 senior health nurse - 1 nurse Otherwise: <ul style="list-style-type: none"> - 1 nurse on call
Doctors	<ul style="list-style-type: none"> - Same access to medical care as Christmas Island residents, i.e.: consultations via Christmas Island Hospital 24/7: <ul style="list-style-type: none"> - 1 doctor on call via appointment or emergency
Psychologists/ counsellors	<ul style="list-style-type: none"> - 1 visiting psychologist (1 wk/mth)
Psychiatrists	<ul style="list-style-type: none"> - GP consults via phone via WA Mental Health Services - Acute psychiatric patients sent to Perth

The Detention Services Contract and Operational Procedures require the Detention Services Provider to make appropriate use of accredited interpreters and translators, including in relation to health matters.

Procedures provide for approximately 15-20 min consultations with nurses and general practitioners and 30-60 min consultations with psychologists and counsellors. As in the community, longer consultations are provided as necessary.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(80) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 83) asked:

Who has responsibility for implementing the recommendations that the medical professionals may make?

Answer.

The Department generally entrusts day to day health care to the qualified, treating health care professionals. The Department's practice is to follow the advice of the treating health professionals in regard to the treatment and location of a detainee, except where this is precluded by law eg if the advice is contrary to the provisions of the Migration Act.

In the community a medical professional's recommendations can have implications for family members, particularly those directly involved in their care. Likewise, in an environment such as immigration detention, the medical recommendations can have implications for other providers involved with the detainee eg detention officers who are in day to day contact with the detainee and immigration officials who are involved in seeking resolution of the detainee's case. In this context, the treating health professionals would involve other relevant parties in implementing the health professionals' recommendations, as required, consistent with the requirements of the law.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(81) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 85) asked:

Provide a copy of the written, agreed protocol between the contractors and DIMIA on access to detainees' medical files.

Answer.

A protocol dealing with access to detainee medical records has been included in the IHMS health procedures, a copy of which is attached.

The operational procedures provide guidance and clarity for staff working directly with immigration detainees on a day-to-day basis. The procedures are reviewed and subject to ongoing refinement.

In January 2005, the Department asked an Expert Panel member to review the practical implementation of this procedure at a detention centre. The Expert Panel member has direct experience in managing medical information within privacy principles in an institutionalised environment. He has advised the Department that he has found no significant issues with the application of the protocol and recommends that its application be audited on a regular basis.

21 MEDICAL RECORDS

21.1 MEDICAL RECORDS

Each detainee has their own electronic Medical Record (MR) maintained in the IHMS' computerised information system CHIRON.

Detainees who received health services in immigration detention prior to December 2003 (ie prior to the commencement of IHMS' contract) will also have an individual paper file. The location of this file will be noted in CHIRON.

IHMS nursing staff will ensure that CHIRON is updated each time a detainee receives a health service. They are responsible for scanning medical reports and test results into CHIRON and placing the original documents on file in date order.

Hard copies of the forms used in the management of the Health Centre are to be kept in a form folder in the filing cabinet. In the event that the computers are off line, paper records will be prepared for each health service received by a detainee. These records will be scanned into CHIRON as soon as possible thereafter.

It is essential that all IHMS staff are meticulous when it comes to accurate, timely and thorough documentation. In a court of law if there is no written evidence it can be difficult to prove that appropriate action was taken. Also, the Privacy Act requires record-keepers to ensure that the record is accurate.

The objective of documentation is twofold:

- **firstly** to ensure that the person who provides care to the detainee when another IHMS staff member has gone off duty knows the care that has been provided to the detainee as well as any plan of action for follow up or review, •
- **secondly**, to enable the IHMS staff to be very clear about their actions and plans in the face of any legal questioning or scrutiny from bodies such as HREOC or the Commonwealth Ombudsman.

The IHMS nurse should ensure the following in relation to all health records created at the health centre:

- Each page has the detainee name and ID number
- All referral letters and diagnostic request forms contain the detainee name and ID number
- There is a date and time for each entry
- The nurse signs her/his name followed by their qualification
- The nurse should print her / his name legibly as well as sign it

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- There should be no gaps between the current documentation and previous events. If there is such a gap, the nurse should put a line through the space
- If an error is made, a line should be placed through the error and the amended text inserted. The nurse should write the word 'error' next to the words crossed through and initial the amendment
- Liquid paper IS NEVER USED to change a hard copy of a medical record.

The following are to be documented in a clear, concise and objective manner in the medical record:

- The presenting signs and symptoms
- Any observations that are made
- Any examination made to the detainee
- Any significant findings
- Any absence of a significant finding (i.e. absence of a rash in a febrile child)
- Any significant conversations with the detainee
- Any significant conversations with any treating physicians
- Any phone conversations of note
- Any request for the detainee to attend the Health Centre and s/he does not attend
- Any refusal of treatment by the detainee • All non-compliance by the detainee of treatment or medications.

21.2 SECURITY OF MEDICAL RECORDS

From reception, IHMS staff should make detainees aware that their medical records and health information are generally private, but may be passed to other health care providers involved in their care or to persons with a statutory right to have the information disclosed to them. In other circumstances where medical records or health information is sought, the detainees will be asked to provide their written consent.

Detainee medical records prepared by IHMS staff are Commonwealth records and DIMIA has ultimate ownership of them. There may be exceptions such as where a detainee has brought their own medical records with them or, alternatively, independently pays for any health care. Medical records are maintained, stored and archived in accordance with contractual requirements and relevant Commonwealth legislation and policies, including the *Privacy Act 1988* and the *Freedom of Information Act 1982* ("the FOI Act").

The Health Centre Manager, or Senior Health Centre Nurse, is responsible for the day-to-day management of detainee medical records, including keeping them

secure and facilitating timely disclosure of the records to authorised persons such as clinical staff and DIMIA staff.

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The details around the removal, copying and return of medical records should be fully recorded in CHIRON (including the name of the person receiving the information and the purpose).

DIMIA staff regularly require detainee medical records to be disclosed to them, often to meet very short deadlines. Access is appropriate where the DIMIA staff have a need to view the records in the course of undertaking their work, including to facilitate:

- responses to requests for information from Parliament;
- preparation of Ministerial briefings;
- disclosure of information in the records to Commonwealth investigatory authorities such as the Commonwealth Ombudsman and Human Rights and Equal Opportunity Commission;
- responses to Freedom of Information requests; and
- contract monitoring.

Usually to answer the relevant questions raised by a public scrutiny body, Parliament or the Minister, DIMIA staff need information regarding:

- the detainee's current status and relevant case history;
- the detainee's ongoing treatment; and
- any known future prognosis or treatment plans.

While DIMIA staff have a direct right of access to medical records under these circumstances, it has been agreed that **direct access** to the detainee's medical record will be limited to the following:

- persons involved in the on-site day-to-day clinical management of the immigration detainee (ie IHMS nursing staff, the Immigration Detention Facility's general practitioners and PSS staff);
- DIMIA Detention Contract Monitoring (DCM) staff appointed on behalf of the Contract Administrator to undertake onsite monitoring, including audits of the record keeping procedures of clinical staff, and onsite DIMIA staff who are undertaking routine audits;
- DIMIA Expert Panel consultants engaged to undertake any audit or review of the record keeping procedures of clinical staff; and

- DIMIA staff facilitating **urgent** requests for information eg to brief the Minister prior to Parliamentary question time or to ensure a full response to Commonwealth Investigatory bodies within the required timeframes.

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- Where DIMIA staff are facilitating **urgent** requests for information the following protocol will apply. The DIMIA Centre Manager or Deputy Manager will e-mail the GSL General Manager and Health Centre Manager or Senior Health Centre Nurse concurrently. IHMS staff will action the request immediately. If there is a difficulty providing the information within the requested timeframe (eg due to a medical emergency), the health centre staff will notify the GSL General Manager and DIMIA Centre Manager (or appropriate designated staff in their absence) immediately and negotiate facilitation of access. It may be necessary to enable a DIMIA staff member to access the medical record directly.

All other persons will seek access to detainee medical records from IHMS staff in accordance with the procedures described below.

21.3 DISCLOSURE OF DETAINEE MEDICAL RECORDS

21.3.1 Disclosure to the detainees and their legal representatives

Detainees have broadly the same right of access to their medical records as persons in the Australian community. However, each request should be assessed on a case-by-case basis to ensure that relevant legislative requirements are applied. In considering the detainee's request that their records be disclosed to them, IHMS must not immediately provide information in the following circumstances where DIMIA will be responsible for handling the request and consequent disclosure of information:

- **Where the detainee (or their legal representatives) are requesting disclosure of the detainee's complete medical record or a large portion of that record;**
 - Where the medical records include reference to other persons;
 - Where access could constitute a serious and imminent threat to the detainee's life or health; Where the medical record includes medical advice / reports prepared by external medical professionals who are not employed by GSL, IHMS or PSS (Note: this excludes diagnostic results);
 - Where a document was commissioned by DIMIA for legal purposes;
 - Where release could endanger life or physical safety of any person;
 - Or any other exemption that may apply under the FOI Act.

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NOTE: If any of the above bullet points apply to the requested Medical Records, the detainee should be asked to make a request under the FOI Act, which will be actioned by DIMIA staff.

If the request does not fall into one of the categories outlined above (ie it is a request for **a copy of medical information about a current medical condition or a small portion of the medical record**), the attached application form (no 022) should be given to the Health Centre Manager or Senior Health Centre Nurse to process.

Once the Medical Director and / or National Operations Manager approve the application, the process of facilitating access or copying the record should proceed as quickly as possible.

To ensure duty of care obligations are met, it is policy to disclose a detainee's medical records to him/her through a medical practitioner (usually the General Practitioner) who can explain the content of the medical record and diagnostic results to the detainee. As in the community, disclosure of potentially sensitive sections of the medical file, which could be detrimental to the detainee's physical or mental health or well being (e.g. mental health or counselling notes) should only be disclosed when a suitably qualified health practitioner is present to avoid misinterpretation or distress.

The relevant health practitioner may need to use interpreting services to ensure that information is provided in a language or terms that the detainee can understand.

This process should be completed within one week of the application being made wherever possible.

A record is kept of all information provided to the detainee from their medical record, the date it was requested and provided to the detainee and who provided the information.

NOTE: In keeping with section 494D of the Migration Act 1958, if a lawyer or migration agent has been appointed as the authorised recipient, that person must be given "any documents that the Minister would otherwise have given to that person." It is policy that where information is provided to the authorised recipient,

it be provided through a medical practitioner and that, where practicable, the detainee should be present.

21.3.2 Disclosure of detainee medical records to DIMIA staff

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The protocol for disclosure of medical records and health information to DIMIA staff (except those with direct access as described previously) is as follows:

- DIMIA staff will e-mail the nature and purpose of their request to the GSL General Manager. The e-mail will be copied to Health Centre Manager or Senior Health Centre Nurse.
- Although the e-mail is directed to GSL, the Health Centre Manager or Senior Health Nurse should action it as soon as practicable (ie generally within 24 hours but at the latest within 5 days). The Health Centre Manager or Senior Health Centre Nurse, will arrange for any relevant medical record(s) to be printed from CHIRON (or the paper file to be disclosed) and passed directly to the requesting DIMIA officer. The GSL Manager will be notified by e-mail of what was provided to DIMIA.
- Where a detainee has raised concerns with a DIMIA Case Coordinator (or other DIMIA staff) regarding their medical treatment it will require follow-up:
 - the Health Centre Manager, or Senior Health Centre Nurse, will receive an e-mail from the DIMIA Case Coordinator (or other DIMIA staff), copied to the GSL General Manager, briefly summarising the detainee's concerns and noting that the detainee has been requested to self-refer for a nurse consultation;
 - the Health Centre Manager, or Senior Health Centre Nurse, will facilitate a timely nurse consultation, ensuring that the detainee is informed about his/her medical condition and treatment in a language or terms they understand;
 - where a matter remains unresolved the DIMIA Case Coordinator (or other DIMIA staff) will need to satisfy themselves that the requirements of the detention services contract have been met. The DIMIA Case Coordinator (or other DIMIA staff) may e-mail the GSL General Manager (copied to the Health Centre Manager or Senior Health Centre Nurse) noting the date of the nurse consultation if known, the health information that they require and why it is needed. IHMS will action this request as soon as practicable but within 5 days.

- If the IHMS staff have any concerns with a DIMIA request, it should be raised and resolved as soon as possible between the GSL General Manager and DIMIA Centre Manager.
- If the requesting DIMIA officer is concerned that all the relevant information may not have been provided, the GSL General Manager will be notified and will work with the Health Centre Manager or Senior Health Centre Nurse to promptly address DIMIA's request.

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21.3.3 Disclosure of detainee medical records to Commonwealth Investigative Bodies

The Human Rights and Equal Opportunity Commission (HREOC) and the Commonwealth Ombudsman have statutory rights to have detainee records, including medical records, disclosed to them.

DIMIA generally seeks to resolve HREOC and Commonwealth Ombudsman inquiries in an informal manner, while maintaining the right to question the reason why documentation is being sought. Where the link between the matter being investigated and the medical information being sought is not clear, DIMIA may request that a formal application be made under section 21 of the *HREOC Act 1986* or section 9 of the *Ombudsman Act 1976*. If information is not provided within the relevant timeframes financial penalties can apply.

The procedure for release of records to investigatory bodies is as follows:

- IHMS staff should provide every assistance to investigatory bodies and to DIMIA staff working to meet their requests.
- In accordance with written protocols, HREOC and the Commonwealth Ombudsman will forward their requests for medical records or information to DIMIA (not IHMS staff directly).
- Recognising that DIMIA staff are required to provide information to these bodies within tight timeframes, any relevant portions of the medical file in CHIRON should be copied (or paper files should be disclosed) and passed to DIMIA as soon as possible, generally within 24 hours and at the latest within 5 days.
- A record of any requests from investigatory bodies and the disclosure will be noted on the detainee's file.

21.3.4 Disclosure of detainee medical records to the Immigration Detention Advisory Group (IDAG)

The procedure for disclosure of medical records to IDAG members is as follows:

- The director of the Public Scrutiny and Coordination Section in DIMIA's central office should be advised that an IDAG member has requested disclosure of a detainee's medical record.
- Where the IDAG member has been contracted by DIMIA or the detention services provider to provide an independent medical assessment or treatment of the detainee, they are able to disclose the medical record in accordance with the procedure for health services providers.

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- If a detainee has given the IDAG member full and written consent to disclosure of their personal medical records, the disclosure should be facilitated.
- A record of any requests from IDAG members and the disclosure will be noted on the detainee's file.

21.3.5 Disclosure of detainee medical records to Health Services Providers (including State Health Authorities)

Health providers can share information where this is necessary to protect the health of the detainee (for example where a detainee is referred to a specialist).

The process for sharing of information is as follows:

- All exchanges of medical information to external health service providers should be undertaken directly between treating health professionals.
- Wherever practicable, when a detainee is transferred to hospital, or another place of ongoing health care, the detainee's permission should be sought for information to be shared between the treating health professionals.
- Where case conferences are held involving the South Australian Department of Health Services (DHS), the IHMS Medical Director, Detention, will ensure that he/she has access to the detainee's full medical record at that meeting and that a summary of the relevant medical record is made available to other health professionals participating in decision making about the appropriate care and medical treatment for the detainee.

21.3.6 Disclosure of detainee medical records to external care providers (eg Hotham Mission)

Where an appropriate care plan is established, seriously ill detainees are sometimes released into the community on bridging visas on medical grounds or placed in alternative detention. To enable a potential care provider to assess whether they might be able to offer appropriate care to a seriously ill detainee DIMIA might seek that the following information be provided by the General Practitioner:

- A brief, non-identifiable summary of the detainee's condition for DIMIA to forward to the proposed care provider; and
- A more detailed summary of relevant medical information to be provided directly by the General Practitioner to the medical practitioner to be engaged by the care provider for the detainee if an appropriate arrangement can be facilitated.

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Where the care arrangement is to proceed, IHMS should seek the detainee's consent to provide any additional, relevant medical information to health providers who will be assuming care of the detainee.

21.3.7 Disclosure of detainee medical records to members of a detainee's family

Providing information to family members must be done lawfully. Non-guardian family members are not entitled to access a detainee's medical record. Family members can only be provided with information about a detainee's current health status if the detainee has given written permission. Otherwise the *Privacy Act* prevents the disclosure of such information.

In the case of an emergency or extreme circumstances doctors may provide a patient's family with health information, as opposed to the medical records, to help provide care or treatment to the detainee or on compassionate grounds.

Any information provided to family members should be recorded in the detainee's medical record.

21.3.8 Disclosure of detainee medical records to third parties (eg friends, support persons and community advocates)

A third party, eg a support person or community advocate, is not entitled to have a detainee's medical record disclosed to them. Even where the detainee has provided written consent, it is DIMIA's policy to provide the medical record to the detainee directly at the detainee's request. The detainee is then free to provide this information to third parties at their discretion.

21.4 INDIVIDUAL HEALTH PLANS AND DETAINEE CARE PLANS

Each detainee will have an Individual Health Plan, that is prepared to manage his or her individual health needs. The IHMS nurse will commence this Individual Health Plan shortly after arrival and it is the responsibility of the IHMS nurse to ensure the Individual Health Plan is updated in line with Module 4.

Individual health plans have been created for all detainees. Detainees with special needs also will have a multidisciplinary Detainee Care Plan which incorporates summarised information from the individual health plans. The objective of the Individual Health Plan is to provide an overview of the health needs of the individual and is useful to review prior to a consultation to encapsulate the health of the detainee to the health professional who is seeing the detainee.

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21.4.1 UPDATING OF INDIVIDUAL HEALTH PLAN AND DETAINEE CARE PLANS

Individual Health Plans, and the summarised input to the Detainee Care Plans, will be updated by the IHMS nurse according to the regimen or as the health needs of the detainee changes.

Control:

- ***Each detainee has an Individual Health Plan***
- ***There is evidence that this Health Plan is updated according to each individual plan***

21.5 GROUPS WITH SPECIAL NEEDS

Groups of detainee have been identified by DIMIA as having special needs. IHMS identifies that all detainees have special needs. Accordingly an Individualised Health Plan has been designed for the following groups:

- Elderly detainees, whether accompanied or unaccompanied;
- Minors, whether accompanied or unaccompanied;
- Pregnant women;
- Women, whether accompanied or unaccompanied;
- Detainees with serious health problems;
- Detainees at risk of self harm;
- Survivors of torture and trauma;
- Long term detainees;
- Detainees with a mental illness;
- Detainees with a physical and/or intellectual disability.

The care of these people with their specific needs is addressed in Module 4.

Control:

- ***Detainees who fall into more than one category, have the appropriate individualised plans incorporated into their management***

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Request for Access to Medical Record

Please Print Clearly

Name:

_____ (Family) _____ (First)
_____ (Middle)

Identification Number: _____ Date of Birth
_____/_____/_____

Name of Centre:

I hereby request to have a copy of
_____ (insert description of documents) in
my medical records

Signed _____ Date
_____/_____/_____

Witness _____ Date
_____/_____/_____

The information was provided through _____ (health
practitioner's name). An onsite interpreter/ TIS was used/not used

Signed _____ Date
_____/_____/_____

Print name and
Status: _____

**IHMS STAFF - ENSURE YOU HAVE READ AND UNDERSTOOD SOPP 20.4
IN MODULE2**

I have received copies of the following medical records as requested:

Items received:

Signed _____ Date
____/____/____

Witness _____ Date
____/____/____

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(82) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 86) asked:

Can you explain what confidentiality arrangements are in place for detainees in relation to their medical records?

Answer:

The confidentiality arrangements are detailed in the contract with the Detention Services Provider and the relevant operational procedures. Under the Detention Services Contract, detainee records are to be “collected, used, modified, stored, accessed, disseminated and disposed of in accordance with the relevant provisions of Commonwealth law, such as the Privacy Act 1988, Freedom of Information Act 1982 and Archives Act 1983” (Immigration Detention Standard 1.4.2.2). In addition, the contract clarifies that detainee records (including medical records) are departmental records. Information from these medical records can lawfully be accessed by some public scrutiny bodies such as the Human Rights and Equal Opportunity Commission and the Ombudsman in accordance with the law.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(83) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 88) asked:

Were any further internal or external databases checked from 30 September 2004 onwards?

Answer:

Please refer to the details provided in response to your question 44.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(84) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 89) asked:

Provide a copy of the standard letter that was sent to other agencies in relation to Ms Rau.

Answer.

See attached.

IMMIGRATION – IN CONFIDENCE

Date

Agency
Address

Number of Pages, including this sheet:

If you do not receive all pages, please telephone immediately.

Would you please supply the details of any reference you have to the person listed below in relation to (agency). The Department has reason to believe that these details are relevant to ascertaining the identity or whereabouts of a person whom the Minister has reason to believe is an unlawful non-citizen.

NAME	D.O.B.	DIMA REF.	SEARCH IN	SEARCH FROM

NAME	D.O.B.	DIMA REF.	SEARCH IN	SEARCH FROM

NAME	D.O.B.	DIMA REF.	SEARCH IN	SEARCH FROM

This information is requested under Section 18 of the Migration Act 1958 (as attached).

Please fax the response to (02) 6264 3853 or if further information is required, phone (02) 6264 4609.

Director
Position Number:
A Delegated Officer under
Section 18 of the Migration Act 1958.
Date

Section 18.

Power to obtain information and documents about unlawful non-citizens

18. (1) If the Minister has reason to believe that a person (in this subsection called the first person) is capable of giving information which the Minister has reason to believe is, or producing documents (including documents that are copies of other documents) which the Minister has reason to believe are, relevant to ascertaining the identity or whereabouts of another person whom the Minister has reason to believe is an unlawful non-citizen, the Minister may, by notice in writing served on the first person, require the first person:
- (a) to give to the Minister, within the period and in the manner specified in the notice, any such information; or
 - (b) to produce to the Minister, within the period and in the manner specified in the notice, any such documents; or

- (c) to make copies of any such documents and to produce to the Minister, within the period and in the manner specified in the notice, those copies.

Section 21. Failure to comply with section 18 notice

21. (1) A person must not refuse or fail to comply with a notice under subsection 18 (1).

(1A) Subsection (1) does not apply:

- (a) to the extent that the person is not capable of complying with the notice; or
- (b) if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matters in subsection (1A) (see subsection 13.3(3) of the Criminal Code).

(2) The following are 2 of the reasonable excuses for refusing or failing to comply with a notice:

- (a) the person whom the Minister had reason to believe was an unlawful non-citizen was not an unlawful non-citizen at the time the notice was given;
- (b) the information or documents which the Minister had reason to believe were relevant to ascertaining the identity or whereabouts of a person were not relevant to ascertaining the identity or whereabouts of the person.

(3) An offence against subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

Penalty: Imprisonment for 6 months.

Note: Section 22 was repealed with effect from 24 May 2001 by item 278 of Schedule 2 to the Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000.]

[Note: Section 23 was repealed with effect from 24 May 2001 by item 279 of Schedule 2 to the Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000.]

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(85) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 92) asked:

How many times was Ms Rau asked to provide fingerprints?

Answer:

During the period of Cornelia Rau's (Anna Brotmeyer aka Schmidt) detention departmental officers did not have the authority to require Ms Rau to provide her fingerprints. Ms Rau was identified as a candidate for the involuntary collection of fingerprints when this authority was available.

While consideration was given a number of times to requesting Ms Rau's fingerprints, on each occasion that an approach to her was considered, an assessment was made by the relevant officer dealing with her that Ms Rau would not cooperate and/or that such a request may cause her distress.

Following advice from the German Consulate in Melbourne in January 2005 that fingerprints would aid in their identification process, Ms Rau was formally requested to provide her fingerprints in late January 2005. Ms Rau refused this request.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(86) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 94-95) asked:

Provide a list of the contacts that were made with the Minister's office in relation to Ms Rau.

Answer:

Senator Ludwig asked this question in the context of a discussion about telephone contact between advocates and the Minister's Office and the Minister's advice that notes are not kept of all phone calls.

The office does not keep a file note of all telephone calls that it receives. However, the Department can confirm the following contacts were made in relation to Ms Rau prior to her being identified:

- 15 December 2004 – 3 February 2005 - as indicated in the response to question 129 (27), approximately 32 pieces of correspondence were received;
- 19 January 2005 – Minister's office has a regular meeting with DIMIA officials to discuss a range of detention issues. Ms Rau's (Anna Brotmeyer aka Schmidt) case discussed briefly;
- 24 January 2005 – telephone call from Acting Minister's Office to DIMIA Official in relation to phone representation regarding Ms Rau (Anna Brotmeyer aka Schmidt);
- 31 January 2005 – Current Issues Brief sent to Minister's Office in response to coverage of the case;
- 3 February 2005 – Telephone call and email message to the Minister's Office following the identification of Cornelia Rau.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(87) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 95) asked:

In relation to the correspondence from Ms Rau, was a standard brief prepared for the Minister?

Answer.

On 23 December 2004, following receipt of Ms Rau's (Anna Brotmeyer aka Schmidt) correspondence to Minister Ruddock and Senator Vanstone, acknowledgement letters were sent to her (known as Ms Schmidt in the context of this correspondence) by one of the Minister's Advisers. These letters were interim responses indicating that the matters Ms Rau had raised with the Minister were under further consideration.

The correspondence was not otherwise assessed in the Minister's office and was immediately forwarded to the Department for further consideration and preparation of a response.

On 17 January 2005 the Department, on behalf of the Minister, responded to the substance of Ms Rau's correspondence to the Minister. As the matters raised in Ms Rau's correspondence did not require Ministerial consideration, no Ministerial briefing was required or prepared.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(88) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 95-96) asked:

Provide the chronology of the times Ms Rau was seen by the medical professionals.

Answer:

An examination of Departmental records confirms that Ms Rau (Anna Brotmeyer aka Schmidt) was personally seen, or attempted to be seen, by medical professionals on at least the occasions mentioned in Attachment A.

In addition, nurses regularly attend compounds for consultation and to dispense medication and every contact might not necessarily be recorded.

Attachment A

MEDICAL CONTACT LIST

DATES VISITED	MEDICAL PROFESSIONAL VISITED
Brisbane (05/04/04 – 06/10/04)	
19/05/04	Psychologist
10/08/04	Psychiatrist
20/08/04	Admitted into Princess Alexandria Hospital.
26/08/04	Psychiatrist – Discharged from hospital.
Baxter IDF (06/10/04 – 03/02/05)	
6/10/04	Nurse
7/10/04 to 15/10/04	Nurse attended detainees regularly in Blue compound
07/10/04	Psychologist
16/10/04	Attempted contact: nurse – Ms Rau (Anna Brotmeyer aka Schmidt) was asleep
17/10/04 to 19/10/04	Nurse each day
19/10/04	Attempted contact: Ms Rau (Anna Brotmeyer aka Schmidt) refused to meet with psychologist
20/10/04 to 21/10/04	Nurse both days
21/10/04	Psychologist
22/10/04 to 24/10/04	Nurse each day
25/10/04	Health Services Manager
25/10/04	Psychologist
25/10/04	Attempted contact: nurse – Ms Rau (Anna Brotmeyer aka Schmidt) sighted in room sleeping
26/10/04	Nurse
27/10/04	Attempted contact: nurse – Ms Rau (Anna Brotmeyer aka Schmidt) sighted in room; appeared to be sleeping.
28/10/04 to 30/10/04	Nurse each day
01/11/04	Nurse
03/11/04	Attempted contact: Ms Rau (Anna Brotmeyer aka Schmidt) refused to meet with psychologist
5/11/04	Nurse
6/11/04	Nurse; attempted consultation by Consultant Psychiatrist
06/11/04	Psychologist and further consultation with Consultant Psychiatrist
7/11/04 to 10/11/04	Nurse each day
10/11/04	Psychologist;
11/11/04	Nurse
11/11/04	Attempted contact: psychologist: Ms Rau (Anna Brotmeyer aka Schmidt) declined counselling when offered
12/11/04	Attempted contact: nurse – informed that Ms Rau (Anna Brotmeyer aka Schmidt) was asleep
13/11/04 to 14/11/04	Nurse both days
17/11/04 to 22/11/04	Nurse attended detainees regularly in Blue compound

23/11/04	Psychologist
23/11/04 to 27/11/04	Nurse attended unit daily
29/11/04 to 30/11/04	Nurse attended unit daily
03/12/04 to 04/12/04	Nurse both days
06/12/04 to 08/12/04	Nurse each day
10/12/04 to 11/12/04	Nurse both days
13/12/04 to 18/12/04	Nurse each day
20/12/04 to 25/12/04	Nurse each day
27/12/04	Attempted contact: Ms Rau (Anna Brotmeyer aka Schmidt) stated that she did not wish to speak with the nurse today
28/12/04 to 01/01/05	Nurse each day
03/01/05 to 07/01/05	Nurse each day
07/01/05	General Practitioner and Psychologist
08/01/05	Attempted contact - Ms Rau (Anna Brotmeyer aka Schmidt) stated that she did not wish to see a nurse
10/01/05 to 11/01/05	Nurse each day
12/01/05	Attempted contact: Ms Rau (Anna Brotmeyer aka Schmidt) stated that she did not wish to speak with the nurse today.
13/01/05 to 15/01/05	Nurse each day
17/01/05 to 20/01/05	Nurse each day
17/01/05	Attempted contact: psychologist. Ms Rau (Anna Brotmeyer aka Schmidt) declined counselling when offered
20/01/05	Psychologist and Counsellor
21/01/05	Attempted contact: Ms Rau (Anna Brotmeyer aka Schmidt) told nurse that she was not available to speak with her today.
22/01/05	Nurse
24/1/05	Nurse; Attempted contact - psychologist. Ms Rau (Anna Brotmeyer aka Schmidt) declined counselling when offered
25/01/05 – 26/01/05	Nurse each day
27/01/05	Attempted contact - psychologist. Ms Rau (Anna Brotmeyer aka Schmidt) declined counselling when offered
27/01/05	Attempted contact – Ms Rau (Anna Brotmeyer aka Schmidt) declined to speak with the nurse.
28/01/05 – 29/01/05	Nurse both days
31/01/05 – 01/02/05	Nurse both days
01/02/05	General Practitioner
03/02/05	Nurse; General Practitioner

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(89) Output 1.3: Enforcement of Immigration Law

Senator Ludwig (L&C 101) asked:

Is it the case that section 196 of the Migration Act suggests that when you cannot determine status you must release?

Answer:

- Section 189(1) of the *Migration Act 1958* (the Act) requires that an officer must detain a person whom the officer knows or 'reasonably suspects' is an unlawful non-citizen.
- By section 196 of the Act, an unlawful non-citizen detained under s 189 must be kept in immigration detention until he or she is removed from Australia, deported or granted a visa. Subsection 196(2) provides that to avoid doubt, s 196(1) does not prevent the release from detention of a citizen or lawful non-citizen.
- Where it is determined that a person is not an unlawful non-citizen there is no basis for that person's detention.
- Where an officer must detain on the basis of a reasonable suspicion, the detention continues to be authorised until that suspicion is dispelled (by knowledge obtained through further enquiry).

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(90) Output 1.3: Enforcement of Immigration Law

Senator Allison (L&C 102) asked:

What was the compensation amount paid to Mr Goldie?

Answer:

On 27 February 2004 the Federal Court awarded Mr Goldie damages of \$22,000 for wrongful arrest and imprisonment. This award was made up of \$5,000 for wrongful arrest and associated physical restraints, \$2,000 for the conduct in detention of pat searches and medical examinations and \$15,000 for detention for a period of 3 days.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(91) Output 1.3: Enforcement of Immigration Law

Senator Allison (L&C 105) asked:

Provide details of the training provided to people who work in the detention centres?

Answer:

Training is coordinated for all staff working in the immigration detention environment by the detention services provider, Global Solutions Limited (GSL) and their subcontractors Professional Support Services (PSS), International Health and Medical Services (IHMS), Tempo Facility Services (TFS) & Delaware North Australia (DNA). The training provided is targeted at the roles that staff undertake. Those with detainee contact all receive training in the following topics:

- an introduction to the immigration detention environment
- cultural awareness and cross cultural communication
- an understanding of the legal framework and
- GSL's operating philosophy.

GSL provide training in the following broad subjects to their immigration detention service officers. The training is delivered by GSL staff, DIMIA, the Australian Red Cross, South Australian Police, PSS staff, South Australian Survivors of Torture & Trauma Assistance and Rehabilitation Service (STTARS), Australasian Fire Safety Training Consultants & St John Ambulance Australia.

- GSL related topics and code of conduct
- Detention Services Contract, legal framework, Immigration Detention Standards and operational procedures
- Communication issues
- Cultural Awareness
- Services for detainees
- Security topics
- Administrative topics
- Fire training and first aid

PSS provide additional training to their medical and professional staff in the following areas and the training is delivered by PSS staff.

- PSS introductory sessions
- GSL related topics

- Detention Services Contract, legal framework, Immigration Detention Standards and operational procedures
- Cultural diversity
- Working with detainees – children, torture and trauma survivors, suicide and self harm
- Administrative topics

PSS also have individualised personal development courses conducted annually to update medical and professional staff in the latest developments and treatments. This year many PSS staff focussed on torture and trauma related issues.

IHMS recruit staff with the appropriate medical and professional qualifications and provide additional training in the following areas. This additional training is delivered by GSL trainers, International SOS, Port Augusta and other hospitals and training consultants:

- IHMS introductory sessions
- GSL module on detention & security
- Cultural Awareness
- Signs and symptoms that alert to psychological disorder
- Detainees with special needs
- Mandatory notification
- Clinical medical modules
- Medication administration and distribution
- IHMS medical procedures
- Administrative topics
- Fire safety

TFS provide their professional tradesmen and facilities managers with training in TFS procedures, OH&S issues, EEO and other administrative procedures. TFS staff also participate in some of the GSL modules described above to ensure they are appropriately trained in relevant aspects of the Detention program.

DNA staff attend some of the GSL training modules listed above to ensure they are appropriately trained in relevant aspects of the Detention program. They also receive training from DNA trainers in the following areas:

- DNA induction
- Code of conduct for detention centres – incorporates cultural sensitivity, complaints process, communication
- Food preparation in the detention environment – cultural awareness
- Procedures for food preparation in detention centres
- Administrative topics

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(92) Output 1.3: Enforcement of Immigration Law

Senator Allison (L&C 106) asked:

Were the psychiatrists or the psychologists consulted about the isolation of Ms Rau?

Answer:

Regardless of where they are accommodated, all detainees have ongoing contact with staff employed by the Detention Services Provider, medical services and DIMIA. Additionally, they are often in contact with other organisations such as the Red Cross; the Immigration Detention Advisory Group; and the Human Rights and Equal Opportunity Commission.

During the periods that Ms Rau (Anna Brotmeyer aka Schmidt) was in the Management Support Unit, she was closely monitored by a Management Unit Review Team (MURT), which included a psychologist.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(93) Output 1.3: Enforcement of Immigration Law

Senator Allison (L&C 106) asked:

Have the psychologists or psychiatrists ever made a recommendation that a person is in such a state that they ought to be released from the management support unit?

Answer:

It would be very resource intensive to check the recommendations on every detainee file.

However, the Department can confirm that the operational procedures require that, where practicable, an expert medical opinion on the mental and physical health of the immigration detainee will be obtained from a qualified health professional prior to the transfer of the detainee to the Management Support Unit (MSU). The opinion obtained then informs the decision as to whether the transfer is necessary or desirable.

The Management Unit Review Team (which consists of staff from DIMIA and the Detention Services Provider and health care professionals) closely monitors detainees and their placements in MSUs daily. Detainees have access to full medical facilities and operational procedures require that they are visited daily by qualified medical staff. These medical professionals can refer the detainee for further assessment which, in turn, may lead to a recommendation that the detainee be accommodated elsewhere within the facility.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(94) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 109) asked:

Provide the number of referrals that there have been of detainees to Glenside for psychiatric assessment, or to other psychiatric facilities when they are detainees from other detention centres

Answer:

The State and Territory mental health services have been partners in the provision of health care of immigration detainees for many years. A number of immigration detainees have been admitted to psychiatric facilities across Australia for assessment and treatment. This has included the Glenside Psychiatric Hospital in Adelaide; Werribee Mercy Hospital in Melbourne; Banks House in Sydney; Princess Alexandra Hospital in Brisbane and Bentley Hospital (also known as the Mill Street Psychiatric Clinic) in Perth.

It is difficult to provide the exact number of immigration detainees who have been transferred to psychiatric facilities in the last five years as such records are held on individual case files, many of whom would have ceased their immigration detention by departing Australia or being granted a visa.

In relation to the specific question regarding admissions to the Glenside Psychiatric Hospital, there have been seven immigration detainees transferred, for varying periods, to the Glenside Psychiatric Hospital in the twelve months since April 2004.

Consistent with the SA Mental Health Act, and community practice, the decision to admit a person to a psychiatric facility involuntarily is made by a Doctor; this can include a General Practitioner or a Psychiatrist.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(95) Output 1.3: Enforcement of Immigration Law

Senator Nettle (L&C 109) asked:

If somebody requests an independent psychiatric assessment, what is the process for that?

Answer.

As in the community, the treating doctor is responsible for arranging a referral to a psychiatrist, often on the recommendation of the treating psychologist. The department will facilitate a detainee's request for a second opinion, wherever practicable, at the detainee's expense. As in the community, a referral from the treating doctor is provided to facilitate the detainee's access to a second specialist opinion.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2004

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(96) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

On December 13 last year there was a report that a man deported from Australia aboard a commercial airline had his ankles and wrists chained and his mouth gaffer-taped shut by immigration officials. The unnamed man was deported on a Thai Airways flight from Sydney to Bangkok. Can the Department provide the nationality of the deportee, where he was being deported to, why, and why it was necessary to have such heavy handed security measures?

Answer:

The person is Pakistani. He was being removed to Pakistan as he had no authority to remain in Australia.

In exceptional circumstances the use of restraints on high risk persons during a removal operation may be required. This includes cases where the person presents a high security risk or behaves in a way that threatens the safety of themselves or others. In this case, the person was violent, noisy and disruptive during the removal process. He assaulted the escorting officers and attempted to bite them. He also bit his own lips, in an attempt to delay his removal and appear unfit to travel. The escorting officers found that it was necessary to restrain the person to allow him to board the flight without posing further danger to himself or others.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(97) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Has the Minister or the Department received any reports or allegations regarding the beating or assault of the most recently deported Iranian man by GSL guards? Have these allegations been investigated? What procedure is usually followed when allegations are received against detention centres or other security staff involved in detention or deportation?

Answer:

These allegations have been received by the Department and the Minister. GSL have been requested to conduct a formal investigation into this matter.

Where allegations are received by the Department, it may decide to investigate an incident or can require GSL to conduct an investigation. DIMIA can also take over a GSL investigation or participate in a joint investigation. External investigators are sometimes appointed.

Furthermore, in relation to possible criminal actions the police have jurisdiction in this area and such matters are referred to them.

The immigration detention program is among the most closely scrutinized of Government programs. Any complaint, including concerning assault or violation of human rights, can also be investigated by the Human Rights and Equal Opportunity Commission (HREOC) and the Commonwealth Ombudsman following complaints to them.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(98) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Can the Department confirm if it is correct that out of the past 5 Iranian Christians deported, 1 is currently in prison in Iran facing charges on his conversion, 3 are facing the religious courts for their conversions and the last one has escaped to Europe?

Answer:

The Department does not monitor returnees.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(99) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Can the Department provide figures on:

- (a) The number of permanent residents deported (or who have departed voluntarily after having their right to reside in Australia revoked) over the past 5 years.
- (b) Which countries they were deported or departed to.
- (c) A list of the crimes that 'triggered' the deportation or revoking of residency rights.
- (d) The cost of deportations.
- (e) Is there any form of follow-up or support once a person is expelled from Australia?

Answer:

(a) The table below shows how many non-citizens left Australia in each of the last five years after their visa was cancelled under sections 501 and 201 of the *Migration Act 1958* (the Act). The majority of these non-citizens would have previously been permanent residents.

Over the last five years, the Department practice has been to cancel permanent visas under section 501 of the Act. The s201 deportations noted on the table are generally individuals who have come to the end of a lengthy prison sentence. The s201 order would have been issued at the time of their incarceration.

Date	Total Number of Departures under section 501 of the <i>Migration Act 1958</i>	Total Number of Departures under s201 of the <i>Migration Act 1958</i>
2000/01	48	21
2001/02	63	11
2002/03	79	3
2003/04	47	2
2004/05 (as at 31/1/05)	26	Figures not yet available for this year

(b) The Department does not collect statistics showing the countries to which individuals were deported or removed. Individuals may request to be removed to any country for which they have right of entry. The following table gives information as to the nationality of individuals who have been removed from Australia since 2000. Most individuals are removed to their country of nationality.

NATIONALITY	REMOVED FROM AUSTRALIA 2004 TO JAN 05	REMOVED FROM AUSTRALIA 2003 to 2004	REMOVED FROM AUSTRALIA 2002/03	REMOVED FROM AUSTRALIA 2001/02	REMOVED FROM AUSTRALIA 2000/01
Afghanistan					
Albania			1		
Bosnia	1				
Brazil					
Britain	5	8	3	14	11
Brunei		1			
Chile			1	1	
China		1	1		
Colombia			1		
Croatia					1
Ethiopia			1		
Fiji	2	2	1		1
Germany		2	2	1	
Guatemala				1	
Hungary				1	
India					1
Indonesia		1			
Iran	1	1			
Ireland		1			
Israel				1	
Italy		1	1		
Japan		4			
Laos					
Lebanon		1	1		1
Macedonia				1	
Malaysia			3	1	
Netherlands			1		
New Zealand	12	13	44	35	29
Papua New Guinea			1		
Philippines			1	1	
Portugal		1			1
Romania		1	1	1	
Saudi Arabia				1	
Singapore				1	
Sri Lanka			1		
Sweden					2
Thailand	1		2		
Tonga	1		1		
Turkey	1	3	2	1	
USA		1	1	2	
Vietnam		4	7		
West Samoa					1
Yugoslavia	2	1	1		
TOTAL	26	47	79	63	48

(c) The Department does not have a list of crimes that have led to deportation orders or visa cancellations.

(d) This information cannot be readily obtained. However, total costs of removals and deportations, including overstayers, criminal deportees, non-citizens whose visas were cancelled on character grounds or for other reasons, unauthorized arrivals and illegal fishermen were approximately \$9.1 million in 2003-04.

(e) No. Prior to removal, individuals are given assistance to contact relatives or friends in their country of destination, and a discretionary payment may be made to those who do not have financial resources. Many individuals removed from Australia request their repatriation to be kept private.

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 15 February 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(100) Output 1.3: Enforcement of Immigration Law

Senator Bartlett asked:

Please supply statistics on the number of children held in immigration detention broken down by nationality and giving the average length of their stay, from 1999 to the present.

Answer:

The Department does not have these statistics readily available in the format requested and sourcing the data would be an unreasonable diversion of departmental resources. However, the Department can provide the following statistical information.

Bridging visas are granted where legally possible and appropriate to enable community care placements for children. Overall in 2004, around 95% of children were granted bridging visas.

The Department generally prefers not to provide statistical averages for periods in detention as a small number of exceptional cases can distort the figures which creates an inaccurate representation of the length of time most people spend in immigration detention.

As at 21 January 2005, there were 95 children in immigration detention (including those in alternative detention arrangements). Of these 95, their length of stay was:

- For less than 6 weeks, 17;
- 6 weeks to less than 3 months, 21;
- 3 months to less than 6 months, 13;
- 6 months to less than 12 months, 15; and
- For 12 months or more, 29.

Between 1 July 1999 and 25 February 2005, 3,899 minors were taken into immigration detention representing over 70 nationalities. The top 10 nationalities for children in detention for this period were from the countries of Iraq, Afghanistan, Indonesia, Iran, Papua New Guinea, People's Republic of China, Republic of Korea, Philippines, Tonga, and Vietnam.

The Department is committed to continuing alternative immigration detention arrangements for women, children and other detainees with special needs. Alternative detention options that helped reduce the number of children in detention facilities include the establishment of further Residential Housing Projects (RHPs) for women and children, foster care arrangements for children with state child welfare authorities and community-care placements.