

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 28 May 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(30) Output 1.3: Enforcement of Immigration Law

Senator Sherry (L&C 303) asked for a copy of the interview form.

Answer:

The interview format used by DIMIA staff in their assessment is treated confidentially in case its availability is used to coach women working in the industry. A private briefing on the substance of the interview format can be arranged.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(31) Output 1.3: Enforcement of Immigration Law

Senator Sherry (L&C 306) asked:

What initiated the service provider's review of the monitoring and management procedures for individual detainees?

Answer:

The service provider would be expected to review any procedures or processes where, as a result of an incident, it appears that all which could and should have occurred in relation to the care and security of a detainee did not happen.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(32) Output 1.3: Enforcement of Immigration Law

Senator Sherry (L&C 306) asked:

What training do ACM staff receive in respect of people in detention who are withdrawing from drug use?

Answer:

ACM has advised that its Detention Officers receive training on;

- Drug Detection, Deterrence, and control of contraband;
- Suicide prevention HRAT (includes advice that persons withdrawing from drugs and alcohol may be at risk);
- First Aid;
- Crime Scene Preservation – including Drug Use and Implements; and
- Intelligence Reporting – including suspected drug use.

In addition Health staff receive training on reception screening which includes identification and assessment of those suspected to be suffering drug withdrawal. Appropriately qualified and trained Health professionals also provide a range of primary medical support services to such detainees.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(33) Output 1.3: Enforcement of Immigration Law

Senator Sherry (L&C 308) asked:

In relation to the case of Ms Simaplee, why weren't the problems identified by the Coroner picked up?

Answer:

The Coroner's comments relate to the circumstances surrounding the death of Ms Simaplee only and there is currently no evidence from the auditing and monitoring which took place which suggests a wider problem. Normal auditing or monitoring techniques generally rely on testing a sample of a population to ensure compliance with procedures, standards or benchmarks. This methodology may not identify a weakness in one particular case which was identified by the Coroner.

The service provider has advised that regular audits of health service documentation are conducted. This policy has always required a random review of medical records on an ongoing basis. These random audits would not necessarily identify weaknesses in clinical management of any particular illness unless a detainee was undergoing treatment for the illness at the time.

To reinforce the policy, during 2002 ACM reminded its Health Services Co-ordinator that a weekly audit of 10 per cent of medical files is required. ACM has confirmed that all medical files are currently audited monthly in line with this policy. Additionally, supplementary audits have also been conducted at all centres by several Health Service Managers.

The Department has also reviewed its monitoring process and will be monitoring medical records on a more regular basis. This is to be undertaken by someone from the Department's expert panel with the relevant medical knowledge to ensure that the necessary standards are met.

Specific responses from ACM in relation to the Coronial inquiry are located at Attachment A.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(34) and (41) Output 1.3: Enforcement of Immigration Law

Senator Sherry (L&C 311/318) asked:

- To be provided with a copy of the changes made by ACM following the death of Ms Simaplee.
- To be provided with a copy of the official response to all recommendations, in relation to the coronial inquest into the death of Ms Simaplee.

Answer:

Attachment A details the official response from ACM on the changes they have made at Villawood IDC.



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BUDGET ESTIMATES HEARING: 28 May 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(35) Output 1.3: Enforcement of Immigration Law

Senator Sherry (L&C 312) asked:

Have there been any changes by departmental officers who are located at Villawood or who visit from time to time or by ACM in respect of medical supervision?

Answer:

The service provider has advised that for all incoming detainees with a serious drug addiction, a hospital assessment of the detainee will occur. Where the hospital deems that the detainee can be adequately cared for outside of the hospital, then on their advice, the service provider will resume treatment at the centre.

The Department has initiated the monitoring of medical records into its program of reviews of performance by ACM. Monitoring of this particular aspect will be conducted by a member of the expert panel engaged by the Department with appropriate medical expertise to review and provide advice.

Specific responses from ACM in relation to the Coroner's recommendations into the death of Ms Simaplee on medical observations are shown at Attachment A.



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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(36) Output 1.3: Enforcement of Immigration Law

Senator Sherry (L&C 312) asked:

What are the payments to ACM in respect of Villawood?

Answer.

The Department has contracted out the provision of detention services and purchases a package of services from the Detention Services Provider (DSP). As a consequence, the Department does not require the DSP to break down the cost of service provision. The Department is therefore only able to provide aggregate costs in relation to the overall cost of detention service provision.

In the 2001-02 financial year, the average cost per detainee day at Villawood IDC was \$113.

The daily cost at a facility is affected by a number of factors including the total capacity of the facility compared to the actual number of persons detained there.

The costs include payments made under the contract for managing the detention centres as well as Departmental expenses such as those for employee salaries, travel, motor vehicles, telephones, interpreting costs, depreciation and other administrative costs associated with Villawood IDC.

The costs provided do not include departmental head office corporate costs or capital costs.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(37) Output 1.3: Enforcement of Immigration Law

Senator Allison (L&C 312) asked:

Of those sex workers who are apprehended – many of whom are removed – is there an assessment made, and at what point, of whether or not they have a drug addiction problem? Given the preponderance of drug addiction in the industry generally, what is the process, firstly, and secondly, how many are found to have drug addictions?

Answer:

People located working illegally in the sex industry may or may not be placed in a detention centre. If they are granted a Bridging Visa, as some are, then any drug addiction issues may not be apparent.

Sex workers, who are detained, are questioned by DIMIA compliance staff in relation to their general state of health, including whether or not they are currently taking any medication shortly after being detained and prior to their being transferred to a place of immigration detention. Compliance officers also observe and report any signs that a detainee is under the influence of drugs or alcohol and take appropriate action including seeking medical assistance where required.

The issue of drug addiction generally is a medical judgement relevant to the detainee's management in detention and is therefore conducted as part of the admissions process in all Immigration Detention Centres (IDCs). That process includes detainees being interviewed by a qualified nurse in relation to their medical condition, including the use of any drugs. Where detainees are held in State detention facilities, police or correctional institution procedures are followed. These procedures generally include questioning the detainee along similar lines to the procedures followed in IDCs.

The Department does not maintain statistics relating to sex workers found to be addicted to drugs, nor would it be in a position to make a judgement about those who are not taken to detention centres.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(38) Output 1.3: Enforcement of Immigration Law

Senator Allison (L&C 313) asked:

How many detainees were identified as being drug addicted in the last financial year?

Answer:

The Department does not have these statistics in a form that is readily available.

To collate this information would involve a manual examination of each detainee's file. This is a substantial and unreasonable diversion of the agency's resources from its normal operations. The Department is therefore unable to provide a response to this question.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(39) Output 1.3: Enforcement of Immigration Law

Senator Allison (L&C 314) asked:

So you are assuring the committee that in all of the cases that the AFP complains about it was the choice of the potential witness to return to their country of origin? Can you give the committee an assurance that that is the case?

Answer:

We do not have any records of the AFP having expressed concerns over an involuntary removal although we are aware of concerns that the person has left the country.

An examination of our records in relation to the 19 matters (involving 40 people) referred to the AFP since September 1999 show the following. Nine people chose to depart voluntarily; two are still in Australia; one person is a victim identified offshore and has never entered Australia; one person was issued with a Criminal Justice Stay Visa (CJV); and the AFP is seeking CJV's for a further three people. Our records for the remaining 24 people do not show details of whether they departed voluntarily.

Section 198 of the *Migration Act 1958* legally obliges the Department to remove as soon as reasonably practicable:

1. an unlawful non-citizen who asks to be removed, and
2. an individual who no longer have a right to remain in Australia (no longer holds a valid visa).

The Department's experience has been that people located working in the sex industry, including potential witnesses in trafficking matters, generally wish to make departure arrangements quickly. Such a request must be complied with under Australian immigration law.

If an individual is identified as of interest to the AFP in the context of people trafficking or sexual servitude investigation, the AFP may request a Criminal Justice Stay Certificate to be issued by the Attorney-General. If the certificate is obtained, the Department is then able to issue a Criminal Justice Stay Visa (CJV) to enable the individual to remain in Australia. The Department has never removed a person after it has been notified that a criminal justice stay certificate is being considered.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(40) Output 1.3: Enforcement of Immigration Law

Senator Allison (L&C 314) asked:

Is it possible to get the details of the number of people who claim that they were trafficked – whether or not this was found to be the case? Can we have some details of how many and when and what the result of those allegations were in terms of how the matter was investigated? Is it also possible to have an outline of the treatment of such people – for example, the counselling which might be offered to them?

Answer:

People found by the Department to be working illegally in the sex industry are carefully interviewed to determine whether there are any indicators of people trafficking or sexual servitude. If there is evidence of people trafficking emerging from this interview, the case is referred to the Australian Federal Police (AFP) for investigation. Between September 1999 and 20 June 2003, 19 matters containing indicators related to people trafficking had been referred to the AFP. These referrals relate to 40 alleged victims plus a number of business entities.

The AFP does not provide the Department with an update on progress of investigations nor are DIMIA staff involved in the investigations unless the AFP requests specific assistance such as details of the immigration status.

Where the Department identifies people who may be victims of people trafficking and sexual servitude, there are mechanisms in place to refer them to appropriate support services. If the person is placed in immigration detention they are provided with access to appropriate trauma, violence and sexual abuse counselling services. The Department also takes a number of other steps, depending on the circumstances of individual cases.

- DIMIA staff may request relevant child protection agencies to accompany them on compliance visits where allegations have been received that children may have been working in brothels.
- In NSW and Victoria, where illegal work in the sex industry is concentrated, considerable effort has been put into developing relations with sex worker support groups and cooperatives and to encourage NGO's to report servitude or trafficking allegations to the appropriate agency.

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Answer:

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(42) Output 1.3: Enforcement of Immigration Law

Senator Allison (L&C 319) asked:

In relation to sex workers, how many times has witness protection been used?

Answer:

The Australian Federal Police (AFP) provided the following answer:

Matters of this nature would not be discussed where the answers fall into the public arena.

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(43) Output 1.3: Enforcement of Immigration Law

Senator Bartlett (L&C 324) asked the Department to verify the allegation in the *Financial Review* that the Iranian Department of Security in the Iranian Parliament said that they will imprison returnees from Australia as examples to deter European Union countries from sending back dissidents.

Answer:

The Chair of the Iran-Australia Parliamentary Friendship Group has advised on behalf of the Iranian Parliament (Majles) that there is no truth in the *Australian Financial Review* report that there has been a statement made in the Majles by Iranian authorities in relation to the imprisonment of returnees from Australia.

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(44) Output 1.3: Enforcement of Immigration Law

Senator Kirk (L&C 328-329) asked for a list of the areas of mandatory incident reporting and the reporting time frames both current and what is in the new detention standards.

Answer:

The attached lists reflect the mandatory reporting requirements of the current and new contracts. It should be noted that, as the Commonwealth has not yet formally entered into a contract with Group Four Falck Global Solutions, those requirements provided for the new contract should be regarded as provisional only.

Through the life of the present contract DIMIA has often discussed the issue of incident reporting with ACM. This has been through a range of informal and formal means. As well as seeking better practice in terms of quality and timeliness of reporting, the Department has provided the general understanding to ACM that it is preferable that it over-report, rather than to under-report. While a range of discussions have been held with ACM to clarify contractual requirements as immigration detention issues have evolved, no formal revised schedule has been issued to ACM, and the original contract provisions continue to be used to identify the issues to be addressed in incident reports.