

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 26 May 2004

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(75) Output 1.3: Enforcement of Immigration Law

Senator Kirk asked:

- (1) For each of the last five financial years, what sums have been recovered to cover the cost of removing stowaways whose applications for a protection visa failed, and from which supply companies were these sums recovered?
- (2) Does the Government attempt to recover the cost of detention and processing of ship jumpers who seek protection; including the cost of removing them from Australia if their applications for protection visa fail? If not why not?
- (3) How many ship jumpers lodged applications under the special category visa?
- (4) What is the eligibility criteria for this visa category?
- (5) For each of the last two financial years, what payments under the Migration Act were made by each shipping company for the cost of detention and removal of each ship jumpers?
- (6) Is there infringement notices issued to shipping companies that are responsible for bringing in unlawful non-citizens into the country? If not why not? Does DIMIA record data on the cost to each shipping company of detention and removal costs; if not, why not; if so, from which date are statistics recorded?
- (7) For the financial years 2001-2002 and 2002-2003, did Australian Customs Service (ACS) check details of all crew members and passengers on each ship entering against ACS and DIMIA alert lists and did reports show any person of concern on any ship? If so:
 - (a) On how many occasions;
 - (b) What were the names of the ships involved;
 - (c) In which country were the ships registered; and
 - (d) Does this prohibit them from re-entering the country in the future?

Answer:

- (1) No such funds have been recovered as the shipping company responsible for bringing a stowaway to Australia in each case paid the costs for their removal.
- (2) Yes. A deserter who arrives lawfully as a crewmember is individually liable for the costs of their detention and removal. Repayment of a debt to the Commonwealth is a criterion in respect of future visa applications.
- (3)-(4) One ship jumper was granted a Special Category Visa. To meet the criteria a non-citizen must:

- be a New Zealand citizen and hold a valid New Zealand passport;
- complete an Incoming Passenger Card; and
- not be either a behaviour or a health concern

By comparison, Special Purpose Visas (SPV) for maritime crew come into effect by operation of law on the arrival of a vessel to Australia, provided crew members present both a valid passport and a seafarer's identity document confirming their employment on board the vessel. An SPV held by a ship jumper ceases to be in effect when the person is no longer a member of crew.

(5) No payments were made by any shipping company for the cost of detention and removal of ship jumpers. A deserter who arrives lawfully as a crewmember is individually liable for the costs of their detention and removal. Unless the costs are paid directly, the person will receive a bill from the Commonwealth for the costs of their detention and removal. Repayment of a debt to the Commonwealth is a criterion in respect of future applications.

(6) Yes. Infringement notices are issued to carriers bringing unvisaed passengers to Australia.

Where immediate removal is arranged by the responsible carrier, DIMIA does not record the cost of removal as the costs are borne directly by the carrier. The removal costs are not recorded by DIMIA as the carrier is responsible.

If a person is detained in immigration detention and later removed by the responsible carrier (eg. following a failed protection visa application) DIMIA records and seeks to recover the cost of detention. Detention costs in relation to unauthorised arrivals on board commercial ships have been recorded since 2001.

(7) The agreed procedure is that Customs checks the details of all crewmembers and passengers on each ship entering Australia against ACS and DIMIA alerts and reports any persons of immigration concern to DIMIA.

(a) DIMIA records the details of such referrals from Customs and their outcomes as individual records. DIMIA does not maintain these records in a manner to allow the extraction of automated statistical reports.

(b) Neither DIMIA nor ACS record case referrals against vessels.

(c) Neither DIMIA nor ACS records this information.

(d) Individuals subject to alerts may be excluded under the Migration Act from being granted a future visa to Australia. DIMIA does not have the power to exclude vessels from re-entering Australia.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(76) Output 1.3: Enforcement of Immigration Law

Senator Kirk asked:

(1) With respect to the 3 stowaways removed from Australia during the period 1 July 2001 to 29 February 2004 what was the cost of removing from Australia for Zenith Shipping (2 Stowaways) and Dorine Shipping (1 Stowaways)?

(2) With respect to the issue of special purpose visas (SPV) for the shipping industry:

(a) When were they first introduced?

(b) How many have been issued since they were first introduced?

(3) How does the Department monitor customs information concerning when a vessel is issued with a single or continuous voyage permit when it intends to depart to a place outside Australia?

(4) Can the Department monitor customs information concerning when a vessel is issued with a single or continuous voyage permit when it intends to depart to a place outside Australia?

(5) Can the Department confirm that all the vessels that hold a CVP or SVP permit depart Australia before a future permit is issued?

(6) Isn't it true that under the Ministerial instrument under s 33, of the Migration Act, the grant of a special purpose visa is conditional of ships being involved in international travel, which involves visiting a port in another country? How is this verified and monitored by the department?

(7) Isn't it true, that once a vessel meets the requirements for a ship to be involved in international travel, that a crew is taken to hold a special purpose visa? Are these visas issued individually or collectively?

(8) Isn't it true that crew member's visas status is linked to the grant of a CVP or SPV of up to 3 months duration?

(9) What individual checks are carried out on all crew prior to the issue of SVP or CVP? Once a vessel leaves Australia, then returns as required by DOTARS what checking is made to consider any changes in crew?

(10) For a visa, isn't it true that crew must now have to produce a passport?

(11) Is the Department considering also requiring as proof of identity a seafarer's identity in accordance with ILO Convention?

(12) Isn't it true that these Seafarer's identity will be based on bio-metric testing which is potentially safer than passport identification?

Answer:

(1) For each of the 3 stowaways who have been removed from Australia, the shipping company responsible for bringing that stowaway to Australia has directly paid the costs of their removal. These costs are not recorded by DIMIA.

(2) (a) Special Purpose Visas were introduced on 1 September 1994.

(b) DIMIA does not record all SPVs issued as eligible persons are deemed to hold them by operation of law. However, by way of illustration some 260,000 crew entered Australia during 2002-03.

(3)-(5) The Australian Customs Service (ACS) monitors vessels operating under a single or continuing voyage permit issued by DOTARS, including that they depart to a place outside Australia. ACS advises DIMIA only where a vessel fails to operate in accordance with the terms of such permits.

(6) Yes. It is verified by ACS who monitors ships including when they depart to a place outside Australia. When a ship arrives in Australia, ACS requests evidence of a clearance certificate from its last overseas port.

(7) No. Crew are taken to hold SPVs if the ship they crew arrives in Australia at a proclaimed port and will depart to a place outside Australia during the course of its voyage. Simply being a member of crew of a ship that is involved in international travel does not make a crewmember a member of a class of persons deemed to hold an SPV.

SPVs are granted individually by operation of law.

(8) For coastal trading, a crewmember's visa is linked to the issue of a Single Voyage Permit (SVP) or a Continuing Voyage Permit (CVP) for a period of up to three months.

(9) All crew members, who enter or re-enter Australian ports, are checked against DIMIA and other agency alerts before arrival in Australia. This occurs before the issuance of an SVP or CVP by DOTARS.

(10) From 1 November 2003 crew members have been required to hold both a passport and seafarer's identity document to be immigration cleared on arrival. While this has been largely met, to assist industry a period of grace operates until 30 June 2004. From 1 July 2004, all crew must hold both a passport and seafarer's identity document to be granted a Special Purpose Visa.

(11) No. The 1 July 2004 requirement that crew must hold both a passport and an identity document was introduced separately from the ILO Convention. However, an identity document can include an ILO endorsed seafarer's document.

(12) It is understood that the proposed ILO seafarer's document is likely to contain a biometric identifier. At this stage DIMIA is not in a position to comment on whether any biometric identifier that might be adopted by the ILO is likely to be safer than passport identification.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(77) Output 1.3: Enforcement of Immigration Law

Senator Kirk asked:

- (1) Can you advise us how many overseas students had their students visas revoked since the last financial year?
- (2) Can you provide us with the range of reasons for these visas being revoked?

Answer:

- (1) 8,245 student visas were cancelled in the period 1 July 2003 to 30 June 2004, including 2,279 automatic cancellations.
- (2) Student visas may be cancelled when a provider reports that a student has breached condition 8202 relating to attendance and academic achievement, or when work or other conditions have been breached. Other grounds for cancellation include the provision of false or misleading information and character concerns.

In the case of condition 8202, an automatic visa cancellation occurs if the student does not attend a DIMIA office within 28 days of being reported. Automatic student visa cancellations may be revoked if the student did not breach the 8202 visa condition (usually a provider mistake) or the breach was due to exceptional circumstances beyond the student's control.

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BUDGET ESTIMATES HEARING: 26 May 2004

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(78) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

(1) Are you aware of the Sunday Age report of 28 March 2004 of the systematic use of illegal workers in seasonal primary industry?

(2) Has the Department undertaken to investigate the allegations made by in the article? When will these investigations commence? What is the timeframe for the investigation?

(3) Has the companies/employers been accused of similar practice in the past? Was this matter investigated and what was the outcome of the investigation?

(4) What is your response to the findings of:

(a) Repeated claims that some employers using illegal workers are tipped off about raids by immigration officials. Internal investigations have failed to stop the alleged 'leaks'.

(b) Links between the use of illegal workers and immigration scams involving forged or stolen documents, including passports.

(c) AWU estimates that a 'significant' part of Victoria's fruit crop is picked by illegal workers.

(d) Regarding the Daily Telegraph Commercial Agreement. Was there any payment (or payment in kind (sic)) relating to the Agreement?

(5) Are you aware of the AMWU report of 23 April 2004 that there is a migration agency, Freespirit, operating an employment service that provides workers, such as boiler makers, pipe fitters and welders, from South Africa?

(6) Has the Department undertaken to investigate the allegations made by the Union? When will these investigations commence? What is the timeframe for the investigation?

(7) Has the company been accused of a similar practice in the past? Was this matter investigated and what was the outcome of the investigation?

(8) Are you aware of the article in the Weekend Australian on 15 May 2004 that reports on the abuse of the temporary workers entering Australian under the 457 visa category?

(9) Has the Department undertaken to investigate the allegations made in the article? When will these investigations commence? What is the timeframe for the investigation?

(10) The issue of the abuse of the 457 has been an ongoing one over a number of years. Are you able to advise how many foreign workers have been found to be in breach of the 457?

(11) How many companies have been investigated for abuse of the 457 over the last three years? How many of these companies have received warning notices from the Department?

(12) I refer to an incident on 11 May 2005 where there was the unfortunate on site death of a worker at the head office of John Crane Australian Pty Ltd (166 Eldridge Rd/St, Condell Park – Sydney).

Can you advise us whether the deceased entered Australia on a temporary business skill visa?

(it is appropriate to provide his name – Raghavengra Ramakrishna)

(13) Was the deceased's visa valid at the time of his death?

(14) Is the Department investigating this incident? What is the progress of this investigation?

(15) What are the workcover/care and insurance implications when there is a work site death of a person working on a temporary business skill visa that is no longer valid? For the company and the deceased estate?

(16) I understand this is the third work site death in recent months of a person working on a temporary business skill visa. Is the Department aware of the other incidents? What is the progress of the Department's investigation into these incidents?

(17) Is the Department concerned over the frequency of fatalities of people on temporary business skill visa?

(18) Is the Department reviewing the issue? What consultation is the Department undertaking in this review?

(19) Are you aware of the article in the Daily Telegraph on 15 May 2004 reporting illegal foreign workers in the sex industry?

(20) Can you advise when the Daily Telegraph was advised of the immigration raid of brothels in Sydney? Did staff from the Daily Telegraph attend the raid?

(21) In the last financial year how many illegal foreign workers have been found working in the Australian sex industry?

(22) How many employers in the Australian sex industry have received warning notices for employing illegal foreign workers?

(23) Can you provide us with an update of the work being undertaken by the Department, Australian Federal Police and Department of Justice in the prosecution of sex worker trafficking?

(24) What sanctions are in place to prosecute sex worker traffickers? How many people have been prosecuted for trafficking sex workers?

Answer:

(1) Yes

(2) & (3) No companies or employers were named in the report. However, the Department already undertakes extensive fieldwork and investigations affecting a range of companies. For example, 126 illegal worker-warning notices were issued in relation to the agriculture industry in 2002-03.

(4)

(a) The high success rates of compliance action show that the flow of information is tightly managed. Some of the information leading to an operation comes from the industry and employers so it is not surprising that there may be information about some anticipated compliance action in the community. Word spreads through a regional area very quickly once compliance activity commences in that area.

(b) The Department actively investigates alleged scams concerning employment practice and the use of illegal workers. While bogus documentation is encountered, more often it is a question of the person's identity and status not having been properly checked, including the acceptance of tax file numbers which are not indicative of a person's right to work. The Migration Agents Task Force was set up specifically to deal with migration agents who may be facilitating spurious applications.

(c) There is no basis for the Department to make any such estimates. From July 2003 to April 2004 175 Illegal Worker Warning Notices were issued in Victoria, of which 22 were issued to the agriculture, fishing and forestry industry. 147 people were located in this industry in Victoria by 31 April 2004.

(d) No.

(5) The Department has been in close contact with the AMWU regarding the allegations made against Freespirit.

(6) The Department commenced investigations into the allegations immediately they came to light. The investigation is at an advanced stage.

(7) The Department has not received past allegations from tradespeople about this company. An awareness program was undertaken with contract management companies in 2003 and 2004 regarding the sponsorship requirement that sponsors must be the direct employers. This company received awareness raising information as part of that program.

- (8) Yes
- (9) The article deals with two cases where the Department had completed its investigations in 2003. These investigations were initiated from monitoring activity and liaison with the sponsoring employer. The Department found that the relevant sub-class 457 visa holders were in breach of their visas and required them to depart Australia. One left Australia and the other remains in detention pending removal.

The Department monitors all sponsors to ensure that they are complying with sponsorship requirements and that skilled overseas workers brought to Australia are complying with their visa requirements.

- (10) Relatively few of the 55,000 holders of 457 visas in Australia (as at 30 June 2003) have been found to breach their visas. 179 sub-class 457 visas were cancelled because of breach of visa conditions in 2002-03 and 385 former visa class 457 holders had overstayed. This cancellation and overstay rate represents 0.3% and 0.7% respectively of all 457 visa holders in Australia.
- (11) In 2001-02, the Department referred 21 sponsors to other agencies for possible breaches of industrial and workplace legislation. In 2002-03 there were 48 sponsors referred to other agencies for possible breaches. In 2003-04 five sponsors were referred. In each of these years, approximately 7000 sponsorships were approved for employers. All sponsors are monitored within a year of approval to ensure that they are complying with their sponsorship obligations and 25% are site visited by DIMIA officers. Where a decision-maker cannot be satisfied that a sponsor is meeting their obligations by assessing the monitoring report, a site visit will be conducted. If the site visit indicates that a breach may have occurred then investigations are commenced and sponsors are given the opportunity to respond to any adverse information. If the sponsor is in breach, employees are given the opportunity to find another sponsor.
- (12) The deceased entered on a Subclass 456 Business Short Stay visa.
- (13) Yes.
- (14) An investigation has been completed. The investigation concluded that there was no evidence of any immigration malpractice or apparent breach of the visa conditions, as DIMIA was advised that the visa holder was only visiting the work site of his overseas employer.
- (15) Employers of temporary workers to Australia are required to comply with Australian industrial relations laws, including workcover requirements. They must abide by the same work cover/care and insurance arrangements as those that apply to other employers (administered by state industrial relations agencies).
- (16) The Department is aware of three incidents involving an industrial fatality in recent years:
- An Australian employer was killed and a short stay business visitor injured

in a structure collapse at Lake Cargelligo in October 2002. The Department's investigation of this incident is complete. A South African business visitor had obtained their visa through misrepresentation by the employer and was working illegally. The Department was advised that compensation for the injured worker was being negotiated with the employer's estate when he departed Australia.

- Mr Ragahvengra Ramakrishna (referred to in Q.12) was on a short stay business visitor visa when he was killed by a granite slab while visiting a work site, which was owned by his overseas employer. The Department found that he was not in breach of his visa.
- A Malaysian visitor who was working illegally was killed on a building site in Sydney in March 2004. The Department's investigation into this incident has been completed and the employer issued a formal notice concerning employment of unlawful non-citizens. Other agencies are investigating this case from their perspective.

(17) Any fatality is of concern and all incidents are investigated. The Department is not aware of any information that suggests that those working in Australia on temporary visas are more likely to be involved in a fatal industrial accident than Australian workers.

(18) The Department is alert to the need to ensure the integrity of our visa programs. The sub-class 457 visa, which allows long stay in Australia, for example requires that sponsors abide by their sponsorship undertakings. The undertakings include complying with relevant industrial relations and other relevant work place obligations. Legislation came into effect on 1 July 2004 that will strengthen the Department's powers to sanction employers. Under this legislation, sponsors who breach their undertakings can have sanctions imposed to:

- cancel the sponsorship;
- place a bar on making further applications for approval as a sponsor;
- place a bar on making further nominations,
- place a bar on further visa approvals under existing sponsorships; and
- require securities to be paid where sponsors have previously breached undertakings.

(19) Yes.

(20) During April 2004 a reporter from the Daily Telegraph contacted the Minister's office and as a result was given permission to attend a number of NSW compliance operations covering retail, hospitality and sex industries between 3 and 13 May 2004.

(21) 257.

(22) 57.

- (23) All instances where there are indicators of trafficking are referred to the AFP for assessment.

The AFP then makes an assessment as to whether to support an application for a Bridging F Visa (BVF) for that person. BVFs provide an opportunity for a suspected victim to access appropriate support, care and welfare while the police decide whether the person's continued stay in Australia would assist in a people trafficking investigation and/or prosecution. If so, the police may seek a Criminal Justice Stay Certificate, which would lead to the grant of a Criminal Justice Stay Visa.

A person who has assisted with an investigation or prosecution into people trafficking, and who is assessed to be at risk if they return home because of the assistance they have provided, may be eligible for a temporary or permanent Witness Protection (Trafficking) visa.

- (24) Prosecution of trafficking offenders is a matter for law enforcement agencies. DIMIA's role is to immediately refer any suspected instances of trafficking to the AFP for assessment.

From 1 June 2003 to 1 March 2004, 10 people have been charged under Commonwealth legislation in relation to people trafficking activity. They are due to face court in 2004.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(79) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

The attached facsimile from a detainee at Maribyrnong IDC was sent to Catherine King MP, Member for Ballarat on 6 May 2004.

Ms King contacted the Manager of the detention centre and discussed the problem with her. It is alleged that prior to the conversation with Ms King, management of the facility had ignored the concerns of the detainees.

(1) Could you provide background information on the specific concerns expressed by the detainee on 6 May 2004?

(2) Could you provide an update on these problems?

(3) Could you advise of the process of resolution undertaken at immigration detention facilities when a detainee or group of detainees raise grievances with facility management?

(4) Were these procedures followed in the case raised on 6 May 2004?

(5) Is the Department advised of concerns in such cases?

(6) What is the Department's procedure in monitoring such incidents? Is there a timeframe for resolution?

Answer:

(1) In a petition addressed to the departmental manager at the Maribyrnong Immigration Detention Centre (MIDC), dated 6 May 2004, detainees expressed concerns about specific problems with heating, food, hot water and grassed areas.

Ms King MP had a conversation about the petition with the Operations Manager of the Detention Services Provider (DSP) at MIDC. This conversation was immediately reported to the departmental manager at MIDC. The petition from detainees was discussed with detainees by the DSP management and the departmental manager the same day.

The concerns raised in the petition were not ignored. They were all resolved by 20 May 2004. The specific concerns regarding food, water, heating and the grassed area are frequently discussed between the DSP and detainees and are also subject to regular monitoring.

(2) During a regular meeting between detainees, department officers and DSP management on 6 May 2004, detainees were advised that their petition of 6 May 2004 had been received the same day. Detainees were asked to specify their concerns and DSP management undertook to investigate the concerns and either resolve them or provide responses at the next meeting on 20 May 2004. The departmental manager attended this meeting and was satisfied that all the detainee complaints in the petition had been resolved.

- Extra bedding is available for detainees who are cold and detainees are constantly reminded of the need to keep windows closed to retain heat.
- Detainee concerns about hot water were discussed at a meeting between the DSP, detainees and the departmental manager on 6 May 2004. At that meeting the detainees agreed that their concerns were resolved because new hot water tanks which doubled capacity had already been installed in MIDC. Departmental officers independently checked the hot water at random during the next week and were satisfied hot water supply was no longer a problem.
- Food is always prepared according to state hygiene standards and detainee menus planned with advice from a qualified nutritionist. The extra flavours in sauces that detainees indicated in their petition they want have been provided. Detainees are able to take extra meals at dinner and store them in the dining room fridge to heat up for supper.
- The departmental manager and other staff have personally checked the opening times for grassed areas at MIDC and discussed the issue with detainees. Staff at MIDC have confirmed that detainees are no longer concerned about access to grassed areas.

(3) The usual procedure in MIDC for dealing with complaints from detainees is for the department and DSP management to meet with detainees as a group and discuss the issues to find solutions. The departmental manager also requests formal written explanations from the DSP when detainees complain about amenities or detention services.

As part of its monitoring of the provision of detention services, departmental officers undertake independent checks through physical inspections and regular discussions with detainees to ensure potential problems are averted and complaints are resolved and do not re-occur.

Issues stay on the agenda for meetings between detainees, department officers and DSP management until they are resolved. The duration of the resolution process depends on the issue and what actions need to be taken to resolve it.

(4) Yes. The problems detainees listed in their petition of 6 May 2004 were discussed at a regular meeting between detainees, department officers and DSP management the same day and were all resolved by 20 May 2004.

(5) Yes. DSP advise the Department of all complaints/issues raised with them. In addition, the layout of MIDC means that detainees have very easy access to the DSP Manager and departmental officers and frequently meet with them to ask about matters of concern. This communication process is encouraged.

Other formal mechanisms for raising complaints are clearly displayed in the recreation areas of the men's and women's accommodation in all major languages. Envelopes and paper are provided for detainees who want to make complaints to either the department or the DSP.

Detainees can also lodge complaints with the Commonwealth Ombudsman's Office and the Human Rights and Equal Opportunity Commission if they feel this is required.

(6) The Department's procedure for monitoring detention services and the DSP responses to detainee complaints are provided in the answer to part (3) above. The departmental manager expects that the DSP will investigate complaints immediately but final resolution depends on the remedies required.

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IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(80) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

The attached document outlines an incident at the DIMIA office in Lonsdale St, Melbourne on 22 April 2004. Anne Corcoran MP, Member for Isaacs, was provided the details of an email from a constituent and has asked that the person's name not be included at this stage.

Can you provide a full account of the incident and the outcome of the subsequent investigation?

Answer:

The unedited report from the Compliance Manager, Melbourne Victoria on this matter is attached. (Personal references and identifiers have been removed from the report.)

Ms B and her three minor children

Immigration History

Arrived 21/05/2001 on bogus Greek travel documents.

Applied for protection visa on 22/10/2001

PV refused 20/03/2002

RRT affirmed primary decision 06/09/2002

Judicial Review commenced 23/10/2002

Minister Win 04/07/2003

S417 lodged 23/07/2003

Power not considered 15/03/2004

Circumstances leading to the event

Ms B attended the office on 07/08/2003. In accordance with the law, she and her 3 children were granted bridging visas E pending the outcome of a request to the Minister that he intervene in her case (s417). After this initial approach she and her children were granted a number of further bridging visas E pending the outcome of the intervention request to the Minister, the last being issued on 16/03/2004.

On 21/04/2004 Ms B (who still held a valid visa) and Ms W from a community organisation attended the office together. At this time this office was given a copy of a letter addressed to the Minister Amanda Vanstone from ASRC (Asylum Seeker Resource Centre) which was in effect a further request to the Minister pursuant to s417.

On this occasion Ms B was counselled at length about her eligibility to remain in Australia pending this repeat request to the Minister. She was advised that she and her children could not be granted further bridging visas E pending the outcome of the repeat request and that she would need to make arrangements to depart Australia. She repeated a number of times that she wished to remain in Australia while the Minister considered her situation, and also while the outcome of her father's off-shore MRT application was decided because she intended to apply for the last remaining relative visa sub class if he was successful. She understood that if this was the case she would need to go off-shore to apply. It was repeatedly stressed to Ms B and Ms W that a repeat request to the Minister was not grounds for the grant of bridging visas E and that she would need to make arrangements to depart Australia. She was counselled in relation to what would be considered: "acceptable arrangements to depart." She was advised that she would need to apply for travel documents from the Albanian authorities. She was advised that she would need to attend the office again the next day with evidence that she was making acceptable arrangements to depart. That is she would need to provide evidence of flight bookings for her and the children, together with evidence that she had applied for travel documents and a security amount of \$10,000. The security was considered necessary to ensure that Ms B complied with the conditions of the grant.

Ms B left the office on 21/04/2004 and agreed to return the next day with the evidence required and the security. She was at this time the holder of a bridging E visa that would cease at midnight.

Ms B returned to the office at 2.30pm the next day together with Ms W and her brother. She was interviewed in the presence of Ms W and her brother for about 2 hours. During

this time she was repeatedly counselled in relation to her eligibility to remain in Australia pending the repeat request to the Minister. Despite the advice being given to her, she repeatedly stated that she wished to remain in Australia while the Minister considered her situation.

At this time she was advised that as she had provided evidence of a flight booking (albeit several months into the future) and a fax sent to the Albanian Embassy in China, that a further bridging visas E would be considered subject to the lodgment of a \$10,000 security. At this time she was advised that the security would need to be lodged by close of business on 22/04/04, as their previous bridging visas E had ceased on the previous day. She was advised that given her repeated statements, that she intended to remain in Australia, the decision maker was not satisfied that she would abide by conditions unless the security was lodged. Consequently bridging visas E could not be granted unless the security was lodged and as she was an unlawful non-citizen, she would need to remain in detention until such time as the money was received.

The officer left the room at this time to allow Ms B, her brother and Ms W time to discuss their options and make a decision. At this time he spoke to the Manager Compliance Operations.

The Manager of Compliance Operations and the officer returned to the interview room together. The Manager gave Ms B her business card and explained who she was. She repeated the advice previously given to her by the officer, that is that the family could not be granted bridging visas E pending the outcome of a repeat request to the Minister. The Manager also repeated the requirements for the grant of bridging visa E on departure arrangements including the lodgement of security. It was also explained to Ms B again that as she was an unlawful non-citizen she would need to remain in Immigration Detention until the security had been lodged.

At this point the officer left the interview room to obtain Ms B's personal file. When the officer left the room Ms B became hysterical and threatened violence. Building security were called and eventually Ms B calmed down. As she was breathing heavily and her brother stated that she was an asthmatic and had previously had heart problems, an ambulance was called. The ambulance officer advised that Ms B needed to be taken to the hospital to be medically examined by a doctor, as she was refusing to take her medication, he could hear excess congestion in her upper chest, and her brother was stating that this was how Ms B appeared when a severe asthmatic attack was about to occur.

In view of the advice from Ms B's brother, the ambulance officer and Ms B's state at the time, the Manager deemed the grant of bridging visas E to Ms B and her children on 22/04/2004. The bridging visas E were granted at this time for the sole purpose of facilitating Ms B's medical attention. The Manager counselled Mrs B's brother that (pending Ms B's recovery) a security would need to be lodged the next day and she would need to sign the conditions that would be attached to the bridging visa E grants.

After the family and ambulance had left the office, Mr M from a community organisation met with the State Manager of Entry and Compliance Program and the Manager of Compliance Operations. Mr M advised that he had not received a response to the fax to the Albanian Embassy in Beijing sent yesterday and didn't even know if it had been received. After further discussion, including discussion on the issue of the \$10,000 security, Mr M undertook that the community organisation would be responsible for

ensuring Ms B's compliance with the proposed bridging visa E conditions including the preparation of Ms B for her eventual departure from Australia if the Minister declined to intervene in her case. Mr M undertook that the community organisation would commence counselling Ms B on the need for her to depart Australia and that by the time the travel documents arrived from the Albanian Embassy Ms B would agree to depart voluntarily.

After careful consideration of Mr M's undertaking it was decided that security would not be required and that further bridging visas E would be deemed to enable Ms B to recover from her illness and attend the office the following week. At this time it was agreed that the Department would assume responsibility for arranging the family's travel documents.

Ms B returned to the office on 29/04/2004 with Ms W. She brought with her a number of documents requested through the community organisation. At this time she was advised of further documents that were required including passport photographs of the family. Ms B and her children were granted further bridging visas E.

The Department is currently in the process of arranging the family's travel documents and her current bridging E visa will cease on 30/07/2004.