



For Public Release

**Investigation of the basis for
Allegations of Availability of Illicit drugs &
Sexual Assault of Female Detainees
at Villawood Immigration
Detention Facility**

Section A of the Terms of Reference Only

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Keith Hamburger AM

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Important Note

This report covers allegations initially brought to the attention of DIMA by a solicitor and migration agent (the agent). The agent and others subsequently discussed the allegations with the investigator who prepared this report. The investigator took notes of the discussion. This report has been prepared using these notes as a basis together with other information gathered by the investigator.

Given the time frame in which this report was required by DIMA it has not been possible for the investigator to review this report with the agent and others to ensure that he has accurately portrayed from their perspective the allegations and the issues they have raised prior to submission of the report to DIMA.

The foregoing should be borne in mind in public announcements in relation to this report.

1. Introduction and Background

At a meeting on 6th April 2006, the agent advised senior officers of the Department of Immigration and Multicultural Affairs (DIMA) of allegations made by detainees and former detainees of Villawood Immigration Detention Facility (VIDF) relating to the availability of illicit drugs within VIDF and the sexual assault of a female detainee within VIDF.

DIMA advise that at the above meeting the agent indicated that the people who had made the allegations were not prepared to make formal complaints to police concerning the alleged sexual assaults and alleged narcotic trafficking. The agent was requested to approach the people who had made the allegations and ascertain if they were prepared to provide their personal details so that DIMA could progress the 'claims'. DIMA further advise that on the evening of 11 April 2006, the agent provided two emails that provided the details of the alleged sexual assault victim and the details of a client who was a detainee at Villawood who the agent claimed was aware of narcotic trafficking.

A decision was taken by DIMA to arrange for an independent investigation of the allegations. During late April and May further information was gathered, Terms of Reference were developed for the investigation and Mr Keith Hamburger AM, Director, Knowledge Consulting Pty Ltd was appointed as the independent investigator. Mr Hamburger's investigation commenced on 1st June 2006 with an interview of the agent and others.

In a discussion over a period of almost three hours the agent and others advised of a number of allegations made to them over a period extending back to around 2002 by detainees and former detainees concerning conditions at VIDF. Allegations included the availability of illicit drugs and sexual assault upon female detainees.

During this discussion the agent and others were complimentary towards DIMA's new senior management team in relation to their approachability and openness in communication.

The investigator provided the agent and others with a copy of the draft Terms of Reference for the investigation and clarified with them that the investigator's brief was to review policies, strategies, procedures and operational practice to establish whether such are appropriate to mitigate the possibility of illicit drugs being available in VIDF and the possibility of sexual assault occurring. Investigation of individual allegations of criminal conduct was not part of the investigators brief. The investigator advised the agent and others to encourage people with evidence of possible criminal behaviour to provide such evidence to the appropriate authorities for investigation.

The agent and others were informed that the investigator wished to establish the type of complaints/ allegations that were being made, if possible some idea of the volume of complaints, over what period the alleged incidents had occurred and whether current conditions at VIDF were conducive to incidents of the type covered by the allegations continuing to occur. The investigator informed the agent and others that the information they provided would be discussed with GSL (Australia) Pty Ltd, the detention services provider in the context of the next stage of the investigation.

On Friday 2nd June 2006, the day following the meeting with the agent and others, the investigator met with GSL Australia, provided the company with an oral overview of the matters raised by the agent and others and discussed a potential methodology to advance the investigation. GSL Australia was concerned at the nature of the allegations and pledged full support to the investigation.

On Monday evening 5th June 2006 the investigator provided DIMA with a preliminary draft report of his investigation to that point. Over the long weekend of Saturday 10th, Sunday 11th and Monday 12th June 2006 there was intense media reporting of allegations relating to VIDF including:

“Chief among the abuse claims is the story of a mother who was allegedly raped time and again by a guard while her young child looked on.

The same guard allegedly also tried, unsuccessfully, to assault another detainee.

Another guard has been accused of raping a former detainee when she came to visit a friend in the centre last month”

Source: <http://www.theage.com.au/articles/2006/06/10/1149815352612.html>

The investigator can state categorically that no allegations have been made to him or evidence provided of a guard allegedly *raping a mother or of raping a former detainee when she came to visit a friend*. In the absence of any evidence these reports are a totally unjustified slur on the reputation of officers at VIDF and GSL (Australia) Pty Ltd.

Section A of The Terms of Reference for this investigation contained in Section 2 below require the investigator to *“Interview the complainant and establish the basis for the allegations and obtain any evidence in support of the allegations that the complainant is prepared to provide”*;

In view of the media interest that has now been generated in this matter the investigator has been requested to report on Section A of the Terms of Reference as a matter of urgency. A follow up report will be provided on Sections B and C of the Terms of Reference.

2. Terms of Reference for Investigation of Allegations of the Availability of Illicit drugs within the Villawood Immigration Detention Facility and the Sexual Assault of a Female Detainee within that Facility

“The department has tasked Knowledge Consulting to undertake an investigation at Villawood Immigration Detention Facility (VIDF).

The scope of this investigation is to inquire into, make findings and recommendations on allegations made concerning the treatment of people held in immigration detention at VIDC, on a range of issues including the availability of illicit drugs within VIDC and sexual assault of female detainees.

The scope of this investigation relates to a review of management and operational systems and procedures that should be in place to prevent incidents of the type contained in the allegations occurring. The scope of the investigation includes, but is not necessarily limited to the following:

A. Interview the complainant and establish the basis for the allegations and obtain any evidence in support of the allegations that the complainant is prepared to provide;

B. Concerning the allegation relating to the availability of illicit drugs:

- *Review the Detention Services Providers Drug Strategy in terms of its efficiency and effectiveness in the:*
 - *prevention of entry of illicit drugs into VIDC;*
 - *prevention of dealing of illicit drugs at VIDC;*
 - *detection of illicit drugs and illicit drug use within VIDC;*
 - *treatment of detainees with substance abuse problems; and*
 - *education of detainees generally in relation to the problems associated with substance abuse.*

C. Concerning the allegation of sexual assault of female detainees:

- *In the light of the particular circumstances of the allegations, establish whether:*
 - *the complainants were placed at risk due to inadequate facilities, operating procedures and or incompetence or worse by staff;*
 - *the security arrangements for the protection of female detainees at VIDC from sexual assault are adequate;*
 - *the systems and procedures for reporting of sexual assault to all relevant authorities, including those to be followed by health professionals at VIDC, are adequate;*
 - *staff have been adequately trained in procedures for dealing with complaints of sexual assault;*
 - *the procedures for medical investigation and treatment, including screening and counseling of victims of sexual assault are adequate;*
 - *the health care professional should have reported the allegations under relevant state or Commonwealth law, and possible breaches of Privacy legislation in the event that he/she had reported the claims given in confidence; and*
 - *the complaints which are the subject of the allegations were appropriately dealt with at the time they became known to staff at VIDC.*

3. Methodology

The methodology for the Investigation encompassed:

- A meeting on Thursday 1st June 2006 with the agent and others to establish the basis of the allegations made to them by detainees and former detainees concerning the availability of illicit drugs within VIDF and sexual assault of a female detainee within that facility;
- A meeting with GSL Australia, the detention services provider responsible for detention services at VIDF;

- A telephone discussion was held with a senior DIMA officer concerning a meeting he had with the agent on 6th April 2006 where certain allegations were raised by the agent;
- Consideration of the outcomes of the above meetings and telephone discussion;
- Development of a strategy to address the matters raised and documentation of this strategy into a draft report for discussion with DIMA officers;
- Preparation of a Final Report;

4. Summary of Findings

Finding 1

Un sourced allegations have been made by the complainants to the investigator relating to the availability of illicit drugs at VIDF. To the investigator's knowledge the complainants have not provided any evidence they have to support such allegations to the police.

Finding 2

At this time the allegations relating to the availability of illicit drugs at VIDF can only be taken as un sourced and un tested. In the event of publication of this report these un sourced and un tested allegations should not be used to assert that the availability of illicit drugs is rife in VIDF or to malign and or criticise the performance of GSL (Australia) Pty Ltd or officers of GSL or DIMA or its officers.

Finding 3

DIMA has a full audit of detention services provider performance at VIDF scheduled for July 2006 that will include an audit of the detention services provider's strategy and procedures to deal with the allegations of illicit drugs.

Finding 4

An allegation has been made by a female detainee that she was sexually assaulted by a male detainee while she was accommodated in a particular area of VIDF during the first half of 2004. The female detainee to date has declined to make a formal complaint to police concerning the alleged assault.

Finding 5

A complaint that a GSL officer sexually harassed a female visitor at VIDF is currently under internal investigation by GSL. Until such time as GSL's investigation is complete and natural justice provided to all involved, it is desirable that this matter should not be further speculated upon.

Finding 6

Evidence was not provided to the investigator to support an allegation that Lima dormitory female detainees are *"sitting up during the night because of a fear that male officers may come to sexually harass them"*. GSL has provided notes of a meeting held on 25th May 2006 with female detainees accommodated in Lima dormitory VIDF. The female detainees were asked in the presence of DIMA and GSL officers whether they had been the subject of sexual harassment from any male while in detention. The notes record the outcome of what appears to be a free and frank discussion where the women were adamant that this had not occurred.

Finding 7

GSL has advised that *“there are dedicated staff in the Lima compound on day and night shifts. Only women work in the Lima compound and this is a discrete roster that provides for greater consistency and support”*

5. Summary of Recommendations

Recommendation 1

That the information provided by the agent and others relating to the alleged availability of illicit drugs within VIDF be taken into account in the design and execution of the July 2006 audit of VIDF arising out of the Operational Assurance Plan from the perspective of auditing GSL's Drug Prevention Strategy's policies, procedures and practices at VIDF.

Recommendation 2

That DIMA write to the agent and others to request them to provide any evidence in their possession relating to the availability of illicit drugs at VIDF to the police. They should also be requested to encourage any person who has made allegations to them relating to the alleged availability of illicit drugs to make a formal complaint to the authority they feel most comfortable with i.e. DIMA, GSL or police. Suggestions should be sought from the agent and others as to protocols to ensure that detainees wishing to provide information can be assured of confidentiality and protection of their identity where appropriate;

Recommendation 3

DIMA refer any information in its possession relating to the alleged assault of a female detainee within a particular accommodation area of VIDF during the first half of 2004 to the Police for review to ascertain whether any police action is warranted.

Recommendation 4

That DIMA write to the agent to inform that the matter of the alleged sexual assault of a female detainee has been referred to the Police and request the agent to provide the Police with any information they may have that would assist the Police with their enquiries

Recommendation 5

That DIMA request a report from GSL concerning the outcome of the internal investigation into the complaint of sexual harassment of a female visitor at VIDF by a Detention Services Officer.

Recommendation 6

That DIMA write to the agent and request evidence to support the assertion made to the investigator that Lima dormitory female detainees are *“sitting up during the night because of a fear that male officers may come to sexually harass them”*.

Recommendation 7

That the issue of the safety of female detainees accommodated in the Lima Compound be further reviewed in the audit of VIDF scheduled for July 2006.

Recommendation 8

That this report be provided in its entirety to the Australian Federal Police and the New South Wales Police for consideration as to whether police investigation/ action is warranted in relation to any matter covered by the report.

6. Meeting of 1st June 2006 with the agent and others.

As stated in the introduction to this report, in a discussion over a period of almost three hours the agent and others advised the investigator of a number of allegations made to them over a period extending back to around 2002 by detainees and former detainees concerning conditions at VIDF. A number of the allegations related to the availability of illicit drugs and sexual assault upon female detainees.

The allegations provided by the agent and others relating to alleged illicit drug use and sexual assault at VIDF are summarised below together with the investigators comments, findings and recommendations.

6.1 Alleged Availability of illicit drugs in VIDF

A complainant at the 1 June meeting, quoted from extensive notes of comments made to her by various detainees during December 2005.

The sources of the quotes were not provided to the investigator. At this time they can only be taken as unsourced. and untested allegations. In the event of publication of this report these unsourced and untested allegations should not be used to assert that the availability of illicit drugs is rife in VIDF or to malign and or criticise the performance of GSL (Australia) Pty Ltd or officers of GSL or DIMA or its officers.

Note: A DIMA officer has advised the investigator of the names of detainees mentioned by the agent at a meeting with him on 6th April 2006 as people who may have information relating to alleged illicit drugs in VIDF. The DIMA officer has prepared a confidential file note which is available for discussion with appropriate authorities.

As the allegations relate to possible criminal activity, the investigator encouraged the agent and the agent's colleagues to take any evidence in their possession in relation to these matters to the police. In response the agent indicated that before they could take the allegations presented to them to the police that they would need to consult with their clients. The agent agreed to do so.

However, it would not be surprising for illicit drugs to be found from time to time in VIDF, despite the best efforts of GSL and its officers, given that there are detainees accommodated there who have substance abuse problems and some are former convicted criminals awaiting deportation and that no prison or detention facility in Australia can claim to be free of illicit drugs.

What is important is the nature and effectiveness of the illicit drug strategy in place at VIDF to minimise the alleged availability of illicit drugs. An effective illicit drug strategy contains the following elements:

- Deterrence and prevention of entry of illicit drugs into the facility;
- Detection of illicit drugs should they enter the facility;
- Prosecution of people found to be causing the entry of illicit drugs into the facility;
- Treatment available for people with substance addiction;
- A testing regime to establish the level of illicit drug taking; and
- An education program to reinforce to people to the harmful effects of substance abuse;

Late in 2005 the DIMA new senior management team working in cooperation with management of GSL commenced an Operational Assurance Program (OAP) to develop a performance management regime across detention facilities to assist management and staff maintain high standards of performance in the delivery of detention services. The OAP focuses particularly on high risk areas, including the potential for illicit drugs to enter detention facilities. The investigator has provided independent consultancy advice to assist with the development of the OAP.

DIMA advises that a full audit of detention services provider performance at VIDF has been scheduled for July 2006. DIMA have advised that the detention services providers' drug strategy for VIDF will be covered by this audit. The audit team will include independent specialists in particular areas of the facilities operations.

Finding 1

Un sourced allegations have been made by the complainants to the investigator relating to the availability of illicit drugs at VIDF. To the investigator's knowledge the complainants have not provided any evidence they have to support such allegations to the police.

Finding 2

At this time the allegations relating to the availability of illicit drugs at VIDF can only be taken as un sourced and un tested. In the event of publication of this report these un sourced and un tested allegations should not be used to assert that the availability of illicit drugs is rife in VIDF or to malign and or criticise the performance of GSL (Australia) Pty Ltd or officers of GSL or DIMA or its officers.

Finding 3

DIMA has a full audit of detention services provider performance at VIDF scheduled for July 2006 that will include an audit of the detention services provider's strategy and procedures to deal with the allegations of illicit drugs.

Recommendation 1

That the information provided by the agent and others relating to the alleged availability of illicit drugs within VIDF be taken into account in the design and execution of the July 2006 audit of VIDF arising out of the Operational Assurance Plan from the perspective of auditing GSL's Drug Strategy's policies, procedures and practices at VIDF.

Recommendation 2

That DIMA write to the agent and others to request them to provide any evidence in their possession relating to the availability of illicit drugs at VIDF to the police. They should also be requested to encourage any person who has made allegations to them relating to availability of illicit drugs to make a formal complaint to the authority they feel most comfortable with i.e. DIMA, GSL or police. Suggestions should be sought from the agent and others as to protocols to ensure that detainees wishing to provide information can be assured of confidentiality and protection of their identity where appropriate;

6.2 Alleged sexual assaults of female detainees

6.2.1 Alleged sexual assault of a female detainee by a male detainee

The agent has been advised by a female detainee that she was sexually assaulted by a male detainee while she was accommodated in the family accommodation a particular area of VIDF. The agent provided the name of the alleged victim to the investigator. The alleged victim says that she was assaulted on a number of separate occasions over a six (6) month period. It was said by the agent during the discussion with the investigator that it is likely these assaults occurred during the first half of 2004.

The alleged victim has advised the agent that she does not wish to make a formal complaint to the police.

The agent provided the investigator with a report wherein it was claimed that the alleged victim declared that she had been sexually assaulted by a male detainee in VIDC and had advised a psychologist.

The agent advised the investigator that the above disclosure by the alleged victim occurred at around July 2004 to a psychologist at Baxter Immigration Detention Facility.

The agent is currently in communication with a former female detainee of VIDF who has alleged that the same male who allegedly assaulted the above complainant also attempted to sexually assault her. The agent is seeking advice from this former detainee as to whether she will lodge a formal complaint with the police.

DIMA have advised the investigator that the agent acting on the alleged victim's behalf in relation to an immigration matter included the allegation of sexual assault in documentation provided to the department in December 2005. At that time DIMA officers attempted to verify the veracity of the claim that the alleged victim had raised the allegation with a psychologist around July 2004. DIMA advise that at that time no evidence could be located that the alleged assault was ever reported to the department as stated by the alleged victim.

Following this matter again being raised by the investigator during the past week with DIMA, the department has caused further enquiries to be made and have advised once again that no evidence of this matter being reported by the alleged victim to the department around July 2004 can be found.

Finding 4

An allegation has been made by a female detainee that she was sexually assaulted by a male detainee while she was accommodated in a particular area of VIDF during the first half of 2004. The female detainee to date has declined to make a formal complaint to police concerning the alleged assault.

Recommendation 3

DIMA refer any information in its possession relating to the alleged assault of a female detainee within a particular accommodation area of VIDF during the first half of 2004 to the Police for review to ascertain whether any police action is warranted.

Recommendation 4

That DIMA write to the agent to inform her that the matter of the alleged sexual assault of a female detainee has been referred to the Police and request the agent to provide the Police with any information she may have that would assist the Police with their enquiries.

6.2.2 Alleged sexual harassment of a female visitor by a GSL officer

The agent provided the investigator with a copy of a letter dated 17th May 2006 from a detainee (name provided to the investigator) addressed to a GSL Officer alleging that a male detention officer (name provided to the investigator) had sexually harassed a female visitor (name provided to the investigator).

During the discussion with the agent and others they also alleged that in the Lima dormitory female detainees are *“sitting up during the night because of a fear that male officers may come to sexually harass them”*. They said that the female visitor mentioned in the complaint above was a former detainee who may have been sexually harassed while in VIDF by male detention officers.

No evidence was provided to the investigator to support the above assertions.

GSL have advised the investigator that the allegation of sexual harassment of the female visitor is under internal investigation that will be concluded shortly. Until such time as GSL's investigation is complete and natural justice provided to all involved, it is desirable that this matter should not be further speculated upon.

6.2.3 Alleged sexual harassment of Lima dormitory female detainees

Concerning the allegation of sexual harassment of Lima dormitory female detainees, GSL have provided the investigator with notes of a meeting held on 25th May 2006 with female detainees accommodated in Lima dormitory VIDF where they were asked in the presence of DIMA and GSL officers whether they had been the subject of sexual harassment from any male while in detention. The notes record the outcome of what appears to be a free and frank discussion where the women were adamant that this had not occurred.

GSL have also advised the investigator that, *“there are dedicated staff in the Lima compound on day and night shifts. Only women work in the Lima compound and this is a discrete roster that provides for greater consistency and support”*

Finding 5

A complaint that a GSL officer sexually harassed a female visitor at VIDF is currently under internal investigation by GSL. Until such time as GSL's investigation is complete and natural justice provided to all involved, it is desirable that this matter should not be further speculated upon.

Recommendation 5

That DIMA request a report from GSL concerning the outcome of the internal investigation into the complaint of sexual harassment of a female visitor at VIDF by a Detention Services Officer.

Finding 6

Evidence was not provided to the investigator to support an allegation that Lima dormitory female detainees are *"sitting up during the night because of a fear that male officers may come to sexually harass them"*. GSL has provided notes of a meeting held on 25th May 2006 with female detainees accommodated in Lima dormitory VIDF. The female detainees were asked in the presence of DIMA and GSL officers whether they had been the subject of sexual harassment from any male while in detention. The notes record the outcome of what appears to be a free and frank discussion where the women were adamant that this had not occurred.

Finding 7

GSL has advised that *"there are dedicated staff in the Lima compound on day and night shifts. Only women work in the Lima compound and this is a discrete roster that provides for greater consistency and support"*

Recommendation 6

That DIMA write to the agent and request evidence to support the assertion made to the investigator that Lima dormitory female detainees are *"sitting up during the night because of a fear that male officers may come to sexually harass them"*.

Recommendation 7

That the issue of the safety of female detainees accommodated in the Lima Compound be further reviewed in the audit of VIDF scheduled for July 2006.

7. Issues for the Police

Recommendation 8

That this report be provided in its entirety to the Australian Federal Police and the New South Wales Police for consideration as to whether police investigation/ action is warranted in relation to any matter covered by the report.
