

REPORT NO. 6

**THE OBSERVANCE OF HUMAN RIGHTS  
AT THE VILLAWOOD IMMIGRATION  
DETENTION CENTRE**

AUGUST 1983

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Report No. 1 *The Australian Citizenship Act 1948* (August 1982)  
Report No. 2 *Proposed A.C.T. Mental Health Ordinance 1981* (October 1982)  
Report No. 3 *Testamentary Guardianship in the Australian Capital Territory* (April 1983)  
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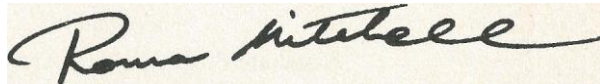
20 June 1983

The Hon. Lionel Bowen, M.P.  
Acting Attorney-General  
Parliament House  
Canberra, A.C.T. 2600

Dear Minister,

Pursuant to section 9 (1) (c) of the *Human Rights Commission Act 1981*, this report is presented to you following the Human Rights Commission's inquiry into the observance of human rights at the Villawood Immigration Detention Centre. Amongst others, representatives of the Department of Immigration and Ethnic Affairs and of the Australian Federal Police made submissions in the course of the inquiry.

Yours sincerely,

A handwritten signature in black ink on a light-colored rectangular background. The signature is written in a cursive style and reads "Roma Mitchell".

*Chairman*  
for and on behalf of the  
Human Rights Commission

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# CONTENTS

	<b>Page</b>
<b>The Functions of the Commission</b> .....	vii
<b>I Introduction</b>	<b>1</b>
Reason for Inquiry .....	1
Background .....	1
Procedures of the Inquiry .....	1
Report of the Inquiry .....	3
<b>II Management of the Centre</b> .....	<b>4</b>
Detention Policy .....	4
Relationship between the Department and the AFP .....	6
Training .....	7
<b>III Conditions in the Centre</b> .....	<b>9</b>
Privacy .....	9
Access to Legal Advice .....	11
Contact with Visitors .....	13
Communication with the Outside World .....	14
General Conditions of Detention .....	15
Welfare Needs .....	18
Religious Observance .....	19
Medical Services .....	19
Children and the Centre .....	20
<b>IV Recommendations</b> .....	<b>22</b>
<b>Appendixes</b>	
1. Relevant Articles of the International Covenant on Civil and Political Rights .....	25
2. Relevant Principles of the Declaration of the Rights of the Child .....	28
3. Relevant Sections of the <i>Migration Act 1958</i> .....	29
4. Abstract of Record of Interviews of Detainees .....	32
5. Schedule of Improvements agreed to or made since Commencement of the Inquiry .....	36
6. Schedule of Submissions lodged with or Persons appearing before the Inquiry .....	37



## THE FUNCTIONS OF THE COMMISSION

Section 9 of the *Human Rights Commission Act 1981* reads:

**9. (1)** The functions of the Commission are—

- (a) to examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments or proposed enactments are, or would be, inconsistent with or contrary to any human rights, and to report to the Minister the results of any such examination;
- (b) to inquire into any act or practice that may be inconsistent with or contrary to any human right, and
  - (i) where the Commission considers it appropriate to do so—endeavour to effect a settlement of the matters that gave rise to the inquiry; and
  - (ii) where the Commission is of the opinion that the act or practice is inconsistent with or contrary to any human right, and the Commission has not considered it appropriate to endeavour to effect a settlement of the matters that gave rise to the inquiry or has endeavoured without success to effect a settlement of those matters—to report to the Minister the results of its inquiry and of any endeavours it has made to effect such a settlement;
- (c) on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to human rights;
- (d) when requested by the Minister, to report to the Minister as to the action (if any) that, in the opinion of the Commission, needs to be taken by Australia in order to comply with the provisions of the Covenant, of the Declarations or of any relevant international instrument;
- (e) on its own initiative or when requested by the Minister, to examine any relevant international instrument for the purpose of ascertaining whether there are any inconsistencies between that instrument and the Covenant, the Declarations or any other relevant international instrument, and to report to the Minister the results of any such examination;
- (f) to promote an understanding and acceptance, and the public discussion, of human rights in Australia and the external Territories;
- (g) to undertake research and educational programs, and other programs, on behalf of the Commonwealth for the purpose of promoting human rights and to co-ordinate any such programs undertaken by any other persons or authorities on behalf of the Commonwealth;
- (h) to perform-
  - (i) any functions conferred on the Commission by any other enactment;
  - (ii) any functions conferred on the Commission pursuant to any arrangement in force under section 11; and
  - (iii) any functions conferred on the Commission by any State Act or Northern Territory enactment, being functions that are declared by the Minister, by notice published in the *Gazette*, to be complementary to other functions of the Commission; and

- (j) to do anything incidental or conducive to the performance of any of the preceding functions.
- (2) The Commission shall not —
  - (a) regard an enactment or proposed enactment as being inconsistent with or contrary to any human right for the purposes of paragraph (1) (a) or (b) by reason of a provision of the enactment or proposed enactment that is included solely for the purpose of securing adequate advancement of particular persons or groups of persons in order to enable them to enjoy or exercise human rights equally with other persons; or
  - (b) regard an act or practice as being inconsistent with or contrary to any human right for the purposes of paragraph (1) (a) or (b) where the act or practice is done or engaged in solely for the purpose referred to in paragraph (a).
- (<sup>3</sup>) For the purpose of the performance of its functions, the Commission may work with and consult appropriate non-governmental organizations.



# I. INTRODUCTION

## **Reason for the Inquiry**

1. Since September 1982, the Human Rights Commission has received complaints from a number of sources concerning infringements of the human rights defined in the International Covenant on Civil and Political Rights (ICCPR) and the Declaration of the Rights of the Child (the Declaration) which it was suggested take place at the Immigration Detention Centre at Villawood (the Centre).

2. Because of the variety of rights which were said to have been infringed and because of the public interest in affairs at the Centre, the Commission decided in December 1982 that the complaints would best be followed up by an inquiry, to be conducted by the Deputy Chairman, Mr Peter Bailey, and a Member of the Commission, Mrs Norma Ford.

## **Background**

3. The Immigration Detention Centre at Villawood was established in November 1976 to hold people under the provisions of the *Migration Act 1958*. Section 38 of that Act authorises an officer, as defined, to detain a person whom he reasonably supposes to be a prohibited immigrant. Section 39 authorises the detention of a person reasonably supposed to be subject to a deportation order.

4. The Centre's function is to keep such people as are arrested under either section in safe custody pending their deportation or release into the community. The Centre, is one of three immigration detention centres, the others being in Perth and Melbourne.

5. Two Federal agencies have responsibility in the management and operation of the Centre. The Department of Immigration and Ethnic Affairs (the Department) has administrative responsibility for the Centre as an institution established pursuant to provisions in the Migration Act. The Department, therefore, ensures the Centre's proper maintenance and upkeep. As the Department has no expertise in planning and staffing detention centres, it has delegated responsibility for the custodial function to the Australian Federal Police (the AFP), which assigns staff to operate the Centre.

## **Procedures of the Inquiry**

### *Preliminary Observations*

6. The two Commissioners, accompanied by the secretary to the inquiry, Mr Michael Willcock, held discussions with representatives of the Department and the AFP, and made a familiarisation visit to the Centre on 19 January. It is appropriate to note here the Commissioners' thanks for the co-operation and assistance given by both the Department and the AFP throughout the course of the inquiry.

7. **The** visit allowed the Commissioners to see at first hand the day-to-day running of the Centre, and to observe its facilities and the conditions. The Commissioners noted the admission and detention procedures, inspected all the amenities available to detainees and extended their visit to include observation of a meal time and visiting hours.

8. The Commissioners made a similar visit to the Immigration Detention Centre at Maribyrnong, Victoria. This Centre is also conducted by the Department and staffed by the AFP. The Commissioners inspected both the then existing facility and the new

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I. Relevant sections of the *Migration Act 1958* are set out in Appendix 3.

centre which was, at the time, under construction. In comparison with the Centre at Villawood, the one at Maribyrnong favourably impressed the Commissioners by the more relaxed regimen under which detainees were held, including:

- longer visiting hours;
- provision for 'contact' visits;
- provision for day-long contact visiting rights for spouses separated by the detention;
- unrestricted access to sleeping quarters; and
- greater rights of access to detainees' personal property.

9 The Commissioners also arranged an inspection of the Adult Remand Centre at Belconnen, A.C.T., conducted by the then Department of the Capital Territory. This Remand Centre was visited because it occasionally holds people arrested under sections 38 and 39 of the Migration Act and is the only custodial institution conducted by the Commonwealth at which the custodial function is carried out not by the AFP but by a specialist group of officers. By comparison with the Centre at Villawood:

- visiting rights are more extensive;
- contact visits are allowed, with barbeque facilities provided for family visits;
- recreational facilities and equipment are available;
- a leaflet is given on arrival setting out house rules and rights; and
- a pamphlet is available to visitors setting out the hours and facilities for visits.

#### *Gathering Evidence*

10. *Interviewing the Detainees.* In order to hear how those detained at the Centre viewed the arrangements made for their detention, the two Commissioners decided to interview in private, with the assistance of the Department and the AFP, all those held at the Centre on 6 April. A letter was sent to each detainee before that date, in a language understood by that person, setting out the nature of the Commission's interest in the Centre and inviting comments on the Centre's operations.

11. There were twenty-seven people detained on the date set for the interviews, and each was interviewed separately or, where that was preferred by the detainees, in a small group. There were also several written responses to the Commission's letter from some who were deported before the interviews took place. An abstract of the record of interviews of the detainees is set out in Appendix 4.

12. On the same visit, the Commissioners inspected improvements made since their initial visit'. For example, the room used for solicitor/client consultations and other interviews had been viewed as unsatisfactory because, as the walls did not meet the ceiling, there was consequent noise and concern about confidentiality. The Commissioners had discussed with the AFP and departmental representatives a possible relocation of these interview facilities to a more appropriate and private room. This relocation was made.

13. *Public Hearing.* An advertisement was placed in various Sydney newspapers in early March, calling for public submissions on procedures operating at the Centre, and signalling the Commission's intention to hold a public hearing. The two Commissioners conducted that hearing at the office of the Commission in Sydney on 13 and 20 April. At the hearing, submissions were received from a number of individuals and organisations and from the Department and the AFP. Questioning of witnesses took place

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2. Appendix 5 contains a schedule of all improvements and changes made at the Centre by the authorities since the inquiry began. Though some of these changes were foreshadowed during the hearing, they may nonetheless be the subject of recommendation by the Commission.

based on those submissions. A list of those who made submissions to the Commission, or appeared at the hearing, is provided in Appendix 6.

14. The Commissioners' own observations at the Centre independently identified aspects of the system of detention which were then pursued by the inquiry, along with matters raised in complaints brought before the inquiry at the hearing.

### **Report of the Inquiry**

15. The Commission's report on its inquiry into the operations of the Centre is presented in two parts. Part II sets out where responsibility falls in the management of the Centre, and the difficulties and confusion to which the present arrangement has given rise. A number of the restrictions on the detainees' human rights may be traced back to the management problems which result from the absence of a clearly defined and solely responsible authority controlling the Centre.

16. The immediate frustrations and hardships which detainees suffer are, however, often less demonstrably the product of the confused division of responsibility at the Centre, than of those rules and physical circumstances which control the detainees' day. Part III, therefore, considers the specific features of the system of detention insofar as they are inconsistent with the detainees' human rights.

## II. MANAGEMENT OF THE CENTRE

### **Detention Policy**

**17.** For the Immigration Detention Centre at Villawood to function efficiently and to secure the observance of human rights, a policy which clearly expresses the purpose of detention and sets out how it is to be applied must be established.

**18.** Formulation of such a policy must address two issues.

### *Why People are Detained*

**19.** There may, at any one time, be two classes of people detained under the Migration Act at the Centre:

- (a) a person detained under section 38, whom an arresting officer reasonably supposes to be a prohibited immigrant; and
- (b) a person detained under section 39, whom an arresting officer reasonably supposes to be a person in respect of whom a deportation order is in existence.

In addition, children who may or may not be within these classes may also be held at the Centre.'

**20.** There are, however, no known or suspected criminal offenders held at the Centre. Those who are believed to be criminal offenders are held in a State penal institution, usually at Parramatta Gaol. In addition, any detainee who causes a disturbance at the Centre or displays troublesome behaviour, may also be transferred for a period to Parramatta Gaol.

**21.** The decision to place a person in detention is largely left to the discretion of the arresting officer. The existing alternative to detention described in the Department's *Residence Control Manual*, on issue to all departmental officers, is a system whereby the prohibited immigrant or deportee is required to report in person to the Department, or a police station.

**22.** Two points made by the Department at the hearing are noted with concern:

- (a) Whilst the Centre is designed for short-term stays, there was an observable trend towards longer terms of detention at the Centre. This arose partly:
  - (i) from delays in securing travel documents from the detainee's country of origin; and
  - (ii) through greater use by the detainees of appeal procedures and challenges.
- (b) The apparent departmental policy is to use the Centre to its full capacity. There will consequently be an increase in the numbers of people detained at the Centre.

It seems likely, moreover, that an additional factor is a more actively pursued policy of detection and deportation.

**23.** The Commission believes that the frequency of use and length of term of detention should be kept to a minimum. The human right set down in Article 9 of the ICCPR, to liberty of person and protection of the individual from arbitrary detention,

I. The question arises as to the legality of holding children who may be Australian citizens in the Centre. If it is argued that it is essential, for humanitarian reasons, that a child be kept with its mother, it may also be argued that, if the best interests of the child are the paramount consideration (Principle 2 of the Declaration), those interests should be served by allowing the mother and child to remain in the community.



should only be restricted when appropriate alternatives to detention, such as bail or reporting mechanisms, are inappropriate. Principles of cost efficiency would also appear to favour alternatives to detention as opposed to increased use of detention. This issue will be examined further in the Commission's inquiry into the Migration Act.

#### *How Detainees are to be Treated*

24. Article 10.1 of the ICCPR provides:

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

Most, if not all, people held at the Centre are not charged with an offence against the Migration Act, but are civil detainees held pending the decision to issue and enforce, or pursuant to, a deportation order. As such, paragraph 94, entitled 'Civil Prisoners', of the United Nations-sponsored *Standard Minimum Rules for the Treatment of Prisoners and Related Recommendations* is pertinent. It states that people imprisoned under any non-criminal process

. . . shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order.

25. Both the Department and the AFP recognised, in almost the same terms, that the detainees are unique custodial subjects. As the Department's submission stated:

The Department does not see the Centre as being comparable to a prison. It is not intended to be a place of correction or punishment. Its purpose is purely to hold certain persons in a secure environment pending their removal from Australia. For this reason, the Centre shares some of the superficial features of a prison . . .

26. This agreed statement of the Centre's nature is qualified by the Department's belief that 'there must be some balance between individual freedoms and the day-to-day management of the Centre containing a wide and diverse mixture of people'.

27. The Commission firmly upholds the view that the only freedom a detainee should lose is, to the extent necessary to ensure the reasonable effectiveness of a deportation order, the right to liberty, and such other rights as by necessary implication result from that loss of liberty.

28. The Commission believes that the system of detention in which people are placed at the Centre entails the unnecessary circumscription of many rights and freedoms set out in the ICCPR and the Declaration. The practices at the Centre, established to satisfy the demands of security, cumulatively result in a system of arbitrary detention which in important respects is inconsistent with Article 9.1 of the ICCPR.

29. Any system of detention or incarceration involves the recognition and assumption of a certain level of security risk. The present management practices at the Centre are predicated on the worst eventuality and the worst behaviour. The Commission believes that the human rights of the greater proportion of detainees should not suffer because of improbable risks. The interests of human rights may require that those risks be identified and knowingly accepted.

30. The Department has acknowledged its lack of expertise in this area and has deferred to the AFP on decisions relating to good order and safe custody at the Centre. Instances of measures which amount to an excessive response to security risks may be found throughout the next chapter. For example, the prohibition on visitors giving hard-skinned fruits to detainees for fear that contraband, especially drugs, will be

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2. Relevant Articles of the ICCPR and Principles of the Declaration of the Rights of the Child are set out at Appendix I and Appendix 2 respectively.

introduced into the Centre, indicates a custodial system alive to the possibility of the worst eventuality occurring. Similarly, the restrictions imposed on many articles, e.g. cosmetics, in case they are used to attempt suicide, and the proposition that closed circuit television surveillance allows custodians to prevent violence among the detainees, are both rejected by the Commission as excessive precautions. Risks must be recognised and handled, but with measures appropriate to the population amongst whom the risk is feared to arise.

31. Alternative systems of detention exist at the old Maribyrnong Detention Centre and the Belconnen Remand Centre. In these places, detainees are not subjected to such intrusive surveillance as their counterparts at the Centre. Their daily activities, whilst regimented to a degree, offer more opportunities for privacy and individual choice. The old Maribyrnong Centre especially appears to be a successful model of an institution which allows detainees the freedom of the detention area whilst ensuring that freedom is exercised within a well-secured perimeter.

32. The Commission does not believe that the possibility of an occasional abuse or infringement of the rules of the Centre justifies some of the restrictions currently imposed on the human rights of all detainees at the Centre.

### **Relationship between the Department and the AFP**

33. Control and management of the Centre lies with both the Department and the AFP. The Department has administrative responsibility for the Centre as it is an institution established under the Migration Act. The custodial functions at the Centre are entrusted to the **AFP**.

34. A simple boundary in the areas of responsibility is set by the ascription of policy and administrative control to the Department and day-to-day management to the AFP. However, the Commission found that some matters overlapped, were unexpectedly within the competence of the other agency, or were lost between the Department and the AFP. For example, the Department's authorisation is required before a person may visit a detainee; before a detainee may place a telephone call; and before a detainee may be contacted by consular staff, legal practitioners, clergymen or the Ombudsman. Likewise, the AFP may intrude into areas of the Centre's policy where it sees security risks or needs.

35. The AFP proposed in its submission that all powers relating to the administrative functioning of the Centre be delegated to the AFP. This rearrangement of responsibility was envisaged as a solution to confusion and the problems which may arise through inaction.

36. The Commission's interest in where responsibility for various activities at the Centre rests is based solely on human rights considerations. Where ultimate responsibility for actions, and the lines of authority on which such action is based, is unstated or confused, the risk of abuse of the individual's human rights is increased. Effective protection of human rights may suffer when decisions are not made but deferred to another agency.

37. One example of the confusion which may develop occurred whilst the inquiry was taking place. One detainee who had sought access to the medical practitioner of his choice encountered difficulties. He was told at the Centre that the delays he faced were caused by problems with the Department. Conversely, a friend of his in the community was told at the Department's city office that the Department had no responsibility in the matter, and that any delays arose with the AFP at the Centre. There was likewise a lack of clarity about the length of time visitors can spend with detainees.'

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3. See paragraph 89.

38. The detainees at the Centre are the ones most immediately affected by a system of dual control which occasionally overlaps or leaves a vacuum of responsibility. Many difficulties that detainees, visitors and others with an interest in the Centre have may be overcome if responsibility for the procedures and practices by which the detainees' lives are governed is clearly fixed with those based at the Centre. In the light of current arrangements, the appropriate authority for such responsibility is the AFP.

39. The Commission therefore recommends that, for the present, the administrative functioning of the Centre be delegated to the AFP.

40. The Commission, however, also notes that paragraph VII (3) of 'Part B. Selection and training of personnel for penal and correctional institutions' contained in the Standard Minimum Rules states: 'Staff should be specially recruited and not seconded from the armed forces or police or other public services'.

In their submission, the AFP raised the question, in the light of the Standard Minimum Rules, of the aptness of their involvement in custodial functions. The Commission suggests that, in the long term, the requirements of the Standard Minimum Rules may be better met by the development of a separate departmental custodial service or other appropriate measures.

41. In the interim, the delegation of effective responsibility for the management of the Centre to those who are on the premises will allow swift implementation of many of the Commission's recommendations. For example, the problems which many detainees face when they wish to place telephone calls would be minimised if the present practice of requiring departmental authorisation for all such calls were abandoned. The AFP would have control over this, like most other aspects of the detainees' lives.

42. However, it is acknowledged that the Department may still have certain responsibilities under the Migration Act which will require its intervention in the running of the Centre. For example, the Department may wish to prevent a newly-arrested detainee from contacting other prohibited immigrants during the first days of detention. Guidelines for such departmental intervention should be set out and followed so that it is clear who is responsible for any variation in normal practice. It is not envisaged that there would be many areas of the day-to-day functioning of the Centre where the Department could intervene, but such circumstances as exist should be identified and linked to an appropriate departmental authority.

43. To assist in the management of the Centre, the Department and the AFP should agree to a memorandum of arrangement which would set out their respective functions and duties. This memorandum should be prepared on the basis of establishing certainty in the operational and administrative responsibilities at the Centre.

## **Training**

44. The custodial function in the AFP forms a unique part of the AFP's duties. The AFP's main roles are:

- (a) general policing, which includes enforcement of Commonwealth and A.C.T. criminal legislation; and
- (b) the provision of protective services, which guard places of high security risk throughout Australia.

The small numbers of staff who are assigned to an Immigration Detention Centre perform duties which are radically different from other AFP tasks.



45. The special problems that service as a custodian in a detention centre pose necessitate specialised training to promote professional and skilful responses. At present, officers of the AFP undertake a short general training course on induction and may then be placed in the Centre. In addition, two courses were held last year, specifically for officers performing custodial duties. Many officers who completed those courses have since transferred from custodial duties to the more usual duties undertaken by the AFP.

46. At the hearing, the AFP indicated their awareness of the special training needs that staffing of the Centre imposes. The AFP mooted the development of a balanced training program which both took account of the special pressures that detention pending deportation imposes on detainees, and was also sensitive to detainees' cultural differences. Such a training program is seen as a necessity by the Commission.

47. The Commission therefore recommends that appropriate specialised training be available to all officers who are assigned to custodial duties so that the personal, cultural and human rights requirements of all detainees are met.

### III. CONDITIONS IN THE CENTRE

#### Privacy

##### *Use of Closed Circuit Television Surveillance (CCTV)*

48. There are fourteen camera locations presently used at the Centre providing continuous monitoring of the Centre's environs and the areas within the Centre open to the detainees. There are also six unattended cameras in the women's wing, which is presently unoccupied, including one camera in the women's showers and cameras in the two family units.

49. Of the operating cameras, one is in the men's showers, and another is in the men's lavatories. These areas have no partitioning and are entirely open to the view of custodians monitoring the cameras.

50. *Human rights involved.* Article 17 of the ICCPR provides that the law should protect everyone against arbitrary or unlawful interference with his privacy. Article 10 provides that those under detention should be treated with respect for the inherent dignity of the human person.

51. *Evidence.* Many of the written complaints received by the Commission referred to the intrusive and degrading nature of CCTV. There was also a strong dislike expressed of the widespread use of CCTV among those detained at the Centre.'

52. A minority of the detainees were either not bothered by the use of CCTV in male showers and lavatories, or if they were concerned about it, they did not express a view about its use in other areas of the Centre. Certain detainees were concerned that removal of inanimate surveillance might result in increased direct custodial surveillance.

53. The AFP's submission to the inquiry said CCTV helped staff in quelling any disturbances by providing early warning of the location and type of disturbance. It suggested that the alternative of increased patrols by personnel may be seen as a greater intrusion on detainees' privacy.

54. *Evaluation.* The use of CCTV for external surveillance at the Centre does not infringe rights to privacy. The security requirements of the Centre call for CCTV where detainees or members of the public should not go. The Commission, therefore, does not object to CCTV in public areas when it is related to security needs, i.e. when external walls, windows or perimeter fences are monitored.

55. The Commission finds the argument that disturbances will go undetected without CCTV is invalid as from past experience at the Centre, there have been few, if any, fights. There have likewise been few disturbances at the Maribyrnong Centre, where CCTV is not used.

56. Many internal areas of the Centre are already under direct custodial surveillance from the Centre's police post. The area used frequently where this is not so is the male lavatory/shower area. At the hearing, the AFP undertook to remove cameras from the male showers/lavatories when there were sufficient staff properly to supervise people using those areas. The AFP also notified the inquiry of its intention to blank over the cameras in the family units. The previous Minister for Immigration and Ethnic Affairs, The Honourable John Hodges, had already announced that CCTV would be removed from the women's showers.

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1. See page 2, Appendix 4.

## 57. Recommendations

- That cameras in male showers/lavatories be removed forthwith, and that the removal not be made dependent on any increase in staff.
- That cameras in the women's showers and the family units be removed.
- That cameras be located only in areas relating to the Centre's need to maintain secure perimeters.

### *Sleeping Arrangements*

58. Male detainees are presently held in a dormitory which can accommodate up to forty-eight people. The women's wing, when opened, will accommodate twenty women in a dormitory. The men's dormitory has some internal brick partition walls, whilst the women's dormitory is an entirely open room. It is impossible to obtain any privacy in the current sleeping arrangements.

59. *Human rights involved.* Article 17 of the ICCPR is relevant in protecting the individual's privacy from unlawful or arbitrary interference.

60. *Evidence.* Some detainees said they would prefer to be held in smaller groups of, say, two or three.

61. At the hearing, the AFP agreed that dormitory accommodation poses some problems and that single accommodation would be better. Arrangements providing for two occupants to a room, as at Maribyrnong, were said to offer better opportunity to give detainees reasonable privacy.

62. *Evaluation.* The Commission considers it desirable to have smaller groups rather than dormitory accommodation.

63. *Recommendation.* That appropriate measures or rearrangements be undertaken to ensure greater privacy in the sleeping quarters including, if necessary, installation of partitioning in the dormitories.

### *Lack of Access to Sleeping Quarters between 7.00 a.m. and 10.00 p.m. approximately*

64. The present practice at the Centre is for detainees to be removed from their dormitories at breakfast time (approximately 7.00 a.m.) and for the dormitories to be locked until bed time (approximately 10.00 p.m.). The only furniture available for relaxation during the day consists of seats bolted to the floor in front of the televisions. Some detainees lie on the lino-covered concrete for rest. As a result, there are no places where detainees can rest or obtain privacy during the day. They are obliged to bring personal belongings that they wish to use during the day from the dormitories, and leave them out on open shelves in the secure area.

65. On their last visit to the Centre, the Commissioners were shown recreation tables that had arrived that day. The AFP said that other improvements were to follow.

66. The Commission also heard complaints that some detainees with medical conditions, and pregnant women, are not allowed to return to their beds.

67. *Human rights involved.* Articles 10 and 17 of the ICCPR.

68. *Evidence.* The AFP submission explained the lack of access as based on experience of officers at the Centre when detainees who have slept during the day are wakeful and restless at night and create disturbances, but agreed that alternative means of dealing with wakeful detainees at night would be explored.

69. All detainees agreed that this lack of access involved a degree of discomfort which they would like removed.

70. Since the public hearings, the AFP has undertaken to amend procedures at the Centre to allow the dormitories to be opened for two hours after lunch.

71. *Evaluation.* The prohibition on access to dormitories for up to fifteen hours is too absolute. The Commission believes that it is inconsistent with human dignity to be forced to perform all activities in public. This includes the present position where detainees may only enjoy use of their personal possessions without any privacy.

72. *Recommendation.* That appropriate arrangements be made to afford the detainees access to sleeping quarters at all times.<sup>2</sup> In the interim, access at all times to sleeping quarters must be given to pregnant women and detainees who are sick or indisposed.

## **Access to Legal Advice**

### *Information on Legal Assistance*

73. It was complained that those arrested and detained under provisions of the Migration Act may not always be advised of their legal rights, at either the time of their arrest, their arrival at the Centre, or during the period of their detention. Section 38 (1), (2), (3), (3A) of the Migration Act is relevant.

74. *Human rights involved.* Both Article 9 and Article 14.3 of the ICCPR are pertinent. These jointly provide for liberty and security of person; that all persons are entitled to be informed of the nature and cause of the charge faced, so as to have time for the preparation of their defence and for communication with counsel; and that in the determination of a criminal charge, a person is to receive legal assistance and to have the free assistance of an interpreter.

75. The Commission, while recognising that Article 14 is concerned with the procedures for determining *criminal charges*, considers the rights and freedoms it protects should be covered *a fortiori* in cases which are not of a criminal nature.

76. *Evidence.* All detainees indicated that no communication of their legal rights had been made until shortly after the Commission wrote to say it intended to interview them. Some detainees were said, through lack of English language skills, to have been unable to understand their rights or communicate their needs.

77. The Department's submission noted a trend towards longer periods of detention where detainees take up their rights by seeking review of the decision to deport, making representations or contacting the Ombudsman or the Commission. There is an implication that a detainee knowing of his/her rights will initiate action that merely prolongs delays in deportation.

78. *Evaluation.* The Department acknowledges its responsibility under section 41 of the Migration Act to inform people of their rights.

79. Since the inquiry began, the Department has begun the practice of providing detainees on their arrival at the Centre with a letter setting out the detainees' rights. The letter, now available in thirteen languages, will soon be available in twenty.

80. *Recommendations*

- That section 41 of the Migration Act be amended so that it is mandatory for persons in custody to be told of their legal rights.

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2. At the Maribyrnong Centre and Belconnen Remand Centre, such access is allowed. Indeed, inmates at Belconnen have the key to their cell so that they may go there during the day. See also paragraphs 8 and 9.

- That, in the interim, the Department actively protect the right to legal advice in section 41 of the Migration Act by adequately ensuring that the detainee knows of the existence of such a right.
- That interpreter facilities be provided to enable detainees to exercise their legal and human rights.
- That members of a detained family should be counselled and provided with separate legal advice so that they may pursue any individual and separate rights that they have.

*Availability of Legal Assistance*

81. Whilst section 41 of the Migration Act protects the detainees' right to ask for legal advice should they happen to know that they have a right to obtain it, there appeared to be practical difficulties impeding ready availability of assistance, such as:

- (a) undue delays in securing access to a solicitor; or
- (b) lack of knowledge that their particular circumstances are such as to require expert consideration and advice.

82. *Human rights involved.* Articles 9 and 14.3 of the ICCPR.

83. *Evidence.* One complainant alleged that the first opportunity he had had to gain access to legal advice was on his temporary transfer to Parramatta Gaol.

84. The Commission was also told that a detainee may need legal assistance with the ongoing processes of detention. For example, under section 38 (3A) and (4) of the Migration Act, which provides that the period a prohibited immigrant may be held in custody without further order of a prescribed authority is seven days, a person may be detained in custody for a period longer than seven days if he/she consents.

85. Similarly, the assistance of a legal practitioner may be needed to discern circumstances relevant to the exercise by the Minister and delegated officers of the discretion under section 18 of the Migration Act.

86. From evidence at the hearing and the Commissioners' own experience on visiting the Centre when a solicitor was in attendance, it was clear that there was a great demand for legal assistance and resources which was, at that time, not fully met.

87. *Evaluation.* The legal duties and rights of the detainee do not cease upon the detainee's arrest and detention within the Centre. Other matters related to a person's detention and deportation (as mentioned above) will also require legal assistance. There may also be business or personal matters connected with the detainees' life before entering the Centre which require advice, e.g. wages due, property seized from rented premises etc.

88. *Recommendations*

- That adequate legal assistance be provided for detainees. Suitable resources should be made available to enable the Australian Legal Aid Office or a community legal service near the Centre to undertake this task.
- That a solicitor attend the Centre at specified times during the week, and at other times as requested by detainees.
- That access to a solicitor of choice be secured for detainees without delay.

## Contact with Visitors

- 89.** Several problems exist with arrangements for visitors to see detainees:
- (a) Confusion between the departmental visiting passes, which specify that each visitor is entitled to see a detainee for twenty minutes, and the AFP notice at the Centre, which states that each detainee is allowed a total of twenty minutes of visiting.
  - (b) Evidence that detainees were often only allowed five to ten minutes in total.
  - (c) Brief visiting hours of 6.00 p.m. to 8.00 p.m. on weekdays and 4.00 p.m. to 6.00 p.m. on weekends: this may constrain unduly many potential visitors, especially those with young children.
  - (d) Difficulties in obtaining visiting passes: visits may only take place if the visitor has obtained a pass from the Department's office in the city. There are no provisions for issuing a pass at the Centre.
  - (e) Inadequate visiting facilities: there are six booths with a glass screen separating the visitor from the detainee with a speech channel at the bottom of the glass.
  - (f) Lack of contact visits: such visits are not generally available, although AFP personnel say that, in some circumstances, they may be permitted.
  - (g) Problems with gifts: there is confusion among detainees and visitors on what gifts are allowed. Certain gifts may not be given to detainees, such as hot prepared food, cakes, fruits with hard skins or shells. Some detainees agree that an item refused on one occasion may be allowed on another.
  - (h) Unsuitable accommodation for solicitor/client interviews: this is referred to in at paragraph 12. It is noted that solicitor/client interviews are not conducted in the booths.

**90.** *Human rights involved.* Article 7 of the ICCPR, which proscribes inhuman or degrading treatment; Article 10 of the ICCPR, which provides that detainees should be treated with respect for the inherent dignity of the human person; and Article 17 of the ICCPR, which protects the individual from arbitrary interference with his privacy and family.

**91.** *Evidence.* For the reasons outlined in paragraph 89, detainees and other complainants were overwhelmingly of the view that the arrangements for visits were unsatisfactory. Contact visits, especially in cases where young children are involved, were demanded.

- 92.** The AFP contend that several problems are associated with visits:
- (a) lack of physical facilities, with only six booths;
  - (b) staffing levels resulting in restrictions of visits to certain hours;
  - (c) as the Department rather than the AFP determines visiting rights, passes must be issued by the Department. The AFP agrees that the requirement to go to the city to get departmental authorisation may cause hardship (a journey from Villawood to the city may take up to one hour by car); and
  - (d) security risks posed by possible introduction of contraband.

**93.** *Evaluation.* The Commission does not believe that insuperable difficulties in extending visiting hours exist. Such an extension is dependent on a willingness to change priorities. Whilst the rules relating to contact visits are to some degree a consequence of the present staffing levels and the architecture of the Centre, some relaxation

appears feasible. The AFP have already undertaken to introduce more reasonable criteria for the acceptance of visitors' gifts. They also undertook at the hearings to consider use of the Centre's dining room, and a grass area adjacent to it, for contact visits.

**94. Recommendations**

- That provision be made for issuing visiting passes at the Centre.
- That visiting hours be extended to at least six hours per day.
- That the length of time each visitor may spend with a detainee be extended beyond twenty minutes.
- That contact visits be immediately introduced for family groups and ultimately for all visitors.
- That existing visiting facilities be remodelled and the use of other facilities of the Centre to enable contact visits be explored and implemented.
- That spouses and children of detainees be granted extended contact visiting rights, with the possibility being examined of permitting their introduction into the detention area of the Centre.
- That only gifts posing a security risk be forbidden, with guidelines being clearly displayed.
- That staffing levels be increased, if that is necessary, to allow proper supervision of the extended visitors' access.

**Communication with the Outside World**

**95.** Complaints were received regarding inconsistent application of practices relating to:

- (a) the handling of inward and outward mail; and
- (b) the placing and receiving of telephone calls.

**96. Human rights involved.** Article 19.2 and 3 of the ICCPR prohibits the unnecessary restriction of the right to freedom of expression. Article 17 of the ICCPR protects the individual against unlawful or arbitrary interference with his correspondence.

**97. Evidence.** Incoming mail is, according to AFP station orders, opened by the detainee in front of a custodian and inspected for contraband. Some detainees say the mail occasionally comes to them already opened.

**98** Mail leaving the Centre may be sealed by the detainee prior to handing over to a custodian. The Department's submission says detainees are to seal their mail in the presence of a custodian to ensure no items of contraband are included. One detainee insisted she saw a custodian open a sealed letter of hers. This was the only such instance given.

**99.** It is difficult to identify what the practice relating to use of the telephone is. The detainees commonly believe that calls may only be placed to and received from their solicitors or consulates, and that to place a call to either required prior authorisation of the Department.

**100.** The Station Orders state that the Department's permission is not required to place a call to a detainee's solicitor, consulate, the Ombudsman or clergymen. Authorisation is impliedly so required for the detainee to place private calls.

**101.** Some detainees complained that they could not place any telephone calls when they were first arrested and put in the Centre. They alleged that their family and friends had no way of knowing why they had disappeared, or where they had gone.

**102.** There have also been complaints that telephone messages from detainees' friends have not been relayed by the custodians.

**103. *Evaluation.*** Interference with mail, either to or from a detainee, is only justifiable for the purpose of preventing the transmission of contraband. The AFP has undertaken to arrange the provision of a sealed mail bag in the detention area so that detainees may 'post' letters without fear of its being inspected.

**104.** Certain problems with the use of the telephone were identified:

- (a) Its use by people when first detained is restricted to prevent other prohibited immigrants from being 'tipped off'.
- (b) Unrestricted use of the telephone may prove costly.

**105. *Recommendations***

- That mail be given to detainees for them to open in front of custodians purely as a measure to prevent the entry of contraband to the Centre, and for no other reason.
- That detainees' mail be posted in a sealed mail bag.
- That a message book be kept for relaying messages, and that it be open for inspection.
- That newly admitted detainees be allowed to contact family or friends unless an authorised officer of the Department sets out in writing that telephone access should be denied pending action in arresting other prohibited immigrants—in any case, such access not to be restricted beyond forty-eight hours from arrest.
- That the possibility of installing a pay phone be examined by the Department to allow unrestricted calls by detainees, with the continuance of free calls to solicitors, consulates, the Ombudsman and clergymen.

### **General Conditions of Detention**

**106.** The system of detention at the Centre may amount to the infringement of various rights.

#### *Movement within the Centre*

**107.** The space at the Centre is very circumscribed, and access to many areas restricted, e.g. to the dining-room only at meal times, the exercise yard for a couple of hours a day, dormitories—see paragraph 64 above. Generally, men may move about three rooms, whilst the women are confined, until the women's wing is opened, to one, the women's television room. The sexes are subject to effective segregation, even when married couples are in the Centre together.

**108. *Human rights involved.*** Articles 7, 10, 17 and 23 of the ICCPR and Principle 2 of the Declaration.

**109. *Evidence.*** Several detainees commented on the restrictions placed on their movement. One woman spoke of the difficulties she had in talking with her husband who was also a detainee. Similarly, two sisters said that they were seldom allowed to keep each other's company, and that their conversation had been interrupted by custodians separating them. Their evidence was supported by several other detainees.



110. The AFP submission states that regimentation of daily activities is necessary to maintain security and protect detainees and staff.

111. *Evaluation.* Increased access to sleeping quarters will alleviate some problems slightly, although lack of facilities, for women especially, remain. Opening of the women's wing with family units may help to resolve several problems relating to married couples and children. However, the Department does not envisage husbands being allowed into the family units, only mothers and their children.

112. The AFP should be sensitive to family relationships, and not impose any restrictions which interfere with them. The rights of children are discussed in paragraphs 156-63 below.

113. *Recommendations*

- That the women's wing be opened.
- That suitable accommodation be immediately made available for spouses.
- That the AFP abandon the total segregation of the sexes during the day, perhaps maintaining a room for women only, but allowing the women access to the rest of the detention area.

*Handling of Property*

114. The detainees, on arrival at the Centre, are allowed to retain two changes of clothing, the rest of the property they brought to the Centre being put into store.

115. It is noted that the Centre's authorities impose a limit, which is sometimes exceeded, on the amount of property being stored at the Centre. This amount is 20 kg, the overseas airlines' luggage allowance.

116. *Human rights involved.* Articles 7 and 10 of the ICCPR.

117. *Evidence.* Many detainees complained of not being allowed personal items with them in the detention area. Items such as watches, rings, pens, personal cosmetics, combs and additional clothing were commonly mentioned.

118. *Evaluation.* Problems regarding access to property stored at the Centre should largely be resolved following the AFP's agreement at the hearing to allow reasonable possession of personal items, such as watches, rings and cosmetics.

119. On a visit to the Centre, the Commissioners suggested that the presently open lockers available to the detainees be provided with secure open mesh doors to allow safe storage of personal items which they may wish to use.

120. *Recommendations*

- That reasonable access to property, including valuables and personal cosmetics, be allowed.
- That appropriate secure storage be available to detainees for valuable or personal items which they have in daily use.
- That the present limit of 20 kg on property which the Centre will store not be an absolute limit, but be negotiable with detainees.

*Rules at the Centre*

**121.** Rules applicable to behaviour whilst detained at the Centre have not been formulated and set down. What rules exist are not conveyed in any formal way to the detainees on arrival. Decisions which detainees do not like may all too easily assume the character of a custodian's caprice when the nature of the rule being enforced is not clearly known.

122. *Human rights involved.* Article 10 of the ICCPR, which provides that all persons deprived of their liberty are to be treated with humanity and with respect for the inherent dignity of the human person, is relevant.

123. *Evidence.* Many detainees were unaware of the reasons why certain decisions affecting them were made and in some cases felt that a decision had been directed in an arbitrary way against the particular detainee. Of particular concern was the fact that the circumstances in which the single segregation cell is to be used are not set out, either for detainees or custodians.

124. *Evaluation.* Established rules, drawn up with due regard to human rights and conveyed to the detainees on arrival, would help to remove any suggestion that detainees were treated on an arbitrary basis. The AFP is currently preparing 'General Rules of the Villawood Detention Centre', which will be available to all detainees on arrival.

125. The AFP has proposed that an Inspector from their Eastern Division headquarters visit the Centre weekly, and be available to hear complaints from detainees.

126. *Recommendations*

- That a set of general rules of the Centre, which incorporates the protection of human rights, be prepared and given to each detainee on arrival and in an appropriate language.
- That an impartial and external grievance mechanism, unconnected with either the Department or the AFP, be established. This may take the form of the grievance function exercised by Visiting Justices in penal systems.
- That an occurrence book be kept which is open to inspection by detainees.

*Other Matters*

127. There are several deficiencies in the facilities at the Centre which adversely affect the detainees. These include a lack of sufficient and varied facilities for the detainees to entertain themselves, and the absence of personal watches, clocks or calendars with which to mark the passage of time.

128. *Human rights involved.* Article 10 of the ICCPR.

129. *Evidence.* The principal recreational aids available to the detainees are two television sets—one for women and one for men—and table tennis equipment. There are no books or newspapers available in appropriate languages, and, unlike those at the old Maribyrnong Centre, the male detainees alleged that they were unable to select the television station to be viewed.

130. The detainees also complained of the frustration and boredom resulting from not being able to ascertain readily the time or date.

131. Many detainees complained that they were not allowed pens in the detention area, but that all writing, including letters, had to be done in pencil.

132. The AFP undertook at the hearing to make a clock, calendar and pens available to detainees.

133. The Minister has announced<sup>3</sup> that a wider range of books and magazines in various languages, and more recreational equipment, will be made available.

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3. See Appendix 5 for this and other changes at the Centre.

134. *Evaluation.* The Commission believes that, no matter how short the period for which a detainee is held at the Centre, the conditions and facilities must provide humane circumstances for detention. To that end, detainees need facilities for adequate diversion and recreation during their stay.

135. *Recommendations*

- That provision be made for the detainees to have access to pens and watches, and for a clock and calendar to be on display.
- That appropriate and varied recreational aids be provided, including culturally relevant reading matter.

### **Welfare Needs**

136. **The** lives of those detained at the Centre are considerably disrupted by their arrest and placement in safe custody. They have a variety of needs:

- assistance with personal and business affairs, such as broken leases and jobs left;
- assistance in making an appeal to avoid deportation;
- provision of support and aid to a detainee's spouse and children if they remain in the community;
- counselling and help to overcome the stress of long-term stays at the Centre; and
- assistance with the handling of property. Property not brought to the Centre, but left in the community, does not appear to be the subject of any handling procedures. Unless the detainee has family and friends who know what has happened, the property may well be left undisposed of on the detainee's deportation, or stolen.

137. *Human rights involved.* Article 10 of the ICCPR.

138. *Evidence.* Many detainees expressed their concern to the inquiry about the position in which their families were placed because of the prohibited immigrant's arrest and detention. The detainees were often also in ignorance of their rights, the result of a failure in communication between the Centre's authorities and new arrivals.

139. Property left in the community may, unless cared for by friends, be stolen. On arrest, some prohibited immigrants have an opportunity to pack property to take to the Centre. Others have no such opportunity. The Commission has been informed of one case where an individual went without a change of clothing for one week. Substantial quantities of household or personal items are not usually stored at the Centre. The AFP agreed at the hearing that it is the responsibility of the arresting officer, being a policeman or departmental officer, to take property into secure custody whilst the detainee is held.

140. *Evaluation.* **The** needs of detainees in adjusting to the changes that arrest makes to their lives and in supporting and caring for their families should be recognised.

141. **The** issue of property left in the community, although related only indirectly to conditions and procedures at the Centre, should be resolved. The decision to detain should entail consideration of the prohibited immigrant's property and personal and business affairs, with appropriate arrangements to deal with these matters being made.

142. *Recommendation.* That a full-time welfare officer, with access to, and provision for assistance from, other community and government welfare agencies, preferably with a proper measure of independence from the Department, be appointed to work at the Centre.

## **Religious Observance**

**143.** The Commission has received complaints on the absence of a quiet and private area in which detainees may pray or observe their religion. There are no regular religious services at the Centre.

**144. *Human rights involved.*** Article 18 of the ICCPR protects the individual's freedom to manifest and observe the religion of choice.

**145. *Evidence.*** Both the Department and the AFP stated in their submissions that there were no objections to visits by clergy or religious observances. Problems connected with unrestricted religious observance were identified as:

- (a) lack of available space; and
- (b) the wide variety of religions which may be represented in the Centre at any one time.

**146.** Ministers of religion are not restricted to the public visiting hours, but have the same visiting rights as solicitors and consular staff.

**147.** Religious ceremonies must be conducted in the presence of a custodian. One detainee who wished, with the consent of fellow detainees, to conduct a service stated that permission had been refused because of lack of staff to provide supervision.

**148. *Evaluation.*** Many detainees may not realise that contact with a minister is allowed in the Centre. The possibility of access to religious visitation should be made known to detainees on arrival. Limitations on detainees' religious observances imposed by staff constraints are unjustifiable, per Article 18.3, and should be overcome.

**149. *Recommendation.*** That adequate provision be made for religious observances and visitations.

## **Medical Services**

**150.** All detainees are examined by a doctor on arrival, or soon thereafter. The detainees are entitled to medical treatment by a nearby private practitioner who is retained by the Department to render such services as are called for. However, several detainees complained of the difficulty in securing the attendance of that doctor, or in being treated by their own doctors.

**151. *Human rights involved.*** Articles 7 and 10 of the ICCPR.

**152. *Evidence.*** The circumstances of detention give rise to many conditions which, whether the result of stress and uncertainty or not, cause pain. Some detainees spoke of their attempts to get medical attention being ignored, or of delays before they finally see the doctor.

**153.** A related problem affects those who were undergoing treatment for a condition before arrested, and wish to continue that treatment with their doctor of choice. As already referred to in paragraph 37, an instance arose in the course of the inquiry of a detainee who had an appointment with his doctor but, for what appears to have been lack of staff to perform escort duties, was not allowed to keep it.

**154. *Evaluation.*** The physical and psychological well-being of detainees should be preserved so that, so far as is possible, they emerge from the Centre no worse than when they entered it.

**155. *Recommendations***

- That access to the doctor of choice be secured for detainees without delay.

- That requests for medical treatment, and the response to each request, be entered in an occurrence book open to each detainee.

### Children and the Centre

**156. The** operation of sections 38 and 39 of the Migration Act may create two different classes of children who are vitally affected by the existence and purpose of the Centre:

- those children who have one parent detained in the Centre, but who are left in the community or the nearby Westbridge Hostel with the other parent; and
- those children whose parents, or sole parent, are detained in the Centre, and who are consequently placed in the Centre also.

**157. Human Rights Involved.** Apart from the general applicability to all people of Articles 7, 9, 10, 17, and 24 of the ICCPR, the Declaration of the rights of the Child provides protection of the child's right to special safeguards and care since, as the Recitals state, 'mankind owes to the child the best it has to give'. Of special relevance to the inquiry were Principles 2, 4, 6, 8 and 9.

**158. Evidence.** At the times of the inquiry's visits, there were no children held in the Centre. However, several of the detainees who had children in the community expressed deep concern about their circumstances. As, in many cases, the detainee had been the family's breadwinner, arrest and detention might result in considerable financial hardship for those families who are not detained. The Department seeks to ameliorate their condition by placing such families in the Westbridge Hostel", although the ineligibility of prohibited immigrants for income maintenance programs operated by the Department of Social Security may still produce hardship.

**159.** The circumstances of children held in a place of detention are such as to render both the Department and the AFP reluctant to accommodate them in the Centre. The facilities for children were described at the hearing as limited to a cot and a pusher. There are no toys or other recreational and educational aids. As the family units are located in the unopened women's wing, present accommodation for children is totally inadequate.

**160.** In 1982, there was a total of forty-eight children held at the Centre. The numbers of children and the length of time they were held are:

up to 1 week	17
1-2 weeks	3
2-3 weeks	16
3 weeks and longer	12

**161. Evaluation.** The Commission is greatly concerned at the total absence of any appropriate facilities and arrangements at the Centre for children. This has been blamed on the relatively small number of children detained at the Centre and the short period for which they are detained. However, the Commission notes that, with a total number of 647 detainees in 1982, children equal 7.5% of the total population—a not inconsiderable proportion. Arrangements should be made for children, even if, rather than taking the form of expensive physical facilities, they consist of establishing procedures for tapping outside facilities and services, e.g. use of a nearby day care centre to allow contact with other children.

4. Inquiries were made of the Department as to the position of detained spouses, and the Department assured the Commission that the operation of the Migration Act means that spouses who are Australian citizens are not placed in the Hostel.

**162.** The Commission also observes that some of the children detained at the Centre are Australian citizens whose rights and interests may, in important respects, be different from their parents'. There does not exist any process by which the rights of children are separately considered and represented, either at the Centre or in the wider deportation process. The Commission will consider this matter more extensively in its inquiry into the Migration Act.

163. The Commission believes that many of its recommendations relating to welfare and legal services will assist in the provision of adequate services to children in the Centre.

*164. Recommendations*

- That a process be established whereby the rights, legal or otherwise, and needs of children, insofar as they are separate to those of the parents, are represented.
- That adequate and appropriate provision be made for the physical, emotional, educational and recreational needs of children held at the Centre.

## IV. RECOMMENDATIONS

- That, for the present, the administrative functioning of the Centre be delegated to the AFP (paragraph 39).
- That appropriate specialised training be available to all officers who are assigned to custodial duties so that the personal, cultural and human rights requirements of all detainees are met (paragraph 47).
- That cameras in male showers/lavatories be removed forthwith, and that the removal not be made dependent on any increase in staff (paragraph 57).
- That cameras in the women's showers and the family units be removed (paragraph 57).
- That cameras be located only in areas relating to the Centre's need to maintain secure perimeters (paragraph 57).
- That appropriate measures or rearrangements be undertaken to ensure greater privacy in the sleeping quarters including, if necessary, installation of partitioning in the dormitories (paragraph 63).
- That appropriate arrangements be made to afford the detainees access to sleeping quarters at all times. In the interim, access at all times to sleeping quarters must be given to pregnant women and detainees who are sick or indisposed (paragraph 72).
- That section 41 of the Migration Act be amended so that it is mandatory for persons in custody to be told of their legal rights (paragraph 80).
- That, in the interim, the Department actively protect the right to legal advice in section 41 of the Migration Act by adequately ensuring that the detainee knows of the existence of such a right (paragraph 80).
- That interpreter facilities be provided to enable detainees to exercise their legal and human rights (paragraph 80).
- That members of a detained family should be counselled and provided with separate legal advice so that they may pursue any individual and separate rights that they have (paragraph 80).
- That adequate legal assistance be provided for detainees. Suitable resources should be made available to enable the Australian Legal Aid Office or a community legal service near the Centre to undertake this task (paragraph 88).
- That a solicitor attend the Centre at specified times during the week, and at other times as requested by detainees (paragraph 88).
- That access to a solicitor of choice be secured for detainees without delay (paragraph 88).
- That provision be made for issuing visiting passes at the Centre (paragraph 94).
- That visiting hours be extended to at least six hours per day (paragraph 94).
- That the length of time each visitor may spend with a detainee be extended beyond twenty minutes (paragraph 94).
- That contact visits be immediately introduced for family groups and ultimately for all visitors (paragraph 94).
- That existing visiting facilities be remodelled and the use of other facilities of the Centre to enable contact visits be explored and implemented (paragraph 94).

- That spouses and children of detainees be granted extended contact visiting rights, with the possibility being examined of permitting their introduction into the detention area of the Centre (paragraph 94).
- That only gifts posing a security risk be forbidden, with guidelines being clearly displayed (paragraph 94).
- That staffing levels be increased, if that is necessary, to allow proper supervision of the extended visitors' access (paragraph 94).
- That mail be given to detainees for them to open in front of custodians purely to prevent the entry of contraband to the Centre, and for no other reason (paragraph 105).
- That detainees' mail be posted in a sealed mail bag (paragraph 105).
- That a message book be kept for relaying messages, and that it be open for inspection (paragraph 105).
- That newly admitted detainees be allowed to contact family or friends unless an authorised officer of the Department sets out in writing that telephone access should be denied pending action in arresting other prohibited immigrants—in any case, such access not to be restricted beyond forty-eight hours from arrest (paragraph 105).
- That the possibility of installing a pay-phone be examined by the Department to allow unrestricted calls by detainees, with the continuance of free calls to solicitors, consulates, the Ombudsman and clergymen (paragraph 105).
- That the women's wing be opened (paragraph 113).
- That suitable accommodation be immediately made available for spouses (paragraph 113).
- That the AFP abandon the total segregation of the sexes during the day, perhaps maintaining a room for women only, but allowing the women access to the rest of the detention area (paragraph 113).
- That reasonable access to property, including valuables and personal cosmetics, be allowed (paragraph 120).
- That appropriate secure storage be available to detainees for valuable or personal items which they have in daily use (paragraph 120).
- That the present limit of 20 kg on property which the Centre will store not be an absolute limit, but be negotiable with detainees (paragraph 120).
- That a set of general rules of the Centre, which incorporate the protection of human rights, be prepared and given to each detainee on arrival and in an appropriate language (paragraph 126).
- That an impartial and external grievance mechanism, unconnected with either the Department of the AFP, be established. This may take the form of the grievance function exercised by Visiting Justices in penal systems (paragraph 126).
- That an occurrence book be kept which is open to inspection by detainees (paragraph 126).
- That provision be made for the detainees to have access to pens and watches, and for a clock and calendar to be on display (paragraph 135).
- That appropriate and varied recreational aids be provided, including culturally relevant reading matter (paragraph 135).
- That a full-time welfare officer, with access to and provision for assistance from other community and government welfare agencies (preferably with a proper



measure of independence from the Department), be appointed (paragraph 142).

- That adequate provision be made for religious observances and visitations (paragraph 149).
- That access to the doctor of choice be secured for detainees without delay (paragraph 155).
- That requests for medical treatment, and the response to each request, be entered in an occurrence book open to each detainee (paragraph 155).
- That a process be established whereby the rights, legal or otherwise, and needs of children, insofar as they are separate to those of the parents, are represented (paragraph 164).
- That adequate and appropriate provision be made for the physical, emotional and recreational needs of children held at the Centre (paragraph 164).

## APPENDIX 1

### International Covenant on Civil and Political Rights

(Relevant Articles)

#### *Article 7*

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

#### *Article 9*

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons of his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

#### *Article 10*

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

#### *Article 14*

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (g) Not to be compelled to testify against himself or to confess guilt.

#### *Article 17*

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

#### *Article 18*

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

#### *Article 19*

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

#### *Article 23*

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

#### *Article 24*

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality.

## APPENDIX 2

### Declaration of the Rights of the Child

(Relevant Principles)

#### *Principle 2*

The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.

#### *Principle 4*

The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services.

#### *Principle 6*

The child, for the full and harmonious development of his personality, needs love and understanding. He shall, wherever possible, grow up in the care and under the responsibility of his parents, and, in any case, in an atmosphere of affection and of moral and material security; a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support. Payment of State and other assistance towards the maintenance of children of large families is desirable.

#### *Principle 8*

The child shall in all circumstances be among the first to receive protection and relief.

#### *Principle 9*

The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.

The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

## APPENDIX 3

### *Migration Act 1958*

#### (Relevant Sections)

6. (1) An immigrant who, not being the holder of an entry permit that is in force, enters Australia thereupon becomes a prohibited immigrant.

6A. (1) An entry permit shall not be granted to an immigrant after his entry into Australia unless one or more of the following conditions is fulfilled in respect of him, that is to say—

- (a) he has been granted, by instrument under the hand of a Minister, territorial asylum in Australia;
- (b) he is the spouse, child or aged parent of an Australian citizen or of the holder of an entry permit;
- (c) he is the holder of a temporary entry permit which is in force and the Minister has determined, by instrument in writing, that he has the status of refugee within the meaning of the Convention relating to the Status of Refugees that was done at Geneva on 28 July 1951 or of the Protocol relating to the Status of Refugees that was done at New York on 31 January 1967;
- (d) he is the holder of a temporary entry permit which is in force, is authorized to work in Australia and is not a prescribed immigrant; or
- (e) he is the holder of a temporary entry permit which is in force and there are strong compassionate or humanitarian grounds for the grant of an entry permit to him.

(3) Subject to sub-section (2), an entry permit shall not be granted to an immigrant after his entry into Australia otherwise than by—

- (a) the Minister; or
- (b) an officer authorized by the Minister, by instrument in writing, to be an authorized officer for the purposes of this section.

**10.** A person who has become a prohibited immigrant ceases to be a prohibited immigrant if and when an entry permit or further entry permit is granted to him, and not otherwise.

18. The Minister may order the deportation of a person who is a prohibited immigrant under any provision of this Act.

19. Where the Minister makes or has made an order for the deportation of a person, the Minister may, in his discretion, at the request of the spouse of that person, order the deportation of the spouse, or of the spouse and a dependent child or children, of that person.

20. Where the Minister has made an order for the deportation of a person, that person shall, unless the Minister revokes the order, be deported accordingly.

38. (1) An officer may, without warrant, arrest a person whom he reasonably sup-

poses to be a prohibited immigrant, and a person so arrested may, subject to this section,

be kept in the custody of any officer or in such other custody as the Minister or an authorized officer directs.

(2) Where an officer arrests a person in pursuance of this section, the officer shall forthwith inform the person arrested of the reason for the arrest, and that officer or another officer having the custody of that person shall take him before a prescribed authority within forty-eight hours after the arrest or, if it is not practicable to bring him before a prescribed authority within that period, as soon as practicable after that period, and, if the arrested person is not so brought before a prescribed authority, he shall be released.

(3) Where a person is brought before a prescribed authority under this section, the prescribed authority shall inquire into the question whether there are reasonable grounds for supposing that that person is a prohibited immigrant and, if the prescribed authority is satisfied that there are such reasonable grounds, he may, by writing under his hand, authorize the detention of that person in custody for such period as the prescribed authority is satisfied is reasonably required in order to enable the Minister to consider whether that person is a prohibited immigrant and whether a deportation order should be made in respect of him, but otherwise the prescribed authority shall order that person to be released.

(3A) The period for which the detention in custody of a person brought before a prescribed authority may be authorized under sub-section (3) by that prescribed authority shall not exceed 7 days from the date of the authorization or such longer period from the date of the authorization as the person consents to.

(4) A prescribed authority may, from time to time, extend the period of detention referred to in sub-section (3).

(5) Subject to the next succeeding sub-section, at the expiration of the period of detention of a person under this section, that person shall be released.

(6) If, while a person is in custody under this section, an officer informs that person (whether before or after he has been brought before a prescribed authority) that a deportation order is in force in relation to him, the preceding provisions of this section cease to apply in relation to that person and he shall be deemed to have been thereupon arrested under the next succeeding section by the officer having his custody or, if he is not in the custody of an officer, by the officer who so informs him.

(7) Notwithstanding anything contained in this section, an authorized officer may at any time order the release of a person who is in custody under this section.

(8) Nothing contained in, or done under, this section prevents the Supreme Court of a State or Territory or the High Court from ordering the release from custody of a person held in custody under this section where the court finds that he is not a prohibited immigrant.

**39. (1)** Where an order for the deportation of a person is in force, an officer may, without warrant, arrest a person whom he reasonably supposes to be that person, and a person so arrested may, subject to this section, be kept in custody as a deportee in accordance with sub-section (6) of this section.

(2) Where an officer arrests a person in accordance with this section, the officer shall forthwith inform the person arrested of the reason for the arrest and shall, if that person so requests, furnish to him, as soon as practicable, particulars of the deportation order.



(3) If a person under this section claims, within 48 hours of his arrest and while he is in custody, that he is not the person in respect of whom the deportation order is in force, the person to whom the claim is made shall—

- (a) if he is an officer—ask him; or
- (b) in any other case—cause an officer to ask him,

to make a statutory declaration to that effect, and, if the person arrested makes such a declaration, the officer who asked him to make the declaration shall take him before a prescribed authority within 48 hours after the making of the declaration, or, if it is not practicable to take him before a prescribed authority within that time, as soon as practicable after the expiration of that period.

(3A) If an arrested person who is required under sub-section (3) to be brought before a prescribed authority within a particular period, is not so brought before a prescribed authority, he shall be released.

(4) Where a person is brought before a prescribed authority under this section, the prescribed authority shall inquire into the question whether there are reasonable grounds for supposing that that person is a deportee and, if the prescribed authority is satisfied that there are such reasonable grounds, he shall, by writing under his hand, declare accordingly.

(5) Where a prescribed authority makes a declaration in accordance with the last preceding sub-section, the arrested person may be held in custody as a deportee in accordance with the next succeeding sub-section, but otherwise the prescribed authority shall direct the release of that person and he shall be released accordingly.

(6) A deportee may be kept in such custody as the Minister or an officer directs—

- (a) pending deportation, until he is placed on board a vessel for deportation;
- (b) at any port or place in Australia at which the vessel calls after he has been placed on board; or
- (c) on board the vessel until her departure from her last port or place of call in Australia.

(7) Notwithstanding anything contained in this section, an authorized officer may at any time order the release of a person who is in custody under this section.

(8) Nothing contained in, or done under, this section prevents the Supreme Court of a State or Territory or the High Court from ordering the release from custody of a person held in custody under this section where the Court finds that there is no valid deportation order in force in relation to that person.

**40. (1)** The Minister may appoint a prescribed authority for the purposes of the last two preceding sections a person who is or has been a Judge of a Federal Court or of the Supreme Court of a State or Territory or a barrister or solicitor of the High Court or of the Supreme Court of a State of not less than five years' standing.

(2) The Governor-General may arrange with the Governor-in-Council of a State for the performance by persons who hold office as Police, Stipendiary or Special Magistrates in that State of the functions of a prescribed authority under the last two preceding sections

(5) A person who holds office as a Police, Stipendiary or Special Magistrate of a Territory is a prescribed authority for the purposes of the last two preceding sections.

**41.** Where a person is in custody under this Act, the person having his custody shall, at the request of the person in custody, afford to him all reasonable facilities for making a statutory declaration for the purposes of this Act or for obtaining legal advice or taking legal proceedings in relation to his custody.

## APPENDIX 4

### Abstract of Record of Interviews of Detainees

Each detainee or, as appropriate, group of detainees was asked a common series of questions directed at eliciting their views on the mode of their detention. The questions were framed according to those areas of concern which complaints and the Commissioners' visits had revealed.

#### Privacy

All detainees were asked to comment on three aspects of the arrangements at the Centre which appeared to infringe their right to privacy.

#### *Use of Closed Circuit Television Surveillance (CCTV)*

Many detainees agreed that the use of CCTV to prevent escapes from the Centre was unobjectionable. However, there was a widespread belief that such a need could be satisfied by focusing the cameras on places outside the building, such as perimeter fences or windows, rather than in directing them at people within the building.

Of particular concern to all but two of the detainees was the presence of CCTV in the men's showers and lavatories. Most agreed that their use in these areas was offensive. One detainee was so embarrassed by their presence that he did not use the lavatory for the first week of his detention. A large proportion of the detainees felt that if the CCTV in the showers and lavatories were to be retained, only male custodians should be permitted to view the monitors.

Some detainees expressed their concern that the removal of television surveillance might result in an increased physical presence of police officers in the showers and lavatories when they are in use.

When it was suggested that CCTV might also be a measure designed to allow the custodians to intervene quickly should a fight break out amongst detainees, there was unanimous agreement that no such fight had occurred during the time when any detainee interviewed had been held at the Centre. The effectiveness of CCTV for such a purpose was also questioned by some detainees.

#### *Number of People in Sleeping Quarters*

Whilst there was a shared preference amongst the males to be held in smaller groups so as to allow each detainee more privacy, rather than in one large dormitory as at present, there was widespread recognition of the difficulties in changing the physical structure of the Centre to effect such change.

#### *Lack of Access to Sleeping Quarters Between 7.00 a.m. and 10.00 p.m.*

It was unanimously agreed that the restriction of access to sleeping quarters presently applied during the detainees' waking hours was onerous. Whilst it was appreciated by many that unrestricted access to sleeping quarters may cause difficulties for the custodians to adequately police, all agreed that it would be desirable to be allowed back into their sleeping quarters at some time during the day. The proposal to open the quarters for up to two hours after lunch was universally welcomed. The advantages of such a period were stated as:

- providing a relief from the burden of doing everything in public, in front of the other detainees;

- allowing the high degree of boredom which the Centre generates to be punctuated by a period for rest; and
- allowing female detainees access to some room other than the women's television room to which they are confined for the whole day (apart from meal periods and exercise periods in the yard).

### **Access to Legal Advice**

When questioned whether they had been informed either on arrival or at some other time during the period of their detention, of what their legal rights were as detainees, all detainees asserted that the first communication to them by the authorities of their rights took the form of a letter from the Department which was issued to each detainee shortly after they had received the Commission's letter informing them of its plans to conduct interviews.

Detainees were also asked whether they had pursued their rights by seeking professional legal assistance. The means by which detainees became aware of their right to legal advice varied. Some were told by other detainees; some were able to arrange to see a solicitor during a period spent in Parramatta Gaol; some had already retained a practitioner on unrelated matters before arrest and continued to see them. It was said that there were non-English-speaking detainees who needed legal advice but were unable to communicate that need to the custodians to arrange assistance. There were a few detainees who said that they did not realise that they had any right to seek legal advice.

All who saw a solicitor were satisfied with the physical arrangements at the Centre in which solicitor-client interviews were conducted. There were some complaints about the difficulties in contacting their solicitors to arrange such interviews: see post.

### **Contact with Visitors**

It was a matter of complete agreement among all detainees that the period of time allowed for visits—twenty minutes a visitor—was too short.

All detainees were under the impression that they were entitled to see their visitor for twenty minutes.<sup>1</sup> Almost all detainees complained that they had had visits cut short. Visitors had been asked to leave after five or ten minutes of seeing the detainee. Whilst it was acknowledged that this may sometimes be because there were other visitors waiting to see people, it was also said that the period of time allowed for visitors may be cut back if a custodian is near the end of his/her shift, or simply because of the custodian's whim.

The physical facilities for visits were the subject of widespread criticism. The small number of cubicles available (six), the presence of a glass screen dividing detainees from visitors and the distractions caused by the noise and crowded conditions were all topics of particular concern.

The arrangement whereby the visitor and detainee face each other divided by a glass screen was the cause of much frustration. Many complained that it made them feel like criminal prisoners. One detainee who had been held in Parramatta Gaol said that facilities for visits were more satisfactory there, as they allowed for longer contact visits where prisoners could sit with their visitors and talk over a cup of tea or coffee. Many detainees stressed that they should not be treated in a manner worse than criminals.

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I. See confusion on lengths of visits at paragraph 89.

The desirability of introducing face-to-face contact visits was unanimously supported. This facility was seen as being a particular necessity when a detainee has children. Instances were given of children no longer being brought to visit their families as they had become too upset at not being able to touch the detainee who is, most often, the father.

One detainee who had been at the Centre for one week had at that time not been allowed to see any visitors.

Problems with what was allowed in as gifts from visitors were also raised. Whilst some detainees said that no gift brought for them had ever been refused by the custodians, others were confused by the refusal on one occasion of certain items (e.g. peanuts, grapes) which on other occasions had been allowed in.

### **Communications with the Outside World**

There was a suspicion held by some detainees that mail both coming into and leaving the Centre might be read by the custodians. Whilst a minority of detainees said that the mail they received had already been opened when given to them, the majority said that, whilst some letters were occasionally received already opened, the more common practice was to be given the letter by a custodian, asked to open it in front of the officer who would then look at, rather than attempt to read, the letter.

The practice with mail leaving the Centre appeared to vary. Some simply sealed their letters, and did not know whether they were posted opened or unopened. Some said they showed their letters to a custodian before sealing them. One detainee who had sealed a letter believed that she saw a custodian open and read it. There was no widespread confidence that mail was *not* read before being sent.

The use of the telephone to receive or place calls was the subject of varying practice. It was generally believed that calls could be placed to and received from the detainees' solicitors or consulates. It was widely asserted that permission to place a call had to be given by the Department's office in the city.

There was some dissatisfaction expressed about the method for placing calls. The delay involved in seeking the Department's permission frustrated some detainees, and others said that they were told that the number they wanted to contact was unobtainable when they believed that it was. One detainee who had been held in Parramatta Gaol thought use of the telephone too restricted, and compared the Centre's practice with that of the Gaol where, he said, two calls were allowed each week to whomever the prisoner wishes—not just his solicitors.

### **General Conditions of Detention**

Restrictions on detainees' movement and access to their property were the subject of general comment. Female detainees were frustrated by being confined to the women's TV room during the day. The men however had access to three rooms. The only opportunities for male and female detainees to mix were in the exercise yard and in the dining room. This segregation was also applied to married couples who might both be in the Centre.

All detainees commented on the absence of clocks, watches and calendars in their part of the Centre. The timeless quality of their detention was generally felt to add to the boredom and depression consequent on being held in a confined place.

The inability to retain watches, and other personal items such as pens, rings or idols, irked most detainees. Related to this, many detainees complained that they were not allowed to keep their own cosmetics, shampoo, soap, combs and other items, but were obliged to use materials issued in the Centre. These were sometimes inappropriate, e.g. combs that were useless with afro hair, or were believed to be harsh, with several

complaints of skin irritations and dandruff being made.

Inadequate means of passing the time prompted general complaint. Lack of books, papers and magazines was said, in some cases, to have been recently ameliorated by the introduction of certain ethnic newspapers and by the access to a local travelling library. Some detainees said that they did not know of the existence of these facilities.

Many detainees would have liked to retain more than the two changes of clothing that they were presently entitled to keep with them in the Centre. There was widespread concern that they were not allowed to have access to whatever of their property was stored by the authorities at the Centre.

This problem prompted the expression of great unease as to what happened to their property in the community on their arrest. It was agreed that a certain amount may be brought for storage at the Centre. Many were upset about the difficulty or inability in settling their affairs, such as collecting wages due or in disposing of personal property before leaving Australia. There was a general fear that premises left unattended would be robbed. There were also allegations that some prohibited immigrants were turned in to the authorities by people who intended to steal their property. There was an overwhelming view that the Department should ensure the protection of their property when they take people into custody.

Of great concern to those with spouses and/or children was the position of their families if they had not also been brought into the Centre. All agreed that it was better for their spouses and children that they be kept outside the Centre rather than that the whole family be detained together. The boredom and lack of facilities, especially for children, was the reason most nominated for this preference.

When asked to suggest ways that the arrangements at the Centre could be changed to improve their lot, the detainees called for:

- provision of refreshment/coffee making facilities. They only had water available to them outside meal times;
- provision on arrival of a notice setting out 'house rules'. One complained that the only thing she was told was that she could not go to her room during the day;
- quieter routine nightly patrols of the sleeping quarters. Several complained of being awakened by custodians slamming doors and tramping heavily when they make their inspections;
- specification that selection of television programs is to rest with detainees rather than being made by custodians;
- requirement that custodians always wear some method of identifying themselves, either by name or number;
- requirement that custodians maintain forms of politeness in their relations with detainees. Several unrelated groups of detainees alleged that certain custodians were anti-Chinese and behaved poorly towards Chinese detainees.

## APPENDIX 5

### Schedule of Improvements agreed to or made since Commencement of the Inquiry

- The women's wing is to be opened as soon as practicable.
- All staff are to be issued with name tags.
- Sleeping quarters are to be opened for two hours after lunch.
- Wider range of books and magazines, games, gym equipment, bookcases and card tables are to be made available.
- A calendar and wall clock is to be provided.
- A departmental welfare officer is to be appointed.
- An AFP inspector will conduct a weekly 'grievance hour' with detainees.
- A supervising officer from the Department will attend the Centre regularly to liaise with the AFP.
- A doctor is to attend as soon as possible after arrival of detainees. Requests for medical attention are to be recorded with details of action taken.
- Women in advanced stages of pregnancy will no longer be accommodated at the Centre.
- Information on the rules of the Centre, the rights of detainees and the reason for detention is to be made available to detainees in appropriate languages.
- Arrangements are to be made with Australia Post for the provision of a sealed mail bag.
- Fingerprinting of detainees is to cease, except in certain limited circumstances, e.g. suspicion that detainee has a criminal background.
- Mothers with babies and young children are to be placed in alternative accommodation wherever possible.
- Teenagers will, as a general rule, no longer be housed at the Centre.
- The shower in the reception area will be made more private.
- The male shower area in the Centre is to have greater privacy.
- Acceptance of gifts is to be on a more reasonable basis.
- Valuables and personal items, e.g. rings, watches, cosmetics, are to be allowed in the detention area.
- Sufficient writing material, including biros, is to be provided.
- Cameras in the family units in the women's wing are to be covered over.
- Detainees are to be allowed to dial their telephone numbers.

## APPENDIX 6

### Schedule of Submissions lodged with or Persons appearing before the Inquiry

Dr M. Ahmed

Australian Federal Police Captain Rudolph  
Dezelin Department of Immigration and Ethnic  
Affairs

Mr Mario Dumini

Ethnic Affairs Commission of New South Wales:

*Migration Act 1958—Conditions* under which persons are held at the Immi-  
gration Detention Centres

Ethnic Child Care Development Unit

Ethnic Communities' Council of New South Wales

Ms Anna Harrison

Interagency Migration Group:

Ms Judy Petruchenia

The provision of a regular welfare service at Villawood Detention Centre

Ms Betty Hounslow

Children in Villawood Detention Centre

Conditions at Villawood Detention Centre

Ms Suzanne Pierce

Treatment and welfare of suspected prohibited immigrants prior to detention

Mr John Bettens

The need to provide for a right to have a bail determination made in respect of  
prohibited immigrants and deportees and a procedure for implementation

J. Lockwood

Macquarie Legal Centre:

Mr Steven Mark

The need for legal services to immigration detainees

Mr Ahmed Rezai

Ms Judith Ryan

Mr W. J. Taggart

Mr Radenko Topic







