

# Human Rights and Equal Opportunity Commission

## *Summary of Observations following the Inspection of Mainland Immigration Detention Facilities 2007*

December 2007



## Summary of Observations following the Inspection of Mainland Immigration Detention Facilities 2007

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## **1 Introduction**

This report is a brief summary of the observations made by the Human Rights Commissioner and staff of the Human Rights and Equal Opportunity Commission (HREOC). These summary notes and recommendations are based on what we personally observed and heard from staff and detainees during our immigration detention facility inspections.

This report includes:

- an overview of observations and recommendations arising from the inspections.
- a description of the methodology for the inspections
- a series of general observations relevant across all the immigration detention facilities
- additional observations specific to individual immigration detention facilities.

HREOC has provided an opportunity to the Department of Immigration and Citizenship (DIAC), and the private contractors involved in detention centre services (GSL), to see an advance copy of this summary. They have also been provided an opportunity to respond to our observations and recommendations.

## **2 Overview of visits**

In HREOC's report on visits conducted during 2006, we commented on the improvement in approach and attitude of DIAC and GSL staff running immigration detention centres. In general, these improvements in attitude remain evident during our 2007 visits.

In particular, HREOC commends DIAC and GSL on substantial improvements made at the Northern Immigration Detention Centre (NIDC). Many of the problems raised by HREOC in 2006 had been corrected by the time of our visit in October 2007.

There have also been continuing efforts to improve the physical environment and roll out much-needed refurbishments and renovations in some centres.

In particular, refurbishments at Maribyrnong Immigration Detention Centre (MIDC) create a much brighter and more pleasant environment. The quality of

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accommodation at Sydney Immigration Residential Housing (SIRH) and the new Perth Immigration Residential Housing (PIRH) is also good.

HREOC is also pleased that the provision of internet facilities has been improved, with reasonable access for most detainees in detention, with the exception of NIDC. We hope that the roll-out of internet facilities continues, including in the Immigration Residential Housing (IRHs).

However, HREOC is greatly disappointed that there have been no improvements to Stage 1 of Villawood Immigration Detention Centre (VIDC). It remains the most prison-like of all facilities and it houses some of the most long-term detainees. In our previous report we recommended that Stage 1 be demolished. We reiterate that recommendation in this report.

In addition, HREOC is disappointed that the external excursions programs, which we praised highly at certain centres in our last report, have been scaled back at all facilities, both in numbers and variety. NIDC is the exception. While we acknowledge that NIDC currently holds a different detainee population to other facilities, it is clear that the external excursions program has greatly reduced tension within that centre and reduced health and mental health complaints among detainees. In contrast, the suspension of excursions in VIDC has led to substantial detainee unrest and distress.

HREOC also reiterates its view that detainees are still held in detention for too long. The IRHs, residence determinations and bridging visas should be used more readily to help alleviate the serious health and mental health issues which often arise from long term detention. It is especially concerning that detainees themselves seem unaware of their various options for placement under the Client Placement Model, and their rights to request residence determinations.

HREOC has identified a range of areas for improvement within each of the detention facilities. A comprehensive list of recommendations arising out of the 2007 inspections follows.

### 3 Recommendations

#### **Mandatory detention and alternatives to detention**

1. Australia's mandatory detention laws should be repealed. HREOC has made this recommendation, and proposed alternative models, in its previous report on visits, and in various inquiries into immigration detention.<sup>1</sup>

While detention *may* be acceptable for a *short period* in order to conduct security, identity and health checks, currently mandatory detention laws *require* detention for *more than these purposes*, for *unlimited periods of time* and *in the absence of independent review* of the need to detain.

HREOC believes that any decision to detain a person should be under the prompt scrutiny of the judicial system. Further, there should be outer limits on the periods for which immigration detention is permitted.

2. In the absence of repealing mandatory detention, there should be greater efforts to promptly (within three months) release or transfer people out of detention centres by:
  - a. resolving substantive visa decisions
  - b. releasing detainees on bridging or removal pending visas
  - c. transferring detainees to residence determinations
  - d. transferring detainees to places of alternative detention (in the event that (a) – (c) cannot be achieved).

#### **Immigration Residential Housing**

3. DIAC should increase the size and fully utilise the Sydney Immigration Residential Housing (SIRH) facility.
4. DIAC should fully utilise the Perth immigration Residential Housing (PIRH) facility.

#### **Residence Determinations**

5. DIAC should make greater efforts to arrange residence determinations for all people who are detained for three months or more, in the absence of specific concerns about a serious flight risk or serious character issues.
6. The Minister or DIAC should have discretion to vary the conditions of residence determinations so that detainees can engage in meaningful activities such as further education and training leading to occupational qualifications, and work, if appropriate.

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<sup>1</sup> See for example, Report of the National Inquiry into Children in Immigration Detention, *A last resort?*, (2004); Report of an inquiry into the detention of unauthorised arrivals, *Those who've come across the seas*, (1998).

### **Client placement model**

7. DIAC case managers should actively explore and discuss with each detainee the various bridging visa and alternative detention arrangements available to them (including residence determinations, alternative detention in the community and immigration residential housing options).

### **Children in detention**

8. Children with their families should only be detained in IRHs for a maximum period of four weeks. Unaccompanied children should only be detained in Immigration Residential Housing for a maximum period of two weeks.
9. In the event that they are detained for longer than three weeks, DIAC should arrange some educational activities for juveniles detained at Darwin motels.
10. DIAC should co-ordinate with the child welfare agencies over the care arrangements for unaccompanied minors in detention. Memoranda of Understanding (MOUs) should clarify the arrangements for the guardianship of unaccompanied minors. DIAC should ensure contact between an unaccompanied minor and the State welfare authority with responsibility for their welfare, whether in detention or released on a visa.

### **Mental health care**

11. DIAC should not send detainees from Stages 2 or 3 in Villawood Immigration Detention Centre, to the Stage 1 Suicide and Self-Harm (SASH) observation rooms. Wherever possible, SASH observations should take place in the detainee's immediate environments and close to medical staff.

### **Physical health care**

12. DIAC should update detainees regularly as to the status of any requests for specialist treatment and any reasons why a referral has or has not been approved.
13. DIAC should ensure prompt responses to recommendations made by doctors, especially where there are recommendations for external treatment.

### **Education and recreational activities**

14. DIAC should continue a regular and varied excursions program for all detainees in immigration detention facilities, including those in IRHs. Detainees on s501 visa cancellations should not be automatically barred from participating in excursions.
15. Perth Immigration Detention Centre and Maribyrnong Immigration Detention Centre should investigate the possibility of holding external soccer games for detainees who wish to participate. Villawood

Immigration Detention Centre should permit Stage 1 detainees to regularly utilise the Stage 3 soccer field.

16. DIAC should further upgrade gym facilities in Stage 1 Villawood Immigration Detention Centre, Maribyrnong Immigration Detention Centre and Perth Immigration Detention Centre. They should be enclosed to ensure privacy and accessibility in winter months.
17. DIAC should continue to expand access to computers and internet facilities, including in Northern Immigration Detention Centre and Sydney Immigration Residential Housing.
18. Villawood Immigration Detention Centre should explore options for detainee access to books. Options include: visits to a local library, visits by a local librarian and internet lending.
19. DIAC should cease the policy which prohibits detainees from enrolling in courses leading to a qualification. DIAC should allow long-term detainees to enrol in substantive education courses at TAFE and other institutions, irrespective of whether it leads to a qualification. Enrolment could be by correspondence. However, DIAC should also consider permitting detainees to attend certain classes in person.
20. DIAC should remove the cap on the number of points that can be earned in any month under the Purchasing Allowance Scheme (PAS). DIAC should consider a lay-by system for long term detainees so that detainees can buy larger items more gradually.

### **Food**

21. DIAC should explore alternative means of providing greater variety of meals, and autonomy in food choice. Some possibilities include activities kitchens (which were successful in Baxter IDC), cooking classes, special food nights and occasional take-away food.

### **Interpreters**

22. DIAC should, where possible, ensure the availability of permanent onsite interpreters when there is a large detainee population from a single language group. This is particularly relevant to Villawood Immigration Detention Centre with a large population of Mandarin-speaking detainees.
23. DIAC should ensure that all official documents, including documents and notices about the operation of the centres, are provided in the main languages of the detainee population. Detainees should be able to request assistance in translating personal documents.

**HREOC posters**

24. DIAC should ensure that HREOC posters are posted clearly in all communal areas within detention facilities (including the visitors area), in both language versions provided by HREOC.

**Infrastructure**

25. DIAC should demolish Stage 1, Villawood Immigration Detention Centre, and replace it with a new facility as a matter of priority.
26. Renovations at Perth Immigration Detention Centre should take place promptly. The centre should be closed temporarily while renovations are taking place. Detainees should be transferred to alternative arrangements and be fully informed of the process in advance.

## 4 Purpose of inspections

The purpose of inspecting immigration detention facilities is to monitor the conditions of immigration detention in Australia for compliance with internationally-recognised human rights obligations.

In addition to regular inspections of immigration detention facilities, HREOC undertakes a range of activities aimed at ensuring Australia meets its obligations to people in immigration detention. Information about these activities can be found on the HREOC website ([www.humanrights.gov.au](http://www.humanrights.gov.au)).

## 5 Methodology for inspections

### 5.1 Schedule of inspections

HREOC visited all Australian mainland detention facilities according to the following schedule:

Villawood Immigration Detention Centre (VIDC) & Sydney Immigration Residential Housing (SIRH)	13-15 August 2007
Maribyrnong Immigration Detention Centre (MIDC) (Melbourne)	4-5 September 2007
Perth Immigration Detention Centre (PIDC) & Perth Immigration Residential Housing (PIRH)	17-18 September 2007
Northern Immigration Detention Centre (NIDC) (Darwin)	8-9 October 2007
Brisbane Immigration Transit Accommodation (Brisbane ITA)	19 November 2007

Baxter IDC (in Port Augusta, SA) was closed prior to our scheduled visit there in August 2007.

In addition, HREOC visited six detainees who were, or who had been, in community detention (under residence determinations) in Adelaide, Melbourne, Perth and Sydney. These were

- one unaccompanied minor (Sydney)
- three families (Adelaide, Melbourne and Sydney)
- one single man (Perth)
- one single woman (Sydney).

The Human Rights Commissioner, Graeme Innes AM, visited all the centres and several of the detainees in community detention.

The Commissioner was accompanied by one or two staff members for all visits.

During the course of the visits there were two detainees on Christmas Island. HREOC did not visit the Christmas Island facility due to the small numbers of detainees. In the event that there are a significant number of detainees on Christmas Island in the future, HREOC will contact DIAC to arrange a visit to that facility.

HREOC did not visit the Offshore Processing Centre on the Pacific island of Nauru. Under the previous government's so-called 'Pacific Solution', unauthorised arrivals who arrive in Australia's 'excised territories' may be sent to the Offshore Processing Centre on Nauru and kept there while their claims for protection are assessed. In May 2007, the Human Rights Commissioner wrote to the former Minister for Immigration and Citizenship requesting assistance in facilitating a visit to Nauru's Offshore Processing Centre. The Minister declined to provide that assistance.

## **5.2 Program during visits**

Before each visit, DIAC provided relevant detainee statistics to help HREOC staff get a sense of the numbers and demographics of the detainees.

HREOC engaged in the following activities during each of the inspections:

1. Tour and general inspection of the detention facilities.
2. Interviews with relevant GSL and DIAC management staff.
3. Separate interviews with:
  - (a) Health care staff
  - (b) Mental health care staff
  - (c) Education and recreation staff
  - (d) Kitchen staff.
4. Lunch with detainees in the communal dining areas.
5. Discussions with members of the detainee representative committee (where there is one).
6. Individual interviews with any detainees wishing to speak to HREOC about their detention. (All detainees were informed in advance of HREOC's visit

and asked to indicate their interest in speaking to HREOC staff. In addition, HREOC staff approached detainees while touring the facilities.)

7. Inspection of documents relevant to the systems in place to ensure the appropriate treatment of detainees in the facilities.
8. Follow-up of any issues arising during the visits with GSL and DIAC management staff.

## **6 Staff attitudes**

In general, the improvement in staff attitudes, which we noted in the 2006 summary of observations, remained evident during our visits in 2007. DIAC and GSL staff appear open to requests, suggestions and concerns voiced by detainees.

During our visits, HREOC staff specifically asked detainees about their treatment by detention staff. While there were a few complaints about the attitudes of individual staff members, most detainees we spoke to had no complaint about their treatment by GSL and DIAC staff generally.

## **7 Length and uncertainty of detention periods**

Despite efforts to improve the environment inside immigration detention facilities, the fundamental problems with immigration detention has not changed for detainees – namely, the length of detention and the uncertainty about how much longer that detention will last.

Although alternative forms of detention are being utilised, the majority of detainees are still held in detention centres, some of them for years. For example, statistics provided to us by DIAC on 27 July 2007 show that of 231 immigration detainees at the VIDCC, 77 people had been in detention for over a year.

We met detainees who expressed extreme frustration and depression at the length of time they had been detained. It is inevitable that this fact, combined with uncertainty of an outcome, leads to mental health problems. As we mentioned in our 2006 summary of inspections, it does not take years for mental health problems to begin.

## **8 Alternatives to detention centres**

HREOC notes that there now exist a number of alternatives to detention in immigration detention centres. A small, but significant, number of detainees are

able to access these alternative forms of detention. Of these alternatives, HREOC was able to visit the IRH centres, one Immigration Transitional Accommodation facility, a small selection of people on Residence Determination arrangements, as well as some juveniles held in alternative detention arrangements.

## **8.1 Immigration Residential Housing**

IRHs (previously named Residential Housing Centres) aim to provide family-style housing where detainees can experience greater autonomy. Detainees can prepare and cook their own food and make shopping trips and other excursions under the supervision of the detention services provider.

There are two IRHs currently in operation:

- SIRH, which opened in 2006, continues to operate adjacent to the VIDC, in Sydney.
- PIRH, in the suburb of Redcliffe in Perth, opened early in 2007.

At the time of our visits, there were 21 people detained at SIRH (14 August 2007) and four people at PIRH (18 September 2007).

The IRH in Port Augusta, SA, closed in August 2007 (as did Baxter IDC). There are no IRH's in Melbourne, Darwin or Brisbane.

### **8.1.1 Sydney Immigration Residential Housing (SIRH)**

SIRH consists of five houses in a row, each split into two mirror-image homes. One side of the house has one double bedroom, storage area, bathroom and dining/living area. The other side has two bedrooms, a bathroom and dining/living area. The two sides share a common kitchen. They also share an outside 'garage' area where visitors are allowed to meet detainees. One house is accessible for people with disabilities.

The facilities are comfortable, although the common kitchen area is a little cramped. The houses face a long garden strip with a playground, newly planted trees and an open double garage with couches, TV, ping pong table and BBQ.

In principle, the facility can hold 40 people, although in order to accommodate different needs, there are usually fewer people there.

### **8.1.2 Perth Immigration Residential Housing (PIRH)**

PIRH consists of two separate houses, which share a common courtyard and garden area. Each house has five bedrooms, which can accommodate up to ten

people altogether, although much fewer detainees are usually accommodated there. The bedrooms surround two living areas and a very large kitchen/dining area. One house is accessible for people with disabilities.

The facilities are comfortable and bright, with an outlook onto the garden. The houses are situated in a regular suburban street, backing onto an open field.

### **8.1.3 Conditions in the Immigration Residential Housing**

The IRHs are undoubtedly softer detention environments than detention centres. Detainees we spoke to in the two IRHs were much happier in these facilities than the detention centres, due to the greater freedom, privacy and contact with outside community.

However, it is important to remember that the IRHs are still detention facilities. People are not free to come and go as they please, and must be accompanied by detention staff when they visit external sites.

HREOC observed the following issues specific to the two IRHs:

- The IRHs do not seem to be used to their full capacity.
- As almost all activities at the IRHs are external. Internal activities are limited, especially at SIRH. When external activities are restricted for operational reasons, or for reasons specific to certain detainees (as was the case with four detainees in the SIRH at the time of our visit), they are left with fewer activities than if they were in the detention centre (see section on excursions below).
- Internet facilities had not yet been fully rolled out in IRHs at the time of our visit.
- There are some difficulties accommodating men, women and families in shared or group houses. If an argument between detainees occurs, the size and arrangement of the IRHs may limit the flexibility of placing detainees apart from each other. This is particularly the case at PIRH, where there are only two houses.

*DIAC should increase the size and fully utilise the SIRH facility.*

*DIAC should fully utilise the PIRH facility.*

## **8.2 Immigration Transit Accommodation facilities**

The Immigration Transit Accommodation facilities (ITAs) aim to provide temporary accommodation to people who will be spending a short time in

detention or are a low security risk before they are transferred to other centres or returned home.

The Brisbane ITA at Pinkenba opened on 1 November 2007. HREOC inspected the ITA on 19 November 2007.

At the time of our visit there were no detainees in the facility. However, since its opening two weeks previously, 13 detainees had been detained at the ITA. These were all short term detainees, made up of airport arrivals, visa overstayers and a number of people whose visas had been cancelled under s501 of the *Migration Act 1958* (the Act), in transition to other facilities or due for imminent removal.

Detainees can only remain at the Brisbane ITA for an initial seven days, and a total of fourteen days maximum. Detainees who are s501 visa cancellations are not expected to stay longer than 24 hours maximum.

The Brisbane ITA consists of three accommodation blocks, each with five rooms (most with two beds) with ensuites, a kitchen/dining/living room and laundry facilities.

The centre is surrounded by a perimeter fence of low to medium height, similar to a pool fence, with infra red line alarm system. The facility is low-security. Only two GSL officers are regularly stationed day and night at the centre. Detainees receive key cards to access their bedrooms, with locked cupboards for their belongings.

Pre-prepared food is provided by GSL officers. There are large outdoor spaces including a new basketball court, DVDs and internet facilities. A nurse is currently on site three times a week.

In general, it appears the ITA is a satisfactory facility for transitional accommodation. HREOC will monitor detainee conditions at the ITA during the course of our routine inspections, when the ITAs have become fully operational.

ITAs are also planned for Melbourne and Adelaide. The ITA in Melbourne will accommodate up to 30 people and construction is due to be completed by the end of 2007.

### **8.3 Alternative detention**

Alternative detention (ALTDDET) includes people detained in private houses, hospitals, motels, correctional facilities, watch houses, apartments and foster care. Detainees in alternative detention must be supervised by a 'designated person'. DIAC statistics show that there were 21 people (16 men, four women and one child) in alternative detention as at 26 October 2007.

During the 2007 inspections, HREOC staff visited 12 Indonesian juveniles and one minder/adult detainee in alternative detention in Darwin. They are held at a Darwin motel during their short period of detention (see section below on Children).

#### **8.4 Residence determinations**

In June 2005, the Act was amended to give the Minister the power to make a 'residence determination' for individual detainees to be able to live in the community at specified locations.

As at 2 November 2007, 206 detainees have been granted residence determinations.

Often called 'community detention', residence determination arrangements were primarily conceived to remove children and families from the inappropriate detention environment. However, residence determinations can also be made for individual adults.

HREOC visited five people subject to residence determinations (three families with children and two individuals), and one unaccompanied minor who had been recently subject to a residence determination. HREOC also spoke to DIAC staff about the arrangements under residence determinations.

##### **8.4.1 Detainee conditions under residence determinations**

Detainees on residence determination are permitted to live unsupervised in the community. However, detainees are required to abide by a standard set of conditions. Generally they must live at a specified address and report to DIAC regularly. They cannot engage in paid work. These conditions may be modified by the Minister in each individual instance.

The Australian Red Cross (ARC) are contracted by DIAC to provide primary community and welfare support for people on residence determinations. This includes accommodation, schooling for children, child care arrangements, access to health care and linking them to English classes.

##### ***Accommodation***

ARC rents apartments or houses for detainees on behalf of DIAC. ARC attempts to situate the detainees in locations which are familiar or close to community contacts. While it is not easy to find the right accommodation, all detainees we spoke to seemed reasonably satisfied with their placement.

### ***Living allowance***

ARC also provides detainees with a living allowance, which is transferred automatically into a bank account for the detainee to access as needed. The detainees pay for basic living expenses such as food, electricity and phone bills, out of their living allowance. Detainees reported that the living allowance was satisfactory, although it was not sufficient for bigger purchases such as televisions. Most detainees had these bigger items donated by the ARC or friends.

ARC also assists detainees with any of the basic essentials they may need, such as furniture and kitchen equipment.

### ***Health services***

Detainees were satisfied with their access to physical and mental health services. Detainees do not have access to Medicare. However, their medical expenses are paid for by ARC. In one case ARC helped to arrange medical requirements necessary for the birth of a child. In another case, ARC arranged for counselling.

## **8.4.2 Benefits of residence determinations**

In general, detainees on residence determinations we spoke to were happy with their living arrangements. They also reported that ARC staff were helpful and looked after their needs.

All detainees we spoke to said that residence determinations were significantly better than being detained in IDCs or IRHs. Most important was the opportunity to engage in community life, the ability to provide a normal living environment for their children, and the privacy and freedom from supervision.

Children in particular benefit from the freedom of community detention. They are able to attend school and engage in community life along with their parents. Although it appears that children, like their parents, cannot travel and cannot have other children stay at their houses without DIAC permission, in most other respects they are able to lead a normal life.

HREOC believes that if a person must remain in detention, then residence determinations are the best of the alternative detention arrangements. This is because residence determinations offer freedom to engage in the community and provide relative autonomy to the individuals in question.

*HREOC reiterates the comments we made about residence determinations in the 2006 summary of observations. We urge DIAC to make greater efforts to arrange residence determinations for all people who are detained for three months or more. The only qualification to this recommendation may be where the person is a demonstrated high security or public health risk.*

### **8.4.3 Some concerns raised by detainees on residence determination**

Despite the general satisfaction among detainees we spoke to with the conditions of residence determinations, there were some common issues raised:

- Several detainees said they would like to be able to work to support the family themselves, and to be able to engage in meaningful activities. Detainees who are already trained wish to utilise their skills.
- Several detainees also expressed a desire to study for a qualification in order to prepare for the future. At present detainees on residence determinations can attend English classes and community education classes, but are not permitted to study for a qualification. Considering some detainees have been on residence determinations for several years, it would be a valuable use of time to study for a qualification, or a module leading to a qualification, while awaiting a decision on their applications.
- Despite general satisfaction with the conditions under residence determination, detainees expressed anxiety and depression about their uncertain future, especially parents. This caused sleeplessness. In several cases individuals were accessing mental health services.

*HREOC recommends that the Minister or DIAC have discretion to vary the conditions of residence determinations so that detainees can engage in meaningful activities such as further education and training leading to occupational qualifications, and work, if appropriate.*

### **8.4.4 Eligibility criteria for residence determinations**

The eligibility criteria for referral to the Minister for residence determinations are specified under draft Guidelines on the Minister's Detention Intervention Powers (Sections 197AB and 195A of the Act). HREOC commented on a draft of these Guidelines in March 2006. The Draft Guidelines are still awaiting finalisation. In the meantime, the Draft Guidelines guide DIAC's assessment of individual cases for referral to the Minister.

The Draft Guidelines specify circumstances which a detainee may be referred to the Minister for residence determination. These are:

- minor children and their families
- unaccompanied minors

- an adult with special needs that cannot be cared for in detention
- an adult with unique and exceptional circumstances such that failure to recognise them would result in hardship and harm to an Australian citizen or Australian family unit
- torture and trauma background.

However, the majority of people who have received residence determinations have been families with children and unaccompanied minors. As at 31 October 2007, there were 48 people living in the community on residence determinations, of which 21 were children with their families and five were unaccompanied minors.

Smaller numbers of single adults have been referred for residence determination for special needs, torture and trauma issues or exceptional circumstances.

During the visits, HREOC met many adult detainees who would benefit greatly from a residence determination. In some cases this may have helped prevent an escalation of mental health problems.

Given that the public interest principle is guiding the exercise of the Minister's discretion in these cases, HREOC thinks that these criteria unduly restrict the ability of DIAC to refer adults for residence determination. It is unclear why the circumstances for the exercise of the discretion need to be 'unique' or 'exceptional circumstances'.

## **9 Client Placement Model**

Since HREOC's visits in 2006, DIAC has trialled a Client Placement Model throughout immigration detention.

The Client Placement Model allows detainees to be assessed at entry point, and throughout their detention, for placement in an appropriate detention setting. That is, whether to place them in a particular detention centre, an ITA, an IRH, alternative detention or refer them for residence determination. The initial placement form includes questions on a range of factors such as mental and physical health, community support, immigration pathway, criminal background and family contacts. These are taken into account in assessing the risk of each detainee and the appropriate placement. Client placement also takes into account operational requirements.

At VIDC we were told that an initial detainee placement should be reviewed within 48 hours. Following this initial assessment there is also review within a week, and then quarterly unless there is a 'trigger'. A 'trigger' can come from a

variety of sources; for example, the detainee, GSL, detention officers or health services.

We were informed that placements or transfers do not happen against a detainee's wish unless the placement is a result of security concerns or when a detainee is moved from the community into the IDC.

At VIDC we were also told that there has been no general education of detainees about the Client Placement Model because it is still in trial form.

However, HREOC observed that some detainees were unaware of the various client placement options.

*HREOC urges DIAC to ensure that DIAC case managers actively explore and discuss with each detainee the various alternative detention arrangements available to them (including residence determinations, alternative detention in the community and immigration residential housing).*

Although in trial stage, staff informed HREOC that the Client Placement Model works well and ensures that a range of factors are considered in the placement of a detainee, and in reviews of detainee placements.

HREOC expects to have an opportunity to examine the Client Placement Model more closely when it is fully operational.

## **10 Children in detention**

Following amendments to the Act in 2005, families and children were released from immigration detention facilities, either on bridging visas or on residence determinations. HREOC welcomed these amendments, which have allowed most families with children in detention to be accommodated within the community.

However, it should be noted that children and their families are still detained in the IRHs and in alternative detention for varying periods of time. Further, children and families on residence determinations are still in immigration detention as defined under the Act, and must meet any conditions of their particular residence determination. The power to make a residence determination for a child and their family lies with the Minister only.

### **10.1 Length of time in IRHs**

HREOC spoke to several families with children who had been in detention in an IRH. While in some cases there appears to have been speedy action to release a child into community detention, or onto a visa, there are still cases where a child may spend several months in detention in an IRH.

For example, in one case a family with a small child, who had previously been living in the community without visas, was detained in an IRH for two months before they were given a residence determination. The father told us that he had been concerned about the effect of the detention on his daughter, who was distressed at being surrounded by strangers. His wife was also pregnant.

*HREOC recommends that children should only be detained in IRHs for a maximum period of four weeks. Unaccompanied children should only be detained in an IRH for a maximum period of two weeks.*

## **10.2 Detention of juveniles at the Northern Immigration Detention Centre**

In our 2006 summary of observations we noted problems with the detention arrangements in Darwin for Indonesian juveniles found on illegal fishing boats.

These problems included:

- exposure to the adult detention centre environment at the NIDC
- lack of child welfare qualifications of carers or minders
- lack of education or recreational activities for children.

We recommended a number of changes to accommodate these children better during their period of detention in Darwin.

We are pleased to report that many of these recommendations appear to have been implemented by the time of our visit on 8-9 October 2007.

### **10.2.1 Accommodation for juveniles**

At the time of our 2006 visit, juveniles were accommodated at a Darwin motel at night time, but otherwise spent all their meals and waking hours inside the detention centre without any special programs or services.

HREOC recommended that DIAC establish alternative places of detention for the juveniles, in the community, and provide them with special services.

In 2007, DIAC continues to use a motel for detaining juveniles found on illegal fishing boats. However, juvenile detainees are now kept at the motel throughout the day as well as the night, and are provided with special activities on and off-site. Nine motel rooms are booked by DIAC on a permanent basis. The rooms are in a corner of the motel and there is an outdoor area available for them all to sit. They have rearranged the rooms so that there are four single beds to a motel room. Generally, juveniles from the same crew stay in the same room together.

One of the motel rooms has been converted into a recreation room with a TV, Xbox, games etc (ie no beds). A second motel room has been converted into an officer's station.

There is also a pool at the motel which they can use under supervision.

All food is delivered from the NIDC and eaten at the motel.

## **10.2.2 Child welfare-qualified carers**

In 2006 we noted that there was no one on-site at the NIDC with child welfare qualifications, which is of concern when a number of juveniles arrive without parents or family members.

At that time we were told that juveniles were appointed adult 'minders' amongst the detainees, based on relationships that they already have with crew members on the fishing boat. These 'minders' were to stay with juveniles at a Darwin motel. However, without an officer or staff member with special training in child welfare, we were concerned about the proper safeguards for children to be cared for in the detention environment.

However, since 2006, NIDC have made efforts to provide appropriate supervision for the juveniles.

Firstly, as discussed above, juveniles are no longer spending periods in the day at the detention centre.

Secondly, a Youth Officer with child welfare experience and qualifications is employed at the motel five days a week (9am-5pm), and occasionally on weekends, to arrange activities.

Further, NIDC have developed internal guidelines for conducting a Minor and Minder Identity Interview (CS4.00: Minor and Minder Identity Interview). This interview is to determine whether a 'minder' nominated by Customs is the appropriate person to continue to be the minder of a minor while in detention at the motel.

HREOC hopes these guidelines assist NIDC appoint a suitable 'minder' for a juvenile. However, the guidelines do not make it clear who conducts the interviews of minders and minors. HREOC suggests that those with child welfare or child psychology experience may be best experienced to undertake these interviews.

HREOC also notes that there still does not appear to be any coordination with the Northern Territory child welfare agency for unaccompanied children.

### **10.2.3 Recreation and education**

HREOC is pleased that since our last visit to the NIDC, DIAC and GSL have organised a full activities schedule for the juveniles. The young people can go out, voluntarily, at least once a day on some type of excursion or activity. These are arranged for juveniles only. Each Wednesday the excursions overlap with adult detainee activities, so as to provide opportunities for young people to meet with other crew members outside the centre.

External excursions include beach sports, beach walking, Botanic Gardens, bush walking, city bus tours, Crocodylus Park, Indoor Soccer, kite flying, mini golf, Museum and ten-pin bowling, among others.

Recreational activities on-site include art equipment, board games, craft items, DVDs, playstations and playstation games and the use of sports equipment. The Youth Officer has just obtained his Bronze Medallion, which means that he can also supervise the juveniles in the motel swimming pool.

DIAC informs us that the focus of activities at the NIDC, including the motel, is on sports and recreational activities rather than educational activities, as removal of Indonesian fisher people is sought as soon as practicable.

*HREOC recommends that, in the event that they are detained for longer than three weeks, DIAC should arrange some educational activities for juveniles detained at Darwin motels.*

### **10.3 Care of unaccompanied minors**

During our inspections, HREOC staff spoke to one unaccompanied minor in Sydney who had recently been released from community detention onto a Temporary Protection Visa (TPV).

This juvenile was released into the community on a residence determination within two weeks of his arrival, following two weeks detained in an IRH.

HREOC commends DIAC for his quick release into community detention.

However, we are concerned that at the time of our meeting, the unaccompanied minor was unaware of any contact with state child welfare agencies, either prior to his release, or following his release onto a Temporary Protection Visa. This was of particular concern as he had decided to move to WA with very limited English and few contacts in Perth. We later heard that contact was made.

HREOC considers that there needs to be better coordination and clarification of the roles and responsibilities of DIAC and state child welfare authorities for unaccompanied minors in community or alternative detention. The role of state

welfare agencies needs to be clarified, and communicated effectively to the minors and their advocates.

HREOC notes the existence of Memoranda of Understanding (MOUs) with South Australian and Western Australian welfare agencies, covering guardianship responsibilities for unaccompanied minors in detention. However, a smaller number of unaccompanied minors have also been placed into alternative detention in NSW, Victoria and NT. There do not seem to be any other completed formalised arrangements for guardianship and care of unaccompanied minors in other states. Further, HREOC is unsure whether residence determinations are covered under the SA MOU, which was drafted prior to their introduction in 2005.

*If children are unaccompanied, then DIAC should co-ordinate with the child welfare agencies over the care arrangements for unaccompanied minors in detention. Memoranda of Understanding (MOUs) should clarify the arrangements for the guardianship of unaccompanied minors. DIAC should ensure contact between an unaccompanied minor and the State welfare authority with responsibility for their welfare, whether in detention or released on a visa.*

## **11 Mental health care**

Mental health services for detainees are provided by a private company, Professional Support Services (PSS).

Overall, the provision of mental health services in detention centres appears to have improved over the past few years.

In particular, mental health staff reported as follows:

- The newly introduced system of routine mental health assessments has greatly improved the capacity of mental health services to identify and treat mental illness (although these are not conducted on detainees at NIDC nor at Brisbane ITA to date).
- Mental health staff recommendations or referrals are generally treated seriously by DIAC staff.

However, the problems of long term detention continue to have an impact on the mental health of detainees. It is still not possible to properly treat the mental health problems suffered by most immigration detainees. This is because the main way to treat a mental health concern is to remove the primary cause of the problem. In the case of immigration detainees, detention and uncertainty are amongst the main causes and they cannot usually be addressed by the mental health professionals.

*It is for this reason that HREOC recommends the repeal of Australia's mandatory detention laws. HREOC has made this recommendation, and proposed alternative models, in its previous report on visits, and in various inquiries into immigration detention.<sup>2</sup>*

*While detention may be acceptable for a short period in order to conduct security, identity and health checks, currently mandatory detention laws require detention for more than these purposes, for unlimited periods of time and in the absence of independent review of the need to detain.*

*HREOC believes that any decision to detain a person should be under the prompt scrutiny of the judicial system. Further, there should be outer limits on the periods for which immigration detention is permitted.*

*In the absence of repealing mandatory detention, there should be greater efforts to promptly (within three months) release or transfer people out of detention centres by:*

- a. resolving substantive visa decisions*
- b. releasing detainees on bridging or removal pending visas*
- c. transferring detainees to residence determinations*
- d. transferring detainees to places of alternative detention (in the event that (a) – (c) cannot be achieved).*

There are also some specific concerns related to mental health care outlined in the following sections.

### **11.1 SASH observation areas**

The SASH system, which we discussed in our 2006 observations, is still in operation at all the centres in 2007. The SASH system provides a close monitoring mechanism for people at risk of self-harm or suicide.

Under the SASH system, those detainees at great risk are observed by detention officers constantly while those at less risk are monitored less closely. The detention officers on 'SASH-watch' must fill out log sheets which report their observations of the detainees at specific time periods. Those logs are used by mental health teams to assess the need for therapeutic intervention. The mental health services also train detention officers in how to conduct SASH observations.

While the method of implementing SASH observations – especially for high risk detainees – differs by centre, in general those who are deemed in need of constant observation (maintaining visual contact with the detainee) are

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<sup>2</sup> See for example, Report of the National Inquiry into Children in Immigration Detention, *A last resort?*, (2004); Report of an inquiry into the detention of unauthorised arrivals, *Those who've come across the seas*, (1998).

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transferred into observation rooms or specialised units for that purpose. The 'observation' areas differ by centre.

At MIDC, there are two private observation rooms in Zone C, with access to a private courtyard and a small day room, so that detainees can move out of the rooms. We were told that the rooms have been used about six times in the past 12 months, for management purposes as well as for constant SASH watch.

At PIDC, there are three rooms that can operate as observation rooms. One is a 'hard' observation room with less risk of self-harm, and another two are with softer furnishings. One of these softer observation rooms is adjacent to, and can be viewed from the medical offices. We were told that only two detainees had been placed in the observation rooms in the past nine months.

At NIDC, people on constant SASH observation are kept in a separate smaller compound where detainees can walk around freely but are observed by cameras. The rooms are furnished without hanging points. We were told that the last time this compound was used for SASH was in April 2007.

At VIDC, detainees in need of constant observation are held in the four observation rooms in Stage 1. There are no observation rooms in Stage 2 or 3, which means that detainees must be moved to Stage 1 for constant observation.

HREOC is concerned with this practice of transferring detainees to Stage 1 for observation. We were told that as Stage 1 is a completely separate and secure facility, where 'high risk' detainees are held, detainees view the move as punitive. This may discourage referrals for SASH among detainees and staff.

Furthermore, the medical staff are situated in Stage 2/3, and are therefore not able to supervise observation in Stage 1 as closely. It also means that officers who are not familiar with a detainee's usual presentation are conducting the SASH observations.

HREOC reiterates its comments made at the time of the 2006 visit: Stage 1, VIDC, is not an appropriate place to put detainees with serious mental health risk.

*DIAC should not send detainees from Stages 2 or 3 (VIDC), to the Stage 1 SASH observation rooms. Wherever possible, SASH observations should take place in the detainee's immediate environments and close to medical staff.*

We were also informed that the SASH Protocol is currently under review, as recommended by the Detention Health Advisory Group. DIAC has contracted Monash University Forensic Care to conduct the review, which is expected to be completed by December 2007.

HREOC awaits the results of this review with interest.

## **11.2      *Mental health referrals***

In general, mental health staff reported that their referrals to external mental health facilities and services are taken seriously by DIAC. For example, two detainees from MIDC were referred to a mental health hospital in Toowong, Queensland on the recommendation of mental health staff. On the other hand, several detainees told HREOC that they had been waiting for an extended period of time for a referral to be acted on.

HREOC urges DIAC centre executives to continue to treat seriously recommendations and referrals by both internal and external mental health practitioners. We also urge that referrals for mental health assessment and treatment to be acted on as quickly as possible.

## **12      *Physical health care***

Physical health services at all immigration detention centres are contracted out to International Health Medical Services (IHMS). All of the detention centres have a IHMS nurse on-site Monday-Friday, with on-site access to GPs at certain clinic times. Hence, detainees appear able to see a nurse on the day that they have a complaint, but may have to wait several days to see a doctor unless it is an emergency. For emergencies, detainees are taken to external hospitals.

Detainees are taken by detention service officers to see external specialists, for example dentists, optometrists and physiotherapists.

HREOC heard some complaints from detainees about delays in accessing external specialist health services. For example, a detainee told us he had been waiting for an eye operation for months. HREOC acknowledges that detainees may have to wait for non-urgent medical appointments, as do others in the community. However, as detainees do not have the ability to seek out their own medical services, delays can be especially frustrating. Detainees also told HREOC that they wanted to know what stage their request was up to.

Since the introduction of Detention Health, a centralised unit within DIAC for dealing with health issues in detention, there appears to be better coordination of the approval process for specialist medical services for detainees. However, some detainees still seemed unsure of the reason for the delay in accessing specialist medical services in their case.

In the case of PIRH and SIRH, all health services are provided by external physicians. It appears that this process operates smoothly. However, detainees may still experience delays in getting approval for referrals to a specialist facility.

*HREOC recommends that DIAC should update detainees regularly as to the status of any requests for specialist treatment and any reasons why a referral has or has not been approved.*

*DIAC should ensure prompt responses to recommendations made by doctors, especially where there are recommendations for external treatment.*

## **13 Recreational activities**

In 2006, HREOC congratulated DIAC and GSL for improving their recreational programs, with the exception of NIDC.

In 2007, we are pleased to find noticeable improvements at the NIDC, and some improvements in terms of internal activities and infrastructure at other centres.

However, we are greatly disappointed that external excursions programs have been extensively cut back in specific centres due to security concerns, where these activities had been successfully developed over the previous year.

### **13.1 Excursions**

The opportunity to experience activities in the general community is very important for the mental health and general well-being of detainees, especially those who may be detained for long periods of time.

HREOC has commended the gradual introduction of excursions in all centres over the past several years.

In addition to group excursions, several centres introduced individual excursions in 2006. These excursions entail a specific site-visit for individuals in detention, for example in order to visit a sick family member or attend a family event, under GSL guard and supervision. These were utilised in 2006-07 by MIDC and VIDC.

However, in July 2007 DIAC introduced new procedures to consider requests for excursions and to organise and conduct such excursions. HREOC was told that some detainees had earlier escaped from detention while on an individual excursion.

The new procedures required each detainee to individually request permission from DIAC to participate in an excursion. After another escape by a high risk detainee, all excursions were suspended pending the introduction of new procedures.

Revised procedures state that excursions by high risk detainees are approved only in exceptional circumstances. It appears that detainees whose visas have

been cancelled under s501 of the Act (usually those with a criminal record) are automatically determined to be a high flight risk. This means that they have been refused permission to participate in individual and group excursions.

In addition to the new DIAC procedures, GSL has issued a new directive which specifies a greater ratio of staff to detainees on excursions. Due to the new GSL and DIAC procedures, activities officers find that they must plan in advance more than previously.

In addition to the effect on high risk detainees, the new procedures seem to have impacted on the excursions programs for the general detainee population at several centres, resulting in a reduction, or a suspension, of excursions.

HREOC detected confusion and concern among detainees over the new procedures. Several detainees told us that they did not understand why excursions had stopped, or that they were confused as to why they had been prohibited from participating when others are able to go.

### **13.1.1 Maribyrnong and Perth**

Prior to the introduction of the new procedures, both MIDC and PIDC had developed substantial excursions programs.

At MIDC, detainee excursions have included visits to the zoo, aquarium and the beach. MIDC has also been open to requests from detainees for particular group excursions.

However, several detainees informed us that the excursions program was suspended a few months prior to our visit, evidently due to the introduction of the new procedures.

Detainees with high risk assessments are now unable to participate in excursions unless there are exceptional circumstances. During 2007, two detainees – both s501 visa cancellations – had been going on excursions to visit family. These visits stopped with the introduction of the new procedures. However, at the time of our visit, MIDC were making a request for a detainee to continue visiting his 15 year old son on the basis of exceptional circumstances.

In response to our comments about detainee confusion and concern, MIDC has since distributed a factsheet to some detainees regarding excursions. They have also been trying to facilitate visits to MIDC of families of high risk detainees.

At PIDC the excursions program was expanding in variety and frequency, until the recently introduced new procedures. According to the PIDC excursions program, external excursions were available every day, depending on the

number of detainees who wished to participate. Excursions until recently have included picnics in Kings Park, sport, fishing, Fremantle and maritime museums.

Unfortunately, since an escape from detention, and the introduction of the new procedures, the excursions have been limited to visits to the library and to the local gym (which includes a swimming pool) for one hour, and visits to the Church of Christ services, Hindu temple and the Mosque. However, high risk clients are prohibited even from these visits. This affected the two s501 detainees at PIDC at the time of our visit, although PIDC was in the process of requesting permission for one detainee to continue accessing external visits due to exceptional circumstances.

Detainees at PIDC have never been permitted home visits. Instead, family members were invited along on external excursions, for example picnics in Kings Park. However, these have not been arranged since the new procedures.

As a result of these changes, the activities officers at PIDC have been trying to improve the availability of in-house activities.

Detainees at the PIRH are able to participate in excursions. These do not seem to have been suspended during the change in procedures. These activities include shopping visits, visits to the gym and swimming pool, walks to Redcliffe Park and on Saturday they usually see a movie. Detainees can also attend a church two nights a week and a trip to a mosque each Friday.

### **13.1.2 Villawood**

In our 2006 summary of observations, HREOC noted that VIDC did not cater for the same level of external activities as other centres. This was disappointing as it has the highest detainee population and houses most of the long term detainees.

Since this visit, and up until recently, VIDC had begun to conduct a few more excursions. For example, last summer GSL organised swimming trips and bowling, which were available for all Stages of VIDC. VIDC had also permitted a number of individual home visits for individual detainees with family ties.

However, following several escapes, excursions from VIDC were suspended pending the introduction of new procedures. At the time of our visit, a request for a bowling excursion by GSL had yet to be approved.

Further, excursions from the SIRH were suspended for several weeks at the time of our visit. Detainees in SIRH are usually able to participate in shopping trips, external English classes and a range of external activities (such as a BBQ at Bundeena). They are also entitled to request excursions, for example, to the library.

The suspension of excursions had a significant impact on detainees at the SIRH. There are a limited number of internal activities offered at the SIRH itself and detainees cannot access the internal activities program offered in the adjoining VIDC, such as the library or gym. This was causing anger and distress among SIRH detainees, who felt that they were being punished for the acts of high risk detainees.

This situation was resolved shortly after our visit, when external excursions for detainees in the SIRH were re-instated.

The suspension of excursions was also causing some distress among detainees in the VIDC at the time of our visit. For example, in one case, a man was informed that his girlfriend had been injured in a car accident but his request to visit her in hospital was refused. For several days the man in question threatened to kill himself. Others also joined him in protesting at the cancellation of visits to family.

*DIAC should continue a regular and varied excursions program for all detainees, including those in IRHs. Detainees on s501 visa cancellations should not be automatically barred from participating in excursions.*

### **13.1.3 Northern Immigration Detention Centre**

In our previous summary of observations, we noted that NIDC did not have a dedicated activities officer and had very limited excursions.

We are pleased that the NIDC in 2007 has greatly improved the program of external activities.

A dedicated Activities officer has been appointed at the NIDC. A Youth Officer for juveniles has also been appointed.

All staff, including health and mental health staff, commented on the positive impact of increased excursions. Detainees were happier, as were staff. There were fewer presentations to the health and mental health clinics and fewer outbursts of frustration by detainees. This translated into fewer costs for repairs and security.

At the time of our visit, detainees could go out of the centre at least once a week and usually more often if they want to. Visits take place to the beach, indoor soccer and volleyball games, Botanic gardens, museum, bush walking and off-site BBQs, among others. Off site activities are offered daily for minors, with some joint activities being organised with adults so they can spend time with their minder and crew (see above).

While the new excursions procedure has impacted on other centres, it has had limited impact at the NIDC. We were told that it has been a very rare occasion

that a person has been denied access to an excursion because of a risk assessment – their preferred approach is to put on an extra officer to supervise a person.

### **13.2 Internal activities**

In addition to external excursions, it is important to develop activities within the centres, to help detainees pass the day. HREOC noted that all centres made some efforts to improve these activities. Given the suspension of some external activities, internal activities become even more important.

#### **13.2.1 Maribyrnong, Perth and Villawood**

All centres employ dedicated activities officers to arrange structured programs internally. We were told that the programs are discussed with detainees, who offer suggestions.

All three centres have a range of structured activities which include

- sporting competitions (soccer, football, volleyball, table tennis, badminton)
- pool competitions
- games nights (board games)
- movie nights
- karaoke
- gyms
- music/disco nights
- social BBQs.

Some centres have extra organised activities such as art classes and art activities (VIDC – Stage 2/3 and MIDC) and yoga, craft and cooking classes (MIDC).

Special events are also organised from time to time, which are opportunities to include people from the external community. For example, VIDC informed us it was organising a 'Big Day In' with DIAC staff, GSL staff and detainees from each Stage, as well as friends, family and community groups. The planned activities included an inter-stage soccer game.

#### **Soccer games**

HREOC notes that infrastructure can limit the possibilities for sporting activities. For example, although detainees are often interested in soccer games, at PIDC and MIDC soccer games are not organised. PIDC is a small centre. Both its outdoor areas are smaller paved areas, unsuitable for soccer or football games. At MIDC, there is a larger outdoor area which could accommodate soccer

games. However, the area set aside for such activities is covered with a hard surface. It is also not a full sized soccer pitch.

HREOC commends VIDC for its recently completed soccer field in Stage 3 where detainees can participate in regular soccer games. However, it is unclear how regularly Stage 1 detainees participate in these games. The inter-Stage soccer game mentioned above is the first inter-stage event held at VIDC. Stage 1 has two outdoor areas, but neither one is suitable for a soccer game. Detainees in Stage 1 complained to HREOC about playing soccer in a tiny area, with fixed outdoor furniture obstructing the game.

In contrast, NIDC has organised regular soccer games for detainees at an external site – the East Timorese Club.

*HREOC recommends that PIDC and MIDC investigate the possibility of holding external soccer games for detainees who wish to participate. HREOC also recommends that VIDC permits Stage 1 detainees to regularly utilise the Stage 3 soccer field.*

### **Gym access**

There have also been improvements in access to gyms, which are popular with some detainees, both men and women.

MIDC has several gym areas with new equipment throughout the centre. However, as some of these are not enclosed (for example, the gym in the women's area is situated in the courtyard), detainees may be discouraged from using them. MIDC has plans to enclose the gym areas.

Similarly, the gym area in PIDC has a small range of new equipment. However, as it is open to the outside, and visible from the second outdoor area, usage may be discouraged. Refurbishment plans at PIDC will improve this. On the other hand, detainees (with the exception of high risk detainees) are able to visit an external gym on most days of the week.

The newly completed gym at Stage 3 VIDC is large and well-equipped. It also opens out onto a café area where detainees can socialise and make themselves tea and coffee. Outside heaters are provided for wintertime.

VIDC is to be congratulated for introducing this gym and recreation area, which is reportedly well-used. The gym is closed during lunch and dinner and is available to detainees from Stages 2 and 3 at different times of the day. The gym is available to women only from 1pm – 2pm. However, the gym is not open to Stage 1. In contrast, Stage 1 gym equipment is limited and the areas are exposed.

*HREOC encourages further upgrades of gym facilities in Stage 1 VIDC and PIDC. They should be enclosed to ensure privacy, and accessibility in winter months.*

### **13.2.2 Northern Immigration Detention Centre**

There has been an improvement in structured activities offered by NIDC since HREOC's last visit in 2006.

As mentioned above, a dedicated activities officer has been appointed. There is an external and internal activities program which is devised in consultation with detainees.

Internal activities include arts and crafts, badminton, volleyball, Bingo and board games, gym, karaoke and gardening. Indonesian Independence Day was celebrated with a day of events and activities and an evening meal.

There is an outdoor area with an undercover concrete table tennis table, sand/beach volley ball court, open area and a Christian prayer room at the back. The original intention was that there be a soccer field at the back but the land is not level and floods during the rainy season. Detainees are now taken outside the centre to use the old field of the East Timorese club to play soccer.

There is also brand new gym equipment which can be used any time that staff are on duty. Otherwise people can use the pool table, table tennis, Xbox and air hockey table. Guitars are also available.

*HREOC is pleased to see an improvement in the activities offered to detainees at NIDC.*

### **13.2.3 TV, computers, newspapers, books and other unstructured recreation**

#### **TV and DVD**

All the centres and the IRHs have access to communal televisions and DVDs throughout the facilities. DVDs are rented from video libraries, or provided by GSL.

At PIDC there are large plasma television screens with Foxtel and DVDs in the recreation room and the Multi-purpose room. There is also a TV and DVD in Area 2 Recreation Room (where women are housed separately). The centre rents DVDs from the Video Ezy. Currently, if a detainee is low risk it is possible to visit the shop to choose a DVD.

At MIDC, there are a number of TVs and DVDs throughout the centre in each recreation room, and in the family rooms. GSL Officers have a set of DVDs which detainees can borrow.

VIDC has TVs in each of the Stages. In Stage 1, there are two rooms dedicated to TVs. One room, with six chairs, was in use by a group of detainees at the time of the visit. The second room, with DVD player, is uninviting, with a series of chairs bolted to the floor. Detainees request DVDs from a collection held by GSL officers. In Stage 2, there is also a dedicated TV room, with five plastic chairs, although this is for free to air TV only. In Stage 2/3 recreation area there is a separate room with a flat screen TV and DVD player on the wall, fixed chairs and a locked cupboard which contains the DVDs. Access to the DVDs is on request.

Each of the living areas in the PIRH and SIRH has their own TVs and DVD players. Detainees can rent DVDs themselves.

NIDC North Compound has Indonesian satellite TV and free to air TV. South Compound receives free to air TV. There are DVD players in the compounds with Indonesian movies available.

### **Computers and internet**

All the centres, with the exception of NIDC, now provide detainees with access to computers and the internet. These are also planned for NIDC as part of a general roll out of internet at all facilities.

Use of the internet includes email access. Pornography and sex sites are blocked, as are sites for purchasing goods.

In all centres, the use of the internet is governed by Smart cards, which are given out to each detainee. The amount of access on each card varies by centre.

At PIDC, there are three computers, all with internet access, situated in the education room. The education room is always open. Each detainee automatically gets two hours of internet access every four hours on their card, and can even buy more with PAS points. The internet is very popular and well-used. However, the only problem is the location in the education room, which is also used for English classes. This means one activity interferes with the other. As part of its planned refurbishments, PIDC intends to create a dedicated education room.

The PIRH had two computers with internet access in the common area. DIAC were considering moving these into each of the residences for greater privacy and access.

At MIDC, detainees have full internet access at several computers in the Centre: in the Visitors centre, women's recreation room, men's recreation rooms and education rooms. Upon arrival, detainees are also given a USB stick and headphones. Smart cards give them an hour of internet access a day, with no limits on when they can use it. They can print off for free.

At VIDC, computers and internet are available in the recreational centre of Stage 2/3 and in Stage 1 recreational room. In the Stage 2/3 recreational area, there is a dedicated room for internet access with four computer terminals. In Stage One, there are four computers in a room adjacent to the television room. However, not all the computers have internet access. Each detainee at VIDC is given a 'Global Gossip' internet card with a pin number, entitling them to one hour of internet time per day (although they can apply for extra hours). Detainees are also provided with USBs. When they leave the centre their 'Global Gossip' card is cancelled. GSL at VIDC informed us that the number of internet terminals in VIDC will be increased to 16.

SIRH had four computers in the education room accessible to all detainees, but did not yet have the internet installed. Detainees raised with us the lack of internet access. We were informed that this was to take place shortly.

HREOC commends DIAC for the roll-out of the internet facilities in immigration detention. Access to the internet and email provides detainees with opportunities for entertainment, access to essential information and effective communication with the outside world.

*HREOC encourages DIAC to continue to expand access to computers and internet facilities, including at NIDC and SIRH.*

### **Books and Newspapers**

All centres provide some foreign language newspapers. Internet access has also improved access to foreign news.

At PIDC, external excursions include visits to the local library. The local library also allows book lending through the internet. There are a variety of books in other languages. There are very few books in the centre, or in the education room, although there are bookshelves in the new Multi-Purpose Room.

At MIDC, a local librarian visits with a box of books, about 8-10 books in different languages. The librarian also tries to accommodate requests. When the library visits, there is an opportunity to share coffee and biscuits.

At VIDC, there is a small library situated in Stage 2, in a separate demountable. The room is locked at all times and is only open on request. There is a small collection of Mandarin books and a few Korean books but most books appeared

to be old fiction, in English. There is no chair in the room and it is not an inviting reading environment.

In Stage 1, VIDC, a bookshelf in one of the television rooms had some old English books and magazines. Otherwise, it is unclear what provision is made for accessing reading materials besides newspapers.

At NIDC, Indonesian newspapers were available at the officer's station. There is no library but they are working on getting excursions to the local library. Staff going to Indonesia on holidays are asked to bring back books and DVDs.

*HREOC recommends that VIDC explore options for detainee to access books.*

*Options include*

- *visits to a local library*
- *visits by a local librarian*
- *internet lending.*

### **Dictionaries**

In our 2006 summary of observations, we raised the lack of Indonesian-English dictionaries at NIDC. In our 2007 visits, we were told that these dictionaries have been supplied.

### **Other**

At the VIDC, detainees in Stage 2 and 3 can maintain gardens and grow vegetables. They are provided with seeds and gardening equipment. NIDC also provides detainees with opportunities to garden.

## **14 Education programs**

Many detainees complain of boredom, despite improvements in internal activities programs. Long term detainees in particular wish to do something constructive with their time in detention. However, according to DIAC policy, they are unable to engage in study leading to qualifications.

All centres run limited education programs, mostly English classes. While this is an entirely appropriate class to offer, it may not be appropriate for some detainees. This is the case with a number of visa overstayers and s501 cancellations who are from English-speaking backgrounds.

Some centres run a few computer classes. At PIDC, several online computer classes are supervised by the English teacher.

At VIDC, computer classes are open to all detainees in Stages 2 and 3 in a dedicated computer room, with 11 computers. GSL provide certificates to detainees if they complete computer levels. For example, if they complete an excel level. However, these are not formally accredited.

MIDC and VIDC have also held volunteer-run art and music classes. However, these are activities rather than an accredited educational program.

At MIDC, the Education Officer told us that if detainees are interested in a more advanced education program than the classes being offered, she will put together a basic program. In the past, she has put together basic programs on English literature and Literacy and Numeracy.

HREOC also notes that the provision of English classes seems to vary across the centres. For example, NIDC does not offer English classes at all, to either juveniles or adults.

Detainees told us that the English classes at the PIRH are not as regular and extensive as they would like. PIDC later informed us that the quality and consistency of the English classes in PIRH has been reviewed and has since been improved.

HREOC reiterates its recommendation from 2006 as follows:

*DIAC should cease the policy which prohibits detainees from enrolling in courses leading to a qualification. DIAC should allow long-term detainees to enrol in substantive education courses at TAFE and other institutions, irrespective of whether it leads to a qualification. Enrolment could be by correspondence. However, DIAC should also consider permitting detainees to attend certain classes in person.*

## **15 Phones**

Mobile phones can be used in all centres. This does not seem to have caused any problems for DIAC or GSL but has greatly improved detainee access to the outside world. Detainees can pay for mobile phone cards using the Purchasing Allowance Scheme (PAS) (see below). There are also pay phones or card-phones in all centres.

At VIDC, we were told that since detainees have been permitted to use mobile phones, the Telstra pay phones are underutilised. As a result Telstra wants to remove some of the phones. However, detainees need the pay phones to make international phone calls with phone cards.

## **16 Purchasing Allowance Scheme (PAS)**

PAS is still in operation at all the centres. Under PAS, detainees can purchase items like phone cards, chocolates, packet noodles, soft drinks and cigarettes using 'points' accrued during their time in detention.

All detainees receive a set number of points per week (25 points – equivalent to about \$25). Detainees can accrue extra PAS points per hour for participating in programs and activities. These activities include the structured activities program, such as English classes or sports competitions, and excursions. Detainees cannot accumulate more than 200 PAS points. They also cannot cash out their points upon departure.

In the 2006 summary of observations, HREOC recommended that DIAC permit the accumulation of points from month to month beyond 200 PAS points. There does not seem to be any reason to limit the accumulation of points as long as detainees understand that those points can not be cashed out on departure from detention.

However, the maximum number of points in centres is still 200 points, despite this recommendation.

*HREOC recommends that DIAC remove the cap on the number of points that can be earned in any month under PAS.*

*HREOC also recommends that DIAC consider a lay-by system for long term detainees so that detainees can buy larger items more gradually.*

## **17 Food**

At all immigration detention centres there were mixed reports about food. Food is a common cause of complaints among detainees as, over long periods of time, it becomes increasingly frustrating to have limited control over choice of food or food quality.

HREOC commends DIAC and GSL for the regular detainee committee meetings which are held in all centres, where detainees can give feedback on food provided. DNCA (the private company contracted to cater in the detention centres), GSL and DIAC attend these meetings.

HREOC visited all kitchens and dining facilities in the centres, and ate, at least once, lunch with the detainees.

In general, HREOC found that all centres had made efforts to improve the quality and variety of food provided. Menus are rotated three-weekly or monthly and

there are genuine attempts to cater for the different needs of detainee groups. For example, in centres where there are a number of Indian or Sri Lankan detainees, centres attempt to provide rice and curries with appropriate spices. All the kitchens are halal certified.

However, a few detainees we spoke to made complaints about the monotony of food, a lack of cultural appropriateness, the quality and difficulties of having special needs and diets met. In particular, almost all detainees we spoke to at MIDC complained about the quality of food at the centre, saying that it was bland and monotonous. MIDC later informed us that a new three week menu was subsequently drawn up which mirrored the current detainee cultural make-up better.

At VIDC, the kitchen and main dining room is situated in Stage 2. This is well-attended and the food is of reasonable quality and variety. However, the food is taken to Stage 1 and distributed from hot boxes at a very drab and dark dining room (which no one appears to eat in, preferring to take their food away).

Centres have attempted to allow detainees more autonomy in cooking. All centres have coffee, tea, and drinks and snacks available in kitchenettes or the dining rooms. Some of the kitchenettes also have rice cookers, woks, and microwaves, and there are opportunities for detainees to buy food. At MIDC, for example, GSL officers go shopping every Wednesday and will purchase food on a detainee's behalf. Occasionally detainees are taken on shopping excursions.

HREOC encourages this development. Although there are implications for hygiene, self-catering opportunities encourage autonomy and reduce frustrations with the prepared food. However, this is not possible for all meals. Further, not everyone wishes to, or is able to, cook for themselves.

In addition, all centres have initiated BBQs, once or twice a week, where the detainees can cook their own food on BBQs with ingredients supplied by DNCA. In PIDC they have included food cooked on woks, and separate BBQs for pork for Chinese detainees. At VIDC Stage 2, new BBQs have been installed for this purpose.

*HREOC recommends that DIAC explore alternative means of providing greater variety of meals, and autonomy in food choice. Some possibilities include activities kitchens (which were successful in Baxter IDC), cooking classes, special food nights and occasional take-away food.*

## **18 Interpreters**

The only centre which employs on-site interpreters on an ongoing basis is NIDC. At NIDC there are two Indonesian interpreters available to the NIDC at all times. As the detainee population is almost entirely Bahasa Indonesian speaking, this is

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a cost-effective way of ensuring communication between the detainees and the detention service providers. NIDC also uses the Telephone Interpreting Service (TIS).

However, all other centres use TIS almost exclusively: although VIDC did inform us that at times they have contracted face to face interpreters for particular occasions.

While DIAC and GSL staff felt that TIS is adequate for basic communication, there are times when TIS is inadequate for dealing with complex issues. Face to face interpreters minimise misunderstandings that can arise using the phone. Also, for health and mental health appointments, there are times when phone interpreting is inappropriate.

Further, a reliance on TIS restricts communication between DIAC and GSL staff and detainees on a daily basis, such as answering requests and general rapport-building while wandering around the centre.

HREOC acknowledges that where there is a mix of different language groups among detainees, it is not cost-effective to employ on-site interpreters at all centres. However, where there is a large body of detainees from one language group, who are having difficulty with the English language, DIAC and GSL should consider employing an on-site interpreter, or contract an on-site interpreter on a regular basis. This may be the case in VIDC, where the largest group of detainees at the time of our stay is Mandarin-speaking.

HREOC also heard from some detainees that important documents were provided in English. One detainee said that she had been unable to understand the contents of a letter to her from DIAC, and was too inhibited with her English to ask for assistance. Although she had been assisted by a fellow detainee previously, she had since been moved to another area of the facility.

*HREOC recommends that DIAC should, where possible, ensure the availability of permanent onsite interpreters when there is a large detainee population from a single language group. This is particularly relevant to VIDC with a large population of Mandarin-speaking detainees.*

*HREOC also emphasises that all official documents, including documents and notices about the operation of the centres, should be provided in the main languages of the detainee population. Detainees should also be able to request assistance with translation of documents.*

## 19 HREOC Posters

HREOC has always provided posters to DIAC which set out how a detainee can make a complaint about possible human rights abuses occurring inside detention centres.

At the time of our visit, all centres had HREOC immigration detention complaints posters in communal areas. However, HREOC notes that these were not always in the two language versions provided by HREOC.

HREOC gave additional copies of the HREOC posters to all managers, asking them to ensure that both versions are displayed throughout the centres.

*HREOC posters should be posted clearly in all communal areas within detention facilities (including the visitors area), in both language versions provided by HREOC.*

## 20 Northern Immigration Detention Centre

In our 2006 summary, we reported that the NIDC required the most improvements of all the centres we visited.

However, in 2007 we are pleased that many of the issues we raised have been addressed by DIAC and GSL, so that NIDC has a greatly improved environment. We note that NIDC devised a plan for implementing HREOC's previous recommendations specifically.

Some of these improvements have already been addressed in the previous sections of this report. They include:

- Juveniles are now detained day and night at separate facilities to the adults (in a Darwin motel).
- A Youth Activities Officer is employed full-time for the juveniles and there is a dedicated activities officer/operations coordinator for adults in the NIDC.
- Child-appropriate activities are provided for juveniles.
- There is a good program of external and internal activities for juveniles and adults.
- The ensuite bathrooms have been reopened.
- Indonesian newspapers are provided.

- HREOC posters are prominently displayed.
- Four pay phones have been installed.
- An on-site Bahasa Indonesia interpreter has been employed 38 hours a week.

*HREOC commends the NIDC for responding to our recommendations and improving the facilities for detainees.*

Other issues specific to NIDC, which we raised on our visit, include:

- 1 **Warning signs on fence:** It would be helpful to have warning signs on the electric fences of the NIDC in Indonesian.
- 2 **Detainee information:** Detainees need to be informed of the progress of their cases on a very regular basis. This seems to be a point of tension in the centre.
- 3 **Mental health care:** The hours of mental health care assistance for detainees need to be flexible. Small numbers of detainees does not necessarily mean fewer mental health care needs.

HREOC also notes that NIDC does not have a medical observation room where unwell detainees can rest, unlike other immigration detention facilities. We suggest that this would be a useful addition to the infrastructure.

## 21 Villawood

Villawood holds the largest number of detainees of all the centres. It also has a large number of long-term detainees with ever-worsening mental health problems. Further, as Stage 1 Villawood is the largest and most secure facility, detainees who are perceived as difficult to manage seem to be placed in Villawood. This adds to an overall atmosphere at Villawood as security-driven and tense, compared to the atmosphere at the smaller centres.

In particular, Stage 1 has the strong appearance of a prison. It is run-down, especially the dormitories, and the atmosphere is harsh and inhospitable. HREOC staff were shocked by the dilapidated infrastructure of Villawood Stage 1 compared to other centres and facilities we visited. Of particular note are:

- the bleak visitors facilities
- the dining room, without windows or natural light or decoration
- dormitory 1, which is dark, depressing and lacks privacy

- external areas, which do not have enough greenery or outlook.

HREOC repeats the recommendation we made in last year's summary:

*HREOC strongly recommends that Stage 1, VIDC, be demolished and replaced with a new facility as a matter of priority.*

In such an atmosphere, any change in the provision of services has a magnified impact on detainees. The suspension of individual and group excursions at all facilities, had an adverse impact on the mental health of detainees and risked becoming a very serious issue for the running of the centre. The suspension of activities in SIRH also seemed to add unnecessarily to the distress of detainees in that facility.

HREOC recognises that DIAC and GSL have a more difficult task meeting both security priorities and detainee service requirements. However, it is detrimental to the overall mental health of the detainee population to treat all detainees as if they are high risk.

VIDC staff have made some attempts to provide detainees with internal activities to substitute for the limited availability of excursions. There have also been some good developments in Stage 2 and 3, including a new soccer field, gym and outdoor café area, the introduction of the internet. However, these mostly benefit detainees in Stage 2 and 3, and not Stage 1.

Considering the size of VIDC and the number of long term detainees, VIDC should be leading the way in terms of external and internal programs and infrastructure. This is not the case.

The SIRH, on the other hand, provides a significantly more friendly detention environment for detainees. However, despite the fact that SIRH is not full to capacity, there are a large number of long term detainees in VIDC who would benefit from a less harsh environment, yet do not seem to be transferred to the SIRH.

Other issues specific to VIDC, which we raised on our visit, include:

1. **SASH observation rooms:** Detainees from Stage 2 and 3 who are on SASH observation should not be transferred to Stage 1 Observation, as it is situated far from the medical centre and Stage 1 is perceived by detainees as punitive.
2. **Internal activities in the SIRH:** At the time of our visit some detainees in the IRH were restricted from excursions. When excursions are suspended, there is very little for SIRH detainees to do. There needs to be some

internal activities organised in these cases, for example access to Stage 2 gym, or English classes.

3. **Interpreters:** As there are a large number of Chinese-speaking detainees, it would be beneficial to have a Mandarin speaking interpreter on-site. This would be particularly useful in health services. In addition, all official communications with detainees should be translated.
4. **Food:** In Stage 1 some detainees perceive the food as not halal. There is a need to reassure them that it is halal, perhaps with a visit to the kitchen and storage area as has occurred in Stage 2/3. There are also complaints that food requests are not acted on, even for people with allergies.
5. **Religious practice:** A detainee told us that some detention officers made negative comments about detainee religious practice. It may be beneficial for officer training to include particular emphasis on respect for religious belief and practice.

## 22 Maribyrnong

During our last visit, we commented that MIDC appears to be the 'pilot' detention centre for several programs. This continues to be the case.

During 2006-2007, MIDC has undertaken extensive renovations. Stages 1 and 2 of the renovations have been completed with good results. Stage 1 involved construction of a new administration area, medical wing and a dormitory. The razor wire was also taken down. Stage 2 involved refurbishing the old areas to standards of the new areas. The final Stage 3 is to be completed by the end of 2007 and is mainly concerned with beautifying the centre and external courtyards.

In general, the renovations make the centre more friendly and relaxed. Although a small centre, the renovations provide detainees with a number of different spaces to find some privacy or engage in different activities. It is also less crowded than before. Of particular note is the variety of smaller outside courtyards, which MIDC has attempted to beautify, and which provide light and outlook to the internal spaces. The visitor's facilities are comfortable and provide visitors and detainees with television and internet access (the only downside being a lack of external space for families). There are plans to make a corner child-friendly.

MIDC is also to be congratulated for the availability of computers with internet access throughout the centre.

HREOC also notes that management and staff appear to be open and responsive to suggestions on how to further enhance the services within the facility.

HREOC is, however, disappointed by the impact of the new excursions procedures. We noted previously that the introduction of home visits at MIDC was of great benefit to the mental well-being of those long-term detainees with family and friends in the community, particularly those who would otherwise be isolated from these personal contacts. HREOC encourages MIDC to continue excursions where possible. HREOC notes that since the change in procedure, MIDC recommended that a s501 detainee should continue his visits under exceptional circumstances.

Some other issues specific to MIDC, which we raised on our visit, include:

- **Food:** Detainee complaints about the quality and variety of food appear to be greater at MIDC than at other detention centres. We suggested that takeaway food should be allowed occasionally, an activities kitchen be created and there be an increase in the number of cooking classes and BBQs. MIDC has made some attempts to ameliorate this problem: since our visit DIAC informed us that a new three week menu was drawn up after consultation with the detainee consultative committee, with changes that mirrored the current detainee base.
- **Change table for parents:** There is no change table or parents' room in the visitors' area, despite many families visiting detainees. MIDC are examining ways to rectify this.
- **Broken window in Zone A:** Some detainees complained that the window in Zone A took a week to be replaced and in that time it was not boarded up.
- **Tennis court/soccer field:** The outdoor area created for sporting activities does not seem suitable for soccer.
- **Alterations to Zone C:** Zone C, where the SASH observation rooms are situated, should be altered so that the transit rooms and observation rooms are separated but both have better access to the courtyard area.
- **Vinyl mattresses:** The vinyl mattresses uncomfortable and hot. This has been rectified since our visit.

## 23 Perth

PIDC is a small, cramped centre which is not equipped to house detainees for long periods of time. Despite these limitations, HREOC notes that management

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and staff have continued to make efforts to improve the facilities and services, and to remain open to suggestions from detainees and others about such improvements.

Similar to MIDC, PIDC has also been undergoing renovations and refurbishments since our last visit in 2006. So far, the refurbishments have included soundproofing the interview rooms, making some bedrooms more comfortable and fitting out a multi-purpose room with carpet, soft furnishings, comfortable couches, a flat screen TV and a stereo system.

DIAC discussed with us the future renovation plans in some detail, which include building a second storey. HREOC hopes that many of the problems with the infrastructure in PIDC will be resolved by the planned renovations, in January 2008.

These current problems include:

- The two outside areas are generally shabby and claustrophobic. There is no greenery, poor ground covering and it is not conducive to outdoors activities.
- Area 1 bathrooms are shabby and dark.
- The dormitory accommodation is drab and seems darker than it needs to be.
- The outlook from the Dining Room could be improved.
- There is no Visitors area. It is not appropriate for visiting families to have to meet in the detainee common areas.
- The education area is cramped – English classes are conducted while other detainees are on the computers or trying to access the internet. PIDC needs a dedicated education area.

HREOC is concerned that the future renovations, which are quite extensive, may have a significant impact on both detainees and staff. The renovation process to date has already been difficult for detainees.

*HREOC recommends that renovations at PIDC take place promptly. The centre should be closed temporarily while renovations are taking place. Detainees should be transferred to alternative arrangements and be fully informed of the process in advance.*

Since HREOC's last visit to Perth, the PIRH was opened in March 2007. HREOC found that the PIRH is well-equipped and physically pleasant, situated in a

suburban street, with a large garden and the appearance of a normal set of residences.

HREOC congratulates DIAC for the construction of the PIRH. It is a significantly better environment than the PIDC. HREOC's only complaint about the PIRH is that it appears under utilised. At the time of our visit, only four people were detained in the facility, two in each house. The low numbers can partly be explained by the low numbers in total at PIDC (at the time of our visit there were only 14 detainees at the PIDC) and partly by the fact that three detainees had just been transferred back to PIDC pending removal. However, HREOC understands that not all detainees in the PIDC have been assessed as high risk, and therefore should be considered for the PIRH.

Other issues specific to PIDC, which we raised on our visit, include

1. **Excursions:** At the time of the last visit, PIDC was introducing an interesting external activities program. However, at the time of our visit and since the new excursions procedures, activities seemed to be limited to gym and library. HREOC is greatly disappointed that the new procedures have limited the range of excursions for detainees and urges reinstatement of a full excursion program.

Following our visit, PIDC informed HREOC that a new activities program has been approved in order to expand the quality and variety of internal and external activities.

2. **Internal activities:** Some detainees raised with us their wish to engage in more meaningful activities and structured classes, for example more advanced and structured on-line computer classes.
3. **IRH ESL classes:** Some detainees complained about the quality and consistency of ESL teaching at the IRH. PIDC later informed us that the English classes at the PIRH has since been reviewed and improved.