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Australian Government

Department of Immigration and Border Protection

Submission

For information

PDMS Ref. Number: MS15-900083

To Minister for Immigration and Border Protection

Subject Responding to the Royal Commission into Institutional Responses to Child Sexual Abuse

Timing No deadline

Recommendations

That you:

1. Note that the Department of Immigration and Border Protection has been served with a Notice to Produce from the Royal Commission into Institutional Responses to Child Sexual Abuse.

noted / please discuss

Minister for Immigration and Border Protection

Signature.....

Date: 21/07/2015

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Minister's Comments				
Rejected Yes/No	Timely Yes/No	Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

Key Issues

1. On Friday 26 June 2015 the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) served a Notice to Produce on the Department of Immigration and Border Protection (the Department).
2. The Notice to Produce seeks: "all documents evidencing, referring, or relating to any incident, allegation, complaint, or account of child sexual abuse in any immigration detention facility provided by the Department of Immigration and Border Protection or its predecessors (the Department) or provided to the Department by any contractor or sub-contractor funded by the Department, occurring in the period 1 January 2000 to the date of this notice, including, but not limited to, incident reports, medical reports and investigation records".
3. The Notice to Produce requires the documents to be provided in two tranches, such that:
 - a. the first set of documents required to be produced by 27 July 2015 and relates to onshore held detention only, including:
 - i. documents provided to the Australian Human Rights Commission pursuant to it's notice to produce in preparation of The Forgotten Children report, and
 - ii. all other documents covering the period January 2008 to the present day.
 - b. The second tranche of document required to by produced by 26 August 2015 includes all documents relating to the period 1 January 2000 and 31 December 2007.
4. A copy of the Notice to Produce is at Attachment A.
5. It is expected that this will be the first of two such notices, focusing on the onshore held detention environment. The second notice is expected to focus on community based detention.

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Background

6. The Department was earlier asked, at the 12 June 2015 Budget Estimates Hearing:

“What is the status of the provision of documents and information to the Royal Commission into Institutional Responses to Child Sexual Abuse in response to the Commission’s requests for information? How many documents have been provided?”

7. The Department responded:

“As at 25 May 2015, in consultation with the Attorney-General’s Department, which coordinates the Commonwealth’s response to the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), the Department of Immigration and Border Protection (the Department) has responded to all requests for information and their status is complete.

As at 25 May 2015, the Department has provided 12 documents to the Royal Commission in relation to five Notices to Produce.”

8. The aforementioned notices to produce were of significantly narrower scope than the new Notice to Produce (the subject of this briefing), and included requests for:

- a. implementation of recommendations from various reports (including the Flood Report)
- b. movement records relating to a ‘named person’ in calendar year 2009
- c. movement records relating to a ‘named person’ between 1 January 1991 – 22 November 2013
- d. movement records relating to two ‘named person’ (no timeframe specific), and
- e. a witness statement on behalf of the Commonwealth in relation to child migrants cared for at St Joseph’s Orphanage (Rockhampton) operated by the Sisters of Mercy between 1940 and 1975.

9. In addition, the Department is currently responding to three further requests for information from the Royal Commission.

- a. A list of relevant service providers contracted by the Department in relation to security, health, education and housing services specifically for, or affecting, children in an Immigration Detention Facility, Community Detention Programme or under the Unaccompanied Humanitarian Minors Programme.
- b. Services which administer the therapeutic treatment services or programs for children who exhibit sexual behaviours, sexually abusive behaviours or who have committed child sex offences.
- c. Placement of children and unaccompanied humanitarian minors in the detention network, and what access do minors (accompanied or not) have to care and support services. Of those services available, which are, and are not, directly administered by the Department. Provide a list of all such contractors and sub-contractors for the period 1 January 1990 to present, specifying the periods of service.

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Consultation – internal/external

The following stakeholders were consulted in the preparation of this Submission:

- the Attorney-General's Department, and
- the Department's Legal Division.

Consultation – Secretary/CEO

This submission has been provided through the Secretary.

Client service implications


The release of information pertaining to child sexual abuse matters within immigration detention may raise security and public order issues within such facilities.

Sensitivities

Should information relating to child sexual abuse matters within immigration detention be publically released there is likely to be intense scrutiny and criticism of the Department and the Government.

Financial/systems/legislation/deregulation implications

Nil

Authorising Officer
Cleared by: 
Jan Dorrington First Assistant Secretary Integrity, Security and Assurance Division
Date: 30 June 2015 Ph: [REDACTED]

Contact Officer Thomas Stoddart, A/g Assistant Secretary, Detention Assurance Branch, Ph: [REDACTED]

CC Secretary
 Deputy Secretary, Immigration Status Resolution Group (ISRG)
 First Assistant Secretary, Compliance Operations & Detention | ISRG
 First Assistant Secretary, Infrastructure & Services | ISRG
 General Counsel

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COMMONWEALTH OF AUSTRALIA

Royal Commissions Act 1902

ROYAL COMMISSION INTO
INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

NOTICE TO PRODUCE

To: The Proper Officer
Department of Immigration and Border Protection

c/- Justin Davidson
Australian Government Solicitor
4 National Circuit
Barton ACT 2600

Pursuant to section 2(3A) of the *Royal Commissions Act 1902* (Cth), I, the Honourable Justice Peter David McClellan AM, Chair of the Royal Commission, established under Letters Patent dated 11 January 2013 to inquire into and report on institutional responses to child sexual abuse, require you to produce this Notice and the documents and other things described in the Schedule to:

Tony Giugni, Solicitor Assisting

at Level 17, Governor Macquarie Tower, 1 Farrer Place, Sydney:

- on or before 27 July 2015 at 10am in relation to Tranche 1 (as described in the Schedule below), and
- on or before 26 August 2015 at 10am in relation to Tranche 2 (as described in the Schedule below).

SCHEDULE

1. All documents evidencing, referring, or relating to any incident, allegation, complaint, or account of child sexual abuse in any immigration detention facility provided by the Department of Immigration and Border Protection or its predecessors (the Department) or provided to the Department by any contractor or sub-contractor funded by the Department, occurring in the period 1 January 2000 to the date of this notice, including, but not limited to, incident reports, medical reports and investigation records. In particular, the Department shall produce these documents in the following tranches:

1. Tranche 1 which shall include:

- All documents provided by the Department to the Australian Human Rights Commission (AHRC) pursuant to two notices to produce that the AHRC issued to the Department on 31 March 2014 and 10 July 2014, relating to

incidents or allegations of child sexual abuse between 1 January 2013 and 10 July 2014.

- All other documents relating to the period between 1 January 2008 and the date of this Notice.
2. Tranche 2, which shall include all documents relating to the period 1 January 2000 and 31 December 2007.

DEFINITIONS

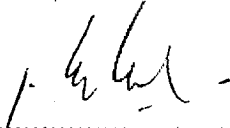
For the purposes of this Notice:

1. the term '**document**' includes:
 - a. anything on which there is writing;
 - b. anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
 - c. anything from which sounds, images or writings can be reproduced with or without the aid of anything else;
 - d. anything in hard copy or electronic copy stored in or on any form of media;
 - e. a map, plan, drawing or photograph,in the physical possession, custody or control of you or your organisation.
2. the term '**document**' does not include any material held by a state government, or a contractor or sub-contractor funded by the Department, even if that material might otherwise be regarded as being in the constructive possession of the Department.
3. the term '**child sexual abuse**' includes:

Any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards. Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling of breasts, voyeurism, exhibitionism and exposing the child to or involving the child in pornography. It includes child grooming which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in preparation for sexual activity with the child.
4. the term '**immigration detention facility**' means a detention centre established under the *Migration Act 1958* (Cth) or an alternative place of detention approved by the Minister

pursuant to paragraph (b)(v) of the definition of 'immigration detention' in the *Migration Act 1958* (Cth).

Dated this 26th day of June 2015



.....
The Honourable Justice Peter David McClellan AM
Chair of the Royal Commission

NOTES

1. Failure to comply with this Notice

Failure to produce a document or other thing as required by a Notice to Produce issued under section 2(3A) of the *Royal Commissions Act 1902* (Cth), without reasonable excuse, is an offence punishable by a penalty of \$1,000 or six months imprisonment.

2. Production of documents or things by delivery or post

You may comply with this Notice by delivering or sending the documents or things sought by the Notice to the address specified in the Notice.

3. Electronic production of documents

You may comply with this Notice to Produce by emailing an electronic copy of the documents sought in the Notice to solicitor@childabuseroyalcommission.gov.au. Please specify the reference number of the Notice in the subject line of your email.



Australian Government
Department of Immigration
and Border Protection

RECEIVED

15 MAY 2015

in the Office of the
Secretary DIBP
Correspondence No. 1160

Sensitive: Personal

MINUTE

To:
Through

Secretary *MP 15/05/2015*
Deputy Secretary Cindy Briscoe *15/05/2015*

REVIEW INTO ALLEGATIONS OF CHILD ABUSE AT THE
MELBOURNE IMMIGRATION TRANSIT ACCOMMODATION

Timing

Please action by 1 May 2015 to provide sufficient time to prepare briefing for the next meeting of Minister's Council on Asylum Seekers and Detention (MCASD), which is likely to be scheduled for 18-19 May 2015.

Purpose

To:

1. advise you of the findings of the review conducted by the Department's Child Protection Section into allegations of child abuse at the Melbourne Immigration Transit Accommodation (MITA) facility, which were raised by members of MCASD in December 2014;
2. seek your approval to discuss the findings of the review with MCASD and the Victorian Department of Human Services (VIC DHS); and
3. update you on our progress on an information sharing protocol with VIC DHS.

Background

4. In December 2014, members of MCASD and the ^{s. 47F(1)} raised concerns with respect to the number of child protection notifications arising at the MITA. MCASD and the RCH both made references to approximately 30 notifications that had allegedly been made to VIC DHS about incidents at the MITA. The Department agreed to conduct an investigation into these child protection concerns as a matter of priority. You were briefed on this approach in OSEC No. 21/2015 *Child protection Concerns in Victoria (Attachment A)*.
5. The Child Protection Section within the Child Protection and Wellbeing Branch commenced a review of incidents involving children at the MITA during the period February to December 2014. The review involved:
 - interrogating departmental systems;
 - reviewing specific cases and conducting root cause analysis into relevant incidents;
 - liaising with key stakeholders, including VIC DHS, departmental officials and service providers; and
 - visits to Victoria, including to the MITA.
6. The root cause analysis work conducted was based on methodological information provided by Professor Nicholas Procter, the Chair of Mental Health Nursing at the University of South Australia, long-standing adviser to the Department through MCASD and former member of the Joint Advisory Committee for regional processing arrangements in Nauru.

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7. The review had some limitations in that while staff in the Child Protection Section have had some training in child-centred practice and child harm prevention (including training conducted by VIC DHS), it is important to note that it was not conducted by staff with formal qualifications in social work, child welfare or psychology.
8. The review focused on child protection allegations and concerns raised during 2014. The Child Protection Section identified 18 relevant notifications made by Departmental staff and service providers during this period. While there were additional incidents and notifications identified, they were not considered as part of the review as they fell outside of the scope. For example, some incidents did not fall within the definition of child abuse, which include incidents of self-harm or physical altercations between male minors.
9. The review found that the majority of the 18 notification reported to VIC DHS were closed or not the subject of on-going investigation – primarily because they do not meet the VIC DHS threshold of abuse (involving risk and protective factors), including whether a child is considered to be likely to suffer 'significant harm'. Even in cases where VIC DHS do not have on-going involvement, where a child welfare concern exists, Departmental Case Management work collaboratively with all service providers (IHMS, Serco and Save The Children) at the MITA to ensure on-going, appropriate care and support.
10. The Department made multiple requests to MCASD and RCH for further clarification on the 30-odd child protection notifications that they referred to, but no information has been provided. It is therefore not clear whether these notifications extend beyond 2014. Moreover, the review was unable to consider any notification made by a third party (eg. a medical professional or teacher) without the knowledge of the Department as we have limited oversight of these notifications.
11. The Department also consulted with VIC DHS on the number of notifications, however, information that VIC DHS has been able to provide has been limited due to restrictions in information sharing, mainly resulting from confidentiality issues. As such, the Department does not know the nature of these reports, including whether any notifications relate to generalised claims about children in immigration detention as opposed to specific incidents of child abuse.
12. During consultation, VIC DHS has expressed concern about the number of reports and potential problems at the MITA and has sought – and offered – assistance to protect children.
13. Despite these limitations, however, consultation with VIC DHS on the general issues provided the opportunity to test assumptions and agree on recommendations. A copy of the review is at **Attachment B**.

Issues

14. The review considered whether:
 - there are systemic issues at the MITA, including whether there has been a 'cluster' of child abuse incidents;
 - protective and preventative factors at the MITA are adequate;
 - incidents are handled appropriately; and
 - there are issues or concerns specific to the MITA environment.

15. While the review did not find systemic child protection issues at the MITA, it did find that there are complex challenges that arise in an immigration detention environment that can increase the risk of child abuse and neglect. The characteristics that can increase these risks include mental health issues, family history of violence or abuse, situational stress and different cultural norms. As such, the review found that there are a range of improvements that could be implemented with respect to child protection at the MITA (and other immigration facilities where children and families are located).
16. There are 26 recommendations designed to enhance the existing protective and preventative strategies that are currently employed at the facility. The Child Protection Section is working with relevant stakeholders to progress these. The strategies are also consistent with – and complementary to – the broader work being conducted by the Child Protection Section to develop an over-arching child protection framework.
17. Encouragingly, the review found that child abuse incidents at the MITA were handled appropriately, with reports to relevant authorities (such as the police and/or the child welfare agency) being made in a timely manner. Overwhelmingly, it was the view of the review team that DIBP staff and service providers at the MITA take child protection very seriously and are willing to take an integrated, collaborative approach to reach the best possible outcome for the children involved. They share the approach that they would rather 'over-report' than under-report, particularly with respect to allegations of physical and sexual abuse. The over-reporting helps account for the high proportion of notifications that did not result in an investigation by DHS or that were not considered to be child abuse. Significantly, the majority of notifications have not resulted in on-going investigations by VIC DHS as they did not meet the State threshold of abuse.
18. The Child Protection Section is seeking your agreement to discuss the findings of the review with MCASD at the upcoming meeting in May 2015 and with VIC DHS at the next opportunity.
19. During the review, improved information sharing with VIC DHS was highlighted as a priority for both departments.
20. On 23 April 2015 the Child Protection Section met with VIC DHS and relevant internal stakeholders. Both departments report that engagement has greatly improved since the time of the review, with VIC DHS visiting the MITA on several occasions. At that meeting, VIC DHS gave verbal confirmation that they would provide to the Department details of all reports made to them about any child in Immigration Detention. This procedure is to become effective immediately. Further engagement on this and other issues, including training and clarification on jurisdictional issues, has also been scheduled.
21. Please also note that the Child Protection Section is liaising with the Child Protection Panel in relation to the review's findings and recommendations.

Consultation

22. Consultation on the general child protection issues was undertaken with a range of Departmental stakeholders, MITA service providers (including Serco and IHMS) and also VIC DHS. The report and its findings have not been provided.
23. The Child Protection Section is also consulting with the Child Protection Panel and A/g Assistant Secretary Risk and Assurance Branch.

Recommendations

It is recommended that you:

1. note the findings in the review and ongoing engagement with DHS;
2. agree to the findings of the review being discussed at the next MCASD meeting;
3. agree to the findings of the review being discussed at the next opportunity with VIC DHS.

Noted / Please Discuss

~~Agreed / Not Agreed~~

~~Agreed / Not Agreed~~

s. 47F(1)

Robyn Miller
Acting First Assistant Secretary
Children & Community Services
s. 22(1)(a)(ii)

Michael Pezzullo
Secretary

24 / 04 / 2015

18 / 05 / 2015

Contact Officer: s. 22(1)(a)(ii)
Phone: s. 22(1)(a)(ii)

Attachments:

- A. Review into Allegations of Child Abuse at the Melbourne Immigration Transit Accommodation
- B. OSEC No. 21/2015 Child protection Concerns in Victoria

This brief was
rec'd on 15/05/2015.

I don't need
to be asked
to agree to
such detailed

actions. You
have relevant
authority at
Band 3/2 level

As the matter is issues
relate to detention
assurance + child protection
such decisions can be taken
by Dep Sec 1526 ICW FAGISA

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MP

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Australian Government
Department of Immigration
and Border Protection

COPY

SECRETARY

OSEC 21/2015

Ms Gill Callister
Secretary
Department of Human Services
GPO Box 4057
Melbourne VICTORIA 3001

Dear Ms Callister

Thank you for your letter of 30 December 2014 regarding child abuse concerns at the Melbourne Immigration Transit Accommodation (MITA).

The department takes child protection very seriously and, since concerns were raised in relation to the MITA, officers from the Child Protection Section of my department have commenced an investigation of arrangements for children at the MITA and the handling of recent allegations of child abuse. Although the investigation is still ongoing, a number of improvements have already been put in place to enhance child protection arrangements at the MITA.

I am grateful for the valuable assistance your Child Protection Officers have provided to staff at the MITA. My department is committed to continuing to work collaboratively with the Victorian Department of Human Services to enhance the protection of all children in immigration detention in Victoria.

I understand that officers from both our departments are currently working to develop information sharing protocols. Once the protocol is developed I would be pleased to meet with you to formalise the arrangement and to discuss future cooperation between our departments.

s. 47F(1)

Michael Pezzullo

January 2015

2 Feb 2015

*I am not sure if that
is right. I am not sure if
that is the same as the other
one. I am not sure if that
is the same as the other one.*

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Australian Government
Department of Immigration
and Border Protection

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MINUTE

To:
Through
Cc:

Secretary *MP 2/02/2015*
Deputy Secretary *Cormack*
Deputy Secretary Southern *23/1/15*

OSEC No. 21/2015: Child Protection Concerns in Victoria

Timing:

Signature is requested by 30 January 2015 to enable a timely response to the Secretary of the Victorian Department of Human Services (Vic DHS).

Purpose

To:

1. Provide you with information relating to child abuse concerns at the Melbourne Immigration Transit Accommodation (MITA); and
2. Seek your signature for a letter responding to the Secretary of Vic DHS.

Background:

3. In December 2014 the Minister's Council on Asylum Seekers and Detention (MCASD) raised concerns with the department regarding the number of child abuse allegations being reported in relation to children accommodated at the MITA.
4. Officers from the Child Protection Section have undertaken a comprehensive investigation on the nature, details and handling of child abuse allegations at the MITA and, on 18-19 December 2014, met with officers at the MITA and representatives from Vic DHS to discuss MCASD's concerns.
5. The investigation found that incidents involving child abuse concerns were handled appropriately by MITA staff and many strategies had been employed at the facility to enhance the protection of children. The investigation report made a number of recommendations that will further enhance protective factors for children at the MITA.
6. As part of the investigation, the Child Protection Section requested information from Vic DHS in relation to the number of notifications of child abuse at the MITA. DHS Vic advised that they could only provide information through a letter directly from their Secretary to the Secretary of DIBP.
7. The letter from the Secretary of Vic DHS was received on 7 January 2015 (Attachment A).

Issues:

8. In the letter, the Secretary of Vic DHS requested a meeting with you to discuss an information-sharing protocol and options for cooperation in the immediate future.

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9. Officers of the department and Vic DHS have been in ongoing discussions on how to improve cooperation between our departments and share information while respecting privacy obligations.
10. It is proposed that a meeting with the Secretary Vic DHS be scheduled when discussions between our agencies have progressed and an information-sharing protocol has been developed.
11. A response to the letter from the Secretary of Vic DHS is at Attachment B.
12. If you would like a separate briefing on the investigation into child abuse concerns at the MITA, please indicate this below.

Consultation:

13. The proposed response has been discussed with the Director of Case Management Victoria, who agreed with our approach.

Recommendation

It is recommended that you **note** the investigation into child abuse concerns at the MITA:

Noted / Separate Briefing Required

It is recommended that you **sign** the letter to the Secretary of Vic DHS at Attachment B:

Signed / Not Signed / Please Discuss

s. 47F(1)

s. 47F(1)

Kate Pope

FAS

Community Programmes and Settlement

s. 22(1)(a)(ii)

Michael Pezzullo

Secretary

/ January / 2015

 / January / 2015

Contact Officer: Fiona Lynch-Magor

Phone: s. 22(1)(a)(ii)

3/02/2015

Attachments:

- A Letter from Secretary Vic DHS to Secretary DIBP
- B Proposed response from Secretary DIBP to Secretary Vic DHS

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Page 2 of 2

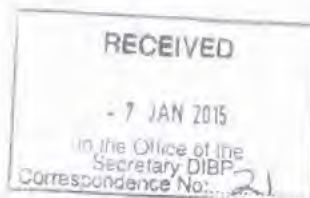
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Department of Human Services

GPO Box 405
Melbourne Victoria 3001
Telephone: (300) 650 172
www.dhs.vic.gov.au
DX21008

30 JUL 2014



Secretary

e3675746

Mr Michael Pezzullo
Secretary
Department of Immigration and Border Protection
6 Chan Street
BELCONNEN ACT 2617

Dear Mr Pezzullo

Children in immigration detention in Victoria

I write in response to a request from the Community Support and Children Branch of your department for statistics on reports (notifications) to the Victorian Department of Human Services (DHS) about children detained in the Melbourne Immigration Transit Accommodation (MITA). I understand your department has undertaken to urgently investigate those reports and provide advice to the Minister's Council on Asylum Seekers and Detention as soon as possible.

s. 47B(b)

As Secretary of the Department of Human Services, I am responsible for the protection of children in Victoria under the *Children, Youth and Families Act 2005* (Vic). I am concerned about the number of reports and potential systemic problems at MITA, and seek your urgent assistance to ensure the safety and wellbeing of the children residing there.

Child protection officers from my department have offered support to MITA, and I confirm that we would like to work with you to reduce the risk of harm to children in immigration detention in Victoria. It would assist to develop a protocol, outlining how our departments will share information and work together on this important issue. I would be pleased to meet with you as a matter of priority so we can discuss and progress options in the immediate future.

I look forward to hearing from you.

s. 47F(1)

Gill Callinan
Secretary



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**Departmental response to Allegations of Child Abuse at the
Melbourne Immigration Transit Accommodation**

Background

In early December 2014, members of the Minister's Council on Asylum Seekers and Detention (MCASD) and the s. 47F(1) at the Royal Children's Hospital (RCH) in Melbourne raised concerns with respect to the number of child protection issues at the Melbourne Immigration Transit Accommodation (MITA) facility. In response to these concerns, the Child Protection Section within the then Children Policy and Operations Branch of the Department of Immigration and Border Protection (the department) conducted a review of those incidents involving children at the MITA during the period February to December 2014 which were reported to the Victorian Department of Human Services (VIC DHS) and involved child abuse.

As part of this review, the Child Protection Section has considered whether:

- there are systemic issues at the MITA, including whether there has been a 'cluster' of child abuse incidents;
- protective and preventative factors at the MITA are adequate;
- incidents are handled appropriately; and
- there are issues or concerns specific to the MITA environment.

Methodology

The department reviewed information:

- provided directly by departmental officers and service provider staff working at the MITA;
- provided by the department to the Australian Human Rights Commission under the Section 21 notice as part of the *Inquiry into Children in Immigration Detention*;
- retrieved from departmental systems; and
- provided by VIC DHS.

Child Protection Section staff also met with departmental and service provider staff at the MITA and with VIC DHS colleagues. While staff in the Child Protection Section have had some limited training in child-centred practice and child harm prevention (including by VIC DHS), it is important to note that the review was not conducted by staff with formal qualifications in social work, child welfare or psychology. However, the consultation with DHS provided the opportunity to test assumptions and agree on recommendations.

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Overview of Incidents and Notifications

MCASD and the RCH have both made references to approximately 30 notifications made to VIC DHS about incidents at the MITA. The department has made multiple requests for further clarification on the timeframe these notifications cover but to date no further information has been provided. In addition, there have also been further concerns raised by RCH with respect to sexualised behaviours being displayed by young children at the MITA and an allegation that a known sex offender is being accommodated alongside children. The reference to the known sex offender is particularly concerning. It is suspected that the allegation was in relation to a minor who is a defendant in legal proceedings and was subsequently moved to another facility in response to behavioural concerns. The department would not knowingly place a convicted sex offender alongside children.

s. 47B(b)

The department has been unable to identify all the incidents notified to VIC DHS which have been referred to by MCASD, AHRC and DHS. This may be due to instances where a third party has made a notification without the department's knowledge. It is not possible for VIC DHS to make details available to the department due to privacy concerns, however, the department encourages MCASD and RCH to provide any details they have to the department so that further follow up can be undertaken, including ensuring adequate supports are in place for these children and their families.

Of the incidents involving children at the MITA, the review identified 18 notifications to VIC DHS since February 2014. The notifications include those reported by MITA staff and/or service providers but no inquiry could be made into notifications that may have been made by other third parties (e.g. hospitals) without the department's knowledge.

Of the 18 notifications, four do not fall within the scope of the review as they are not considered child abuse because:

- one did not involve children;
- two involved minor altercations between teenage boys which fell short of abuse; and
- one involved a child self-harming.

Of the notifications that were within scope there were: two incidents of emotional abuse, one incident of physical and emotional, three incidents of physical abuse and two incidents of sexual abuse.

Findings

The review did not uncover systemic issues creating child protection concerns, and found that child abuse incidents at the MITA were handled appropriately. This review makes 26 recommendations to enhance the many existing protective and preventative strategies that are currently employed at the MITA.

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VIC DHS advised that the majority of cases reported to them have not resulted in on-going investigations, primarily because they do not meet the VIC DHS threshold of abuse (involving risk and protective factors), including whether a child is considered to be likely to suffer 'significant harm'. Even in cases where VIC DHS do not have on-going involvement, where a child welfare concern exists, Departmental Case Management work collaboratively with all service providers (IHMS, Serco and Save The Children) at the MITA to ensure on-going, appropriate care and support.

Overwhelmingly, it was the view of the review team that DIBP staff and service providers at the MITA take child protection very seriously and are willing to take an integrated, collaborative approach to reach the best possible outcome for the children involved. They share the approach that they would rather 'over-report' than under-report, particularly with respect to allegations of physical and sexual abuse. The over-reporting helps account for the high proportion of notifications that did not result in an investigation by DHS or that were not considered to be child abuse.

The number of notifications of emotional abuse is lower than would be expected when compared to the number of physical and sexual abuse notifications, particularly as emotional abuse is the most common form of abuse in the broader Australian community¹. The review team believe that this is likely due to the language barriers where staff and service providers find it difficult to understand interactions between adults and children and the extent to which it constitutes emotional abuse. Further education and training for departmental staff and service providers on how to identify emotional abuse would be valuable, particularly as it can be a precursor to other forms of abuse.

There are a number of well-known characteristics that can increase the risk of harm to children and many illegal maritime arrivals (IMAs) – in immigration detention or living in the community – experience these. In particular, these include situational stress and mental health issues.

Common Factors

The majority of incidents involve familial interactions and none involved unaccompanied minors (UAMs). There are no allegations or concerns involving child abuse by a departmental officer or service provider staff member in the period investigated. In addition to the generalised situational stress that results from being in an immigration detention environment and having an uncertain future, other common factors include:

- non-responsive parenting;
- mental and/or physical illness of parent/carer (and in some cases intellectual or developmental disabilities);
- different approaches to parenting as a result of different cultural and/or ethnic background/norms, including inappropriate discipline; and
- a lack of understanding about Australian community standards relating to the protection of children and appropriate behaviours.

¹ Emotional abuse was the highest type of substantiated harm in Australia in 2012-13, accounting for 16,326 of the 40,571 substantiated cases <http://www.dhs.gov.au/child-abuse-and-neglect>

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Challenges with Responding to Child Protection Concerns

The review identified a range of specific and complex issues in an immigration context, including at the MITA, which further complicates how child abuse allegations are responded to and how preventative and early intervention strategies may be implemented.

1) Environmental Factors

While there are many positive additions that have been made to the MITA environment for children and families, including the playing fields, playground, early learning centre, games and television rooms etc., there are unavoidable environmental factors that can compromise the wellbeing of individuals. Smaller social networks, fewer enrichment opportunities, instability and less independence can all impact a parent's or carer's ability to respond effectively to a child's needs.

In addition, it is apparent that some families within the MITA have become complacent towards parenting and supervising their children, sometimes amounting to neglect. This is due to the belief that it is a secure and contained environment with service providers on-hand to supervise children and assist, should the need arise. The lack of a curfew, particularly for children and young people, further means that children and young people are unsupervised late at night, at times with exposure to inappropriate material, particularly through access to the Internet and DVDs. Finding appropriate accommodation options within the MITA is particularly difficult in situations where an alleged offender or victim (and their family) needs to be moved to ensure separation occurs, particularly with respect to the perception among some detainees that an alleged offender is rewarded or a victim punished when they are moved to different accommodation.

2) Reluctance to Report among Detainees

For a variety of reasons, it can be difficult to obtain a clear and accurate understanding of incidents following an allegation of child abuse. This is especially the case in an immigration context where alleged victims and/or witnesses to incidents are often unwilling to make formal reports or become involved with on-going investigations as they are concerned it could harm their – or the alleged offender's – visa and/or placement status. A further complicating factor is fear of retaliation between families or individuals when an allegation occurs within the facility. There are also suspicions among staff and service providers that some allegations are made falsely, for example, in an attempt to favourably influence decision making and/or placement options. However, all staff and service providers agreed that while there is the possibility of vexatious claims, it is important to treat all allegations seriously and follow reporting procedures regardless.

Further, there have been a number of instances of alleged assaults at the MITA involving both adults and minors that have required the involvement of the police. While staff and service providers at the MITA reported positive engagement with the local police, investigations by police are sometimes seen to cause distress and stigmatisation among people involved, and likely further deter people from disclosing information, particularly for asylum seekers who are already apprehensive of authority figures. DHS indicated that where an assault involves a child, police and DHS should jointly commence investigations, which has not always occurred at the MITA.

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3) Diverse Populations:

In an immigration detention environment, the diverse backgrounds and experiences of the overall population is challenging and complex to manage and this is also the case with respect to how children are cared for at the MITA. Beliefs, values and parenting practices vary greatly among different nationalities, ethnic groups, genders and ages and are also affected by other factors such as trauma or torture, and mental or physical health issues. Parenting is difficult, especially while being detained in a new country, and those parents suffering emotionally may be less able to respond to their children's needs. In addition, many asylum seekers are mistrustful of people in positions of authority and are resistant to engaging with staff, service providers and other stakeholders.

Several of the identified incidents of emotional abuse involving a parent threatening to harm their child in response to the possibility that they may be transferred elsewhere (including to the Nauru Offshore Processing Centre). These threats of harm stem from a perception that such threats provide an advantage for detainees, especially when they involve children.

While the vast majority of parents share universal parenting goals and expectations, their attitudes differ considerably in relation to physical or psychologically aggressive punishment, discipline, degrees/types of care and supervision and developmental expectations. While differences in cultural approaches to parenting are to be respected and encouraged, the protection of children must be paramount.

It is clear that more tailored, targeted approaches to educating parents, children and other detainees are required, particularly with respect to explaining:

- that in Australia it is a crime for children to be physically, sexually or emotionally abused or neglected (including by their parents) and that this can result in offenders being warned, notified, charged and possibly jailed if found to have committed these acts;
- how to seek help or support;
- how to report child abuse concerns; and
- community expectations, appropriate behaviours, including positive parenting techniques.

Staff at the MITA reported that some individuals – particularly males – are unwilling to engage with services or accept advice that could assist with better parenting, such as counselling. In addition, discussing sensitive topics such as sexual abuse, sexualised behaviours or private body parts can be more confronting in some cultures. Social support services, however, adopt a range of strategies to maximise engagement and should be utilised to ensure that key messages, services and support are communicated effectively.

Schools can also play a valuable role in educating children and young people about positive behaviours and personal development. Asylum seeking children, however, may not have attended school in their country of origin, and while children in immigration detention attend local schools, they may not have commenced until later years, after the point at which many of the core behavioural expectations have been entrenched. Further, many children are required to change schools when they relocate to another facility or are released into the community.

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The early learning centre at the MITA plays an important role for younger children; however, further engagement with local schools would be valuable.

4) Lack of Clarity about Responsibility for Responding to Allegations and Lack of Communication between Stakeholders

While both departmental staff and service providers take child protection issues seriously, the review found that there are opportunities to clarify procedural steps such as who has ultimate responsibility for making reports/notifications, following up and record keeping etc. The service providers, including Serco and IHMS, are most likely to make notifications to VIC DHS given their regular interactions with families and children but once a notification is made it is unclear who takes responsibility for ensuring appropriate responses and strategies are implemented.

Stakeholders indicated that a lack of communication between departmental staff and service providers at the MITA and with external third parties has also been a problem in some instances, including with child psychologists and paediatricians.

There is no dedicated person who reviews children's cases from a specific child protection perspective, ensuring the department has all relevant information about the case and assessing whether further investigation and/or action should be undertaken. The lack of this function increases the risk that child protection issues may not be identified and handled in the most effective manner.

It is clear that a single point of contact to coordinate responses to incidents, liaise with the range of stakeholders and oversee preventative or early intervention strategies would provide a far more effective framework within the MITA with respect to child protection. A dedicated officer who could establish integrated, multi-disciplinary care teams when specific cases arise, as well as undertake general liaison and awareness-raising, would be highly valuable.

A further barrier to effective responses to child protection incidents as reported by stakeholders (including service providers, DIBP staff and VIC DHS) is the tensions that arise when a third-party expert, particularly medical professionals, act as political advocates. While individual patient advocacy is incredibly valuable, the generalised assertion that immigration detention itself is a form of child abuse by some medical professionals is not conducive to constructive relationships among stakeholders. Staff and service providers working within government policy and/or legislative parameters, report increasing criticism and at times even hostility from some external stakeholders. Perceptions from both sides that the other is being deliberately obstructionist and not transparent, has made integrated and collaborative approaches challenging.

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5) Jurisdictional Issues between State and Commonwealth

s. 47B(b)

Other issues

There is a range of other issues that further affect how we respond to child protection concerns.

By inconsistent terminology and system boundaries

The inconsistent use of terminology – including between the department, service providers and VIC DHS – makes it incredibly difficult to ascertain the number and type of abuse, including whether it is substantiated.

Alongside the above

Along with substance abuse, mental health issues, and family history, situational stress is also known to increase the risk of child abuse. While situational stress occurs in immigration detention, this will not be mitigated once people are released into the community. The on-going lack of certainty, economic stress, unfamiliar environments and lack of services/supports will continue to be an issue for many asylum seekers.

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Recommendations

- 1) Education and training for departmental staff and service providers on how to identify emotional abuse.
- 2) Review the range of services and supports at the MITA for children, young people, parents and families with respect to enrichment opportunities, noting that many will be released.
- 3) Provide clear information to parents that they are responsible for their children and have the ultimate duty of care.
- 4) Provide positive parenting classes.
- 5) Consider establishing more flexible accommodation options within the MITA for families and children, including ensuring alleged victims or offenders can be located safely with access to appropriate supports.
- 6) Consider the introduction of a curfew at the MITA for children and young people.
- 7) Explore strategies for encouraging reports from detainees with DHS and other child welfare experts.
- 8) DHS to work with local police and staff at the MITA to develop protocols with respect to responding to incidents at the MITA, particularly ensuring that police do not investigate assaults involving children without the involvement of the child welfare agency.
- 9) Establish a Child and Family Liaison Officer position in Victoria to be a central point to liaise with DHS, VIC police, service providers, other child welfare experts or medical professionals, schools and families.
- 10) Develop communication strategies and tools targeted at parents, children and the broader population within the Immigration detention setting clearly spelling out Australian community standards and laws with respect to child abuse.
- 11) The department to consider how to ensure parents of at-risk children engage with service providers and make other efforts to protect children, noting that refusal by parents to engage would not be tolerated in the community.
- 12) Engage with VIC DHS and other child welfare experts on effective approaches to engaging individuals reluctant to accept support or advice.
- 13) Provision of specialised training to departmental staff and service providers on child-centred practice and child protection.
- 14) Build on existing relationships with local schools to seek their support and expertise in educating children and young people about appropriate behaviours. [Note: this is a role that could be facilitated by the Child and Family Liaison Officer.]

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- 15) Hold regular formal and informal consultations with key stakeholders.
- 16) Develop clear, agreed procedures for reporting, engagement and follow-up.
- 17) Seek to build a more constructive and collaborative relationships with third party experts.
- 18) Formally clarify the issue of jurisdiction at the MITA with VIC DHS and Victorian Police.
- 19) Continue to reiterate that the department welcomes advice and recommendations from VIC DHS, even where there is no – or limited – legal jurisdiction, including the capacity to issue formal protection orders.
- 20) Maintain and build on the positive engagement between the agencies with regular informal and formal consultations and transparent exchange of information.
- 21) Develop a list of services and supports that can be accessed for families and children at the MITA, either that can be delivered by service providers within the MITA or that can be accessed externally through referrals made by others, and ensure relevant stakeholders are aware of the level of service.
- 22) Explore what additional services may be available for parents, families and children.
- 23) The department to explore adopting terminology consistent with state child welfare agencies.
- 24) Follow up on timeframes for improvements to departmental systems with respect to consistent recording and reporting on child protection concerns, noting that work has already commenced.
- 25) DIBP to bring to the attention of VIC DHS the details of any children who are to be released into the Victorian community where there are concerns for their wellbeing.
- 26) Provide families being released into the community with information about where they can seek parenting – or other forms of – assistance and support.

Conclusions

On the basis of the information collected and considered and consultations with a range of stakeholders, a range of improvements that could be implemented with respect to child protection at the MITA have been identified. However, it is not clear whether the number and type of substantiated child protection incidents is higher than in the Australian community in comparable populations experiencing situational stress. As such, while it is not possible to undertake a proper statistical analysis on the basis of the sample size and the number of unsubstantiated claims, it does not appear that a child abuse cluster is present at the MITA. In addition, it is likely that the majority of causal factors and corresponding recommendations would be consistent across immigration detention facilities and indeed among asylum seekers in the community.

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Encouragingly, all stakeholders expressed the desire and commitment to ensure the protection of children to the greatest extent possible. The recommendations in this report have in large part been made by stakeholders and pave the way for considerable and positive improvements designed to prevent child abuse. Even since the review first commenced, there has been a range of positive steps that have been made, not least of which is the highly productive relationship that has developed between VIC DHS, the department and service providers. There have also been some substantial changes to the Commonwealth Government's policy on detention placement, which has seen the number of children at the MITA drop by 37.5 per cent in the period from 19 December 2014 to 9 February 2015 (see [Attachment A](#)).

The department welcomes opportunities to make further improvements and work constructively with stakeholders.

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ATTACHMENT A

Number of children in detention (MITA)

There has been a decrease of 37.5 percent in the number of minors accommodated at MITA in the period 19 December 2014 to 9 February 2015.

Children in Detention (MITA) as at 19 December 2014

Acc. Male Minor	Acc. Female Minor	UAM Male	UAM Female	Total
27	17	3	1	48

Children in Detention (MITA) as at 09 February 2015

Acc. Male Minor	Acc. Female Minor	UAM Male	UAM Female	Total
15	11	4	0	30



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s. 47E(d), s. 33(a)(i)

in the Office of the
Secretary DIBP
Correspondence No. 1739

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MINUTE

s. 47F(1)

s. 47E(d), s. 33(a)(i)

To:
Through

Secretary

Acting Commissioner

s. 47F(1)

s. 47E(d), s. 33(a)(i)

Suspected Illegal Entry Vessels and

s. 47E(d),
s. 33(a)(i)

s. 47E(d), s.
33(a)(i)

Timing:

Required prior to meeting with Minister for Border Protection on

s. 47E(d), s. 33(a)(i)

Purpose

To:

1. Provide you with a summary of actions taken in relation to the detection, interception and response to Suspect Illegal Entry Vessels (SIEVs)

s. 47E(d), s. 33(a)(i)
s. 47E(d), s. 33(a)(i)
s. 47E(d), s. 33(a)(i)

Background:

SIEV

s. 47E(d), s. 33(a)(i)

Detection, boarding and detention of boat

1. s. 47E(d), s. 33(a)(i)

2. The venture was likely self-organised by an extended family of commercial fishermen

s. 33(a)(iii)
s. 33(a)(iii)

Some facilitation was likely required for the logistical components including procurement of the vessel.

s. 47E(d), s. 33(a)(i), s. 33(a)(iii)

- 3.

This document may contain 'personal identifiers' and 'personal information' as defined under the Migration Act 1958 or Australian Citizenship Act 2007, and can only be used for purposes under these Acts.

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4. s. 47E(d), s. 33(a)(i), s. 33(a)(iii)

5. The vessel used was a traditional Vietnamese commercial fishing boat
s. 47E(d), s. 33(a)(i)

6. s. 47E(d), s. 33(a)(i)

7. There is no indication that SIEV^{s. 47E(d), s. 33(a)(i)} was not detected as a result of protected industrial action.

8. s. 47E(d), s. 33(a)(i)

9. s. 47E(d), s. 33(a)(i)

The Assessment Process

10. Immediately after the detention of the vessel, the potential illegal immigrants (PII) were detained under the *Maritime Powers Act 2013* and
s. 47E(d), s. 33(a)(i)

11. s. 47E(d)

12. Interviews were conducted with^{s. 47E(d), s. 33(a)(i)}
s. 47E(d), s. 33(a)(i)

The PIIs claimed to be an extended family.

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13. In response to being asked why the PII's had left Vietnam and where they were going, all of the PII's interviewed indicated that they were seeking a better life in Australia, and seek to escape low income and poverty in Vietnam. When informed that consideration was being given to returning them to Vietnam, the PII's asked not to be sent back to Vietnam because they could not make enough money to support themselves and their families. They claimed that they would be going back to a life of hardship.
14. On ^{s. 33(a)(i), s. 47E(d)} 2015, the Protection Assessment Officers formed the view that none of the PII's interviewed made any claims that would invoke Australia's protection obligations and on ^{s. 47E(d), s. 33(a)(i)} a delegate of the Minister for Immigration and Border Protection affirmed the assessor's recommendations.
15. On ^{s. 33(a)(i), s. 47E(d)} 2015, the PII's were subject to health checks and assessed by the DIBP Chief Medical Officer that all PII's were fit to fly.

Diplomatic engagement

16. ^{s. 33(a)(iii)}

17. ^{s. 33(a)(iii)}

Return of PII's to Vietnam

18. On ^{s. 33(a)(i), s. 47E(d)} 2015, the PII's were notified that based on the assessment, there was no reason that would prevent them from being returned to Vietnam, and that they would be taken to Vietnam.
19. On ^{s. 47E(d), s. 33(a)(i)} 2015, the Minister for Immigration and Border Protection signed a Ministerial Determination under section 198AE of the *Migration Act 1958* (the Migration Act) exempting the 46 persons from the application of section 198AD of the Migration Act.
20. ^{s. 47E(d), s. 33(a)(i)}

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21. s. 33(a)(iii)

Engagement with oversight agencies and non-government organisations

22. s. 22(1)(a)(ii) Director, Immigration Detention Review-Inspections,
Commonwealth Ombudsman wrote to DIBP or s. 33(a)(i), s. 47E(d) 2015 seeking real
time information in regard to the on water assessment of the PII on board
SIEV s. 33(a)(i), s. 47E(d) and advised that they were not adverse to direct observation
and accompanying the DIBP officers who will undertake the assessment.

23. s. 33(a)(i), s. 47E(d)

24. s. 47E(d), s. 33(a)(iii), s. 47F(1)

25. s. 47F(1) Acting Deputy Ombudsman, Commonwealth Ombudsman
and s. 47F(1) UNHCR will be attending the Nauru Joint Advisory
Committee as observers.

26. s. 47G(1)(a)

Strategic Communications

27. On behalf of JATF, the International Organization for Migration (IOM) has
recently completed strategic communication activity in three provinces in
Vietnam – Vung Tau, Nghe An and Ha Tinh. JATF is considering a
proposal by IOM to expand the messaging into s. 33(a)(iii) as well as the
three provinces listed above.

28. The JATF is also currently testing the effectiveness of a recent round of
the onshore campaign and is commencing developmental research which
will be used to inform the next phase of messaging for the onshore
campaign as well as contributing to the development of new creative
material.

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29. On line advertising in Vietnam continues and the Vietnamese are one of the higher engagers with the on line advertising campaign.

s. 42(1), s. 47E(d) *legal proceedings*

30. s. 47G(1)(a), s. 42(1), s. 47F(1)

31.

SIEV s. 33(a)(i), s. 47E(d)

32. s. 33(a)(i), s. 47E(d)

33. s. 33(a)(i), s. 47E(d)

34. s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

35. s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

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Strategic Communications

36. Online advertising is available in a number of languages including ^{s. 33(a)(iii)}
^{s. 33(a)(iii)} IOM is preparing a
report to assist the JATF in assessing the nature of communications that
will be undertaken in relation to the ^{s. 33(a)(iii)}
^{s. 33(a)(iii)}

Issues:


- ^{s. 33(a)(i), s. 47E(d)}
2. Media strategies are being prepared for both.

Consultation:

3. This brief has been prepared in consultation with Maritime Border Command.

Recommendation

It is recommended that you **note** contents of this brief.

 **Noted / Please Discuss**

^{s. 47F(1)}

Major General Andrew Bottrell
Commander

Joint Agency Task Force, OSB
^{s. 22(1)(a)(ii)}

Michael Pezzullo
Secretary

^{s. 33(a)(i), s. 47E(d)}

Contact Officer: ^{s. 22(1)(a)(ii)}
Phone: ^{s. 22(1)(a)(ii)}

Attachment:

- A. ^{s. 33(a)(i), s. 47E(d)}
B. ^{s. 33(a)(i), s. 47E(d)}

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Australian Government
Joint Agency Task Force
Operation Sovereign Borders

Received

s. 47E(d), s. 33(a)(i)

Minister for Immigration
and Border Protection

CDR
BOOK #...
REG #... 286

Submission

For decision

Ministerial No: s. 47E(d), s. 33(a)(i)

To Minister for Immigration and Border Protection

Subject Cooperation with Vietnam– On-Water Operation regarding
Suspected Illegal Entry Vessel (SIEV) s. 47E(d), s. 33(a)(i)

Timing Please action by s. 47E(d), s. 33(a)(i), as agreed with s. 47F(1)

Recommendations

That you:

1. s. 33(a)(iii) s. 33(a)(i), s. 47E(d) 2015 s. 33(a)(iii) noted / please discuss
2. s. 33(a)(iii) noted / please discuss
3. note that consistent with past practice and advice on Australia's non-refoulement obligations s. 33(a)(i), s. 47E(d) s. 33(a)(i), s. 47E(d) the officers of the Department of Immigration and Border Protection (DIBP) conducted on-water non-refoulement assessments to determine whether Australia's protection obligations may be engaged in relation to particular individuals from s. 33(a)(i), s. 47E(d) noted / please discuss
4. note that on s. 33(a)(i), s. 47E(d) 2015 DIBP advised the OSB JATF that of the 46 Potential Illegal Immigrants (PII), no-one has been assessed as engaging Australia's non-refoulement obligations or as requiring further consideration of their claims; and on this basis, the return of 46 persons is considered by DIBP to be consistent with Australia's international obligations (Attachments B-B1 refers); noted / please discuss
5. s. 33(a)(i), s. 47E(d) noted / please discuss

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6. s. 33(a)(i), s. 47E(d)

Signed / not signed /
please discuss

(Attachment C

refers);

7. note Border Protection Command is transporting the PII
towards Vietnam and expects to be in a position to effect
transfer to Vietnamese authorities around s. 33(a)(i), s. 47E(d)

noted / please discuss

8. note the Commonwealth has undertaken all reasonable steps
to enable the safe return of all 46 persons to Vietnam,
s. 33(a)(i), s. 47E(d), s. 42(1)

noted / please discuss

9. s. 33(a)(i), s. 47E(d)

agreed / not agreed /
please discuss

1. I recommend you agree with this.

Minister for Immigration and Border Protection

s. 47F(1)

Signature

s. 33(a)(i), s.
47E(d)
Date 2015

Minister's Comments				
Rejected Yes/No	Timely Yes/No	Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

Key Issues

1. Border Protection Command (BPC) intercepted Suspected Illegal Entry Vessel (SIEV) ^{s. 33(a)(i), s. 47E(d)} 2015.
2. Between ^{s. 33(a)(i), s. 47E(d)} 2015, the DIBP conducted on-water non-refoulement assessments to determine whether Australia's protection obligations might be engaged in relation to any of the individuals concerned.
3. ^{s. 33(a)(i), s. 47E(d), s. 33(a)(iii)}
4. The PII are currently aboard HMAS *Choules*, with the intent that it will proceed to Vietnam and transfer the PII from ^{s. 33(a)(i), s. 47E(d)} to Vietnamese authorities during a formal port visit to the port of Vung Tau around ^{s. 33(a)(i), s. 47E(d), s. 33(a)(iii)}
5. ^{s. 33(a)(i), s. 47E(d), s. 33(a)(iii)}
6. DIBP advise that of the ^{s. 33(a)(i), s. 47E(d)} no-one has been assessed as requiring further consideration of their claims; and on this

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Sensitive: Legal

basis, the return of all persons is considered by DIBP to be consistent with Australia's international obligations (Attachments B-B1 refer).

On arrival

s. 33(a)(i)

7.

s. 33(a)(i)

8.

s. 33(a)(iii)

s. 33(a)(i), s. 33(a)(iii)

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demonstrate reasonable steps had been taken to enable the safety of all persons returned under this operation.

s. 33(a)(i)

18. Key to the success of *Operation Sovereign Borders* has been on-water operations to ensure SIEVs do not arrive in Australia, which demonstrates the Government's resolve to stop the people smuggling business model. Most importantly, combating people smuggling under *Operation Sovereign Borders* has discouraged PIs from risking their lives at sea on unsafe and unsuitable vessels. It is estimated that more than 1,200 persons died at sea attempting the journey to Australia between 2008 and 2013.

19. Every successful return critically undermines the sales pitch of people smugglers and is key to meeting the goal that the lives of PIs targeted by people smugglers are not put at risk. If people smuggling ventures to Australia were to return to 2012 levels, ^{s. 33(a)(i), s. 47E(d)} and would also jeopardise the safety of Commonwealth officers involved in these operations.

20. ^{s. 33(a)(i), s. 47E(d)}

The failure of ^{s. 33(a)(i), s. 47E(d)} will be a critical deterrent to other ventures currently being planned.

Consultation

21. This submission was prepared with input from BPC, DIBP, AGD, AGS and DFAT.

Client service implications

22. Not applicable.

Financial/systems/legislation implications

23. ^{s. 33(a)(iii)}

Attachments

Attachment A

s. 33(a)(iii)

Attachment B-B1

s. 47E(d), s. 33(a)(i)

Attachment C

s. 47E(d), s. 33(a)(i)

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Sensitive: Legal

Authorising Officer
s. 47F(1)
Andrew Bottrell CSC and Bar, DSM
Major General Commander Joint Agency Task Force Operation Sovereign Borders
s. 33(a)(i), s. 47E(d)
ph: s. 22(1)(a)(ii)

Contact Officer: s. 22(1)(a)(ii)

CC: Secretary, Department of Immigration and Border Protection
Chief Executive Officer, Australian Customs and Border Protection Service
Chief of Defence Force
Commander, Border Protection Command
Assistant Minister

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Overview

s. 47E(d), s. 33(a)(i) carried 46 passengers (PII - 24 adults and 22 accompanied children). There are ten family groups (15 adults and 20 children) and six single adult males (SAM).

None of the PIIs were identified as having travelled to Australia by boat previously. s. 47F(1)
s. 47F(1)

s. 47E(d), s. 33(a)(i)

All persons self-identified during interview. s. 47E(d), s. 33(a)(i)
s. 47E(d), s. 33(a)(i)

were conducted from s. 47E(d), s. 33(a)(i) 2015 to s. 47E(d), s. 33(a)(i) 2015.

Interviews averaged one and a half hours in length. Each interview was recorded and the interview transcription and an assessment by the interviewing officer were provided to the senior officer for review.

Of the s. 47E(d), s. 33(a)(i) are considered to not engage Australia's international obligations without further consideration by headquarters of their claims. s. 47E(d), s. 33(a)(i) had claims warranting further consideration by a senior officer in headquarters. On further consideration removal of all these persons is considered to be consistent with Australia's *non refoulement* obligations.

s. 47F(1)

Summary of reasons presented by those for whom removal was found to be consistent with Australia's international obligations

This group largely comprised fisherpersons who had been harassed by Chinese boats and in some cases their boats had been damaged. Their claims mainly related to concerns about what would happen to them if they were to be returned to Vietnam given that they had left illegally.

s. 47E(d), s. 33(a)(i) made claims about potential violence related to recovery of individual debts. These were considered not to engage Australia's international obligations.

^{s. 47E(d), s. 33(a)(i)}
DIBP SIEV Assessment – Persons not considered to engage Australia's international obligations

Family A	1.	^{s. 47F(1)}
	2.	
	3.	
	4.	
	5.	
Family B	6.	
	7.	
	8.	
	9.	
	10.	
Family C	11.	
	12.	
	13.	
	14.	
	15.	
	16.	
Family D	17.	
	18.	
	19.	
	20.	
	21.	
	22.	
	23.	
Family E	24.	
	25.	
	26.	
	27.	
Family F	28.	
	29.	
	30.	
	31.	
Family G	32.	
	33.	
Family H	34.	
	35.	
Family I	36.	
	37.	
	38.	
Family J	39.	
	40.	
Single	41.	
	42.	
	43.	
	44.	
	45.	
	46.	



Australian Government
Joint Agency Task Force
Operation Sovereign Borders

Received

s. 33(a)(i), s.
47E(d)

2024

Minister for Immigration
and Border Protection

CDR
BOOK #.....5.....
REG #.....286.....

Submission

For decision

Ministerial No: MS15-900003

To Minister for Immigration and Border Protection

Subject On-Water Operation regarding Suspected Illegal Entry Vessel (SIEV) s. 33(a)(i),
s. 47E(d)

Timing For your urgent attention, as discussed you on s. 33(a)(i), s. 47E(d)

Recommendations

That you:

1. Note on 18 November 2013 then MIBP, Minister Morrison provided Authority to Commence Turnback Operations noted / please discuss
s. 33(a)(i), s. 47E(d), s. 33(a)(iii)
2. Note on s. 33(a)(i), s. 47E(d) Border Protection Command (BPC) noted / please discuss
intercepted a s. 33(a)(i), s. 47E(d), s. 33(a)(iii)
3. s. 33(a)(i), s. 47E(d) noted / please discuss
4. s. 33(a)(i), s. 47E(d) noted / please discuss
5. s. 33(a)(i), s. 47E(d) noted / please discuss
6. s. 33(a)(i), s. 47E(d) noted / please discuss
7. s. 33(a)(i), s. 47E(d) noted / please discuss

s. 47F(1)

8. s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

signed / not signed /
please discuss

a. s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

b. s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

9. s. 33(a)(iii)

noted / please discuss

10. s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

noted / please discuss

11. Note the Commonwealth has undertaken all reasonable steps
to enable the safe release of s. 33(a)(i), s. 47E(d)
s. 33(a)(i), s. 47E(d), s. 42(1)

noted / please discuss

12. s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

a. s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

agreed / not agreed /
please discuss

b. s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

agreed / not agreed /
please discuss

s. 47F(1)

<p>Minister for Immigration and Border Protection</p> <p style="text-align: center;">s. 47F(1)</p> <p style="text-align: right;">s. 33(a)(i), s. 47E(d)</p> <p>Signature..... Date: 2015</p>	
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Minister's Comments				
<p>NS s. 33(a)(i), s. 47E(d)</p> <p style="text-align: right;">s. 47F(1)</p>				
<p>Rejected Yes/No</p>	<p>Timely Yes/No</p>	<p>Relevance</p> <p><input type="checkbox"/> Highly relevant</p> <p><input type="checkbox"/> Significantly relevant</p> <p><input type="checkbox"/> Not relevant</p>	<p>Length</p> <p><input type="checkbox"/> Too long</p> <p><input type="checkbox"/> Right length</p> <p><input type="checkbox"/> Too brief</p>	<p>Quality Poor 1.....2.....3.....4.....5 Excellent</p> <p>Comments:</p>

Key Issues

1. On s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

2. s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

3. The nationalities of those onboard s. 33(a)(i), s. 47E(d), s. 33(a)(iii)

s. 33(a)(iii)

s. 42(1)

SECRET: AUSTEO: SENSITIVE: LEGAL

Released by DIBP under the
Freedom of Information Act 1982

s. 42(1)

s. 33(a)(iii), s. 33(a)(i), s. 47E(d)

SECRET: AUSTEO: SENSITIVE: LEGAL

Released by DIBP under the
Freedom of Information Act 1982

s. 33(a)(i), s. 47E(d)

s. 33(a)(iii), s. 33(a)(i), s. 47E(d)

s. 33(a)(i), s. 47E(d)

15. Key to the success of *Operation Sovereign Borders* has been on-water operations to ensure SIEVs do not arrive in Australia, which demonstrates the Government's resolve to stop the people smuggling business model. Most importantly, combatting people smuggling under *Operation Sovereign Borders* has discouraged potential illegal immigrants (PIIs) from risking their lives at sea on unsafe and unsuitable vessels. It is estimated that more than 1,200 persons died at sea attempting the journey to Australia between 2008 and 2013.
16. Every successful turn back critically undermines the sales pitch of people smugglers and is key to meeting the goal that the lives of PIIs targeted by people smugglers are not put at risk. If people smuggling ventures to Australia were to return to 2012 levels, ^{s. 33(a)(i), s. 47E(d)} and would also jeopardise the safety of Commonwealth officers involved in these operations.
17. Should you not agree to releasing ^{s. 33(a)(i), s. 47E(d)} they will be transferred to a regional processing centre, consistent with Government policy.

Consultation

18. This submission was prepared with input from BPC, AGD, DIBP and DFAT; and ^{s. 42(1)}

Client service implications

19. Not Applicable.

Financial/systems/legislation implications

20. Not Applicable.

Attachments**Attachment A** s. 33(a)(i), s. 47E(d)**Attachment B** s. 33(a)(i), s. 47E(d)

Authorising Officer	
s. 47F(1)	
<p>Angus J. Campbell DSC AM</p> <p>Lieutenant General Commander Joint Agency Task Force Operation Sovereign Borders</p> <p>s. 33(a)(i), s. 47E(d)</p> <p>Ph: s. 22(1)(a)(ii)</p>	
Contact Officer:	s. 22(1)(a)(ii)
CC:	Secretary, Department of Immigration and Border Protection Chief Executive Officer, Australian Customs and Border Protection Service Commander, Border Protection Command

