
Independent Review
of the Incidents at the
Christmas Island
Immigration Detention Centre
and Villawood
Immigration Detention Centre

31 August 2011

The Hon Chris Bowen MP
Minister for Immigration and Citizenship
Parliament House
Canberra ACT 2600

Dear Minister

Review of Immigration Detention Centre Incidents

We are pleased to provide you with the Report of our investigation into issues associated with management and security at the Christmas Island (CIDC) and Villawood (VIDC) Immigration Detention Centres in accordance with your letters of 18 March and 20 April 2011 respectively.

Your Department (DIAC) and the Service Provider (Serco) have gone to considerable lengths to get on top of the circumstances they found themselves in, ably assisted by the Australian Federal Police (AFP) whose professionalism in restoring order when required to do so is commendable.

The Report elaborates on all this, leading to the 48 recommendations intended to facilitate the management of good order in the Immigration Detention Centre (IDC) Network. Some recommendations are specific to the Christmas Island and Villawood IDCs, while others apply more generally and especially to the Contract.

Government approvals and DIAC's actions, supported by responses from related organisations, means that more timely processing is now occurring and the backlog of determinations is being redressed for Irregular Maritime Arrivals (IMAs).

On 18 October 2010, the Government announced a new direction in its approach to managing low risk groups, expanding the residence determination program to cater for the majority of children and a significant number of vulnerable families.

Since then, you have approved over 1700 people for placement in community detention, including over 800 children, 250 of whom are unaccompanied minors.

Around 1100 people are now in community detention or completing travel to their new accommodation. The other 600 have either been granted visas since entering community detention or have returned to their home countries.

Over the next 12 months, the remaining women and children together with their adult male family members who are still in IDCs will be moved progressively into community detention. DIAC will also focus on detainees in detention who have torture/trauma backgrounds for possible transfer into community accommodation and other potential cohorts who might be considered for community detention are under ongoing consideration.

There have, of course, been challenges in improving the rate of status resolution, particularly during 2010 and early 2011 when there was severe overcrowding. Between January 2010 and May 2011, there were 8,370 IMAs, yet only 3,528 such persons had their immigration status resolved either through visa grant (3,435 people) or removal (93 people). For those granted visas during 2011 (up until the end of May), the average time from arrival to settlement was 305 days.

From May 2011, nearly 2200 former detainees have been settled in Australia. These outcomes, which have considerably eased over-crowding pressures on Christmas Island and immigration detention facilities more generally, have been complemented by initiatives, such as changes to security assessment arrangements, to resolve status more quickly. For example, over 3000 IMAs found to be a refugee have been considered through this new security assessment arrangement from 15 March to 28 June 2011.

Examination of the October 2010 ANU Poll, December 2010 Lowy Institute analysis and May 2011 Parliamentary Library paper on public opinion shows that Australian attitudes to population, immigration, asylum seekers and refugees is more highly nuanced than is commonly represented in the mainstream media.

What distinguishes the current situation from prior IMA surges, is the significant build up of detainees on negative pathways (ie because they have received a negative decision at the primary stage and are awaiting review, or having been found not to be refugees at either of those stages are seeking judicial review). A smaller number have been found to be refugees, but have not been given a security clearance and cannot be granted a visa.

At 24 July 2010, 729 of the then 4115 IMA detainee population were on a negative pathway. At 30 June 2011, this number had grown to 3241 of the 5691 IMA detainees. The fact that the people smugglers promote a *modus operandi* whereby

IMAs arrive without identification, when combined with the various stages of assessment and review of their claim to be a refugee, means that people are being detained for extended periods of time.

In the March CIIDC incident, about 300 to 400 of the 1841 detainees were actively involved in the disturbance and 80 of the 100 who were positively identified were found to be on a negative pathway.

Of those, a group of about 40 (all from North West Point) who were initially identified as possible ring leaders was whittled down to 22 as information was collated and analysed. At the time of writing, 19 of the 22 had been charged by the AFP. Thirteen of those charged had been found not to be a refugee at the primary stage, and only one was found to be a refugee but awaiting security clearance. The remainder were still undergoing assessment.

In the April VIDC incident, some 60 detainees were actively involved in the disturbance, all of whom were IMAs accommodated in Fowler Compound. Of those, 25 were initially identified as Persons of Interest, which subsequently increased to almost 40. At the time of writing, nine had been charged. All had received a negative decision at the primary stage.

These latter detainees have largely been the ringleaders, fomenting the unrest and misbehaviour. Indeed, the majority of detainees involved in the incidents have been on negative pathways. Although the length of processing time is a contributing factor, a strong motivation from detainees who have received a negative decision flows from their reaction to having paid a significant sum of money to people smugglers to facilitate their travel to Australia with an accompanying “promise” of receiving a visa. Having received the wrong outcome in their eyes is manifesting itself in non compliance, inappropriate behaviours, disturbances and resort to self harm by these detainees.

The Government’s Key Detention Values were developed at a time when there were only 247 people in the detention network and this flowed through to the provisions of the Contract and decisions relating to operation of the IDCs. The incidents which led to our Review and continued inappropriate behaviours requires reconsideration of aspects of the Contract, review of operating procedures, and

IDCs with the full spectrum of accommodation options to hold detainees with different risk profiles.

Dealing with mandatory detention of detainees on negative pathways is exacerbated by the lack of third country options and issues associated with repatriation to their homeland.

On the question of return to their country of origin, it may be worthwhile pursuing a Special Envoy approach, assisted by the efforts of diplomatic and immigration personnel. Third country options will need further exploration and an information campaign may also prove fruitful.

In closing, we pay particular tribute to Charles Wann as Head of the Secretariat and his co-contributors John Jarvis, Julia Paton, Lauren Renshaw, Michael Shelton and Tony Howarth who helped in researching and drafting this Report.

Yours sincerely



Allan Hawke



Helen Williams

31 August 2011

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Executive Summary

On 18 March 2011, following a significant breach of security at the Christmas Island Detention Centre (CIIDC), the Minister for Immigration and Citizenship, the Hon Chris Bowen MP, commissioned an investigation into a range of issues associated with management and security at the CIIDC, particularly:

- the clarity of roles and responsibilities between Serco and DIAC in managing security at the Centre and in managing the incident;
- how breaches of security were achieved, what access occupants of the Centre had to tools to assist with such breaches and, if relevant, how such access occurred;
- the extent of any prior indicators or intelligence that would have assisted in the prevention and/or management of the incident;
- the adequacy of infrastructure, staffing and client management in maintaining appropriate security at the Centre;
- the adequacy of training and supervision of DIAC and Serco staff;
- the effectiveness of the communication and coordination between the relevant Government agencies and contractors; and
- the appropriateness of the response measures taken to the incident.

After a major incident the next month at the Villawood Immigration Detention Centre (VIDC), the Minister extended the scope of the CIIDC Review on 20 April 2011 to examine the circumstances around the VIDC incident with the same terms of reference. This was intended to provide the opportunity to test the findings from the CIIDC Review in an onshore context and allow conclusions to be drawn more generally about management of Irregular Maritime Arrivals (IMAs).

The Review was tasked with making recommendations to strengthen Immigration Detention Centre (IDC) security with a view to preventing recurrence of similar incidents.

Environment

Mandatory detention of unauthorised arrivals, including IMAs who arrive by boat and those in the migration zone without a valid visa, has formed part of Australia's border control system for many years. It allows the refugee status of the arrivals to be assessed and checks to be carried out to determine whether a detainee poses a risk to the Australian community.

The Government's Key Immigration Detention Values note that mandatory detention is an essential component of strong border control and that unauthorised arrivals will be detained on arrival in Australia for an assessment of their health, identity and security risks to the community. The Values intend this assessment to be carried out as promptly as practicable; children and where possible their families are detained in the community and those in a detention centre are treated fairly and with dignity, and remain there for the shortest practicable time.

The Values were, however, developed in a climate of low numbers of IMAs, and their practical implementation has been placed under severe stress by a major surge in boat arrivals between late 2009 and late 2010. In less than 18 months, the detention population grew from a few hundred to over 6,000 people.

The management task inherent in dealing with the rapidity and size of this increase proved highly challenging. As a result, the Department of Immigration and Citizenship (DIAC) and Serco as its contracted provider of detention services were operating on what was effectively an emergency response footing.

The immigration detention infrastructure was not able to cope with either the number or the varying risk profiles of detainees. Providing sufficient accommodation for the increasing number of detainees, particularly on Christmas Island where IMAs are brought and assessed, became an ongoing preoccupation for DIAC, which had to compromise standards of accommodation and services. The Christmas Island IDCs became chronically overcrowded and amenities were placed under severe stress. Significant capacity constraints on the Island, with a small population remote from mainland Australia, were also problematic, including in sourcing accommodation for additional staff, guards and interpreters.

The context in which the Values were developed also led to decisions about operation of the centres, including not to use certain security features that formed part of the design of the medium security North West Point (NWP) facility on Christmas Island. While understandable in an environment of low numbers and a relatively compliant detainee population, these decisions hampered the response when stronger measures were required to restore and maintain public order.

The rapid increase in arrivals also overwhelmed the refugee status and security assessment processing resources despite DIAC's action to train additional staff. This became a particular concern for IMAs whose driving motivation was to obtain a visa enabling them to stay in Australia.

In this environment, problems of health, including mental health, increased, and detainee anger and frustration rose, often producing violent reactions and self harm. The growing number in detention on negative pathways, that is, those found not to be a refugee at either the primary or the review stage, exacerbated the situation.

The March and April 2011 Incidents

On 11 March 2011, CIIDC detainees breached the perimeter fence so that they had unrestricted access within the Centre and were able to roam freely across Christmas Island itself. Mass non-compliance and fires caused considerable damage to detention infrastructure over the following days; the safety of staff and some detainees was under threat and sections of the Christmas Island community also felt threatened. Order was restored only after control of the incident was handed over to the Australian Federal Police (AFP).

Some four weeks later, on 20 April 2011, two detainees scaled the roof of a Fowler Compound residential accommodation block in the VIDC and began a protest that rapidly escalated into a riot and loss of control of the Fowler and Hughes Compounds. Fires were set, extensive damage was caused to infrastructure, and detainees and staff were at significant risk of harm. The last two detainees remaining on the roof agreed to come down on 30 April 2011.

That these incidents took place, particularly at the CIIDC, was not entirely unpredictable, although their severity and speed of escalation was surprising. Organisations and professional bodies had been warning of significant management issues associated with overcrowding, including processing delays and the impact on services and amenities on Christmas Island. There were indications that the risk of a major incident was increasingly more likely if these factors were not addressed.

At the VIDC, information suggested that protests could be expected around Easter as had occurred in previous years, but it was relatively unspecific in terms of detail and the likely timing.

In both instances, in the preceding days Serco and DIAC sought to mitigate the risks involved to the extent they were able. The scale and severity of the incidents, however, presented significant challenges for Serco in relation to its ability to respond adequately and maintain control. To a large extent, the factors that contributed to the incidents also hampered Serco's and DIAC's attempts at mitigation and response.

Good Order in Immigration Detention Centres

Maintenance of good order in an Immigration Detention Centre, including DIAC's and Serco's roles and responsibilities in a day-to-day context, is generally well articulated in the Detention Services Contract. Some elements appropriately do not form part of the Contract provisions, most notably the effective and timely resolution of detainee status.

Similar to the Detention Values, however, the Detention Contract was designed in the context of a small and relatively compliant detention population where the emphasis was on establishing a physical and social environment that mitigated the risk of non-compliance. The contract is less helpful, therefore, in formulating management responses to critical incidents and in understanding roles and responsibilities in that context.

The elements required to maintain good order in an IDC and the responsibility for providing them can be summarised as a combination of:

- physical security, including infrastructure that accommodates the placement of detainees with varying degrees of security risk and vulnerability risk profiles as well as appropriate guarding capacity (broadly infrastructure is provided by DIAC and is maintained and operated by Serco, and guarding capacity is provided by Serco);
- dynamic/operational security where Serco personnel are highly visible, engaging regularly with detainees so that they provide both a deterrence to security breaches and are alert to issues or concerns;
- ongoing intelligence and analysis concerning potential risks supported by Serco's dynamic security model; the onus is on Serco to gather, analyse and report information that is relevant to managing risk within an IDC;
- management by Serco of the day-to-day needs of detainees and the provision of meaningful activities and programs; and
- detainee case management by DIAC, supported by providing a clearly articulated pathway for detainees balanced by their understanding that provision of correct background information and identity documentation will assist timely status resolution.

Serco is responsible under the Contract for incident prevention and management, working with DIAC to develop response policies and protocols. More work is needed on responsibilities for incident response where circumstances escalate towards critical and for restoring public order in mass non-compliance situations. The Contract does not give sufficient attention to behavioural management in the context of a detention population where a significant and increasing number of those in detention are on a negative pathway.

Prevention rather than cure is a sound strategic approach so long as the framework also caters for situations where prevention becomes increasingly difficult and critical incidents more likely.

All of the elements involved in managing a centre are rendered more difficult by high numbers of detainees and, correspondingly, are eased to the extent that numbers in detention centres are limited to those intended by their design.

The Problem of Managing Capacity

Previous waves of IMAs in the late 1990s and early 2000s were characterised by levels of mass non-compliance of similar scale and intensity to the present surge, with riots by detention populations at Baxter, Curtin, Port Hedland, Villawood and Woomera and frequent instances of self harm across all immigration detention facilities. In 2005, considerable shortcomings in the management of immigration detention arrangements identified in the Palmer and Comrie reports led to a significant program of reform, which continued with the announcement of the present Government's New Directions in Detention policy in 2008.

At that time, asylum seekers arriving by boat and the numbers of people in immigration detention were negligible. In fact, immediately prior to arrival of the first boat of this current wave, there were only 247 people in the detention network, all on the mainland. DIAC's focus was on implementing the Government's New Directions policy, including resolving the status of low risk unlawful non-citizens in the community by placing them on Bridging Visas with strict reporting conditions and detaining those representing a higher risk in an immigration detention facility. The corollary of this strategy, given low numbers in the network, was to identify those facilities that could be closed or mothballed.

Consequently, one of the significant challenges confronting DIAC and Serco in responding to the current IMA surge was a detention infrastructure footprint that was neither sufficiently large nor tailored for the numbers and varying risk profiles of detainees requiring management.

Given that arrivals at Christmas Island for most of this period averaged over 600 people per month, 200 more than the purpose-built NWP design capacity and over double the average daily national detention population for 2008, Serco, and a large part of DIAC, were almost entirely preoccupied with the complex challenge of increasing their capacity to manage the immigration detention population.

Resolution of detainees' status by DIAC was also impacted by its capacity to deal with increased numbers and, despite the additional DIAC resources dedicated to this area, throughput was not keeping pace with arrivals - only 42 per cent of those IMAs who arrived between January 2010 and May 2011 had their immigration status resolved either through visa grant or removal. Length of time in detention also increased - for those granted visas during 2011 to the end of May, the average time from arrival to settlement was 305 days.

The first large protest directed at the speed and consistency of the Government's status resolution processing arrangements occurred in November 2010.

Response to the Surge in Numbers

Considerable steps have been taken by the Government and DIAC to respond to these capacity issues:

- commencing in 2009, when it became evident that the surge in numbers would continue, DIAC redesigned training programs for six specialist roles and 60 courses were delivered over 18 months;
- between June and December 2010, DIAC's immigration detention capacity was almost doubled;

- new refugee processing arrangements, following the November 2010 High Court decision, were introduced in early 2011;
- streamlined triaging arrangements for security assessments were introduced from March 2011 and from that time until 28 June, over 3,000 IMAs found to be a refugee have been considered under this arrangement;
- following the Government's decision in October 2010 to expand the residence determination program, over 1,700 low risk detainees were transferred to community detention arrangements; and
- since April 2011, nearly 2,500 IMAs granted a protection visa have been provided with services to help them settle in Australia.

As a result of these actions, the numbers at NWP fell from 1,260 on 10 March 2011 to about 650 at the time this Report was written.

Meeting the Operational Challenge

As noted above, in seeking to meet the operational challenge posed by the significant rise in numbers while also implementing arrangements consistent with the Key Immigration Direction Values, decisions were made which compromised the longer term sustainable management of the current wave of IMAs, particularly from a security management perspective where the population was increasingly characterised by detainees on a negative pathway.

Physical Security

In terms of physical security, the NWP facility is the only modern, purpose designed and built medium risk IDC in the immigration detention network. When agreeing to open NWP, the Government decided early on to operate it as a low risk open facility to create an environment as consistent as possible with the Values. Red Compound, a place of more restrictive detention, was not to be used and the Electronic Deterrent and Detection System on the perimeter fence was not activated (and adequate maintenance of both was not given priority). Means to limit detainee access and egress to accommodation compounds were not employed.

To create and service more accommodation in response to the numbers of IMAs arriving at Christmas Island, part of the NWP external perimeter was dismantled to create a link to the Lilac and Aqua Accommodation Compounds. This had the effect of allowing detainees access to the sterile zone of NWP. Similarly, marquees were established within the sterile areas, further reducing the level of security within the facility.

Although such an approach was viable in managing what was at the time a low risk detainee population, the net result of these actions meant that:

- it was no longer possible to place and segregate detainees according to their risk profiles;
- there was no way to compartmentalise the facility easily in the event of a critical incident, to contain threats on the one hand, and provide sanctuary for those not wishing to be involved on the other; and
- fencing turned out to be wholly inadequate for the risk profile of the detainees, providing only minimal deterrence, an issue of considerable concern for an IDC close to local communities and not easily supported in the event of an emergency.

Some security features, such as CCTV, failed or did not provide sufficient coverage or, as in the case of the roller doors at the CIIDC and the palisade gates at the VIDC, were not able to withstand the force of detainees who had, during the riots, time and opportunity to disable them.

While detainees used implements to achieve breaches of security infrastructure and to threaten staff and other detainees, there was no evidence that “tools” were either accessible or used. Rather, items located within or around each IDC, such as cement blocks, mop handles, fence poles and aerosols, were employed or adapted for use as weapons or implements to cause infrastructure to fail.

A number of areas of risk became apparent in this context, including:

- visitors are not stringently screened to prevent accelerants and ignition devices from entering an IDC and, leading up to the incidents, it appears that the standing restriction on aerosol cans being brought into an IDC may not have been sufficiently monitored or enforced;
- potentially dangerous items located in kitchens and medical areas are not always appropriately secured; the last minute decision by Serco kitchen staff on Christmas Island to remove knives and implements from their work area was a sound one, but not part of any emergency protocol; and
- the temporary nature of Christmas Island accommodation, and use of demountables in both the CIIDC and VIDC, provided easy access to a range of items that could readily be fashioned into weapons.

Dynamic/Operational Security

Operational security, those practices by which personnel are able to maintain security within a detention facility, may not have been sufficiently deployed in the CIIDC or, to a certain extent, at the VIDC.

For example, a central element of the operational approach is Serco’s dynamic security model, in which the presence of staff within compounds and their interactions with detainees provides for both deterrence and an alert system in respect of security breaches. At the time of the incidents, there appears to have been a significant divergence in staff-to-detainee ratios between the CIIDC and VIDC, suggesting that the CIIDC was under resourced given its risk rating, despite Serco’s efforts to increase numbers in the months leading up to the incident.

For the CIIDC, of course, there were constraints for both Serco and DIAC in building a fit-for-purpose workforce, including limited availability of appropriate staff accommodation, and the lead times taken to recruit and train sufficient numbers of staff to undertake long term placements on Christmas Island.

The intelligence function at both CIIDC and VIDC identified threats to the good order of the centres in the weeks leading up to the incidents. Despite the difficulties Serco had in staffing the intelligence officer position at Christmas Island during 2010 and early 2011, by February they had recruited an officer with the relevant skills and experience and, together with the DIAC Security Liaison Officer, produced information that was incorporated into daily centre risk assessments and operational plans. As the incident progressed, the AFP added personnel to the intelligence function, creating a Joint Intelligence Group (JIG) which operated effectively for the remainder of the incident.

Although Serco was aware of information that pointed to the threat of an incident at VIDC, this information was not clearly included in daily risk assessments for the centre. Nonetheless, Serco and DIAC undertook significant preparatory measures, including emergency response exercises and updating their operational plans for the weekend.

It cannot be known whether greater training and experience in intelligence collection or stronger intelligence analysis systems would have produced better intelligence at an earlier stage, but the possibility underlines the importance of this area in the context of proactive management.

Importantly, effective means of maintaining security also include minimising the inclination of detainees to breach security by focusing on the overall well-being of detainees. Serco's responsibilities under the Contract include individual detainee management, whereby Serco creates and maintains an environment conducive to the health and welfare of detainees, where illegal and anti-social behaviour is both prevented and stopped, and where a culture of interaction between detainees and the service provider is promoted.

To assist in fulfilling this requirement, Serco is required to create Individual Management Plans (IMPs) for each person in detention. The Contract also stipulates that Serco allocate each detainee with a Serco staff member to act as a personal officer as part of its Personal Officer Scheme (POS). The POS was not fully operational at either Christmas Island or the VIDC. Further, there was evidence that, at the CIIDC, the IMPs were neither in place for all detainees nor being regularly reviewed.

The Contract reflects the expectation that people in detention will be managed cooperatively by Serco, DIAC and IHMS to provide integrated and effective service delivery, a practice that necessarily requires the daily and interactive presences of Serco staff at an IDC, with support from DIAC's Case Management service which focuses on resolving the status of detainees. DIAC experienced the same difficulties as Serco in building a workforce on Christmas Island.

At the VIDC, where recruitment and accommodation was not an issue and there was already some existing case management capacity to manage the domestic compliance caseload, the ratio for managing the VIDC IMA cohort was lower and closer to the non-IMA caseload. Although around a quarter of NWP detainees had their cases reviewed in the preceding month by a Case Manager in accordance with the guidelines, by comparison the proportion at the VIDC was almost 100%.

There is a significant risk that boredom or frustration can evolve into non-compliance and unrest in the absence of normal meaningful activities. The Contract recognises this risk and imposes obligations upon Serco to ensure that detainees are meaningfully engaged in programs and activities while in detention.

At the time of the incidents, meaningful programs and activities were not fully operational at either CIIDC or VIDC. At the CIIDC, many rooms designed for education and recreation and the prayer room were being used for detainee accommodation and limitations on staff accommodation at Christmas Island reduced Serco's ability to provide additional staff to administer the program effectively. At the VIDC there was greater scope for programs and activities. A decision was made, however, not to conduct off-site excursions due to security concerns, which limited the range of activities available for detainees. More generally, questions were also raised about the quality of the programs and activities provided at IDCs, and whether they are sufficiently developed to engage detainees in a meaningful way including providing them with skills for life after detention, whether in Australia or some other country.

Incident Management

In terms of incident management, although the Contract stipulates that Serco is responsible for preventing and managing incidents, it obliges Serco and DIAC jointly to develop incident management and response policies. At the time of the incident, Serco had in place a specific Incident Management Protocol for the CIIDC, supported by a generic IDC protocol, but these were limited in scope in that they did not comprehensively incorporate inter-agency arrangements. Following the 2009 incident at the CIIDC, the AFP proposed and subsequently prepared an initial draft of plans and protocols to address this gap. This work was not progressed during 2010. By March 2011, the documents were still in draft form and not known by Serco and DIAC key managers on Christmas Island at the time of the incident.

During the VIDC incident, uncertainty over jurisdiction issues between NSW Police and the AFP caused some confusion which, while resolved quickly, highlights the need for clarity of roles and responsibilities in this area and the importance of establishing a memorandum of understanding in relation to the provision of police services at immigration detention facilities which includes DIAC, the AFP and local Police.

A further point of confusion arises in relation to handing over control of incidents to either the AFP or local police. The concept of handover is not clearly provided for in the Contract, with references instead to step-in rights. These issues were under discussion between Serco and DIAC during 2010, but were not resolved at the time of the incidents.

The national and local Command Suites worked well together during the incidents, though some observations were made that the national Command Suite occasionally ventured from its strategic role to operational management. DIAC managers, also, were less clear about their role within the Suites. There was some initial confusion about communication protocols in both national and local Command Suites for the CIIDC incident and difficulties experienced in collating information into a single coherent picture.

A common observation made in relation to both incidents was that staff at the two IDCs involved in the incidents, but who were not directly involved in their management, were not fully aware of what was happening or required of them. This matter was of particular concern during the Christmas Island incident where detainees were at large in the community and threats of harm had been made to DIAC officers.

It also became evident that both the reporting and recording systems, including for incident management, required review.

Training and Supervision

Training provided by DIAC and Serco is for the most part well designed and role specific. For DIAC, there are some gaps in relation to incident and contract management. For Serco, it was not possible on the evidence available to determine whether all of their staff had received appropriate training or were appropriately qualified.

The Challenge Ahead

Significant challenges lie ahead for both DIAC and Serco in managing this current wave of IMAs. One pressing need is to reduce overcrowding within the detention network, particularly at Christmas Island.

As noted above, the Government and DIAC made significant gains in that regard over the last 12 months. Ongoing initiatives, such as the triaging arrangement for security checking procedures, efforts to improve status resolution, and pursuing and implementing return agreements with relevant countries, will continue to assist.

Of most concern is the number and proportion of detainees on a negative pathway. This seems likely to continue to grow and will increasingly challenge the administration and good order of immigration detention centres. Those for whom removal is problematic, or those found to be a refugee but are not security cleared and cannot be granted a visa, present particular problems.

As numbers become more manageable, however, the finalisation of agreements, joint protocols and MOUs, together with the testing and promulgation of, and training in, the processes spelt out by those agreements, will be essential to provide the necessary basis for future incident prevention and management.

Recommendations Against the Terms of Reference

Clarity of Roles and Responsibilities between Serco and DIAC in Managing Security and the Incidents

It is recommended that:

- DIAC consider possible amendment to the Detention Services Contract, in consultation with Serco, to improve the enunciation in the purpose of detention in the Objectives Section of the Contract in line with the Immigration Detention Values (R1);
- DIAC finalise and publish the “incident management and reporting” section of its Detention Services Manual, ensuring clear delineation of Serco’s and DIAC’s roles (R2);
- the three core incident management documents for Christmas Island are revisited, finalised and promulgated among relevant parties (R3);
- an MOU concerning the operational roles and responsibilities of DIAC, the AFP and local Police Forces in relation to incident management be finalised in all jurisdictions, operationally tested and made known to all relevant staff (R4); and
- the issue of hand-over between DIAC and the AFP or the local Police Force be clarified, a protocol developed, tested and promulgated to support the hand-over, and consideration be given to whether the Contract should be amended to provide greater clarification in this area (R5).

How Breaches of Security were Achieved, Access Detainees had to Tools to Assist such Breaches and How such Access Occurred

It is recommended that:

- as was intended by the design of the CIIDC, the roller doors to the NWP Accommodation Compounds not be used as the primary means by which detainees enter or exit these compounds. It is also recommended that consideration be given to the value of reactivating the key-card system for use at times of increased tension (R6);

- more substantial weld-mesh or solid materials be used rather than chain-link gates and fencing in medium or high security IDCs to provide additional protection against damage and breach (R7);
- staff induction training and procedures emphasise the need to secure vehicles and storage areas in the vicinity of immigration detention places (R8);
- use of aerosol cans be banned and prevented from entering medium and high security IDCs (R9);
- consideration be given to means of disconnecting electricity supply to detainee accessible areas during serious incidents without interfering with the operation of security infrastructure, such as lights and CCTV cameras (R10);
- thorough and consistent risk assessments be conducted for secure compounds within the Immigration Detention Network, particularly following significant alterations to the design of an IDC, and that control and restraint equipment not be located within them unless these risk assessments have been carried out (R11);
- given the impact of detainees on the roof of the Macquarie Residential Block on Serco's ability to maintain control during the April 2011 incident, DIAC and Serco consider further strategies to maintain effective dynamic security within Fowler in a range of possible scenarios, such as the provision of appropriate "anti-climb" infrastructure to prevent people from accessing roofs (R12);
- more stringent screening of visitors to IDCs be undertaken in line with controls at Australia's airports and that improved exclusion zones be put in place around IDC perimeters (R13);
- dangerous items usually located in kitchens or Medical Centres be appropriately secured within those locations, and that a protocol be developed that dangerous items be removed from such places at times of increased tension within an IDC (R14); and
- DIAC articulate more clearly the responsibility of public order management so that an agreed position is established with DIAC, Serco, the AFP and other police forces (R15).

Extent of Prior Indicators or Intelligence that would have Assisted Prevention and/or Management of the Incidents

It is recommended that:

- Serco's commitments under the Contract in relation to both Security Risk Assessments at each Centre, and People in Detention Risk Assessments for each detainee be met fully as a matter of priority (R16);
- consideration by DIAC and Serco be given to whether additional qualifications are required for Detention Service Provider Personnel undertaking the security intelligence function and that the Contract be amended to specify the level of qualification required (R17); and
- a protocol be developed between DIAC, Serco and the AFP on the formation and operation of a Joint Intelligence Group as part of incident response and management, with specific reference being given to the respective parties' roles and responsibilities (R18).

Adequacy of Infrastructure and Client Management in Maintaining Appropriate Security at the Centre

It is recommended that:

- in order to ensure that the EDDS remains an effective means of monitoring the extensive NWP perimeter, it be regularly activated, maintained and tested by Serco, and that upgrading with appropriate materials be placed on DIAC's capital expenditure plan (R19);
- DIAC investigate use of more sturdy material in the construction of gates and roller doors and their locking and operation mechanisms in medium and high security compounds (R20);
- the panel of fencing removed to allow runway access to Lilac and Aqua Compounds be fully reinstated and maintained to re-establish NWP perimeter security (R21);
- future construction or upgrading of detention infrastructure be planned to allow for sufficient medium and high risk infrastructure within the Immigration Detention Network to match the risk profile (R22);
- DIAC prepare options to maintain contingent immigration detention infrastructure capacity for Government consideration (R23);
- given the limitations of the "open centre" compound formation, which is suitable only for low risk detainees, DIAC commission further design work to determine the compound formations most appropriate for the different types of detainee security risk (R24);
- particularly if medium or high risk detainees are to be accommodated in a Compound, fencing be supported by detection or deterrence infrastructure, including CCTV, and that Serco personnel be trained in its operation (R25);
- Red Compound be regularly tested and maintained and all staff familiarised with its operation and use (R26);
- an infrastructure solution be developed to address the ease with which detainees accessed the Macquarie Residential Block roof, having regard to any impact on the overall security of Fowler (R27);
- the Personal Officer Scheme be fully implemented at all IDCs in the network in line with the requirements of the Contract and that Serco ensure IMPs are completed for all detainees and regularly reviewed (R28);
- DIAC enhance further its Case Management capacity with a view to aligning IMA oversight more closely with the domestic Compliance caseload, and complete CCMAs for all IMAs in accordance with its Detention Related Decision-Making Control Framework provisions (R29);
- DIAC provide Case Managers with accurate information on the options available to detainees and progress of their case (R30);
- DIAC give priority to finalising and implementing its Status Resolution Focussed Communication Framework and that this include the development of more specific engagement strategies for detainees on arrival concerning the importance of providing full and complete identity information wherever possible (R31);
- Serco and DIAC develop and deploy a revamped programs and activities model, focussing specifically on:
 - enhancing self determination and decision making;

- providing skills for life after detention, whether that be in Australia or elsewhere;
- maintaining or promoting a work ethic; and
- enhancing detainee well being, by providing each detainee with achievable goals (R32);
- Serco and DIAC finalise development and implementation of the Client Incentive and Earned Privilege Scheme (R33);
- consultative committees, a visits program and social education programs be features of the Security Services Plan of each IDC (R34);
- DIAC finalise their end-to-end business model for resolving IMA status (R35); and
- DIAC develop advice for the Government on options for managing detainees on a negative pathway, particularly those who have been found not to be refugees, but where removal is problematic (R36).

Adequacy of Staffing, Training and Supervision of DIAC and Serco Staff

It is recommended that:

- DIAC agree on a system for collecting Serco staffing metrics and assessing staffing capability at each Centre and that this be distributed for use across its network (R37);
- DIAC require Serco to maintain records on the certification and qualifications for personnel that are provided under the Contract, and Regional Management Teams audit these regularly (R38);
- Serco run live exercises in incident management based on joint incident management protocols involving all relevant stakeholders at least annually and preferably more often where there is a risk of volatility in the detainee population (R39);
- DIAC review its training requirement in contract management for senior level staff in IDCs to ensure both that they have skills in contract management more generally and that they understand the more specific requirements of the Detention Contract and its provisions (R40);
- the DIAC training model continue to be sufficiently resourced to provide role specific training that incorporates face-to-face training, mentoring and site induction (R41);
- DIAC improve training of DIAC Regional Managers and their staff following finalisation of joint incident management protocols, with particular reference to identifying:
 - roles and responsibilities in local and national command suites;
 - methods of communication and coordination within the command suites; and
 - protocols more generally, including in relation to contractual matters such as “hand-over/hand-back” and the roles and responsibilities of other stakeholders within the command suite (R42).

Effectiveness of Communication and Coordination between Relevant Government Agencies and Contractors

It is recommended that:

- DIAC
 - move to one mandated source of recording detainee location, utilising a single system or database, and that it ensure that data is entered in a timely manner by all relevant parties;

- clarify the roles and responsibilities with regard to end-to-end management of IMA caseload needs;
 - clarify rules for data entry of milestone events for detainees; and
 - improve the quality and consistency of data entry practices in relation to decision hand downs (R43);
- DIAC conducts a systemic review of the quality, timeliness and accuracy of incident reporting and post-incident reviews to ensure that Serco is fulfilling its reporting obligations under the Contract (R44);
- DIAC reviews the SitRep system to consider whether it is the most efficient and effective means of alerting those who need to know about incidents occurring within the Detention Services Network. The review should include development of a priority order of significance or urgency in place of the current single distribution list so that the most important or urgent SitReps can be directed to key people (R45);
- DIAC decide whether it needs its own incident logs and adopt clearer protocols in line with Serco's Occurrence Log to ensure record keeping is as comprehensive and accurate as possible (R46);
- Serco explore whether it would be useful to have video conferencing capacity between its existing Canberra Command Suite and local Command Suites during an incident, noting that there may not be standing Command Suites in all locations (R47); and
- DIAC and Serco develop a Command Suite protocol which sets out the level of responsibility of the key players in incident management and defines the purpose, structure and personnel required (R48).

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Chapter One: Introduction

Introduction

Australia's *Migration Act 1958* (the Migration Act) requires non-citizens to apply for and be granted a visa to enter Australia. Those in the migration zone without a valid visa are unlawful non-citizens and must be detained unless they are granted permission to remain in Australia. The form of detention takes risk factors into account and may involve detention within a facility or within the community. People who seek asylum, are subsequently found to be refugees and who satisfy security, health and character requirements are granted a visa and released from detention. People who have no lawful basis to remain must be removed from Australia.

The Department of Immigration and Citizenship (DIAC) entered into a five-year contract with Serco Australia Pty Ltd (Serco) in 2009 to operate and provide services at Immigration Detention Centres (IDCs) and Alternative Places of Detention (APODs) throughout Australia.

On the evening of Friday 11 March 2011, a major incident occurred at North West Point (NWP) and the Lilac and Aqua Compounds of the Christmas Island Immigration Detention Centre (CIIDC). Over a period of several days, detainees:

- had unrestricted access within the Centre;
- were largely able to leave the Centre and roam across Christmas Island; and
- caused considerable damage to detention infrastructure.

Situations arose which potentially risked significant harm to detainees and staff, sections of the Christmas Island community felt threatened, and an estimated \$2.5 million dollars of infrastructure and equipment were destroyed.

Order was only fully restored in the early hours of Friday 18 March following hand-over of the CIIDC to the Australian Federal Police (AFP) late the previous evening.

Some four weeks later, on Wednesday 20 April 2011, an incident occurred at the Villawood Immigration Detention Centre (VIDC) which rapidly escalated into a riot and loss of control in the Fowler and Hughes compounds for about 24 hours. During that time, detainees and staff were at risk of significant harm, and an estimated \$6 million dollars of infrastructure and equipment were destroyed.

Terms of Reference

On Friday 18 March, the Minister for Immigration and Citizenship, the Hon Chris Bowen MP, announced an independent review of the CIIDC incident.

The terms of reference for the independent review, a full version of which is at Appendix A, stipulated that the review was to investigate and report on a range of issues associated with management and security at the CIIDC, in particular:

- the clarity of roles and responsibilities between Serco and DIAC in managing security at the centre and in managing the incident;
- how breaches of security were achieved, what access occupants of the centre had to tools to assist with such breaches and, if relevant, how such access occurred;
- the extent of any prior indicators or intelligence that would have assisted in the prevention and/or management of the incident;

- the adequacy of infrastructure, staffing and detainee management in maintaining appropriate security at the centre;
- the adequacy of training and supervision of DIAC and Serco staff;
- the effectiveness of the communication and coordination between the relevant government agencies and contractors; and
- the appropriateness of the response measures taken to the incident.

The Review was to report to the Minister for Immigration and Citizenship and make recommendations on measures to strengthen CIIDC security to prevent the recurrence of similar incidents in the future.

Subsequently, on 20 April 2011, following commencement of the VIDC incident, the Minister asked the Reviewers to expand the scope of their investigation to include that incident, using the same terms of reference. Expanding the scope in this way provided the Reviewers with the opportunity to test findings from the CIIDC incident against an onshore detention centre context, allowing some conclusions to be drawn more generally about management of the immigration detention network.

Other Inquiries

Other inquiries are underway or have recently been completed which are relevant to this Review's terms of reference.

On 14 April 2011, the Commonwealth Ombudsman announced an own motion investigation into the use of force by the AFP and Serco on Christmas Island during the week of 12-19 March 2011. His investigation is examining whether DIAC and Serco demonstrated due process and considered decision-making in their management of the incident, with particular attention to cross-agency coordination and taking into consideration matters such as training, management and oversight, information systems, quality assurance, and controls over the use of their powers. The Ombudsman's investigation into the use of force is taken up below.

On 16 June 2011, the Parliament established a Joint Select Committee on Australia's Immigration Detention Network. The Committee is conducting a comprehensive inquiry into Australia's Immigration Detention Network, including its management, resourcing, potential expansion, possible alternative solutions, the Government's detention values, and the effect of detention on detainees. The Committee is also inquiring into the reasons for and nature of riots and disturbances, their management, the length of time detainees have been held in the detention network, the reasons for their stay, the processes for assessment of protection claims and other matters.

It is intended that this Review - which focuses on strategic alignment, program and detainee management and capability issues surrounding security and incident management in the detention centres - will complement the detailed investigation undertaken by the Ombudsman on the use of force by the AFP and Serco, while also informing the Joint Select Committee's considerations on the policy framework, program management and operational implementation aspects of the immigration detention network more broadly. The Review's terms of reference touch on a broad range of issues by virtue of the fact that security and incident management, taken holistically, involves matters ranging from the speed of processing claims for refugee protection to the broader issue of the case management of detainees.

Methodology

Given the focus on Serco and DIAC management issues associated with security at the CIIDC and VIDC, the Reviewers:

- undertook interviews with stakeholders directly involved in the incident or who were able to provide context on the incidents or detainee management more generally;
- analysed submissions from Serco and DIAC on each incident; and
- considered DIAC and Serco documentation.

Over 70 people were interviewed including current and former DIAC staff, Serco, the AFP, International Health and Medical Services (IHMS), the Australian Security Intelligence Organisation (ASIO), the Council for Immigration Services and Status Resolution (CISSR), the Detention Health Advisory Group (DeHAG), representatives from the Christmas Island community, the Commonwealth Ombudsman, the United Nations High Commission for Refugees (UNHCR), the International Organization for Migration and the Australian Human Rights Commission (AHRC).

Submissions against the terms of reference were provided by DIAC on 1 July 2011 for the incident at Christmas Island and on 27 July 2011 for the incident at Villawood. Serco provided a final single submission covering both incidents on 3 August 2011.

The Review also draws on the considerable material that has been written on the subject of immigration detention in Australia, particularly in relation to arrangements at Christmas Island and Villawood, and on matters concerning behaviour management and security. It takes into account the product of parliamentary enquiries, advocacy groups, Ministerial advisory councils, departmental advisory groups, external scrutiny bodies, academic consideration and commissioned expert reports.

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Chapter Two: Context

To understand the circumstances that contributed to what were, in effect, significant breaches of security, as well as to their management and the process of re-establishing order, it is important first to understand the environmental and policy context within which the incidents occurred, particularly in relation to Australia's commitment to international refugee protection and border security.

Such context and background will be examined in this and the next Chapter, followed by detailed analysis of the incidents at Christmas Island and Villawood against each of the Review's terms of reference.

Australia's Commitment to International Refugee Protection

Who is a Refugee?

The most commonly accepted definition of a "refugee" is set out in the *United Nations 1951 Convention relating to the Status of Refugees* (the Refugees Convention). The Convention defines refugees as people who are outside their country of nationality and are unable or unwilling to return because of a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group. This is the key document outlining the obligations under international law for countries, like Australia, that have signed the Convention.

Originally, the Refugees Convention applied only to refugee situations known in 1951 and was therefore limited to European countries. The *United Nations 1967 Protocol relating to the Status of Refugees* (the Protocol) extended the Refugees Convention to cover refugee situations occurring after 1951 in any country.

Until the claims of a person for refuge have been tested and accepted, a person is referred to as an asylum seeker. Once an asylum seeker has been recognised as requiring protection in accordance with the Refugees Convention, the person is officially referred to as a refugee and has refugee status. It is a fundamental obligation under the Refugees Convention to provide protection, including not returning refugees or asylum seekers to places where their lives and liberties are in danger (referred to as *non-refoulement*).¹

Australia was the sixth country to sign the Refugees Convention, doing so on 22 January 1954 and ratifying the Protocol on 13 December 1973. Australia's legal framework for the protection of refugees accords with its obligations under the Refugees Convention and Protocol.

Global Trends in Displacement and Asylum Seekers

Global migration has become a defining feature of the 21st Century. Although orderly migration accounts for much of the movement from country to country, irregular migration is increasingly a significant part of total global movements.

According to the UNHCR, at the end of 2010 some 43.7 million people worldwide were forcibly displaced due to conflict and persecution, the highest number in more than 15 years.

¹ *Refugee and Humanitarian Issues, Australia's Response*, Department of Immigration and Citizenship, June 2009, page 27.

Of this total number, 15.4 million were refugees, 27.5 million were internally displaced persons² and more than 837,500 were asylum seekers.³

In 2010, UNHCR projected that 747,000 resettlement places were needed. During 2010, a total of 98,800 refugees were admitted by 22 resettlement countries; these resettlement figures included Australia, which took 8,500. Overall, the number of resettlement places was some 13,600 less than in 2009 (around 112,400).⁴

The number of refugees under UNHCR's mandate at the end of 2010 was 10.55 million, an increase of 153,000 refugees compared to 2009. UNHCR estimates there were some four million refugees in the Asia-Pacific region alone, almost two million of whom are Afghans in Pakistan, which accounted for more than one-third (38 per cent) of the total number of refugees worldwide. In the context of this Review, key host countries include Malaysia (some 93,000 asylum seekers and refugees), Indonesia (almost 3,000 asylum seekers and refugees) and Thailand (around 107,000 asylum seekers and refugees).⁵ The reasons for such wide scale displacement are complex and varied. Conflict, political instability, personal insecurity, human rights violations and economic factors all push people to seek a safe and better life. Decisions about where people go to in these situations are similarly complex. The "pull factors" include:

- location of family or established communities;
- existing people smuggling corridors;
- ease of travel to, entry and chance of acceptance in receiving countries; and
- the relative economic prosperity and political stability of those countries.

Global trends suggest large scale displacement and irregular movement are unlikely to diminish. Based on past experience, a potential target for that irregular movement is the Asia-Pacific region, including Australia. For example, ongoing conflict and instability in Afghanistan, Iraq and Pakistan and the "Arab Spring" continue to impact on displacement in the region. The end of the civil war may lead to stabilisation of the Sri Lankan population and UNHCR says there have been significant achievements in returning internally displaced persons to their homes. Nevertheless, outflows of Sri Lankans continue. Unrest in the Middle East and North Africa is also contributing to ongoing large-scale displacement of populations, including from the conflict in Libya.

The situation in Syria also has the potential for onward movement. As host to over one million Iraqi refugees, any erosion of living or security conditions could trigger outflows of a cohort with an established history of seeking asylum in Australia.

Yemen continues to experience civil unrest and, like Syria, is host to significant numbers of refugees - over 200 000 in total, 170 000 of which are Somali.

While Australia is ranked 15th in the industrialised countries receiving asylum applications, having received 8,250 claims for asylum in 2010⁶, it remains one of the few Refugees Convention signatory countries in the region and, as such, has a greater potential for being a target for irregular movement.

² Internally displaced persons are people or groups of individuals who have been forced to leave their homes or places of habitual residence as a result of, or in order to avoid, the effects of armed conflict, situations of generalised violence, violations of human rights, or natural/human made disasters, and who have not crossed an international border.

³ UNHCR *Global Trends 2010*, page 5.

⁴ UNHCR *Global Trends 2010*, pages 18 and 19.

⁵ UNHCR *Global Trends 2010*, pages 11 and 12, and Table 1.

⁶ UNHCR, *Asylum Levels and Trends in Industrialized Countries 2010 - Statistical overview of asylum applications lodged in Europe and selected non-European countries*, pages 6 and 9.

Whatever the reasons for deciding to move and for choosing a particular destination and means of travel, those who make their way to Australia by boat have invested much in their journey, in terms of money, reputation, obligation to family and a vision for their own and their family's future in a country that is safe, free and prosperous. A consistent observation during this Review was that Irregular Maritime Arrivals (IMAs) invariably have a single-minded drive to stay permanently in Australia, and most are prepared to suffer hardship and deprivation to achieve that goal.

Such strong motivations present many challenges for countries which are the target of people smugglers, challenges which fundamentally shape policy responses. Not least of these challenges is the importance of establishing a refugee determination process which assesses with rigour both those owed protection, and those who are not owed protection but make such a claim in order to bypass the normal visa assessment process for a permanent migration outcome.

A refugee determination process that is not sufficiently rigorous or robust will both undermine Australia's humanitarian and migration programs, and introduce risks, discussed later in the Report, that have the potential to impact adversely on the Australian community and, indirectly, Australia's response to IMAs.

The International Refugee Protection System

The international refugee protection system is based on preventative measures, temporary protection in country of first asylum⁷, and durable solutions promoted by UNHCR.

Three durable solutions provided by UNHCR provide for the long-term protection needs of people displaced by humanitarian crises:

- voluntary return (repatriation) to the home country in conditions of safety and dignity;
- identification of appropriate permanent integration mechanisms in the country of asylum, an option if voluntary repatriation is not possible; and
- resettlement in a third country, to provide protection to refugees whose life, liberty, safety, health or fundamental human rights are at risk in their country of asylum. This is normally only facilitated by UNHCR where returning to their home country or local integration may not be suitable, or as part of a responsibility sharing arrangement. Due to ongoing protracted refugee situations, resettlement has become a key element in the system of international refugee protection.

Australia's International Refugee Protection Commitment

Australia contributes to the international refugee protection system, working with UNHCR and the international community, to:

- influence international policy and action on refugee situations;
- provide international development assistance;
- assess asylum claims and provide protection to persons found to be refugees; and
- resettle refugees.

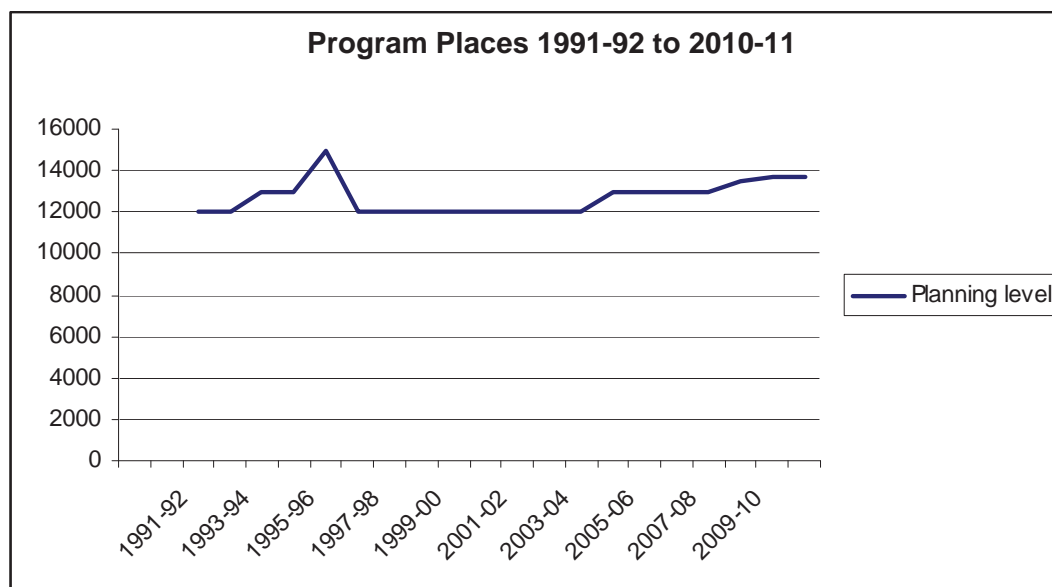
Each year more than half of the refugees accepted for resettlement under Australia's Humanitarian Program are likely to come from protracted situations, with Australia continuing to be a top three resettlement country along with the United States of America and Canada. Decisions on the size and focus of Australia's Humanitarian program are reviewed by the

⁷ Humanitarian crises can cause people to leave their home country and seek asylum elsewhere, usually by crossing borders to a neighbouring country (also called a country of first asylum).

Government each year in the light of evolving humanitarian situations and the changing global need for resettlement.

In May 2011, the Government announced that the program would be expanded by 4000 places over four years as part of the commitment to enter into a burden-sharing arrangement with Malaysia under the proposed Regional Cooperation Framework, discussed further below. This means that the program will include 14,750 places in 2011-12 and is a significant contribution to the international refugee protection framework.

Graph 1: Humanitarian Program Places from 1991-92 through 2010-11



Source: DIAC: Program Management and Decision Support.

The Humanitarian Program includes both visas granted to persons offshore and those granted to people who have sought asylum after arriving in Australia. In 2009-10, 32.9 per cent of people granted a Protection visa under the Program had claimed asylum within Australia, including at an excised offshore place.

Table 1: Humanitarian Program - Visas Granted under Offshore and Onshore Components

	2007-08	2008-09	2009-10	2010-11 Target
Number of visas granted under the Humanitarian Program	13,014	13,507	13,770	13,750
Number of visas granted under the offshore component	10,799	11,010	9,236	N/A
Number of visas granted under the onshore component	2,215	2,497	4,534	N/A

Source: DIAC Annual Reports.

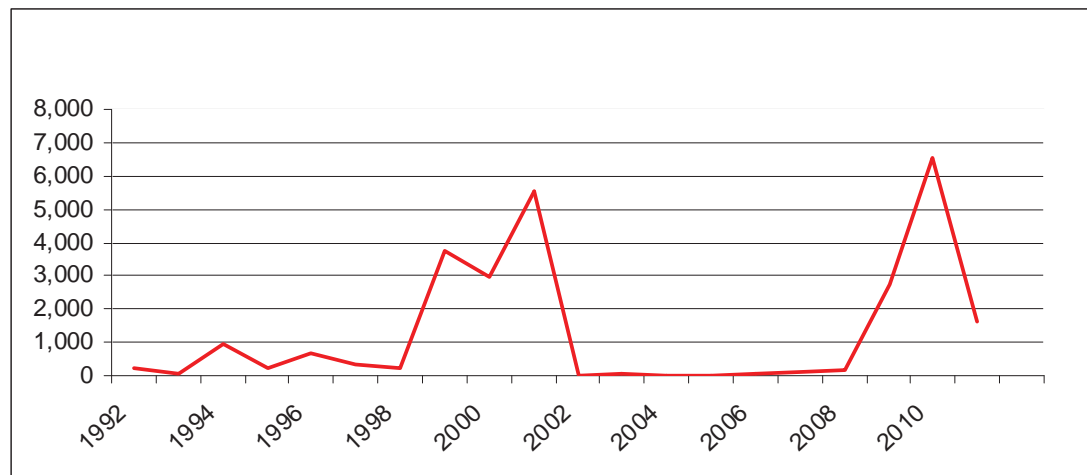
The impact of the recent increase in numbers of people arriving by boat and seeking asylum under the Humanitarian Program is therefore critical to this Review.

Asylum seekers who arrive in Australia by plane (and who usually have a valid identity document and visa to enter Australia) have traditionally far outweighed those arriving by boat (who in most cases have neither). During more recent waves of boat arrivals, however - and this is the fourth in the last 30 years⁸ - this balance has shifted.

Irregular Movement - Asylum Seekers Arriving by Boat

In 2010, for the first time, arrivals by boat comprised the majority of asylum seeker arrivals in Australia.

Graph 2: Asylum Seeker Arrivals by Boat - 1992 to June 2011



Source: DIAC Program Management Performance and Reporting.

Certainly the size of this and the previous wave of boat arrivals between 1998 and 2001 far exceed earlier waves, and the latter two provide a basis for comparison.

Some initial observations are useful:

- the previous wave of over 11,000 people lasted for about three years, from late 1998 to late 2001, following the regimes of the Taliban in Afghanistan and Saddam Hussein in Iraq. Eighty per cent of arrivals came from those two countries, with significantly smaller numbers from Iran and Sri Lanka;
- the current wave commenced in late 2008 and, although not quite three years in length, there are signs it too may be slowing. Almost half the cohort to date has been from Afghanistan following the deteriorating security situation there, with the remainder being Tamils from Sri Lanka (early on in the wave) fleeing the final stages and aftermath of the Sri Lankan civil conflict, and Iran and Iraq (later in the wave);
- the number of arrivals averaged by month for both waves is about 350 to 400;
- the actual monthly arrival pattern has, however, been quite different. The previous wave had two relatively short intense peaks, while the current wave has been characterised by low numbers initially, followed by a rapid and sustained increase to an average of about 400 to 600 arrivals per month from late 2009 to late 2010; and

⁸ The first wave came in the late 1970s, when just over 2000 Indo-Chinese came to Australia after the fall of South Vietnam in 1975. The second wave was between 1989 and 1998 when mainly Cambodians, about 600, fled conflict between Government and Khmer Rouge forces. A total of 90 boats arrived between 1988 and 1998, carrying 3124 people mainly from Indo-China. The third wave was between 1999 and 2001 when a total of 148 boats arrived, carrying 11,351 people. The composition and origins of asylum seekers changed, with vessels predominantly carrying young males from the Middle East, South Asia and the southern provinces of China.

- during 2011 (to the end of July) IMA arrivals declined to an average of 287 per month.

As Table 2 below shows, in global terms the increased numbers of people arriving by boat represent an insignificant proportion of asylum seekers. In this sense, it could be argued that Australia's problems are comparatively small, and it would be helpful to retain that perspective. Nonetheless, the increased numbers require an important change in the focus of Australia's Humanitarian program and the deployment of significant resources, the implications of which are wide ranging and are discussed in detail throughout this Report.

Table 2: IMAs in Australia Compared to Global Asylum Claims Lodged

	2008	2009	2010
Asylum Seekers Globally	827,000	983,000	837,500
Asylum Seekers arriving by Boat to Australia	161	2,726	6,535
IMAs arriving by Boat as a Proportion of Asylum Seekers Globally	0.02%	0.30%	0.80%

Source: UNHCR Global Trends 2008/2009 and DIAC, Program Management and Performance Reporting Section.

Maintaining Border Security

Australia has an integrated, risk-based and multi-layered approach to border security, which has at its heart a universal visa system.

This visa system provides a screening mechanism to prevent the entry of people who are identified as posing a security, criminal or health risk, and facilitates the movement of genuine travellers. Both temporary entrants and permanent migrants must apply for a visa or a visa equivalent, with conditions appropriate to their stay.

After visa grant, a traveller passes through a number of checks, many unknown to the traveller, culminating in their final check at the Australian border.

People who arrive by boat and without documentation bypass all the checks built into Australia's visa and border system. In addition to the risks identified above (in terms of security, health and character) and to the integrity of the immigration program, the IMA method of entry represents a very significant risk to the new arrivals themselves who make a hazardous voyage using people smugglers. Depending on your perspective, some parents are prepared to pay the A\$8,000 to A\$15,000⁹ involved to people smugglers and risk transporting a child to Australia in this fashion against the prospect that family reunion will follow. Others would argue this is the inevitable consequence of the smugglers and some asylum seekers gaming the system.

Responses to Irregular Maritime Arrivals

Australia's response over the years to the challenge of managing these risks, while also maintaining its international obligations to refugee protection, has received bi-partisan support for some of its policy responses and significant divergence on others. This is not altogether surprising given the complex nature of the challenge and the sensitivity of boat arrivals which arouses community concerns and divides community opinion.

⁹ The Review understands that this is the going rate.

There are, however, three main areas of consensus. For many years, two of those areas - retention of **mandatory detention** and **excised offshore places** - have been a central element of the integrated government response to the risks presented by irregular movement of people who reach Australia by boat.

The purpose built medium security immigration detention centre on Christmas Island has also been supported by both sides of Government at different times.

Mandatory Detention

The object of the Migration Act is to regulate, in the national interest, the lawful entry and stay of people in Australia. As all non-citizens wanting to enter Australia have to apply for, and be granted, a visa for lawful entry into Australia, non-citizens who are in the migration zone and do not hold a valid visa are unlawful non-citizens.

The Migration Act requires that unlawful non-citizens who are in Australia's migration zone be detained and that, unless subsequently granted permission to remain in Australia, they must be removed as soon as reasonably practicable. Those who are found to be refugees are released from immigration detention if they satisfy security, health and character requirements.

Australia's mandatory immigration detention policy was introduced in 1992 and, as noted above, has since been maintained by successive governments. It provides for the detention of all irregular arrivals pending assessment of health, identity and security risks to the community.

Excised Offshore Places

In September 2001, the *Migration Amendment (Excision from Migration Zone) Act 2001* amended the Migration Act. The effect of the excision legislation is that non-citizens who enter Australia at an excised offshore place (certain designated places within Australia's territory) without lawful authority, and thus without a valid visa, are barred from making valid visa applications, including for a Protection visa, on arrival or during their stay in Australia.

Where such a person raises claims or information which *prima facie* may engage Australia's protection obligations, these claims are examined under separate non-statutory processes to test whether Australia's obligations under the Refugees Convention are engaged. Once it has been determined that a claimant is owed protection, consideration is given to the exercise of the Minister's non-compellable power under section 46A(2) of the Migration Act to allow a visa application to be made. If the Minister for Immigration and Citizenship decides that it is in the public interest to do so, he can lift this bar, thus allowing a person to make a valid visa application.

Once the application bar has been raised, the applicant may submit a Protection visa application. It should be noted, however, that the visa cannot be granted until the applicant has met all security, health and character requirements which, depending on the applicant's circumstances, may take some time to assess, and that only the Minister has the power to end detention in an Immigration Detention Facility through the grant of a visa or providing for community detention. A detainee can, of course, seek to end their detention at any time by requesting return to their country of origin.

Use of the Christmas Island Immigration Detention Centre

Construction of the purpose built North West Point Immigration Detention Centre by the Department of Finance and Deregulation began in February 2005 and was completed in late

2007, at a project cost of approximately \$396 million. It is designed to house 400 asylum seekers, with a temporary surge capacity to 800. NWP was opened in December 2008.

Processing on Christmas Island, as an excised off shore place, is a key component of Australia's border security regime, and IMAs are routinely taken there for initial health, identity and security checks. Once an IMA has landed on Christmas Island and becomes an excised offshore person, they maintain this status even when transferred to the mainland. However, this does not change their access to Australia's judicial system, which provides oversight of administrative decision-making, including the non-statutory processes.

Policy Environment

In a dynamic policy environment, particularly in the context of increased numbers of IMAs, there have been different views in the Parliament on the relative merits of strategies to deter boat arrivals and on the balance between border security and international humanitarian obligations.

In many ways, the circumstances arising from a spike in the number of IMAs applying for asylum in 1999-2000 have been repeated with the current wave of arrivals, in terms of a relatively small contingent capacity in the network, the rapid increase in numbers necessitating rapid development of detention capability, outsourced service provision, and extreme disorder within the IMA population as time in detention and the number of detainees on negative pathways - that is, detainees who had received a negative assessment either at the primary stage or at the review stage - increased.¹⁰

Without entering into a detailed comparison between the two waves, it is sufficient to say that the resulting pressures led to a range of operational and legislative measures in 1999 and 2001, largely aimed at deterring future arrivals. These included:

- penalties for people smugglers;
- Temporary Protection Visas (TPVs);¹¹
- excision of some Australian territory from the migration zone (discussed above);
- offshore processing in a third country (Nauru and PNG) of asylum seekers who arrived at these locations; and
- the "towback" of a number of SIEVs¹² to waters adjacent to Indonesia resulting in the return of passengers to Indonesia within a few days of them having left there.

These policy responses combined with the August 2001 Tampa incident, the "children overboard" imbroglio, and the tragic sinking of SIEV X two months later preceded a reduction in the number of boats making the journey to Australia. However, it is impossible to be definite about the full range of contributing factors and the extent of their individual impact.

Arrivals remained low for some years, and those who did attempt the voyage, particularly early in the new phase characterised by low numbers, were escorted back to Indonesia.¹³

¹⁰ *Assessment of the Current Immigration Detention Arrangements at Christmas Island*, Keith Hamburger AM, Knowledge Consulting, 14 October 2010, pages 16-17.

¹¹ Temporary Protection visas (TPVs) were a subclass of visa granted to asylum seekers who arrived unlawfully in Australia and were determined to be refugees. TPVs were granted for three years, after which time the refugee was required to undergo refugee status determination again and if successful, was allowed to remain in Australia.

¹² SIEV refers to Suspected Irregular Entry Vessel. This naming system was introduced at the commencement of the Australian Defence Force's border protection Operation Relix in October 2001, with each subsequent vessel given a sequential tracking number.

¹³ Select Committee for an inquiry into a certain maritime incident, October 2002, Government Members Reports, Appendix 1, paragraph 1.2.

Provision of Immigration Detention Services

Prior to 1996, immigration detention guarding services were managed by the Australian Protective Service, a Commonwealth Government agency. The provision of immigration detention services was put to competitive tender in 1998 and a contract signed with Australasian Correctional Services (ACS). Service delivery was subcontracted to ACS's operational arm, Australasian Correctional Management Pty Ltd (ACM), to manage the Maribyrnong, Perth and Villawood IDCs and the Port Hedland Immigration Reception and Processing Centre (IRPC).

Unauthorised arrivals increased in 1999 and 2000 and were accommodated at the Port Hedland IRPC, Curtin IRPC, Woomera IRPC, Woomera Residential Housing Project (RHP), Christmas Island IRPC (now the Phosphate Hill APOD), Cocos Island IRPC, the Baxter Immigration Detention Facility, Coonawarra IRPC (now Northern IDC), Port Augusta RHP (now Port Augusta Immigration Residential Housing (IRH)) and Port Hedland RHP. During this time, a number of mass non-compliance incidents occurred which threatened the lives of detainees, and of DIAC and ACM staff. These incidents included fires and violent protests that were met with the deployment of CS gas, water cannon and other public order management responses.

The sudden increase in detainee numbers raised concerns that the ACM contract did not represent "best value for money". In 2001, DIAC again put the provision of immigration detention to tender and a contract was signed with GSL Australia Pty Ltd on 27 August 2003.

In July 2005, Mr Mick Palmer AO APM reported on his Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau, an Australian permanent resident. That report also covered aspects of DIAC's handling of Vivian Alvarez, an Australian citizen removed from Australia, on which an additional report was made by Mr Neil Comrie AO APM in October 2005.

At this time, the Commonwealth Ombudsman also conducted a review of a number of other cases of people held in long term detention. These reports identified shortcomings within the management of immigration detention and resulted in a significant reform program.

The reforms were reflected in aspects of the design of new places of immigration detention, and in the requests for tender released by DIAC on 24 May 2007 for the provision of services for detainees in IDCs, health services for detainees and services for detainees in IRH and Immigration Transit Accommodation (ITA).

New Directions in Detention

Following the 2007 election, the Labor Government closed the Offshore Processing Centres at Nauru and in Manus Province, Papua New Guinea, and abolished TPVs.

In July 2008, the then Minister for Immigration and Citizenship announced a fundamental policy shift in his "New Directions in Detention" speech,¹⁴ including the introduction of seven "Key Immigration Detention Values", namely:

1. Mandatory detention is an essential component of strong border control.
2. To support the integrity of Australia's immigration program, three groups will be subject to mandatory detention:

¹⁴ Minister for Immigration and Citizenship, Senator Chris Evans, New Directions in Detention - Restoring Integrity to Australia's Immigration System, Australian National University, Canberra, 29 July 2008.

- a) all unauthorised arrivals, for management of health, identity and security risks to the community;
 - b) unlawful non-citizens who present unacceptable risks to the community; and
 - c) unlawful non-citizens who have repeatedly refused to comply with their visa conditions.
3. Children, including juvenile foreign fishers and, where possible, their families, will not be detained in an immigration detention centre.
 4. Detention that is indefinite or otherwise arbitrary is not acceptable and the length and conditions of detention, including the appropriateness of both the accommodation and the services provided, would be subject to regular review.
 5. Detention in immigration detention centres is only to be used as a last resort and for the shortest practicable time.
 6. People in detention will be treated fairly and reasonably within the law.
 7. Conditions of detention will ensure the inherent dignity of the human person.

These values were intended to guide detention policy and practices into the future. Together with implementation of a new processing regime for irregular arrivals on Christmas Island (see below), the Government's aim was to maintain a strong stance on border security while also seeking to treat people fairly and humanely, including through the prompt resolution of refugee status.

The Government also enhanced processing arrangements for asylum seekers arriving at excised Australian territories. The term used to describe these people was changed from Unauthorised Boat Arrivals to IMAs, referring to those who arrive without authority by boat in Australia, either on the mainland or at an excised offshore place. New processing arrangements for IMAs included access to publicly funded migration assistance, access to independent merits review and oversight by the Ombudsman. IMAs were to be subject to non-statutory processes for the assessment of asylum claims, consistent with Australia's international obligations under the Refugees Convention, particularly *non-refoulement*.

A decision which impacted adversely on the future management of detainees, involved the temporary suspension in processing of asylum claims for new arrivals from Sri Lanka and Afghanistan.¹⁵

This decision was taken to enable decision-makers responsible for refugee status determinations to incorporate the outcomes of a UNHCR Review of country situations into the information used to reach a decision. The suspensions were lifted in July and September of that year for each caseload respectively.

Regional Cooperation Framework

As discussed above, the number of IMAs continued to increase throughout 2009 and 2010. In an attempt to break the people smuggling business, and recognising that refugees and other displaced people were particularly vulnerable to exploitation by traffickers, the Government reinvigorated efforts to work closely with regional countries to address the challenges of people smuggling and prevent refugees being subject to dangerous sea journeys. This included the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime* established in 2002, practical support for the care of people

¹⁵ Joint Media Release, Senator Chris Evans - *Minister for Immigration and Citizenship*, Stephen Smith MP - *Minister for Foreign Affairs* and Brendan O'Connor MP - *Minister for Home Affairs*, 9 April 2010.

intercepted in transit countries while any claims for protection are considered, and development of a Regional Cooperation Framework.

In March 2011, Ministers at the Bali Process agreed to establish a non-binding framework to enhance the region's response to irregular migration. Based on burden-sharing and cooperation between source, transit and destination countries, it laid the foundation for the implementation of practical arrangements to undermine people smuggling and create disincentives for irregular movement. This includes both bilateral arrangements between participating states and broader sub regional activities.

On 7 April 2011, Indonesia's Parliament passed tough new laws aimed at combating people smuggling, which introduced penalties of up to 15 years in prison for people convicted of people smuggling offences. While Indonesia and Australian authorities have co-operated to disrupt people smugglers and their activities from time to time, the new legislation adds a significant arrow to the quiver. Indonesia has also provided considerable assistance to requests for extradition of suspected traffickers to Australia for trial.

On 25 July 2011, the Australian and Malaysian Governments signed an agreement to combat people smuggling and provide protection to an additional 4000 refugees, representing a significant step under the Regional Cooperation Framework established at the Bali Process Ministerial Conference in March.¹⁶

Challenges in Implementation

There are, of course, inherent challenges in implementing an effective response in an environment characterised by:

- the difficulty of estimating the size of future responses and maintaining contingency to deal with them;
- rapidly increasing numbers of new IMAs;
- the resulting requirement for significant increases in capacity;
- the difficulty of dealing with remote localities, particularly in a situation of finite resources on Christmas Island;
- changes in the cohort profile; and
- processing issues and/or changing policy responses.

Maintaining Contingency in the Immigration Detention Network

There have been four waves of boat arrivals over the last 30 years, two of these since 1998, with large gaps of up to a decade between some waves and, for the earlier waves, comparatively low monthly arrivals. Within this context of highly fluctuating IMA numbers, maintaining appropriate contingency in the immigration detention network has proved difficult and, given the size of recent waves, inadequate.

Although DIAC had sought to maintain contingent capacity, including at Christmas Island and Darwin, it is clear that, in both this and the previous wave, there was insufficient detention capacity to deal with a rapid and relatively large increase of IMAs. The capacity that was available was not sufficiently flexible or appropriate to cater for the diverse needs and risk profiles of a mixed caseload that included single unaccompanied men, families, unaccompanied minors, people from different countries of birth and varied socio-economic

¹⁶ Joint media release with Julia Gillard - *Prime Minister of Australia* and Chris Bowen - *Minister for Immigration and Citizenship*, 25 July 2011.

backgrounds, and people with mixed expectations and diverse experiences of displacement and trauma.

In the latest wave, the NWP complex of the CIIDC was the only modern, purpose built detention centre in Australia, and it soon reached and then exceeded its design capacity of 400. Indeed, at the time of the incident, and despite transfers off the Island in the preceding several months, it contained 1260 people, well over its designated surge capacity of 800.

Ramping up Capacity in the Face of Increasing IMA Numbers

To put the challenge into perspective, from March 2009 to December 2010, an average of over 600 people a month arrived by boat at Christmas Island, 200 more than the design capacity for NWP and more than double the average daily national detention population during the whole of 2008.

Managing such an inflow is a multifaceted and highly complex task that requires the close cooperation of a number of agencies, contracted service providers and non-governmental organisations, all of whom require a presence and support (including accommodation) on the island, and many of whom administer processes that are interdependent. The interception and reception of IMAs, for example, involves the Australian Customs and Border Protection Service, the Australian Quarantine Inspection Service (AQIS), the AFP, Commonwealth security agencies, Serco, IHMS and DIAC Entry Teams working together to process each new boat. In the same way, the increasing demand for a rapid turn around in the delivery of on-site accommodation acts to limit the delivery of long-term improvements or enhancements to existing infrastructure.

In the context of increasing arrivals, mainly from Afghanistan and Sri Lanka, a Boat Taskforce was set up by DIAC at its Sydney office in late 2008 (followed by others in Melbourne in early 2010, and Canberra and Perth in mid 2010) for teams of case officers to make Refugee Status Assessment (RSA) decisions. As arrivals continued to increase, it became evident that there were insufficient case officers for the required throughput and an intense period of recruitment and training was undertaken from January 2010 through February 2011, raising case officer numbers from 70 to 180 by early 2011.

Similar challenges were faced by other stakeholders required to support the refugee assessment process such as interpreters, independent reviewers, and Immigration Advice and Assistance Scheme (IAAAS) workers, the latter for the provision of appropriate case-related legal advice to those seeking protection. These issues were complicated by constraints on available accommodation on Christmas Island.

DIAC has also placed a strong focus on ensuring oversight in terms of appropriate management of detainees' health and welfare, and on the resolution of cases using case managers for this task since 2005. For the mainland detainee caseload (largely visa compliance cases), the average case manager-to-detainee ratio is about 1 to 20. For the IMA caseload at Christmas Island, case managers were initially managing in excess of 100 IMAs each. Again, however, a process of intense recruitment and training - which for case managers requires a Certificate IV and up to six months to become fully operational - enabled DIAC to increase case manager numbers from 20 to 35 by early 2011, thus reducing each individual case manager's caseload to more manageable (but still excessive) proportions (that is, to about 1 to 70).

Again, similar challenges were faced by other parties, including Serco which undertakes basic provision of immigration detention services and the maintenance of detainees' health and welfare, Serco's subcontractors (such as Resolve FM for maintenance and Metropolitan

Security Services (MSS) for perimeter security), Life Without Barriers as independent support persons for unaccompanied minors, IHMS as the contracted health services provider, and DIAC's detention operations and contract management staff, all of whom were similarly required to ramp up capacity rapidly.

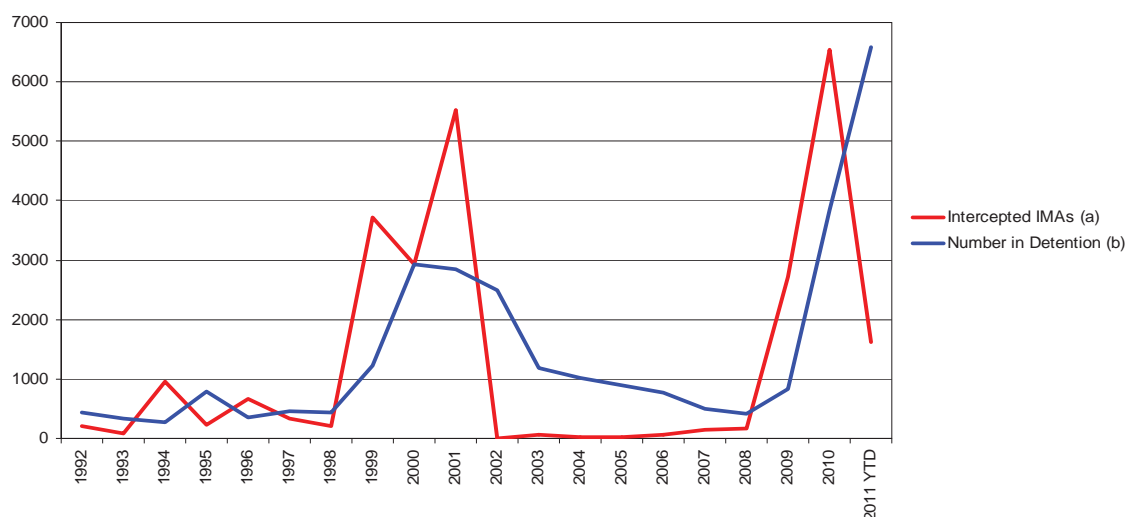
Once claims have been finalised, pressures rise in relation to the provision of settlement services for those granted protection and DIAC's capacity to remove detainees found not to be owed protection given the need to obtain travel documentation and manage acceptance of involuntary returns.

When faced with the need to develop capacity quickly within a complex and politically sensitive environment, the natural tendency is to focus on the logistics and operational matters required for a rapid response at the expense of developing a more robust and evidence-based strategic view. This leads to an overwhelming preoccupation with the details of getting the job done day to day, particularly in the face of significant operational challenges, drawing attention away from the realisation that the environment is shifting so fundamentally that basic settings need adjustment and capability built to deal with those new settings.

Because the focus is so heavily on reacting to circumstances, much of which will be beyond an organisation's control, it becomes difficult to move from what amounts to a very large taskforce approach to a sustainable business model that reflects and incorporates the effective operations, values and efficiencies inherent in integrated program management.

Another significant risk is that the response does not build capacity quickly enough to service throughput, leading to an increase in the numbers in detention at any point in time. The graph below demonstrates that this was a particular factor during the current wave of boat arrivals where the numbers of IMAs in detention reached a record high, more than double the previous wave. Total numbers in detention are, in themselves, not necessarily a problem. Difficulties arise, however, particularly in the context of maintaining detainees' health and welfare and managing security, when numbers stretch infrastructure, there are more detainees in detention for longer periods and there is overcrowding.

Graph 3: IMAs Intercepted and Population in Detention (1992–2011)



Notes: "Number in Detention" includes those in community detention. The population shown in the graph for each month is the average detention population for that month, representing a point in time rather than a cumulative number.

Intercepted IMAs represents a cumulative number of IMAs to that point in time for that year. 2011 YTD is May 2011.

Sources: (a) IMA Table generated by Intelligence Analysis Section and (b) Population in Detention monthly data.

Infrastructure Capacity and Supporting Remote, Dispersed Localities

Overcrowding at the CIIDC was evident as early as 2009, and was raised as an issue in a wide array of reports.¹⁷

While DIAC managed to provide sufficient beds for the rising number of detainees, by no means an easy task given the circumstances, the trade-off involved a reduction in the standard of accommodation, level of amenities and servicing capability (impacting particularly on Serco's ability to provide meaningful programs and activities to keep detainees occupied), with an accompanying reduction in security overall.¹⁸

Although overcrowding was most acute on Christmas Island, particularly in 2010, this problem spread throughout the detention network to varying degrees, including to the VIDC. This limited the ability of DIAC to apply consistently a coherent and strategic, risk-based, detainee placement policy. These themes are explored later against the Review's terms of reference.

Dealing with Remote Locations

Overcrowding also amplifies the difficulties in providing operational support to IDCs in remote locations and, most notably, on Christmas Island which is almost 3,000 kilometres away from any major Australian city and, as noted below, has particular limitations on its capacity to respond to increasing numbers. In addition, identifying options for locating detention facilities can be limited by the lack of existing, readily available and appropriate Commonwealth land.

That is why many IDCs are in remote locations, because that is where large tracts of readily accessible Commonwealth owned land is available. Placing IDCs in remote locations is seen as having benefits including serving as a deterrent, reducing the risk of harm to the Australian community in the event detainees escape, and removing some of the motivation for escape in the first instance. On the other hand, remote localities generate inefficiencies, increase the cost involved, frequently have poor access to services, and hinder building and maintaining infrastructure. It also greatly diminishes the ability of Serco, DIAC, the AFP and emergency services generally to respond quickly to incidents and emergencies. The logistical challenge increases as the number of facilities increases and become more dispersed in remote places.

Christmas Island, which has particular uses as an excised offshore place, is particularly disadvantaged in this regard, with weather and frequency of flights affecting access by air. In effect, Christmas Island, at 135 square kilometres, is a "fixed" facility with finite resources. As such, Government operations have a profound impact on the Christmas Island community and its infrastructure, while also imposing pressure on the procurement of food and supplies and maintenance of that infrastructure. Further, the efficient use of staff and contractors is difficult to achieve. While the Christmas Island community itself, which normally numbers less than a thousand, can be drawn on to a limited extent, it cannot be expected to provide a pool of workers with the relevant skills to support the IMA response. There is no option but to import much of that capacity, which brings additional pressure in the light of significant limits to the accommodation available on the Island for operational staff and the large number of stakeholders involved in managing the response to IMAs.

¹⁷ See for example *Christmas Island immigration detention facilities – Report on the Commonwealth and Immigration Ombudsman's Oversight of Immigration Processes on Christmas Island October 2008 to September 2010*, February 2011, page 2. *2010 Immigration detention on Christmas Island Report*, The Australian Human Rights Commission, pages 32-40 and Recommendation 10. *Assessment of the Current Immigration Detention Arrangements at Christmas Island*, Keith Hamburger AM, Knowledge Consulting, 14 October 2010, page 22.

¹⁸ Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011, paragraphs 1.7 and 5.1(e) and (f). DIAC Submission to the Review of the Incident at the Christmas Island Immigration Detention Centre, page 12.

Managing Detainee Behaviour in the face of a Changing Profile of IMAs

In addition to the substantial increase in the number of IMAs intercepted since 2008, there have been noticeable changes to the nature of the IMA cohort. Significant demographic changes, together with the large and rapid increase in IMA numbers, have placed increasing pressure on detention operations.

Early arrivals in this current wave were from Sri Lanka and Afghanistan. Iranians and Iraqis began arriving during the middle of 2010; in fact, between July 2010 and April 2011 Iranians made up one third of the total number of arrivals.¹⁹ This shift in the nature of arrivals presented two challenges. Managing tensions between ethnic groups, particularly in an environment of overcrowding and reduced access to amenities and services, became increasingly complex. The socio-economic profile of the later arrivals tended towards increasing levels of education and wealth, and to middle class people who had higher expectations of service and lower tolerance for any perceived slowness in processing or inconsistency in decision making, or for failure to achieve a positive result. It may well be that these expectations had been marketed by the people smugglers involved.

Processing Issues

The number and proportion of detainees who have spent more than 12 months in detention has also risen over time due to a range of factors, including changes to the broader legal and policy framework, as well as case processing factors. The April 2010 decision to suspend processing pending completion of the UNHCR Review, for example, created delays of three and six months respectively, resulted in increased detainee uncertainty and added to the processing backlog.

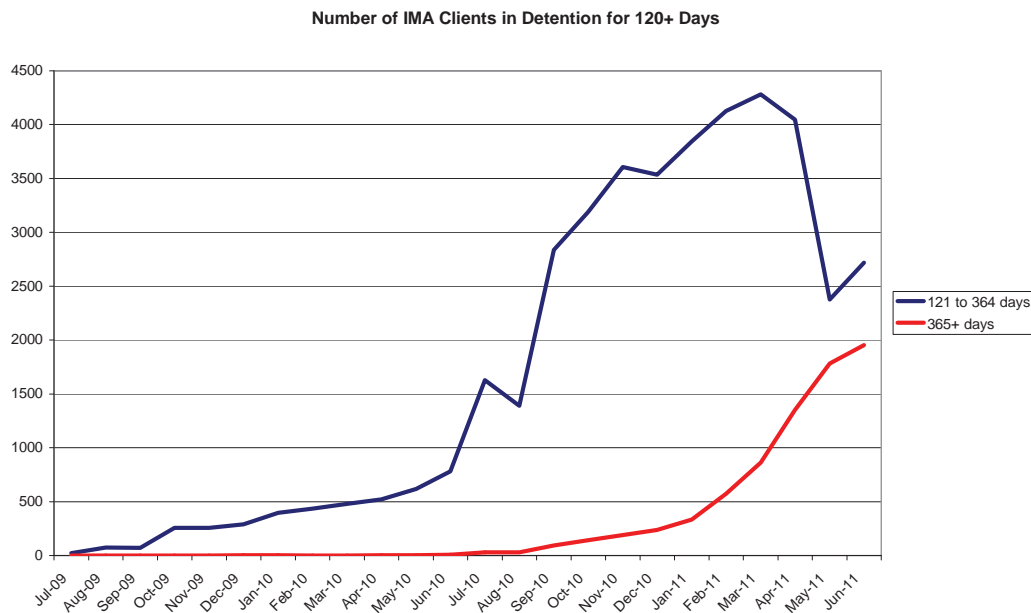
In November 2010, the High Court decided that the assessment process for IMAs was subject to judicial review and that procedural fairness had not been afforded in the cases that were put before the Court.²⁰ In response, the Government introduced a new, streamlined Protection Obligations Determination (POD) process. This replaced the previous Refugee Status Assessment process and was to come into effect on 1 March 2011. As a result of the High Court decision, however, hundreds of detainees had to have their cases reassessed, adding further to their time in detention.

Finally, as noted above, the inability to ramp up processing capacity in the face of increasing arrival numbers contributed to the development of backlogs at various stages in a detainee's assessment pathway.

¹⁹ DIAC Submission to the Review of the Incident at the Christmas Island Immigration Detention Centre, page 6.

²⁰ *Plaintiff M61 and Plaintiff M69 v Commonwealth of Australia* [2010] HCA 41, 11 November 2010.

Graph 4: IMAs by Time in Detention Greater than 120 Days



Note: The population displayed in the graph represents a point in time.
Sources: The graph is generated from data in the IMA Key Statistics and historical IMA nominal rolls.

Not only are people being detained for extended periods of time, a growing number in detention are on a negative pathway.

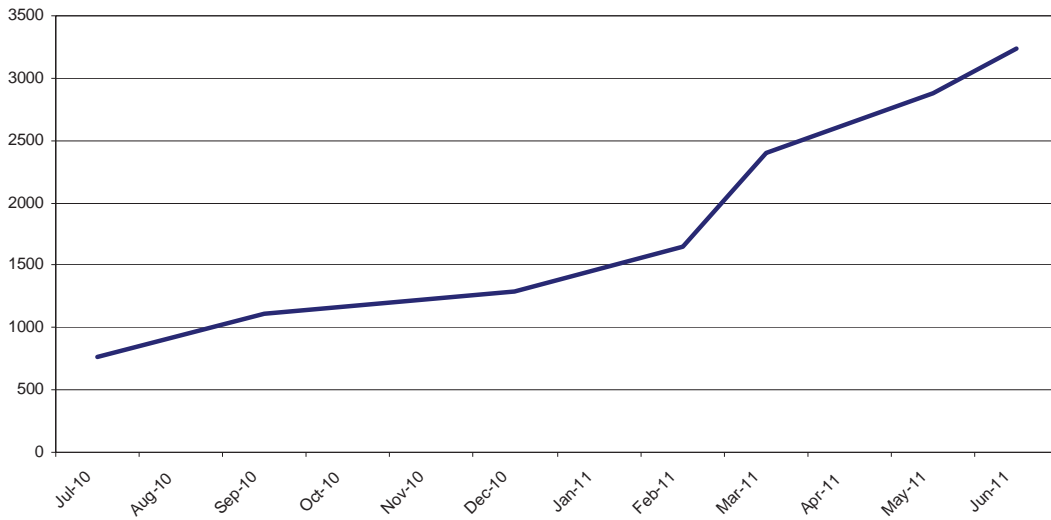
The rising number of detainees on a negative pathway either because they have received a negative decision at the primary stage and are awaiting review or have received a negative decision at review and have not been able to be settled elsewhere is shown in the following table and graph.

Table 3: Detainees on a Negative Pathway and IMA Detention Population

Year		Detainees found not to be a refugee	IMA Detainee Population
2010	24-Jul-10	729	4 115
	30-Sep-10	1 115	4 524
	9-Dec-10	1 294	5 747
2011	3-Feb-11	1 648	6 063
	28-Mar-11	2 406	6 399
	20-May-11	2 878	6 121
	30-Jun-11	3 241	5 691

Includes clients who are found not to be a refugee at primary stage and clients who are found not to be a refugee after the review stage. **Excludes crew of boats.

Graph 5: Detainees on a Negative Pathway (July 2010–June 2011)



Source: DIAC, Program Management and Performance Reporting.

Moving from a detention cohort that is largely on a positive pathway or still being assessed at the primary stage, to a cohort which increasingly is receiving negative decisions at either the primary or review stage, particularly if assessment has taken significant periods of time, or which has received negative decisions previously and for whom no other resettlement option has been forecast, changes the whole dynamic of a centre. It becomes one where hopelessness is a significant factor which contributes to increasing disregard for the rules of the centre and, for some, increasing resentment and a desire for revenge against those making decisions about their life, most notably DIAC and Serco officers. Indeed, the attitude of those who have received a negative decision infects those who are still waiting for the outcome. At the end of June 2011, there were 3241 of the 5691 IMAs in detention who, having been found not to be refugees at first stage processing, were on negative pathways and represented a formidable policy and operational issue to the government.

These circumstances inevitably lead to detainee anger and frustration and in many cases deterioration in their health, including mental health, which can be expressed through episodes of self-harm, protest, or violence directed towards others.²¹

From a security perspective, increasing ethnic tensions, uncertainty about or dissatisfaction with the likely outcome, competition for amenities, and a deteriorating, negative and reactive mood creates an environment primed for producing more incidents, larger incidents involving groups of detainees, increasingly extreme incidents, and inappropriate patterns of behaviour by detainees.²²

Next Steps

DIAC and Serco both acknowledge that IMA management risks associated with overcrowding and the resulting diminished access to amenities, extended detention times and the changing profile of detainees, particularly on Christmas Island, have been apparent since late 2009.

²¹ *Review of the Detention Health Framework – A policy framework for healthcare for people in immigration detention, May 2011*, DIAC, pages 16, 18, 25 and 37.

²² *Assessment of the Current Immigration Detention Arrangements at Christmas Island*, Keith Hamburger AM, Knowledge Consulting, 14 October 2010, page 23.

They further acknowledge that the focus of IMA management on Christmas Island in this period has been on risk mitigation, and that prevention was problematic in view of the situation they were facing.

In the context of the factors discussed above, Chapter Three considers events leading up to the incidents and Chapter Four sets out the sequence of the incidents at Christmas Island in March 2011 and Villawood in April 2011. These incidents are examined in greater detail against each of the Terms of Reference in the subsequent chapters.

Chapter Three: Preface to Incidents

In late September 2008, a Royal Australian Navy patrol boat detected and intercepted a vessel near Ashmore Islands, 320 kilometres off Australia's north-west coast. Although not fully recognised at the time, this vessel (called SIEV 24), which carried 12 passengers and two crew, represented the first boat in the current wave of IMAs.

Initial Response to Boat Arrivals – Late 2008 to Early 2009

Immediately prior to the arrival of SIEV 24, there were only 247 people in the detention network, all on the mainland.²³ The Department's focus was on implementing the Government's "New Directions in Detention" and evaluating a tender process for the provision of immigration detention services. Underpinning "New Directions in Detention" was a risk-based approach to managing non-compliance, including resolving the status of low risk unlawful non-citizens in the community by placing them on Bridging visas with strict reporting conditions, and detaining those representing a higher risk in an immigration detention facility.

A corollary of this strategy, particularly given the low numbers in the detention network, was to identify those facilities that could be closed or mothballed, notwithstanding the importance of Christmas Island to the Government's overarching border security policy and the need to maintain operational and standby capacity for the management of domestic compliance activities, illegal foreign fishers and unauthorised boat arrivals.²⁴

The NWP facility, started in 2005, was finally completed, commissioned and handed over to DIAC in April 2008. Despite its availability, the Government decided to accommodate the September 2008 boat arrivals at non purpose-built detention facilities on the north-east side of the Island, namely the Phosphate Hill APOD and Construction Camp APOD.

At that time, those early boats were regarded as the exception and in themselves did not justify opening a facility that would be expensive to run and maintain.

DIAC's initial response to these boat arrivals was to apply a task force approach to processing claims and supporting detention operations. A Boat Task Force was established in Sydney in late 2008, and a rotating staff model was adopted with short term placements to Christmas Island.

In line with the "New Directions in Detention" policy, an open and transparent position was taken with respect to external scrutiny of IMA operations and the detention network generally. For example, in September 2008, the Minister requested the Commonwealth Ombudsman to oversee the non statutory refugee assessment process for asylum seekers at the Christmas Island immigration detention facilities. Since then, Ombudsman staff have made eight visits to Christmas Island and provided reports to DIAC. Early on, representatives from the Australian Red Cross and UNCHR also spent time on the Island, and have since revisited and reported on their observations, as has the AHRC and representatives from advisory groups such as CISSR and DeHAG.

The Government's Border Protection Taskforce - which included the Departments of Prime Minister and Cabinet, Defence, Foreign Affairs and Trade, Immigration and Citizenship, Regional Australia, Finance & Deregulation and Treasury as well as Australian Intelligence

²³ DIAC Immigration Detention Statistics Summary - as at 26 September 2008.

²⁴ Minister for Immigration and Citizenship, Senator Chris Evans, New Directions in Detention - Restoring Integrity to Australia's Immigration System Australian National University, Canberra, 29 July 2008.

Community members, the AFP, the Attorney General's Department, Customs and Border Protection Service, the Australian Maritime Safety Authority and AUSAid - appointed DIAC to take the lead on Christmas Island to ensure a whole-of-government operational response in managing IMAs.

As further boats arrived, the facilities at Phosphate Hill and Construction Camp reached maximum capacity, and the then Minister agreed in December 2008 to open NWP for the accommodation of single male detainees. The Government was keen to ensure, however, that the use of the new purpose built centre not drive practices and values that were out of line with its "New Directions in Detention" approach, so it decided to open the facility in a low-security mode, with many of its security features not activated, including the Electronic Deterrent and Detection System (EDDS). This approach was viewed as appropriate given the compliant detention population at that time and the desire to maintain a positive culture and mood. The decision was also taken in the context of concerns raised by advocacy groups that the nature of NWP, which was built in the manner of a correctional facility, could in fact be counterproductive to the effective management of the cohort it was accommodating.

Moving to Sustainable Operations - Mid to Late 2009

For the first six months of the new wave, IMAs numbered less than 40 per month. This pattern changed dramatically with the arrival of 350 IMAs in April 2009, and arrivals averaged about 300 a month for the rest of the year. It was already apparent that IMAs were unlikely to diminish in the short to medium term and DIAC sought to move operations from a Task Force mode to a sustainable business-as-usual approach.

DIAC's rotating staff model, which was initially introduced to provide immediate response capability, was beginning to have an adverse impact on the continuity of services and planning due to high staff turnover. By the middle of 2009, DIAC moved to recruiting management and administration staff for six month placements, and was planning extensive recruitment and training processes for refugee status assessment. A permanent SES position was created on Christmas Island, complementing the position in DIAC's National Office, and planning was underway to build capability across the range of partner stakeholders involved in the IMA response (for example, interpreters, security assessment staff and entry processing staff).

At the same time, DIAC was examining ways to increase throughput by streamlining processing operations and introducing other efficiencies, and as early as May 2009 options were being provided to the Government for contingency planning to accommodate IMAs both on Christmas Island and the mainland should the operational need arise.

As the number of IMAs on Christmas Island escalated, it became imperative for DIAC to provide additional staff accommodation to support all areas of service delivery including for other Commonwealth agencies. In July 2009, portable accommodation (known as Phosphate Charlie) was leased and installed at the Phosphate Hill APOD. Although originally intended for detainees, it was instead used to alleviate staff accommodation pressures.

The rapidly increasing number of IMAs from April 2009 meant that NWP quickly reached capacity. Concerns began to be raised about the impact of the rise in numbers on processing times and about DIAC's ability to provide adequate services and appropriate accommodation standards commensurate with the risk profile and care requirements of detainees on Christmas Island, in particular for children and other vulnerable groups.²⁵ Extra beds were

²⁵ See *Immigration Detention Quarterly Report, January to March 2009*, Australian Red Cross and DIAC response September 2009. A number of advocacy and advisory groups were making similar observations.

placed in the NWP surge accommodation dormitories, in activity rooms and in an area previously designated as an education block (Block 3 Education Area). In December 2009, additional beds were placed in air-conditioned marquees in the area adjacent to Red Compound, and further marquees were erected in January 2010.

Serco, which was the successful tenderer for the provision of immigration detention services, signed the IDC Contract on 29 June 2009 and began the transition process, becoming solely responsible for managing IDCs by the end of 2009.

November 2009 Incident

The first significant disturbance involving some 150 detainees from different ethnic backgrounds fighting against each other took place on Christmas Island in November 2009. The disturbance was brought under control by Serco officers within approximately 30 minutes. There were a number of injuries, with 37 detainees receiving medical treatment following the incident. Ten of those were taken to Christmas Island Hospital, with three being transferred to Perth for further treatment. A small number of Serco officers received medical attention on site for minor injuries. The Centre was locked down for 24 hours as a result and the AFP was called in to investigate. There was no damage to property during this incident.

A range of actions was taken in response to the incident by DIAC, Serco and the AFP, with charges being laid against 11 of the detainees involved. Transfers from Christmas Island to Brisbane and Melbourne Immigration Transit Accommodation (MITA), which had begun earlier in November 2009, were increased and then expanded to include placement of IMA vessel crew members at the Northern Immigration Detention Centre in Darwin in December 2009. The transfers were based on a number of factors, including risk. As a result, 545 persons were transferred to the mainland between 1 November 2009 and 9 April 2010, leaving a net 1552 remaining at NWP.

The Government's policy that all IMAs be taken to Christmas Island for initial health and entry processing and remain there until processing was completed continued during this period, although there was recognition that loss of amenity and crowding were strong drivers for disruptive behaviour.

In the month after the November 2009 incident, and in direct response to increased IMA numbers, construction commenced of a 200-person camp close to NWP made up of portable buildings. This area, known as Lilac compound, and comprising accommodation rooms, ablutions, laundries, a dining room and open air cabanas, became operational in January 2010. In addition, work began early in 2010 on a 400 bed facility called Aqua, adjacent to Lilac, which became operational in May 2010. Both were low security compounds.

From a facility security perspective, the November 2009 incident was notable because it focussed attention on the difficulty in managing and responding to critical, large scale incidents which may arise in an overcrowded centre with limited capacity to segregate detainees. The AFP subsequently undertook a Public Order Management (POM) Assessment to inform planning for any future operational responses to incidents on Christmas Island.²⁶ That report noted, *inter alia*, that NWP was overcrowded, the tent locations posed a major security risk as they could not be locked down, there were internal tensions based on ethnic lines and standover tactics related to access to reduced amenities were present within the detainee population.²⁷

²⁶ *Christmas Island: Public Order Management (POM) Assessment*, Operational Response Group, 7 December 2009.

²⁷ It is noted that this work was subordinate to a much wider review of AFP and partner agency operations that was undertaken in November 2009. This review, which the Review was not able to access, looked at interagency

The report prompted DIAC to re-examine its detention centre security risks and, during 2010, it commissioned consultancies (examined in detail below) to review security arrangements at Villawood and Christmas Island. In conjunction with Serco, and where appropriate the AFP, DIAC sought to develop and implement mitigating strategies for the risks identified, including:

- improving capability in incident and emergency management;
- boosting intelligence capability and feeding that into improved real-time risk assessments at each facility; and
- introduction of meaningful programs and activities for detainees.

The extent to which these strategies were implemented successfully varied, their deployment being constrained by the difficulties faced in managing the logistical pressure presented by a further rapid and sustained increase in IMAs during 2010.

Turning to staff accommodation at Christmas Island, a contract was let in December 2009 to refurbish 12 accommodation blocks located at Poon Saan. The first three blocks were operating by April 2010, providing around 51 extra beds and, by April 2011, all 12 blocks had been refurbished and 204 beds made available.

Managing Overcrowding During 2010

While arrivals had increased significantly during the latter half of 2009, they rose in magnitude in 2010. Arrivals which had been tracking at about 350 per month increased to an average of 550 per month though to December of that year, and there were several instances where over 700 IMAs arrived in a month.

Despite initiatives to streamline protection assessment arrangements, including for security clearances, processing of claims was unable to cope with inflows and the numbers of detainees on Christmas Island grew.²⁸ Amenities were becoming severely compromised with access to ablutions, phones, internet, recreation, education and the gym being placed under stress.

Fitting more detainees into the NWP footprint than it was designed to accommodate was having adverse and unsustainable effects on infrastructure, including:

- a failing sewerage system;
- increasing use of power being sourced from generators; and
- the supply of potable water becoming precarious.

Christmas Island, as the designated first point processing centre, quite simply could not hold any more detainees without significant additional infrastructure that the island would find difficult to support. Meanwhile the attention of DIAC was pre-occupied with the challenge of finding beds for new arrivals on Christmas Island and in the immigration detention network more broadly.

coordination arrangements between Commonwealth agencies, including Serco as a contracted provider to DIAC. The review critically examined a number of capability and capacity concerns that related to both DIAC and Serco, including the development, placement and sustainment of Command, Public Order, Intelligence and Negotiator capabilities on Christmas Island.

²⁸ Average processing times increased significantly over this period as a result of the rapid rate of arrivals, but also due to the increasing complexity in case loads, security clearance capacity, staff accommodation constraints, and changes in country information used to assess protection claims.

To alleviate the pressure, the Government moved incrementally to place IMAs in mainland facilities, including, for example:

- Villawood IDC (123 transferred in March/April 2010);
- Brisbane Virginia Palms APOD (99 transferred in March/April 2010); and
- Port Augusta Immigration Residential Housing (60 transferred in April 2010).

As noted above, the April 2010 suspension of processing Afghan and Sri Lankan IMAs had a significant impact on the detention network. To manage the group affected by that decision, the RAAF Base at Curtin in Western Australia was reopened on 12 June with an initial transfer of 94 IMAs from Christmas Island. By the time the Afghan suspension was lifted in September 2010, Curtin accommodated over 700 IMAs. Additional mainland facilities were subsequently opened in Darwin and Leonora.

Rising numbers in detention led to comparatively rapid action in the latter half of 2010 to expand capacity in the immigration detention network. Government decisions were made in September 2010 to increase capacity of the MITA, utilise facilities at Scherger Air Force Base, and expand capacity at Curtin to 1200 beds.

Further decisions were made by the Government in October 2010 to move significant numbers of children and vulnerable family groups into community detention, and to commission facilities at Northam and Inverbrackie.

External Reports

Within this context, as indicated above, DIAC was keenly aware of the increased risks resulting from overcrowding and reduced amenity, and the potential for similar risks at other facilities. In March 2010, Keith Hamburger of Knowledge Consulting was commissioned to review the security arrangements at Villawood Immigration Detention Centre. This Review followed a significant number of escapes from VIDC and examined the security effectiveness of the existing infrastructure.

Given the increased risk profile at Christmas Island, DIAC commissioned Knowledge Consulting to examine arrangements there also. The terms of reference for this second review sought advice about the optimal capacity of infrastructure on the island, an assessment of the risks currently being faced in administering the facilities in a safe, secure and humane manner, and a review of security arrangements, including intelligence gathering.

An initial report on Christmas Island was provided to DIAC in May 2010. Further work was then required prior to its completion, but DIAC drew upon the draft report in providing briefings and advice, and in developing appropriate management responses to accommodation and other issues.

In response to a draft recommendation to review intelligence gathering as a means of mitigating the inherent risk of managing larger detainee numbers in detention for longer periods, DIAC undertook recruitment action, and on 17 June 2010 appointed a dedicated Security Liaison Officer on Christmas Island.

Knowledge Consulting's final report to DIAC on 14 October 2010 echoed themes identified in reports by other stakeholders detailed below and raised significant issues for DIAC and Serco.²⁹ The report concluded that DIAC did not have the capacity to implement a policy of offshore processing and mandatory detention of IMAs without resorting to overcrowding and temporary facilities. Findings included:

- facilities on Christmas Island were overcrowded and understaffed;
- detainee accommodation was not fit for purpose;
- staff and detainee safety was compromised;
- processes for detainee case management were conceptually sound, but implementation was degraded through lack of detainee placement options and staff shortages;
- intelligence gathering was compromised due to staff shortages;
- centre maintenance and services were under stress; and
- detainee mental well being was at risk due to lack of meaningful activity.

Presciently, Knowledge Consulting's final report included the finding that "concerning early warning signs of deterioration in client morale are evident at NWP which if not addressed have the potential to escalate into a serious incident or incidents."³⁰

This finding was supplemented by the following note:

*"DIAC say that Serco, IHMS and DIAC assess the mood and dynamics of the Centre on a daily basis and to date morale has been found to be consistent and not deteriorating. Nevertheless, given the matters identified in this Report, experience shows that client concerns/grievances in this situation can rapidly escalate into wilful disobedience and violence. Therefore, it is important that the underlying issues that drive client concerns are addressed urgently."*³¹

In response to this, and in recognition of the risks associated with the loss of purpose and hope that occurs when detainees are not meaningfully engaged, DIAC and Serco attempted to enhance programs and activities, including the appointment by Serco of an Activities Manager at the CIIDC. However, the significant numbers of detainees, resultant overcrowding and reduced access to facilities and services, placed real limitations on what could be achieved.

Although Knowledge Consulting's final report on Christmas Island was provided in October 2010, it was not the subject of a specific briefing to the DIAC Secretary or current Minister who only became aware of the report in March 2011 following the CIIDC incident. The failure to provide such a briefing was highly regrettable.

²⁹ It is noted that Serco did not receive a copy of this report.

³⁰ *Assessment of the Current Immigration Detention Arrangements at Christmas Island*, Keith Hamburger AM, Knowledge Consulting, 14 October 2010, pages 4 and 23.

³¹ *Ibid*, page 23.

Other Stakeholder Reports

In his Report on the Commonwealth and Immigration Ombudsman's oversight of Immigration Processes on Christmas Island October 2008 to September 2010, the Commonwealth Ombudsman noted that:

“... the stage has been reached where the current scale of operations on Christmas Island, as very remote from the mainland, and supporting infrastructure and services, is not sustainable.”³²

The Ombudsman further noted a number of IMA management issues on Christmas Island associated with overcrowding, diminished access to recreation and other amenities including education services, extended detention times for detainees, and delays in RSA or independent merits review processing and security clearances. While noting that the opening of additional facilities on the Australian mainland would go some way towards addressing the overcrowding situation, the Ombudsman concluded that any improvement would be short-lived unless either the rate or the number of IMA arrivals fell.

In its *Immigration Detention at Christmas Island* (2010) Report, the AHRC noted the substantial increase in the number of people detained on Christmas Island since its last visit in 2009. It observed that, while there had been some improvements in the operation of the detention facilities, the increase in numbers had led to overcrowding and a significant deterioration in living conditions for many people, particularly those accommodated in tents and dormitory rooms. The substantial increase in numbers had also placed further strain on their access to facilities and services including communication facilities, recreational facilities and educational activities.

The AHRC also recognised some positive developments at the CIIDC since its last visit, including efforts to provide recreational activities, an increase in religious support and an initiative to engage some detainees as teacher's aides at the local school.

The AHRC remained of the view, however, that prolonged or indefinite detention, coupled with limited access to mental health care, minimal if any opportunity for excursions, lengthy delays in processing refugee claims, serious delays with security assessments and a lack of regular updates on progress with cases, can have devastating impacts on detainees' mental health. As a result, CIIDC detainees “... *experienced significant anger, high levels of distress, feelings of powerlessness and a pervasive sense of helplessness,*”³³ causing the detention centre to become tense and volatile, a situation where relatively minor incidents can escalate quickly.

The AHRC concluded that:

“... further disturbances similar to those that recently occurred at Christmas Island and Villawood remain a distinct possibility within Australian immigration detention centres for as long as people are subject to prolonged and indefinite detention.”³⁴

November 2010 Incident

On 16 November 2010, a group of detainees at the CIIDC commenced a peaceful sit-in protest in the “Green Heart” of the Centre. The protest ended in a negotiated settlement

³² *Christmas Island immigration detention facilities - Report on the Commonwealth and Immigration Ombudsman's oversight of Immigration Processes on Christmas Island October 2008 to September 2010*, February 2011, page 2.

³³ Australian Human Rights Commission 31 May 2011 submission to the Senate Legal and Constitutional Committees Inquiry into the *Migration (Strengthening the Character Test and Other Provisions) Bill 2011*, page 7.

³⁴ See Australian Human Rights Commission Submission, pages 7-8.

whereby those who had sewn their lips together had their sutures removed, banners were to be taken down, the protest area was to be cleaned up, and detainees were to return to their accommodation. Despite having up to 150 people involved in the protest, the detainees stood down on the evening of 23 November without resorting to violence and the action ended peacefully. In return, DIAC agreed that a small number of protestors would meet on 25 November with representatives from the Ombudsman's Office who were on Christmas Island at the time as part of their ongoing oversight role.

This incident is significant in that it represented the first mass protest directed against DIAC. Detainees expressed concerns about DIAC's order of processing, the time taken and perceived inconsistency in outcomes, and felt that DIAC was therefore the cause of their prolonged time in detention.

In that same month, the Government announced that its new POD arrangements were to come into effect on 1 March. Detainees were informed of this development at the time of the incident.

As a result, there were expectations among detainees that in March 2011 they could expect to see faster decision-making in accordance with the High Court judgment relating to procedural fairness requirements. Although these changes were duly introduced on 1 March 2011, the perceivable immediate impact was not initially significant.

Shortly after the November 2010 incident, which was in effect a peaceful protest, the AFP removed its Operational Response Group (ORG) which had been deployed to Christmas Island in April 2010 as a contingency in case of detainee unrest stemming from the Government's decision to suspend processing of claims for Afghan and Sri Lankan IMAs. The AFP notified DIAC that it would commence withdrawal of AFP ORG personnel on 27 November 2010 because of other operational priorities.³⁵

Situation on Christmas Island Immediately Prior to the March 2011 Incident

Notwithstanding the various accommodation facilities brought into service on Christmas Island, as shown in Table One below, there was still great pressure on CIIDC as a result of continuing IMA arrivals. As can be seen, all of the NWP accommodation compounds were housing more than the 100 detainees that they were designed to hold at times of surge capacity.

At close of business on 10 March 2011, there were 2539 detainees on Christmas Island, 1841 of whom (single males) were accommodated at the NWP, Lilac and Aqua compounds. The remainder were accommodated at Construction Camp (469), Phosphate Hill - Bravo (146), and at Alpha and Charlie (83).

³⁵ The AFP noted that its interim response capability was withdrawn as it was unsustainable, and limited the AFP's ability to respond to broader operational requirements including incidents at other IDCs. The AFP, however, maintained the ability to rapidly redeploy specialist capability to Christmas Island if necessary. The AFP position is that this draw down was undertaken in consultation with DIAC. At the time, DIAC said that it had requested the AFP to maintain its presence on Christmas Island in view of the perceived ongoing risks.

Table 4: IMAs on Christmas Island as at 10 March 2011

Location	Compound Name	IMA numbers
CIIDC - NWP	White One	115
	White Two	115
	Blue One	114
	Blue Two	117
	Green One	124
	Green Two	117
	Gold One	125
	Gold Two	125
	Education Three	142
	Marquee	166
- Lilac/Aqua	Lilac	197
	Aqua	384
Construction Camp		469
Phosphate Hill	Bravo	146
	Alpha & Charlie	83

Source: Client Health View Data set

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Chapter Four: Description of Incidents

The description of the incidents at Christmas Island and Villawood Immigration Detention Centres is prefaced by a description of the infrastructure of each IDC to aid in contextualising the incidents.

Description of the Christmas Island Immigration Detention Centre (CIIDC)

Overview

The CIIDC is located at the North West Point of Christmas Island, 10 kilometres from the main population centres of Settlement, Poon San, Drumsite and Kampong. It comprises the purpose-designed and built facilities at NWP first used to accommodate detainees in December 2008, and the Lilac and Aqua Accommodation Compounds contiguous with the NWP built in 2010. The maps at Appendices D and E provide details of the CIIDC layout.

The following permanent infrastructure is available to accommodate detainees at NWP:

- four purpose-designed and built accommodation compounds, named Blue, Gold, Green and White (the “NWP Accommodation Compounds”);
- three Education Compounds;
- a large open grassed area (the “Green Heart”);
- a Recreation Compound;
- a Medical Centre;
- a purpose-designed and built secure accommodation unit (Red Compound); and
- a Visits and Induction Centre.

Situated within NWP, in areas not intended to be accessed by detainees, are:

- a Kitchen, Storage and Laundry Block;
- the Main Reception;
- a Utility Block;
- an Administration Complex; and
- a Conference Centre.

The Lilac and Aqua Accommodation Compounds, adjacent to NWP, contain demountable buildings and other non-permanent structures.

CIIDC Detainee Accommodation at the time of the March 2011 Incident

At the time of the March 2011 incident, detainees were accommodated in:

- the Blue, Gold, Green and White Accommodation Compounds at NWP;
- the recreation rooms of the NWP accommodation compounds;
- the Education 3 Compound classrooms;
- marquee tents erected beside Red Compound;
- short-term medical quarantine accommodation at the Medical Centre;
- short-term accommodation at the Visits and Induction Centre; and
- the Lilac and Aqua Accommodation Compounds.

CIIDC Security Infrastructure

As constructed, NWP was surrounded by a weldmesh outer perimeter fence equipped with a high voltage but low wattage EDDS. When operating, an EDDS gives a non-life-threatening electric shock to a person who touches it and is designed to collapse if climbed. At the time of the March 2011 incident the EDDS, along with a number of other security features as discussed in Chapter Three, was not operational. A chain-link inner perimeter fence acted as a barrier to the outer perimeter fence. Within this perimeter, building exteriors and external open spaces were lit by a combination of high pressure sodium lights and floodlights mounted on poles. The lighting was necessary to aid in the operation of various pole and building-mounted CCTV cameras, which were a mix of Pan/Tilt/Zoom and fixed type.³⁶

External perimeter of NWP from outside Main Entrance



In addition to the fences, perimeter security at NWP included a row of pole-mounted sodium vapour lights on an outer perimeter road, a microwave detection system, an internal floodlit road and a building perimeter movement activated detection system. The Medical Centre, the Visits and Induction Centre, the Education and Recreation Compounds, the Conference Centre and the NWP Accommodation Compounds formed an inner perimeter around the Green Heart to prevent detainees from accessing the areas between these buildings and the perimeter fence.

As designed, movement within NWP was intended to occur through the use of key-cards issued to each detainee.³⁷ These would enable a detainee to access an Accommodation Compound only through a pedestrian gate and central corridor situated adjacent to a Serco Officers' Station. Access to other areas of NWP could also be gained by pressing call buttons on gates which could be unlocked remotely from a Control Room.

³⁶ *Review of the Christmas Island Immigration Detention Centre*, Professor Stephen Frith, December 2007, page 46.

³⁷ *Ibid*, page 44.

At the time of the March 2011 incident, a double fence, comprised of lengths of chain-link mesh wired to metal frames, formed part of the external perimeter of the Lilac and Aqua Accommodation Compounds, while a single fence of similar material separated these two compounds from each other. Building exteriors and open spaces were lit, but there were no detection or deterrence systems on the fences and no CCTV cameras were situated within or around these compounds.

Prior to the March 2011 incident, the Lilac and Aqua Accommodation Compounds were connected to NWP by a runway between two single chain-link fences ending at a gate cut into the outer perimeter fence of NWP, adjacent to the Green Accommodation Compound. This gate was manned by security staff and secured by a padlock. Gates within the Lilac and Aqua Accommodation Compounds were similarly secured with padlocks. The runway to NWP allowed detainees moving to and from these compounds access to the rear door of the Green Accommodation Compound, after they crossed over the internal perimeter road and moved through a sterile zone. There were no physical barriers at this location to prevent detainees accessing other areas of NWP via the internal perimeter road in the sterile zone. As such, the gate cut into the outer perimeter fence of NWP lowered the external security of that facility.

Blue, Gold, Green and White Accommodation Compound Infrastructure

These four compounds at NWP are divided into two sub-compounds, numbered 1 and 2, which each contain four double-storey accommodation blocks that form part of the compound perimeter. Each sub-compound has a capacity of 50 beds and a surge capacity of 100 beds, although at the time of the March 2011 incident, additional accommodation was gained by placing bunk beds in recreation rooms. The sub-compounds are separated by an Administrative Building that contains rooms for detainee dining and recreation, and for Serco staff. The location of buildings, weldmesh fencing, gates and vehicle roller doors, was designed to allow each sub-compound to operate independently of the others. At the time of the March 2011 incident, the key-card system for detainee access was not in use at CIIDC and detainees were able to enter and exit these compounds at will through pedestrian gates and corridors in the Administrative Buildings. In the weeks leading up to the incident the vehicle roller doors, which had previously been opened and closed at certain times during the day and at night to allow detainees to access the compounds, had been kept closed in response to detainee requests for an improved sense of community and privacy.

Red Compound Infrastructure

Red Compound is a single storey building with two wings, numbered 1 and 2, each containing ten bedrooms, the smallest of which has an area of eight square metres, with en-suite facilities and fixed fittings. At the end of each wing are courtyards enclosed with mesh and colour bond fencing. The centre of the building contains interview rooms, a control room, and separate dining rooms for each wing, which open to courtyards also enclosed with mesh and colour bond fencing. The bedrooms are constructed of toughened materials, including heavy secure doors and shatter-proof glass windows, and can be monitored by closed circuit television (CCTV). Access to the compound is intended to occur via vehicle through a central carport.

The White Accommodation Compound, Medical Centre and internal fencing separate Red Compound from the Green Heart, but no additional fences or barriers surround it. It was designed to provide short-term accommodation for detainees unable to be housed safely in other parts of the CIIDC due to security risk levels. Red Compound had not generally been used as accommodation prior to the March 2011 incident.

Red Compound Marquees Infrastructure

At the time of the March 2011 incident, seven marquee tents had been erected by DIAC in an open grassed area between Red Compound and the inner perimeter road. These marquees provided bunk bed accommodation for up to 200 detainees, with others used as dining and recreation space. Demountable communal shower and toilet blocks were placed in this area for the use of detainees. Temporary lightweight fencing panels and Red Compound formed a perimeter around the marquees.

Detainee access to the Marquees occurred through the Red Compound carport and along an internal road leading to the upper Green Heart, which was accessed through a weldmesh gate. Demountable interview rooms were situated beside this road.

Red Compound Marquees before the March 2011 CIIDC Incident, with Red Compound carport visible on the right



Lilac and Aqua Accommodation Compounds Infrastructure

These compounds were situated outside of the NWP perimeter, behind the Green Accommodation Compound. Lilac Accommodation Compound contained groups of demountable accommodation buildings from the former Baxter Immigration Detention Facility and Woomera Immigration Reception and Processing Centre in South Australia, arranged to face each other across covered boardwalks. Up to 200 detainees could be accommodated in 100 bedrooms with en-suite bathrooms; additional demountable buildings were used for recreation space and Serco offices.

Aqua Accommodation Compound was situated behind Lilac and was similarly comprised of demountable buildings arranged as described above. Up to 400 detainees could be accommodated in 200 bedrooms with en-suite bathrooms. Recreation rooms, a Clinic, a Kitchen and Dining Complex, laundry facilities, and offices for DIAC and Serco were also provided in demountable buildings.

Visits and Induction Centre Infrastructure

At the time of the March 2011 incident, parts of the Visits and Induction Centre were being used to accommodate detainees on a short-term basis through the placement of bunk beds in undercover areas. The Induction Area and Visits Area are separated from each other by an enclosed concrete courtyard and carport. As these areas were not designed to accommodate detainees, there are no shower facilities and limited toilet facilities. Access to the Visits and Induction Centre is limited by the siting of buildings, weldmesh fencing and gates, and is controlled by Serco staff using key-cards.

Green Heart Infrastructure

In areas not bordering compound or other building infrastructure, the Green Heart was bounded by weldmesh internal fencing and gates. Vehicle gates into the sterile zone of NWP were located between the Medical Centre and White Accommodation Compound, between the White and Blue Accommodation Compounds, and between the Gold Accommodation Compound and Education 1 Compound.

Education Compounds Infrastructure

At the time of the March 2011 incident, the classrooms in Education Compound 3 at NWP contained bunk beds and accommodated 142 detainees in dormitory arrangements. Demountable ablutions blocks were installed in the grassed courtyard of this compound. Access to each Education Compound was controlled through the siting of buildings, weldmesh fencing and gates. As noted above, at the time of the March 2011 incident, the key-card system was not in use, and detainees could only enter and exit these compounds with assistance from Serco staff.

The March 2011 CIIDC Incident

The following account of the CIIDC Incident in March 2011 is based on Serco's CIIDC Command Suite and Canberra Command Suite Occurrence Log, DIAC's incident log from the Canberra Command Suite, interviews conducted with Serco and DIAC staff, and DIAC's and Serco's submissions to the Review.

In describing this incident, all times given are in Christmas Island time (CI time), except where indicated. In March 2011, Christmas Island was operating four hours behind Canberra's Australian Eastern Daylight Savings Time (AEDST) zone.

The week leading up to the Incident

As noted in Chapter Seven, on 7 March 2011 Serco became aware of a possible attempt to escape by a group of predominantly Arabic detainees, who sought to force DIAC to look at their cases. During the course of the week, further information was received about a riot or mass escape planned for 11 March 2011.

The Initial Mass Escape - Friday 11 March 2011 20:35hrs to 24:00hrs

Following reports that a detainee had scaled the fence of the Lilac and Aqua Accommodation Compounds, and in preparation for any incident that might occur, Serco's Acting Regional Manager opened the Serco Command Suite on Christmas Island at 13:00hrs on 11 March.

The Serco Command Suite in Canberra was opened by Serco's Chief Operating Officer at 01:00hrs AEDST on 12 March 2011 (21:00hrs - 11 March 2011 CI time). A member of DIAC's Senior Executive Service was in attendance at the Canberra Command Suite shortly

after it was opened. The AFP was immediately notified by Serco of the events described below.

The incident commenced around 20:35hrs on 11 March when detainees forced up the roller doors of the Blue 2, Green 2 and White 1 Accommodation Compounds and then pushed through the gates at the lower end of the Green Heart, between the Gold Accommodation Compound and Education 1 Compound. This enabled them to move freely within NWP, including into the sterile zone, during which time rocks were thrown at staff. Detainees moved behind the Accommodation, Education and Recreation Compounds, including up to the Red Compound Marquees. While some detainees moved singly, or in small groups, through the sterile zone, a large group formed and moved towards the Administration Complex and Main Reception at 21:15hrs. As the group passed, a number of detainees from within Education 3 Compound damaged and scaled internal fencing to join it.

By 21:37hrs this group of detainees had moved behind the Green Accommodation Compound and pushed through the gate into the runway. A group of 50-70 predominantly Iranian detainees then moved down the runway to the Aqua Accommodation Compound, breached that compound's outer perimeter fence and moved out of the CIIDC at 21:48hrs. While it was noted that the majority of detainees were unarmed, two were sighted carrying sticks. From this time, detainees were able to move freely around Christmas Island as well as within the CIIDC boundaries. At 22:33hrs, in a breach of operational security, approximately 20 detainees fought each other for unknown reasons at Education 3 Compound while at 22:35hrs detainees set cardboard alight outside the Aqua Accommodation Compound.

Courtyard – Education Compound



By 22:46hrs these fires were extinguished by Serco staff, who found that detainees had broken into shipping containers stored behind the Aqua Accommodation Compound and removed foodstuffs stored within them.

Saturday 12 March 2011

Following breach of the perimeter, large numbers of detainees were able to move freely both within and outside the CIIDC and proceeded to different parts of Christmas Island throughout the day. At 04:28hrs, a vehicle driven by a detainee, with another detainee as a passenger,

arrived at Construction Camp APOD; the detainees claimed to have found the vehicle and its keys outside the CIIDC workshop. On the evening of 12 March, staff were reminded to lock vehicles.

By 07:30hrs up to 200 detainees had walked to, and assembled at, the Christmas Island Airport and were refusing to leave; the AFP was in attendance and Serco staff were sent to assist. *En route* to the airport the detainees were met on the road by DIAC and Serco staff, who spoke to a small representative group about their protest.

The issues raised by the detainees at that time focussed on:

- the timeframe between being found to be a refugee and being granted a visa (due to delays in security clearances);
- the timeframe between a negative decision and an independent merits review hearing;
- concern that UNHCR mandates were ignored in decision-making processes;
- the lack of third country options for those on a negative pathway; and
- the absence of perceptible change following the announced 1 March 2011 changes which were supposed to speed up processing.

According to the Serco CIIDC Command Suite Log, at 08:49hrs, in response to a request from the AFP for access to Serco's Personal Protective Equipment (PPE),³⁸ Serco's Acting Regional Manager advised that Serco staff were not to use PPE, including batons and shields; this advice was confirmed by Serco Head Office at 09:16 hrs. At 10:00hrs, all PPE was loaded into a vehicle at the CIIDC for use by the AFP, but was not despatched.

From 10:00hrs onwards, many detainees returned to the CIIDC from the airport either by foot or after being collected in AFP, DIAC or Serco vehicles. Detainees collected in vehicles were searched on return to the CIIDC, but others who entered through the holes made in the perimeter fence of the Aqua Accommodation Compound were not.

During the afternoon, some detainees left the airport and made their way towards other parts of Christmas Island, including the Hospital, the Construction Camp and Phosphate Hill APODs, the Resort, and Ethel and Lily Beaches. At 11:11hrs, Serco staff found a vehicle belonging to a Christmas Island resident at Ethel Beach that contained fuel, a spear-gun and had keys in the ignition. This vehicle was taken to the AFP Police Station.

At the CIIDC, breaches of infrastructure and operational security continued to occur throughout the early hours of the morning, despite efforts by Serco and maintenance staff. For example, although the lower Green Heart gates were secured at 02:20hrs they were open again, and the nearby fence damaged, at 04:26hrs, and the roller doors of all NWP Accommodation Compounds, including the rear doors of the Gold Accommodation Compound, had been forced up. Similarly, by 05:40hrs the roller doors of the Green and White Accommodation Compounds were forced and held up by chairs or rubbish bins.

Detainees remaining at the CIIDC were largely calm and compliant during the day, but small groups continued to leave the Lilac and Aqua Accommodation Compounds through the holes made in the fence earlier, and by climbing the fence between these compounds. Although secured by 12:08hrs, detainees were observed tampering with the runway gate during the day.

During 12 March, efforts were made by Serco to undertake repairs to fences, secure flammable liquids, and assist the AFP in managing and collecting detainees at large from

³⁸ The AFP have advised that it was not aware of this request.

various locations on Christmas Island, including the 100 detainees remaining at the airport. The fencing at Education 3 Compound was secured by 12:49hrs. The four holes found in the perimeter fence after 11 March had been repaired by maintenance staff, as evidenced by two detainees observed climbing the fence back into the CIIDC at 18:03hrs rather than using, or making, holes in it.

The roller doors and gates within the CIIDC were all secured around 16:01hrs. The CIIDC Occurrence Log shows that, at 18:37hrs, Serco's Acting Centre Manager gave permission for the NWP Accommodation Compound roller doors to be opened.³⁹ The Gold 1 Accommodation Compound doors would not open at this time.

From 19:28hrs detainees gathered in the Green Heart with a banner that read "Fed up with jail." At 19:35hrs detainees in the Aqua Accommodation Compound threw rocks at staff, causing them to retreat and a small fire was started and later extinguished by staff. At 19:42hrs detainees from the Aqua Accommodation Compound breached gates into the Lilac Accommodation Compound, prompting a fight between up to 500 detainees from these compounds. Following this fight, Tamil and Rohingya detainees expressed fear of other groups of detainees and later left these compounds to obtain sticks and branches from the jungle to use for self-defence.

While initially peaceful, the group in the Green Heart increased to 120-150 detainees and proceeded to the runway gate at around 20:00hrs. It was noted around this time that some detainees within the CIIDC appeared to have been drinking alcohol.

At 20:04hrs up to 150 detainees from within NWP breached the runway gate, moved down the runway and breached its fencing, and knocked the runway gates off their hinges. Simultaneously, up to 250 detainees breached the perimeter fence of the Aqua Accommodation Compound and left the CIIDC. These groups joined together and proceeded in the direction of the settled parts of Christmas Island.

Later, at 23:34hrs, 15 detainees climbed the fence of the Gold Accommodation Compound within NWP.

The Red Compound Incident - Sunday 13 March

On 13 March, the AFP advised that it would not actively be collecting detainees who had escaped until after the CIIDC was secure. The focus of the AFP was on protecting Christmas Island residents and preventing detainees from blockading the Christmas Island Airport runway, where over 200 detainees were reported to have gathered by 01:42hrs. Other detainees moved along the road between the CIIDC and the settled areas of Christmas Island, taking shelter at a mine site when it rained. At 07:16hrs a report was received from a Christmas Island resident that around 30 detainees were at Flying Fish Cove near Kampong. Detainees departed the airport throughout the morning, with less than 60 remaining by 08:39hrs, and gradually returned to the centre during the afternoon while negotiations continued with those who remained at the airport.

In response to information obtained by Serco and DIAC which suggested that detainees were planning another mass walk out of the centre at 16:00hrs, room searches were conducted to look for weapons and tools, and the EDDS was tested but not activated. Work also commenced to identify the ringleaders and to move them to an appropriate site so that they could be placed on a charter flight that would leave the island on the morning of 14 March; eighteen suspected ringleaders were identified through the combined efforts of Serco and

³⁹ Serco has since advised that it did not authorise the decision to leave the roller doors open after they had been breached.

DIAC Intelligence Officers. Serco advises that approval was given by a DIAC Deputy Secretary to place these detainees into Red Compound. However, the DIAC and Serco Canberra Command Suite Logs indicate that the DIAC Deputy Secretary provided this approval following discussions with the AFP, Serco and DIAC. Serco moved to develop and implement a plan to relocate the ringleaders in line with that approval.

Throughout the day, tensions began to rise within the CIIDC, with information suggesting that detainees planned to breach the White Accommodation Compound roller doors, with the intention of setting fire to the Lilac and Aqua Accommodation Compounds. The AFP and Serco accordingly deployed specialist negotiators and provided external perimeter support.

Rising tension was evident in the Lilac and Aqua Accommodation Compounds. At 11:45hrs a staff member was punched four times by an unknown detainee. From 15:53hrs detainees within the Aqua Accommodation Compound forced the locks on gates and attempted to break down the fence between it and the Lilac Accommodation Compound. During this time catering staff were trapped in the kitchen at the Aqua Accommodation Compound and bolt cutters were needed to evacuate them. At 16:06hrs detainees attempted to gather fence poles for use as tools and weapons. Although holes in the perimeter fence of these compounds had been mended by 03:55hrs the fencing was again breached by 16:15hrs. Detainee movement outside of the CIIDC was constrained by the presence of AFP and Serco officers who had surrounded these compounds. Additionally, at 17:27hrs, detainees took billiard balls from an activity room and a rock was thrown at staff.

The increase in tension was also manifested at NWP. After detainees forcibly raised the roller door of the Gold 1 Accommodation Compound at 09:10hrs, Serco attempted to lock down all accommodation compound roller doors from 13:42hrs. The roller door of the White 1 Accommodation Compound was locked by 15:26hrs, but it was later discovered that the locks placed on the roller doors of the other NWP accommodation compounds had been smashed by detainees. By 17:00hrs detainees had again lifted the roller doors of the White Accommodation Compound.

At 19:10hrs the Canberra Command Suite was advised that 14 detainees had been placed in Red Compound. A senior DIAC officer, accompanied by four Serco officers and two interpreters, attended the Compound to advise the detainees that they were being held there pending transfer to the mainland the next day.

At 19:35hrs detainees attempted to push down the internal fencing between the Blue and White Accommodation Compounds. By 19:44hrs the gates to the Green Heart were broken and breached by detainees and at 19:46hrs detainees were in the Green Heart carrying metal poles and fencing materials.

At 19:53hrs around 100 detainees from within NWP broke through the runway gate, which had earlier been secured at 04:08hrs, and pushed over the fencing of the runway which had been repaired at 03:55hrs. This group then pushed over the fence between the Lilac and Aqua Accommodation Compounds from 19:53hrs, moving along the sterile zone towards Red Compound. Some returned to the Green Heart and about 70 went to the Lilac and Aqua Accommodation Compounds. From 20:37hrs, detainees pushed over much of the perimeter fencing of these compounds.

Fence of Runway to Aqua (background) and Lilac (right) Accommodation Compounds



During the evening, detainees searched for the detainees who had been relocated to Red Compound. From 22:50hrs some 100 detainees gathered in the Green Heart moved behind the White Accommodation Compounds to the Red Compound Marquees and pulled down fencing panels. Detainees took tent poles and concrete blocks and surrounded Red Compound, which contained 14 detainees, 13 Serco staff, two interpreters and a senior DIAC officer.

From 23:21hrs up to 150 detainees outside Red Compound used poles and concrete blocks to break the reinforced windows and doors in order to force their way inside. Serco, DIAC and the interpreting staff locked themselves in a secure room inside the compound. Senior DIAC staff, who were concerned at the possibility of loss of life, and Serco requested specialist intervention. When it was confirmed that lives were at risk, AFP personnel proceeded to Red Compound and, in response to physical violence by detainees, deployed CS gas to disperse the detainees at 23:38hrs. At 23:40hrs detainees breached Red Compound and released all but three of the detainees from within it. Outside Red Compound, detainees threw rocks at AFP officers. CS gas was again deployed by AFP officers at 23:43hrs, who then entered Red Compound and, by 23:51hrs, had escorted all trapped staff out of the building. The AFP confirmed that bean-bag projectiles were also deployed during the course of the Red Compound evacuation.

Protest Marches - Monday 14 March 2011

As damaged fencing infrastructure could not be repaired, detainees continued to move around and outside the CIIDC through 14 March. This included Tamil and Rohingya detainees who had said that they did not wish to be part of the violence and had expressed fears for their safety, seeking protection from other detainees.

Detainees also continued to demand release of the three detainees who remained in Red Compound. Threats were made to smash more windows if they were not released; threats

were later made to kill specific Serco staff members who had been involved in the transfer of ringleaders to Red Compound. At 00:15hrs detainees again used poles to strike the windows and to enter Red Compound. Around this time a fire was lit within the compound that was later extinguished by staff and other detainees. During this second entry, detainees also removed the remaining Serco PPE items which had been left in a secondary storage point in the Red Compound office, including one large shield, two small shields, four batons, a number of protective pads, and 20 sets of flexi-cuffs. Detainees were seen with this equipment throughout 14 March; over the following days some of these items, along with other weapons, were returned to Serco staff by other detainees and other items were burned.

Damage to Red Compound and pieces of timber used by detainees



At 00:26hrs, permission was given to release the remaining detainees from Red Compound. The DIAC and Serco Canberra Command Suite logs indicate that Serco's Chief Operating Officer instructed Serco staff on Christmas Island to release these detainees. The CIIDC Command Suite log notes that this instruction was confirmed by DIAC staff on Christmas Island.⁴⁰ At 00:38hrs, as the doors could not be released remotely, eight Serco officers re-entered Red Compound, at significant risk of harm from violent and abusive detainees, in order to open the doors to the secure rooms and release the remaining three detainees. From around 00:00hrs the CCTV system within NWP had ceased working and was not restored until 01:08hrs.

By 07:40hrs on 14 March 2011, the charter flight had departed Christmas Island with only two of the 18 suspected identified ringleaders on board.

As the CIIDC was relatively calm during the afternoon of 14 March 2011, plans were put in place to hold activities for the detainees, including showing a movie during the evening. Considerable effort was put into clearing the CIIDC and surrounds of rubbish and other unnecessary materials during the day. A meeting between Serco, DIAC and detainee representatives was also held at the Green Heart at 15:00hrs. Serco officers advised those detainees who indicated a desire to be relocated for their own safety that they could move to

⁴⁰ Serco have since noted that this occurred at the instruction of the AFP.

the Visits and Induction Centre, which had not been breached during the preceding days of unrest.

Detainees were informed that members of CISSR were arriving that evening and would meet with them. CISSR members arrived on Christmas Island around 19:00hrs and attended the CIIDC from 22:15hrs.

The situation deteriorated across the CIIDC throughout the evening. A Serco staff member was struck by a mop wielded by a detainee at 18:26hrs, at 19:10hrs a fire was lit in a rubbish bin and detainees in the Blue and Green 1 Accommodation Compounds threw rocks at staff, including those who were attempting to douse the fire.

From 19:16hrs detainees gathered in the Green Heart and attempted to damage CCTV cameras by striking them with poles and throwing stones at them, and at 19:41hrs a fire was lit by detainees in a demountable building near the Aqua Accommodation Compound. Some detainees threw rocks at the Serco team responding to the fire in this compound, while other detainees assisting in dousing it. Four unused DIAC demountable buildings were destroyed by this fire.

Tuesday 15 March 2011

As damaged fencing infrastructure could not be repaired on 14 or 15 March, detainees continued to move freely outside of the CIIDC, including a group of five who were sighted at West Whites Beach at 07:46hrs and other detainees who returned after claiming to have been lost in the jungle.

From 02:00hrs onwards, detainees approached Serco staff requesting protection, including from stoning by other detainees for refusing to join protest action or for protecting Serco staff from violence. These detainees were accommodated in the Visits and Induction Centre.

At 02:42hrs detainees smashed windows of the DIAC interview room in the Aqua Accommodation Compound. A tractor and shipping containers nearby were also damaged. At 03:27hrs it was noted that a number of detainees from NWP were present in the Lilac and Aqua Accommodation Compounds and that staff were feeling unsafe. At 04:23hrs, rocks were thrown by detainees in the Lilac and Aqua Accommodation Compounds.

CISSR members met with several groups of detainees during 15 March 2011 and reported on the level of mistrust among the detainees.

In the evening, the situation again deteriorated. From 11:15hrs onwards, detainees from the Lilac and Aqua Accommodation Compounds had stated their intention to prevent detainees from NWP from entering their compounds and had organised themselves into shift arrangements to do so. At 20:09hrs a Serco officer was slapped by a detainee from NWP who had entered the Lilac and Aqua Accommodation Compounds and threats were made against his life.

At 21:44hrs up to 100 NWP detainees gathered in the Green Accommodation Compound and moved to the Lilac and Aqua Accommodation Compounds where they were met by Serco staff and other detainees. This group then returned to NWP at 21:50hrs and proceeded to move around within the sterile zone before passing through the Green 2 Accommodation Compound to the outside of the Visits and Induction Centre where they dispersed.

Wednesday 16 March 2011

Detainees continued to move freely outside of the CIIDC, including detainees who moved out of the CIIDC with their belongings, stating that they did not wish to be part of the violence and expressing fears for their safety. During the day, 105 vulnerable single male detainees were transferred by charter flight to the Northern IDC in Darwin.

CISSR members met with detainees at the CIIDC from 06:00hrs and throughout the day.

Breaches of operational security, and consequent concerns for detainee and staff safety, continued throughout the day and night culminating in Serco, DIAC and IHMS staff, CISSR members and vulnerable detainees being evacuated from parts of the CIIDC at 20:55hrs and 139 vulnerable detainees being relocated to the Visits and Induction Centre at 22:11hrs. Staff returned to the compounds at 23:10hrs.

Detainees gathered in large numbers outside of the Visits and Induction Centre at 03:04hrs and again at 20:03hrs, having thrown stones at each other at 19:36hrs. At 20:10hrs a group of up to 200 detainees moved from the Green Heart towards the Lilac and Aqua Accommodation Compounds gathering rocks and poles, exited NWP and moved towards the AFP outside of the perimeter. AFP officers attempted to negotiate with detainees during their advance.

This protest initially appeared to be non-violent but noisy, with detainees demanding to see the media. However, they moved along the perimeter road towards the AFP's command post where its armoury was located and, after ignoring AFP instructions to turn back given in multiple languages, threw rocks at AFP officers. At 20:25hrs the AFP deployed CS gas to disperse the group. After lighting fires and sitting on the road in protest, the detainees then moved towards the Lilac and Aqua Accommodation Compounds and into Green Heart within NWP at 21:07hrs. Detainees later stated that they wished to meet with the media or further damage would occur within CIIDC.

As the CS gas was deployed, it drifted over the Red Compound Marquees and Serco officers in the White Accommodation Compound were then threatened by detainees upset at the use of CS gas. All detainees and Serco officers were withdrawn from the Red Compound Marquees because of the affects of the CS gas, as were all Serco officers in the White Accommodation Compound due to threats by detainees.

From 20:30hrs further fires had been lit in rubbish bins and in piles of rubbish in the Green Heart, near to Blue 2 and White 2 Accommodation Compounds, and at 21:00hrs fires were lit near the Red Compound Marquees. These fires had largely burned out by 21:37hrs.

At 23:42hrs, after detainees were seen climbing over the surrounding fences during the events described above, it was found that the gates at the upper end of the Green Heart could not be closed due to detainee damage.

Peak Disturbance and Handover to AFP - Thursday 17 March 2011

As the fencing and gate infrastructure could not be repaired, detainees continued to move freely outside of the CIIDC, including into the jungle. Serco was able to secure the upper Green Heart by 02:00hrs and at 03:16hrs seven detainees from Lilac and Aqua Accommodation Compounds extinguished a fire at the rear of these compounds. Two shipping containers and a stack of pallets were burned.

Information received during the day of 17 March indicated that certain detainees were demanding access to the media and threatening that, should demands not be met, violent protests would result, including damage to settled areas of Christmas Island using petrol obtained from vehicles while detainees were outside of the CIIDC over the previous days.

Further information indicated that the detainees would “fight back” if their protest was met with resistance. CISSR members continued to meet with detainees throughout the day, and a notice to detainees on behalf of the Government of Australia was delivered by 18:15hrs.

At 19:28hrs a large number of detainees wearing masks and carrying bags moved from Lilac and Aqua Accommodation Compounds to NWP. At 19:45hrs approximately 150 detainees assembled at the rear of the Green Accommodation Compound and moved through the NWP perimeter fence before returning to the Green Accommodation Compound.

At 20:13hrs up to 100 detainees moved outside of the perimeter parallel to the Red Compound Marquees and advanced on the AFP. Most detainees had their faces covered and were armed with poles, sticks and branches. When the detainees threw items at AFP officers, including burning items described as “Molotov cocktails”, AFP officers deployed CS gas and bean-bag projectiles at 20:16hrs.

Serco evacuated staff from the Red Compound Marquees. Detainees residing at that location requested protection and were taken to the Recreation Compound.

During the evening, a number of fires were lit within the CIIDC:

- at 20:08hrs at the rear of Lilac and Aqua Accommodation Compounds, with detainees tearing up cardboard boxes to fuel the fire;
- at 20:35hrs at the rear of all NWP Accommodation Compounds;
- at 20:35hrs in tents at Red Compound Marquees;
- at 20:35hrs in rubbish bins in Blue and White Accommodation Compounds;
- at 20:53hrs in a demountable building at the rear of the Kitchen;
- at 20:55hrs in the White Accommodation Compound;
- at 21:28hrs in the Red Compound demountable interview building;
- at 21:35hrs at the rear of the Aqua Accommodation Compound;
- at 22:40hrs outside the Green Accommodation Compound; and
- at 23:42hrs in the demountable DIAC office block at the Aqua Accommodation Compound.

The Lilac and Aqua Accommodation Compound Interview Rooms



At 21:45hrs detainees smashed windows in the main kitchen area and at 21:47hrs the evacuation of Serco staff from the Blue, Gold and Green Accommodation Compounds commenced.

From 22:00hrs detainees targeted staff and other detainees inside the Recreation Compound by throwing rocks and those inside were evacuated through the rear of the building into the sterile zone. Other detainees then attempted to breach the lower Green Heart gates in order to access the detainees leaving the Recreation Compound. At 22:17hrs detainees commenced using weapons to break through the Recreation Compound gate and a detainee gained access to the roof of that compound.

At 22:21hrs on 17 March (02:21hrs AEDST), DIAC formally handed control of the incident at CIIDC to the AFP. By 22:40hrs AFP officers were deployed to all internal perimeters within CIIDC, Serco staff not in the Command Centre were evacuated from the CIIDC and arrangements were in place to move 281 detainees to Phosphate Hill to be accommodated there.

From 22:25hrs detainees began smashing cameras, using poles from the damaged fencing of Lilac and Aqua Accommodation Compounds.

By about 23:30hrs the CIIDC was reported to be settled and Serco advised detainees by loudspeaker to bed down or, if their bed was destroyed, to go to the Recreation Compound.

Friday 18 March 2011

At 00:20hrs detainees gathered behind the Kitchen near the Utility Building and by 07:17hrs it was confirmed that the windows of the Kitchen were broken and vending machines had been ransacked. Windows had also been broken in the Property Store situated on the side of the Visits and Induction Centre building that faced the Green Heart.

At 01:20hrs two detainees set fire to the last tent at the Red Compound Marquees. In the early hours of the morning, detainees damaged CCTV cameras around the CIIDC. At 01:55hrs detainees climbed on to the Education 3 Compound roof and smashed cameras in and near that compound and by 02:03hrs two cameras in the Recreation Compound had been destroyed. By 05:40hrs it was confirmed that all cameras at the Education 3 Compound, those covering the runway to the Lilac and Aqua Accommodation Compounds and two cameras in the White Accommodation Compound dining area, had been destroyed.

Tents damaged at the Red Compound Marquees



An assessment of the damage conducted in daylight hours by Serco, accompanied by the AFP, revealed that all the marquees had been destroyed, many of the CCTV cameras had been damaged and were out of service, and DIAC offices had been burnt at Aqua Accommodation Compound.

Members of CISSR continued to meet with detainees at CIIDC during the day. Information was received about a protest planned for 14:00hrs that would involve an en-masse walkout from NWP, but it did not eventuate.

Lilac and Aqua Accommodation Compounds were considered to be “indefensible” by the AFP and at 13:50hrs Serco’s Chief Operating Officer gave instructions to close them. The runway between NWP and these compounds was secured at 17:45hrs by re-welding a gate across the point where the runway met the main NWP perimeter.

The damage to fencing, gate and roller door infrastructure was progressively repaired. However, the extent of the damage and time taken to effect repairs, allowed detainees to continue to move freely within the CIIDC and outside of its perimeter. At 19:58hrs on 18 March, permission was given to activate the EDDS; activation occurred after remediation work was completed at 20:12hrs.

At 20:00hrs the upper Green Heart gate was secured by Serco staff. A number of suspected ringleaders entered the Education 3 area, which was then locked down by the AFP. During the day, 80 vulnerable single male detainees were transferred by charter flight to the Northern IDC and the Scherger IDC near Weipa in Queensland.

Saturday 19 March 2011

After the NWP perimeter was secured, a progressive lock-down was conducted to assist in clarifying numbers of detainees with a view to handing command back to Serco. Contractors were brought in to weld the previously damaged compound roller doors shut, forcing detainees to use the access doors in and out of the compounds as intended by their design. The roller doors of the Blue 1 and White Accommodation Compounds were bolted and welded shut by 17:55hrs.

During the day, NWP settled down and the kitchen was brought back on line. Planning took place to re-locate the identified ringleaders into the White 1 Accommodation Compound. Charter flights were used to transfer 22 vulnerable single male detainees to the Northern IDC, and 119 vulnerable single male detainees to the Curtin IDC near Derby in Western Australia.

The only event of potential concern on 19 March occurred at 23:52hrs when six detainees within NWP were seen talking to six other detainees from the Lilac and Aqua Accommodation Compounds through the external perimeter fence.

Sunday 20 March 2011

At 00:05hrs two small groups of detainees talking through the NWP perimeter at the rear of the Green Accommodation Compound dispersed when approached by AFP officers.

At 05:03hrs, three detainees set fire to rubbish in Lilac Accommodation Compound, using spray cans and paper to ignite the fire. This fire was extinguished by 05:28hrs.

The remaining roller doors of the Blue Accommodation Compound were bolted and welded shut by 09:47hrs. The upper Green Heart gates, the gates between the Blue and White Accommodation Compounds and the roller doors of the Gold Accommodation Compounds were padlocked.

Hand-back to Serco - Monday 21 to Tuesday 29 March 2011

Between 20 and 29 March 2011, the mood at CIIDC remained generally calm. During this period, resources were directed towards confirming that all detainees were accounted for, a process complicated by factors including prior movements of detainees between NWP and the Lilac and Aqua Accommodation Compounds, including outside of the CIIDC as a result of extensive damage to the perimeter fence of those compounds, the transfers of detainees to accommodation at Phosphate Hill, and efforts by detainees remaining in CIIDC to change their appearance in response to media reports that they could face criminal charges in relation to their actions. Resources were also directed to securing and cleaning CIIDC and returning day-to-day business as close to normal as possible. Charter flights began on 20 March 2011 to transfer detainees to IDCs on the mainland.

Formal hand-back by the AFP of control of the incident to DIAC occurred at 12:05hrs on 29 March 2011. At that time, Serco resumed normal responsibilities for all aspects of the operation and maintenance of the Centre.

During this time, detainees were transferred by charter flight to the following places of immigration detention on the mainland:

- 21 March 2011 - ten unaccompanied minors to the Darwin Airport Lodge APOD; 14 detainees in family groups to the Darwin Asti Motel APOD; and 53 male detainees to the Northern IDC;
- 22 March 2011 - 73 male detainees to the Curtin IDC;
- 23 March 2011 - 70 male detainees to the Scherger IDC;
- 26 March 2011 - 72 male detainees to the Scherger IDC and a family of four detainees to the Brisbane Immigration Transit Accommodation (ITA); and
- 1 April 2011 - 72 male detainees to the Scherger IDC, two male detainees to the Northern IDC, 30 detainees in family groups to the Darwin Asti Motel APOD, and 29 detainees in family groups to the Darwin Airport Lodge APOD.

Due to limitations in capacity at high-security accommodation on the mainland, priority was given for the transfer of ten people of interest. They were subsequently transferred on 5 April 2011 with nine detainees going to the Villawood IDC and one to the Maribyrnong IDC.

Description of the Villawood Immigration Detention Centre (VIDC)

The map at Appendix F provides details of the VIDC layout.

Overview

The VIDC is situated 28 kilometres south west of the Sydney GPO and covers 18 hectares, bounded by residential and industrial areas. It is located on the site of the Villawood Migrant Hostel which was established as a single entity in 1949. Detainee accommodation at the VIDC is currently available in three separate areas known as Hughes (low security), Fowler (medium security) and Blaxland (higher security). The Sydney IRH units are situated adjacent to the VIDC, but operate as a separate entity.

Hughes and Fowler contain buildings that were erected as Migrant Hostel accommodation in the 1960s, but progressively fenced to form a secure immigration detention centre facility. There are also ancillary buildings, including the Visits Area, and the Westbridge Administration Centre, and those which were destroyed during the April 2011 incident, namely the Medical Centre and the Kitchen and Dining Complex. These facilities are connected by a runway along the length of the site, with its boundaries formed by the perimeter fencing of each of these areas.

At the time of the April 2011 incident, Hughes had an operational accommodation capacity of 220 detainees, with no scope for surge capacity; Fowler had an operational accommodation capacity of 80 detainees, with scope for a surge capacity of up to 171 detainees.

Blaxland is the original VIDC, constructed and opened in 1976, and accommodates male detainees only. It operates from a separate location on the VIDC site that is several hundred metres from Hughes and Fowler. Blaxland was refurbished in 2010 to provide an improved visitors area, new recreation courtyards, internet area, reconfigured bathrooms, refurbished interview rooms, a reconfigured medical consulting room and a care facility for detainees requiring additional support. At the time of the April 2011 incident it had an optimum capacity of 60 detainees.

Interim Villawood Upgrade and other Planned Upgrades

In December 2007, the Government reviewed the VIDC and in May 2008, funding was approved for an ongoing program of improvements. Urgent interim work was completed at a cost of \$7 million to ensure that Blaxland's infrastructure and amenities aligned more closely with the Immigration Detention Values. As part of the wider program of improvement, Blaxland was refurbished further in 2010.

Staged interim works for the broader VIDC complex were undertaken in 2009 with a focus on Murray Block in Fowler, Banksia in Hughes and improvements to the Visits Centre. The 2009-10 Budget approved a replacement for the high security Blaxland and redevelopment of a wider VIDC site. This work is progressing and early remediation works have commenced. The first and major stage of works will be completed in early 2013 with the final stage expected to be completed in 2015.

Security Infrastructure

At the time of the April 2011 incident, the part of the VIDC containing Hughes, Fowler and the ancillary buildings was surrounded by a double external perimeter chain-link fence, with separate chain-link fences for each internal area and varying degrees of detection equipment in place. A sterile zone, equipped with alarms, existed between the perimeter fences, but there was no CCTV coverage of the fence line within this part of the IDC. This meant that staff had to check manually any alarm that was activated.

In addition to the fence, external perimeter security for these areas consisted of pole-mounted lights, an outer perimeter road and security staff stationed at fixed observation points outside of the external perimeter fence. All gates within this perimeter, including those between the areas listed above, were secured by padlocks.

The Hughes perimeter fence was a chain-link fence. Hughes could be accessed by gates within this fence that lead to the Westbridge Administration Complex, the Medical Centre, Kitchen and Dining Complex, and Visits Area, and by two sets of gates into Fowler.

The Fowler perimeter consisted of an inner chain-link fence and an outer metal palisade fence. Fowler could be accessed through two sets of gates into Hughes, by large palisade gates into the runway and by a sally-port to the Murray Block.

The perimeters of the Medical Centre, Kitchen and Dining Complex and Visits Area consisted of a chain-link fence equipped with detection systems. The Westbridge Administration Centre perimeter consisted of a chain-link fence and an energised detection system across its roof and adjoining brick walls. Blaxland was surrounded by a metal palisade fence, with razor tape in certain areas, and detection systems.

Hughes Infrastructure

Detainees in Hughes are accommodated in eight Residential Blocks (Gwydir, Hastings, Hunter, Lachlan, Manning, Namoi, Shoalhaven and Tweed) grouped around two grassed courtyards. The Residential Blocks are two-storey buildings with face brick walls and gabled roofs of concrete tiles, and contain between eight and 16 apartments, with two or three on each floor either side of a central stairwell.

While Hughes accommodates detainees of both genders, the Tweed Residential Block (known as Banksia) accommodates single women detainees only and is staffed and fenced accordingly. At the time of the April 2011 incident, as the Tweed Residential Block was under renovation, Banksia operated out of the Manning Residential Block.

Also contained within Hughes at the time of the April 2011 incident were several demountable buildings used for a variety of purposes including Programs and Activities, a Library, storage and Serco Officers' stations.

Playing Field in Hughes, bounded by Gwyder Residential Block (right) and Namoi Residential Block (left), with the fire-damaged demountable storage building in the distance



Fowler Infrastructure

Detainees in Fowler are accommodated in four Residential Blocks (Clarence, Darling, Macquarie and Nepean) which are of similar construction to those in Hughes, and are grouped around a central grassed courtyard.

Half of the Darling Residential Block is known as the Murray Block, and has been remodelled to provide a range of short-term accommodation options for detainees who cannot safely be accommodated within other parts of the VIDC. Modifications to the Murray Block include a number of distinct accommodation types, with some constructed of toughened materials including heavy secure doors and others refurbished as care accommodation. There are also a variety of common indoor and outdoor areas.

Also contained within Fowler at the time of the April 2011 incident were several demountable buildings used for a variety of purposes, including an Office Building, a Dining Room, a Library and Recreation rooms. Additionally, a Gymnasium and Internet Kiosk were located near the fence line between Fowler and Hughes. Through use of fences and gates, these facilities could be accessed separately by detainees residing in each of these areas.

Medical Centre Infrastructure

At the time of the April 2011 incident, the Medical Centre comprised demountable buildings that included consulting suites, a pharmacy, a dental clinic and observation accommodation.

Dining and Kitchen Complex Infrastructure

At the time of the April 2011 incident, the Kitchen and Dining Complex comprised demountable buildings that included a commercial kitchen and dining room with an attached internet cafe.

Visits Area Infrastructure

The Visits Area is situated adjacent to the Westbridge Administration Building and Hughes, and consists of a café building and an adjacent open grassed area.

Visits Area, adjacent to Hughes



Westbridge Administration Building Infrastructure

Situated in a modified single-storey brick building erected in the Migrant Hostel period from the late 1960's and extended in 2004, the Westbridge Administration Building contains separate Visitor and Detainee Reception facilities, a Property Centre and a Control Room. An interview complex, comprised of demountable buildings, is located next to the Westbridge Administration Building.

Blaxland Infrastructure

Detainees in Blaxland are accommodated in three dormitories which have access to integrated enclosed courtyards, a dining room, bathrooms, a laundry and recreation rooms with computer facilities. Dormitories 1 and 2 are part of the original infrastructure and house detainees in open-plan bunk arrangements, each with a common bathroom. Dormitory 3 consists of modular demountable buildings which provide shared rooms with en-suites for detainees, as well as a TV room, day room and outdoor recreation space. Situated adjacent to the courtyard of Dormitory 3 is an Annex intended for short-term accommodation. The Annex contains three bedrooms with en-suites and closed-circuit camera surveillance. The Annex has a small common area and access to a separate enclosed outdoor area.

Sydney Immigration Residential Housing (IRH) Infrastructure

The Sydney IRH is an alternative place of detention that comprises eight Accommodation Units in four single storey Houses. Each unit contains three bedrooms, two bathrooms, a kitchen and two living/dining areas. A separate unit is used as an administration block with adjoining multi-purpose rooms for activities and visitors.

The April 2011 VIDC Incident

The following account of the April 2011 VIDC Incident is based on Serco Occurrence Logs from the VIDC and Canberra Command suites and interviews with Serco and DIAC staff.

Initial Rooftop Protest - Wednesday 20 April 2011 - 08:00 to 09:00hrs

The incident commenced from 08:06hrs when two detainees climbed onto the roof of the Macquarie Residential Block in Fowler. The detainees scaled the “anti-climb mesh” of a side fence near the double gate at the Dining Complex, traversing a stretch wire connected to the fence to gain access to the roof. Serco officers were consequently posted outside the fence line and Serco negotiators stationed nearby to deal with the detainees on the roof.

Macquarie Residential Block – site of the rooftop protest



At 08:14hrs the Villawood Command Suite was opened by Serco. Also at this time Serco first contacted Fire and Rescue NSW and the NSW Police. Serco opened the Canberra Command Suite at 23.45hrs, following escalation of the incident from a rooftop protest to mass non-compliance throughout the evening.

From 08:15hrs onwards, detainees on the roof threatened to throw roof tiles at Serco staff below, and at 08:40hrs had removed tiles for that purpose. At 08:30hrs detainees in Fowler threw a bag up to the detainees on the roof. Detainees on the ground were then moved away by Serco officers to reduce the likelihood of other items being thrown to the roof.

From 08:46hrs a Serco negotiator was in attendance at Fowler and attempted to engage with the detainees on the roof.

By 09:00hrs the two protesters were walking up and down along the roof interacting with Tamil detainees and asking them to get involved in a violent protest. By this time, Serco had moved a “cherry picker” and mattress to the site and additional staff had been called in. The first ambulance arrived on-site at 09:02hrs, followed by another at 09:05hrs and a third at 09:14hrs.

At 09:10hrs an interpreter was on-site to assist with attempts to negotiate with the detainees on the roof.

By 09:15hrs information indicated that the bag thrown to the roof had contained a jacket and, allegedly, an implement described as a screwdriver. It was claimed that the screwdriver would be used to break off the manhole covers allowing easier access to the roof for other detainees. At 09:21hrs information was received from detainees that there was a plan to set fires in the VIDC and to jump off the roof.

After media were sighted on Miowera Road at 09:21hrs, detainees on the roof threw tiles to the ground from 09:24hrs in response to cheering by detainees in Hughes.

At 10:39hrs a fire engine was on-site, but the daily business of the VIDC continued. The roof top protesters were refusing to negotiate, had not presented a log of claims and were not specific about the purpose of their protest. They continued, however, to behave in an inappropriate manner and at 10:20hrs threatened to throw a roof tile at, and sexually assault, a female interpreter who was engaging with them on behalf of Serco. This interpreter was withdrawn from Fowler at this time.

An updated evacuation plan was prepared by Serco and at 11:43 the AFP called to provide its contact number and to advise that a liaison officer would be sent to the command suite. This officer subsequently arrived at 12:28hrs on 21 April.

At 12:52hrs, another two detainees informed Serco staff of their intention to access the roof of the Macquarie Residential Block.

The situation deteriorated in the early afternoon. From 14:02-14:12hrs detainees on the roof threw tiles at unoccupied interview rooms and at other detainees engaged in a game of football within Fowler. At 14:12hrs detainees in Fowler behaved in an abusive and aggressive manner to Serco activities staff, including a detainee who broke two plastic chairs and threw them into the sterile zone adjacent to the Macquarie Residential Block. Detainees on the roof again threw tiles at 14:49hrs when Serco brought drinks to the negotiators. During the early evening, there was relatively little interest shown in the detainees on the roof by those on the ground in Fowler, other than a bottle of water being thrown up to the roof at 17:29hrs.

Expanded Rooftop Protest - Wednesday 20 April 2011 - 19:00 to 22:00hrs

Additional detainees accessed the roof of the Macquarie Residential Block throughout the evening. At 19:14hrs while the two detainees already on the roof were asleep, two more detainees accessed the roof, damaged lighting while climbing the fence and, once on the roof, threw down tiles. Another detainee who had accessed the roof at 19:54hrs was joined by three additional detainees at 20:03hrs. By 20:20hrs 12 detainees were on the roof and at 21:40hrs another detainee had joined them.

As the additional detainees accessed the roof, the overall security situation in Fowler continued to deteriorate. At 19:25hrs 15 detainees rushed the fence behind the Macquarie Residential Block in an attempt to get access to the roof. They were challenged by Serco staff and withdrew. At this time, 50 detainees within Fowler began chanting "freedom" but by 19:34hrs these numbers had decreased to about 30 detainees.

At 19:41hrs two small fires were lit in garbage bins at the Nepean Residential Block. While Serco staff extinguished the fire, detainees collected garbage bags and placed them in central

areas within Fowler. Detainees on the roof of the Macquarie Residential Block made ropes out of bed sheets and detainees within Fowler chanted "freedom, freedom" in an effort to encourage detainees in Hughes to offer their support; there is no evidence that they succeeded in this effort.

At about 19:50hrs, 30 detainees approached Serco staff as the detainees on the roof of the Macquarie Residential Block lowered a rope made from bed sheets. Detainees on the roof of the Macquarie Residential Block threw roof tiles to the ground at 19:54hrs when staff approached the building. All Serco staff consequently retreated to a safe distance.

At 20:03hrs a further small fire was lit at the Nepean Residential Block, but was extinguished by Serco staff.

At 21:05hrs a detainee became agitated and kicked the telephone boxes until other detainees intervened and calmed the situation. At this time another detainee began shouting and tried to accost a Serco staff member, but was pulled away by other detainees.

At 21:50hrs two detainees on the roof fought amongst themselves after a detainee damaged an aerial, another threatened self-harm and detainees on the ground also began fighting and arguing. Serco staff within Fowler withdrew to a position from which they could safely observe events.

Breakdown of Order - Wednesday 20 April - 22:01hrs to Thursday 21 April - 00:30hrs

As violence on the ground increased, Serco officers withdrew to safer positions in readiness to withdraw from Fowler if the circumstances warranted. Information was received at 22:23hrs that the protesters planned to burn down and wreck the VIDC.

At 22:34hrs it was reported that detainees on the roof and on the ground in Fowler appeared to be intoxicated. At 23:04hrs detainees activated fire extinguishers on the ground in Fowler, which reduced visibility, while other detainees broke down goalposts and dragged them onto the football field. Two detainees fought with each other with one swinging a fire extinguisher and the other a pole. Also at 23:04hrs detainees on the roof of the Macquarie Residential Block threw tiles onto nearby telephone boxes, and at 23:15hrs threw tiles at Serco staff in Fowler.

At 23:13hrs a fire was lit on the football field, fuelled by benches ripped out by detainees. Detainees started throwing items around Fowler and others attempted to force open the gate into the Activities Office.

From 23:14hrs detainees from Fowler, who did not wish to participate in the protest, were moved to the Visits Centre, as were female detainees from Banksia. At 23:19hrs a group of detainees in Fowler charged at Serco staff, all of whom withdrew into the Murray Block. This building was, in turn, attacked by detainees and the adjacent Office Building was set on fire. From 23:25hrs, staff withdrew from Fowler to the Visits Centre.

Serco Staff Offices in Fowler, with Murray Block (right)



By 23:23hrs, Fire and Rescue NSW and the NSW Police advised they were sending units to the site. The first fire units attended at 23:29hrs and the NSW Police were on site from 23:32hrs.

During this time, detainees were able to set fires in the following buildings:

- by 23:32hrs in the Office Building in Fowler;
- by 23:39hrs in the internet room and gymnasium;
- by 23:50hrs in the recreation room in Fowler; and
- by 23:53hrs in all demountable buildings in Fowler, including the Dining Room.

At 23:27hrs Serco staff were advised by the Serco Centre Manager that they could use force should detainees attempt to escape. By 23:37hrs approximately 100 detainees within Fowler were involved in the incident, with 50, predominantly Tamil detainees, uninvolved.

At 23:56hrs detainees in Fowler threw rocks at Serco staff, NSW Police and Fire and Rescue NSW fire-fighters stationed outside the external VIDC perimeter. Rocks were also thrown at Serco staff assisting 17 uninvolved detainees out of Fowler.

At 00:04hrs on 21 April NSW Police advised that Operational Support Group units were on site and their Public Order and Riot Squad (PORS) was *en route*.

By 00:07hrs on 21 April detainees from Fowler and Hughes who did not want to remain in those areas were moved into the Visits Centre. Serco staff maintained a perimeter at the Fowler-Hughes fence line. Advice at 00:08hrs indicated that 17 of the 158 detainees in Fowler had been evacuated and all staff were safe. By 00:013hrs, all demountable buildings in Fowler had been burned to the ground. From 00:17hrs Fire and Rescue NSW were using boom lift appliances to extinguish the fires from above. At this time it was also reported that detainees had stopped throwing things and that Serco staff had retreated to a safe distance. By 00:27hrs the sally-port of the Murray Block was on fire.

Breach of Fowler Perimeter - Thursday 21 April 2011 - 00:30 to 12:00hrs

From 00:37hrs detainees commenced trying to pull down the fence between Fowler and Hughes and by 00:39hrs additional Serco staff were deployed to that fence. However, at 00:44hrs detainees broke through the vehicle gates between Fowler and Hughes and began damaging Serco offices and assaulting Serco staff and other detainees.

At 00:47hrs Serco's Chief Operating Officer in Canberra advised that control should be handed over to the NSW Police Force as he had received reports from the Serco VIDC Centre Manager to the effect that the disturbance had escalated to the point where staff and detainee lives were endangered. NSW Police advised that it would not take over as it did not believe that it had jurisdiction on a Commonwealth Government site.

By 01:00hrs Serco staff had donned PPE in order to contain the fence line of the Westbridge Administration Centre and to assist in the evacuation of detainees who did not wish to be involved in the incident.

At 01:03hrs the AFP advised that its ORG would be on site later in the morning. At 01:07hrs the NSW Police Force advised that it would contain the external perimeter of the VIDC, and had the Dog Unit on-site to provide a deterrent should anyone try to break through.

At 01:24hrs detainees from Fowler breached the Visits Centre doors by attacking them with fire extinguishers. By 01:27hrs all female detainees from the Visits Centre had been relocated to the Sydney IRH.

By 01:29hrs detainees from Fowler had breached the internal perimeter of Hughes and accessed the Kitchen and Dining Complex, and by 01:52hrs detainees had accessed the Medical Centre.

As these events occurred, detainees set fires:

- at 01:17hrs to the laundry block in Hughes;
- at 01:54hrs to the Medical Centre;
- by 02:04hrs detainees had blocked off the runway around the Medical Centre and the NSW Police expressed concern about oxygen tank explosions; and
- at 02:14hrs gas cylinders in the Kitchen and Dining Complex exploded.

Damage to Medical Centre, adjacent to Hughes



By 01:57hrs detainees who had been accommodated in the Visits Area, having been evacuated into the Westbridge Administration Centre from 01:18hrs, were relocated to Blaxland. By 02:32hrs a total of 109 detainees had voluntarily come out of Hughes and Fowler and relocated to the Sydney IRH or Blaxland. It was confirmed that the damage to the Medical Centre had destroyed all stores of medication and paper medical records.

At 02:42hrs the fire at the Murray Block had been contained.

At 03:01hrs, Fire and Rescue NSW advised that it would place crews inside the perimeter to respond to any threats to life posed by the fires if the NSW Police could provide these crews with security. NSW Police advised that it would send in officers. In response to reports of a fire in the Namoi Residential Block in Hughes at 03:18hrs, it was confirmed that Fire and Rescue NSW firefighters would enter VIDC to assess the fires.

According to the Serco VIDC Command Suite log:

- at 03:37hrs staff from Police and Fire and Rescue NSW, accompanied by eight Serco staff, entered the VIDC;
- at 03:46hrs, Police and Fire and Rescue NSW personnel took up a position outside the Gwydir Residential Block;
- at 03:59hrs, officers from Police Fire and Rescue NSW and Serco staff entered Fowler; and
- at 04:10hrs a detainee in Fowler attacked the police line. The detainee was restrained and taken to the Westbridge Administration Centre.

By 04:40hrs it was confirmed that no Residential Blocks were on fire and that most fires within Hughes and Fowler had been extinguished, other than those on the perimeter.

Although at 02:20hrs it was reported that there were no detainees on the roof of the Macquarie Residential Block, at 02:46hrs NSW Police reported that six detainees had returned to the roof. The Serco VIDC Command Suite Log reports that, at 04:01hrs, the NSW Police Public Order and Riot Squad, members of which were within Fowler at the time, confirmed that 12 detainees were on the roof of the Macquarie Residential Block.

At 06:33hrs Resolve FM staff were working to secure the Visits/Hughes fence line to enable detainees to be returned to the Visits Area from Blaxland.

Between 06:55 and 07:05hrs, the Serco VIDC Command Suite log and the Serco Canberra Command Suite log report that, following advice that a Residential Block in Hughes was on fire and lives were at risk, officers from the NSW Police, including personnel from the Dog Unit and Fire and Rescue NSW, and Serco staff in PPE, entered Hughes.

At 07:48hrs a full perimeter check showed no signs of breaches of the external perimeter of the VIDC. By 08:40hrs, repairs had been made to the Visits Area fence and detainees were able to be returned from Blaxland to that location for breakfast.

Aftermath and Escape from Sydney IRH - Thursday 21 April 2011 - 12:01hrs to Friday 22 April 2011 - 24:00hrs

During 21 April a public protest involving 30 people was held on Miowera Road, outside the VIDC. This protest was contained by NSW Police.

At 12:30hrs on 21 April it was reported that there were 130 detainees in the Visits Area and that some minor unrest was occurring among this group. There were 50 detainees in Blaxland and 180 or so in Hughes and Fowler. At around 18:00hrs joint planning involving DIAC, Serco and the AFP focussed on the best time to enter Fowler and Hughes both to remove persons of interest and to fix damaged fencing.

Fires continued on 21 April:

- at 14:35hrs the gymnasium in Fowler was burning; and
- at 19:51hrs the fire in the Kitchen/Dining Complex reignited.

Information was received throughout 21 April that further unrest was planned with a view to detainees from Fowler assaulting the detainees accommodated in the Visits Area at 0400hrs on 22 April. At 18:54hrs the use of a correctional facility operated by Corrective Services NSW had been arranged to accommodate detainees if necessary.

At 19:16hrs a detainee had voluntarily left the roof and at 19:35hrs it was confirmed that detainees were using a hole in the roof as access to the roof cavity.

At 22:04hrs, there was a power failure in Fowler.

At 01:50hrs on 22 April, in line with arrangements agreed at the 21 April joint planning meeting, the AFP's ORG entered the VIDC compound and commenced a sweep through the facility, starting with Hughes and then moving into Fowler.

At 03:34hrs it was confirmed that there were four detainees on the roof of the Macquarie Residential Block, including three detainees of interest to the AFP. At 06:00hrs the AFP and Serco advised that all 25 detainees of interest had been accounted for and no medical issues were reported. Of the 25 detainees of interest, by 06:31hrs, 22 had been transferred to immigration detention at the Metropolitan Remand and Reception Centre, a maximum security facility within the Silverwater Correctional Complex operated by Corrective Services NSW. The other three detainees of interest remained on the roof of the Macquarie Residential Block.

At 08:47hrs control of negotiating with the detainees on the roof of the Macquarie Residential Block was given to the AFP.

On 21 April, four detainees were reported to be trapped in the Macquarie Residential Block as the detainees on the roof threw tiles at them whenever they attempted to leave. At 09:26hrs

on 22 April it was confirmed that no detainees remained inside the Macquarie Residential Block. By 10:00hrs, Serco staff were present in all areas of VIDC.

At 14:15hrs detainees on the roof were interacting noisily with other detainees in Fowler.

At 18:21hrs with the AFP negotiating with the remaining detainees on the roof and the 22 detainees of interest transferred to Corrective Services NSW, the Serco Canberra Command Centre was closed but Serco's Villawood Command Suite remained open.

At 22:20hrs four female detainees who had been transferred to the Sydney IRH from Hughes escaped from the IRH. Two of the escapees were recaptured and returned to the VIDC at 00:15hrs on 23 April. The other two detainees have not since been located. From 01:45hrs on 23 April, all female detainees who had been moved to the Sydney IRH from Hughes were moved back to the newly renovated Banksia Tweed Residential Block, which was quickly commissioned.

Negotiations with Detainees on the Roof - Saturday 23 April 2011 to Saturday 30 April 2011

From 23 April to 29 April a number of detainees remained on the roof of the Macquarie Residential Block. At 09:10hrs on 23 April a detainee voluntarily came down from the roof following a period of intense negotiations.

From 00:00hrs on 24 April the AFP passed back management of the rooftop protest to Serco and DIAC, indicating that the incident was under control.

On 25 April protestors on the rooftop advised that they would come down if they could speak with a representative from the UNHCR. DIAC contacted Mr Richard Towle, UNHCR Regional Representative, and he agreed to meet with the protestors.

On 26 April Mr Towle provided DIAC with a letter to be passed on to the protestors, stating that he would meet with them if they ceased their protest action. Mr Towle's letter was delivered to the protestors by a Serco negotiator and an interpreter.

On 27 April the three detainees who remained on the roof of the Macquarie Residential Block were given a second letter from the UNHCR advising them that Mr Towle would be on-site the following day on the condition that the individuals involved ceased their protest. Detainees' demands to have their legal representatives and advocates present at the meeting were agreed to.

Mr Towle attended the VIDC on 28 April along with a legal representative and advocate of the detainees. At 12.20hrs the legal representative of one of the detainees spoke to his client using a mobile phone. At 18:10hrs the detainee agreed to come down from the roof. The remaining two detainees declined to come down or to cease their protest.

At 15:10hrs on 30 April after meeting with a senior DIAC officer, the last two detainees voluntarily descended from the roof of the Macquarie Residential Block. These detainees were then accommodated in the Blaxland Annex.

Arrangements for those Identified as Ringleaders

On 5 May 2011 seven detainees involved in the disturbance were charged with various offences; bail was refused and they were remanded into criminal custody. Six of those detainees were part of the group transferred to Correctional facilities. One had his detention maintained at the VIDC.

Of the 16 remaining detainees who had been transferred to Corrections, 14 were transferred to the Maribyrnong IDC in Melbourne and two to the VIDC on that same day.

On 7 July 2011, two further persons were transferred from Maribyrnong IDC to Sydney and were charged over their involvement in the Villawood incident. Their bail was refused.

The AFP investigation is ongoing, with 20 detainees remaining persons of interest.

Chapter Five: Roles and Responsibilities

This Chapter examines the clarity of roles and responsibilities between DIAC and Serco in the context of managing security and the incidents that occurred at the IDCs.

Approach to Security in the Immigration Detention Centre Network

Since November 1997, the provision of detention services has been outsourced by DIAC to private organisations.

On 29 June 2009, DIAC signed the *Detention Services Contract: Immigration Detention Centres* with Serco. The Contract provides for Serco to deliver services within the immigration detention network, including at Christmas Island and Villawood, for a period of five years.

Serco, as the service provider, is required to provide services in accordance with the provisions of the Contract and to take full responsibility, subject to the Contract, for the management and control of the facilities. The Contract notes that DIAC is relying on the skill and expertise of the Serco in the provision of these services.⁴¹

The Contract also specifies that Serco must meet or exceed the Indicator Metrics and Key Performance Indicators expressed in the Contract or notified by DIAC. In this context, the Contract's abatement regime is integral to DIAC achieving value for money, meaning that Serco has to deliver services to the agreed performance levels. In effect the Contract is outcomes based and does not specify inputs such as particular staffing levels.

As discussed in Chapter Two, in July 2008 the then Minister for Immigration and Citizenship announced the Government's "New Directions in Detention", including the introduction of seven "Key Immigration Detention Values" (the Values) to guide detention policy and procedure into the future.

The Values were incorporated into the Contract and its primary objectives were linked to the Values. This is articulated in Clause 10, which provides:

"The primary objectives of this Contract are to:

- i. enhance the wellbeing of People in Detention by implementing the Immigration Detention Values;*
- ii. continuously improve the quality, effectiveness and efficiency of the Services and promote cultural alignment between the Department and the Service Provider through the implementation of the Immigration Detention Values;*
- iii. enhance the management and operation of Facilities through cooperation between the Department, the Service Provider and other Stakeholders; and*
- iv. enable the Department to receive best value for money in the provision of the Services (collectively called Objectives)."*

⁴¹ Immigration Detention Centre Contract, Clause 3.

Supporting the Values and informing the roles and responsibilities between Serco, as the Service Provider, and DIAC, as the Contract Manager, is DIAC's Regional Management Model which, as set out in DIAC's Detention Services Manual (DSM), provides as follows:

*"The objective of the regional management model is to ensure a nationally consistent approach to the provision of community and detention services to persons who are placed in community detention and/or in immigration detention facilities. This is achieved through empowering regional managers to ensure that service delivery accords with departmental policy and procedure and contractual obligations, including performance management of contracted immigration detention service providers. For service providers, this model means working with departmental regional managers and staff to manage the day to day operations of centres and achieve optimum outcomes for persons receiving community and detention services in that region."*⁴²

During the Contract tender process, the required approach to security was a key focus of DIAC and Serco. Serco's approach was outlined in its response to the original request for tender by DIAC (issued on 24 May 2007) as follows:

"Central in Serco's approach to Security procedures will be a recognition and reinforcement amongst our staff that while levels of Security must be achieved, nevertheless, People in Detention will be treated with uncompromised dignity and respect while being held in conditions which ensure their, and the Immigration Detention Centre's, safety and security.

*The core methodology of our procedures will be dynamic in concept, and in line with the Department's Service Delivery Model, focussing on the interaction between staff and People in Detention ..."*⁴³

Serco's approach to security is designed to align with the Values and DIAC's "People in Detention Philosophy", which is expressed in the Contract in the following terms:

"The People in Detention Services philosophy is to make Facilities pleasant places for everyone to live and work. The aim of service delivery to People in Detention is to ensure that the only change to an individual's well-being as a result of being in Immigration Detention is the restriction of freedom of movement. Immigration Detention is mandatory "administrative detention"; it is not indefinite or correctional detention...

*The Department and the Service Provider will work together to ensure that every individual in the detention environment is treated with dignity, equality, respect and fairness, in accordance with the Immigration Detention Values. The Department and the Service Provider will facilitate a positive, safe and healthy detention environment by providing Services to maintain the physical, emotional, social and spiritual well-being of the individual Person in Detention."*⁴⁴

Elements of DIAC's "People in Detention Philosophy" are distilled further into the Contract's overarching security philosophy, which describes the fundamentals of security as being:

"The Service Provider is to employ the minimum reasonable security restrictions necessary to preserve the safety and security of the Centre..."

⁴² DIAC Detention Services Manual, Chapter 1 – Legislative & principles overview, Service delivery values.

⁴³ Serco's original response to DIAC's Request for Tender 07/23, dated 14 September 007.

⁴⁴ Immigration Detention Centre Contract, Schedule 2, Section 2.2.1, Philosophy.

*Security will be managed cooperatively with the Department Regional Management and the Health Services Manager to provide integrated and effective services... The intention is to make Centres secure by addressing issues that could cause discontent amongst People in Detention in preference to needing to manage consequences that arise from that discontent...*⁴⁵

The philosophy embedded in the Contract envisages Serco and DIAC (and other stakeholders) having different but collaborative roles in managing “security” as part of the delivery of services within the immigration detention network.

This approach is set out in Section 2.2.4 of the Statement of Work which details the scope of security services, and provides that Serco “... *must deliver structured Security Services in each Centre that are consistent with Immigration Detention, enable the Service Provider to manage routine events in the Centre and respond promptly and flexibly to any Incident.*”⁴⁶ In addition to being the contract manager, this section specifically refers to DIAC’s role as the provider of “... *infrastructure and associated surveillance and security monitoring equipment...*”⁴⁷

In Section 2.2.4 of the Statement of Work, Serco’s specific responsibilities in relation to the delivery of security services are to:

- ensure People in Detention remain in Immigration Detention at all times;
- develop and implement a Centre Security Services Plan for each Centre, and deliver Security Services in accordance with that plan;
- provide trained personnel to deliver Security Services, respond effectively to any Incidents, and engage with People in Detention and other Stakeholders to detect possible Incidents before they occur;
- take all reasonable steps to prevent escape;
- undertake a number of requirements to give effect to their Security Intelligence Obligation, including intelligence gathering, recording and storage, and providing appropriate training in relation to the intelligence system;
- develop, update and review Centre Security Risk Assessments for each centre;
- ensure sufficient personnel are provided through rostering arrangements; and
- communicate Centre security requirements to all people on site (including People in Detention, Serco and DIAC personnel and visitors).⁴⁸

The Contract also sets out requirements that Serco must fulfil in relation to entry control and centre security.⁴⁹

Procedures and policies supporting Serco’s and DIAC’s roles and responsibilities are outlined in the Contract, including:

- Serco’s Centre Security Services Plan, which lists all of the plans, procedures and manuals relevant to the maintenance of security, and outlines the schedule for security training exercises to be undertaken in conjunction with DIAC, emergency services and the police;

⁴⁵ Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Philosophy.

⁴⁶ Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clause 1.1(b).

⁴⁷ Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clause 1.1(c).

⁴⁸ See Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clauses 1.2 – 1.10.

⁴⁹ See Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clauses 2 and 3.

- Serco's Policy and Procedures Manual (PPM), which has over 30 individual documents, a third of which directly relate to security, for example, "Management of Security" and "Perimeter Security"; and
- DIAC's DSM, which articulates the Government's philosophy for the provision of client-focused services to persons in immigration detention, and provides guidance to staff, service providers and stakeholders. Chapter Eight of the DSM deals with matters concerning safety and security.

Some observations are worth making at this point.

The Contract was written at a time when the detention cohort was smaller and the majority of detainees were in detention as a result of domestic non-compliance or because they were irregular air arrivals. New arrangements had been introduced where the majority of unlawful non-citizens, who were assessed as representing low risk to the Australian community, were able to be managed on Bridging visas in the community while their status was resolved or, to a significantly lesser extent, placed in community detention. Those who were detained in immigration detention facilities were generally on a rapid removal pathway and in detention for far shorter periods of time.

The Contract was therefore developed for managing populations in that context rather than large cohorts who often have shared common experiences and identify strongly with one another, who are facing processing delays flowing from higher numbers being assessed and who are becoming frustrated, reactive, angry and increasingly non-compliant. Moreover it was not developed in the expectation of having to detain large numbers of people who were found not to be refugees pending their removal from Australia.

In line with the environment in which it was drawn up, therefore, the Contract does not clearly enunciate the purpose and objectives of detention within the context of DIAC's immigration compliance framework. In effect, immigration detention is a compliance tool to assist with managing risks to the Australian community and the integrity of Australia's immigration, citizenship and settlement programs. It forms part of the control of Australia's borders and provides DIAC with time to assess the health, identity and security risks to the Australian community and resolve a detainee's immigration status, namely through the grant of a substantive visa or departure from Australia. The Values are clear on the priority of this point; the Contract is less so. It is true that the Contract stipulates that security will be primarily focussed on ensuring People in Detention remain in Immigration Detention until their immigration status has been resolved, but this comes at the end of the Security Services Philosophy Statement in Section 2.2.4 of the Statement of Work and does not feature at all in the Contract's Objectives.

In line with other provisions of the Values, however, the Contract does have a very strong focus on the fair treatment of people in detention, enhancing well-being and making immigration detention as positive as possible. The risk is to lose the balance that is contained in the Values between this aspect and the purpose of immigration detention.

Recommendation 1

It is recommended that DIAC consider possible amendment to the Detention Services Contract, in consultation with Serco, to improve the enunciation in the purpose of detention in the Objectives Section of the Contract in line with the Immigration Detention Values.

Other Aspects of the Security Model

While the range of “Security Services” to be delivered by Serco is detailed in a dedicated Section in the Statement of Work as discussed above, the provision of these services is supported by a range of other services and approaches, also included in the Contract, which together give effect to the security model underpinning DIAC’s immigration detention network.

Infrastructure

Physical infrastructure, by way of buildings, fencing and the operation of locked gates and doors, seeks to accommodate detainees safely and appropriately while limiting their ability to escape. Such physical infrastructure may be supported by alarms, cameras, sensors or deterrence devices that will both delay detainees in any effort to breach the infrastructure, and alert personnel to those efforts.

The Contract requires DIAC to provide infrastructure and certain associated surveillance and security monitoring equipment at each IDC, and Serco to operate and maintain that infrastructure in order to provide a safe and secure environment for detainees and staff.⁵⁰ The Contract also requires DIAC to provide a licence to Serco to use the Facilities, Departmental Assets and Loose Assets “as is”, and Serco to acknowledge having received and understood the asset register. Further, DIAC does not warrant the actual condition of the Facilities, Department Assets and Loose Assets, and Serco releases DIAC in relation to loss or damage it might sustain in connection with the condition of the Facilities, Departmental Assets and Loose Assets.⁵¹

Sections 2.2.2 and 2.2.2A of the Statement of Work outline Serco’s specific responsibilities in relation to the maintenance of assets, facilities and certain operations in respect of mainland IDCs and Christmas Island respectively.⁵²

Serco’s responsibilities, therefore, are restricted to the operation and maintenance of the facilities and assets provided by DIAC.

The VIDC was one of the original IDCs included within the Contract. The CIIDC, when first included in the Contract, comprised three physically separate facilities, being NWP, the Phosphate Hill APOD and the Construction Camp APOD. On 14 July 2010, DIAC and Serco agreed to several amendments to the Contract, including that DIAC would establish, and Serco would operate, a new facility at the CIIDC known as Lilac/Aqua. Due to the inadequacies of the Lilac and Aqua facilities (and the existing facilities) for the circumstances that existed at that time, Serco raised a number of exceptions and qualifications as to their adequacy. It is assumed that the pricing inherent in the Deed of Variation reflected the increased cost in providing contracted services within that context, though there is a divergence of views between DIAC and Serco as to whether this was in fact the case.

The specifics of the infrastructure, and the adequacy of the infrastructure and its maintenance at both the CIIDC and VIDC, will be discussed in Chapter Eight.

Operational Security and Detainee Management Arrangements

Operational practices, most of which are detailed in the “Security Services” section of the Contract, are the means by which personnel are able to maintain security in a place of detention.

⁵⁰ See Immigration Detention Centre Contract, Clause 24.1; Schedule 2, Sections 2.2.4, Clause 1.1(c); philosophy at Section 2.2.2; and Schedule 6.

⁵¹ Immigration Detention Centre Contract, Clause 24.2.

⁵² See Immigration Detention Centre Contract, Schedule 2, Sections 2.2.2 and 2.2.2A.

For example, Serco is required to ensure the security of the perimeter at each of the IDCs and must verify that all detainees are present and safe in the Centre.⁵³ To do this, Serco employs a dynamic security model, in which the presence of staff within compounds, and their interactions with detainees, provides both deterrence and an alert system in respect of security breaches. Effective staff-detainee relationships can serve to diffuse tensions that might lead to a breach of security, but also represent a means by which staff can provide information, in the form of observations and conversations, for the purpose of informing responses to possible threats to security.

To this end, the “Security Services” section of the Contract specifically refers to Serco providing trained personnel to engage with detainees to detect possible Incidents before they occur.⁵⁴ This information can then be used by Serco in fulfilling its Security Intelligence Obligation, which is discussed further in Chapter Seven.

As discussed in Chapter Seven, operational security is also underpinned by Centre and People in Detention Security Risk Assessments, which are detailed risk assessments to be conducted by Serco at each Facility, in accordance with Section 2.2.4 of the Contract’s Statement of Work, and on each detainee in accordance with another Statement of Work, Section 2.2.1 - People in Detention Services.

Effective means of maintaining security, however, do not simply entail containing people, but also seek to minimise the inclination of detainees to breach security. As previously discussed, the philosophy underpinning the Contract, supported by Serco’s dynamic security model, focuses on maintaining the well-being and safety of detainees. This is clearly articulated in Section 2.2.1:

“The Service Provider will provide a range of Services to promote the well-being of People in Detention and create an environment that supports security and safety at each Facility.”⁵⁵

Serco must create and maintain an environment conducive to the health and welfare of People in Detention, where illegal and anti-social behaviour is both prevented and stopped, and where there is a culture of interaction between detainee and service provider. To assist in fulfilling this requirement, Serco is required to create Individual Management Plans for each person in detention and a Personal Officer Scheme to monitor detainee welfare on an ongoing basis. These plans and arrangements, which are discussed further in Chapter Eight, must be reported back to the Department regularly.⁵⁶

Moreover, Serco is responsible for development and implementation of Behavioural Management strategies that aim to defuse tensions and conflicts before they become serious or violent.⁵⁷ These are a means of addressing and defusing risks to security, and are a reactive tool which generally requires the display of inappropriate behaviour in order to trigger their development and use.

The Contract also requires Serco to provide a system of programs and activities, also discussed in Chapter Eight, that will ensure detainees are appropriately engaged during their time in detention, the provision of which is seen as a key aspect of the immigration detention environment and contributes to the dynamic security of the IDC.

⁵³ See Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clauses 3.12 and 3.6.

⁵⁴ Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clause 1.4.

⁵⁵ Immigration Detention Centre Contract, Schedule 2, Section 2.2.1, Clause 1.1(c).

⁵⁶ See Immigration Detention Centre Contract, Schedule 2, Section 2.2.1, Clause 3.

⁵⁷ See Immigration Detention Centre Contract, Schedule 2, Section 2.2.1, Clause 3.10.

Complementary to the range of services provided by Serco aimed at maintaining the well-being and safety of detainees is the Case Management framework implemented and provided by DIAC.⁵⁸ As set out in more detail in Chapter Eight, the role of Case Managers is to assist detainees to achieve an integrated, coordinated and timely immigration outcome.

Incident Management

Roles and responsibilities are less clear in relation to incident management - that part of the security model where circumstances may escalate beyond “business as usual”.

DIAC oversees Serco’s performance in managing an incident, and the Contract provides that Serco must manage all incidents unless DIAC exercises an “Executive Direction”, in which case Serco must act as directed and provide all necessary resources to carry out those directions.⁵⁹

Serco is also responsible for working to prevent incidents occurring and to limit their duration and severity. It must:

“... actively and continually assess its current and planned activities and areas of responsibility for potential Incidents and implement plans, practices and procedures ... and, if despite all efforts such Incidents should occur, to minimise the extent and duration of any Incident and related damage or other adverse consequence and respond to and deal with Incidents in which it is involved in a timely and professional manner and with appropriate discretion so as to protect the interests of the Department.”⁶⁰

Structures and Protocols for Incident Prevention and Management

To support the prevention of incidents, the Contract obliges Serco and DIAC to jointly develop incident management and response policies. Section 2.2.3 of the Statement of Work requires Serco and DIAC to develop an Incident Management Protocol for each facility that details DIAC’s expectations in relation to managing incidents and Serco’s approach and actions to manage incidents appropriately.⁶¹

Incident Management Protocols provide a framework for the prevention of, and preparedness for, potential incidents and disturbances.⁶² The development of Incident Management Protocols is guided by Serco’s PPM on Incident Management, which sets out Serco’s philosophy in relation to crisis management planning and evaluation of the effectiveness of processes when applied.⁶³

As well as the Incident Management Protocol, Serco has procedures and policies in place for responding to and managing incidents should they occur, including (but not limited to):

- operational plans and updates, which are used to plan and assess responses to incidents on a continual “rolling” basis; and
- contingency management plans, which provide guidelines, procedures and information on how Serco personnel are to deal with certain disturbances at IDCs.

⁵⁸ Immigration Detention Centre Contract, Clause 15.

⁵⁹ Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Clause 8.1(b).

⁶⁰ Immigration Detention Centre Contract, Part 14, Clause 56.1.

⁶¹ See Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Clause 8.

⁶² During 2010 there was some confusion as to the status of the Protocol for Christmas Island. DIAC wrote to Serco on 11 June 2010 noting that, although the Protocol was completed, there was no evidence of consultation with DIAC. Serco responded on 13 October 2010 that consultation had occurred at the local level.

⁶³ Serco Policy and Procedures Manual, *Serco’s approach to Incident Management*.

The Contract requires Serco to designate a space within each facility to use for the command and control of incidents, maintain an Incident Management Log in the command and control area for all Incidents, and ensure the Incident Management Log is accurate and comprehensive.⁶⁴

While there is a place marked in DIAC's DSM at Chapter 8 - safety and security for the inclusion of policy guidance in relation to incident management and reporting procedures - the policy guidance is in draft form. This means that DIAC does not have any formal policy or procedural guidance for its own staff that complement Serco's procedures in relation to incident management and reporting.

Recommendation 2

It is recommended that DIAC finalise and publish the "incident management and reporting" section of its DSM, ensuring clear delineation of Serco and DIAC's roles.

The Contract's incident management provisions and the corresponding policies and protocols were intended to be supported by other documents outlining inter-agency plans about incident response and management. However, some of these were not fully developed, tested or promulgated to relevant staff at the time of the incidents:

- the *Christmas Island Inter-Agency Major Incident Coordination Plan* is an agreement between DIAC, Serco, the AFP and the Christmas Island Administrator. DIAC and Serco on Christmas Island were not aware of its existence, and the Plan was not activated by either the CIIDC or Canberra Command Suites in response to the March incident, although AFP operations were delivered in the knowledge of the plan;
- a *Response Guide to IDC Issues*, designed to be to be read in conjunction with the *Christmas Island Inter-Agency Major Incident Coordination Plan*, was an AFP initiative and jointly developed between DIAC, Serco and the AFP to be used as a guide to facilitate effective responses to incidents occurring at immigration detention facilities on Christmas Island. However it was still in draft form and was not known to DIAC or Serco on Christmas Island at the time of the March 2011 incident; and
- a *Protocol between the Australian Federal Police, the Department of Immigration and Citizenship, and Serco on operational interaction in response to incidents at an immigration detention facility on Christmas Island* was also an AFP initiative and was developed following the incident that occurred on Christmas Island in late 2009, however it was also still in draft form. The draft document outlines the respective roles and responsibilities of the parties in managing an incident on Christmas Island but, like the *Response Guide*, it was never finalised and signed-off by the parties, was not widely known and was not consulted during the March incident.

Recommendation 3

It is recommended that the three core incident management documents for Christmas Island are revisited, finalised and promulgated among relevant parties.

⁶⁴ See requirements in the Immigration Detention Centre Contract at Schedule 2, Section 2.2.3, Clauses 8.5 and 8.6.

Roles and Responsibilities of Other Parties in Incident Management

The Contract envisages that Serco and DIAC will work with the appropriate Federal and State-based authorities and emergency organisations in order to protect the health, safety and security of people and assets in times of emergency.⁶⁵ For example, the incident management protocols referred to above anticipate collaboration between Serco and government agencies including DIAC, local emergency services such as fire and ambulance services, the AFP and Christmas Island Police.

Australian Federal Police

In response to the March 2011 CIIDC incident, the AFP deployed a substantial, highly skilled and capable force to Christmas Island to deal with any contingency. The overall AFP contingent on Christmas Island increased to 202 AFP officers towards the end of the incident, including general duties officers, negotiators, the Operational Response Group, protective services and a canine handler and dog. A staged draw down of the AFP contingent from Christmas Island commenced at the beginning of April 2011.

In respect of the VIDC incident, the AFP deployed 70 officers, including specialist tactical members from the Operational Response Group to the VIDC on 22 April 2011.

NSW Police

Although there are no formal procedures in place, VIDC senior management has an effective working relationship with the local NSW Police and informal procedures for engagement with them during an incident have been developed.

A formal *Memorandum of Understanding between the Commonwealth of Australia, the Australian Federal Police and State of XXX in relation to The Provision Of Police Services At Detention Facilities In The State/Territory* is under development to provide a framework for the provision of police services at immigration detention facilities, and to cover the division of operational roles and responsibilities between DIAC, the AFP and local Police. For example, there is a Memorandum of Understanding (MOU) in place between DIAC and the Victorian Police in relation to the provision of police services.

Recommendation 4

It is recommended that an MOU concerning the operational roles and responsibilities of DIAC, the AFP and local Police Forces in relation to incident management be finalised in all jurisdictions, operationally tested and made known to all relevant staff.

The Christmas Island Interagency Coordination Committee

The Christmas Island Interagency Coordination Committee, an AFP initiative whose members include the AFP, Customs and Border Protection Command, AQIS, National Parks, Department of Regional Australia, Regional Development and Local Government, Serco and DIAC, commenced in January 2010, meets once a week and continued to operate throughout March 2011. Chaired by the Christmas Island Administrator, the Committee also functions as

⁶⁵ See Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Clause 8.3(iv) and Schedule 4.2, Clause 5.

a Security Working Group and serves as a mechanism for coordination, including ensuring clarity of roles and responsibilities.

Emergency Management Committee

The Emergency Management Committee, including the AFP, DIAC, Serco and the Christmas Island Administrator, was activated in response to the incident on Christmas Island. The Committee met numerous times a day from 12 March, but less often once the detainee population was securely back within the IDC. The Committee was responsible for:

- development and implementation of emergency management arrangements and plans;
- establishment of communication networks between government and non-government organisations;
- risk identification and mitigation strategies; and
- coordination of responses to incidents and emergencies.

Roles and Responsibilities in Handling a Major Incident

In their submissions, both Serco and DIAC claim they have a clear understanding of their respective roles and responsibilities in relation to managing security during times of “business as usual” and, to a large extent, the Review concurs with that view, although there are examples where, as discussed in Chapter Nine, some roles under the Contract are not clearly understood or in practice have become blurred. In addition, as we shall see in the following chapters, there appears to have been some divergence of views in relation to the role of DIAC’s case management services for IMAs in detention, particularly on Christmas Island, and the distinction between the Regional Management model and Serco, as the service provider, has also become blurred.

In addition, as outlined above, the roles and responsibilities of Serco and DIAC in relation to responding to and managing the general run of incidents are generally clear and well articulated in the Contract. However, the Contract is silent on articulating the roles and responsibilities of DIAC and Serco in instances of mass non-compliance or escalated violence, and there is limited assistance provided by policies and procedures.

A particular area of confusion concerns responsibility for Public Order Management. Since late 2009, there has been ongoing discussion between DIAC and Serco, and to a lesser extent the AFP, regarding Serco’s capability to respond to a more significant incident at an immigration detention facility, particularly one involving mass disorder, and whether Serco has or should have responsibilities to restore public order at detention facilities once that order has been lost, and the lawfulness of such a response if taken by Serco.

This issue was not resolved at the time of the incidents at the CIIDC and VIDC. A decision needs to be made on how this issue is to be resolved and once made, how the decision will be implemented, whether through a change of scope to the Contract or through a joint response mechanism with the Australian Federal Police and/or State or Territory Police. This matter will be discussed further in Chapter Six.

The scale and severity of the two incidents during March and April 2011 presented significant challenges for both parties, including in relation to the AFP’s role in the incidents. During the initial phase of the March incident at Christmas Island, DIAC and Serco personnel held a

limited understanding of the AFP's *modus operandi*, including the legal framework and its internal incident management protocols.

As a consequence, there was confusion within DIAC on Christmas Island about the role and functions of the AFP Head Office as opposed to the AFP on Christmas Island and, in particular, who held the authority within the AFP to decide when to accept a handover and at what point handover would be deemed warranted. This was progressively worked out through effective inter-agency cooperation and exchange of operational level information, including through the Christmas Island Interagency Coordination and Emergency Management Committees, as well as within the Command Suites. Greater understanding of the operational framework through a protocol that was finalised and promulgated prior to the incident occurring would have enabled more confident and decisive interagency coordination.

In addition, DIAC and Serco officers, both in National Office and on Christmas Island and in other detention centres such as VIDC, need to develop a thorough understanding of the AFP's internal incident management protocols.

Incident Hand-Over

A specific area lacking clarity and understanding at times of mass non-compliance or escalated violence is the issue of incident hand-over.

Command and control of the CIIDC incident was formally handed over by the DIAC Assistant Secretary Irregular Maritime Arrivals to the AFP Detective Superintendent on 17 March 2011. A hand-over document was executed by DIAC and the AFP to formalise the assumption of responsibility by the AFP for the control, management and resolution of the incident. Included in this document was that hand-back would occur at the point that effective law and order had been restored.

Formal hand-back of incident command and control by the AFP to DIAC at Christmas Island occurred on 29 March 2011. In its letter of support, the AFP said that it had "*determined that effective law and order had been restored to the IDC and policing services are no longer required in order to control and manage the incident.*"

The Contract itself does not make any reference to the hand-over (or hand-back) of an immigration detention centre to a third party for the purposes of the control, management and resolution of an incident.

The Contract recognises that, if the DIAC Secretary considers that circumstances exist that require the Department's intervention, DIAC may suspend the performance of any service by Serco and arrange for the Department or a third party to perform that service or otherwise intervene in the management of a Facility. This "Step-In Right" will continue until the circumstance giving rise to the right have been rectified or cease to exist.⁶⁶

It is not clear whether a "Step-In Right" is inclusive of incident hand-over, although there are some similarities between what occurred in the hand-over and hand-back and the exercise of a "Step-In Right" under the Contract, in that circumstances existed which required intervention. Serco did not have effective control of the incident so performance of services could not be achieved and as such were suspended. Arrangements were therefore made for a third party to manage the incident at the IDC, and responsibility for the control, management and resolution of the incident was handed-over to the AFP. Those arrangements continued until the circumstances giving rise to the "Step-In Right" ceased to exist, the control and management of the incident had been achieved and the need for the AFP to be in control of it

⁶⁶ See Immigration Detention Centre Contract, Part 14, Clause 57.1.

had ceased. It is noted that, if the “Step-In-Right” is relevant to incident hand-over, the DIAC Secretary plays a prominent role in the decision-making process and DIAC must effect it by written notice to Serco. The authorisation did not occur in the CIIDC or VIDC incidents.

Another element of the Contract that could perhaps be considered relevant to consideration of hand-over is Clause 19, which refers to DIAC’s Regional Manager giving an “Executive Direction” to Serco with respect to:

- (a) the manner in which the Services are to be delivered;
- (b) requiring Additional Services; or
- (c) the scope and fulfilment of each Party’s duty of care.⁶⁷

In this context, and as set out in Section 2.2.3 of the Contract’s Statement of Work, management of all incidents is the responsibility of Serco unless the DIAC Regional Manager exercises an “Executive Direction”, in which case Serco will act as directed and provide all necessary resources to carry out those directions.⁶⁸

In relation to incident management, it appears that the reference to an “Executive Direction” is an acknowledgement that DIAC may direct Serco to manage an incident in a manner that is different to the way in which Serco would have managed that incident. On this reading, it does not appear to be a reference to, or acknowledgement of, incident management being handed-over to a third party (such as the AFP).

Similarly, Serco’s Incident Management Protocols make no reference to a hand-over for the purposes of incident management; nor do they mention DIAC exercising a “Step-In-Right”. The Protocol does acknowledge that, while the “... *Serco Centre Manager will have overall control and responsibility, aspects of the incident such as a crime scene management, riot or hostage management or fire fighting will be managed by the specialist responding authorities.*” It does not, however, provide any detail on how specialist responding authorities will be given control and responsibility for those aspects of the incident.

As noted above, there is a draft *Protocol on operational interaction in response to incidents at an immigration detention facility on Christmas Island*. The draft protocol outlines procedures around hand-over of incident control to the AFP in the event that DIAC and Serco are unable to manage an incident in a facility on Christmas Island. It also outlines procedures for the return of control to DIAC upon resolution of that incident. The draft protocol is silent, however, in relation to any contractual basis for this to occur.

In this instance, the hand-over and hand-back was agreed between DIAC, Serco and the AFP, and formalised by way of a signed statement of incident hand-over and hand-back between DIAC and the AFP Police Forward Commander at Christmas Island. The process occurred without reference to any formal guidance in the form of a policy document or protocol. It is the understanding of the Reviewers that although DIAC and Serco were involved in its development, neither Serco nor the DIAC Senior Executives on Christmas Island at the time of the incident were aware of the existence of the draft protocol and, as such, could not turn to that document for informal guidance.

The Reviewers were advised that the DIAC Secretary was not consulted in relation to the hand-over, although it is unclear whether this was a failure within DIAC to escalate appropriately, a lack of clarity on whether this was required or merely an oversight in an extremely volatile environment.

⁶⁷ See: Immigration Detention Centre Contract, Part 5, Clause 19.1.

⁶⁸ See: Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Clause 8.1(b).

There was also a lack of clarity in relation to hand-over during the VIDC incident. During interviews, the Reviewers were advised that no hand-over occurred at the VIDC. In its Submission and Occurrence Log from the VIDC Command Suite, Serco refers to attempts to hand-over certain aspects of control of the incident to the NSW Police, however, the NSW Police did not take over as it did not believe it had jurisdiction on a Commonwealth Government site.⁶⁹

In the event, Serco and DIAC were able to work through areas that lacked clarity in relation to their respective roles and responsibilities during the incidents through the collaborative efforts of the personnel involved. In relation to the Christmas Island incident, it was noted during the AFP instigated and led debrief of 1 April 2011 at NWP that, although not all plans were known to the key incident response members (or even finalised):

“In the opinion of the AFP Police Forward Commander ‘intuitive and correct’ responses were delivered from all agencies...”

Notwithstanding this conclusion, the response to the March incident may have been delivered more promptly and with greater effect if plans had been finalised, tested and known to all parties.

Recommendation 5

It is recommended that the issue of hand-over between DIAC and the AFP or the local Police Force be clarified, a protocol developed, tested and promulgated to support the hand-over, and consideration be given to whether the Contract should be amended to provide greater clarification in this area.

⁶⁹ Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011, page 46.

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Chapter Six: Breaches of Security

This Chapter examines how breaches of security were achieved, including the access detainees had to tools to assist with these breaches and how such access occurred.

Serco's Obligations under the Contract

As discussed previously, the Contract requires DIAC to provide infrastructure and certain associated surveillance and security monitoring equipment at each IDC, and Serco to provide a safe and secure environment for detainees and staff.

Under Clause 56.3 of the Contract, Serco must ensure that all resources and expertise that may be necessary to respond rapidly and deal effectively with an incident will be rapidly marshalled and effectively deployed, coordinated and managed so as to protect DIAC's interests. In responding to any incident, Serco must ensure that safety and security are priority concerns, while complying with the Incident Management Protocols. The response to, and management of, an incident must also ensure the safety of all detainees, staff and other people located in and around the Facility, minimise the disruption to the ordinary operation and management of an IDC and minimise damage to an IDC.

In terms of unallowed items coming in to an IDC, the Contract provides a clear direction that Serco must search all persons, personal belongings or vehicles and may request to screen or search visitors, but must not forcibly screen or search visitors.⁷⁰ Current DIAC policy, which also binds Serco, is that rather than be subject to searches, visitors to an IDC are required to undertake a screening process to ensure that they are not carrying metallic objects; it is noted that this process may not detect items with low levels of metal, such as a cigarette lighter. Additionally, bags are subject to an x-ray process to detect prohibited items. Should a Serco officer reasonably suspect that a person visiting the IDC is carrying a prohibited item they may then ask that person to relinquish the item for safe keeping until they depart the centre. However, unlike airport screening processes, persons are not compelled to remove certain items of clothing. Should the visitor refuse to hand over a prohibited item then they may be refused entry to the centre.

The Use of Tools in Security Breaches

In order to achieve the level of damage and destruction that resulted from these incidents, detainees had to break through or force open doors, gates and fences, including those that were purpose-designed and built such as gates within NWP. In most cases, detainees sought access to, or fashioned, implements to facilitate that outcome. Such implements could be either formal tools or tools that have been improvised by detainees.

Formal tools are those that are commercially manufactured for specific maintenance or construction work, and include axes, screwdrivers, wire-cutters, shovels, crowbars and hammers. "Improvised" tools are defined as items designed for another purpose, but which were used by detainees to access and damage infrastructure, and include such things as tent and fence poles, chair and table legs, building materials and dismantled pieces of fencing.

⁷⁰ Immigration Detention Centre Contract, Schedule 2.2.4, Clause 2.2.

In addition to their use in damaging infrastructure, both formal and improvised tools were used as weapons in the March and April 2011 incidents, under the definition of “weapon”⁷¹ found at subsection 197B(2) of the Migration Act.

While conventional weapons, such as commercially manufactured knives, are rare in immigration detention centres, it is noted that other items, including scissors and shaving razors, are available and can be modified by detainees for use as weapons.

In addition to the tools and weapons referred to above, the number of fires lit in these incidents strongly suggests the presence of incendiary devices. While cigarette lighters and matches are common means of ignition, lit cigarettes, wall-mounted electronic cigarette lighters and kitchen toasters can also be used to ignite paper fuses that are in turn used to start fires during incidents. Papers and plastics typically constitute accelerants for fires, although accelerants have also included margarine, cooking oil, aerosol cans and fuel taken from vehicles or containers.

Breaches of Security at the Christmas Island IDC

In the account of the March 2011 incident set out in Chapter Four, a number of breaches of security are identified. These can broadly be divided into breaches of security infrastructure, such as fences and gates, and breaches of operational security, such as behaviour that results in damage to persons and property.

As noted in Chapter Four and detailed further below, in order to comply with the Government’s Key Immigration Detention Values and to accommodate increased numbers of detainees on Christmas Island, significant changes were introduced to the operation of NWP. These changes had a notable impact on the overall security of the CIIDC and the ability of its infrastructure to both contain the detainees accommodated within it, a growing number of whom were becoming increasingly non-compliant.

Access through the Roller Doors of NWP Accommodation Compounds

The first infrastructure breach by detainees occurred on 11 March when detainees forced up the roller doors of the Blue 2, Green 2 and White 1 Accommodation Compounds. Breach of the roller doors of the Green 1 and White 2 Accommodation Compounds followed early in the morning of 12 March, and of Gold 1 Accommodation Compound on the morning of 13 March. During the afternoon of 13 March, Serco attempted to lock down the roller doors in all NWP Accommodation Compounds, but could only secure White 1 Accommodation Compound as the locks to the doors on the other compounds had been smashed with rocks and poles. In all instances, detainees used physical force to lift the roller doors and damage their tracks so that they could not be easily closed again, and then used chairs and rubbish bins to hold them in a raised position.

As noted in Chapter Four, in response to the concern of external stakeholders⁷² at the appearance and design of NWP, including describing it as a “maximum-security prison”,⁷³ and in order to comply with the Government’s “New Directions in Immigration Detention”, the

⁷¹ “A thing made or adapted for use for inflicting bodily injury; or a thing where the detainee who has the thing intends or threatens to use the thing, or intends that the thing be used, to inflict bodily injury”.

⁷² Australian Human Rights Commission - http://www.humanrights.gov.au/human_rights/immigration/idc2009_xmas_island.html.

⁷³ Dr Graham Thom, Refugee Coordinator, Amnesty International, 14 August 2008 - <http://www.amnesty.org.au/refugees/comments/16449/>; Rev Roger Herft, Anglican Archbishop of Perth, 26 February 2010 - <http://www.abc.net.au/news/2010-02-26/christmas-islands-high-security-prison-archbishop/343804>; Paul Power, CEO Refugee Council of Australia, 15 August 2008 - www.refugeecouncil.org.au/news/releases/080816_Christmas_Island.pdf; Amnesty International, 19 December 2008 - <http://www.amnesty.org.au/news/comments/20020/>.

detainee key-card system was not used as a means of controlling and monitoring detainee access to different parts of the CIIDC from the time it was opened. Instead, until a few weeks before the March 2011 incident, the roller doors of the NWP Accommodation Compounds had been opened for much of each day and night to maximise freedom of movement. In December 2009, it was noted that the practice of regularly raising the roller doors provided detainees with knowledge as to their potential weaknesses. This was demonstrated during the November 2009 incident.⁷⁴

Using the roller doors as a primary means of exiting and entering the NWP Accommodation Compounds, and the later practice of relatively unrestricted access through the pedestrian gates within the Administrative Buildings of these compounds, allowed detainees to move freely throughout NWP for much of the time and changed its character into a more “open centre” than was intended by its design. While an “open centre” has clear benefits for a compliant detainee population in accordance with the Immigration Detention Values, it becomes a hindrance where there is mass non-compliant behaviour, such as rioting, if knowledge of the design features of its infrastructure allows easier subversion and prevents secure lock-down. In effect it escalated the nature of the response from that required to manage a single sub-compound, to one where the entire detainee population of the CIIDC had to be managed.

Recommendation 6

It is recommended that, as was intended by the design of the CIIDC, the roller doors to the NWP Accommodation Compounds not be used as the primary means by which detainees enter or exit these compounds. It is also recommended that consideration be given to the value of reactivating the key-card system for use at times of increased tension.

It is also noted that the material used to construct or secure the roller doors of the NWP Accommodation Compounds was not able to withstand the physical force to which it was subjected by large numbers of detainees. This will be discussed further in Chapter Eight.

Gates and Fencing of Runway and Lilac and Aqua Accommodation Compounds

The breach of the NWP Accommodation Compound roller doors at 23:35hrs on 11 March enabled at least 300 detainees to move at will in NWP and a significant number of these detainees gathered at the lower end of the Green Heart and applied physical force sufficient to breach the gates at that location. Similar gates in other parts of the Green Heart were also breached in this manner at various times during the March 2011 incident. These breaches provided detainees with access to the NWP sterile zone and the ability to move to any part of the facility.

On 11 March, detainees spent around an hour in the sterile zone, moving behind the Education, Recreation and Accommodation Compounds, before opting to breach the gate leading to the Lilac and Aqua Accommodation Compounds. Given the events that later transpired throughout the March 2011 incident, these detainees may have been engaged in determining the location at which they could most easily breach the NWP external perimeter.

⁷⁴ *Christmas Island: Public Order Management (POM) Assessment*, AFP, Operational Response Group, 7 December 2009, page 6.

The gate leading from NWP into the Runway to the Lilac and Aqua Accommodation Compounds – showing the chain-link mesh that replaced a weldmesh panel and how chain-link mesh was pulled away from its frame.



Detainees breached the NWP perimeter at the point where it joined the runway to the Lilac and Aqua Accommodation Compounds, where a panel of the original weldmesh external perimeter fencing of NWP had been removed by contractors and a section of chain-link fencing, including a gate, erected in its place to allow movement between these compounds and NWP. Detainees needed only to unfasten the wiring securing the chain-link mesh to the frames of the fence and gate to create a breach through which they could leave NWP. The breach that occurred on 11 March was the first of several that occurred at this point throughout the March 2011 incident, culminating in a mass attack on the evening of 13 March. At that time, a detainee struck the gate with an implement described as an axe. This implement was retrieved during searches and was found to be a pole with a piece of metal attached that enabled it to be used in the same manner as an axe might be used.

By breaching the runway gate, detainees were able to access both the runway itself and the compounds to which it led. There was no detection or deterrence infrastructure, including CCTV coverage, on the fences of these areas which again simply consisted of chain-link mesh wired to metal frames. Accordingly, detainees were initially able to breach the perimeter fence at the Aqua Accommodation Compound by forcing the mesh away from the frame in the same manner as the runway gate had been breached. While it was reported that wire-cutters had been used to achieve the breaches of these fences, a thorough search of the CIIDC and its occupants subsequently failed to locate any such implement.

Based on previous experience of similar incidents, it is possible that another implement was used to break the wire that attached the chain-link mesh to the frame, enabling it to be unwound to release the mesh from the frame.

As detailed in Chapter Eight, the poor visual coverage and access to the perimeter of the Lilac and Aqua Accommodation Compounds arising from their design, the lack of CCTV coverage and some failure of the coverage that did exist, combined with the inferior quality of much of the fencing, assisted detainees in their ongoing breaches of this infrastructure until it was finally pushed down by large groups of detainees on the evening of 13 March.

Recommendation 7

It is recommended that more substantial weld-mesh or solid materials be used rather than chain-link gates and fencing in medium or high security IDCs to provide additional protection against damage and breach.

Impact of Escapes

After breaching the perimeter of Lilac and Aqua Accommodation Compounds, detainees were able to move freely about Christmas Island without the immediate prospect of capture due to their numbers, the jungle terrain and the size of the area over which they were spread. This resulted in the diversion of considerable AFP and Serco resources away from the CIIDC between 11 and 13 March. Both AFP and Serco staff were deployed to engage with the detainees who had moved to the airport, and both organisations operated vehicles to collect escaped detainees from various places across the island throughout 12 and 13 March. A number of detainees broke or ended their walk from the CIIDC at the Construction Camp and Phosphate Hill APODs (which predominantly housed detainees who were members of family groups, unaccompanied minors, or detainees who had relocated due to pre-existing safety concerns at the CIIDC). Serco was unable to divert staff from these sites to the CIIDC, as they were needed to manage the detainees accommodated at these sites whose response to the activities at CIIDC was yet to be determined, as well as those adult male detainees arriving at the APODs.

While the majority of detainees moved on foot towards the settled areas of the island, it is of particular concern that a detainee who left CIIDC in connection with the 11 March breaches was able to access a vehicle to drive himself to the Construction Camp APOD. Due to the relatively small community on Christmas Island, it is common practice for people to leave vehicles unlocked with keys in the ignition and it would appear that this extended to staff working at the CIIDC. The failure of staff to appropriately secure vehicles on 11 March, despite the existence of credible information as to the possibility of an escape from the CIIDC on that date, suggests that this information was either not widely disseminated or not heeded by staff. It is noted that staff were reminded to lock vehicles on the evening of 12 March. Given local practice, it is fortunate that other detainees who left the CIIDC were not able, or inclined, to access vehicles either at the CIIDC or in the settled areas of Christmas Island.

Detainees who left the CIIDC during the incident were also able to break into shipping containers and other storage areas at the rear of the Aqua Accommodation Compound, and remove foodstuffs and building materials, with the latter being used as tools and weapons as the incident progressed.

Recommendation 8

It is recommended that staff induction training and procedures emphasise the need to secure vehicles and storage areas in the vicinity of immigration detention facilities.

Fires Set by Detainees

The first fires during the incident occurred outside Aqua Accommodation Compound on 11 March, with detainees setting cardboard alight in the vicinity of a tractor. Further fires were lit at this location throughout the incident, with four stored demountable buildings destroyed on the night of 14 March.

Similarly, a significant number of fires were set within the CIIDC during the incident, with rubbish, including papers and plastics, the material of the marquees, mattresses and the contents of aerosol cans, which detainees were seen to be using to start fires, serving as accelerants and fuel. Although aerosol cans are listed as items not able to be brought into an IDC, as discussed below, DIAC asked Serco to prevent this from occurring on 19 March. Serco responded on 30 May that a message had been issued at the time to all its Centre Managers and Team Leaders to this effect. In these circumstances, given that detainees were noted in the Serco Occurrence Log to be using aerosol cans to ignite fires, their source must have been either office areas or the CIIDC canteen.

Recommendation 9

It is recommended that the use of aerosol cans be banned and prevented from entering medium and high security IDCs.

Information was received that detainees had obtained petrol or diesel fuel from outside of the CIIDC and that it was used in the fires lit during the March 2011 incident. While this information has not been substantiated, as discussed above, detainees had access to vehicles in the CIIDC car park, the tractor at the rear of the facility and other parked cars encountered while at large on Christmas Island.

On the evenings of 16 and 17 March, detainees were seen wheeling rubbish bins that appeared to be filled with incendiary devices that were described in reports as “Molotov cocktails”. While there is limited evidence to suggest that these incendiary devices fit the accepted definition of a “Molotov cocktail,”⁷⁵ detainees did throw burning objects at AFP officers.

Given the limited numbers of visitors attending the CIIDC, it is unlikely that detainees were able to access cigarette lighters and matches through this source. This suggests that, in addition to lit cigarettes, wall-mounted electronic cigarette lighters may have been used to ignite paper fuses that were then used to start fires during the incidents.

⁷⁵ Macquarie Dictionary definition - “an incendiary bomb consisting of a bottle filled with a flammable liquid, usually petrol, and a saturated wick which is ignited before the bottle is thrown.”

Recommendation 10

It is recommended that consideration be given to means of disconnecting electricity supply to detainee accessible areas during serious incidents without interfering with the operation of security infrastructure, such as lights and CCTV cameras.

The Red Compound Breach

On the evening of 13 March, a large group of detainees armed themselves with items obtained from damaged gates and fences and were able to breach the higher security Red Compound, endanger staff, and free the ringleaders being accommodated there.

As discussed further in Chapter Eight, the design of NWP did not intend detainees to access its sterile zones. Despite key changes to the operation of the NWP that did not accord with its design, no provision was made to limit detainee access to the sterile zone at the gate to the Lilac and Aqua Accommodation Compounds runway, and no substantial infrastructure was in place for this purpose at the Red Compound Marquees. The freedom of movement within the NWP sterile zone that this allowed once the gates, fences and roller doors had been breached is a critical factor in the breach of Red Compound on both the night of 13 March and the morning of 14 March. Moreover, the design of the NWP did not envisage detainees being accommodated next to Red Compound and no measures were taken to reinforce the Red Compound buildings against an assault from the outside once changes had been made in these areas. No additional barriers were placed around Red Compound, other than the buildings and fencing that separated it from the Green Heart, and the temporary fencing panels in place around the Red Compound Marquees. Indeed this temporary fencing, and that of the tents within it, provided a source of material used in the Red Compound breach.

Failure to recognise the vulnerability of Red Compound, which was designed to provide high security detention, under these changed circumstances is evidenced by the dangerous position of the staff that became trapped within it. The decision of those individuals to lock themselves in a bedroom almost certainly saved them from physical harm by detainees who made threats to kill and sexually assault staff. Intervention by the AFP, when requested by Serco and DIAC, prevented this part of the incident from a more serious outcome.

The misplaced confidence in the security of Red Compound also led to the failure to remove control and restraint equipment from the secondary storage place within it. Once removed by detainees, it provided them with weapons⁷⁶ that were purpose-designed and manufactured to allow a relatively small group of people to subdue a larger group. It is fortunate that, although detainees were seen wearing the protective padding and carrying batons and shields, they were not inclined, or not able, to use these items in the manner for which they were designed and manufactured.

Recommendation 11

It is recommended that thorough and consistent risk assessments be conducted for secure compounds within the Immigration Detention Network, particularly following significant alterations to the design of an IDC, and that control and restraint equipment not be located within them unless these risk assessments have been carried out.

⁷⁶ Under Schedule 2 of the *WA Weapons Regulations 1999*, a fixed baton is a Controlled Weapon.

Access to, and Use of, Additional Tools and Weapons

As outlined above, while detainees used or adapted items from within or around the CIIDC for use as tools and weapons during the March 2011 incident, there is little evidence of detainees using formal or improvised tools to damage fences or the roller doors, other than the possibility that nails were used to break the wire on the perimeter fences of the Lilac and Aqua Accommodation Compound. Rather the primary cause of damage was the combined strength of large numbers of detainees placing stress on infrastructure that was not of the requisite security standard.

There is, however, evidence of detainees using improvised tools adapted from broom handles, billiard cues, bed frames, fence poles, tent poles and building materials to damage the runway gate and gate to the Recreation Compound.

Importantly, these items were also used as weapons to intimidate other detainees as were those located in later searches which included modified disposable razors and sharpened toothbrushes. Rocks were notable among the weapons used for this purpose, as stated by detainees seeking refuge in the Visits and Induction Centre, and evidenced by the assault on the Recreation Compound on 17 March. In their interactions with the AFP, detainees were also seen to be armed with poles and shields, and were using rubbish bins to convey incendiary devices which were thrown at AFP officers.

In addition, as the incident progressed and detainees were able to move within and outside the CIIDC with relative ease, they were able to gain access to building equipment from within shipping containers used for storage. Similarly, as fencing infrastructure was destroyed it too provided a source of tools and weapons with which to inflict further damage.

With the exception of the equipment taken from Red Compound, detainees had limited access to conventional weapons during the March 2011 incident, largely as a result of the forethought of kitchen staff who prudently removed knives from the Kitchen and Dining Block during the incident.

Breaches of Security at the Villawood IDC

As for the March 2011 CIIDC incident, the breaches of security identified in the April 2011 VIDC incident can broadly be divided into breaches of security infrastructure, such as fences and gates, and breaches of operational security, such as behaviour that results in damage to persons and property.

As noted in Chapter Four, Fowler and Hughes are at a separate location within the VIDC grounds than the higher security Blaxland. At the time of the April 2011 incident, Blaxland accommodated some detainees transferred from the CIIDC following their involvement in the March 2011 incident. However, no non-compliance occurred in Blaxland during the April 2011 incident.

Access to the Roof of the Macquarie Residential Block

The incident commenced on 20 April when two detainees gained access to the roof of the Macquarie Residential Block, despite the modifications detailed in Chapter Eight that were implemented after previous rooftop protests involving this residential block and the Lachlan Residential Block in Hughes. Access to the roof in this incident was obtained by detainees scaling a side fence near the double gate at the Fowler Dining Complex, traversing essential service cables which run from the fence to the building and working their way upwards to the "anti-climb mesh" which, once scaled, gave access to the roof.

Once on the roof, these detainees and others that later joined them reduced Serco's operational security effectiveness by generating concerns for their own safety and, particularly through throwing down roof tiles, the safety of staff. While numbers fluctuated on the roof throughout the incident, these concerns continued until cessation of the incident on 29 April when the last detainees came down from the roof.

In its submission to the Review, Serco has advised that:

"... the level of staffing during the incidents at... VIDC was at all times both adequate and appropriate. This is demonstrated by the speed and effectiveness of Serco's response to the incidents and the absence of serious injury to either clients or staff."⁷⁷

Although three additional Serco staff were placed in Fowler, the actions of detainees suggest that this response had minimal impact on their behaviour.

The extent to which Serco's ability to retain control of Fowler was impacted by the actions of the detainees on the roof is demonstrated by the events that occurred throughout the afternoon and early evening of 20 April, particularly the access by additional detainees to the roof of Macquarie Residential Block and the ability of other detainees to throw a bag up onto the roof of this building. This bag contained a jacket and an implement, thought to be a screwdriver. A thorough search at the conclusion of the incident did not locate this item, which may have been discarded through a small gap between the buildings.

As Serco's ability to control the protest diminished, detainees on the ground in Fowler engaged in increasingly non-compliant behaviour, such as rushing the fence, challenging and threatening staff, fighting each other and lighting fires. The end result of this behaviour was that Serco staff were forced to withdraw to increasingly safer locations until the point where they retreated completely from Fowler.

Recommendation 12

Given the impact of detainees on the roof of the Macquarie Residential Block on Serco's ability to maintain control during the April 2011 incident, it is recommended that DIAC and Serco consider further strategies to maintain effective dynamic security within Fowler in a range of possible scenarios, such as the provision of appropriate "anti-climb" infrastructure to prevent people from accessing roofs.

Detainees Lighting Fires in Fowler

The first of the fires that occurred during the incident were small fires lit in rubbish bins at the Nepean Residential Block early in the evening of 20 April. It is noted from previous incidents that small fires are often lit in places of immigration detention as a means both of distracting staff and of ascertaining the type and timing of possible responses.⁷⁸ While these initial fires were quickly extinguished, further fires were lit later in the night while detainees fought, discharged fire extinguishers, and destroyed goalposts and benches to fuel the fires. It was at this point that Serco staff retreated to Murray Block, which was attacked by detainees who set fire to nearby buildings.

⁷⁷ Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011, page 8.

⁷⁸ *Investigation of December 2002 Incidents at Woomera Immigration Detention Facility*, Knowledge Consulting, 8 April 2004, page 17.

Given its proximity to residential and industrial areas, and the presence of large open spaces around it, items can be thrown over the VIDC perimeter fencing with relative ease. Similarly, the location of VIDC in a metropolitan area enables large numbers of visitors to attend the VIDC to meet with detainees. As noted above, the security screening restrictions for these visitors established by DIAC in line with the People in Detention Philosophy may have enabled some visitors to bring in prohibited items. It is not improbable that detainees used cigarette lighters or matches obtained through these avenues to start both these fires and those later ignited in and around Hughes.

After an alleged incendiary device comprising an aerosol can and cooking oil had been found at the VIDC on 19 March 2011, DIAC wrote to Serco requiring aerosols and other potentially dangerous items not be available in IDCs. Serco advised DIAC on 30 May 2011, that it had

“... reiterated to all our Centre Managers and Team Leaders that they immediately ensure the withdrawal and option of clients using IAP (Individual Allowance Points) points to purchase safety razors and/or any products sold in aerosol can form from all Serco canteens at all DIAC Detention facilities”.

There is no firm evidence that either cooking oil or aerosol cans were used in the April 2011 riots, although it remains possible that these items were brought in by visitors, or purchased prior to the measures brought in to restrict detainee access to them.

Recommendation 13

It is recommended that more stringent screening of visitors to IDCs be undertaken in line with controls at Australia's airports and that improved exclusion zones be put in place around IDC perimeters.

Absence of Serco staff from Fowler

Once Serco staff withdrew from Fowler to the Visits Area at 23:25hrs on 20 April non-compliant behaviour escalated considerably. By 23:53hrs all demountable buildings within Fowler were on fire and detainees were able to throw rocks at emergency services workers stationed outside of the perimeter and at Serco staff seeking to assist other detainees. The evacuation from Fowler of detainees who did not wish to be part of the protest and felt endangered by the behaviour of other detainees illustrates the extent to which order had broken down.

Events further escalated from 00:37hrs on 21 April when detainees within Fowler commenced pulling down the fence to Hughes and successfully pushed through vehicle gates to access Hughes from 00:44hrs. This breach occurred at the corner of Fowler, adjacent to the ends of the Macquarie and Nepean Residential Blocks, and immediately next to gates from Hughes into the runway.

There is no evidence of formal tools being used to effect this significant breach. Detainees seem to have used improvised tools, such as furniture legs and pieces of wood, in conjunction with the considerable force able to be exerted by large numbers of people.

Unrestricted Access to Hughes and Other Areas

After having breached the gates between Fowler and Hughes, only chain-link fences prevented Fowler detainees from accessing other areas of the VIDC. Within Hughes itself, there were no barriers to prevent detainees from assaulting others, damaging property, lighting fires and proceeding to the Visits Area. Fowler detainees had breached the Visits Area doors using fire extinguishers as battering rams by 01:24hrs. Similarly, detainees breached the gates from Hughes into the runway and accessed the Kitchen and Dining Complex at 01:29 hrs and the Medical Centre by 01:52hrs.

Despite the violence shown by detainees from Fowler and the breach of both the Medical Centre and Kitchen and Dining Complex prior to their being set alight, there is no evidence to suggest that dangerous items such as knives, scalpels or syringes were obtained or used as weapons. Once order had been restored, a thorough search of accommodation areas located a second stitch unpicker still in its wrapping that had been obtained from the Medical Centre, and a number of items taken from the Canteen, but no other actual or potential weapons. The danger of such items being used in future incidents requires action.

Recommendation 14

It is recommended that dangerous items usually located in kitchens or Medical Centres be appropriately secured within those locations, and that a protocol be developed that dangerous items be removed from such places at times of increased tension within an IDC.

Escape from Sydney IRH

Given the level of violence displayed by detainees from Fowler, and the fear expressed by other detainees in both Hughes and Fowler, the decision to relocate detainees firstly into the Visits Area and then to Blaxland and the Sydney IRH was commendable. The use of the Sydney IRH for married couples and single female detainees was particularly appropriate given that it already housed family groups and female Unaccompanied Minor detainees and it was in close proximity to the NSW Police cordon in the event that other detainees escaped from Hughes or Fowler. However, the Sydney IRH has significantly lower security measures than Hughes and is located on a suburban street.

At the time of the escape, detainees were still accommodated in other areas of the VIDC and as such it was not appropriate to have returned female detainees to Hughes.

Managing and Restoring Public Order

As discussed in Chapter Five, the Detention Services Contract was written at a time when the detention cohort was smaller and when those in detention were generally there for shorter periods of time and removal was relatively fast. It was not written in the expectation of having to deal with the rapid IMA influx that occurred from late 2009 or with large numbers of detainees who were on a negative pathway or who had been refused a visa and had limited or no alternative placement options.

Thus, while the Contract requires, for example, that Serco must ensure that people in detention remain in detention, develop and implement a Centre Security Plan for each centre, take all reasonable steps to prevent people in detention from escaping and provide trained

personnel to respond effectively to any incidents, its understandable preference is to make centres secure by addressing the issues that cause discontent. It requires Serco to respond promptly and flexibly to incidents, but does not address the provision of security services to restore public order in the context of critical incidents such as a mass riot. The dividing line between providing and maintaining public order through an emergency response capability, where incidents have not escalated to critical, and restoring public order once there is mass non-compliance is insufficiently defined.

The responsibility for providing Public Order Management during critical incidents was an issue of contention throughout 2010. Following the November 2009 incident, concerns were raised by both DIAC and the AFP about Serco's capability in that regard. Serco sought legal advice on the matter and advised DIAC that it did "*not have the power or authority, either contractually or under any statute, to take measures to restore public order in detention centres.*"⁷⁹ DIAC subsequently agreed with that position, indicating that the schedule of incidents for which Serco is required to manage does not include this obligation⁸⁰ and that the powers of the police are broader than those of Serco in dealing with significant disturbances.⁸¹ Curiously, DIAC went on to note its expectation that Serco would manage and contain all serious incidents likely to become violent.⁸² In early 2011, Serco restated its earlier position.⁸³

It is of course preferable that critical incidents are prevented from happening in the first place. Serco notes, in its response to the Reviewers, that "Serco's dynamic security systems are primarily directed to incident prevention (rather than to response)," and it is difficult to tell whether, if Serco had been able to bring its dynamic security capability to bear quickly, the incidents under consideration could have been prevented from escalating in the way they did. As both CIIDC and VIDC incidents demonstrate, however, particularly in the volatile environment currently faced by the immigration detention network, the application of a public order management response capability for both maintaining and restoring public order, where necessary, can be essential, and roles and responsibilities, as well as the dividing line between the two, must be made clear.

Such capability requires personnel who:

- are adequately trained;
- possess relevant public order management qualifications;
- are legally authorised (under statute or otherwise) to engage in public order management, where necessary; and
- are appropriately resourced in proportion to the assessed risk at various facilities within the immigration detention network.

For each jurisdiction, personnel should also participate in regular joint exercises with relevant emergency response stakeholders and, given the inherent risks associated with the use of force within the context of a critical incident, the issue of legislative authority and appropriate controls is an important one. For critical incidents, the AFP or State and Territory police are best placed to fulfil this role, depending on the jurisdiction of the incident. For less critical

⁷⁹ Letter from Serco to DIAC, dated 11 June 2010.

⁸⁰ Letter from DIAC to Serco, dated 23 August 2010.

⁸¹ Letter from DIAC to Serco, dated 27 October 2010.

⁸² Ibid.

⁸³ Letter from Serco to DIAC, dated 18 January 2011.

incidents, Serco also has a role, but both the dividing line between the two, and the contractual responsibilities on Serco for providing good order capability, require clarification.

Deployment of Additional Serco Staff and Police Assistance

At the onset of both incidents, Serco notes that it moved quickly to increase staffing.

In relation to CIIDC, Serco provided extra staff, including an additional eight emergency response staff and seven senior managers who arrived on Christmas Island within 48 hours of commencement of the incident.

Despite the arrival of these additional resources, Serco did not have the capability to restore public order within the CIIDC, which only occurred following intervention of the AFP. The AFP also maintained the external fence line during the incident following the arrival of their ORG.

At the VIDC an additional three staff were placed on duty, as well as a senior manager from Serco's national office in Canberra. But again, the violence that erupted meant that Serco was not able to restore public order. The NSW PORS assisted with managing public order when it accompanied fire services as they sought to put out fires lit within the Fowler and Hughes compounds. The NSW Police also maintained the external perimeter to prevent a mass breakout. As the incident progressed, Serco logs indicate that the AFP was handed management of negotiating with the detainees on the roof of the Macquarie Residential Block. The AFP supported Serco to extract those identified as persons of interest and they then led negotiations with the four detainees remaining on the roof until order was fully restored. There were instances where Serco staff themselves donned PPE and set lines of defence, and in one case prevented detainees from moving past the Visits Area outside of Hughes.

DIAC has advised it is continuing to seek advice to more clearly articulate respective roles in respect of Public Order responsibilities in detention facilities.

Managing and Restoring Public Order at CIIDC

At times during the course of the March 2011 incident, particularly on 11 and 12 March before significant irreparable damage occurred to gates, roller doors and fencing, a response by appropriately equipped and trained personnel, from either Serco or the AFP, may have contained the incident and prevented breaches of security. Such a response could only have occurred on a limited number of occasions, namely:

- at the lower Green Heart gates on the evening of 11 March, to prevent detainees from accessing the sterile zone;
- in response to the first instance of detainees lifting roller doors on the morning of 12 March;
- at the gates between the Blue and White Accommodation Compounds on the evening of 13 March, prior to detainees moving to Red Compound; and
- adjacent to White 1 Accommodation Compound on the evening of 13 March, to prevent detainees accessing Red Compound.

In order for this to occur, a number of elements needed to have been in place, including that sufficient equipment and trained personnel were available for such a deployment. It is noted that, following the November 2009 incident, the AFP found that Serco staff on Christmas Island were not in a position to be deployed in this manner⁸⁴ and this does not appear to

⁸⁴ *Christmas Island: Public Order Management (POM) Assessment*, AFP, Operational Response Group, 7 December 2009, page 9.

have been addressed at the time of the March 2011 incident. It is further noted that Serco presently has a standing Emergency Response Team of 20 personnel on Christmas Island.

Managing and Restoring Public Order at VIDC

During the course of the April 2011 incident, the deployment of additional properly equipped and trained personnel from either Serco, the NSW Police, or the AFP, may have reduced the scale of the damage caused.

As discussed in Chapter Eight, the layout of that part of the VIDC which contains Fowler and Hughes presents challenges for containing an incident, particularly given the positioning of buildings. This was certainly a significant factor once detainees from Fowler accessed Hughes. However, the location at which detainees breached its gates could well have been defended by personnel equipped with PPE to prevent access from Fowler into Hughes. The relatively high levels of compliance by Hughes detainees during the incident, and the exit point into the runway, support this point.

Additional Serco staff were deployed to Fowler during the early stages of the incident, and further staff were sent to the Fowler-Hughes fence once detainees began attempting to break it down. Progression of the incident despite the presence of these staff may indicate that they were not deployed in sufficient numbers to be effective. At 01:00hrs on 21 April after detainees from Fowler gained access to Hughes, Serco staff wore PPE in order to protect the Westbridge Administration Centre fence line, which was not breached by detainees during the incident.

Deployment of appropriately equipped Serco staff at the Westbridge Administration Centre may have been a factor in preventing the spread of disorder and damage to that location. However, a number of other factors may also have been relevant:

- it was at this point that detainees from Fowler first encountered concentrated numbers of both staff and detainees opposed to their actions;
- as with the Fowler and Hughes Residential Blocks which were not burned or substantially damaged, the Westbridge Administration Centre is predominantly a brick structure and has significant visible reinforcement of doors and windows;
- the Westbridge Administration Centre contains the Property Office and is commonly perceived to contain detainee valuables. In other incidents, it is noted that property storage areas are seldom damaged or burned; and
- the Westbridge Administration Centre is the final building on the western perimeter of this part of the VIDC. Given the highly visible NSW Police presence on site and the disinclination of detainees to breach the external perimeter at any point prior to this, it would seem that escape was not one of the goals of the detainees involved in this protest action.

Given the smaller size of Fowler, it is also possible that the deployment of a sizeable contingent of appropriately authorised, trained and equipped personnel at that location in the afternoon of 20 April may have slowed or prevented escalation of the incident in its early stages. It is necessary to balance this against the high levels of visibility into the VIDC allowed by its fencing and the possibility that such an action might unnecessarily inflame a situation.

Cordons of staff in the vicinity of the Clarence and Nepean Residential Blocks could also have prevented detainee misbehaviour from escalating and accessing the rear of the Macquarie

Residential Block. While the throwing of tiles by detainees on the roof of this block did pose a very real risk to the safety of both staff and detainees on the ground, personnel issued with helmets, protective padding and shields and deployed near the gates where detainees could access the roof, could have served to prevent additional detainees from joining others on the roof.

In summary, effective risk planning and incident monitoring could have identified the need for stronger intervention at an earlier stage or provided for a public order response capability. In particular, the responsibilities of Serco in situations of public order need to be better defined in contractual terms, and the legal authority defining public order roles need to be identifiable in formal agreements with the relevant policing services.

Recommendation 15

It is recommended that DIAC articulate more clearly the responsibility of public order management so that an agreed position is established with DIAC, Serco, the AFP and other police forces.

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Chapter Seven: Extent of Prior Indicators

This Chapter examines the extent of any prior indicators or intelligence that would have assisted in prevention and/or management of the incidents at the IDCs.

Serco's Role in Information Gathering and Management

Section 2.2.4 of the Contract's Statement of Work details the requirements for Security Services. This service provision includes a Security Intelligence Obligation, under which Serco is required, among other things, to:

“(i) gather and record security intelligence to inform the development of Centre and People in Detention Security Risk Assessments and maintain the safety and security of the Centre;

...

(iii) ensure appropriately trained Service Provider Personnel perform, at each Centre, intelligence analyst functions and collate and analyse all information received;

(iv) implement a computerised intelligence analysis procedure for use with the People in Detention population;

(v) provide training to all Service Provider Personnel and Department Personnel... on the overall mechanism of the intelligence system, as part of the induction procedure...
”⁸⁵

“Security intelligence” is defined in the Contract as including:

“(i) unusual occurrences;

(ii) information received from a Person in Detention;

(iii) a person or group of People in Detention acting unusually, or out of character;

(iv) Incident Reports;

(v) trends in Incidents; and

(vi) relevant information received from any source.”⁸⁶

Serco's dynamic security model presents a means by which its personnel can provide observations, conversations and information for analysis, and all Serco officers within a Centre are responsible for proactively gathering information on detainees, visitors and other persons accessing the Centre. This also includes any external observations, vehicles and groups.⁸⁷

This “Security Intelligence” informs the development of Centre and People in Detention Security Risk Assessments. In this context, the Contract provides that Serco must develop:

- a Security Risk Assessment for each Centre, which must be reviewed on a monthly basis, and after any Critical or Major Incident that is security related;⁸⁸ and
- a People in Detention Security Risk Assessment for each Person in Detention during the reception process, which must be reviewed monthly, be re-assessed after the

⁸⁵ Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clause 1.7.

⁸⁶ Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clause 1.7(b).

⁸⁷ Serco Centre Security Services Plan, Intelligence Obligation, page 8.

⁸⁸ Immigration Detention Centre Contract Schedule 2, Section 2.2.4, Clause 1.8(a) and (c).

detainee has been involved in a disturbance or has received information that may adversely impact on their disposition (i.e. a negative decision), and be recorded in the Detention Services Portal.⁸⁹

In its January 2011 Acceptance Testing Report, PricewaterhouseCoopers (PwC) found that, although a Centre Security Risk Assessment had been developed at the National level, it had yet to be implemented at Christmas Island facilities or tailored to address the specific risk environment at Christmas Island.⁹⁰

PwC also found that Security Risk Assessments for People in Detention were undertaken during reception, but were not routinely recorded in the Portal, and that the quality of some Security Risk Assessments for People in Detention were such that it was difficult to assess these as compliant with Risk Management Strategies.⁹¹

The issues identified by PwC had been partially addressed at the time of the incident. The Reviewers have been provided with a copy of Serco's Centre Security Risk Assessment for both NWP and Lilac/Aqua for January 2011. However, no evidence has been provided of this document having been reviewed on a monthly basis in line with the contractual requirements for March or April.

Since then, Serco has indicated it has implemented a number of measures, including the allocation of additional staff and tracking systems to ensure completion in a timely manner, to improve its compliance with creating and updating People in Detention Security Risk Assessments.

Recommendation 16

It is recommended that Serco's commitments under the Contract in relation to both Security Risk Assessments at each Centre, and People in Detention Risk Assessments for each detainee be met fully as a matter of priority.

As part of its Security Intelligence Obligation, Serco is required under the Contract to appoint an "appropriately trained" officer to perform intelligence analyst functions. In response to this requirement, Serco created the position of Intelligence Analyst, who reports to the Senior Operations Manager - Security. The Intelligence Analyst position description states that:

"The Intelligence Analyst will assist in the development, coordination and management of the Immigration Detention Centre (IDC) Intel Office. The role is responsible for the security and intelligence collection plan, risk profiling and analysing all security related information in order to provide timely intelligence assessments and recommendations to the Senior Operations Manager - Security."

Two of the duties and accountabilities outlined in the position description are to "Promote intelligence reporting within the Centre" and "Collect and collate intelligence information (SIR) within the Centre".

In line with the Intelligence Analyst position description, Serco's Management of Security PPM refers to ensuring "... staff are familiar with behaviour patterns, movements and

⁸⁹ Immigration Detention Centre Contract Schedule 2, Section 2.2.1, Clause 2.3.8(a), (c)(i), (c)(ii) and (c)(iv).

⁹⁰ Report on Acceptance Testing – Christmas Island (Northwest Point IDC, Phosphate Hill APOD, Construction Camp APOD, Lilac/Aqua) to 13 January 2011, PricewaterhouseCoopers, page 11.

⁹¹ Report on Acceptance Testing – Christmas Island (Northwest Point IDC, Phosphate Hill APOD, Construction Camp APOD, Lilac/Aqua) to 13 January 2011, PricewaterhouseCoopers, page 14.

*relationships of People in Detention, which in turn contributes to the passage of information from Persons in Detention to staff, which is then sent to Security staff via the SIR System.”*⁹²

The PPM goes on to state that “... all information gathered via the SIR system will be ... forwarded to the Centre Manager for his briefing and any response strategies and/or interventions”; and that the “Security Committee will also review information gathered via the SIR System.”⁹³

The PPM provides that each IDC should have a dedicated Security Committee, which meets on a monthly basis with membership consisting of Serco Senior Managers and the DIAC Regional Manager. Part of the role of the Security Committee is to “ensure that the Security Intelligence System operates robustly and proactively.”⁹⁴

In addition, Serco’s Intelligence Plan outlines, among other things, the responsibility for all Serco personnel to actively gather intelligence on detainees, visitors and other persons accessing the centre. Serco also produces near-daily intelligence reports, which summarise key information and assesses the risk to centre stability.

DIAC’s Role in Information Gathering and Management

DIAC oversees Serco’s performance in line with the Contract’s requirements in this area. In addition, DIAC has appointed a Security Liaison Officer at both the CIIDC and VIDC, although the roles of these officers differ as discussed below.

Case Managers may be asked by detainees to pass on information about potential and existing incidents, or the mood of the Centre generally. Along with all DIAC personnel, Case Managers refer such information to either the DIAC or Serco Intelligence officer or both.

It is not the Case Manager’s role to proactively gather information for the purpose of intelligence management or to undertake any activity which will compromise their relationship of trust with detainees. To do so would diminish their credibility with detainees and limit their effectiveness in facilitating status resolution.

The AFP’s Role in Information Gathering and Management

As part of the operational response to a major incident within an immigration detention facility, the AFP deployment may include one or more Intelligence Analysts. These staff are generally withdrawn in a staged manner following cessation of operations.

The Joint Intelligence Group

The formation of a Joint Intelligence Group (JIG) at an immigration detention facility, comprising intelligence officers from the AFP, DIAC and Serco, can provide an invaluable mechanism for co-ordination of information and intelligence both during times of “business as usual”, and in respect of an incident when it can be utilised to achieve the more efficient and effective coordination of intelligence capacity.

⁹² Serco Policy and Procedures Manual, *Management of Security*, page 4.

⁹³ Ibid, page 4.

⁹⁴ Ibid, page 3.

Environmental Intelligence

Environmental intelligence in a range of forms, including responses to previous incidents and reports from professional bodies and external stakeholders, can provide critical indicators in relation to whether incidents are likely to occur. This form of intelligence can then be utilised to inform briefings for Government and relevant Ministers, security risk assessments and intelligence reports specific to places of immigration detention.

As discussed in Chapter Three, the Ombudsman, the AHRC, key advisory groups such as CISSR, and professional consultants such as Knowledge Consulting, have visited either the CIIDC or VIDC, or both. All of these organisations, groups and bodies have provided reports to DIAC summarising their observations, emphasising the risks associated with overcrowding including processing delays and deteriorating services and detainee amenities, and warning of significant management issues associated with the increasing detainee population on Christmas Island.

For example, Knowledge Consulting found “*concerning early warning signs of deterioration in client morale are evident at NWP which if not addressed have the potential to escalate into a serious incident or incidents.*”⁹⁵

DIAC was aware of significant risks that could not be managed, and reflected those observations and recommendations in advice to the Government. DIAC has also worked closely with stakeholders, such as the Ombudsman, AHRC and CISSR, to improve the detention network, drawing on the advice and expertise of those groups.

Serco also was aware of the issues impacting directly upon management and security at the CIIDC and VIDC. While it is questionable to what extent these issues were reflected in the monthly Centre Risk Assessments for those Centres, by January 2011, the Centre Risk Assessment for NWP (and Lilac/Aqua) noted that the “... *increased tensions within the compounds, with incidents of minor altercations and aggressive behaviour becoming common when access to services is impeded, may be attributed to the high client numbers.*”⁹⁶ The Centre Risk Assessment also recognised some specific risks resulting from these issues and articulated strategies to mitigate the likelihood of those risks eventuating. However, the risk rating remained high despite the mitigation strategies.

Intelligence Management Capacity at Christmas Island

Staffing

Although the Contract stipulates that Serco personnel must be qualified to certain levels, it is silent on the level of expertise required for officers engaged specifically in the security intelligence function other than to stipulate that they be “appropriately trained.”⁹⁷ It is assumed that the general level of qualification for all security staff as detailed in the Contract is applicable to those undertaking the security intelligence function at each Centre.

During an audit undertaken in September 2010 by FutureWise, it was acknowledged during interviews conducted with Serco that the (then) security intelligence officers on Christmas

⁹⁵ *Assessment of the Current Immigration Detention Arrangements at Christmas Island*, Keith Hamburger AM, Knowledge Consulting, 14 October 2010, pages 4 and 23.

⁹⁶ Serco Centre Security Risk Assessment, North West Point, January 2011, page 3.

⁹⁷ Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clause 1.7(iii).

Island were not adequately qualified and that recruiting staff for service on the Island remained difficult in all areas, including into these roles.⁹⁸

In its report,⁹⁹ FutureWise recommended that Serco officers undertaking the security intelligence function should obtain additional qualifications over and above those identified in the Contract for security staff. This would involve completing specific training aimed at giving staff the knowledge and skills required to act as an intelligence analyst in a detention setting.¹⁰⁰

While the recommendation from FutureWise does not appear to have been implemented and is certainly not reflected in any amendments to the Contract, Serco's current Intelligence Analyst (who was appointed in February 2011) has appropriate professional experience in intelligence having worked previously for the WA Police Intelligence Unit.

Recommendation 17

It is recommended that consideration by DIAC and Serco be given to whether additional qualifications are required for Detention Service Provider Personnel undertaking the security intelligence function and that the Contract be amended to specify the level of qualification required.

In response to a draft recommendation in the interim Knowledge Consulting report for Christmas Island¹⁰¹ to review intelligence gathering as a means to mitigate the inherent risk of managing larger numbers in detention for longer periods, DIAC appointed a Security Liaison Officer on Christmas Island.

The role of the DIAC Security Liaison Officer is to ensure the good order of the Christmas Island Centres, and to review and report to the DIAC Assistant Secretary at Christmas Island on Serco's Security Intelligence Obligation in line with the Contract's requirements.

The DIAC Security Liaison Officer also supplements Serco's intelligence collecting capability, including by being responsible for liaison on intelligence matters with the AFP, ASIO, Serco Intelligence Officers, Serco's Security Manager, the AFP's People Smuggler Section and Customs Joint Intelligence Section.

In its report, FutureWise also recommended that the DIAC Security Liaison officer role be filled by a staff member with an appropriate professional qualification.¹⁰² Although DIAC's Security Liaison Officer on Christmas Island has no formal qualifications in security intelligence, he does have relevant experience.

Following the November 2009 disturbance at the CIIDC, DIAC worked closely with the AFP to source an AFP Intelligence Analyst to gather information about centre dynamics, advise the Security Committee of any issues, and advise Serco on appropriate strategies for collecting intelligence from detainees.

⁹⁸ *Audit of Security Intelligence and Associated Arrangements at the Christmas Island Immigration Detention Centre (CIIDC)*, September 2010, FutureWise, page 9.

⁹⁹ It is noted that Serco did not receive a copy of this report.

¹⁰⁰ *Audit of Security Intelligence and Associated Arrangements at the Christmas Island Immigration Detention Centre (CIIDC)*, September 2010, FutureWise, pages 9.

¹⁰¹ *Assessment of the Current Immigration Detention Arrangements at Christmas Island*, Keith Hamburger AM, Knowledge Consulting, interim report provided to DIAC in May 2010.

¹⁰² *Audit of Security Intelligence and Associated Arrangements at the Christmas Island Immigration Detention Centre (CIIDC)*, September 2010, FutureWise, pages 9-10.

For the six months between June 2010, after the arrival of DIAC's Security Liaison Officer, and mid November 2010 when the AFP Intelligence Analyst departed (as part of the cessation of AFP Operation Chiron) and when Serco's Intelligence Analyst resigned, Serco, DIAC and the AFP worked together, in effect as a JIG, to provide a joint situational awareness of the Christmas Island detention facilities. Following commencement of Serco's current Intelligence Analyst in February 2011, the Serco and DIAC officers worked cooperatively to provide intelligence prior to, during and after the March 2011 incident.

Serco and DIAC's intelligence management capability was further enhanced following the deployment of AFP officers during the incident (discussed later in this Chapter).

Dissemination of intelligence is not supported by IT on Christmas Island as the Intelligence Officers/Analysts are operating on different systems and different servers, and it is not possible for that information to be shared electronically. Part of the issue relates to the security level of the information and the capacity of the IT systems to support the sharing of classified information.

As a means of addressing deficiencies in the sharing of information electronically, the Intelligence Officers are collocated in a single office. While the use of a single office presents a number of limitations in terms of physical ability to support four officers (Serco, DIAC and two AFP analysts), the Reviewers were advised that collocation is an important means of ensuring that information is shared and that a better overall understanding is developed. By being collocated, the Intelligence officers consider that they have increased awareness of what the other officers are doing and what information they have gathered.

The additional advantages that can be gained from the ability to share security information electronically means that DIAC should keep the provision of such a capability under review as systems evolve.

Mechanisms for gathering intelligence information within the CIIDC are generally informal and unsophisticated. There is significant reliance on human resources, with information being primarily sourced from the "ground level", including directly from the detainees themselves, through Serco Security staff, DIAC officers and IHMS staff and interpreters.

As part of the "Security Intelligence Obligation", the Contract requires Serco to "implement a computerised intelligence analysis procedure..."¹⁰³ and Serco has implemented this requirement through the recording of risk assessments in a Microsoft Word template. There would seem to be significant scope for improving intelligence analysis, however, by utilising dedicated sophisticated intelligence analysis software.

Intelligence Management at Christmas Island leading up to and during the Incident

Information about a possible attempt to escape by a group of (mainly) Arabic detainees in order to force DIAC to look at their cases was first received on 7 March 2011. Information was also received on the same day from a detainee that a large number (300-500) of detainees with negative RSA findings were intending to set fire to a number of compounds within the detention centre.

Further information was received on 8 March 2011 about a possible escape.

¹⁰³ Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clause 1.7(iv).

On the evening of 9 March 2011, information was received from the same source that the “*fire, riot*” would occur on 11 March 2011. A subsequent interview with this source by the Serco Intelligence Analyst and DIAC Security Liaison Officer obtained additional information about the planned disturbance, suggesting that it would involve 300-500 detainees and a mass escape attempt.

Although there were doubts about the source’s credibility, further investigation revealed that the source had provided accurate information on the last major incident that had occurred at the Centre.

Information continued to be received about a possible escape, indicating on 11 March 2011 that the whole of the IDC was planning a mass escape to the airport in 2-3 weeks time.

Serco’s Intelligence Analyst collated this information and analysed whether there was any corroboration of the information received and the overall likelihood of the threat.

Serco’s Acting Regional Manager at Christmas Island, who was briefed on the information received, listed for the Review the following precautionary steps that were taken in consultation with DIAC between 7 and 11 March 2011:

- worked with DIAC to exchange and assess information received in relation to the planned escapes, including reviewing reports on all recent incidents and identifying parts of the facility or groups or individuals that were presenting any indicators of unrest;
- agreed on talking points with DIAC for use in discussions with detainees covering issues such as the futility of escape and that undisciplined behaviour would be negative in terms of Australian perceptions;
- initiated and conducted detainee consultative meetings;
- instigated room searches, particularly for lighters and accelerants, and reviewed “unusual” purchases from the IDC shops;
- asked for fire services to be on standby, called for additional fire extinguishers and arranged fire refresher training for staff;
- held staff briefings at handovers to update staff on the information received;
- commenced inter-agency planning meetings and alerted DIAC National Office;
- organised additional facilities and entertainment as distractions in an attempt to improve the mood;
- prepared the CIIDC Command Suite for action;
- arranged for portable video cameras to record incidents in the event they occurred;
- initiated refresher incident training for staff;
- continued to gather further information from a variety of sources; and

- alerted senior managers at Serco's head office in Canberra to enable them to make decisions regarding the deployment of additional management and staff resources to the CIIDC given the potential scale of the incident.¹⁰⁴

Serco also responded to the information by preparing an Operational Plan on 8 March 2011, which noted "... *there is a considerable degree of evidence to suggest that concerted indiscipline, escapes and disturbances are threatened.*" The Plan, which was updated on 11 March, set out approaches and tactics to mitigate the threat of an incident.

In the days preceding and including 11 March 2011, Serco's Daily Intelligence Summaries rated NWP as having a "Medium" stability rating. This meant that the Centre was assessed as "*Medium Risk - Centre calm and quiet. However, Intelligence to suggest some sort of client protest or unrest. Situation is being closely monitored.*"

This information was also included in the Christmas Island Daily Intelligence Reports produced by DIAC's Security Liaison Officer that were provided to the Assistant Secretary on Christmas Island, and forwarded to DIAC National Office. The report of 11 March 2011 states that "*there are underlying tensions at NWP and Lilac/Aqua compounds.*" It goes on to say that:

"Despite the intelligence reports, both DIAC and Serco officers are of the view that the mood of the facilities still presents as generally calm with some tensions apparent and that there is little sense that a disturbance is likely."

Following a telephone conversation with a local Christmas Island Police Senior Constable on 11 March 2011, Serco's Acting Regional Manager at Christmas Island sent an email to the Christmas Island AFP Senior Sergeant formally alerting him to the information Serco had received about the "*possible mass indiscipline event*". This email stated that the information received by Serco suggested that detainees were planning a mass escape that same night or, alternatively, a fire or similar incident. The email indicated that the local Fire Service was going to be put on alert in preparation for any incident.¹⁰⁵

On 11 March 2011, a teleconference was held between Serco, DIAC and IHMS at Christmas Island and DIAC National Office to discuss the information that had been received. The general view taken was that a major disturbance did not appear to be imminent. Serco noted that, although the source should be taken seriously having provided information in the past which had turned out to be accurate, the information could not be corroborated. Similarly, DIAC Case Managers and the Assistant Secretary at Christmas Island had not sensed a change in mood among the detainee population or tensions in the compounds. IMHS had not received any information in relation to a planned incident. No request for an increased police presence on Christmas Island was made.

In the early evening on 11 March 2011, the Minister's office was informed of the possible disturbance and "... *the considered opinion of DIAC, Serco and IHMS on-Island that there is no evidence to corroborate the claims made by the client in regards to the possible disturbance. It was noted that, "nonetheless, all parties remain vigilant."*¹⁰⁶

¹⁰⁴ As outlined in the Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011 at pages 29-30; and from the interview with Serco's Acting Regional Manager at CIIDC on 9 May 2011.

¹⁰⁵ Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011, page 30.

¹⁰⁶ Email from DIAC Acting Assistant Secretary to Minister's Advisor at 06:03pm on 11 March 2011.

In addition to the precautionary measures being undertaken by Serco as outlined above, it was decided that DIAC Case Managers would notify 14 detainees in NWP of positive (1A met) decisions to assist in alleviating known concerns in the detainee population about the number of negative decisions. The hand-downs of the positive (1A met) decisions did not have the desired effect; instead, the response from detainees was "... *doesn't change anything, does it?*" In addition, information from sources was increasing that something might happen that night.

A further teleconference was held between Serco, DIAC and IHMS on Christmas Island and DIAC National Office on 11 March 2011 to discuss the mood at NWP. At that point in time, officers on Christmas Island were keeping a watching brief over the mood of the CIIDC and it was reported as being "... *generally calm but increasing frustration towards DIAC, as DIAC seen as not delivering on promises e.g. promised that new processing system would be faster but there hasn't been any change.*"

During the teleconference, Serco advised that:

- there had been an increase in requests by detainees for an aerosol, Glen 20 (which is not sold);
- a client service officer indicated that there was palpable tension in Aqua;
- they would put all senior officers in NWP compounds the following day to provide visible leadership;
- they would practice evacuation procedures that evening; and
- a fire tender was located at NWP.

Other risk mitigation strategies discussed at the teleconference included:

- ongoing and visible staff engagement in the compounds to reassure and remind detainees of appropriate behaviour;
- an enhanced meaningful activities program to alleviate boredom and idle behaviour;
- transfer of appropriately cleared longer term detainees to mainland facilities; and
- the relocation of an independent merits review team to Christmas Island to commence processing in the coming week.

At the beginning of the incident there was no formal JIG. For the first six days of the incident, DIAC and Serco Intelligence Officers worked together before being joined by three AFP Intelligence Analysts from 17 March. It is at this point that the JIG effectively came into being.

Serco subsequently provided a second Serco Officer whose primary focus was on the Red Compound incident.

During the course of the incident, the JIG met twice a day to discuss risks and strategies, and the collated and analysed information was communicated to DIAC, both at Christmas Island and National Office, Serco at Christmas Island and in Canberra, the AFP International Deployment Group in Canberra and the AFP on Christmas Island, the Christmas Island Police and the Christmas Island Administrator.

The JIG operated as an effective means of providing a joint situational awareness of the CIIDC, but was not supported by any formal documentation outlining roles and responsibilities.

Recommendation 18

It is recommended that a protocol be developed between DIAC, Serco and the AFP on the formation and operation of a Joint Intelligence Group as part of incident response and management, with specific reference being given to the respective parties' roles and responsibilities.

Effectiveness of Intelligence Analysis at the CIIDC

As noted previously, organisations, groups and professional bodies had been warning of significant management issues associated with overcrowded accommodation, processing delays, and the impact of overcrowding on services and amenities, and a number predicted the occurrence of an incident on Christmas Island if those factors were not addressed urgently.

Information about the possibility of an incident at the CIIDC was first received four days prior to the actual incident itself and further information was gathered in the following days.

Based on the information about the possibility of an incident, Serco responded by putting in place precautionary measures such as assessing the need for additional management and staff to be deployed to Christmas Island and establishing an inter-agency Command Suite at Christmas Island and in Canberra.

Despite positive actions being taken in response to the information, there was an understandable consensus among Serco and DIAC management that the actions needed to be proportional to the situation, given that the atmosphere at the CIIDC remained tense but calm. With the benefit of hindsight, however, the CIIDC atmosphere was calm because the detainees had a plan of action and the days leading-up to the incident were "the calm before the storm".

Given that the incident was exacerbated by compounding environmental and other factors that had built up over time (as discussed in Chapter Three), there was a limited amount that could have been done in the few days preceding the incident. DIAC's attempt to alleviate concerns about negative decisions by notifying 14 detainees of positive decisions was seen as too little too late and may have compounded detainees' feelings of anxiety and frustration.

In the event, the intelligence management capacity at the CIIDC generally worked well and the information gathered prior to the incident provided both Serco and DIAC time to prepare precautionary measures. While it is recognised that in this instance the JIG was put in place as a result of the serious and continuing nature of the incident, formation of the JIG earlier in the incident may have provided the capacity to strengthen the intelligence gathering and analysis and, in turn, allowed for more targeted preventative measures to be taken, such as ensuring the AFP had response capabilities on Christmas Island before the incident commenced.

Intelligence Management Capacity at Villawood

Although DIAC has a Security Liaison Officer at the VIDC, this officer's role differs from his counterpart's at the CIIDC as the Serco Intelligence Analyst at the VIDC has a much stronger role in relation to the acquisition, analysis and coordination of information in line with Serco's responsibilities under the Contract. DIAC's Security Liaison Officer has an intelligence

coordination role and works with Serco to ensure that any information collected by DIAC officers flows through to Serco for analysis.

Serco's Intelligence Officer worked with the Serco Security Manager in the lead up to and during the incident to ensure that all information was actioned appropriately. A second Serco Intelligence officer was appointed to assist in compiling and analysing information during the period of the incident. Before and during the incident, DIAC and Serco officers met regularly to discuss issues of concern and review contract related matters.

In addition, Serco has a security watch policy in place at the VIDC which sets out the approval hierarchy for placing detainees on watch, and provides a framework for security observation and monitoring systems, watch log, and review of watch decisions by a multi-disciplinary review board.

The DIAC Regional Manager chairs a multi-agency daily meeting that has been in place at the VIDC since December 2010. This meeting provides a forum for information sharing between DIAC, Serco and IHMS, and for discussion of risks associated with escalating detainee behaviour.

Intelligence Management at Villawood leading up to and during the Incident

Information from as early as 25 February 2011 indicated an increased potential for unrest across the immigration detention network in the lead up to the Easter weekend, when external protests at the VIDC could be expected.

As the VIDC had previously been subject to external protest action over Easter from groups opposed to immigration detention, DIAC put in place a range of risk management strategies to meet that expectation. However, information did not suggest protests or an incident in the centre itself.

DIAC's policy was to house the majority of IMAs in Fowler, based on operational reasons including the limited network availability of medium security detention and a general approach not to mix IMA and non-IMA detainees. However, the policy had the effect of bringing together an increasingly volatile detainee population, many of whom were on negative pathways (107 out of a total population of 158 in Fowler), in an area where accommodation pressures were significant.

An increased level of tension was apparent among IMAs in Fowler during the early months of 2011. On 4 March 2011, the DIAC Regional Manager VIDC advised NSW Police of a poster advertising a planned external protest for 25 April 2011. At the time the Regional Manager noted that the poster talked of protests in the city and outside the VIDC and asked Serco to approach the NSW Police. The Regional Manager also recommended that, as part of a National contingency plan, there should not be any interstate transfers over the Easter period.

News of the incident at Christmas Island in March further increased tensions at the VIDC. Serco responded by moving to a higher alert status and bringing in extra patrols and perimeter guards. The mood at the VIDC continued to be tense, but was being managed by regular engagement with the detainees.

The mood became more troubled when detainees reacted negatively to the Government notice of 17 March 2011 informing them that the Government had implemented processing improvements and that detainees whose refugee claims had been accepted would have their

security checking completed by 30 April 2011. The 30 April deadline was not relevant to many IMAs in the VIDC because, as noted above, they were on negative pathways.

Information received on 6 April indicated that, unless detainee visas were processed by 15 April 2011, there would be mass protests across the network. In response, the VIDC Regional Manager advised DIAC National Office that pressures were building within the IMA caseload.

On 7 April 2011, information was received through the VIDC contingency planning meeting that indicated a possible protest on 17 April 2011. On the same day, Serco and DIAC commenced contingency planning across the network. As part of this process, Serco wrote to NSW Police to advise of planned protests and possible internal and external unrest at VIDC, noting that extra security patrols would be put in place by Serco. On 8 April 2011, a copy of VIDC's Staff Evacuation Plan was sent to DIAC's National Office.

On 12 April 2011, information was received indicating that protest action was planned for 15 and 30 April 2011. That advice referred to a source at VIDC who, when interviewed, denied knowledge of any issues within the Centre.

Serco, in consultation with DIAC and IHMS, commenced development of an Operational Plan to cover the period from 15 April 2011 through to Easter. This plan required that Serco maintain sufficient staff for normal daily operations, and that extra staff should be available on an "on call" and demand basis. An enhanced detainee activity and program schedule was developed for the Easter weekend. In the week leading up to the incident, live fire/evacuation Emergency Response exercises were undertaken.

In the Operational Plan Serco noted:

*"It is proposed that Villawood IDC will be maintained in a higher state of alert to respond to any protest activities without relocating any of the client population, DIAC, Serco and the NSW Police resources, intelligence gathering and protective security measures will be applied to ensure the safety of clients, staff and visitors. All contingency plans have been reviewed over recent months and the Emergency Control Centre (ECC) is in a state of readiness for the management of any situation that requires a concerted "operational" response."*¹⁰⁷

The Immigration Operational Assessments produced by Serco assessed the VIDC as "Medium" in the lead-up to the incident and made no reference to any information received about the possibility of protest action.

As a result of information received, DIAC detention operations staff requested that Serco conduct additional room searches and placed staff on heightened alert. More focused and targeted information collection and more frequent reporting arrangements were put in place by Serco to capture all information associated with potential internal and external protest actions.

Implementation of the contingency plans began on 20 April 2011 with the commencement of the rooftop protest.

¹⁰⁷ Serco Operational Plan VIDC/SIRH "IMA Clients National Rolling Protest" 13/04/2011.

Effectiveness of Intelligence Analysis at the VIDC

To the extent that it was received, the information collected and subsequent analysis at the VIDC proved to be generally accurate. However, the unorganised and spontaneous nature of the incident created a level of unpredictability that was inconsistent with existing indicators.

Reporting indicated that protests could be expected around Easter, but was relatively unspecific in terms of detail and the likely timing. The information available provided critical lead time for Serco to develop and revise Operational Plans in advance of the incident and activate the Emergency Management Plan.

Both Serco and DIAC responded effectively to the range of information collected and available in the lead up to the incident and managed contingency planning processes. Risk planning was undertaken, but it was unable to identify the scale of the disturbance or predict that the protest would involve higher level violence. The volatility and spontaneity of the disturbance was not foreseen and it quickly reached a level of violence that Serco could not contain.

Contingency planning in advance of the protests did not anticipate the magnitude of the violence or its destructive outcomes. In its submission to the Review, Serco stated that “... *although systems for intelligence gathering were in place, Serco did not receive intelligence that, in Serco’s view, indicated an incident of the kind that eventuated was imminent*”.¹⁰⁸

Conclusion

For both the CIIDC and VIDC, it cannot be known whether greater training and experience in intelligence collection, better intelligence analysis systems, greater understanding of the intelligence system by all Serco and DIAC staff, or stronger operation of a JIG would have produced more confident and detailed intelligence at an early stage. The chance that it could have done so, however, and the role that this could have played in earlier and more targeted incident planning underlines the importance of work in this area in the context of proactive management.

¹⁰⁸ Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011, para 8.22.

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Chapter Eight: Security Infrastructure and Detainee Management

This Chapter examines elements of the fourth term of reference, namely the adequacy of infrastructure and detainee management in maintaining appropriate security at the Christmas Island IDC and the Villawood IDC during the incidents of March and April 2011 respectively. The issue of the adequacy of the staffing of each IDC, which is also covered in the fourth term of reference, is discussed in Chapter Nine.

Contract Requirements Relating to Infrastructure and Maintenance

As set out in Chapter Five, the Security Model envisaged by DIAC in framing the IDC Contract is based on elements that include physical infrastructure as a means of safely containing detainees. The IDC Contract requires DIAC to provide this infrastructure and certain associated surveillance and security monitoring equipment and requires Serco to receive an IDC from DIAC and operate the IDC in accordance with the contract.

The Contract also requires Serco to develop a Centre Security Risk Assessment for each IDC that accords with the AS 4360 Risk Management Standard.¹⁰⁹ In developing and updating this Risk Assessment, Serco must take into account a range of factors, including the number and risk profile of detainees in the IDC and the overall security situation, with reference to the condition and arrangement of built infrastructure and associated technology.

The Contract further requires Serco to maintain the facilities provided by DIAC.¹¹⁰ The security obligations of these maintenance requirements are recognised and set out by Serco in the Security chapter of its PPM which describes the checks necessary to ensure that security equipment is functioning correctly. Serco's PPM also sets out how dynamic security should work in concert with infrastructure, including perimeter security and detainee movement within an IDC.

Adequacy of Existing Infrastructure - Christmas Island IDC

While NWP, as designed and built, was generally sturdily constructed and capable of providing adequate medium security infrastructure for the surge capacity of 800 detainees that it could accommodate,¹¹¹ significant infrastructure failures occurred during the March 2011 incident.

As noted in Chapters Four and Six, and as discussed further below, DIAC had implemented changes to infrastructure in order to comply with the Government's Immigration Detention Values and to accommodate increasing numbers of detainees that resulted in NWP operating in a manner that differed significantly from its design. The impacts arising from these changes, along with inadequate maintenance of some of the security features, combined to weaken the overall effectiveness both of the security infrastructure of the CIIDC and of the incident response.

¹⁰⁹ Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clause 1.8.

¹¹⁰ Immigration Detention Centre Contract, Clause 24.4(b) and Schedule 2, Sections 2.2.2 and 2.2.2A.

¹¹¹ *Assessment of the Current Immigration Detention Arrangements at Christmas Island*, Keith Hamburger AM, Knowledge Consulting, 14 October 2010, page 39.

In addition, there were design deficiencies in the construction of NWP which enabled detainees to access and protest from roof spaces, creating dangers to detainees and to DIAC, Serco and AFP personnel.

Failure to Activate or Maintain Key NWP Infrastructure

In response to concerns expressed by external stakeholders about the correctional nature of the NWP facilities prior to opening of the CIIDC in 2008, the EDDS on the NWP perimeter was not activated. When it was finally activated during the March 2011 incident to help control the disorder, it was found that the failure to utilise or maintain it had led to its degradation and diminished effectiveness.¹¹² This was exacerbated by the use of a material in its construction that degraded in the coastal environment of Christmas Island. The EDDS forms a key part of the security of NWP, both in preventing and detecting breaches along its extensive perimeter. Failing to fully maintain this essential piece of security infrastructure substantially weakened the overall integrity of NWP and diminished the ability of Serco and the AFP to establish control during the March 2011 incident.

Recommendation 19

In order to ensure that the EDDS remains an effective means of monitoring the extensive NWP perimeter, it is recommended that the EDDS be regularly activated, maintained and tested by Serco, and that upgrading with appropriate materials be placed on DIAC's capital expenditure plan.

Negation of Key NWP Design Features

As noted in Chapter Six, until shortly before the March 2011 incident, detainees accessed the NWP Accommodation Compounds via vehicle roller doors, which were opened for much of each day and parts of each evening. This decision ultimately assisted detainees in disabling these doors and preventing them from closing, negating a key design feature of NWP.

As the design of NWP intended that the roller doors serve as access for emergency or maintenance vehicles only, and not be regularly opened on a daily basis, the material used in their construction, including the mechanisms used to lock them into place, was not adequate to withstand the physical force to which it was subjected by numbers of detainees. Although anti-ram barricades were provided to ensure that vehicles were not used to breach the roller doors, it would appear that no consideration was given to the possibility that detainees could or would physically lift the doors.

Similarly, the material used in the construction of the gates in the Green Heart was inadequate to withstand the force ultimately applied to it by large numbers of detainees.

Recommendation 20

It is recommended that DIAC investigate use of more sturdy material in the construction of gates and roller doors and their locking and operation mechanisms in medium and high security compounds.

¹¹² Interview between Dr Hawke and Ms Williams and DIAC Assistant Secretary Ingram - 1 April 2011.

As also noted in Chapter Six, following DIAC's decision to connect Lilac and Aqua Accommodation Compounds to NWP, a segment of the purpose-designed and built external perimeter fencing of NWP was removed and replaced with a chain-link fence and gate. Not only did this move in itself materially weaken the capacity to secure NWP, the runway between the two was constructed and secured with the same inadequate materials as used on the perimeters of these compounds. This runway and its gates were breached frequently and easily by detainees throughout the March 2011 incident.

The gate leading from NWP into the Runway to the Lilac and Aqua Accommodation Compounds – this demonstrates how detainees breached the chain-link mesh)



Use of padlocked chain-link gates in the runway (an inferior means of controlling entry and exit when compared to the stronger mechanised gates and doors within NWP) was of particular concern given that detainees were accommodated in Lilac and Aqua Accommodation Compounds without regard to either the security deficiencies of the compounds or security classification of the detainees. Furthermore, detainees seeking to access the Green Heart from these compounds needed to pass through a sterile zone that was not designed to be accessed by detainees, but which had no physical barriers in place that could prevent detainees from moving to other areas of NWP by way of the internal perimeter road through the sterile zone.

Linking Lilac and Aqua Accommodation Compounds to NWP through the sterile zone and with inadequate fencing seriously compromised the overall security of NWP, effectively reducing its security level from medium to low. In turn, this reduced the capacity for placing detainees according to their risk profile.

Recommendation 21

It is recommended that the panel of fencing removed to allow the runway access to Lilac and Aqua Compounds be fully reinstated and maintained to re-establish NWP perimeter security.

Operating the CIIDC Above its Capacity

As noted in Chapter Two, DIAC had insufficient contingent detention infrastructure to deal with a rapid and relatively large increase in detainee numbers fuelled by a wave of irregular maritime arrivals. NWP was the only large modern purpose built place of immigration detention in Australia, and soon exceeded its design capacity. In accordance with Government policy substantial numbers of IMAs remained on Christmas Island, despite a program of transferring some detainees to newly built places of immigration detention on the mainland. At the time of the March 2011 incident, 1841 detainees were accommodated within the CIIDC. This is 441 more detainees than the combined total surge capacity that NWP and the Lilac and Aqua Accommodation Compounds allowed for in their design.¹¹³

In addition to completion of the Lilac and Aqua Accommodation Compounds, DIAC was forced to provide additional accommodation within NWP in areas not intended by its design. Initially, this involved converting the Education Compounds and recreation rooms within the NWP Accommodation Compounds into dormitories, followed by similar arrangements in the Visits and Induction Centre. Further accommodation was provided in marquees near Red Compound outside the secure inner perimeter of NWP.

Demountable Recreation Room converted to dormitory accommodation



¹¹³ See Table 4.

These facilities not only greatly increased the number of detainees within NWP but, as numbers grew further and more beds had to be found, provided increasingly inadequate and inappropriate accommodation for detainees. At the point of maximum occupancy, all detainees were accommodated in bunk beds and the CIIDC was highly overcrowded. This situation was exacerbated by the growing number of detainees held for longer periods of time as DIAC's processing capacity struggled to cope with the big increase in numbers.

The difficulty in finding beds for the rising detainee numbers also meant that DIAC had almost no opportunity to place detainees according to their risk profile. The lack of medium and high risk infrastructure capacity in a network that has to accommodate potentially highly non-compliant detainees, including a growing number of detainees who are on a negative pathway, is of real concern in view of the risk to Serco and DIAC personnel, as well as the detainees themselves, if future mass protests cannot be better controlled.

Recommendation 22

It is recommended that future construction or upgrading of detention infrastructure be planned to allow for sufficient medium and high risk infrastructure within the Immigration Detention Network to match the risk profile of detainees.

As noted in Chapter Two, one of the greatest challenges in the operation of an effective response to IMA arrivals, which are frequently unpredictable, is to maintain sufficient contingency in detention infrastructure. While the size of the waves of unauthorised arrivals is difficult to predict, the ability to activate unused or moth-balled capacity would assist both the safe management of detainees and their health and well-being.

Recommendation 23

It is recommended that DIAC prepare options to maintain contingent immigration detention infrastructure capacity for Government consideration.

Inappropriate Design of Lilac and Aqua Accommodation Compounds

In order to further increase the number of detainees that could be accommodated on Christmas Island, Lilac and Aqua Accommodation Compounds were established in 2010 and operated as part of an enlarged CIIDC. While NWP was purpose-designed and built, these two compounds contained demountable buildings arranged in an "open centre" formation, similar to that used at the now closed Curtin and Woomera Immigration Reception and Processing Centres (IRPCs). Neither of these IRPCs was purpose-designed or built as places of immigration detention, but rather adopted the building placements used for the short-term accommodation of single adult males in military or mining camp barracks.

In an "open centre" formation, several buildings are arranged in clusters within a fenced perimeter. Unlike the NWP Accommodation Compounds, the "open centre" formation does not allow for clear lines of sight for staff within the compound, particularly if they are stationed among the clusters.

This reduces the effectiveness of daily operational security, particularly in monitoring detainees and controlling their access to the perimeter or other critical infrastructure. In the case of Lilac and Aqua Accommodation Compounds, this is of particular concern given the weaknesses of the fences and gates.

In addition to limiting the effectiveness of daily operational security, the “open centre” layout poses difficulties in circumstances where non-compliant behaviour occurs. While the NWP Accommodation Compound design provides areas in which detainees can be separated, including back into accommodation areas which form part of the compound perimeter, Lilac and Aqua Accommodation Compounds contain multiple buildings between which detainees can regroup to challenge or out manoeuvre staff. Furthermore, an “open centre” layout can result in detainees congregating against the fences, which increases the likelihood that these will be breached.

These significant design flaws gave the Lilac and Aqua Accommodation Compounds a low security rating. However, they were used to accommodate detainees of the same classification as those in NWP which, as designed, had a medium security rating. Throughout the March 2011 incident, a number of operational security breaches occurred in these compounds, from fires to assaults, as well as significant breaches of infrastructure, indicating that their design was inadequate for the purpose for which they were used.

Recommendation 24

Further to Recommendation 22, given the limitations of the “open centre” compound formation, which is suitable only for low risk detainees, it is recommended that DIAC commission further design work to determine the compound formations most appropriate for the different types of detainee security risk.

Inadequate Deterrence Infrastructure at Lilac and Aqua Accommodation Compounds

Not only were the perimeter fencing and gates of Lilac and Aqua Accommodation Compounds neither sturdy nor robust as noted in Chapter Six, no detection or deterrence infrastructure was in place on the fencing and no CCTV coverage was provided in either of these compounds. The absence of CCTV coverage across these compounds removed an important element in the prediction and management of incidents, including managing the safety of detainees themselves.

Recommendation 25

Particularly if medium or high risk detainees are to be accommodated in a Compound, it is strongly recommended that fencing be supported by detection or deterrence infrastructure, including CCTV, and that Serco personnel be trained in its operation.

Use of Red Compound

As noted in Chapter Six, the changes to the design of NWP were also significant in the failure of Red Compound to contain detainees adequately on 13 March. As it was not envisaged that detainees would be able to move outside of the secure inner perimeter of NWP to access it, no measures were included in its surrounding infrastructure, or in its design, to guard against an external assault.

Red Compound is a single-storey building containing enclosed outdoor exercise areas and bedrooms constructed of toughened materials, including heavy secure doors and shatter-proof glass windows. It was designed and built to accommodate detainees who could not be safely or securely accommodated in the NWP Accommodation Compounds due to the risk posed to staff or to, or from, other detainees. As such, its furnishings are secured furnishings and it contains few materials that could potentially be used by a detainee to effect an escape, or inflict damage on its infrastructure.

In the event, however, a number of infrastructure flaws were encountered in using Red Compound, beginning with the reception of detainees. Entry into and exit from Red Compound was designed to occur through a carport adjacent to the centre of the Compound and it was intended that detainees would be brought to the Compound via vehicle. However, the electronic access gate (the sally port door) to the carport was not functioning, and vehicle access was restricted to the front of the Compound. This resulted in the detainees having to leave vehicles outside the Compound and be moved to it on foot, a process that was clearly visible to the detainees housed in the adjacent marquees who would have been able to identify the particular detainees being relocated.

It was apparent that there had been insufficient maintenance and testing of the electronic door locking systems, as some detainees were able to open their doors at will. This added to management problems as detainees could only be placed in those rooms that could be locked electronically. Further issues were encountered following the breach of Red Compound, as several of the doors to the rooms used failed to unlock remotely, requiring Serco officers to re-enter Red Compound to release the remaining detainees.

Recommendation 26

It is recommended that Red Compound be regularly tested and maintained and all staff familiarised with its operation and use.

Adequacy of Existing Infrastructure - Villawood IDC

In contrast to NWP on Christmas Island, very little of the VIDC infrastructure, including that which was central to the April 2011 incident, was purpose-designed and built. In May 2010, Knowledge Consulting conducted a security review in response to a series of escapes from the VIDC and identified “*serious deficiencies in the static and dynamic security of the Fowler/Hughes section of VIDC that cannot be rectified by low level infrastructure interventions*”.¹¹⁴

In its submission to the Review, Serco suggested that security advantages would have been achieved by the installation of an external perimeter fence EDDS, installation of upgraded inner perimeter fences, and installation of CCTV cameras covering the perimeter fencing and

¹¹⁴ Security Assessment of Villawood Immigration Detention Centre, Knowledge Consulting, 31 May 2010, page 3.

blind spots within the VIDC.¹¹⁵ These suggestions are consistent with recommendations made by Knowledge Consulting.

The fact that there have been no previous incidents in Hughes or Fowler on the scale of that which occurred in April 2011, despite little change to their infrastructure, suggests that effective dynamic security has been an important element in the effective operation of those sections of the VIDC. On the other hand, the VIDC incidents were largely instigated by detainees from Fowler who were on negative pathways rather than those awaiting processing of their primary decision.

The significant infrastructure design flaws within the VIDC, however, were important contributing factors to the failures of security during the April 2011 incident. Resolution of these design flaws is largely dependent on redevelopment of the VIDC, which is progressive and which is anticipated to result in the demolition and replacement of much of the existing infrastructure on site.

Infrastructure Flaws and Access to the Macquarie Residential Block Roof

The Hughes and Fowler sections of the VIDC were among the first places of immigration detention in which buildings were enclosed by fencing in the “open centre” arrangement described above. Unlike many other places of immigration detention, which were constructed at greenfield sites using single-storey accommodation buildings, Hughes and Fowler contain pre-existing double-storey brick accommodation buildings which were not designed for or sited as places of immigration detention having been erected originally for migrant hostel accommodation.

The position of these buildings therefore constrained the design options available when they were enclosed with fences as part of the expansion of the VIDC. The fencing of Fowler, for example, runs close to the Macquarie Residential Block and was used by detainees to gain access to the roof of this Block during the April 2011 incident as well as previous incidents.

Additionally, the brick Residential Blocks in Hughes and Fowler are subject to the vagaries of age and condition, and more recent alterations have not significantly increased their security. Following the May 2010 review into escape risks, DIAC put in place improvements to the external perimeter gates and fences. However expense considerations meant that it did not install the roof netting and improved “anti-climb” measures that Serco advised would assist in limiting the ability of detainees both to access rooftops from within the Residential Blocks and to remove roof tiles for use as weapons or to gain access to the ceiling cavity.¹¹⁶

Recommendation 27

It is recommended that an infrastructure solution be developed to address the ease with which detainees accessed the Macquarie Residential Block roof, having regard to any impact on the overall security of Fowler.

¹¹⁵ Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011, page 56.

¹¹⁶ Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011, page 56.

Infrastructure Flaws within Hughes and Fowler

While the VIDC has been refurbished and modified incrementally to make it a more pleasant place to live, improvements to facilities within its tightly confined foot print have resulted in reduced open space and compromised security effectiveness.

As with the Lilac and Aqua Accommodation Compounds on Christmas Island, positioning of both brick and demountable buildings within Hughes and Fowler does not allow for clear lines of sight for staff, particularly if they are stationed among the Residential Blocks. This reduced Serco's ability to monitor detainees and control their access to the perimeter or the roof of the Macquarie Residential Block. The layout of Fowler posed particular difficulties in circumstances of non-compliant behaviour, as there were limited areas that could be used for the separation of detainees. Furthermore, both the number of buildings and the number of entrances and exits to them enabled detainees to out manoeuvre staff. These difficulties are illustrated by the rapid deterioration of security within Fowler during the afternoon and evening of 20 April, despite the presence of staff in that location.

As Hughes covers a larger area with twice as many Residential Blocks as Fowler, the difficulties inherent in monitoring and separating detainees are compounded. This is illustrated by the ability of detainees, within a very short period of time, to gain access to a large part of the complex once they breached the Fowler fencing, including to the Medical Centre, Kitchen and Dining Complex and the Visits Area. The capacity for Serco to compartmentalise the destructive impact of the incident was therefore limited, enabling disorder to progress quickly to a stage where Serco was unable to re-establish control.

Infrastructure to Support Detainee Placement Decisions

In considering the absence of previous comparable incidents in Hughes and Fowler, it must be noted that, unlike other places of immigration detention, VIDC has in the past had flexibility for graduated risk managed placement of detainees. While not a fully purpose-designed or built facility, the VIDC has long-established security levels for each of its primary accommodation areas, namely:

- Blaxland - for Higher Security Risk Detainees;
- Fowler - for Medium Security Risk Detainees; and
- Hughes - for Lower Security Risk Detainees.

These security levels recognise the need to ensure detainee safety and security within the centre. This inherent flexibility has traditionally made the VIDC central to the operation of the wider immigration detention network. However, this capability can lead to overuse, or inappropriate use, of the VIDC, which may result in it being overwhelmed by the demands to which it is subjected.

As accommodation pressures increased across the network prior to March and April 2011, detainees were understandably placed wherever there was available accommodation, rather than according to risk profile. When IMAs were transferred to the VIDC in March 2010, it was decided, for operational reasons, that they should be separated from non-IMA detainees within that IDC. As a result, they were exclusively accommodated in Fowler; the non-IMA detainees accommodated in Fowler at the time were relocated to Hughes and Blaxland. After the March 2011 incident on Christmas Island, higher risk detainees were transferred into Blaxland, but no IMAs were permitted to be transferred into the lower security Hughes.

This decision effectively reduced the placement options for all detainees in the VIDC from three (Higher, Medium and Lower) to two (Higher and Lower). The resultant reduction in

capacity to provide separation options for particular groups of detainees, or placement of individual detainees within the VIDC according to their risk profile, compromised the ability of Serco and DIAC to manage issues as they developed.

Adequacy of Detainee Management

In considering the adequacy of detainee management arrangements in the context of the March and April 2011 incidents, it is worth recalling that the contractual arrangements between DIAC and Serco were developed at a time when:

- there were low numbers of immigration detainees;
- detainees were held predominantly as a result of domestic compliance activities; and
- there were relatively rapid rates of removal or visa grants, resulting in a high level of throughput.

The situation in late 2010 and early 2011 was very different, with record numbers of people in immigration detention, low throughput and overcrowding.

The Security Model outlined in Chapter Five recognises that infrastructure alone is not sufficient for safe and effective detention. There must be additional measures that promote compliance, not least of which is a multifaceted and integrated approach to behaviour management that helps reduce the desire of detainees to breach security.

The interconnected elements underpinning effective detainee management are reflected in the Contract. As seen previously, the philosophy of DIAC and Serco's approach to detainee management emphasises their dignity and wellbeing in the context of administrative detention¹¹⁷ through the provision of detention services, including security services, which seek proactively to address issues that may escalate into incidents of concern.¹¹⁸ This is achieved through:

- the daily and highly visible presence of Serco staff and regular contact with DIAC staff, and the two agencies working closely together according to their respective responsibilities under the contract in managing detainees;
- detainee self-agency¹¹⁹ by effective communication, meaningful programs and activities, and developing a functional and effective community; and
- measures that balance persuasion with enforcement in managing non-compliance, including using escalating "pyramids" of rewards and sanctions.

To be effective, these elements should be supported by timely status resolution, where there is a clearly articulated, predictable and transparent pathway for detainees, balanced by detainees' understanding that this is facilitated by the provision of correct background information and identity documentation.

Daily Interactive Presence and Integration of Effort

The Contract reflects the expectation set out in the "People in Detention Philosophy" that people in detention will be managed co-operatively by Serco, DIAC and IHMS to provide integrated and effective service delivery, a practice that necessarily requires the daily and interactive presence of Serco staff at an IDC, with support from DIAC's Case Management service and its focus on resolving status. Formal and informal interactions between these

¹¹⁷ Immigration Detention Centre Contract, Schedule 2, Section 2.2.1, Philosophy.

¹¹⁸ Immigration Detention Centre Contract, Schedule 2, Section 2.2.1, Clause 3.10.

¹¹⁹ Here self-agency refers to people's beliefs in their capability to exercise some measure of control over their own functioning and over environmental events.

staff and detainees underpin the responsive, dynamic security approach advocated by Serco.¹²⁰ Effective implementation of this approach serves to reduce tensions and frustrations among detainees as it provides a basis on which Serco and DIAC can work with detainees to resolve issues that might instigate and escalate incidents, thus promoting the overall security of an IDC.¹²¹

Serco's Individual Management Plans (IMPs) are central to this approach as they are directed towards ensuring that the day-to-day needs of each detainee are considered and met by Serco staff.¹²² An effective IMP involves identification of a detainee's individual welfare requirements as soon as possible after entry into an IDC, and the allocation of a staff member to each detainee to ensure that the IMP is implemented and regularly reviewed. The Contract requires that Serco allocate each detainee with a Serco staff member to act as a personal officer, as part of its Personal Officer Scheme (POS). The POS was not operating at either the CIIDC or the VIDC at the time of the incidents. It is noted that the POS and IMP schemes were developed under very different circumstances, including a lower detainee population in detention and shorter average periods of detention.

The IMPs are to be tailored in line with a detainee's ongoing care needs and reviewed at weekly meetings attended by DIAC and the Health Services Manager at each IDC. The operation of the IMPs is predicated on policies and practices at each IDC that promote high levels of regular, positive interaction between Serco staff and detainees. These practices are intended to enable Serco staff to coordinate access by detainees to services, proactively manage issues before they impact on the well-being of detainees, and document and report matters material to the welfare of detainees.

The focus of DIAC's Case Management service, on the other hand, is the resolution of a detainee's immigration status. In practice, it also works in conjunction with DIAC's Detention Review Committees to decide the form of immigration detention most appropriate for a detainee given their circumstances, and makes decisions implemented by Serco and DIAC Regional Management about placement within an IDC. The tool underpinning the Case Management framework is the Comprehensive Case Management Assessment (CCMA), which Case Managers complete for each detainee shortly after they enter immigration detention. The CCMA sets out the expected immigration pathway, key events, anticipated milestone dates, and the services needed to move the detainee to an immigration outcome. Case Managers work with detainees and other stakeholders to ensure the Plans are implemented expeditiously, and are reviewed at regular intervals depending on a detainee's level of vulnerability.

The Contract requires Serco to cooperate with Case Managers to ensure detainees are managed in a holistic way, and to use its best endeavours to share information to facilitate the early identification of individual needs and the proactive provision of services.¹²³

Implementation of a revised Detention Related Decision-Making Control Framework in November 2010, sought to increase DIAC's Case Management capacity with a view to ensuring that its oversight of IMAs more closely aligned with that of the domestic non-compliance caseload. This change in approach involved Case Managers preparing a CCMA for all detainees on Christmas Island, and regularly reviewing Case Plans for the more vulnerable.

¹²⁰ Serco Policy and Procedures Manual, Security, Section 3.5.

¹²¹ *Assessment of the Current Immigration Detention Arrangements at Christmas Island*, Knowledge Consulting, 14 October 2010, page 12.

¹²² Immigration Detention Centre Contract Section 2.2.1, Clause 3.3.

¹²³ Immigration Detention Centre Contract, Clause 15.

Given that both the POS and the Case Management service was under pressure due to overcrowding, it is not surprising that neither Serco's IMPs nor DIAC's Case Plans were being used effectively at the time of the incidents. Serco's IMPs were neither in place nor regularly reviewed as required by the Contract. Acceptance Testing undertaken in February 2011 at the CIIDC indicated that "tailor made individual programs for people who will be in detention for longer than ten days are not developed." In terms of Case Management, only about a quarter of detainees at NWP had their cases reviewed in the preceding two months as required by guidelines (by comparison, the proportion at the VIDC was almost 100%).¹²⁴

Further, a separate study commissioned by DIAC into the way the POS and Case Management service worked together found that there was a lack of:

- guidance to POS staff about the nature and extent of the information needs of DIAC's Case Managers;
- active collaboration and teamwork between the Personal Officers and Case Managers, including alignment of caseloads between staff of the two organisations; and
- awareness among detainees of the POS.¹²⁵

Recommendation 28

It is recommended that the POS be fully implemented at all IDCs in the network in line with the requirements of the Contract and that Serco ensure IMPs are completed for all detainees and regularly reviewed in partnership with DIAC Case Management.

Recommendation 29

It is recommended that DIAC enhance further its Case Management capacity with a view to aligning IMA oversight more closely with the domestic Compliance caseload, and complete CCMAs for all IMAs in accordance with its Detention Related Decision-Making Control Framework provisions.

Accurate and Effective Communication

DIAC recognises that the way it communicates with detainees requires a shift in focus. Although information about the immigration process and what can be expected is given to detainees, it is not being understood or absorbed. Detainees continue to have unrealistic expectations about their chances of receiving a visa, the timeframe for assessment, and the life they will have in Australia if they are granted a visa.

The length of time people spend in detention clearly affects their attitude towards the information provided to them by DIAC and Serco, and increases their mistrust of DIAC and its role of unbiased decision maker. The longer they are in detention the less likely they are to seek help or advice, relying instead on speculation and the "grapevine". Once detainees stop listening and engaging, the harder it is to re-engage them or to obtain information needed to finalise their case.

¹²⁴ Quality Assurance Review of Clients in Detention, DIAC, June 2011 Draft Report.

¹²⁵ *Analysis of Irregular Maritime Arrival Case Manager Responsibilities*, Workplace Research Associates, Dr Julie West & Dr Janet Tweedie, April 2011, page 5.

Early on in the current surge of arrivals, DIAC's emphasis was on reassuring arrivals as to their safety and providing logistical information about their time in detention, rather than providing a realistic appraisal of the situation they found themselves in and what they could do to facilitate resolution of their case. In addition, the Commonwealth Ombudsman, the AHRC and external advocates have consistently criticised DIAC for not informing detainees of decisions in a timely manner, so that they can decide whether to continue to pursue a visa outcome or opt to return to their country of origin.

It is therefore vital that Case Managers, as a main (though not the only) conduit of messaging, are supported with appropriate tools, and timely and accurate information on the progress of a detainee's case. At present, Case Managers are losing credibility with detainees and it will require a concerted effort on DIAC's part to re-establish that credibility.

Recommendation 30

It is recommended that DIAC provide Case Managers with accurate information on the options available to detainees and progress of their case.

This approach should be complemented by a similarly nuanced strategy from Serco that focuses on its area of communication responsibility, namely the practical and procedural information on the rules and operation of facilities, expected day-to-day behaviour, and activities and programs.

An expectation that this would occur is imbedded in the Contract, in terms of discussion of the nature, content and delivery mechanisms which Serco should use. For example, given the cultural and linguistic diversity of a typical IDC population, the clarity of information is especially significant, particularly as it will often be provided through translating or interpreting services.¹²⁶

DIAC is also seeking to develop and implement a new Status Resolution Focused Communication Framework to address the inherent challenges in engaging with IMAs and to ensure consistency of delivery and messaging across all frontline DIAC roles. Using a variety of delivery mechanisms, this approach aims to:

- manage detainee expectations through building a shared understanding of the legislative and process frameworks detainees are engaged in;
- support detainees' early acceptance of negative decisions and empower them, through education strategies, to be responsible for making informed choices about their next course of action; and
- link information opportunities to focus on status resolution, including preparing detainees for life after detention (whether that be settling in Australia or voluntarily departing).

As part of this framework, there would be benefit in a more concerted discussion at arrival about the importance of providing correct information, including identification documents; otherwise their cases will be delayed until these details can be provided.

¹²⁶ Immigration Detention Centre Contract, Schedule 2, Section 2.2.1, Clause 1.2.8 in relation to Serco obligations and 2.2.4 Clause 1.10.

The Review was informed by a number of DIAC officers of the success some Case Managers have had in personally requesting such documentation and in outlining the benefits of providing such information to facilitating resolution of detainees' cases. This is particularly relevant for detainees who hold travel documents in Property, or are able to obtain copies of documents through email or fax from family and friends.

Recommendation 31

It is recommended that DIAC give priority to finalising and implementing its Status Resolution Focussed Communication Framework and that this include the development of more specific engagement strategies for detainees on arrival concerning the importance of providing full and complete identity information wherever possible.

Meaningful Programs and Activities

The most significant challenge posed by detention environments is that the tasks necessary for daily life, such as working or obtaining and preparing food, are performed by others, leaving the problem of how to fill the time usually occupied by those tasks.

In the absence of normal meaningful activities, there is a significant risk that boredom or frustration can evolve into non-compliance and unrest. The Contract recognises this risk and imposes obligations upon Serco to ensure that detainees are meaningfully engaged in programs and activities to occupy their days in detention.¹²⁷ Activities also form an essential component of effective detainee management, as they provide incentives for compliant behaviour and a means by which detainees can maintain appropriate levels of self-determination and self-agency.

The Contract requires Serco to develop, manage and deliver both structured and unstructured programs and activities, including supervised external excursions, which are designed to provide educational and recreational opportunities to enhance the mental health and well-being of detainees.¹²⁸ There is, however, little specific guidance as to the content of these programs and activities. The Contract also stipulates that Serco provide at least one program activity in the morning and afternoon of every day, although it is unclear whether this means for each facility or that they be available for each detainee (as is the case with detainees at Northern IDC, which receives a specific mention in the Contract).

At the time of the incidents, meaningful programs and activities were not fully operational at either CIIDC or VIDC.

At CIIDC, many rooms designed for education and recreation, including the prayer room, were being used for detainee accommodation, and limitations to accommodation on the Island reduced Serco's ability to provide additional staff to effectively administer the program, including regular excursions.¹²⁹ As indicated above, acceptance testing noted the lack of tailor made individual programs for detainees.

Both Serco and DIAC recognise the importance of developing and implementing meaningful programs and activities and their potentially positive influence on detainee behaviour. Serco's submission contends that *"its capacity to engage in client management could ... have been*

¹²⁷ Immigration Detention Centre Contract, Schedule 2, Section 2.2.1, Clause 1.10 in relation to Serco obligations.

¹²⁸ Ibid.

¹²⁹ Noting there are also limitations on the extent of an excursion program on Christmas Island due to its size and the potential impact on the Christmas Island community.

enhanced at CIIDC had it been in a position to more effectively deploy the various systems it has in place for client dialogue and constructive interaction with clients,” but its ability to do so was “impacted upon by external factors”¹³⁰ outside their control, notably the:

- increases in IMAs arriving at, and accommodated, on Christmas Island;
- increased processing times;
- level of negative determinations in detainees’ applications for visas;
- subsequent lack of availability of amenities and facilities;
- consequent strain on infrastructure; and
- increased risk profile of detainees.¹³¹

At VIDC, there was greater scope for programs and activities, with each part of the IDC having a program of three different activities each morning and afternoon. A decision was made to limit the number of off-site excursions however, due to security concerns arising from escapes and the availability of transport and escort staff, which limited the range of activities available for detainees.

Whatever the reason for this lack at both the CIIDC and the VIDC, the absence of the full range of meaningful activities and programs, coupled with the increased time detainees spent in detention, significantly reduced the effectiveness of this key component of detainee management in the lead-up to the incidents of March and April 2011.

In addition, a number of representations were made to the Reviewers concerning the need for more practical programs that focus on meaningful activity extending beyond simply keeping the detainee busy, including basic business skills that could stand detainees in good stead whether life after detention was in Australia or elsewhere. The Review was advised that Serco appointed a senior manager at the beginning of this year to develop its approach to programs and activities. Serco has endeavoured to introduce more meaningful programs and activities including, for example, carpentry and painting.

Recommendation 32

It is recommended that Serco and DIAC develop and deploy a revamped programs and activities model, focussing specifically on:

- enhancing self determination and decision making;
- providing skills for life after detention, whether that be in Australia or elsewhere;
- maintaining or promoting a work ethic; and
- enhancing detainee well being, by providing the detainee with achievable goals.

Another important element provided for by the Contract is the Individual Allowance Program,¹³² where detainees are allocated points that can be exchanged for small items at the facility shop. The Contract does not specify how these points are allocated, but in

¹³⁰ Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011, page 56, paragraph 8.33.

¹³¹ Ibid, page 27, paragraph 5.1.

¹³² Immigration Detention Centre Contract, Schedule 2, Section 2.2.1, Clause 1.9.

practice detainees receive a basic minimum weekly sum with additional allocations for participation in certain programs and activities. Further, to prevent the accumulation of large numbers of points, and the consequent ability to purchase expensive items, all unused points would expire at the end of a week.

Since the March and April 2011 incidents, Serco has also been working with DIAC to develop and implement a Client Incentive and Earned Privilege Scheme that will emphasise the role of voluntary work as a means of encouraging positive behaviour and provide enhanced rewards both for this behaviour and for participation in meaningful programs and activities.

Recommendation 33

It is recommended that Serco and DIAC finalise the development and implementation of the Client Incentive and Earned Privilege Scheme.

The significant reduction in numbers at Christmas Island since their peak at the end of 2010 will provide the opportunity for these detainee management initiatives to be fully implemented at the CIIDC as well as the VIDC.

Creating Community

Another risk posed by shifting responsibility for normal daily tasks to others in a detention environment is the impact it can have in reducing a sense of community and communal behaviours within the place of detention. If detainees feel disconnected from the broader community outside of detention, their capacity to view themselves and their behaviour in the context of accepted community norms is diminished.

These risks are heightened for IMA detainees in the immigration detention context where individuals from various cultural, religious and language groups are brought together, possibly for the first time, without regard to historical or cultural linkages, and often with limited and incomplete understanding of the culture of the country to which they have come. Ethnic tensions, particularly in the conditions experienced at CIIDC where there were limited amenities, can easily erupt.

Fostering community among detainees, and the communal behaviours it can promote, provides a useful and desirable vehicle for self-regulation and self-determination by detainees. The Contract recognises this by requiring Serco to establish and manage detainee consultative committees¹³³ and to foster religious activities.¹³⁴ These requirements can serve the dual purpose of providing detainees with exposure to the Australian tradition of representative democracy and of recognising spiritual needs and customs, particularly when supported by appropriate educational programs that provide context about such traditions.

When operating effectively, forums such as consultative committees provide an effective means of communication between detainees, Serco and DIAC. They also provide a mechanism for addressing and resolving grievances and a formal environment in which detainees can agree on accepted modes of behaviour and interaction. Similarly, the conduct of these meetings can model accepted forums for detainees to seek to have communal problems and concerns appropriately handled, particularly in cases where these avenues have not been available to detainees in their previous lives.

¹³³ Immigration Detention Centre Contract, Schedule 2, Section 2.2.1, Clause 1.9.

¹³⁴ Ibid, Clause 1.8

The messages provided through these forums can be reinforced by engagement with local communities either by community members visiting detainees at their places of immigration detention, or by detainees engaging in activities outside of their IDCs. The purpose of these visits can range from individual social visits and sporting engagements to participation in scheduled religious and cultural activities. As there is the risk that divisions or views in external communities may be transferred to the detainee population, the impact of such visits needs to be monitored. It is also important that wherever possible messaging from DIAC to external communities relating to immigration detention standards and expectations is consistent, fact based and actively promoted.

In the months prior to the March 2011 CIIDC incident, although Serco and DIAC were conducting regular consultative committee meetings with detainees, the opportunities for detainees to meet with members of the broader Australian community were limited primarily to visits from legal advisers assigned to detainees under the IAAAS. Although some detainees had friends and family outside of the CIIDC, their ability to meet with them was restricted by the distance of Christmas Island from mainland Australia and the costs associated with accessing the island. In addition, engagement with the Christmas Island community itself occurred on a limited basis, and was mainly restricted to visits by religious leaders, and the occasional excursion of detainees to places of worship.

In the months prior to the April 2011 VIDC incident, consultative committee meetings occurred regularly at VIDC, and a large and active visits program for members of the public was in place. As indicated above, however, there were limited excursions due to security concerns.

Recommendation 34

It is recommended that consultative committees, a visits program and social education programs be features of the Security Services Plan of each IDC.

Focus on Status Resolution

The driving ambition of the overwhelming majority of detainees is the grant of a visa and, irrespective of the mitigating interventions outlined above, their actions and well-being are often heavily influenced by their success, or otherwise, in achieving that goal. Regardless of how positive a place immigration detention is made, experience has demonstrated that the length of time in detention is closely related to levels of non-compliance and self-harm.

As noted above, there have been challenges in seeking to improve the rate of status resolution, particularly during 2010 and early 2011 when there was severe overcrowding. Between January 2010 and May 2011, there were 8,370 IMAs, yet only 3,528 such persons had their immigration status resolved either through visa grant (3,435 people), or removal (93 people). For those granted visas during 2011 to the end of May, the average time from arrival to settlement was 305 days.

CIIDC experience in particular has demonstrated that there are limits to the capacity of a Centre to facilitate the timely, efficient resolution of status if numbers are too great. When the CIIDC accommodated IMAs beyond its design capacity, there were not enough interview rooms to work with detainees or accommodation on the island for additional processing teams. Coordination of teams to align with transfers was logistically challenging. Systems support was also inadequate. In short, there was a misalignment between the size of the

population at the CIIDC and the infrastructure required to resolve the status of that population within acceptable standards.

DIAC recognises, however, the importance of resolving the refugee status of detainees to the good order of a Centre and has devoted significant resources to improving throughput, including focussing on particular problems faced in this regard.

The issue of identity is central to achieving status resolution and, as discussed above, there is still more that can be done to obtain identity information as early as possible in the assessment process. In this context, DIAC has introduced Status Resolution Identity Officers to assist with collecting and analysing identity information, and has established an Identity Integrity officer position on Christmas Island. Much work has also been done to design business processes, reinforced by messaging, to ensure IMAs are aware of their responsibilities and the importance of providing supporting identity documentation to the resolution of their cases. From a detainee management perspective, an issue that has consistently arisen is when detainees claim to be either younger or older than they actually are in order to obtain some benefit, usually to do with placement or prosecution.

Many IMAs and SIEV crew members have never been issued with, or have deliberately disposed of, valid documentation stating their age. Age determination is a complex policy issue for DIAC and other Commonwealth Government agencies, and one which affects many other countries that receive asylum seekers. DIAC's duty of care to detainees requires it to make enquiries to *inter alia* determine whether a detainee is an adult or a minor so as to make appropriate placement and care arrangements in immigration detention. The AFP makes similar determinations in order to decide whether to prosecute a detainee as an adult or child.

The issue of security clearances is similarly made complex by the absence of valid identity documentation. Until recently, DIAC referred the cases of all IMAs to the Australian Security Intelligence Organisation (ASIO) for an assessment of the threat that the IMA's presence in Australia on a specific visa would pose to security (a "security assessment").¹³⁵ In December 2010, the Government directed that DIAC only refer IMAs who been found to be refugees to ASIO for security assessment. In late 2010, ASIO also initiated changes to the IMA security assessment process to ensure appropriate use of ASIO resources through an intelligence-led and risk-managed approach. Further, in January 2011, ASIO developed a new referral framework to ensure it could focus more closely on those IMA cases that required intelligence investigation, and on longstanding IMA cases. This framework commenced in March 2011, with DIAC agreement, and enables ASIO to focus investigative efforts on those IMA groups and individuals of security concern. From 15 March to 28 June 2011, over 3000 IMAs found to be a refugee have been considered through this new arrangement.

Despite the efforts of DIAC and other agencies involved in IMA processing, however, it would appear that there is still a lack of timeliness standards and ownership of the end-to-end process. In parallel with the Review's considerations, DIAC has been working on a business model that could assist in this regard. Such a model for resolving status could:

- define what is meant by detention being for the "shortest practicable time" in the IMA context;
- establish an organisational structure that promotes ownership and a single point of accountability for IMA immigration status resolution;

¹³⁵ As defined at Section 35 of the *Australian Security Intelligence Organisation Act 1979*.

- provide certainty to detainees regarding the achievement of the different milestones towards status resolution;
- enable detainees to take responsibility for resolution of their own status, for example through the use of a “Road Map”;
- establish a timely and effective strategy to remove detainees from Australia;
- escalate likely failure to achieve milestones; and
- align strategic decisions around the placement of detainees with the IMA status resolution business operating model.

Recommendation 35

It is recommended that DIAC finalise their end-to-end business model for resolving IMA status.

Behaviour Management

The Contract’s behavioural management requirements for Serco are included in *Clause Three – Individual Management of the People in Detention* Statement of Works. It follows that the development of Individual Management Plans envisages managing those with behavioural problems, either as a result of health issues, when detainees are under the influence of drugs or alcohol, or where there is otherwise illegal or anti-social behaviour. Consistent with the approach more generally regarding detainee management, the focus is on creating a physical and social environment that is conducive to acceptable behaviour and to preventing escalation of incidents.

Behaviour management strategies are at two levels. The first acknowledges that there will from time to time be evidence of unacceptable behaviour, with responses limited to ensuring appropriate services are provided to the detainee consistent with their IMP. This could include the use of the POS, encouraging engagement with staff, ensuring access to communications, ensuring safety and referral to health services.

The second level of intervention, where first level strategies do not appear to have achieved the desired outcome, requires the Centre Manager to discuss the possible use of additional intervention strategies with the DIAC Regional Manager and the Health Services Manager. Interventions may include, for example, referrals to external agencies for assistance, segregation (as opposed to isolation which is prohibited), temporary placement to “cool off”, transfers to other areas within a Centre or to other Centres, restricting access to programs and activities for set periods, and the imposition of curfews.

Use of these interventions must be accompanied by a Behavioural Management Agreement to capture interventions and desired behaviours. In cases of illegal or anti-social behaviour, recommendations by Serco senior management are made to the DIAC Regional Manager about dealing with the perpetrators and preventing recurrence.

As a strategic approach to behavioural management, however, this approach is not sufficiently robust to deal with the changing profile of the IMA caseload.

Most detainees choose to remain compliant or to protest peacefully. There is, however, a growing group of detainees who have received negative decisions at the primary stage, or who have had their appeals refused and have nothing to lose in terms of their immigration status. Both groups of negative pathway detainees present a significant risk to the good order of an IDC.

In the March incident, it was estimated that about 300 to 400 of the 1841 detainees at CIIDC (about 15 to 20 per cent) were actively involved in the disturbance, and eighty of the 100 who were positively identified as being involved in the incidents were found to be on a negative pathway.

Of those, a group of about 40 who were initially identified as possible ring leaders was whittled down to 22 as information was collated and analysed. At the time of writing, 19 of the 22 had been charged by the AFP. Thirteen of those charged had been found not to be a refugee at the primary stage, and only one was found to be a refugee but awaiting security clearance. The remainder were still undergoing assessment. All were from North West Point.

In the April incident at the VIDC, it is estimated that about 60 detainees were actively involved in the disturbance, all from the Fowler compound where the IMAs were accommodated.¹³⁶

This number represented almost 40 per cent of the detainee population at Fowler and less than 20 per cent of the population at both Fowler and Hughes. Of those, 25 were initially identified as Persons of Interest, which has subsequently increased to almost 40. At the time of writing, nine had been charged. All had received a negative decision at the primary stage.

The management of detainees on a negative pathway will increasingly become a challenge to the administration and good order of immigration detention centres. Of particular concern are those for whom removal is problematic, or those who have been found to be a refugee but are not security cleared and cannot be granted a visa.

This finding is further evidenced by two incidents that occurred at the CIIDC during July 2011. The first, from 17-18 July, involved 14 detainees accessing the roofs of NWP Accommodation Compounds. These detainees were predominantly Iranian and Kurdish and were all on negative pathways. Again, from 20-23 July, detainees with a similar profile accessed the roof, modified items for use as tools and weapons, breached compound gates and fences, damaged CCTV cameras and Serco offices, set fires, and threatened DIAC and Serco staff.

In response, the AFP intervened using CS gas and bean-bag projectiles and, along with Serco Emergency Response Team personnel, prevented detainees from accessing the sterile zones and perimeter fencing. As with the March and April incidents, many detainees actively demonstrated that they did not wish to participate in the violence. Those detainees identified as instigating the damage and unrest have been transferred into the custody of NSW Corrective Services.

At present, as a result of a concerted program of mainland transfers, detainee numbers within NWP have fallen to around 600. Of those detainees that remain, however, 86% are on a negative pathway and 53% have spent more than nine months in detention. Incidents of actual and threatened self-harm continue to increase at NWP, recently having reached their highest levels in this current surge.

Recommendation 36

It is recommended that DIAC develop advice for the Government on options for managing detainees on a negative pathway, particularly those who have been found not to be refugees, but where removal is problematic.

¹³⁶ A few IMAs were also accommodated in Blaxland, but they were not involved in the incident, which was restricted to Fowler and Hughes.

A Model for Managing the Good Order of a Centre

To promote integration of effort among stakeholders, in particular DIAC and Serco, in ensuring there is a common understanding of what is required for the good order of a Centre and who is responsible, there would be value in considering the formulation of a Detention Centre Framework for Good Management that draws on the responsibilities set out in the Contract and other factors that promote the good order of an IDC

The development of such as integrated approach to managing the good order of a detention centre could include the following responsibilities:

- infrastructure - provided by DIAC and operated and maintained by Serco;
- physical security - operated by Serco by way of locked gates and doors, alarms, cameras, sensor and deterrence devices and the presence of personnel, to ensure detainees remain safely and securely in immigration detention;
- dynamic security - the model employed by Serco, where personnel are highly visible and engaging interpersonally on a regular basis with detainees so that Serco is alert to any changes in detainees' moods or circumstances. This can provide both deterrence and an alert system in respect to security breaches;
- intelligence - the onus is on Serco to gather and analyse information that is relevant for the effective management of risks within an IDC. This system is supported by Serco's dynamic security model;
- detainee management - Serco is responsible for the day to day needs of detainees within the IDCs, and also provides a system of programs and activities to ensure detainees are appropriately engaged;
- case management - DIAC is responsible for case management, which actively assists detainees to achieve an integrated, coordinated and timely immigration outcome;
- risk assessment and risk management system - drawing on accurate and timely intelligence management, this area is primarily the responsibility of Serco with oversight and input from DIAC;
- incident management arrangements - Serco is responsible for incident prevention and works jointly with DIAC to develop incident management and response policies and protocols; and
- continuous improvement - strong and proactive leadership within Serco and DIAC, committed to continuous improvement in the culture and effectiveness of service delivery.

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Chapter Nine: Staff, Training and Supervision

This Chapter investigates the adequacy of staffing in detainee management and maintaining appropriate security, and the adequacy of training and supervision of DIAC and Serco staff.

The Contract Provides for a Workforce Model

As noted in Chapter Five, the Contract is outcomes based,¹³⁷ relying on the skill and expertise of Serco to deliver specified objectives.¹³⁸ Staffing levels are not prescribed in any detailed way and there are no stipulated staff-to-detainee or staff-to-output ratios, rather:

“The Service Provider will ensure that the personnel levels at the Facilities are adequate to deliver the Services in accordance with this Contract.”¹³⁹

At the same time, the Contract has much to say about the nature and operations of Serco’s workforce. Thus, Part Four of the Contract sets out, in the context of the Immigration Detention Values:

- the objectives, and that these are to be achieved in a spirit of partnership and cooperation;
- obligations in relation to both Serco’s and DIAC’s duty of care; and
- the importance of cooperating with DIAC’s case managers to ensure detainees are managed in a holistic way in accordance with the National Case Management Framework.

Part Five is more explicit about the obligations of the service provider in relation to its workforce, stipulating that at a minimum Serco must:

- identify who will perform the work when it is required, and how it will be executed and validated; and
- coordinate all activities and the functional outputs of all relevant persons including Subcontractors.¹⁴⁰

Serco must also:

- control and rectify faults or other deficiencies which may arise in, or during the performance of, services; and
- manage those risks which are the Service Provider’s responsibility.¹⁴¹

Parts 5 and 6 of the Contract prescribe Serco’s contractual requirements in relation to facility management personnel and key personnel, and the relationship with DIAC’s Regional Management Model.¹⁴² It then outlines Serco’s obligations about their personnel. For example, it is explicit about the competencies and behaviour of Serco’s workforce and subcontractors.

¹³⁷ See Immigration Detention Centre Contract, Clauses 3 and 10.

¹³⁸ Ibid, Clause 3.2.

¹³⁹ Ibid, Clause 21.1.

¹⁴⁰ Ibid, Clause 16(c) and (d).

¹⁴¹ Ibid, Clause 16 (g) and (h).

¹⁴² See Immigration Detention Centre Contract, Clauses 18 and 19 and Part 6. Part 5 also stipulates that DIAC appoint a departmental Regional Manager for each facility, and describes the Regional Manager’s powers, including their ability to give and Executive Direction (Clause 33).

Of relevance from a qualifications and training perspective, it requires that all personnel who carry out work or perform duties under the contract:

*“... are appropriately skilled, trained and qualified to provide the Services in accordance with the requirements of Schedule 2 (Statements of Work);”*¹⁴³

It further stipulates that personnel must be:

- authorised, registered or licensed in accordance with any regulatory requirements for the purposes of services provided, and possess what may be reasonably expected in terms of relevant accreditation or scheme and professional association memberships¹⁴⁴; and
- appropriately authorised and delegated pursuant to the Migration Act or any other DIAC policies and orders for the provision of services.¹⁴⁵

Part 7 of the Contract ensures that similar requirements apply to Serco’s subcontractors which, in the context of security and incident management at Christmas Island and Villawood immigration detention centres, are MSS and Wilson respectively.

Details of the workforce model are fleshed out in the Contract’s Schedules. Clause 3 of Section 2.2.3 of the Statement of Work focuses on the people framework, including Serco’s responsibility to recruit, train, roster and support personnel to ensure that qualified, skilled and experienced people conduct all activities at each facility, and that there are sufficient such personnel to deliver the required services in a context of fluctuations in detention centre populations. Serco is expected to enhance the well-being of its staff through good people practices such as:

- robust performance management;
- ensuring clearly defined roles, responsibilities, and duties;
- appropriate rostering with defined minimum requirements for some roles; and
- ongoing training and development relevant to personnel roles.

Annexure A to that Section outlines the service provider’s obligations for personnel qualifications. Thus, all personnel must have completed Induction training before they commence duty at a facility, and other specific qualifications or additional training is required for a number of identified roles.

More generally, the purpose, function and some of the tasks of Serco personnel are described in the body of the contract, its statement of works and other schedules.

The Contract in Relation to Personnel Managing Security and Incidents

A relevant case in point concerns obligations in relation to personnel who are involved in managing security and incidents at facilities. Section 2.2.4 of the Contract’s Statement of Work sets out at some length Serco’s obligations in relation to providing the delivery of security services, including Entry Control and Centre Security. Part 14 of the Contract details requirements in relation to incidents and their management.¹⁴⁶

¹⁴³ Immigration Detention Centre Contract, Clause 21.2(d).

¹⁴⁴ Ibid, Clause 21.2(e).

¹⁴⁵ Ibid, Clause 22.1.

¹⁴⁶ Ibid, Clause 56.

Consistent with the themes of employing the minimum reasonable security restrictions necessary and focusing on prevention of discontent in preference to managing the consequences of that discontent,¹⁴⁷ Serco is required to provide trained personnel to:

- deliver Security services unobtrusively;
- respond effectively to incidents while treating detainees with dignity and respect; and
- engage with detainees and other stakeholders to detect possible incidents before they occur.¹⁴⁸

Minimum qualifications for security managers and general security staff are listed,¹⁴⁹ including additional training requirements for specific functions such as for the use of force, operation of surveillance systems,¹⁵⁰ searching a detainee, seizure of certain items, screening detainees, conducting a strip search, possessing and retaining confiscated items, searching persons entering immigration detention centres, seizure of illegal items, and biometrics collection.¹⁵¹

In relation to incident management, the Contract stipulates that Serco is required to ensure all necessary resources and expertise are brought to bear to respond rapidly to, and deal effectively with, incidents.¹⁵² As discussed in Chapter Six, it is not clear how far such a response should extend. The absence to any reference to public order management in the Contract, the expectation of joint development of incident management response policies and the relatively low skill level required for security personnel, suggests that services do not extend to restoring control in the context of violent incidents such as riots or mass escapes.

However, it is clear that Serco's role under the Contract includes the prevention of incidents and, in the case of an actual incident, it has an overall management responsibility (including functions to do with preparedness, testing, coordinating, monitoring and reporting). In addition, individual officers are identified to undertake specific emergency response roles (such as First Aid Officer and Control Room Officer).¹⁵³ This is an important point from a staffing and training perspective and will be discussed further below.

DIAC's Staffing and Approach to Workforce Management

As DIAC has outsourced the delivery of detention services to Serco, its main role in that context is managing the Contract.¹⁵⁴

As discussed in Chapter Two, however, DIAC has clear roles in relation to its responsibility for border security and resolving status in the context of its international obligations for refugee protection. Specifically, this has involved carefully designed roles for entry processing, protection obligation determination, case management, identity processing and removals.

Recruitment, curriculum design and training provision are based on job descriptions for each role, with numbers required generally based on either prescribed staff-to-detainee or staff-to-output ratios, depending on the role. DIAC is thus able to calculate its workforce requirements based on the number of detainees, although it can face considerable challenges in meeting those requirements due to the unpredictable nature of irregular people movements

¹⁴⁷ Ibid, Schedule 2, Section 2.2.4, Philosophy.

¹⁴⁸ Ibid, Schedule 2, Section 2.2.4, Clause 1.4.

¹⁴⁹ Ibid, Schedule 2, Section 2.2.3, Annexure A, Clause 1.5.

¹⁵⁰ Ibid, Schedule 2, Section 2.2.3, Annexure A, Clause 1.6.

¹⁵¹ Ibid, Schedule 2, Section 2.2.3, Annexure A, Clause 1.8.

¹⁵² Ibid, Clause 56.3(a).

¹⁵³ Immigration Detention Centre Contract, Clause 56 and Serco Incident Management Protocols, Christmas Island IDC (undated), page 13.

¹⁵⁴ DIAC also provides Detention Operations staff at centres who focus on coordination and support activities to ensure good order in the detention facility.

and the significant timeframes inherent in recruiting and then developing staff to become fully operational.

Contract Management

DIAC's Regional Management team contributes to the good order of an IDC by effectively administering the Contract and ensuring services are provided in line with contract deliverables and DIAC standards. The team:

- undertakes day to day audits, including chairing and providing secretariat support for monthly facility audit meetings.
- manages the relationship with Serco on contract, security and facilities management issues, including reviewing and managing resolution of a daily issues log;
- reports on issues, including undertaking performance management activity, and responds to queries;
- develops and maintains standard operating procedures and identifies training needs; and
- assists with incident management and resolution, including participating in the 24/7 duty phone roster.

These functions are clearly defined in various role descriptions for an IDC's Regional Manager, its IDC contract manager and supporting administrative staff.

In addition, the Contract is explicit about the fact that security will be managed by Serco cooperatively with the Department's Regional Management. As discussed in Chapter Five, the Contract prescribes interdependent touch points, in particular:

- Serco is expected to manage all incidents unless DIAC's Regional Management exercises an Executive Direction;
- Serco has strict reporting requirements to Regional Management;
- Serco must develop, in conjunction with Regional Management, contingency plans where there is risk of an incident occurring; and
- Serco must run annual multi-agency exercises.¹⁵⁵

Importantly, if the Secretary considers that circumstances exist that require the Department to intervene, DIAC has the absolute discretion to do so.¹⁵⁶

In terms of Command and Control management, therefore, DIAC Regional Management has a significant decision making function involving formulation of incident responses, stakeholder engagement and coordination.¹⁵⁷

Case Management

DIAC's Case Managers are required to manage detainee cases from entry into detention to an immigration outcome. They develop a relationship with the detainee, and provide a primary point of contact between the detainee and DIAC, to ensure that all work is undertaken by the relevant parties in a coordinated and planned way with a focus on achieving a timely immigration outcome. Case Managers do not make decisions about a detainee's immigration status; rather they work with detainees and stakeholders to identify and overcome barriers

¹⁵⁵ Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Clause 8.

¹⁵⁶ Immigration Detention Centre Contract, Part 14, Clause 57.1.

¹⁵⁷ Regional Management Team Training Course: Module 5 – Managing Risks and Incidents V3.0, pp23 and following, particularly paragraph 3.2.2. A protocol between the Australian Federal Police, the Department of Immigration and Citizenship, and Serco (draft and undated), Clause 3 and 8.

(including ensuring the health and welfare needs of detainees are being addressed), manage expectations and timeframes, and inform the detainee of the immigration outcome.

Case Managers indirectly contribute to security at a centre. First, they complement Serco's efforts to manage the day to day needs of detainees within a centre. By being an effective conduit of information and messaging relating to the refugee determination process and return options, they are potentially able to allay detainee fears and frustrations and help detainees to make decisions about their future based on accurate information.

Secondly, as discussed in Chapter Seven, detainees may approach Case Managers with information to pass on to Serco.

The first function is clearly described in DIAC's Case Manager role description and subsequently included in their training. The second function is not. Protocols for referring information that has been passed to them should be included in induction training.

Finally, following its response to the Knowledge Consulting report on security arrangements at the CIIDC, DIAC supplemented Serco intelligence capacity on Christmas Island by recruiting a dedicated Security Liaison Officer in 2010. As set out in Chapter Seven, this officer contributes to Centre security assessments by gathering and analysing relevant information from DIAC personnel and systems, and providing that analysis to Serco intelligence and DIAC Regional Management.

Adequate Staffing

Sustainability of security operations and incident management capability at IDCs, and in particular Christmas Island, depends on the ability of both Serco and DIAC to deploy sufficient numbers of appropriately trained staff to the roles each undertakes as identified above. In addition to the challenges posed by limited staff accommodation, the risk for both organisations is that, in seeking to achieve that objective in the context of a significant increase in demand for such staff, pressures will be placed on other areas of the organisation, to provide:

- experienced staff for long term placements;
- intensive training, operational and management support to assist with ramping up capacity; and
- intensive operational and management support during critical incidents.

Serco Staffing Roles and Numbers

Serco sought to meet the challenge of a rapidly increased detention network through recruitment from the local community and elsewhere within Australia and by employing staff that worked for (and were trained by) former DIAC Detention Service Providers, namely G4S Australia Pty Ltd and ACM. Shortfalls were addressed by bringing staff to Australia on Subclass 457 - Business (Long Stay) visas from the United Kingdom.

In March 2011, about a third of Serco's staff at Christmas Island had been recruited from the local community, including the Cocos (Keeling) Islands. The majority, however, were mainland residents who had either relocated or, more typically, worked under "fly-in/fly-out" arrangements having been seconded from other places of immigration detention within Australia. These people stay at accommodation arranged through DIAC while on the Island.

Because of Villawood's location within the Sydney metropolitan area, most Serco staff at VIDC and the adjacent IRH were, at 20 April 2011, permanently based in Sydney.

For roles that do not normally require contact with detainees, Serco subcontracts to Metropolitan Security Services and Wilson Security to provide certain security services at different places of immigration detention. Generally, these services include perimeter security.

Within the immigration detention network, Serco is required by the Contract to employ two grades of custodial staff:

- Client Service Managers (CSMs) who have Certificate Level IV in Security Operations (or equivalent) and have acquired at least five year's experience in managing security; and
- Client Service Officers (CSOs) who have Certificate II qualifications in Security Operations (or equivalent) or who can obtain these qualifications within six months of commencement.¹⁵⁸

Consistent with the intent of the Contract, these officers are responsible for detainee safety, security and wellbeing, maintenance of a secure and stable environment, and pro-active interaction with detainees on a daily basis. To that end, they are expected to build and support a positive communal atmosphere with detainees.

In addition, as discussed in Chapter Eight, the Contract requires Serco to implement a POS, under which individual CSOs have responsibility for the welfare of a number of detainees. At the time of the March and April 2011 incidents, the POS was not fully operational at either the Christmas Island or Villawood IDCs.¹⁵⁹

At the time of the incidents, staffing rosters provided to the Review indicate that there was a significant divergence in staff to detainee ratios between the CIIDC and the VIDC.

Both CIIDC and VIDC were rated as medium security risk in the days leading up to their respective incidents. If it is assumed that staffing numbers at VIDC represent a benchmark, then the disparity in staff to detainee ratios noted above suggests that CIIDC was significantly under resourced given its risk rating.

Although Serco, in its submission, considers staffing at both centres to have been adequate and appropriate at the time of each incident, it notes that its ability to staff the CIIDC was and continues to be limited by the accommodation available to it on the Island. As the incident progressed, and once its scale became apparent, additional Serco personnel were brought to Christmas Island to assist and housed in temporary accommodation acquired locally.¹⁶⁰

The lack of staff accommodation on Christmas Island was a repeated theme throughout consultations and is attested to in several reports. The fact remains, however, that CIIDC security is compromised by inadequate numbers of Serco staff. To mitigate the risk this represents, action is required to either reduce detainee numbers at the CIIDC or increase security staff so that the staff-to-detainee ratio is roughly comparable with VIDC.

As indicated above, the Contract is outcome based and does not stipulate specific staff-to-detainee ratios for any of its roles. This does not, however, negate further focus on this area as an essential management tool to identify potential staffing shortfalls given the risk assessments at a particular centre, particularly where effectiveness of security infrastructure has been lowered to cater for increased numbers of detainees.

¹⁵⁸ Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Annexure A, Clause 1.5.

¹⁵⁹ *Analysis of Irregular Maritime Arrival Case Manager Responsibilities (Phase 3)*, Workplace Research, Dr Julie West and Dr Janet Tweedie, April 2011.

¹⁶⁰ Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011, paragraph 8.36, page 57.

Given the circumstances at CIIDC, an increase in detainee numbers would normally necessitate an increase in staff, and there is evidence to indicate that this happened. From August 2010 to March 2011, for example, Serco security related staff increased by about 35 per cent. This detail was not provided to the Reviewers in any collated form and Serco is not required by the contract to do so unless specifically asked by DIAC. Rather, staff rosters were provided across a number of facilities, each of which had their own format and recording system, which then were analysed by the Review.

Moreover, DIAC Regional Management at both CIIDC and VIDC do not routinely audit Serco staffing numbers against the rosters. These two matters together represent a risk to effective management of the Centres as it limits DIAC's understanding of Serco's capability to deliver security services at IDCs. The Review notes that the DIAC Regional Management in Brisbane has developed a simple tool that would provide DIAC with the above metrics and subsequent assurance about Serco's staffing capability and such a tool could be developed and distributed throughout the network.

Recommendation 37

It is recommended that DIAC agree on a system for collecting Serco staffing metrics and assessing staffing capability at each Centre and that this be distributed for use across its network.

Serco's attempts to staff its Intelligence Officer role on Christmas Island provides a case study in the difficulties both organisations have faced in recruiting appropriately trained and experienced personnel to Christmas Island. As seen in Chapter Seven, although the role was filled for most of 2010, it was occupied by generalist security officers, including a former Human Resources manager, and occasionally on a part time basis, noting that the Contract requires only that "appropriately trained" Service Provider Personnel perform, at each Centre, intelligence analyst functions.¹⁶¹ In late 2010 and early 2011 the position was vacant, and it was only in the weeks before the incident that Serco was able to recruit an appropriately qualified intelligence analyst with relevant experience.

Whereas the Contract requires the appointment of personnel to undertake intelligence analysis, there is no such requirement for negotiators. In the context of ensuring capability to manage incidents, however, Serco created a pool of CSOs and CSMs who were selected and trained to serve as negotiators for facilities around Australia. In January 2011, Serco informed DIAC that it had 38 negotiators in the pool, with one of its senior Christmas Island managers also being an experienced hostage negotiator.¹⁶² By May 2011, Serco had appointed eight such staff who were based at Christmas Island, and six at the VIDC.¹⁶³

DIAC Staffing Roles and Numbers

DIAC's experience in recruiting and training staff as part of its overarching response to the rapid increase in IMAs was discussed in Chapter Two. From an initial short term Task Force approach, DIAC sought to establish a business as usual footing and significantly increased numbers in various roles, while also lengthening the duration of placements from several weeks to six to 12 months.

¹⁶¹ Immigration Detention Centre Contract, Schedule 2, Section 2.2.4, Clause 1.7(a)(iii).

¹⁶² Letter from Serco to DIAC, dated 18 January 2011.

¹⁶³ Submission by Serco Australia to Independent review into the Christmas Island and Villawood Immigration Detention Centre incidents of March and April 2011, Annexure 18.

In relation to DIAC's Regional Management Model, its staffing structure includes:

- IDC Contract Management Support (APS 4);
- IDC Contract Management Administration (APS 5);
- IDC Contract Managers (APS 6); and
- IDC Senior Contract Managers (Executive Level 1).

None of these positions require qualifications in contract management.

The approach to contract management varies between the two IDCs. At the VIDC there is a very clear distinction between DIAC's role as contract manager and Serco's role as Service Provider with an emphasis on ensuring that the requirements of the contract are adhered to. Acceptance testing in accordance with the Contract conducted by PwC in February 2011 supports this view, with the VIDC performing well against the Statement of Work.

In the highly pressured environment of Christmas Island characterised by overcrowding and less capability to manage that overcrowding, there has been a greater propensity by DIAC to depart from the strict provisions of the Contract on the grounds that the circumstances meant that it was difficult to hold Serco to the standards required. DIAC's willingness to deal with issues jointly with Serco is an understandable approach in a complex and challenging operational environment. The downside is that DIAC could expose itself through taking responsibility for problems or implementing solutions that are those Serco has been contracted to manage, and the subsequent assessment of contract performance is more difficult.¹⁶⁴ Unsurprisingly, the CIIDC performed relatively poorly in acceptance testing by PwC.¹⁶⁵

The issue of training in managing the Contract is considered further below.

In relation to its Case Management service, DIAC operates three levels of Case Manager, all of which require a Certificate Level IV:

- Case Management Assistant Director (EL1);
- Case Manager (APS 6); and
- Case Manager (APS 5), who require supervision by experienced Case Managers at the APS 6 or Assistant Director level and work with a less complex caseload.

At the time of the incident, there were 24 Case Managers and three Assistant Directors working on Christmas Island at an officer-to-detainee ratio of about 1:70, with about 85 per cent trained at the Certificate IV level (the remainder were considered Assistant Case Managers, having received truncated training). In Villawood, where recruitment and accommodation was not an issue and there was already some existing case management capacity to manage the domestic compliance caseload, the ratio for managing the VIDC IMA cohort was about 1:30 and for the non-IMA caseload about 1:20, all of which were Certificate IV trained.

As with Serco's CSOs, it would appear that, at the time of the incident, there were not enough Case Managers at CIIDC to provide effective case management oversight for the IMA population. When a Case Manager's caseload becomes too large, they simply do not have sufficient time to complete their Comprehensive Case Assessments, or review those

¹⁶⁴ See *Contract Management Review, Detention Services Contract*, March 2011, PricewaterhouseCoopers.

¹⁶⁵ See *Report on Acceptance Testing – Christmas Island (Northwest Point IDC, Phosphate Hill APOD, Construction Camp APOD, Lilac/Aqua) to 13 January 2011*, PricewaterhouseCoopers; *Report on Acceptance Testing – Villawood Immigration Detention Centre*, November 2010, PricewaterhouseCoopers.

assessments, leading to gaps and inaccuracies in a detainee's history and to a lack of understanding of barriers or other circumstances that may be affecting case resolution.

There were also concerns within DIAC that Case Managers were undertaking functions which in normal circumstances were Serco's responsibility, such as incident and behaviour management and seeking out information on the mood of the centre. DIAC commissioned Workplace Research and Associates to undertake a review of the DIAC Case Management and Serco Personal Officer roles at various facilities, including at Christmas Island and the VIDC. That review found in February 2011:

"the scope of the two roles, as designed, were appropriate; however incomplete rollout and implementation of the Serco PO role has led to Case Managers occasionally performing PO duties in some IDCs".¹⁶⁶

At the time of the incidents, this risk remained, particularly given that the Personal Officer Scheme had not been implemented at either CIIDC or VIDC. As recommended in Chapter Eight, these roles should be fully staffed.

Other roles specific to managing incidents include the DIAC Duty Officer at both the IDCs and in National Office, and representation at the local and national command suites. In both instances, rosters are arranged, drawing on the Senior Executive Service and Executive Level staff from across DIAC, though principally from the Immigration Detention Services Group.

As discussed in Chapter Seven, the DIAC Security Liaison Officer role at Christmas Island was established in 2010 at the Executive Level 1, with duties that broadly reflect Serco's Intelligence Officer role. Although the position does not require any particular qualifications, the present occupant has extensive experience in undertaking intelligence functions in the immigration detention environment.

Adequate Training and Supervision

Training, in the context of this Review, is taken to include a range of development mechanisms, such as:

- formal training for qualifications, delivered through a variety of platforms;
- on-the-job training, which may be formal (for example by way of a mentoring program or workbook exercises), or ad hoc transfer of knowledge;
- information sessions;
- handover sessions; and
- joint training exercises.

Supervision will focus on levels of oversight, span of control issues and clarity of direction.

Serco Training and Supervision

As required by the Contract,¹⁶⁷ evidence provided to the Review indicates that Serco has developed training programs tailored to the CSO role and staff more generally. The four week induction training course provides a *Certificate II Security Operations* qualification and covers areas relevant to security management at an immigration detention centre, including

¹⁶⁶ Analysis of Irregular Maritime Arrival Case Manager Responsibilities (Phase 3), Workplace Research, Dr Julie West and Dr Janet Tweedie, April 2011.

¹⁶⁷ Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Annexure A, Clause 1.1; and Section 2.2.4, Clause 1.4.

use of reasonable force and restraints, control of persons, searching and preservation of evidence, and intelligence. There is no specific Serco CSM training for *Certificate IV Security Operations*, the expectation being that such officers have existing relevant qualifications.

Serco contends that the training program it provided to its staff and management, including in relation to incident response and the use of force, exceeded its contractual obligations. It cites as evidence its Centre Security Services Plan which outlines the rostering, training and qualification requirements for all personnel provided by Serco on induction. The Plan provided to the Review refers to an Annex that details a Schedule of Exercises, but none of the Annexes, including the Exercise Schedule, was included. Separately, the February 2011 Acceptance Testing found that Serco does not maintain sufficient records to demonstrate the required certification and qualifications for personnel. From a contract administration perspective, this is a significant performance management deficiency.

Recommendation 38

It is recommended that DIAC require Serco to maintain records on the certification and qualifications for personnel that are provided under the Contract, and Regional Management Teams audit these regularly.

This is not to say that training was not provided. In fact there is evidence that Serco places considerable emphasis on developing its workforce; DIAC independently supplied the Review with a training schedule which showed Serco provided over 20 induction training courses at most of its sites in the 12 months leading up to the incidents. In relation to the IDCs under review, Serco provided two site specific induction training courses at Christmas Island in July and October 2010 and three at Villawood, in May and October 2010, and March 2011.

In addition, the Acceptance Testing confirmed that, by early 2011, Serco had at least submitted to CIIDC and VIDC Regional Management a program of refresher training that would be implemented within two years.

Training for the intelligence management function has been addressed in Chapter Seven, where deficiencies in the staffing aspects of the intelligence analysis function have been noted. It is sufficient here to reinforce the point that Serco officers undertaking that function should obtain additional qualifications over and above those identified in the Contract for security staff, and that this would involve completing specific training aimed at giving staff the knowledge and skills required to act as an intelligence analyst in a detention setting.

In terms of incident management, by February 2011, all senior Serco management at the CIIDC and VIDC, and in Serco's Head Office in Canberra, had received "Command of Serious Incident" training delivered by a specialist in the area of crisis negotiation "to ensure incidents are brought to a safe conclusion using tried and tested methods."¹⁶⁸ Further, in letters to DIAC of 13 October 2010 and 18 January 2011 respectively, Serco indicated that it had recruited additional trainers to deliver Incident Command, Emergency Control Officer and Contingency Response training. The trainers were to focus on promoting a "Security and Intel driven workforce" to identify and disrupt events before they become an incident or crisis. Specialist negotiator training was provided to create Serco's pool of 38 Hostage and Crisis Negotiators, with further training scheduled for 2011. As of May 2011, this pool had grown to over 50. Audits were also to be conducted to ensure that appropriate emergency response equipment and clothing was held at each site.

¹⁶⁸ Letter from Serco to DIAC, dated 18 January 2011.

To consolidate the training, and in accordance with the Contract, each site was required to conduct a fire and evacuation live exercise, and a hostage live exercise within the first quarter of 2011.¹⁶⁹ The Schedule of Exercises recently provided to the Reviewers by Serco indicates that, in the lead up to the incident at the CIIDC, these exercises included live emergency evacuation drills or relatively low level, desk-top incident management responses.

At the VIDC during the latter half of 2010, there were eight Table Top Contingency exercises addressing a range of scenarios, mostly limited to Serco staff. One of these, held in August 2010, was a joint public disorder Table Top exercise involving Serco, DIAC, the NSW Police, fire and ambulance services, IHMS and the local Council. The live exercises referred to above were not conducted within the first quarter as detailed in Serco's letter, although in the week leading up to the VIDC incident, live fire/evacuation Emergency Response exercises were undertaken, probably in response to the information received about possible disruptions over the Easter Weekend. The scenarios tested, which were limited to Serco staff, comprised an escape from the Medical Centre on 13 April 2011, a fire/evacuation from Blaxland on 15 April, and a fire/evacuation from Hughes on 19 April. The hostage exercise was undertaken in June 2011, after the incident.

In its submission, Serco indicates that these exercises were used to review and amend existing incident management, emergency response and contingency plans. This is required by the Contract and good practice.

It would have been highly beneficial, however, if the live exercises leading up to the CIIDC and VIDC incidents had included a range of other stakeholders, particularly DIAC and IHMS. At least once a year, all relevant stakeholders, including where appropriate the AFP and local police, should participate in a joint live exercise that tests critical scenarios relevant to the particular Centre, similar to the AFP instigated and led Interagency Discussion Exercise, jointly developed by DIAC, Serco and the AFP, that was delivered at the CIIDC in February 2010. For CIIDC and VIDC, this would include public disorder scenarios so long as the detainee population remains volatile.

In terms of supervision, Serco staffing rosters indicate that between five and six CSMs or Assistant CSMs were on day duty at NWP, and two to three in Lilac and Aqua, in the days and months leading up to the CIIDC incident. This increased to seven or eight managers at NWP during much of the actual incident itself. These numbers reduced to two to three for night duty at NWP and one to two for Lilac and Aqua. The staff were supported by Centre and Operations Managers.

At the VIDC, senior management, such as a Centre Manager, are onsite every business day and subject to on call arrangements after hours. Over the weekend, one site manager visits each day, with one night visit per fortnight. There is a Duty Operations Manager onsite at all times and a CSM at each compound at all times.

Observations were made to the Review that some of Serco's senior management were not aware of the Australian specific incident management protocols and approaches, including in relation to public order management. Although the Review is not in a position to validate this observation, the matter would be largely resolved by ensuring live joint exercises were conducted at least once a year, based on finalised joint incident management protocols.

¹⁶⁹ Letter from Serco to DIAC, dated 13 October 2010.

Recommendation 39

It is recommended that Serco run live exercises in incident management based on joint incident management protocols involving all relevant stakeholders at least annually and preferably more often where there is a risk of volatility in the detainee population.

DIAC Training and Supervision

To develop its capacity across a range of functions, DIAC devoted significant resources to designing and delivering highly tailored training for each operational role associated with the IMA response. The development and deployment model used was principally based on that developed by the Department's Compliance College. The scale of its activity was significant and its implementation professional, but the example below also serves to demonstrate the strain such a response placed upon the organisation as a whole.

By way of illustration, in early 2009, when it became evident that the current surge was to extend into the medium term and the number of IMAs arriving continued to increase, there was intense focus on developing or redesigning courses for six specialist roles, including Entry Interviewers, Case Managers, Assistant Case Managers, RSA officers, Regional Management, and Removal officers.¹⁷⁰ These courses were then delivered, both end-to-end and in parallel, over a period of 18 months and continue to be delivered at the time of writing. Between July 2009 and March 2011, 60 such courses were delivered to 1108 officers, representing over 24,000 training days, two thirds of which were face-to-face and a third consisting of structured mentoring and assessment using workbooks and detailed exercises. The Regional Management and Case Management training is of particular relevance to the Review.

The Regional Management training course was a relatively late inclusion to the suite of IMA training products. The ten day course was designed in mid 2010 and subsequently piloted in November of that year. Comprising seven modules, it covers areas such as the immigration detention context and framework, managing relationships and working with stakeholders, working with and understanding the Contract, managing risk and incidents, and responding to and reporting on service delivery. By March 2011, three further Regional Management Courses had been delivered, training 58 DIAC staff.

Staff new to DIAC received a further two day orientation course. Delivery partners included the NSW Institute of Psychiatry and specialist contract management trainers.

The lateness in developing standardised Regional Management training exposed the Department to risks relating to the effective and appropriate administration of the Contract. On Christmas Island, in particular, where the intense operational pressures have led to closer partnering with Serco and some merging of roles to develop solutions, Contract management requires significant understanding of the Contract's provisions and skill in knowing how to manage them on a day-to-day basis. DIAC's Regional Managers on Christmas Island have performed strongly in managing immediate logistical and relational risks to the IMA response, but none have been specifically trained in contract management (let alone having any qualifications in contract management), nor received training in the detailed provisions of the Contract. In effect, they have learned on the job.

¹⁷⁰ In fact, there are others, such as Compliance Status Resolution Identity Officers, and of course business as usual roles, such a Compliance Field Officers, Compliance Status Resolution Officers and Investigators to name a few.

Recommendation 40

It is recommended that DIAC review its training requirement in contract management for senior level staff in IDCs to ensure both that they have skills in contract management more generally and that they understand the more specific requirements of the Detention Contract and its provisions.

The Case Management training course was a pre-existing course which was partially redesigned for the IMA context and, in an attempt to increase staff numbers rapidly in this area, was shortened for a new supporting Assistant Case Manager role. The full Case Management training program involves five weeks of face-to-face training in DIAC's National Office and four weeks structured workplace mentoring in a State Office under the guidance of an experienced mentor. Comprising 13 modules, it covers many topics including working with detainees, stakeholder engagement, developing and implementing a case plan, achieving an immigration outcome, and a module entitled "Looking after Yourself."

Between July 2009 and March 2011, the Compliance College delivered 16 Case Manager programs to 325 participants and eight Assistant Case Manager programs to 147 participants. The high number of courses conducted was because of the short term nature of initial placements, and the need to create a pool of Case Managers from which the IMA response was able to draw appropriately trained staff. Delivery partners include the NSW Institute of Psychiatry, and specialists in communication and interview skills, cultural awareness and employee assistance. Successful completion of the full Case Manager training program results in a *Certificate IV Case Management*.

The design and deployment model used by DIAC conceptually represents a best practice approach. Due to the haste involved in implementing it, however, the model will require ongoing refinement and resourcing to ensure that training prepares officers for the realities of the IDC environment, particularly Christmas Island and other remote localities. The mentoring component of the model goes some way towards acclimatising officers, particularly new staff, but needs to be supported by effective induction support on arrival at a facility.

Recommendation 41

It is recommended that the DIAC training model continue to be sufficiently resourced to provide role specific training that incorporates face-to-face training, mentoring and site induction.

There were training deficiencies in relation to DIAC's contribution to incident management and in preparing staff more generally for potential critical incidents from a contingency or emergency response perspective, particularly when there is significant public disorder.

Although Regional Management Training includes a module on Managing Risks and Incidents, the module focuses more on reporting those incidents and less on working with other stakeholders in the formulation of a response to major incidents. This is not surprising given the general lack of development of policies and protocols in incident management, which is discussed in detail in Chapter Five.

Recommendation 42

It is recommended that DIAC improve training of DIAC Regional Managers and their staff following finalisation of joint incident management protocols, with particular reference to identifying:

- roles and responsibilities in local and national command suites;
- methods of communication and coordination within the command suites; and
- protocols more generally, including in relation to contractual matters such as “hand-over/hand-back” and the roles and responsibilities of other stakeholders within the command suite.

Finally, a common observation made in relation to both incidents was that DIAC staff who were affected by the incidents, but who were not directly involved in management of the incidents, were not aware of what was happening, nor what was required of them. This matter was of particular concern during the Christmas Island incident where detainees were at large in the community and threats of harm to DIAC officers had been made. DIAC management at the time did its best to contact other staff about the incident, but there was inconsistency of messaging and understanding of what to do when, for example, an off duty DIAC officer came into contact with a detainee.

This issue would be resolved to a large extent if DIAC staff were involved in joint emergency response exercises with Serco, and staff were made familiar with local contingency plans.

Chapter Ten: Communication and Coordination

This Chapter examines the effectiveness of communication and coordination between DIAC, Serco and other relevant Government agencies and contractors in the context of managing security at the IDCs and in managing an incident. This analysis will consider business-as-usual communication and coordination in delivering services under the Contract, and communication and coordination during an incident.

Communication and Coordination during Business-As-Usual

The roles and responsibilities of Serco and DIAC in managing security and incidents were explored in Chapter Five. Underpinning those roles and responsibilities is the need for effective communication and coordination between DIAC, Serco, other relevant agencies and service providers. Such a relationship is also highly important in managing the centres in line with the Immigration Detention Values.

In this context, the Contract provides that Serco should implement and manage its internal governance arrangements to foster cooperation and a professional working relationship with DIAC, the DIAC Regional Manager, other service providers and other stakeholders operating in each Facility.¹⁷¹

Specifically, Schedule 4.2, which sets out the formal governance structure underpinning the Contract includes:

- a discussion of the partnering approach expected of Serco, DIAC and other service providers and stakeholders;
- a description of how Serco will be required to work with DIAC to build a long term relationship and improve service delivery; and
- the Contract management structure that will be in place at a facility and at the national level, including the committees and joint initiatives in which Serco is required to participate.¹⁷²

Effective coordination and communication requires not only effective relationships between the stakeholders but information provision that is rigorous and up to date. Thus, the philosophy behind Business Services and Continuous Improvement in the Contract envisages that Serco will provide routine and non-routine reports to DIAC and its Regional Management to ensure it remains informed about all issues that could affect delivery of services, the safety and security of detainees and the condition of facilities.¹⁷³ Schedule 4.3 summarises Serco's reporting responsibilities and refers to proper reporting and entry of data into DIAC's IT system to ensure receipt of accurate and timely information in order to make operational and managerial decisions.¹⁷⁴ Reporting requirements in relation to incidents will be discussed later in this Chapter.

Despite pressures arising from managing the rapidly expanding detention services network, the Review observed a good working relationship between Serco and DIAC, with ongoing communication and coordination on matters relevant to day to day management and control of immigration detention facilities. The level of communication and coordination is illustrated

¹⁷¹ Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Clause 5.1(a)(i).

¹⁷² Immigration Detention Centre Contract, Schedule 4.2, Clause 1.3.

¹⁷³ Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Philosophy.

¹⁷⁴ Immigration Detention Centre Contract, Schedule 4.3, Clause 1.1.

by the commitment of both parties to the specific governance mechanisms that facilitate communication and coordination as set out in the Contract, such as daily, weekly and monthly meetings with representatives from DIAC and other service providers. These mechanisms are well established in the context of business-as-usual, where there is greater clarity of roles and responsibilities in relation to the day to day management and control of the CIIDC and VIDC, but are less so in the context of critical incident management, where clarity of roles and responsibilities is not as clear.

Systems for Recording and Managing Detainee Information

As noted above, accurate, timely and accessible information is fundamental to communication and to comprehensive and coordinated detainee management.

In parallel with the Review's considerations, DIAC has been working on a comprehensive Quality Assurance Review of all persons in detention (the Detention Review).¹⁷⁵ While that review is not yet complete, the following issues that it has identified are relevant to this Review's Terms of Reference.

Potential for Detainee Placement to be Incorrectly Recorded in the System

DIAC's Detention Review undertook a reconciliation of all databases and spreadsheets used to manage detainee location. In relation to the movements in to and out of detention and transfers between detention locations, the Portal covers all detainees while the Detention Operations Nominal Roll only covers information on IMAs.

The Detention Review identified challenges in ensuring records were reconciled when various data sources are being used and noted that, while DIAC continues to use separate spreadsheets and databases to record and manage separately the location of detainees, there is potential risk of "losing" a detainee's whereabouts in the system.

Potential for Breakdown in Detainee Management

The picture of a detainee's engagement with DIAC depends on having a good record of milestone events recording in DIAC systems. The Detention Review found that there were gaps, inaccuracies and inconsistencies in recording milestone events for detainees, which makes the process of managing detainees very difficult.

Concerns around the overall responsibility for end-to-end management of IMA detainees and the respective roles of case management and detention operations were also raised, confusion about those roles impacting on consistency in application of business processes and data entry across the network.

Clear Communication about Case Progress

Gaps, inconsistencies and inaccuracies in information also create difficulties for case managers in communicating with detainees about progress of their case. This is critical given the uncertainty and anxiety being experienced by detainees.

One key area of detainee engagement involves hand downs of decisions (notification of decision outcome). The Detention Review found that the data recorded for decision hand

¹⁷⁵ Quality Assurance Review of Clients in Detention, June 2011 Draft Report, Detention Assurance Review of all Clients undertaken in May 2011.

downs was not an accurate reflection of the timeliness of hand downs due to the range of inconsistent data entry practices used.¹⁷⁶

Issues were also identified in relation to challenges encountered by case managers in communicating with detainees on Christmas Island, such as the lack of factual information about case progression and expected timeframes. Further to this, it was noted that case managers are often not briefed about what other key stakeholders, such as CISSR, have told detainees, which can lead to inaccuracies in information being provided.¹⁷⁷

A new case management communication strategy is under development to describe the role case managers should undertake in communications with detainees who are being assessed for refugee status. This strategy, to be rolled out to each location once it has been finalised, was discussed in Chapter Eight.

Recommendation 43

It is recommended that DIAC:

- move to one mandated source of recording detainee location, utilising a single system or database, and that it ensure that data is entered in a timely manner by all relevant parties;
- clarify the roles and responsibilities with regard to end-to-end management of IMA caseload needs;
- clarify rules for data entry of milestone events for detainees; and
- improve the quality and consistency of data entry practices in relation to decision hand downs.

Management of Information concerning Incidents

Incident and Situation reporting are an important means for Serco and DIAC to understand what is happening in the detention services network. A significant number of incidents are reported by Serco. According to DIAC records, for example, DIAC received 9,157 incident reports from Serco over the period 1 October 2009 to 30 June 2011.

Incident Reporting Framework

The Contract sets out the requirement for Serco to report on incidents as they occur in places of immigration detention.¹⁷⁸ This requirement includes the type of events that are considered incidents, the category of incident applicable to each event, and the timeframes and forms in which these incidents are to be reported to DIAC. There is also provision for reviewing an incident after it has occurred with a view to analysing:

- causes and contributing factors;
- actions taken by staff in response to the incident;
- deficiencies in processes, procedures and training; and
- courses of action to address concerns arising from the above.

¹⁷⁶ Quality Assurance Review of Clients in Detention, June 2011 Draft Report, page 26.

¹⁷⁷ Quality Assurance Review of Clients in Detention, June 2011 Draft Report, page 26.

¹⁷⁸ Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Clause 8.1(e) and Clause 8.7.

Briefly, the process followed in response to and reporting on an incident is:

- Serco staff become aware of an incident and act to resolve it;
- Serco staff notify Serco management of the incident;
- Serco staff orally notify DIAC Regional Management staff of a Critical or Major incident;
- upon completion of their role within the incident, Serco staff prepare written reports to Serco management;
- Serco use these reports to prepare an Incident Report in the shared DIAC computer system; and
- within seven days of the incident occurring, Serco conducts a post-incident review (for Critical and Major incidents).

Recording the incident in the shared DIAC computer system (the Portal) enables the Incident Report to be accessed by DIAC Contract Management staff who are able to ascertain whether contractual obligations have been met; these obligations may include compliance with reporting requirements as well as compliance with other requirements relating to the management and treatment of detainees.

It is noted that, while the rate of incident reporting is broadly within expectations for a large detention network and there is no evidence to suggest that incidents are being under-reported, the quality of Incident Reports varies from site to site, including the format of commentary in free-text fields and the terminology used.

In accordance with the Contract, Serco is also required to undertake post-incident reviews.¹⁷⁹ However, in its January 2011 Acceptance Testing Report for Christmas Island, PwC found that post-incident reviews were not being completed very often and, when completed, were deficient and at times inaccurate. Further, PwC found that post-incident reviews were not routinely addressed at the weekly DIAC review or other meetings.¹⁸⁰ This leads to the conclusion that there is no, or very limited ongoing systemic review of incidents by either Serco or DIAC at Christmas Island.

On the other hand, post-incident reviews have been conducted at Villawood. In addition, it is noted that the VIDC has developed an incident reporting tool to ensure consistency and quality in the written reports and has explanatory notes in regard to what an incident category means. This reporting tool is currently with DIAC National Office for consideration and possible further dissemination throughout the network.

Incident reporting in the Portal needs to be full, timely and accurate, and must clearly identify the risk and the nature of the incident to provide DIAC with a foundation for program design and policy development, and a clear view of end-to-end incident management across the Detention Services Network.

Recommendation 44

It is recommended that DIAC conducts a systemic review of the quality, timeliness and accuracy of incident reporting and post-incident reviews to ensure that Serco is fulfilling its reporting obligations under the Contract.

¹⁷⁹ Immigration Detention Centre Contract, Schedule 2, Section 2.2.3, Clause 8.8.

¹⁸⁰ *Report on Acceptance Testing – Christmas Island (Northwest Point IDC, Phosphate Hill APOD, Construction Camp APOD, Lilac/Aqua to 13 January 2011)*, PricewaterhouseCoopers, page 22.

Situation Reporting Framework

In addition to Serco's Incident Reporting requirements set out in the Contract, DIAC has instituted its own internal reporting system for certain types of incidents in the form of Situation Reports ("SitReps").

The purpose of SitReps is to alert stakeholders and the Minister to incidents occurring within the Detention Services Network and facilitate appropriate responses.

Briefly, the SitRep process is as follows:

- DIAC Regional Management staff are notified orally of a Critical or Major incident by Serco management;
- DIAC Regional Management staff telephone DIAC National Office;
- DIAC National Office staff determine whether a SitRep is necessary, in consultation with Directors or above;
- DIAC National Office staff draft a SitRep for clearance by a Director or above; and
- once cleared, the SitRep is distributed, via email, to stakeholders, including the Minister, DIAC Senior Executive, National Communications Branch, Governance and Legal Division, and the Immigration Detention Services Group.

In addition to the above, in emergency circumstances DIAC National Office staff may send an SMS alert to key internal stakeholders and the Minister.

The process outlined above operates on a 24 hour, seven day a week basis, with Executive Level 1 and 2, and SES Band 1 and 2 staff rostered both from within and outside the Immigration Detention Services Group to perform the DIAC National Office role outside of business hours.

Although the SitRep system can provide a timely means of alerting internal stakeholders of events occurring within the Detention Services Network, it is potentially time-consuming and cumbersome and largely mirrors work that is required of Serco under the Contract. While Serco is required to report an incident in the Portal, the Portal does not provide for that information to be sent out as an alert, which is one of the reasons that DIAC distributes similar information via email (or SMS in certain instances). Further to this, the Contract specifies certain timeframes in which Serco is required to provide Incident Reports, which means that there is often a time lag between the incident occurring and Serco reporting the incident in the Portal. This time lag can be overcome by the SitRep system.

However, a SitRep developed under this system is based on information received fourth-hand which raises concerns both as to its accuracy and timeliness. Further, unlike the Incident Reporting Framework set out in the Contract, there is no process in place to triage or prioritise SitReps as to their significance or urgency once the decision has been made to prepare one.

Recommendation 45

It is recommended that DIAC review the SitRep system to consider whether it is the most efficient and effective means of alerting those who need to know about incidents occurring within the Detention Services Network. The review should include development of a priority order of significance or urgency in place of the current single distribution list so that the most important or urgent SitReps can be directed to key people.

Communication and Coordination during an Incident

As discussed above, clear, timely and accurate communication with relevant stakeholders during an incident is critical to its effective management. Incident management in particular is facilitated if there are clear processes and guidelines in relation to the management of information, effective communication and coordination of effort.

Occurrence Logs

As required under the Contract, Serco has established a Command Suite structure to facilitate communication and coordination between Serco, DIAC and other relevant government agencies in relation to incident response and management. Command Suites were established in Canberra and the Centres themselves during the incidents at the CIIDC and VIDC.

All the Command Suites were equipped with Serco Occurrence Logs, as required by the Contract, and information was recorded contemporaneously during the course of the incidents. Overall the Serco Occurrence Logs for both incidents were useful. The log in the Canberra Command Suite was comprehensive in relation to the Christmas Island incident and less so in relation to the Villawood incident, whereas the Villawood Suite log was comprehensive, and the Christmas Island Suite log less so. Together, these logs provided essential material to the Review in its consideration of the timing of certain incidents and responses taken to those events.

While not required, DIAC also sought to record information during the CIIDC incident, although there was no structure to its “log” and it has been difficult for the Review to ascertain the timing of many of the recordings as there was no time or date logged against the recorded information. It could be argued that DIAC’s log during the CIIDC incident was unnecessary and a duplication of a role that Serco is required to fulfil. No attempt was made by DIAC to record a “log” during the incident at the VIDC, as it was clearly understood by both parties that, in line with the Contract, this was a role for Serco to perform.

Recommendation 46

It is recommended that DIAC decide whether it needs its own incident logs and adopt clearer protocols in line with Serco’s Occurrence Log to ensure recordkeeping is as comprehensive and accurate as possible.

Roles and Responsibilities

During the CIIDC incident there was some initial lack of clarity of roles and responsibilities, particularly in relation to the role of the AFP, which impacted on the effectiveness of communication and coordination between the three parties on Christmas Island. This lack of clarity was addressed at the time by discussion, collaboration, communication and coordination between Serco, DIAC and the AFP that was generally effective, principally due to the previously established goodwill and collaborative approach of those involved. As noted in Chapter Five, however, lack of clarity in relation to the role of the AFP may not have occurred had the joint incident management protocol for Christmas Island been finalised and promulgated among the parties.

Communication and coordination between the relevant government agencies and contractors was broadly effective during the VIDC incident. Lines of communication between DIAC, the

AFP, the NSW Police, NSW emergency services, IHMS and Serco were open and productive throughout the incident. Uncertainty over jurisdiction issues between the NSW Police and the AFP, however, did cause some confusion. While this was resolved quickly, it again highlights the need for clarity of roles and responsibilities and the particular importance of protocols being in place prior to an incident to provide guidance on such issues.

As noted in Chapter Five, DIAC is currently in discussions with the AFP and State and Territory police authorities in order to develop future incident management protocols and associated MOUs.

Command Suites

A frequent observation during the Review was that coordination between the two Command Suites during the CIIDC incident could have been improved if there had been greater clarity of the roles and functions of the Canberra and Christmas Island Command Suites. Some of the interviewees did not consider that communication between the two command suites was particularly effective, and were of the view that the constant demand for information from the Canberra Suite diverted attention from the operational level response undertaken in the Christmas Island Suite. There was also a perceived tendency for the Canberra Command Suite to want to get involved in the operational level response, without having the benefit of the real time information and CCTV footage, rather than providing strategic direction and oversight and support to the Christmas Island Command Suite.

Inefficiencies in communication of information during the incident were also noted, particularly in relation to DIAC in that, at least at the outset of the incident, the parties had their own independent lines of communication, with information being fed into and out of the Canberra Command Suite. In effect, this made it difficult to establish a “single source” of information as the incident unfolded.

In response to the above issues, it was suggested to the Reviewers that the availability of video conferencing between the Canberra Command Suite and local Command Suites would assist the sharing of real time intelligence and provide a greater understanding of incidents as they unfold. It was also suggested that the Canberra Command Suite should have real-time access to CCTV footage during an incident. Conversely, both suggestions have been discounted by many of those involved at the local level on the basis that it may lead to a blurring of roles between the Canberra Suite and the local Suite as the Canberra Suite may seek to get involved in the operational level response, rather than providing strategic level support.

Recommendation 47

It is recommended that Serco explore whether it would be useful to have video conferencing capacity between its existing Canberra Command Suite and local Command Suites during an incident, noting that there may not be standing Command Suites in all locations.

Good communication during an incident means that there must be a shared understanding about responsibility at both the strategic and operational levels for incident management. Ensuring effective communication and coordination in managing future incidents could be assisted by further definition of the responsibilities of the key players.

It has been suggested that this could be a tiered response, for example:

- strategic (Serco and DIAC National Office);
- operational (Serco and DIAC Regional Manager); and
- tactical (Serco and AFP officers who are in direct contact with detainees).

Once such a format had been agreed, objectives would need to be defined at each level, and the constraints, timing, reporting requirements, and flexibility to respond to any challenges discussed.

Recommendation 48

It is recommended that DIAC and Serco develop a Command Suite protocol document which sets out the level of responsibility of the key players in incident management and defines the purpose, structure and personnel required.

Chapter Eleven: Response Measures

This Chapter examines the appropriateness of certain response measures taken in relation to the control, management and resolution of the incidents at the Christmas Island and Villawood IDCs that have not been covered elsewhere in the Report.

In describing events that occurred at Christmas Island, all times given are in Christmas Island time (CI time), except where indicated.

Use of the CIIDC Red Compound

Following the major incidents on 11-12 March 2011, work was initiated on 13 March 2011 to identify detainees who were considered to be ringleaders of the unrest.

At the same time, the Canberra Command Suite outlined a number of options for managing the detainees identified as ringleaders, including:

- their removal by the AFP to the Christmas Island Police Station, with the possibility that criminal charges be laid;
- relocation of a number of detainees who had not engaged in the incident to the mainland (in order to free up accommodation in NWP for the ringleaders); or
- relocation of the ringleaders to the mainland.

By early afternoon on 13 March 2011, 18 detainees had been identified as ringleaders of the unrest. After considering the possible options, the Canberra Command Suite agreed that the ringleaders should ultimately be removed from Christmas Island and placed at either the VIDC or Northern IDC where they would face criminal charges.

A previously planned charter flight was arranged to move the identified ringleaders from the Island the following morning, and the watch house at the Christmas Island Police Station was canvassed as a potential place to hold the detainees until the flight. This option was not used, as the cells were not adequate for the number of detainees and the move would result in depletion of its available resources to manage other incidents, should they occur. The Red Compound was therefore suggested as the most secure area of NWP.

The decision that Red Compound be used was jointly made by DIAC and Serco in the Canberra Command Suite and approved by a DIAC Deputy Secretary in accordance with the Contract, which relevantly provides that DIAC is responsible for:

“... approving all Service Provider actions that result in withdrawal of a Person in Detention’s privileges or placement in a more restrictive placement of Accommodation, and the Service Provider must not take such actions with [sic “without”] the required approval.”¹⁸¹

Serco’s Chief Operating Officer then instructed its Operations Manager on Christmas Island to ensure that Red Compound was ready for use, and to do so in a very short timeframe of no more than two hours. By approximately 11:00hrs on 13 March 2011, Serco confirmed that Red Compound was ready to accept the 18 detainees.

Relocation of Detainees to Red Compound

The Serco Centre Manager for NWP was tasked by Serco’s Chief Operating Officer in Canberra to form a team of officers to locate and remove the identified detainees to Red

¹⁸¹ Detention Centre Contract, Schedule 2, Section 2.2.1, Clause 3.11(e).

Compound. A plan was developed on Christmas Island to tell the 18 detainees that they were to be interviewed in the Visits area in order to gain their cooperation.

By 23:10hrs (AEDST) the Canberra Command Suite was informed that 14 of the 18 detainees had been located and moved to Red Compound.

Accounts of the relocation indicate that the ploy used by Serco was successful. The process was undertaken without the use of force and the detainees were compliant with the process to the point of being secured in Red Compound.

During the afternoon, Serco officers heard about rumours that those detained in Red Compound were being tortured. During the evening, Red Compound was surrounded by detainees who attempted to break in and the Compound was eventually breached by detainees smashing the reinforced windows and doors with various implements such as concrete blocks taken from temporary fencing adjacent to the Compound.

Allegation of Sedation

An allegation was made to CISSR by one of the detainees that the ringleaders in Red Compound were given a “liquid cosh” (sedative). The Review pursued this allegation, but no evidence has been found to substantiate the claim.

In relation to the use of sedatives, the DIAC Detention Services Manual provides:

*“The use of all chemical agents of restraint, including **sedatives**, tear gas, pepper spray and capsicum spray by all departmental and DSP officers are prohibited.”¹⁸² (Emphasis added).*

This statement is reiterated in Serco’s PPM on the Use of Force - Control and Restraint.

During interviews, Serco officers either said they had no knowledge of the allegation of the use of sedatives, or rejected the allegation on the basis that sedatives are not a form of restraint that they would use.

The decision to relocate the ringleaders and detain them in a “secure” place away from the general detention population until further actions could be taken (in this case, removal by charter to the mainland) was, in principle, an appropriate operational response. Once that decision had been made, it was necessary to find a suitable location to hold those detainees. The AFP watch house did not have the infrastructure and guarding capacity necessary and no viable alternative locations could be identified.

Red Compound was, of course, within the CIIDC and Serco at that time had limited control of this Centre and its population of 1841 detainees who had demonstrated a capacity for protest action, indiscipline and destruction of infrastructure. The difficult decision therefore, was whether the separation and relocation of the ringleaders in this context remained the most appropriate response, taking into account what was known of the capacity of Red Compound and the likely reaction of both the ringleaders and the remaining detainees.

In addition, once the decision was made to use Red Compound, Serco officers on Christmas Island had a relatively short period of time in which to ready the Compound for use. There did not seem to be any consideration in the Canberra Command Suite of whether Red Compound was fit for purpose and the time available did not permit a proper assessment of its capability.

¹⁸² DIAC PAM3, Detention Services Manual, Chapter 8, Section 8.2.

The actual operational planning was undertaken by Serco on Christmas Island and focused on how the location and movement of the ringleaders would occur. Operationally, as noted above, the location and movement of the ringleaders was successful; they believed that they were required for interview and willingly accompanied Serco officers to Red Compound. The potential outcomes of use of deception in gaining the cooperation of those detainees, however, may not have been fully thought through.

There is a real possibility that, as the plan was being implemented, surrounding detainees would have overheard the ringleaders being asked to come for an “interview” in the Visits area. Detainees housed in the marquees adjacent to Red Compound would have seen the ringleaders being walked into Red Compound (a Compound that, until this point, was known not to be in use) rather than the Visits area as they had been told. When it was discovered that those people did not return, it is not altogether surprising that assumptions were made that they were being subjected to mistreatment.

This could have been compounded by the fact that some of the CIIDC detainees were from countries in which mistreatment and even torture can occur when people are taken away by the authorities. There was no communication strategy for detainees which could have helped to alleviate the growing tension shortly after relocation of the ringleaders to Red Compound or when rumours of torture began to circulate.

It is clear, however, that no one expected the level of violent reaction that occurred as a result of the actions described above. While Red Compound may have been generally suitable for the temporary placement of the ringleaders if several of its functions had not proved defective, its design as a secure facility was focussed on preventing people inside from breaking out, rather than on preventing people outside from breaking in. In an environment of mass protest and the destruction of infrastructure, probably compounded by suspicions of mistreatment of the ringleaders and lack of a communication strategy to help ease tensions, any on-site facility could have become a target.

In relation to the sedation allegation while detainees were in Red Compound, no evidence has been provided to substantiate this claim, and the Reviewers have not located any investigation undertaken by either DIAC or Serco into whether it occurred.

Involvement of CISSR at the CIIDC and the Australian Government Letter of 17 March 2011

Shortly after the incident commenced, CISSR members were asked by the Minister for Immigration and Citizenship to go to the CIIDC to assist in restoring calm and normal operations.

Mr Paris Aristotle AM (CISSR Chair) and Professor Nicholas Procter arrived on Christmas Island on 14 March 2011. Air Marshal Ray Funnell AC (Retd) (Deputy Chair) arrived on 15 March 2011.

Most of their time was spent engaging with groups of detainees. Some meetings were with self-elected groups in the central areas of NWP and in the Lilac and Aqua compounds. Others were held with ethnic groups including the Kurds, Afghans and Tamils. CISSR members also met with detainees who had been relocated to Red Compound on 13 March 2011.

CISSR members explained that they were on Christmas Island to help solve problems that the detainees were facing, emphasising that they understood their frustrations and sympathised with their plight, and undertook to work with the Minister and DIAC to develop

better processes for managing their immigration cases. It was stressed that these developments could only be put in place once the CIIDC was calm and normal operations had resumed.

CISSR members reported that, in almost all of their meetings, they were listened to and shown respect. In some cases they were applauded, in others they were thanked for listening and wanting to help. In a few cases, however, the CISSR group had to deal with personal criticism and statements such as “*You have shown that you cannot help us*”, and “*Why should I talk to you? Either give me a visa or go away*”. Other detainees ostentatiously walked out of the meetings.

CISSR members also reported that the meetings with smaller ethnic groups were in general calm, courteous and cooperative. These detainees continually emphasised that they were not the ones involved in the disturbances and were deeply worried that the actions of others would affect processing their cases.

A notice was developed by DIAC National Office and the CISSR members for detainees which sought to address issues raised by detainees during negotiations with DIAC and Serco officers on 12 March 2011.

The notice from the Australian Government was provided to detainees on 17 March 2011, outlining steps that would be taken to improve and speed up processing, provided the IDC was calm. These steps included:

- new streamlined processes for security checking so that checks could be completed much faster;
- the appointment of additional independent merits reviewers to support faster processing of claims, with priority given to detainees who had not had a merits review of a negative primary decision and who had been in detention for the longest time;
- resumption of the primary examination process;
- advice that detainees who had been mandated by the UNHCR as refugees still needed to have their claims assessed against Australian law and policy; and
- the resumption of transfers to mainland immigration detention centres when and where places were available, with priority being given to detainees who had been found to be refugees but were awaiting security checks, those who had spent the longest time on Christmas Island, those mandated by the UNHCR, and vulnerable detainees.

The notice also referred to a further visit by CISSR members who would check on progress with the measures outlined in the notice and report back to the Minister.

By Friday 18 March 2011, the CIIDC was under AFP control and CISSR members felt that, provided that night was trouble-free, their presence at the Island was no longer necessary. Members conducted a final meeting in which they assured detainees that they would continue to oversee implementation of the actions set out in the notice, and that they would return to Christmas Island to monitor progress on the ground.

Two CISSR members, Paris Aristotle and Ray Funnell, returned to Christmas Island from 14 to 16 April 2011, in fulfilment of this commitment.

In the view of most DIAC and Serco officers associated with management of the incident, the involvement of CISSR members played a positive role in de-escalating the situation. As independent agents, separate from either DIAC or Serco, CISSR members were able to talk to detainees, empathise with their situation and play a role in discussing their concerns with the Minister.

Paradoxically, however, the notice from Government did not appear to carry the same weight, as one of the peak disturbances occurred on the evening of 17 March 2011. This was probably because detainees were still distrustful of the Government and DIAC and related less well to the impersonal communication through a notice than to the personal interaction that CISSR's visit represented, even though the content of the notice was directly related to their concerns. Further to this, due to the volatility of the situation at the CIIDC, DIAC Case Managers were not able to follow-up through personal discussion with detainees to reiterate the messages outlined in the notice.

Subsequent Management of Detainees involved in the CIIDC Incident

After formally taking over control of the incident on 17 March 2011, the AFP took action to restore law and order at the CIIDC. Part of this process involved the identification of perpetrators and their placement in White 1 Compound, given that Red Compound was damaged and no longer available and that White 1 was the next most secure Compound at NWP.

Over the days that followed, persons of interest were moved to White 1 Compound, which remained in lock-down while other compounds within NWP resumed "business-as-usual" operations.

A charter flight was planned for Saturday 26 March 2001 to transfer 22 people of interest in the White Compound to the Northern, Villawood and Maribyrnong IDCs. This transfer was delayed while arrangements were put in place in relation to the level of security available in the mainland facilities, and while formal approval was sought from the Minister.

On 5 April 2011, ten key people of interest were transferred to the mainland. Nine of those detainees were accommodated at VIDC and one was accommodated at Maribyrnong IDC. Since then, eight of those persons of interest have been charged, with the group dispersed and accommodated in various IDCs around Australia. (See discussion about the people of interest in Chapter Eight.)

During the period that the transfer was delayed, a number of the detainees in White 1 Compound threatened self-harm, and both Serco and DIAC were aware of rising tensions within the Compound which remained in lock-down.

Serco's Regional Manager and Senior DIAC Case Management undertook discussions with detainees in White 1 whose concerns focused primarily on their ongoing restriction, clarity concerning AFP processes, delays with immigration processing and perceptions of the White 1 group by other detainees. The discussions were seen as generally positive, and DIAC and Serco were thanked for their efforts.

Following the transfer to the mainland of the ten persons of interest on 5 April 2011, Senior DIAC, Serco and AFP personnel met with the remaining White 1 detainees to explain the investigation process to be undertaken, and the openness and transparency of the Australian judicial system. An attempt was made to record the discussion to assist in the investigation of persons of interest, but it was subsequently revealed that the CCTV cameras were inoperative. The importance of maintaining operational CCTV capacity is discussed in Chapter Eight.

On 8 April 2011, lock-down of White 1 Compound ceased and it was opened up in the mornings to enable detainees to move freely within the facility.

Although in both cases ringleaders were held in a compound separate from other detainees, there were obvious differences in process and outcome between use of White Compound and the earlier use of Red Compound as described above. The most obvious difference was that, by the time White Compound was used to hold those detainees suspected of being ringleaders, the AFP was in control of the CIIDC and was in an operational position to support restrictive detention and control any resulting incidents.

On the other hand, events meant that detainees were held longer in White Compound and issues relating to the health and wellbeing of those detainees increased as their restriction in White Compound continued past the original transfer date of 26 March 2011. To mitigate that risk, there was active communication by DIAC and Serco staff and the AFP in relation to the purpose of their detention and the concerns of detainees. Such communication was not undertaken in the more fraught environment surrounding detention in Red Compound, and it may have assisted in alleviating some of the tensions accompanying that incident.

Duration of the VIDC Rooftop Protest

When the VIDC incident commenced with the first two protesters accessing the roof of the Macquarie Residential Block, Serco immediately initiated negotiations seeking to encourage them to end their protest. At that time the protesters were walking along the roof interacting with other detainees and asking Tamil detainees to get involved in a violent protest.

The protest had begun as a relatively low key expression of dissent but graduated into aggressive agitation. Because the situation placed the protesters' own health and safety at risk, it was expected that they would seek to negotiate in the first instance and that Serco would be able to encourage them to come down in line with the usual outcome in such cases.

By 11:15hrs on 20 April 2011, Serco officers were of the view that the rooftop protest was being conducted by two people with no support from other detainees. During the afternoon, however, the protesters became more agitated and resorted to throwing roof tiles to the ground. At this stage, there was virtually no media interest in the protest. By 20:20hrs, 12 detainees were on the roof and at 21:40hrs another detainee had joined them. The dynamics around the protest had changed and the environment had become much more volatile. By 08:47hrs on 22 April 2011, four detainees remained on the roof and stated that they were not coming down.

Despite continuing negotiations by Serco, nine days elapsed before the protest was finally resolved. During this time the UNHCR Regional Representative, Mr Richard Towle, the legal representative of one of the protesters and an advocate all sought to bring the protest to an end.

On 29 April 2011, because of the continuation of the protest well beyond the usual timeframe for such incidents, a DIAC Deputy Secretary became involved, accessing the roof of the building despite Serco advice on the risks involved, in order to talk to the detainees. In the event, the DIAC officer advised the detainees of the consequences of their actions and they decided to end their protest.

The challenging nature of the detention population at the VIDC, both in terms of accommodating the large numbers of IMAs on a negative pathway in Fowler and the higher risk detainees from both the non-IMA and IMA cohorts held in Blaxland, has meant that major incidents at the centre such as escapes, rooftop protests, riots and self harm are not uncommon. Some examples illustrative of major incidents that have occurred at the VIDC include:

- in 2001, a series of escapes occurred at the VIDC. During that year more than 40 individuals escaped from the centre;
- on New Year's Eve 2002, there was a significant incident involving a large number of detainees. Several buildings sustained damage, an accommodation block was destroyed by fire and several detainees attempted to escape from the centre;
- in November 2006, a group of around 70 detainees protested about the length of time they had been held in detention and went on a voluntary hunger strike. The protest was resolved peacefully;
- in November 2007, four detainees were involved in a rooftop protest; and
- in September 2009, some 20 detainees climbed onto a rooftop to protest.

VIDC rooftop protests provide a platform from which protesters can incite other detainees, and from where they can attract the attention of supporters and media in the nearby street. The length of time taken to resolve the rooftop protest in the April 2011 incident, however, was of increasing concern to those involved in its management.

At the early stage of the protest, consideration was given to the possibility of physically removing the detainees from the roof, but the AFP advised that attempting to remove the detainees would involve an unacceptable level risk to both detainees and the officers themselves. Of particular concern was the height of the roof, which was nine metres from the ground, and the continuing threat of self-harm by the individuals involved. The possibility of accessing the roof while detainees were in the roof cavity and then holding the detainees there pending their being brought down was also contemplated, but the same risk factors applied.

As the rooftop protest developed, some key issues emerged that were difficult to resolve. In the first instance, the capacity for the detainees to access the roof gave them a position of apparent authority from which they were able to influence protest action among the detainees below, although this was increasingly met with resentment from other detainees over the ensuing days. In addition, the detainees' capacity to access the roof cavity gave them a level of protection against the elements and facilitated their ability to remain on the roof, while the ability of other detainees to throw items up to the roof top protesters reinforced the position of those on the roof, in terms of raising their profile and connection with supporters.

Serco and the AFP were hampered in their response by the serious safety issues involved, which effectively reduced the options available for the safe removal of the protesters from the site. At the same time, the long period over which detainees were able to stay on the roof caused a lesser, albeit ongoing, problem for the overall safety and security of the centre. The overall approach, however, was sound, with due consideration given to the safety of those on the roof top, other detainees and staff.

Use of Correctional Facilities during the VIDC incident

Twenty-five detainees were initially identified as persons of interest during the incident. On 21 April 2011, DIAC wrote to the NSW Department of Justice seeking permission to use correctional facilities to house VIDC persons of interest for seven days. After receiving the NSW Department of Justice's agreement, on 22 April, 22 of the 25 persons of interest were transferred into AFP custody and then to the Silverwater Correctional Facility.

The remaining three detainees, the last on the roof, were transferred to Blaxland.

In its Submission, DIAC states that "the use of corrections facilities is a deterrent to extreme negative behaviour and has sent a strong message to clients that inappropriate behaviour will not be tolerated in the detention facilities or by the Australian community."¹⁸³

DIAC notes that both it and Serco, as the service provider, have a range of tools to manage non-compliant behaviour in detention facilities, such as moving detainees to a more restrictive place of detention and the use of behavioural management plans that can restrict their participation in activities or remove certain privileges.

Nevertheless, as discussed in Chapter Eight, a growing challenge for detainee management is the increasing risk profile of IMA's in detention as the proportion of those who have received a negative decision increases. In this context, the detainee management framework must contain the full range of options available to Serco and DIAC in responding to illegal and anti-social behaviour, and should be supported by systematic communication to detainees about the consequences of non-compliant behaviour and the benefits of compliance.

The actions of DIAC and the AFP in using the correctional facilities are consistent with this approach and should remain a tool available for use wherever similar circumstances arise.

The Review notes that the Minister for Immigration and Citizenship issued a strong statement reinforcing this message, observing that further incidents by individuals in immigration detention would impact upon their character assessments.¹⁸⁴

Decreasing Detainee Numbers and Increasing Detention Capacity

From the latter half of 2009, the rapid increase in boat arrivals has meant that DIAC and Serco have been operating on an emergency response footing. Arrivals at Christmas Island for most of this period averaged over 600 people per month and the highest priority during 2010 and early 2011 was creating immigration detention capacity to accommodate these arrivals.

Indeed, the operational environment from late 2009 meant that more and more of DIAC's time and energy became preoccupied with the urgent need to create additional bed capacity to meet the rising numbers. Although DIAC's work to establish systems and build additional capability to resolve the status of detainees continued to be highly important, it could not be the first order of priority for available resources in view of the need for further detainee accommodation. Thus additional space for interview rooms and accommodation of additional

¹⁸³ DIAC Submission to the Review of the Incident at the Christmas Island Immigration Detention Centre, page 23.

¹⁸⁴ Media Release, *Tougher Character Test to Send Clear Message*, Minister Bowen 26 April 2011. The Government introduced the Migration Amendment (Strengthening the Character Test and Other Provisions) Bill 2011 into the Parliament in April 2011. This Bill was passed by the House of Representatives on 31 May 2011. This Act amends the Migration Act so that individuals who are convicted of any offence while in immigration detention will fail the character test and increased the maximum penalty for the manufacture, possession, use or distribution of weapons by immigration detainees from three to five years' imprisonment.

teams of DIAC and other stakeholder staff on the Island proved problematic and case assessment could not keep pace with rising demand.

This presented a particular problem in managing the IMA cohort where the driving force for detainees is to obtain a visa. The centrality of this issue is clearly demonstrated, for example, by the strong concentration on status resolution in the claims made by detainees during the incident on Christmas Island, despite the significant overcrowding and loss of amenity that had built up on the Island prior to the March incident. The number of detainees had become the focus of concern.

In late 2009 and early 2010, transfers off Christmas Island were relatively small due to the limited capacity in the immigration detention network. Transfers to immigration transit accommodation in Brisbane and Melbourne began in November 2009, to Northern IDC in December, and to the VIDC in March 2010. The transfers were done on a case-by-case basis and were determined on a number of factors, including vulnerability and stage of processing. In all, 545 persons were transferred to the mainland between 1 November 2009 and 9 April 2010.

Following advice from DIAC about the increased operational risks posed by overcrowding on Christmas Island, the then Minister agreed to the expansion of capacity to ease this congestion with the opening in March 2010 of the Brisbane Virginia Palms APOD (capacity 115),¹⁸⁵ followed in April by the Port Augusta IRH (capacity 60), and the Darwin Asti APOD in May (capacity 163).

From June 2010, larger facilities began to open to cater for single adult men in some instances, and families and unaccompanied minors in others, including:

- Curtin Stage 1 (capacity 600) to accommodate the suspension cohort and Leonora APOD (capacity 207), both in Western Australia, in June;
- Darwin Airport Lodge APOD (capacity 404) in July;
- Scherger in far north Queensland (capacity 573) in October; and
- Curtin Stage 2 (increased to a capacity of 1200) in December.

During this period of intense activity of about six months, the immigration detention capacity more than doubled.

In addition, the Government announced the commissioning of two new detention facilities to house IMAs:

- Yongah Hill (Northam) in Western Australia, a facility for up to 600; and
- Inverbrackie in South Australia to accommodate family groups, which opened in February 2011.¹⁸⁶

In response to continuing pressures on immigration detention accommodation, the Minister announced an update to the IMA accommodation strategy on 3 March 2011. The updated strategy entailed combining the commissioning of more appropriate detention accommodation, expansion of certain existing facilities, decommissioning less suitable accommodation, and expanded use of existing residence determination powers for unaccompanied minors and vulnerable families.

¹⁸⁵ The following figures refer to ongoing operational capacity at that point in time, as opposed to short term contingency capacity.

¹⁸⁶ Minister for Immigration and Citizenship, the Hon. Chris Bowen MP and Prime Minister, the Hon. Julia Gillard MP, 'Government to move children and vulnerable families into community-based accommodation' (Press Release, 18 October 2010).

The following mainland facilities were commissioned or expanded:

- a new immigration detention centre at Wickham Point (35 kilometres south-east of Darwin); and
- the expansion of the Darwin Airport Lodge by up to 435 places at existing facilities adjacent to the current accommodation.

In addition to the above expansions, the Minister announced on 5 April 2011 the intention to lease a Defence facility for the construction of a new Immigration Detention Centre in Pontville near Hobart. The final capacity of the centre will be up to 400 detainees.

On 18 October 2010, the Government announced a significant change in direction in its approach to managing low risk groups, by expanding the existing residence determination program (that is, Community Detention) to cater for the majority of children and a significant number of vulnerable families.¹⁸⁷

Since then, the Minister has approved over 1700 people for placement in community detention, including over 800 children of whom over 250 are unaccompanied minors.

Around 1100 IMAs are currently either in community detention now or are completing travel to their new accommodation. The others have either been granted visas since entering community detention or have returned to their home countries.

Over the next 12 months, the remaining women, children and their adult male family members will be moved progressively into community detention. DIAC will also focus on detainees in detention who have torture/trauma backgrounds for possible transfer into community accommodation. Other potential cohorts of detainees who might be considered for community detention are under ongoing consideration.

Since April 2011, nearly 2500 former detainees have been settled in Australia. These moves have considerably eased over-crowding pressures on Christmas Island and immigration detention facilities more generally, and have been complemented by initiatives, such as changes to security assessment arrangements, to resolve status more quickly. For example, over 3000 IMAs found to be a refugee have been considered through this new security assessment arrangement from 15 March to 28 June 2011. DIAC and Serco staff have demonstrated professionalism and resilience in delivering these initiatives in the face of significant pressures, and should be commended for their efforts. They have sought to work cooperatively, including with the range of external stakeholders, to reduce the risks inherent in an overcrowded immigration detention network.

As a result, the numbers in NWP have reduced from 1260 on 10 March 2011 to about 650 now and will provide an opportunity for both Serco and DIAC to implement the range of measures required to facilitate the management of good order in its IDCs.

¹⁸⁷ Minister for Immigration and Citizenship, the Hon. Chris Bowen MP and Prime Minister, the Hon. Julia Gillard MP, 'Government to move children and vulnerable families into community-based accommodation' (Press Release, 18 October 2010).

Appendices

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Appendix A Terms of Reference

On Friday 18 March, the Minister for Immigration and Citizenship, the Hon Chris Bowen MP, announced an independent review of the CIIDC incident.

Terms of Reference

The Christmas Island Immigration Detention Centre (CIIDC) currently accommodates approximately 1850 single adult men who have claimed asylum in Australia and are awaiting the completion and outcome of the processing of their claims. CIIDC incorporates a main North West Point area purpose built for immigration detention and two additional compounds Aqua and Lilac comprising demountable buildings.

On 11 March 2011 an incident commenced involving a significant breach of security initially in the Aqua and Lilac compounds which subsequently extended into the North West Point area.

Security at the CIIDC is the responsibility of Serco under contract to DIAC.

The review will investigate and report on a range of issues associated with management and security at CIIDC. In particular:

- the clarity of roles and responsibilities between Serco and DIAC in managing security at the Centre and in managing the incident.
- how breaches of security were achieved , what access occupants of the Centre had to tools to assist with such breaches and if relevant how such access occurred;
- the extent of any prior indicators or intelligence that would have assisted in the prevention and /or management of the incident;
- the adequacy of infrastructure, staffing and client management in maintaining appropriate security at the Centre;
- the adequacy of training and supervision of DIAC and Serco staff;
- the effectiveness of the communication and coordination between the relevant Government agencies and contractors; and
- the appropriateness of the response measures taken to the incident.

The review will commence as soon as possible and report to the Minister for Immigration and Citizenship in July 2011.

The review should make recommendations on measures to strengthen CIIDC security and prevent recurrence of any similar incident in the future.

Expansion of Scope

Subsequently, on 20 April 2011, following commencement of the VIDC incident, the Minister asked the Reviewers to expand the scope of their investigation to include that incident, using the same terms of reference.

Appendix B Glossary

In this Report the following terms and abbreviations have the following meanings unless the context otherwise requires.

Acceptance Testing	Tests developed during the Contract Transition Period by DIAC and Serco to ensure Serco's readiness to provide the full range of Services, including the functionality of all systems required for the provision of the Services.
ACM	Australasian Correctional Management Pty Ltd
ACS	Australasian Correctional Services
APOD	Alternative Place of Detention
AFP	Australian Federal Police
AHRC	Australian Human Rights Commission
ASIO	Australian Security Intelligence Organisation
Asylum Seeker	An asylum seeker is someone who is seeking international protection, but whose claim for refugee status has not yet been determined.
AQIS	Australian Quarantine Inspection Service
Canberra Command Suite	Serco National Incident Command Suite (based in Canberra)
CCMA	Comprehensive Case Management Assessment
CCTV	Closed Circuit Television
CIIDC	Christmas Island Immigration Detention Centre, consisting of North West Point IDC and Lilac/Aqua Compounds
CIIDC Command Suite	Serco Command Suite (based at CIIDC)
CISSR	Council for Immigration Services and Status Resolution
Contract	Detention Services Contract: Immigration Detention Centres
CSM	Client Service Managers
CSO	Client Service Officers
DeHAG	Detention Health Advisory Group
DIAC	Department of Immigration and Citizenship
DSM	DIAC Detention Services Manual
EDDS	Electronic Deterrent and Detection System
IAAAS	Immigration Advice and Application Assistance Scheme
IDC	Immigration Detention Centre
IHMS	International Health and Medical Services
IMA	Irregular Maritime Arrival
IMP	Individual Management Plans

IRH	Immigration Residential Housing
IRPC	Immigration Reception and Processing Centre
ITA	Immigration Transit Accommodation
JIG	Joint Intelligence Group
Lilac/Aqua	Lilac and Aqua Compound on Christmas Island
Migration Act	The <i>Migration Act 1958</i>
Minister	The Hon Chris Bowen, Minister for Immigration and Citizenship
MOU	Memorandum of Understanding
MSS	Metropolitan Security Services
NWP	North West Point Immigration Detention Centre
Ombudsman	The Commonwealth Ombudsman
ORG	AFP Operational Response Group
POD process	Protection Obligations Determination process
PORS	Public Order and Riot Squad
POS	Personal Officer Scheme
PPE	Personal Protective Equipment
PPM	Policy and Procedures Manual
PwC	PricewaterhouseCoopers
Refugee	<p>A refugee is someone who has been recognised under the 1951 Convention relating to the Status of Refugees (the Refugees Convention) to be a refugee.</p> <p>The Refugees Convention defines a refugee as a person who:</p> <ul style="list-style-type: none"> • is outside their country of nationality or their usual country of residence; and • is unable or unwilling to return or to seek the protection of that country due to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.
Refugees Convention	The <i>United Nations 1951 Convention relating to the Status of Refugees</i> , as amended by the <i>United Nations 1967 Protocol relating to the Status of Refugees</i>
Resolve FM	Facilities and maintenance subcontractor at CIIDC
Reviewers	Dr Hawke AC and Ms Williams AO
RHP	Residential Housing Project
RSA	Refugee Status Assessment

Serco	Serco Australia Pty Ltd
SIR	Security Information Report
SIEV	Suspected Irregular Entry Vessel
Statement of Work	Schedule 2 of the Detention Services Contract: Immigration Detention Centres
TPV	Temporary Protection visa
UNHCR	United National High Commissioner for Refugees
VIDC	Villawood Immigration Detention Centre
VIDC Command Suite	Serco Command Suite (based at VIDC)

Appendix C Incident Ratings

A **Critical Incident** is an incident or event which critically affects the good order and security of the facility or where there is serious injury or a threat to life. Critical Incidents include:

- a) death - Personnel or a Person in Detention;
- b) serious accident/injury;
- c) actual self harm;
- d) attempted serious self harm;
- e) serious public health risk;
- f) allegations or reasonable suspicions of serious assault including:
 - i) sexual assault; and
 - ii) assault causing serious bodily harm;
- g) allegations or reasonable suspicions of assault:
 - i) by Personnel on a Person in Detention; or
 - ii) on a minor;
- h) escape;
- i) mass breakouts;
- j) hostage situation;
- k) riot;
- l) use of force resulting in bodily harm, either by Personnel or a Person in Detention;
- m) bomb, biological or chemical threat;
- n) serious damage to a Facility including fire;
- o) use of emergency response equipment;
- p) unauthorised media presence at a Facility;
- q) unplanned use of instruments of restraint;
- r) use of a weapon by a Person in Detention;
- s) withdrawal of labour;
- t) high profile Visitor refused access;
- u) protest action outside Facility;
- v) a Force Majeure Event that has an impact on the operation of the Facility or the welfare of a Person in Detention; and
- w) any known complaint about any of the above Incidents.

A **Major Incident** is an incident or event which seriously affects the good order, safety and security of the facility, the welfare of detainees or which threatens the success of escorts/transfer/removal activities. Major Incidents include but are not limited to:

- a) infection or contamination of a Facility;

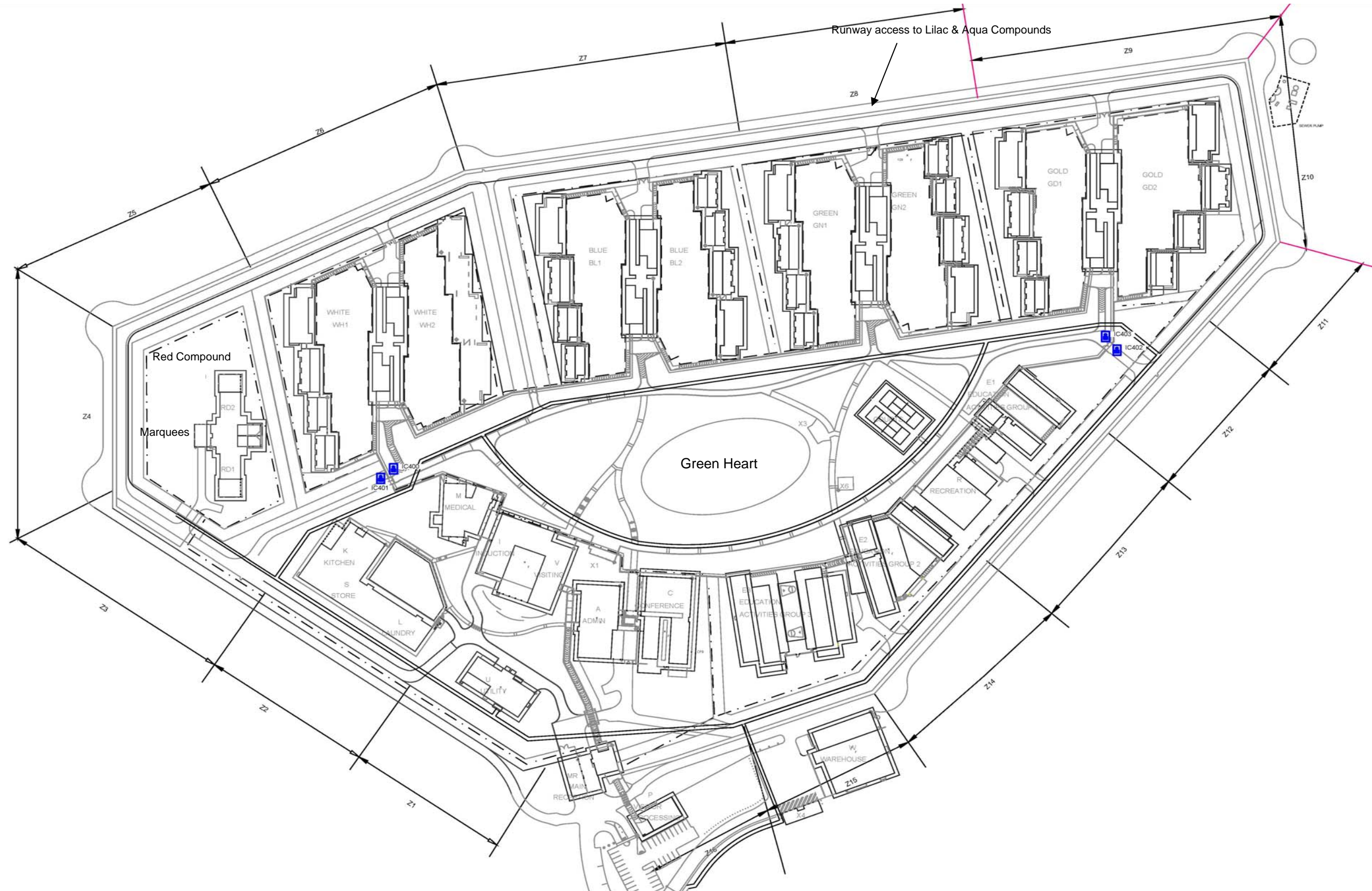
- b) epidemic;
- c) use of force either by Personnel or a Person in Detention;
- d) voluntary starvation (over 24 hours);
- e) voluntary starvation by minor;
- f) hazardous waste contamination;
- g) attempted or threatened self harm;
- h) electronic security system failure caused by nature e.g. fire, storm, tempest flood, or by other means, for example sabotage;
- i) sabotage;
- j) sit-in or barricade;
- k) notification by State or Territory welfare authorities;
- l) demonstration by People in Detention;
- m) other major disturbance;
- n) attempted escape;
- o) a Person in Detention is found to be in possession of a weapon or means of escape;
- p) use of an observation room (over 24 hours);
- q) an Incident likely to attract media attention;
- r) actual or suspected case of unlawful detention;
- s) aborted Removal;
- t) strip search;
- u) assault causing minor bodily harm; and
- v) any known complaint about any of the above Incidents.

A **Minor Incident** is an incident or event which affects, but to a lesser degree than a major incident, the good order, safety and security of the facility, the welfare of detainees or which threatens the success of escorts/transfers/removal activities. Minor Incidents include, but are not limited to:

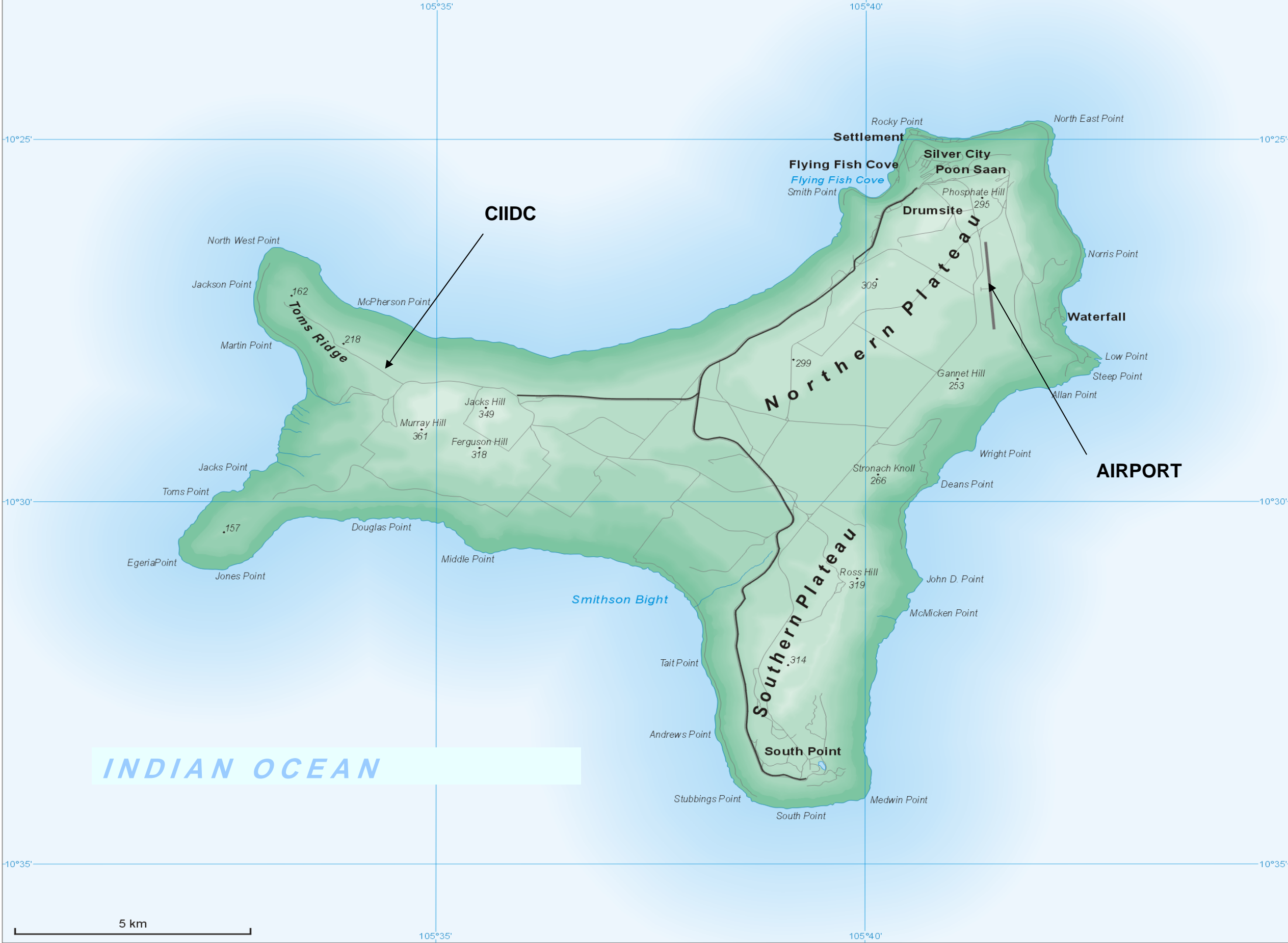
- a) voluntary starvation (under 24 hours);
- b) end of voluntary starvation;
- c) less serious public health risk;
- d) clinical depression;
- e) substance abuse resulting in medical attention;
- f) birth of a child;
- g) use of instruments of restraint;
- h) food poisoning;
- i) threatening or aggressive behaviour by People in Detention or Personnel;
- j) contraband or prohibited article found;

- k) assault not occasioning bodily harm;
- l) approaches by media to Personnel or People in Detention;
- m) Person in Detention or staff subjected to abusive or offensive remarks;
- n) transfer of Person in Detention between Facilities;
- o) transfer of Person in Detention to alternative place of detention;
- p) minor industrial action by Personnel;
- q) minor disturbance;
- r) failure of mains system/power failure if the backup systems fail;
- s) failure of the Service Provider's information technology system for a duration of six hours or more;
- t) less serious damage to Facility;
- u) theft;
- v) missing money;
- w) missing property;
- x) contraband brought in by Visitors;
- y) Person in Detention denied a Visitor during visiting hours;
- z) other Visitors refused access;
- aa) complaints or feedback received by the Service Provider are not resolved within the required timeframe, or are escalated to an external third party;
- bb) Person in Detention denied information from their file; and
- cc) any known complaint about any of the above Incidents.

Appendix D Map of North West Point Immigration Detention Centre



Appendix E Map of Christmas Island



Appendix F Map of Villawood Immigration Detention Centre

