

1630 Meeting with Madame Brigitte Girardin, Minister for Overseas Territories

THURSDAY 5 JUNE

1200 Lunch and Briefing with Ambassador William Fisher, Australian Ambassador to France

1600 Meeting with Mr Dominique Bussereau, Secretary of State for Transport and Sea

1930 Dinner hosted by the Rt Hon Simon Upton on the occasion of the Round Table meeting on Sustainable Development

FRIDAY 6 JUNE

0930 OECD Round Table on Sustainable Development

1400 OECD luncheon

2020 Senator Macdonald & party depart Paris

SUNDAY 8 JUNE

0445 Arrive Melbourne

- (10) (a) \$61,540 (b) The Department of Agriculture, Fisheries and Forestry met the costs for the departmental officer. The Department of Finance and Administration met the costs for the Minister and his Chief of Staff.

Trade: Free Trade Agreement

(Question No. 2208)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 9 October 2003:

With reference to the third round of the Australia-United States free trade agreement negotiations from 21 July to 25 July 2003:

- (1) Can the composite text capturing the view of both parties on nearly all chapters be provided.
- (2) In relation to the intellectual property chapter, can the composite text following the negotiations meeting in Washington from 29 September to 1 October 2003 be provided.
- (3) (a) When are the next consultations regarding the intellectual property aspects of the free trade negotiations between Australia and the United States; and (b) what, if any, are the outcomes to date.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator's question:

- (1) I have responsibility for the Copyright Act 1968 (the Act); copyright being one of the various areas of intellectual property dealt with in the Intellectual Property Chapter of the Free Trade Agreement with the United States. Under the direction of the Minister for Trade, the Department of Foreign Affairs and Trade has the responsibility for the negotiation of the free trade agreement as a whole. It has advised that the composite text, to the extent that it existed at the time, was the subject of an agreement with the United States that it would remain confidential between the parties.
- (2) See answer to question (1).
- (3) (a) The 4th round of negotiations of the Australia-United States free trade agreement was scheduled, and held, in Canberra from 27-31 October 2003. (b) The Department of Foreign Affairs and Trade advises that at the conclusion of the September/October negotiations referred to in the question, there remained a number of substantial matters outstanding across all aspects of the intellectual property chapter.

Immigration: Detainees

(Question No. 2331)

Senator Marshall asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 27 October 2003:

- (1) What facilities exist to house 'illegal migrants' in Australia.
- (2) How many and which of these are operated: (a) privately; and (b) by the Government.
- (3) How many 'illegal migrants' are held in each centre.
- (4) How many staff are employed at each centre.
- (5) What is the estimated cost, per annum, of operating each centre.
- (6) Of those persons held over the past 12 months in each of the 'illegal migrant' detention facilities, how many were: (a) family units; (b) men; (c) women; and (d) children.
- (7) Of those persons currently held in each of the 'illegal migrant' detention facilities, how many are: (a) family units; (b) men; (c) women; and (d) children.

Senator Vanstone—The answer to the honourable senator's question is as follows:

- (1) Under the Migration Act 1958, unlawful non-citizens in Australia must be placed in immigration detention.

The majority of detainees are accommodated in the following immigration detention facilities:

- Baxter Immigration Detention Facility (IDF), near Port Augusta, South Australia;
- Port Hedland Immigration Reception and Processing Centre (IRPC), Western Australia;
- Villawood Immigration Detention Centre (IDC), Sydney, New South Wales;
- Maribyrnong Immigration Detention Centre (IDC), Melbourne, Victoria;
- Christmas Island Immigration Reception and Processing Centre (IRPC), Indian Ocean; and
- Perth Immigration Detention Centre (IDC), Perth, Western Australia.

Contingency facilities on Defence bases may be commissioned, if further capacity is required, at:

- Woomera, South Australia;
- Coonawarra, Darwin, Northern Territories;
- Singleton, New South Wales; and
- Curtin, Western Australia.

Within the mandatory detention framework the Government has taken innovative approaches to detention for women, children and detainees with special needs. Alternative detention options outside immigration detention facilities include:

- Residential Housing Projects (RHPs). RHPs provide a more domestic environment, enabling more autonomy (for example, in preparing meals). In addition to the usual recreational and social activities, residents are also able to go shopping and participate in community events. All women and children in detention are assessed against the guidelines for placement in a RHP or other detention arrangements. Participation in the RHPs is voluntary. Each individual family can decide whether to take up the RHP opportunity. RHPs operate in Port Augusta near Baxter IDF and Port Hedland near Port Hedland IRPC and a contingency RHP is at Woomera;
- Foster care arrangements with State child welfare authorities. Where a child has no family members in detention, such as unaccompanied minors, the minor will usually be released on a bridging visa (if eligible) or transferred to alternative detention under the supervision of a State child welfare agency;
- Community care placements for people with special needs;
- Motels; and
- Hospital care placements for people with special needs, including psychiatric care facilities.

Under the Migration Act 1958, a prison or remand centre of the Commonwealth, a State or a Territory may be used for immigration detention. These are used in all States and Territories to varying degrees in locations where immigration detention centres are not available or for detainees whose criminal background or non-compliant behaviour cannot be effectively managed within an immigration detention centre.

- (2) All immigration detention facilities, currently in operation, are managed by a non-government Detention Services Provider (DSP) under contract to the Commonwealth. The operations of the DSP in all immigration detention facilities are closely monitored and scrutinised by the Department of Immigration and Multicultural and Indigenous Affairs. Detention operations are also subject to a broad range of external scrutiny, including by the Commonwealth Ombudsman the Human Rights and Equal Opportunity Commission (HREOC) and the Immigration Detention Advisory Group (IDAG).

- (3) The location of detainees as at 17 March 2004 is as follows:

• Baxter IDF	-	213
• Port Hedland IRPC	-	67
• Villawood IDC	-	484
• Maribyrnong IDC	-	71
• Christmas Island IRPC	-	52
• Perth IDC	-	17
• RHPs	-	29
• Other	-	105
	Total	1038

- (4) The Detention Services Contract between my Department and the DSP does not require specific numbers of staff, nor does it require reporting on this by the DSP to the department. There are no preset expectations of DSP staff numbers built into the pricing structure.

The contract between the Department and the DSP is outcomes focussed, ie that services will be provided in accordance with the Immigration Detention Standards (IDS). The Department's expectation is that the DSP has sufficient staff, and

adjusts staff levels, to manage the needs of detainees at any given time. In this context, staff numbers will fluctuate in accordance with the needs of detainees and to ensure the safety and security of a detention facility.

A performance monitoring procedure has been built into the detention contract to ensure compliance with the IDS. Monitoring occurs periodically at all facilities to help ensure a continued high level of service delivery within each facility. However, if the Department and the DSP discuss staffing issues, it would be in the context of monitoring service delivery against the IDS. Where there are service delivery concerns, the range of factors leading to those concerns may include the adequacy and competency of staffing.

- (5) During the financial year 2002-03, the operating expense for all immigration detention centres and RHPs was \$113.9M. The breakdown of operating costs for each location open during the 2002-03 financial year was:

• Baxter IDF	-	\$30.6M
• Port Hedland IRPC	-	\$10.3M
• Villawood IDC	-	\$27.8M
• Maribyrnong IDC	-	\$4.9M
• Christmas Island IRPC	-	\$6.5M
• Perth IDC	-	\$4.0M
• Woomera RHP	-	\$2.2M

- (6) The following is a breakdown of persons detained in all immigration detention facilities in the calendar year 2003:

• Men	-	5,547
• Women	-	1,560
• Children	-	541

Data on the number of families held in immigration detention over time is not routinely maintained and its compilation through manual collation would require a large diversion of departmental resources.

- (7) The following is a breakdown of 1038 persons in immigration detention as at 17 March 2004:

Immigration Detention Centres (IRPCs, IDCs and Baxter IDF)

• Men	-	724
• Women	-	124
• Children :		
• unauthorised boat arrivals in mainland detention centres	-	12
• Christmas Island IRPC as part of extended family group	-	16
• compliance cases	-	28

Includes 49 family units*

RHPs

• Men	-	0
• Women	-	11
• Children	-	18

Includes 11 family units*

Community Placement/Foster Care

• Men	-	13
• Women	-	7
• Children	-	17

Includes 5 family units*

• Total persons**	-	1038
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* Family unit includes: couples with no children; and child(ren) with one or both parents.

** Breakdown by age and gender as at 17 March 2004 for Other Facilities (such as hospitals, motels and prisons) is not readily available.

Immigration: Detainees

(Question No. 2359)

Senator Marshall asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 3 November 2003:

- (1) What circumstances could lead to a detainee in an Immigration Detention Centre (IDC) being segregated from other detainees.
- (2) When detainees in IDCs are segregated from other detainees, what departmental or company processes are followed.
- (3) Who makes the decision to segregate a detainee.
- (4) At the time of their segregation are detainees advised how long they will remain segregated and why they are to be segregated.
- (5) Whilst segregated from other detainees: (a) what access to services and facilities do detainees have: and (b) what services or facilities are denied.
- (6) In relation to detainees in each IDC held in solitary confinement during the past year, how many were held for longer than five days; and, in each case, for how much longer was each detainee held.
- (7) When a detainee is held in solitary confinement, is a report on the circumstances leading to the segregation of the detainee lodged with the department; if not, why not.
- (8) Is solitary confinement of detainees ever used as a form of punishment; if not, why have detainees who have been held in solitary confinement been denied reading and music materials.
- (9) Do detainees undertake psychological and/or psychiatric assessments prior to, during and/or after they spend time in solitary confinement; if not, why not; if so, are detainees provided with access to their own psychological or psychiatric assessments; if not, why not.

Senator Vanstone—The answer to the honourable senator's question is as follows:

- (1) There are three main circumstances where detainees may be held away from the general population in an IDF:
 - (a) Separation detention is used so that entry interview and associated migration checks can be completed in a way that protects the integrity of the protection visa process. This usually occurs immediately upon arrival in Australia. Separation detention ensures that Australia's resources are directed at those with genuine claims for protection and not those who would use the protection process in an attempt to achieve broader migration outcomes.
 - (b) Separation detention is also occasionally used to isolate unauthorised arrivals as a quarantine-type process until health screening is completed. It may also be used to isolate detainees with contagious diseases to protect the rest of the detainee population.
 - (c) Detainees are sometimes segregated from the general population of a facility for observation in observation rooms or Management Units within Immigration Detention Facilities. These are used to monitor detainees who pose an immediate threat to themselves, to others or to the security and good order of the facility. For example, a detainee may be placed in a Management Unit for threats or acts of self-harm, property damage or violent behaviour toward others. From time to time detainees themselves request separation from the general population in a Management Unit for personal reasons.

- (2) Separation detention and the protection visa process

Detainees who are unauthorised arrivals and placed in separation detention because they have not raised claims or information which prima facie may engage Australia's protection obligations are advised of the reasons for their separation and their legal rights. Separation in these circumstances is usually in groups, not as individual separation.

In order to protect the integrity of the protection visa process, detainees in separation detention may not receive visitors, make telephone calls, send faxes or receive mail during the initial reception period. They may send one letter to a family member advising that they are safe. If a detainee requests a lawyer or contact with their declared Embassy or Consulate during this period, facilities for this contact are provided.

Detainees in separation detention who lodge a protection visa application are transferred from separation detention into a non-separation area where they have the ability to interact with the general population of the facility. All detainees in non-separation areas generally have full access to newspapers, telephones, reading material, television and radio services, pens, writing paper and envelopes.

Separation for health reasons

For certain highly contagious illnesses, detainees not requiring hospitalisation may be quarantined within a facility's observation or management unit(s) to limit the spread of a contagion. Quarantined detainees, in this circumstance, can return to the general population of a facility as soon as they have recovered from their illness. Individual medical management plans are assessed daily by a team of health professionals including doctors, nurses and other health care workers. These management plans are developed under the health protocols of the Detention Services Provider (DSP).

Separation for good order and security

In relation to a detainee in the circumstances outlined in (1)(c) above, an individual management plan for that detainee will be developed by the DSP. The aim of the plan is to equip the detainee to be able to re-join the general population of the centre as soon as possible.

Where appropriate (for example, if the detainee is assessed as at risk of suicide or self-harm), the detainee may also be managed by a Special Needs Care Team. This comprises senior DSP centre-based managers, a health services professional and any others determined by the DSP Centre Manager as appropriate to the circumstances of the case. It

may include a psychiatrist, counsellor, doctor or mental health nurse as an individual case manager who determines appropriate treatment, including the level of observation required and what accommodation would best suit the needs of the detainee.

Subject to the individual management plan of a detainee and the security and good order of the facility, telephone calls and access to radio and television may be granted, where available. At all times, a detainee's access to their legal practitioner or other professional visitors will be facilitated.

- (3) The Department and the DSP can make decisions to segregate a detainee:
 - (a) The decision to place detainees who are unauthorised arrivals and have not yet made claims that prima facie may engage Australia's protection obligations, in separation detention is made by my Department.
 - (b) Detainees who have contracted a communicable disease are placed in quarantine on the advice of health professionals at the centre.
 - (c) The decision to place a detainee in a Management Unit for reasons of good order or security is made by the DSP. In relation to detainees identified as being at risk of suicide or self harm, the decision will be made by a Special Needs Care Team.
- (4) Given the nature of the reasons for separation detention it is usually not possible to advise detainees in advance of a fixed period for such separation.
- (5) Please refer to (2) above.
- (6) Whilst the vast majority of detainees accommodated in a Management Unit are held there for less than five days, there is a range of reasons why a detainee could be held there for longer, depending on their individual circumstances including their response to their individual management plan. Please refer to answers to parts (1) and (2) above.

Individuals in Management Units, particularly those held there for longer periods, are carefully monitored. However, compiled data concerning the length of time detainees are accommodated in a Management Unit is not readily available. Its compilation would require manual searches of relevant records and, consequently, a large diversion of departmental resources.
- (7) If a detainee is accommodated in an observation room or Management Unit, the Department requires that it be advised by the DSP of the circumstances of that placement.
- (8) Separation or segregation is not to be used as punishment. Reading and music materials will be made available if this is consistent with the management needs of the detainee concerned.
- (9) Please refer to (2) above. Mental health professionals are involved where this is relevant to the particular circumstances of the case. Psychiatric support will depend on individual needs and is guided by professional medical advice.

**Communications: Special Digital Data Service
(Question No. 2375)**

Senator Lundy asked the Minister representing the Minister for Communications, Information Technology and the Arts, upon notice, on 10 November 2003.

With reference to the Digital Data Service Special Rebate:

- (1) (a) How many people have applied for the rebate; (b) how many applications have been; (i) successful, and (ii) unsuccessful.
- (2) How much money has been allocated to this initiative, and of this money, how much has been spent.
- (3) Can a table be provided showing the grounds commonly given for rejecting applications and how many times each has been given.
- (4) On how many occasions did a rejection occur in an area which currently does not receive an Integrated Services Digital Network (ISDN) service but is deemed to be potentially capable of receiving this service.
- (5) On what grounds would an area be deemed to be potentially capable of receiving an ISDN service, rather than not capable.
- (6) On how many occasions has an application for the rebate been denied because an area which cannot currently receive ISDN is deemed to be potentially capable of receiving an ISDN service, rather than not capable.

Senator Kemp—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable senator's question:

- (1) (a) There are two providers operating under the Special Digital Data Service Obligation (SDDSO), Telstra and Hotkey. Telstra advises that 1,401 applications for the SDDSO rebate have been received to 2002-03. Hotkey advises that 16 applications for the SDDSO have been received.
 - (b) Both Telstra and Hotkey advise that all applications for the rebate were successful.
- (2) The cost of the SDDSO is part of the funds appropriated by Parliament for the Universal Service Obligation. As with the cost of USO, however, the funds are recovered from industry through a levy. That is, the SDDSO, like the USO, is industry-funded. As such, it is not simply a question of funds being allocated to the activity and then being expended.