

The Senate

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Foreign Affairs, Defence and  
Trade References Committee

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The removal, search for and  
discovery of Ms Vivian Solon

Interim report

September 2005

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## **Executive summary**

This report is the second report arising out of a reference on protection visas and deportation referred by the Senate to this committee. On 12 September 2005, the committee tabled its first report dealing with Mr Chen Yonglin's request for political asylum. This second report considers the removal, search for and discovery of Ms Vivian Solon.

The committee did not have the opportunity to examine many of the officers directly involved in the removal, search for and discovery of Ms Solon because the Commonwealth Ombudsman was conducting an investigation into this matter at the same time. Mr Neil Comrie, who is conducting the inquiry, had requested that no officers involved in the Ms Solon matter be approached in relation to their dealings with her until his investigation was finalised. The committee decided to table its preliminary findings in an interim report and to await the publication of the Ombudsman's report before tabling its final report on this matter. This interim report relies heavily on the written record made available to the committee by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) and the Department of Foreign Affairs and Trade (DFAT).

The following summary presents an outline of the committee's main preliminary findings.

The committee believes that DIMIA failed to act diligently in its efforts to establish Ms Solon's identity. It finds that, although Ms Solon insisted that she was an Australian citizen and had married an Australian, potential lines of inquiry were not pursued by DIMIA officials prior to making the determination that she was an unlawful non-citizen. The process followed to establish or verify her identity lacked rigour and it would seem that once the assumption was made that Ms Solon was an undocumented arrival in Australia, little serious attempt was made to test this assumption. The committee is in no doubt that DIMIA needs to address the failings in the system made so evident in the case of Ms Solon. It notes the assurances given by DIMIA that measures have been taken to remedy the obvious shortcomings in its processes in determining immigration status. It awaits the Ombudsman's report before commenting further on the adequacy of these measures.

The committee is also concerned that DIMIA made no attempt to ensure that any possible criminal act against Ms Solon such as assault or a road accident was thoroughly investigated by police—such an investigation may have brought to light more details about her identity and facilitated a connection between a missing persons investigation and Ms Solon.

In Ms Solon's case, a relatively junior officer had the authority to determine that she was an unlawful non-citizen and as a consequence was to be removed. The committee finds this situation unacceptable. It notes that DIMIA now requires an SES officer to clear all decisions to remove unlawful non-citizens. The committee is concerned that this measure is not sufficient to prevent junior officers from assuming, or being

expected to assume, a level of responsibility that is inappropriate for their position. It awaits the Ombudsman's findings before making any further comment.

Clearly, the written record exposed serious flaws in the decision-making process in Ms Solon's case. Not only was the decision taken by a relatively junior officer but the documentation relative to the process was inadequate. The committee finds that transparency and accountability were lacking in the process leading to the determination to remove her. It believes that any officer involved in a process determining the immigration status of a person must adhere to strict guidelines and that written records must substantiate that adherence.

The committee finds that DIMIA officers did not take adequate measures to ensure that Ms Solon was made fully aware of her rights and that no person was made available to represent her interests. It would appear that this confused, infirmed woman, who may well have been the victim of an assault or road accident, who did not have any family or friends to support her, was destitute, without a known identity and facing removal to another country, was not afforded appropriate and proper legal assistance. The committee believes that this situation is unacceptable and calls for DIMIA to redress this matter urgently.

The committee believes that greater attention should have been shown toward the physical and mental well being of Ms Solon considering that she had suffered a serious trauma and was about to be removed. This finding applies most pointedly to the lack of attention given to the arrangements for her reception in Manila.

The committee agrees with the view that the records are unclear as to what happened when Ms Solon arrived in the Philippines. It would appear that there was no-one at the airport to receive her and it was only with the help of a Qantas ground staff member that someone was located to take care of Ms Solon. In the words of Ms Solon's lawyer, 'There's further evidence that this sick woman, having been deported improperly and removed from Australia [was] effectively, left abandoned in the Manila airport in a wheelchair'.

The committee believes that DIMIA failed in its duty of care to ensure that there was adequate assistance and care for Ms Solon on arrival in the Philippines. It is quite clear that DIMIA was ultimately responsible for her removal which includes all the associated arrangements on arrival. Records on who was supposed to meet her are confusing but it would appear that these arrangements were left to third parties and were not even checked or confirmed by DIMIA officials.

Leaving arrangements to third parties without any checks or confirmation is unacceptable.

The records show that in 2003 at least two DIMIA officers became aware of the fact that Ms Alvarez and Ms Solon were one and the same person and that Ms Alvarez had been removed from Australia in 2001. The committee simply cannot comprehend how DIMIA failed to act on this knowledge that it had removed an Australian citizen in

2001. Senior officers and ultimately the Minister should have been notified of this discovery immediately and remedial action taken with the greatest of urgency.

This failing in communication needs to be thoroughly examined. The department's culture, resources, training of staff, its systems of checks and balances, its reporting regime all need to come under the microscope. It is unacceptable for an organisation to excuse its failings because senior officers were not properly informed.

It is also clear that DFAT officials both in Canberra and the Philippines were aware in 2003 that 'apparently an Australian citizen was removed'. Surely alarms bells must have started to ring. Although not the responsible department, the committee considers that in this instance DFAT showed a lack of initiative and good judgement in failing at the very least to make enquiries of DIMIA about this most extraordinary case of an Australia citizen being removed from Australia. There must also have been broader diplomatic implications that had the potential to affect both the Australian and Philippines governments. This seems to have been ignored.

In 2003, Mr Young, Ms Solon's former husband, rang DIMIA seeking information on the removal of his ex-wife. To a point, the committee accepts that because of privacy reasons DIMIA was unable to pursue this matter with Mr Young. It does not accept, however, that DIMIA's duty to investigate the matter ended there. The information that DIMIA had to hand quite clearly indicated that the Queensland Police were under the impression that DIMIA had removed Ms Solon, an Australian citizen, in July 2001. This assertion should have been checked, but again DIMIA officers brushed this information aside. There were numerous avenues that DIMIA should have rightly followed in establishing whether it had in fact made a major mistake in removing an Australian citizen. Having been made aware of the possibility of this mistake, the department was duty bound to investigate its own actions. The excuse that senior officers were not informed carries no credibility.

The committee repeats its findings that the situation in DIMIA where references to an Australian citizen being removed from Australia were ignored or downplayed on more than one occasion is unacceptable and points to serious problems in work practices in DIMIA.

The committee notes that in May 2005, Mr Downer said his department informed him that they had no knowledge of the case until 22 April 2005. Evidence shows that DFAT officers dealt with the case in 2001, 2003 and again in 2004. Again this illustrates the overall breakdown in communications within and between the government agencies dealing with Ms Solon's case.

These preliminary findings will form the basis of a final report that will be tabled soon after the Ombudsman's report is made public.



# **Chapter 1**

## **Introduction**

### **Background to the inquiry**

1.1 On 12 September 2005, the committee tabled the first of two reports in relation to its inquiry into protection visas and deportation matters. The first report examined the government's response to Mr Chen Yonglin's request for political asylum.

1.2 This report examines a second high profile case: that of Ms Vivian Solon, an Australian citizen who was removed from Australia to the Philippines in July 2001. The committee was asked to examine issues surrounding her removal, search and discovery, particularly concentrating on the involvement of the Department of Foreign Affairs and Trade (DFAT).

1.3 The Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) played the central role in Ms Solon's removal, and the decisions taken by DIMIA are critical to understanding the context for DFAT involvement. To provide this context for the reader and ensure clarification of the role played by each department, DIMIA's actions and questions arising from its actions are also addressed in this report.

### **Establishment of the inquiry**

#### **Terms of reference**

1.4 On 16 June 2005, the Senate, on the motion of Senator Bob Brown, referred the following matters to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 9 August 2005:

- (a) The response of Department of Immigration Multicultural and Indigenous Affairs, Department of Foreign Affairs and Trade, Attorney-General's Department and their respective Ministers to Mr Chen Yonglin's approaches or requests to the Australian Government for asylum and/or a protection visa;
- (b) The application of the Migration Act 1958, its regulations and guidelines concerning the maintenance of confidentiality for any consular officials or staff (including Mr Chen Yonglin, and any other former consular officials or staff) who were applicants for territorial asylum and/or protection visas by Department of Immigration Multicultural and Indigenous Affairs, Department of Foreign Affairs and Trade and their respective Ministers;

- (c) The involvement of the Department of Foreign Affairs and Trade and the Minister in the deportation, search and discovery of Vivian Solon, and;
- (d) any related matters.

This report addresses terms of reference (c) and (d).

## **Conduct of the inquiry**

1.5 The committee advertised the inquiry in *The Australian* on 22 June 2005 and on its website. It wrote to relevant Ministers and departments, interested individuals and groups inviting submissions. The committee received 9 public submissions and 1 confidential submission from a range of organisations and individuals. A list of individuals and organisations who made a public submission or provided other information that was authorised for publication by the committee is in Appendix 1.

1.6 The committee held a public hearing in Sydney and four public hearings in Canberra. A list of witnesses who gave evidence at the public hearings is in Appendix 2.

1.7 There were two matters that affected the work of the committee in relation to the committee's inquiry into the Ms Solon case. They were the inquiry conducted by Mr Mick Palmer and the late provision of documentation to the committee. A brief consideration of these matters is given below.

## **The Palmer Report and Ms Solon**

1.8 On 9 February 2005, Senator the Hon. Amanda Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs, issued the terms of reference for an inquiry into the circumstances of the immigration detention of Ms Cornelia Rau. Former Australian Federal Commissioner, Mr Mick Palmer, was to conduct the inquiry. On 2 May 2005, the Acting Minister for Immigration and Multicultural and Indigenous Affairs, the Hon. Peter McGauran, MP, requested that the terms of reference be broadened to examine the circumstances surrounding the removal from Australia of Ms Vivian Alvarez/Solon/Young.<sup>1</sup>

1.9 The report on the *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau* (known as the Palmer Report) was released on 14 July 2005. The bulk of the report dealt with the Cornelia Rau case but also contained preliminary comments and findings regarding Ms Solon's case. These findings are included where relevant in the following chapters. The examination of Ms Solon's case is continuing and is now being conducted by Mr Neil Comrie under the aegis of the Commonwealth Ombudsman.

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1 *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau*, July 2005, p. 3.

1.10 A letter from Senator Vanstone to the chair of the committee summarised the situation:

You will be aware that the Government has asked the Ombudsman to take over the Inquiry being conducted by Mr Comrie in the case of Ms Vivian Alvarez Solon. The Ombudsman agreed to that request and has commenced an own motion investigation under the *Ombudsman Act 1976*. That investigation is well advanced and I am advised that a final report will be provided to me in accordance with the provisions of the Ombudsman Act in September 2005. DIMIA staff have been reminded of their duty to cooperate fully with the Inquiry.<sup>2</sup>

1.11 The Palmer report affected the work of the committee in a number of ways. First, the department advised the committee that they would not be providing a submission. The committee received advice from Mr Ed Killesteyn, Deputy Secretary, DIMIA, dated 8 July 2005, stating that the Minister had referred the circumstances surrounding Ms Alvarez' removal from Australia to the Palmer Inquiry. The department was of the view that it would be inappropriate to make any comment pending the report from the Palmer Inquiry and accordingly it would not be providing a submission to the inquiry.<sup>3</sup>

1.12 In addition, DIMIA officials informed the committee that Mr Comrie had requested that no DIMIA staff involved in the Ms Solon matter be approached in relation to their dealings with Ms Solon until his investigation was finalised. During the hearings it was clear that DIMIA officials were constrained in the questions they could answer as they had not spoken to the individuals involved.

1.13 The work of the committee was severely hindered by this inability to either examine the officers directly involved in Ms Solon's case or obtain informed and detailed answers from DIMIA representatives appearing before the committee. The written record is poor and incomplete and DIMIA officers appearing before the committee relied heavily on this documentation to inform the committee. The committee heard evidence that was confusing, at times contradictory and, in many instances, fell silent on critical matters. Put simply, the committee was denied access to information critical to its inquiry. It found the situation unsatisfactory and asked DIMIA to speak to the Ombudsman to discuss a way forward.

1.14 The committee was informed of the Ombudsman's views in a letter from Senator Vanstone:

As you will be aware, some of the information requested by the Committee would require the Department to interview DIMIA staff involved in the case. To date the Department has refrained from interviewing staff involved

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2 Letter from Senator the Hon. Amanda Vanstone to Senator Steve Hutchins received 15 August 2005.

3 Minute from Mr E Killesteyn to Senator Steve Hutchins, titled Inquiry into matters relating to protection visas and deportation, dated 8 July 2005.

to avoid in any way influencing the investigation into this case being conducted by Mr Comrie under the aegis of the Ombudsman. This conforms with Mr Comrie's request that no staff involved in the matter be approached in relation to their dealings with Ms Alvarez Solon until he has finalised his investigations.

Due to the current Ombudsman Inquiry into this matter, the Secretary of my Department sought the Ombudsman's views about the Committee's request. In response the Ombudsman has advised that he has 'a general concern that it can be problematic from an Ombudsman perspective to be conducting a private inquiry into an issue that is concurrently the subject of a public inquiry, especially where the issues under investigation are sensitive and could result in recommendations for disciplinary or other action against individuals'.

The Ombudsman has indicated his preparedness to discuss these matters directly with the Committee...

Against this background I am uncomfortable at this stage with the Committee's request to direct DIMIA to interview staff involved in this case in order to respond to the Committee's questions. However, I reiterate my and my Department's commitment to assist the Committee to the fullest possible extent as circumstances allow and I would be happy to discuss possible ways forward with the Committee.<sup>4</sup>

1.15 The chairman, on behalf of the committee, responded to Senator Vanstone on 18 August 2005. He noted the Minister's and the Ombudsman's concerns but indicated the committee would like to pursue the matters raised with the department to fill in gaps that existed in the evidence. In particular, the committee asked for the following officers to appear before it: those directly involved in arranging Ms Solon's removal from Australia and her reception in the Philippines; those involved with the Queensland missing persons investigations in 2003 and 2004; and the officers who conducted the audit of access logs.

1.16 On 2 September 2005, the Minister replied. She observed that her department had provided the committee with all documents provided to Ms Solon's lawyers under their Freedom of Information (FOI) request. She added further that the department had also provided a range of additional documents to the committee that were exempt under FOI and provided answers to an extensive range of the committee's questions. As noted earlier, the committee found the written record woefully inadequate.

1.17 The Minister further informed the committee that the Ombudsman had provided the Secretary of the department with a draft report. According to the Minister, the Ombudsman advised her that a number of officials had been provided with relevant excerpts from the draft report and asked to respond to comments in the report. In light of the process now underway, the Minister stated:

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4 Letter from Sen the Hon. Amanda Vanstone to Senator Steve Hutchins received 15 August 2005.

Noting that the Ombudsman will finalise his report by late September or early October, my view is that justice and the public interest would best be served by waiting for the Ombudsman to quickly and efficiently finalise his report and to then make this report public. This would then provide a proper basis for Parliamentary consideration of the matter.<sup>5</sup>

1.18 The committee considered the Minister's response and resolved to proceed with its inquiry in two stages. It decided that it would wait until the Ombudsman's report is made available before making a final report and accordingly will seek to obtain from the Senate an extension to its reporting date. In the meantime, it would produce an interim report focusing on the written records. In taking this approach, the committee's intention was to give some coherence to this record and to make preliminary findings that could be tested later against the evidence disclosed by the Ombudsman's report. With this aim in view, the committee called DIMIA and DFAT officers to give evidence on 6 and 7 September 2005.

1.19 At this point, the committee draws attention to the fact that senior departmental officers, in early April 2005, began to suspect that something was very wrong about Ms Solon's removal. This awareness initiated a flurry of activity within the department in order to piece together an understanding of the events of Ms Solon's removal in 2001 and the missing persons' investigations in 2003 and 2004. Many weeks elapsed from this time to the referral of the matter to the Ombudsman on 2 May and the committee's request to question the officers directly involved in Ms Solon's case. During this period, departmental officers clearly had the time and opportunity to bring together all the strands of Ms Solon's case, interview relevant officers where there were gaps in the written record and have ready a full and accurate account of all aspects of Ms Solon's removal. The evidence shows that the officers appearing before the committee had apparently not been able to do so.

1.20 The late production of documents by DIMIA was the second issue which affected the work of the committee.

1.21 At 4:45 p.m. on Friday, 5 August 2005, the Secretariat received over 2,600 folios from DIMIA regarding Ms Solon. It was not possible for committee members to review the documentation prior to the scheduled hearing on 8 August 2005. The committee was disappointed that the department was not able to assist the committee in a more timely and efficient manner. Committee members were in a situation where it was not possible for them to study the documents prior to the arranged hearing. They, therefore, were not fully prepared to examine the department on some matters central to the inquiry. It should be noted that the 2,600 folios did not comprise all the relevant documents. Subsequently, the committee received further documentation from DIMIA.

1.22 As the hearing date and the reporting date were matters of record for some time, the committee was particularly annoyed about the late production of documents

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5 Amanda Vanstone to Senator Steve Hutchins, 2 September 2005.

which resulted in an additional hearing being required to question the department about the documents. The committee understands that a great volume of material had to be gathered from various files housed at different locations. It notes, however, that this inquiry was referred to the committee by the Senate on 16 June 2005 with a reporting date of 9 August. The best the department could manage was to provide the committee with the relevant documents late on a Friday afternoon before the Monday public hearing and four days before the initial tabling date for the report. The failure of the department to expedite the location of relevant documents and to forward them to the committee well before its reporting date reflects poorly on the department.

### **Documentation used in the report**

1.23 The committee received a substantial volume of material, much of which contained personal details which the committee decided should remain confidential. As noted earlier, the committee received three CDs containing over 2,000 folios as well as additional written material. For the purposes of citing the material in the report, the committee numbered the documentation contained on the CDs with a prefix 'S'. It has made some of this documentation public. A record of this material is at Appendix 3.

### **Structure of the report**

1.24 The report comprises five chapters—an introduction and four chapters that address directly the terms of reference relevant to Ms Solon.

### **Acknowledgment**

1.25 The committee is grateful to, and wishes to thank, all those who assisted with its inquiry.

## Chapter 2

### Preparations for the removal of Ms Solon

2.1 This chapter examines the events leading to the removal of Ms Solon on 20 July 2001 and considers the decision and actions of DIMIA and DFAT in the period preceding her removal.

#### Background

2.2 Ms Vivian Solon, an Australian citizen, was removed by DIMIA from Australia to the Philippines on 20 July 2001 under the presumption that she was an unlawful non-citizen. Ms Solon had been married and divorced, and therefore was known by other names. The name Alvarez was her mother's family name, Solon was her father's family name and Young is her husband's surname. DIMIA explained that when Vivian was removed she was known to them as Ms Alvarez. The fact that Ms Alvarez was the same person as Ms Solon was only discovered later. As explained by DIMIA:

...in July 2001 the people who were involved in Ms Alvarez's removal from Australia were focussing on the name 'Alvarez'. There was another matter going on at the same time relating to an inquiry about the missing person Solon Young. They were two separate streams of inquiry.<sup>1</sup>

2.3 The committee will refer to Vivian as Ms Solon but will use the name Alvarez when used by witnesses.

#### Events prior to removal

2.4 In March 2001, Vivian was seriously injured and subsequently deemed to be a possible quadriplegic.<sup>2</sup> She also suffered brain damage and other injuries.<sup>3</sup> On 31 March 2001, Vivian was admitted to Lismore hospital under the name Vivian Alvarez. She told the hospital that she had a husband. On 3 April 2001, the compliance manager of the Southport office received a call from a social worker at the hospital regarding Ms Solon.<sup>4</sup>

2.5 Some time before 18 April 2005, Vivian was transferred to Liverpool hospital for spinal surgery. On 23 April 2005, she was said to be 'more lucid now'.<sup>5</sup> She returned to Lismore after two weeks to receive rehabilitation treatment. From

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1 *Committee Hansard*, 8 August 2005, p. 5.

2 Document S230, Event additional Information, screen dump, no date but based on notification from Lismore Base Hospital. Document S97, 3..5.01 (Confidential)

3 *Committee Hansard*, 25 July 2005, p. 25.

4 Document S411, Draft possible questions dated 24.5.05.

5 Document S109, DIMA Southport, File note, 23.4.01.

documents that her lawyers have seen, 'it appears the hospital had a policy that if a patient was admitted without an Australian Medicare card and appeared to be of foreign extraction, they should be checked by the medical admissions officer with the department of immigration'.<sup>6</sup>

2.6 Mr Freedman, lawyer for Ms Solon, reported to the committee that after returning from Liverpool hospital, Vivian had various interviews with DIMIA officers. She informed them that she was married to an Australian citizen and that she had a passport.<sup>7</sup> Mr Freedman went on to state that:

It appears to us that at the time of the interviews she was not in a proper physical or mental condition to give full and accurate answers to the questions that she was being asked; however she did make a point of confirming that she said she was an Australian citizen, she was married to an Australian and she had a child.<sup>8</sup>

2.7 Mr Freedman added that records from DIMIA suggest she travelled to and from Australia four or five times since first arriving with her husband, Mr Young.<sup>9</sup>

2.8 Between 23 April and 13 July 2001, DIMIA interviewed Ms Alvarez and made inquiries to determine her immigration status and a series of bridging visas were issued.<sup>10</sup> The written records show that on 3 May 2001, Ms Alvarez was interviewed by a DIMIA officer. The following day, a DIMIA officer noted that, based on an interview, he 'considered it most likely that the a/n was an unauthorised undocumented arrival'. He also noted that she claimed to be an Australian citizen, to have married an Australian citizen, and to have had a passport and a visa.<sup>11</sup>

### **DIMIA lines of inquiry**

2.9 Based on the evidence, there is no doubt that Ms Solon had told DIMIA officials that she had been married, was an Australian citizen, had a passport and a visa to come to Australia.<sup>12</sup> These lines of enquiry did not appear to have been followed up. As stated by Mr Freedman:

Up to that point in time (her removal), Vivian had had various contacts with government departments. She had been married and had been divorced. She had been known to Queensland Community Services, she had been

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6 *Committee Hansard*, 25 July 2005, p. 25.

7 Document S107, DIMIA file note, dated 4.5.01 (Confidential).

8 *Committee Hansard*, 25 July 2005, p. 26.

9 *Committee Hansard*, 25 July 2005, p. 26.

10 *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau*, July 2005, p.184. Document S94–5 (Confidential) and Document S47–57.

11 Document S107, DIMIA file note, dated 4.5.01 (Confidential). Her record of interview, 13 July 2001, clearly states that she is an Australian citizen.

12 Document S107, DIMIA file note, dated 4.5.01 (Confidential).

receiving social security payments and she had also been known to the police. She was not a stranger to the Australian government or to the government authorities.<sup>13</sup>

2.10 It should be noted, however, that Ms Solon gave an incorrect name for her former husband, an incorrect date for her arrival in Australia and her citizenship certificate is under the name of Vivian Young alias Solon. Furthermore, the details she gave about her arrival in Australia were vague and confused.

2.11 Documentation provided to the committee showed that when determining her citizenship status in 2001, DIMIA did not contact DFAT to find out whether she had an Australian passport.<sup>14</sup> It should be noted that Ms Solon was granted Australian citizenship on 3 March 1986.<sup>15</sup> Evidence indicates that DIMIA only conducted systems checks.

2.12 A formal interview was conducted with Ms Alvarez by DIMIA on 13 July 2001.<sup>16</sup> In that interview, 'Vivian notes again her correct place of birth, her date of birth, the fact that she is an Australian citizen and that she is divorced'.<sup>17</sup> That same day, a Request for Officer to Hold in Immigration Detention form was issued in the name of Vivian Alvarez on the basis that she was known or reasonably suspected to be an unlawful non-citizen<sup>18</sup> and she became an immigration detainee.<sup>19</sup> At that time, DIMIA officers made arrangements for Ms Solon to be transported from Lismore Base Hospital to a hotel near the Brisbane airport where she was placed under guard until she was removed.<sup>20</sup>

2.13 Although Ms Alvarez told interviewing officers that she was an Australian citizen and also that she was divorced, these potential lines of inquiry were not followed up. Ms Daniels, Assistant Secretary, Compliance and Analysis Branch, DIMIA, explained that 'the reasons those leads were not followed up is not clear to us

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13 *Committee Hansard*, 25 July 2005, p. 25.

14 Document S327A, DFAT talking points dated 23.4.05.

15 Document S332A, DIMIA Timeline dated 19.5.05.

16 *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau*, July 2005, p. 184.

17 *Committee Hansard* 25 July 2005, pp.27-28. The record of interview, 13 July 2001, shows that Ms Alvarez stated that she had a visa and that she had a husband who was now her ex-husband. She stated that she would like to apply for a visa in Australia but 'does not know which one' and that she would like to stay. Documents S47-57.

18 *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau*, July 2005, p.185.

19 *Committee Hansard*, 6 September 2005, pp. 12-13.

20 *Committee Hansard*, 25 July 2005, p. 27.

because we have not spoken to the individuals'.<sup>21</sup> She also said 'it has been stated that the facts in this case warranted significantly more checking'.<sup>22</sup>

2.14 Regarding the process that would have been followed by the compliance officer in determining the immigration status of Ms Solon, Ms Daniels said:

The compliance officer would have had at their disposal the instructions available at the time, which would have been the Migration Series Instruction (MSI) relating to compliance, detention and removal. At that time—I cannot remember the detail of that document—it would presumably not have instructed the person to take on each piece of information and explore it to the nth degree until they were satisfied that that piece of information had no substance.<sup>23</sup>

2.15 Based on the written record, the committee is not convinced that DIMIA took all necessary and appropriate steps to establish Ms Solon's identity. It notes, however, that Ms Daniel also informed the committee that changes have been made to the process. She explained:

The processes in place now mean that those elements of information would need to be explored exhaustively. In a sense, it is that investigative method being brought to the attention in the Palmer inquiry that is required in the examination of information by compliance officers and removal officers in this sort of work, through escalation, referral to detention review managers, review by detention review managers and central office support through the NIVA unit—the National Identity Verification and Advice Unit.<sup>24</sup>

2.16 Ms Daniels said 'I think it would be fair to say in hindsight that these elements of information could have and should have been pursued. As to why they were not, I think I have made the point that I cannot speculate on why that happened'.<sup>25</sup> She summarised that 'it certainly would not be the case now that those avenues of inquiry would not be pursued'.<sup>26</sup>

2.17 One disturbing aspect of the Solon case is that early assumptions made about her character carried through unquestioned until her removal. During the initial stages of determining Ms Solon's immigration status, some DIMIA officers assumed, without any shred evidence that she was a sex worker. For example, without grounds for such an assumption, a DIMIA note goes so far as to state that she was 'smuggled

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21 *Committee Hansard*, 8 August 2005, p. 8.

22 *Committee Hansard*, 8 August 2005, p. 9.

23 *Committee Hansard*, 8 August 2005, p. 13.

24 *Committee Hansard*, 8 August 2005, p. 13.

25 *Committee Hansard*, 8 August 2005, p. 14.

26 *Committee Hansard*, 8 August 2005, p. 13.

into Australia as sex slave'.<sup>27</sup> The committee is of the view that this perception of Ms Solon may well have influenced the degree of diligence shown in the efforts to establish her identity and the decision to remove her.

### ***Committee view***

2.18 The committee is in no doubt that DIMIA needed to address the failings in the system made so evident in the case of Ms Solon. It notes the assurances given by DIMIA that measures have been taken to remedy the obvious shortcomings in its processes in determining immigration status. It awaits the Ombudsman's report before commenting further on the adequacy of these measures.

### **The decision to remove Ms Solon**

2.19 The committee was told that the officers dealing with Ms Solon's case were at the APS 5 or APS 6 level<sup>28</sup> which is a middle ranking officer in the Australian Public Service. Ms Daniels said that 'the officers reached the conclusion that they reasonably suspected she was unlawful, so they regularised her status by granting a bridging visa'.<sup>29</sup>

2.20 When asked about the decision to remove a person, Mr Williams, Assistant Secretary, Unauthorised Arrivals and Detention Operations Branch, DIMIA, told the committee:

On a small technical issue, because of the way the Act is structured, there is technically no decision to remove. Removal is a duty that an officer is required to carry out if a person is an unlawful non-citizen and they have not applied for a visa, or they have applied for one and it has been refused...there is a process that was required to be followed under the policy that those factors be determined and removal occur once those factors had been decided.<sup>30</sup>

2.21 With regard to the Ms Solon case, it would appear according to Ms Daniels 'that one officer made an instruction to an ACM [Australasian Correctional Management] officer to hold this person in immigration detention'.<sup>31</sup> She told the committee that on 19 July 2001, an email advising of Ms Solon's removal was sent to the relevant division head.<sup>32</sup>

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27 Document S35, handwritten note on file, (Confidential). Document S107, File note, 4 May 2001, (Confidential); Document S94, E-mail between DIMIA officers, 7 June 2001, (Confidential); Document S232, screen dump, no date, (Confidential); Document S656, briefing note for information, 20 July 2001.

28 *Committee Hansard*, 6 September 2005, p. 6.

29 *Committee Hansard*, 8 August 2005, p. 14

30 *Committee Hansard*, 6 September 2005, pp. 8-9.

31 *Committee Hansard*, 6 September 2005, p. 9.

32 *Committee Hansard*, 6 September 2005, p. 5.

2.22 The evidence establishes that the decision to remove Ms Solon from Australia was made by an officer at the APS 5 or APS 6 level with no direct referral to senior officers for review and possibly no review of the file. DIMIA officers, however, informed the committee that now all decisions to remove unlawful non-citizens are cleared by a Senior Executive Service (SES) officer.<sup>33</sup>

***Committee view***

2.23 In Ms Solon's case, a relatively junior officer had the authority to determine that she was an unlawful non-citizen and as a consequence was to be removed. The committee finds this situation unacceptable. It notes that DIMIA now requires an SES officer to clear all decisions to remove unlawful non-citizens. The committee is concerned that this measure is insufficient to prevent junior officers from assuming, or being expected to assume, a level of responsibility that is inappropriate for their position. It awaits the Ombudsman's findings before making any further comment.

***Official procedures for determining a person is an unlawful non-citizen***

2.24 Mr Williams told the committee that the determination that removal was necessary requires the completion of a form but that there was no such form in the documentation. Mr Williams said that attached to form MSI 54 there is a checklist titled 'steps for removal, when and if required' which is a process list regarding obtaining travel documents, tickets, escorts etc.<sup>34</sup>

2.25 The committee is concerned to hear that this form did not evidence the actual process of decision, but seems to be a checklist of things to do once the decision had been made. The process appears to be that the DIMIA officer, having a suspicion that a person is an unlawful non-citizen, comes to this conclusion but there is no written record of the decision having been made or any supporting documentation. At the first interview with Ms Solon in May 2001, the officer notes 'From interview, I consider it most likely that the a/n was an unauthorised, undocumented arrival'.<sup>35</sup>

2.26 The committee also heard that at the interview in May 2001 an interpreter was used who was a DIMIA employee. Ms Daniels admitted that they do not know if the person is an accredited interpreter and 'hence in hindsight it would have been far more desirable for an interpreter to be accredited and objective, not a DIMIA person'.<sup>36</sup>

***Committee view***

2.27 Clearly, the written record exposed serious flaws in the decision-making process in Ms Solon's case. Not only was the decision taken by a relatively junior

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33 *Committee Hansard*, 6 September 2005, p. 3.

34 *Committee Hansard*, 6 September 2005, p. 39.

35 Document S107, DIMIA Southport file note dated 4.5.01 (Confidential).

36 *Committee Hansard*, 6 September 2005, p. 43.

officer but the documentation relative to the process was inadequate. The committee finds that transparency and accountability were lacking in the process leading to the determination to remove her. It believes that any officer involved in a process determining the immigration status of a person must adhere to strict guidelines and that written records must substantiate that adherence. The committee notes the change that now requires an SES officer to clear all decisions to remove an unlawful non-citizen. It considers that such a sign off must contain a checklist of documentation which should include clear evidence of the checks made to establish or verify identity, medical/psychological assessments/requirements, offers of legal assistance and other enquiries pursued. All records of interview must be signed by the interviewee and if unable to be signed must be witnessed and certified as correct by a third party.

2.28 The committee now considers whether the process to remove Ms Solon was in keeping with recognised basic rights.

### ***Ms Solon's legal rights***

2.29 The committee sought to establish whether prior to her removal, Ms Solon was advised of the fact that she was an unlawful non-citizen and was facing removal and what advice she received regarding her legal rights.

2.30 A DIMIA Southport file note dated 7 June 2001, records 'I raised the possibility of contacting a legal aid organisation to provide immigration assistance to the a/n. [the person it was raised with] stated that the a/n has been refusing all offers of assistance, and seems to be resigned to accepting whatever fate deals her. I stated that if she does not wish to lodge an application, the department would have to look at ways to remove her'.<sup>37</sup>

2.31 This is the only direct reference in the written record to any attempt by DIMIA to obtain assistance for Ms Solon regarding her immigration status. It seems to have been made through a third person.

2.32 Ms Daniels agreed that there was no record on the file to confirm that information regarding Ms Solon's legal rights was provided to her. She explained that:

a person taken into immigration detention would normally—and I cannot say that this happened in this case, or that we have a record that it happened in this case—be given a piece of information which we call a very important notice, a VIN, which explains the detention that they are about to enter and amongst other things, would tell them that they have the right to access consular officials. I cannot remember what the specific words are in respect of access to legal services, but the document is intended to tell people about their situation and their rights within that context.<sup>38</sup>

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37 Document S93, DIMIA Southport file note dated 7.6.01.

38 *Committee Hansard*, 6 September 2005, pp. 18-19.

2.33 Ms Daniels later added that in the interview that was conducted with Ms Solon on 13 July 2001, Ms Solon was asked 'have you read or did an interpreter read to you the notice to people in immigration detention'. The answer recorded was 'yes'.<sup>39</sup> This record of interview, however, was not signed by Ms Solon. It carried an annotation by the interviewer, 'unable to sign'. The committee notes further that there was no certification by a witness that the record of interview was correct.

2.34 The committee considers that the offer of legal assistance should have been made directly to Ms Solon as part of the removal process. It is concerned that there is no evidence that this was done. The question in the interview on 13 July 2001 about the notice to people in immigration detention being read to Ms Solon does not allay the committee's concerns as we know from the documentation that she was confused and providing contradictory information. Her lawyers told the committee she was in no fit state to answer the questions at this time and furthermore, she was unable to sign the record of this interview.

### ***Committee view***

2.35 The committee finds that DIMIA officers did not take adequate measures to ensure that Ms Solon was made fully aware of her rights and that no person was made available to represent her interests. It would appear that this confused, infirmed woman, who may well have been the victim of an assault or road accident, who did not have any family or friends to support her, was destitute, without a known identity and facing removal to another country, was not afforded appropriate and proper legal assistance. The committee believes that this situation is unacceptable and calls for DIMIA to redress this matter urgently.

### **Health of Ms Solon**

2.36 Questions were also raised by witnesses about the health of Ms Solon at the time of her removal and whether DIMIA fulfilled its duty of care. The records show that DIMIA took care to ensure that Ms Solon was accommodated in a ground floor room of a hotel close to Brisbane airport, that she had access to social workers and staff from the Philippines consulate. Even so, the evidence shows that her medical condition required special consideration.

2.37 Ms Solon was admitted to hospital on the weekend 31 March 2001 and spent until July 2001 in hospital receiving rehabilitation. Various documents indicate the extent of her injuries. At one stage, it was suggested that she was 'a possible paraplegic'. On 21 June, she was still wheel chair bound and her injuries were described as 'extensive'.<sup>40</sup>

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39 Documents S46-57, Record of Interview with suspected unlawful non citizen dated 13.7.01.

40 Document S239, Event Additional Information Detail screendump, no date, regarding information received from social worker.

2.38 She was released from the rehabilitation unit on 12 July 2001 and taken into DIMIA custody at that time.<sup>41</sup> Even then, her state of health was poor. The discharge note provided by the hospital dated 12 July 2001 read:

Vivian walks with a 4-wheel walker for safety as she still has some gait problems and hand weakness. Vivian is independent with self-care with encouragement.<sup>42</sup>

2.39 On 13 July 2001, she was unable to sign the record of interview.<sup>43</sup> Three days later, a document recorded:

Ms Alvarez has been discharged from hospital where she was receiving rehabilitation for an injury. She uses a walking frame and has limited mobility. She is not able to write and had limited use of her hands. She is a very frail, tiny woman. Ms Alvarez has stated that she has no family in the Philippines to assist her.<sup>44</sup>

It noted that Ms Alvarez is in 'a difficult situation and will need assistance on her arrival'.

2.40 Mr Freedman informed the committee that from investigations they had undertaken, a few days prior to her removal, 'in the presence of Filipino community workers, including social workers and nurses, Vivian had a series of fits in which it was described to us that her eyes are rolling back into her head and she loses the ability to stand'.<sup>45</sup> Mr Freedman added they believe that as a result of witnessing the fits, notification was sent to representatives of the Filipino mission in Canberra.

2.41 Indeed, the written record establishes that DIMIA were aware of reports that Ms Solon had had 'spasms' and that the Philippines Deputy Head of Mission in Canberra had stated that Ms Alvarez 'was not fit to travel'.<sup>46</sup> It would appear that this complaint raised by the Philippines Embassy prompted DIMIA to seek medical advice in order to obtain a certificate that she was 'fit for travel'.

2.42 Ms Daniels, DIMIA, told the committee that there was no evidence on the file to indicate that a formal response to the concerns raised by the Philippines Embassy had been provided but their concerns would have been part of the trigger to seek the fitness to travel assessment.<sup>47</sup> Ms Daniels told the committee that on 19 July 2001, at

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41 Document S23, DIMIA email titled Removal of Filipino – Vivienne Alvarez, dated 19.7.01.

42 *Committee Hansard*, 8 August 2005, p. 14.

43 Documents S46-57, DIMIA Record of Interview with suspected unlawful non-citizen dated 13.7.01.

44 Document S36, DIMIA email titled Removee – Vivien Alvarez, born 30/10/1962, dated 16.7.01 (S36).

45 *Committee Hansard*, 25 July 2005, p. 28.

46 Document S23, DIMIA email titled Removal of Filipino – Vivienne Alvarez, dated 19.7.01.

47 *Committee Hansard*, 8 August 2005, p. 34.

the request of a DIMIA officer, a local doctor provided a report that she was fit to travel.<sup>48</sup>

2.43 The committee was concerned to hear that there was no evidence that Ms Solon had been explained her rights regarding the medical examination and asked DIMIA to provide further details on their procedures and any changes. DIMIA responded that:

Most people who are to be removed from Australia are advised in writing in advance of their removal. They will then be advised of the need to undergo a medical examination for the purposes of that removal.

The Detention Services Provider's health subcontractors will not insist that a detainee have a physical examination if the detainee is not willing to be examined. In circumstances where the detainee has refused a medical examination, a fitness to travel assessment would be based on a review of their medical file.

Departmental policy is that people are not removed from Australia without a fitness to travel assessment, which preferably includes a physical examination by a doctor.

If a DIMIA officer believes that the early notification of a removal to a detainee may pose a significant risk to the removal, and/or to the detainee's or other person's safety, notification of the removal may be deferred until just prior to the commencement of the actual removal process. In these cases the person may not be informed of the reason why they have been requested to undertake a medical examination.<sup>49</sup>

2.44 As to her mental well being, it is difficult to make an assessment as there appears to have been no medical advice sought. According to a statement made by her former husband, Ms Solon had been hospitalised on occasions due to a mental illness. DIMIA was not aware of this history. Even so, again on the facts before this committee, her behaviour and her circumstances clearly show a woman in need of professional assessment. On 23 April 2005, a DIMIA officer records that Ms Alvarez was 'more lucid now'.<sup>50</sup> A 4 May 2005 file note records that Ms Alvarez 'could not actually/specifically remember how she came to Australia'.<sup>51</sup> Ms Daniels told the committee that there was no record she was aware of that counselling services were provided to Ms Solon.<sup>52</sup> This lack of attention given to the mental health of Ms Solon itself is a damning indictment of the level of care provided to this woman.

2.45 On the facts known, she had been involved in a serious accident resulting in 'extensive' injuries requiring weeks of rehabilitation, she was destitute and without

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48 *Committee Hansard*, 8 August 2005, p. 15.

49 Additional information from DIMIA received on 23.8.05.

50 Document S109, DIMIA Southport file note dated 23.4.01.

51 Document S107, DIMIA Southport file note dated 4.5.01 (Confidential).

52 *Committee Hansard*, 6 September 2005, p. 16.

family or friends to support her, the information she was providing to officials could not be verified and accounts of her time in Australia were confused and changed over time. Furthermore, she was about to be removed from the country. It should be noted that a Press Release by the Embassy of the Philippines stated that on 16 July 2001, it instructed the Consulate 'to make representations with Immigration to give her "therapeutic counselling" and further treatment for trauma before sending her home'.<sup>53</sup>

### ***Committee view***

2.46 Overall, the committee concludes that DIMIA did not provide an adequate level of health care for Ms Solon before her removal.

2.47 The following section looks at DFAT's involvement in the Solon case in 2001.

### ***DFAT involvement***

2.48 During the week Ms Solon was in immigration detention, the deputy head of the Philippines Embassy raised concerns about her health with DFAT. An email by a DFAT officer dated 20 July 2001 outlined the concerns expressed by the deputy head of mission:

Vivian is due to be removed from Australia today. Hopefully everything will go smoothly and you won't get any media inquiries. However, if you do the department head of mission in Canberra, Mr Santaigo, contacted me a number of times yesterday to inform us of this case, claiming it had the potential to affect the bilateral relationship. His story was that Ms Alvarez was going to be removed from Australia and she was not fit for travel. He told me she had been in an accident and she shouldn't be moved in that condition. If she was to be removed it would not play well in the media in Manila... He demanded that we did not remove her. In fact the Philippine embassy would not be issuing travel documents...I said that if he wanted to send information I would look at it and compliance was a matter for DIMIA and Mr Ruddock. Santaigo never sent any information, but he did say that Vivian had married an Australian three years ago and it had not worked out. I contacted DIMIA, who advised me that Ms Alvarez was illegal and there is no reference on the movements register as to how she entered the country.<sup>54</sup>

2.49 Mr Rod Smith, First Assistant Secretary, Public Diplomacy Consular and Passports Division, DFAT, clarified that the email detailing Mr Santiago's concerns was sent by the then Philippines desk officer in the South and South-East Asia division of DFAT to the deputy head of mission in Manila and several other DFAT addressees in the embassy in Manila.<sup>55</sup>

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53 Embassy of the Philippines Press Release dated 17.5.05.

54 *Committee Hansard*, 25 July 2005, p. 28.

55 *Committee Hansard*, 8 August 2005, p. 56.

2.50 Mr Smith explained that the desk officer in Canberra told the Philippines embassy that Ms Solon's health was a matter for DIMIA and they should take it up with them. He said 'this prompted the contact between DFAT and DIMIA. As I understand it, DIMIA then confirmed what they understood to be the case at the time, which was that Ms Solon was in Australia illegally. At that point—and certainly at the point when she was removed—Ms Solon was deemed fit to travel'.<sup>56</sup>

2.51 Mr Gilding, Assistant Secretary, Consular Branch, DFAT, said that the DFAT desk officer established with DIMIA that Ms Solon had been seen by a doctor and was fit to travel and this ameliorated the concern of the Philippines embassy and they issued her a visa later that day.<sup>57</sup>

### ***Threat to the bilateral relationship***

2.52 The email from the DFAT officer above shows that the deputy head of the Philippines Embassy in Canberra made representation to DIMIA that the removal of Ms Solon could damage bilateral relations between Australia and the Philippines.

2.53 Mr Freedman reported that there was no indication in the paperwork received by him as to what information was passed up the chain in DFAT despite the mention of the threat to bilateral relations.<sup>58</sup>

2.54 The committee asked whether DFAT was concerned about the suggestion that bilateral relations could be damaged and what action they took. Mr Smith replied:

It was not a concern that was put particularly strongly. It was something that we took on board and I think it was the sort of thing that led to the further contact between DFAT and DIMIA to ensure that all of the proper steps were being followed—in other words, that DIMIA were aware of the embassy's concerns and were taking them into account in managing the issue.<sup>59</sup>

2.55 In response to whether this was brought to the attention of senior executives or any action taken, Mr Smith stated that the email was copied to other more senior people in the department, so they would have been aware of the matter. He stated further:

I am not sure that the issue required a judgement one way or the other that it would cause damage to the bilateral relationship. What we had was an expression of concern from the Philippines embassy, which we would

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56 *Committee Hansard*, 8 August 2005, p. 57.

57 *Committee Hansard*, 8 August 2005, p. 58.

58 *Committee Hansard*, 25 July 2005, p. 39.

59 *Committee Hansard*, 8 August 2005, p. 57.

obviously take on board in our involvement, our engagement on this issue. That was very much part of it.<sup>60</sup>

2.56 Mr Smith told the committee that the Philippines Embassy was invited to provide further information on the nature of their concerns but they did not.<sup>61</sup>

### ***Committee view***

2.57 The committee cannot understand why DFAT did not take this matter more seriously.

### **The name Solon and a missing person's inquiry 2001**

2.58 The committee has discussed the checks undertaken by DIMIA to establish Ms Solon's identity prior to her removal. It now considers this matter in connection with a missing persons investigation taking place around the time of her removal.

2.59 On 19 July 2001, DIMIA dealt with a missing person's inquiry looking for movement records for Vivian Solon and Young. Ms Daniels explained that the request was only for a movements check. The response to that inquiry was that a person by that name last entered Australia in September 1993 and had not left since. She stated that 'to all intents and purposes, at that time it was a different person from the one, Ms Alvarez, who was about to be removed'.<sup>62</sup>

2.60 The records note, however, that the DIMIA response showed Vivian Alvarez Solon Young with the correct birth date but there was no connection made that this was the same person who was removed a day later. Ms Daniels reiterated that the missing person's request was only for a movements check which provided biodata about the person and her last movement into Australia.<sup>63</sup>

2.61 The committee further questioned the movements check process. Ms Daniels told the committee that it would seem this was a purely factual inquiry about whether Ms Solon had left the country. She added that if there had been additional contextual information provided, current procedures would ensure that further investigative work was undertaken.<sup>64</sup>

### **Other checks**

2.62 The committee questioned whether any contact with the Australian Federal Police or Queensland Police had been made regarding how Ms Solon obtained her

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60 *Committee Hansard*, 8 August 2005 pp. 58-59.

61 *Committee Hansard*, 8 August 2005, p. 59.

62 *Committee Hansard*, 8 August 2005, p. 29.

63 *Committee Hansard*, 8 August 2005, p. 30.

64 *Committee Hansard*, 8 August 2005, p. 31.

injuries, prior to her removal. Ms Daniels replied that there was no evidence to indicate that contact had been made.<sup>65</sup> The committee considers Ms Solon's injuries should have been reported to the police to ensure that any possible criminal acts towards Ms Solon were investigated.

### ***Committee view***

2.63 The committee has already commented on the inadequacies of the checks made by DIMIA in attempting to establish Ms Solon's identity. It is of the view that had DIMIA pursued the matter of Ms Solon's accident and uncertain identity with the relevant police authorities, a connection may have been made between this unidentified woman found wandering the streets after having been seriously injured and the woman reported missing. The committee will never know whether such action would have led to linking the two persons but the assumption is plausible. The Ombudsman may well have investigated this matter thoroughly. The committee awaits his findings.

### **Conclusion**

2.64 The committee is concerned that potential lines of inquiry to establish Ms Solon's identity were not followed up by the compliance area. Despite providing a number of names to DIMIA officers in the period preceding her removal, it is clear from DIMIA's records that Ms Solon stated on a number of occasions that she was an Australian citizen, had been married and had a passport. This would have opened up lines of inquiry which evidence indicates were not pursued. Instead, there appears to have been assumptions made regarding Vivian's background which cast a slur on her character and possibly influenced the diligence applied to her case.

2.65 The decision to remove Ms Solon seems to have been the only option pursued with any vigour. The investigation to establish her identity was clearly inadequate and her statements that she was an Australian citizen appear to have been disregarded.

2.66 The decision to remove a person from Australia is significant and one that the committee believes should not be left solely to a middle ranking DIMIA officer but should be referred to a more senior officer for review of the decision and file. The committee believes that DIMIA failed to act diligently in its efforts to establish Ms Solon's identity and overall failed in their duty of care toward her. There is no doubt that Ms Solon had requirements for her physical and mental well being which needed to be taken into consideration by DIMIA. At the time of her discharge from hospital, the hospital noted she required a four-wheel walker and had weakness in her hands. In summary, the committee finds that the procedures adopted in making the decision to remove Ms Alvarez from Australia were inappropriate in that:

- the process followed to establish or verify her identity lacked rigour and it would seem that once the assumption was made that Ms Solon was an

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65 *Committee Hansard*, 8 August 2005, p. 35.

undocumented arrival in Australia, little serious attempt was made to test this assumption despite Ms Solon's insistence that she was an Australian citizen and had married an Australian;

- a relatively junior officer made the determination that Ms Solon was an unlawful non-citizen (the committee was pleased to hear that removals are now signed off by SES officers);
- the process in determining Ms Solon's immigration status lacked transparency and accountability and the documentation accompanying this determination was inadequate;
- there were inadequate safeguards to ensure that Ms Solon's legal rights were protected;
- greater attention should have been shown toward the physical and mental well being of Ms Solon considering that she had suffered a serious trauma, was destitute, could not establish her identity, was confused and was about to be removed; and
- no attempt was made to ensure that any possible criminal act against Ms Solon such as assault or a road accident was thoroughly investigated by police—such an investigation may have brought to light more details about her identity and facilitated a connection between a missing persons investigation and Ms Solon.

2.67 The committee is surprised that the mention of a threat to bilateral relations did not appear to have been acted on by DFAT with any degree of seriousness. Senior officers were made aware in Manila of the concerns but it would seem not in Canberra. It appears strange, and is of concern, to the committee that something that may impact on bilateral relations would not have been brought to the attention of senior management in Canberra and the Minister. DFAT's explanation that the concerns did not warrant a judgement and they were waiting for more information did not allay the committee's concern.

2.68 It is clear that the committee's preliminary findings anticipate the need for change in DIMIA's approach to those suspected of being in the country unlawfully and the process used by DIMIA to determine a person's immigration status. The committee awaits the Ombudsman's report, which it will consider closely, before making any final recommendations.

2.69 Chapter three examines the events and actions which took place when Ms Solon arrived in the Philippines.



## Chapter 3

### Ms Solon's removal from Australia

3.1 This chapter examines the actions taken at the time of Ms Solon's removal from Australia on 20 July 2001. It considers the roles of DIMIA and DFAT at the time of removal and actions taken immediately after her removal.

#### Removal

3.2 On 20 July 2001, Ms Solon was removed to the Philippines in the company of a Queensland police officer. Mr Newhouse, lawyer for Ms Solon, reported to the committee that the Queensland police officer was expecting to see representatives from the embassy and the Sisters of Charity at the airport but there were no Australian representatives at the airport when they arrived. He told the committee that Vivian was then brought to the attention of the Overseas Workers Welfare Association (OWWA) by a Qantas staff member and the police officer. Mr Newhouse clarified that, 'OWWA is a Filipino government authority which has been established to take care of returning members of the Filipina diaspora from overseas, but there were no arrangements made by the Australian government for Vivian on her return to Manila'.<sup>1</sup> Mr Newhouse added that from their investigations, it would seem that no formal arrangements had been made and conversations with witnesses indicate they were never asked to arrange any reception for Vivian at the airport.<sup>2</sup>

3.3 The committee asked DIMIA when its responsibility for a detainee formally ends. Mr Williams told the committee:

It is a little bit of a grey area, I guess, but detention would probably have formally ceased when the person left Australia. Whether that is when the aircraft was pushed back or whether it was when the aircraft left Australian airspace is a question for the lawyers. But detention would probably have formally ceased at that point. But as I understand it in this case and in many other cases, the person was escorted—accompanied—by an officer contracted or arranged by DIMIA. So there is a responsibility for that person until they arrive at the destination country. So whether there is technically a detention occurring at that time is a legal question, but there is a responsibility.<sup>3</sup>

#### Committee view

The committee is firmly of the view that there should be no 'grey area' with regard to Australia's responsibility to those they are deporting or removing from Australia.

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1 *Committee Hansard*, 25 July 2005, p. 29.

2 *Committee Hansard*, 25 July 2005, p. 30.

3 *Committee Hansard*, 6 September 2005, p. 15.

There must be an indisputable and identifiable point at which Australia's responsibility to these people starts and ends. Ms Solon's circumstances have highlighted the need for the Australian Government to review and clarify this area of responsibility.

***Who was supposed to meet Vivian***

***DIMIA***

3.4 The committee questioned the arrangements made by DIMIA for Ms Solon's arrival in the Philippines. Ms Daniels advised the committee that it would be fair to say that 'the file records are not clear as to the discussions during the week that Ms Alvarez was in immigration detention on the arrangements set in place for her reception on return...'<sup>4</sup> The following information contained in various documents shows a confused, vague and inconclusive account of the arrangements made for Ms Solon's reception in Manila:

- An officer who was part of the removal team, contacted the mission in Manila to inform them that Ms Solon was using a walking frame and would need assistance. However from the documentation provided, it is not clear whether this request for assistance was followed up or who made what arrangements<sup>5</sup>;
- A locally engaged officer of the Immigration section of the embassy arranged for a welfare agency, presumably the Overseas Workers Welfare and Administration (OWWA), to meet Ms Solon at the airport<sup>6</sup>;
- A DIMIA officer in Canberra asked a DIMIA officer in Manila to make enquiries about services which might be able to meet and assist Ms Solon on her return. There is no evidence of a reply<sup>7</sup>;
- Compliance staff in Brisbane said they had been in touch with the Centre for Multicultural Care community group and the office in Manila requesting assistance for Ms Alvarez on her arrival<sup>8</sup>; and
- Ms Solon's escort had been advised by Compliance staff that DIMIA was making arrangements for Ms Solon to be met on arrival by a welfare/church organisation. The Escort Instructions, dated 20 July 2001, the day of Ms Solon's removal, explain that the compliance officer 'should be able to pass the names and any other information onto the escort before departure'.<sup>9</sup>

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4 *Committee Hansard*, 8 August 2005, p. 25.

5 *Committee Hansard*, 8 August 2005, p. 32.

6 *Committee Hansard*, 8 August 2005, p. 63.

7 Document S35, DIMIA email titled Removee – Vivien Alvarez, born 30/10/1962, dated 16.7.01.

8 Document S26, Letter from compliance dated 17.7.01.

9 Document S422A, Escort instructions dated 20.7.01.

3.5 DIMIA staff in Manila enquired as to what was expected of the embassy with regard to the arrival of Ms Alvarez. They were told that Ms Alvarez had departed with an escort and:

...that a social worker in Australia had arranged for Catholic nuns or social workers to meet Ms Alvarez on arrival and give any assistance necessary. Therefore there was no longer any requirements for Embassy staff to assist.<sup>10</sup>

3.6 As it turned out, Ms Solon's escort phoned from Manila to advise that Ms Alvarez was met on arrival by a person who was the 'Overseas Welfare Administrations officer from the Australian Embassy'.<sup>11</sup> OWWA's recollection, however, is somewhat different. It states that Ms Solon was:

Left at the OWWA Counter at the NAIA [airport] by a Qantas Ground Personnel because there was no party to receive the passenger at the Arrival Area. Logbook entries show the following:

- 1.1 She is on wheel chair, a traffic accident case, accompanied by Senior Constable Jane Beare of Queensland Police. Name appearing on the log is Vivian Alvarez.
- 1.2 She has 3 checked-in luggages.
- 1.3 According to Vivian, she will be fetched by a certain Mother Teresa at the Arrival Extension Area. Officers checked with the arrival extension twice, and made use of the paging system with negative results.<sup>12</sup>

## **Responsibility for making reception arrangements**

3.7 Ms Daniels told the committee that 'it would be part of the removal process that would lead to our assessment as to whether there would or would not be some form of reception arrangement'.<sup>13</sup> Mr Williams added:

DIMIA is carrying out the removal, so it is obviously important that DIMIA be satisfied that some arrangements are in place, where that is necessary. It is often not, but in this case it obviously was. If the officers were satisfied that another agency was capably handling that, then it might be that you would bow out of the actual arrangements. But, in a case where there was a need for some sort of on-arrival support, DIMIA would need to at least kick that off—make that happen in the initial stages.<sup>14</sup>

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10 Document S15, DIMIA File note dated 20.7.01.

11 Document S14, DIMIA file note dated 20.7.01.

12 Documents S390-392, Overseas Workers Welfare Administration, 'Vivian Alvarez: Case Facts', no date.

13 *Committee Hansard*, 6 September 2005, p. 22.

14 *Committee Hansard*, 6 September 2005, p. 23.

3.8 In answering a question on notice regarding reception arrangements, the department later advised that:

Reception arrangements for persons removed from Australia, once they arrive in their home country, vary on a case by case basis.

The majority of people who are removed from Australia are unescorted and will often make arrangements before departing Australia for friends or family to meet them upon their arrival in their home country.

Persons being escorted for security reasons will usually be provided with the opportunity to contact friends or family in their home country before departure from Australia or at a transit point. Alternatively, they may choose to make their own arrangements upon arrival in their home country.

DIMIA may organise specific arrangements for people with special needs, for example destitute persons, unaccompanied minors or people with health issues. These arrangements can include but are not limited to:

- provision of care to allow the person, after they arrive in their home country, to obtain temporary accommodation and transport to their place of residence;
- provision of medication to last several months after the individual's arrival in their home country (nb. As part of the discharge process from a detention facility the person would have been provided with medical records and referrals if these are required);
- a medical escort who may accompany the person to pre-arranged medical care in the person's home country;
- referral to a welfare agency;
- for persons returning voluntarily under the reintegration package, on-arrival counselling and transport.<sup>15</sup>

### ***Committee view***

3.9 The committee believes that, given Ms Solon's circumstances, the Australian Government through DIMIA had an obligation to ensure that Ms Solon on arrival in the Philippines would be taken in by appropriate people who would care for her. The records show that DIMIA failed to fulfil this obligation. It seems as though DIMIA was happy to leave the arrangements in the hands of a third party and failed to monitor or check on the arrangements to ensure that they were in place. A phone call from the escort and a rough handwritten note on file indicating that Ms Solon had been handed over demonstrates a rather casual attitude toward the welfare of Ms Solon. Moreover, the information recorded in the file note was incorrect in that Ms Olajay was not from the Australian Embassy. This incorrect information would later cause some confusion in the search for Ms Solon (see paragraph 3.13 below).

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<sup>15</sup> Answers to questions on notice received from DIMIA on 19 August 2005.

3.10 The committee agrees the records are unclear as to what happened when Ms Solon arrived in the Philippines. There was no formal hand over and no follow up to ensure that Ms Solon was safe. This situation is unacceptable and the committee considers DIMIA should review removal processes and record keeping with a view to ensure that formal and proper procedures are in place for the reception of people being removed from Australia and clear and comprehensive records of arrangements are kept.

3.11 The following section considers DFAT's role in the reception of Ms Solon on her return to the Philippines.

### ***DFAT involvement***

3.12 Mr Smith told the committee that in the normal course of events a removal would be an issue for DIMIA only and DFAT would have no involvement.<sup>16</sup>

3.13 An email from a DFAT officer in 2005 indicated:

The Embassy has no record of any Embassy official meeting Vivian Alvarez on arrival at Manila airport on 20 July 2001. We believe the police officer [who] escorted Ms Alvarez from Coolangatta and Brisbane airports to Manila Airport, said she handed her to Ms Olajay who she described as an Australian Embassy official. Ms Olajay turned out to be working for the OWWA.

The current PMO today called the previous PMO and asked if he recalled what had occurred. The former PMO advised that a locally engaged staff member arranged for a welfare organisation (presumably OWWA) to meet Ms Alvarez at Manila airport. The former PMO confirmed that he did not go to the airport himself and he did not know where Ms Alvarez was taken after her arrival.<sup>17</sup>

3.14 In response to a question regarding whether DFAT was involved in providing any assistance for Ms Solon on her arrival in Manila, Mr Smith said:

DFAT was not involved. When the DFAT staff in Manila were advised of the arrangements being made for her removal, if that is the correct term, to the Philippines, the senior embassy officials asked around within the embassy to see who knew more about this case. What appears to have come out of those inquiries is an annotation that you may well have seen from a senior DIMIA officer at the embassy, advice to the effect that this person has spoken to DIMIA in Brisbane...The officer advised that this was what I understand to be called a normal removal. 'No DIMIA presence required at' and there is an acronym which I think refers to Manila airport, and the head of mission and deputy head of mission were advised of that. So the short

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16 *Committee Hansard*, 8 August 2005, p. 62.

17 Document S215A, DFAT email titled Solon claims, dated 17.5.05.

answer to your question is: no, there was no DFAT involvement in arranging reception arrangements for her on arrival.<sup>18</sup>

### ***Committee view***

The committee accepts that DFAT officers in Manila were under the impression that the arrangements for Ms Solon's arrival in Manila were in hand and that their services were not required.

### ***Writing off Vivian's debt***

3.15 Mr Freedman noted that on 16 August 2001, a minute was raised by DIMIA recommending that the debt of around \$12,000 for the cost of Vivian's removal be written off and this was adopted on 24 August 2001. He commented that this appeared to be 'fairly quick action on the part of DIMIA, considering all the other things that have occurred'.<sup>19</sup>

3.16 Ms Daniels told the committee:

The debt was written off in August. It is a routine matter, when removees are assessed as not being in a position to have debts recovered from, that they are considered for write-off. This case was one of them. The file records show that when she came to attention, she appeared to be destitute and to have no means of her own. That would have been the context for the considerations for write-off...that write off process was not solely for Ms Alvarez. She was one of I think it was nine or 10 cases that formed write-off of debts in August 2001.<sup>20</sup>

### ***Committee view***

The committee notes DIMIA's explanation.

## **Conclusion**

3.17 The committee believes that DIMIA failed in its duty of care to ensure that there was adequate assistance and care for Ms Solon on arrival in the Philippines. It is quite clear that DIMIA was ultimately responsible for Ms Solon's removal which includes all the associated arrangements on arrival. Records on who was supposed to meet her are confusing but it would appear that these arrangements were left to third parties and were not even checked or confirmed by DIMIA officials. The records show that there were no follow up enquiries to determine where she went from the airport.

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18 *Committee Hansard*, 8 August 2005, p. 56.

19 *Committee Hansard*, 25 July 2005, p. 33.

20 *Committee Hansard*, 8 August 2005, p. 20.

3.18 Leaving arrangements to third parties is not acceptable. The committee considers that the arrangements put in place should have been checked and confirmed by DIMIA officials in line with their duty of care obligations. There should have been a formal handover and there should also have been a follow up check to ensure she arrived at her final destination safely, her needs were being adequately taken care of and the department had a record of where she was to be located.

3.19 Chapter four will examine events in 2003 when Ms Alvarez and Ms Solon were discovered to be the same person and activities in 2004.



## Chapter 4

### The connection is made

4.1 This chapter looks firstly at DIMIA's databases and their search capacity in 2001. It then moves to 2003 and discusses the actions taken by DIMIA in response to a missing persons inquiry from the Queensland Police. It describes how the connection between the identities of Ms Alvarez and Ms Solon was made. It also examines actions taken by DIMIA and DFAT in 2003 and 2004 regarding further requests for information on Ms Solon.

#### Accessing Vivian's records

4.2 In chapter two, the committee considered the nature of the checks made to establish Ms Solon's identity in light of her claims that she had been married to an Australian, was divorced, and was an Australian citizen. This chapter focuses more directly on DIMIA's systems and the checks DIMIA made to establish Ms Solon's movements in and out of Australia.

4.3 Mr Freedman informed the committee that the records they received from DIMIA indicate that between 13 July 2001 and 19 October 2004, Vivian's records were accessed at least 161 times using different surnames and combinations of it.<sup>1</sup> Mr Newhouse added that the documents only show searches for the incorrect spelling 'Alvarez' and not 'Alvarez' so many more searches may have been made.<sup>2</sup>

#### *System searches in 2001*

4.4 Ms Daniels told the committee that the 'access logs will show that in July 2001, a number of staff members searched for records relating to Alvarez, which was the name that was known at the time but there was nothing found on the systems under that name'.<sup>3</sup>

4.5 The committee questioned why a wild card search was not done on Vivian before her deportation. Ms Daniels commented that it appears from the Palmer report that there were doubts that this facility was available in 2001.<sup>4</sup> She further stated:

I am saying that in the sequence of events, were the wild-card search to have been available—and I am not in a position to say whether it was or not—then the report says that there would have been some 70 records on the list. It would have been on the list under Solon Young, whereas the

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1 *Committee Hansard*, 25 July 2005, p. 33.

2 *Committee Hansard*, 25 July 2005, p. 33.

3 *Committee Hansard*, 8 August 2005, p. 4.

4 *Committee Hansard*, 8 August 2005, p. 33.

person looking at the list may have had—but this is speculation—Alvarez in their mind, so the link may not have been made in any event.<sup>5</sup>

4.6 Mr Matt Kennedy, Deputy Chief Information Officer, DIMIA, clarified that the only system that has a wild card search capacity is TRIM (Tower Records Information Management), the registry system.<sup>6</sup> He said the other key systems are the Integrated Client Services Environment (ICSE) system which deals with clients in Australia and the Travel and Immigration Processing (TRIP) system which are the movements, border and entry systems. He further explained that:

In respect of TRIP, the principal name is Vivian Solon Young, with a birth name of Vivian Alvarez Solon. With the name Vivian Solon Young, Young is recorded in the system as the principal name and the principal surname, and Vivian and Solon are shown as given names. In the case of the birth name, which is the secondary name on the record, Vivian Alvarez are shown as given names and Solon is the family name. When the search routines go away and search, they bring back likely matches. Those matches are then scored according to how close they are to the data that was put in. If a search were done on Solon, for example, it might find Vivian Solon Young but it would not come back as a highly scored search. So it may be well down...In the case of both ICSE and TRIPs, the searches bring back up to 200 matches. In fact behind the scenes, the searches find at least 10,000 matches. Those matches are then scored, and the 200 most closely representing the data that was put in are brought back.<sup>7</sup>

4.7 Mr Kennedy added that 'as Mr Palmer noted, the record of Vivian Alvarez, which would have come up as a secondary name, came up at about the 70<sup>th</sup> name in the search returns. In respect of the name Cook, there is no record relevant to Alvarez Solon Young at all'.<sup>8</sup>

4.8 DIMIA informed the committee that in relation to the search logs:

It must be remembered that these logs showed the results that were hit, not necessarily what the compliance officer typed into the computer. In relation to the interview that the then Ms Alvarez participated in, when she made the call that she was an Australian citizen, if the compliance officer had typed in the name Alvarez nothing would have come up because there was no record. But we cannot show that because of the way that our systems work. With these logs it is result based. So we can say that the files of Vivian Solon were searched upon, the results were hit and those officers searched those files, but we cannot say what compliance officers actually typed in the computer at the time.<sup>9</sup>

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5 *Committee Hansard*, 8 August 2005, p. 34.

6 *Committee Hansard*, 6 September 2005, p. 34.

7 *Committee Hansard*, 6 September 2005, p. 35.

8 *Committee Hansard*, 6 September 2005, p. 35.

9 *Committee Hansard*, 8 August 2005, p. 21.

### ***Palmer conclusions***

4.9 In the Palmer report, two areas of concern were highlighted in the findings regarding Ms Solon. First, the report refers to the limited search capacity and functionality of the DIMIA databases and operating systems and the poor understanding by staff of the systems. Mr Palmer reports that 'as the inquiry understands the situation...the capacity existed in 2001 for DIMIA officers to have identified Vivian Alvarez as an Australian citizen'.<sup>10</sup> The committee is concerned with Mr Palmer's findings which point to serious shortcomings in DIMIA's database and operating systems.

4.10 Evidence provided to the committee illustrated the difficulties with the search capacity of the system but perhaps more importantly, highlighted the number of times Ms Solon's records were accessed before and particularly after her removal.

### ***Committee view***

4.11 A factor contributing to the lack of connection between the names 'Alvarez' and 'Solon' were the system deficiencies. The committee supports Mr Palmer's findings that DIMIA's systems are flawed and not effectively networked. Mr Palmer concluded that the capacity existed in 2001 for DIMIA officers to have identified Ms Solon as an Australian citizen. The committee supports Mr Palmer's recommendations that DIMIA's information systems be subjected to an urgent, independent review and analysis to address lack of connectivity and limited search capacity issues.<sup>11</sup>

### **The moment of discovery in 2003**

4.12 On 14 July 2003, the Queensland Missing Persons Bureau sought information from DIMIA on Vivian Solon aka Cook aka Young who had been missing since 16 February 2001 when she failed to collect her son from childcare. It was at that point DIMIA established that the missing person and the person removed in July 2001 were one and the same. This information was passed to Queensland police on 21 August 2001, but according to records, was not brought to the attention of senior DIMIA officers.<sup>12</sup>

4.13 DIMIA told the committee that in July 2003:

...there was a request from Queensland Missing Persons Bureau seeking information about a person whose surnames were Solon, Young and Cook, They gave a date of birth, which was a consistent date of birth. The inquiry came into the central office of DIMIA on the basis that the police in

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10 *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau*, July 2005, p.191.

11 *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau*, July 2005, pp.188-189.

12 Document S326A, DFAT talking points dated 23.4.05.

Queensland were trying to locate details of this missing person, because of foster care arrangements being set in place for her child, who had been left in a child care centre...It was at that point, in July-August 2003, that system searches in the DIMIA central office were able to quickly establish that the person who was the subject of the missing person inquiry and the person who had been removed in July 2001 was one and the same. That information was conveyed to Queensland missing persons on, I think, 21 August 2003.<sup>13</sup>

4.14 Ms Daniels, DIMIA, clarified that 'the penny certainly dropped in July 2003, and I think we have made that clear. From the records we have, it appears that at the time the fact that the persons were one and the same was not brought to the attention of senior management'.<sup>14</sup>

4.15 A DIMIA email reporting on system searches notes that 'the person who made the connection initially appears to have been an APS 2. The established connection was conveyed to Queensland Police by an APS 6'.<sup>15</sup> Ms Daniels told the committee that in 2003 there were a number of people involved in establishing that Ms Alvarez and Ms Solon were the same person and one of the officers was at the APS 2 level, with the other officers at the APS 5 or 6 level.<sup>16</sup>

4.16 As DIMIA senior officers have not yet consulted these individuals, DIMIA representatives have been unable to clarify or confirm the sequence of events surrounding the realisation that Ms Alvarez and Ms Solon were the same person. Mr Rizvi told the committee:

...On the basis of the documentation that we have, we can identify those individuals who accessed the records. We can identify those and we can see when they accessed the records...What we are unable to do at this stage is to advise you what interactions took place between those individuals when they became aware of this information and to what level they escalated the knowledge that they had acquired from accessing this material.<sup>17</sup>

### ***Committee view***

4.17 The committee simply cannot comprehend how DIMIA did not act on the knowledge that it had removed an Australian citizen in 2001. The records show that at least two DIMIA officers knew that Ms Alvarez and Ms Solon were one and the same person and that Ms Alvarez had been removed from Australia in 2001. Senior officers and ultimately the Minister should have been notified of this discovery immediately and remedial action taken with the greatest of urgency.

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13 *Committee Hansard*, 8 August 2005, pp. 5-6.

14 *Committee Hansard*, 8 August 2005, p. 7.

15 Document S577, DIMIA email regarding systems searches over 2003 and 2004 dated 11.5.05.

16 *Committee Hansard*, 6 September 2005, p. 10.

17 *Committee Hansard*, 6 September 2005, p. 10.

4.18 Because the committee does not have before it all the information concerning the discovery that Ms Alvarez and Ms Solon were the same person, it can only conclude at the moment that a grave error of judgement occurred resulting in a gross miscarriage of justice. This failing in communication needs to be thoroughly examined. The department's culture, resources, training of staff, its systems of checks and balances, its reporting regime all need to come under the microscope. It is unacceptable for an organisation to excuse its failings because senior officers were not properly informed. Systems must be in place to minimise the risk that senior staff are not aware of what is happening in their areas of responsibility. The committee awaits the Ombudsman report before making any further observations.

### ***Accessing records***

4.19 The committee asked whether anyone who dealt with Ms Solon's removal in July 2001, subsequently accessed her records again in 2003 or 2004.<sup>18</sup>

4.20 In reply, Ms Daniels stressed that 'in July 2001, the people who were involved in Ms Alvarez's removal from Australia were focusing on the name Alvarez. There was another matter going on at the same time relating to an inquiry about the missing person Solon Young. They were two separate streams of inquiry'.<sup>19</sup>

4.21 In 2003, Ms Daniels said that a request from the Queensland Missing Persons Bureau led to the links being established between the names Alvarez and Solon Young. She added 'I do not have the details but it would have been quite possible at that time for people who had been involved in the case in 2001 to have accessed the system, as a consequence of the matter being brought to the attention again through the request from the Queensland Missing Persons Bureau'.<sup>20</sup>

4.22 Mr Gallagher, DIMIA, clarified for the committee that 'there were a number of officers in the DIMIA central office who, from the files, appear to have known [that Alvarez, Solon Young and Cook were the same person], but they were not involved with the removal. They were Canberra based staff'.<sup>21</sup>

### **DFAT involvement**

4.23 Mr Smith, DFAT, told the committee that on 9 September 2003, the Consular Operations areas of DFAT received a request from the missing persons unit of the Queensland police force for information on the identity of the person who met Ms Solon when she arrived in Manila in 2001. Mr Smith thought there had been some confusion about whether that person was a representative of the Australian Embassy. He said the embassy in Manila was able to confirm that the individual was not a

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18 *Committee Hansard*, 8 August 2005, p. 4.

19 *Committee Hansard*, 8 August 2005, p. 5.

20 *Committee Hansard*, 8 August 2005, p. 5.

21 *Committee Hansard*, 8 August 2005, p. 6.

representative from the embassy or from the immigration section of the embassy and that they were an employee of OWWA. This information was then provided to the Queensland police.<sup>22</sup> Mr Smith said that he understood that as a result of the provision of this information, the Queensland Police approached OWWA in the Philippines directly.<sup>23</sup>

4.24 In response to questions about the context of the request, Mr Smith added that the request was not formal but 'came through a telephone conversation'... and it did say that 'she was an Australian who had been removed or may have been unlawfully removed in 2001'.<sup>24</sup> Ms Daniels, DIMIA, confirmed that in the communication with DFAT, the Queensland Missing Persons Bureau indicated that DIMIA had removed Ms Alvarez in July 2001 and that she was a citizen.<sup>25</sup>

4.25 Mr Smith emphasised that it was a very specific request regarding the identity of the person who met Ms Solon when she arrived in the Philippines. He added:

Certainly there was nothing in the request that they put to us which suggested that they were looking for our assistance to locate her, and there was nothing in the advice they gave us to suggest that there was a welfare concern about her. It is easy to say that that is self-evident now, with all that we know about what happened to her, but it was not clear at the time to the officers.<sup>26</sup>

4.26 In response to a question about what role DFAT would normally play upon finding out such information, Mr Smith responded:

In this case, the Queensland police asked a very specific question. They asked for our help to identify an individual who was part of their missing person investigation. We were able to do that. If you look at the record of the correspondence, it was clear in the advice that went back to the embassy in Manila thanking them for the information that they were able to provide us with that, if there was any further action required, the Queensland police would get back to us. That was the very clear sense that the case officer handling the case was left with.<sup>27</sup>

*We were not asked to look for Ms Solon*

4.27 In providing context for their actions, Mr Smith further stated:

What we are not, is a missing persons bureau. We are not configured to be a missing persons bureau. Our officers are not trained for that. We do not

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22 *Committee Hansard*, 8 August 2005, p. 52.

23 *Committee Hansard*, 8 August 2005, p. 52.

24 *Committee Hansard*, 8 August 2005, p. 53.

25 *Committee Hansard*, 8 August 2005, p. 33.

26 *Committee Hansard*, 7 September 2005, p. 7.

27 *Committee Hansard*, 8 August 2005, p. 53.

have the links with Interpol or with local police authorities. So when a whereabouts inquiry appears to us to be more serious because we cannot through our normal consular avenues of inquiry find the person or where, from their case circumstances that we are provided with up front, it becomes clear that this is a more serious matter; what we will do is advise the individuals who have reported the case to us to report it to the police—to the missing persons bureau.

What was different about this particular instance was that the request or information came to us not from a member of Ms Solon's family or a friend but from a state police missing persons bureau. So it was clear from the context of the request that they had an investigation underway into her location. We will not try to take over that role from a properly authorised law enforcement body, whose job it is to find missing persons. We will often help—we will often work very closely with the missing persons units to locate people overseas—but we will not take on that role where it is clear that they have an investigation underway.<sup>28</sup>

4.28 The only record of the request from the Queensland police is a handwritten note on file by the officer involved. There is no formal letter or detailed file note. It is not clear from this handwritten note, which contains only some dates, names and contact numbers, the nature of the specific request.<sup>29</sup> The information given to the committee by Mr Smith, who stressed that DFAT received a narrow specific request, appears to be based on the recollections of the officer two years after taking that request. The officer recalled that:

...the Queensland Police had contacted him to follow up on leads regarding a missing persons case. Other than her possible names, no other detail was provided. He said the Queensland Police had framed their reason for contacting him in terms of a request for information on who from the Embassy might have met her on arrival in Manila in July 2001. After consulting our Embassy in Manila, he subsequently advised the Queensland Police that the person who met her was not from the Embassy but from a Philippine welfare agency.<sup>30</sup>

4.29 Records show that DFAT in Manila located Ms Grace Olajay, who was believed to be the person who met Ms Solon at the airport, and asked her about Ms Solon's arrival in Manila. They found that Ms Olajay was an administrative officer with OWWA but that she could not remember the incident in question. This information was conveyed to the Queensland Police and no further action was taken.

4.30 Mr Smith told the committee that in looking at what happened, they have identified a disconnect between DFAT and the activities of the Queensland police. To

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28 *Committee Hansard*, 8 August 2005, p. 54.

29 Document S5, DFAT handwritten notes regarding the Queensland police request in 2003.

30 Document S184, DFAT e-mail, titled Vivian Alvarez Solon – recollections of dealings with Queensland police in September 2003, dated 20.5.05.

address this, DFAT is in the process of strengthening their cooperation arrangements with the AFP for the handling of such inquiries. They are also ensuring properly coordinated follow up to information flows about cases and are instituting a standing quarterly review between DFAT consular and the National Missing Persons Unit.<sup>31</sup>

4.31 It is clear that in September 2003, DFAT determined the name of the OWWA official who met Ms Solon at the airport and passed this name to the Queensland police. It is also clear that DFAT knew of Ms Solon's wrongful removal in 2003 but was waiting to respond to requests for action.

4.32 It should be noted that emails sent in 2003 between Manila and Canberra clearly stated that 'apparently an Australian citizen was removed as opposed to deported from Australia by DIMIA representatives who did not realise at the time that she was actually an Australian citizen'.<sup>32</sup> Apparently, DFAT officers did not act on this knowledge.

### ***Committee view***

4.33 The committee understands that the request from the Queensland Police was couched in specific terms and that the DFAT officer handing the matter in Manila treated the matter as confined strictly to identifying the person who met Ms Solon at the airport in 2001. It is also clear, however, that DFAT officials both in Canberra and the Philippines were aware in 2003 that 'apparently an Australian citizen was removed'. Surely alarms bells must have started to ring. Although not the responsible department, the committee considers that in this instance DFAT showed a lack of initiative and good judgement in failing at the very least to make enquiries of DIMIA about this most extraordinary case of an Australian citizen being removed from Australia. There must also have been broader diplomatic implications that had the potential to affect both the Australian and Philippines governments. This seems to have been ignored.

### ***The link between the results of search in 2003 and 2005***

4.34 As noted above, DFAT in Manila had contacted Grace Olajay, the person believed to have met Ms Solon at the airport in Manila, and established that she was an administrative officer of OWWA but that she could not remember the incident at the Airport in 2003. The committee is concerned that in 2005, after a taskforce had been arranged to respond to the request for the embassy in Manila to find Ms Solon, documentation shows DIMIA trying to work out whether the person who met Ms Solon worked for the OWWA.

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31 *Committee Hansard*, 7 September 2005, p. 6.

32 Document S7, DFAT email titled Missing person – QLD police, dated 9.9.03.

4.35 Mr Smith responded that he could only assume the 2003 record was not found before DIMIA went through the same process of talking to OWWA that DFAT had done two years earlier.<sup>33</sup>

### **Mr Young's efforts to locate his ex-wife**

4.36 The chair drew DIMIA's attention to an email dated 24 September 2003 from the NSW call centre which received a call from Mr Young about his missing ex-wife. The email stated:

I got a call from a male person and this is his story. He married a Filipina who arrived in 1984. Wife acquired citizenship in 1986. Wife went missing March 2001. Brisbane police told him wife removed from Australia July 2001. His initial query is 'How can this be?' Brisbane police advised him to contact Immigration as it was Immigration who removed his wife. He'd gotten in contact with a Russell of compliance who advised him the matter is a citizenship issue. Robin was BC. I asked for his name and number. He wouldn't give it to me. He took my name instead and said he would ring again when Robin is available.<sup>34</sup>

4.37 Ms Daniels confirmed that Mr Young had contacted a DIMIA call centre to inquire about his ex-wife. She said this was noted in a letter from the Queensland police in September 2004 which mentions Mr Young's contact with DIMIA and that DIMIA had responded that 'because his wife was a citizen, she would not have been removed'.<sup>35</sup>

4.38 DIMIA later advised the committee that:

...as the caller declined to provide either his personal details or those of his wife...there was no avenue to initiate further contact with the caller. For this reason the staff member handling the call drafted and sent the email [see paragraph 4.36] so that contact centre staff answering calls on the Citizenship queue would have information about the call he had taken.

The staff member recalled that he had retained the email and recognised its significance on seeing and hearing media coverage relating to Ms Alvarez/Solon. He brought the email to the attention of his work supervisor on 17 May 2005. A copy of the email was passed to the DIMIA liaison staff tasked with assisting Mr Comrie's enquiry later the same day, and subsequently passed to the inquiry.<sup>36</sup>

4.39 It would appear that Mr Young's initial request for information to the DIMIA call centre was rebuffed due to privacy concerns. Ms Daniels commented:

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33 *Committee Hansard*, 8 August 2005, p. 64.

34 *Committee Hansard*, 8 August 2005, p. 40.

35 *Committee Hansard*, 8 August 2005, p. 27.

36 Answers to questions on notice received from DIMIA on 19 August 2005.

It could well be that, if a contact centre receives a call from somebody who is referring to their former wife, it would be quite reasonable for the person receiving the call to say, 'There are some privacy limitations on what I can provide you'.<sup>37</sup>

4.40 The committee suggested to DIMIA that a skilled operator would have got to the heart of the inquiry and determined what further assistance or advice was necessary. Ms Daniels replied:

What you are saying sounds quite reasonable. It could be that if an experienced operator at the end of a line receiving that call took a different approach they might suggest to the person, for example, 'This is a serious matter that you are raising. Would you mind putting it in writing, and we will examine it in detail'.<sup>38</sup>

### ***Committee view***

4.41 To a point, the committee accepts that because of privacy reasons DIMIA was unable to pursue the matter further with Mr Young. It does not accept, however, that DIMIA's duty to investigate the matter ended there. The information that DIMIA had to hand quite clearly indicated that the Queensland Police were under the impression that the department had removed an Australian citizen in July 2001. This assertion should have been checked, but again DIMIA officers brushed this information aside. There were numerous avenues that DIMIA should have rightly followed in establishing whether it had in fact made a major mistake. Having been made aware of the possibility of this mistake, the department was duty bound to investigate its own actions. The excuse that senior officers were not informed carries no credibility.

### **Missing persons inquiry—2004**

4.42 Ms Daniels, DIMIA, told the committee that:

In September 2004 there was another request from the Queensland Missing Person's Bureau to central office in Canberra. That was on the basis that—if I recall, and I can find my records—Mr Young had sought to make contact with somebody in DIMIA and had approached the Queensland Missing Persons Bureau on that basis. The Queensland Missing Persons Bureau was asking us for a contact, to provide to Mr Young, to deal with him on the matters that he was raising.<sup>39</sup>

4.43 The committee heard that at this point a second group of officers, possibly unrelated to the first, which dealt with the request in July 2003 became aware of the Ms Solon case. It is unclear what action was taken on this inquiry.

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37 *Committee Hansard*, 8 August 2005, p. 28.

38 *Committee Hansard*, 8 August 2005, p. 28.

39 *Committee Hansard*, 8 August 2005, p. 22.

### ***Committee view***

4.44 The committee repeats its findings that the situation in DIMIA where references to an Australian citizen being removed from Australia were ignored or downplayed on more than one occasion is unacceptable and points to serious problems in work practices in that department.

4.45 The committee wished to clarify whether any of the officers searching the records in 2003 again searched in 2004. Mr Gallagher, DIMIA, confirmed that the log indicates a 21 August 2003 and 29 September 2004 crossover.<sup>40</sup> The department later confirmed 'it appears that one officer accessed systems records relating to Ms Alvarez and Ms Solon Young in August 2003 and September 2004'.<sup>41</sup>

4.46 In September 2004, possibly as a result of the above request, Ms Solon's file was sent from Brisbane to the Movements, Alerts and Border Systems area in DIMIA Canberra.<sup>42</sup> Ms Daniels clarified that the compliance file covered the period from when the then Ms Alvarez came to DIMIA's attention to her removal.<sup>43</sup>

4.47 The department later clarified that the file was forwarded to the Law Enforcement Liaison Unit within the then Movement Alerts and Border Systems Section (MABSS), which provided a contact point for law enforcement agencies seeking movement records information. DIMIA advised that 'an examination of the file did not indicate that there was any email or note addressed to DIMIA staff in Canberra that offers an explanation as to why the file was sent to MABSS'.<sup>44</sup>

### ***Mr Young continues his efforts to locate his ex-wife***

4.48 In the aftermath of the Cornelia Rau case coming to light, Mr Young followed up his enquiries in 2003 and 2004 by writing to the Minister in April 2005. He stated:

Four years ago my ex-wife who was a naturalised Australian was reported as a missing person to Queensland police. Her citizenship would be recorded under Vivian Solon YOUNG however she may also have been known as Vivian Alvarez SOLON (maiden name) following our divorce in 1992. She is the mother of two children presently living in Brisbane, our son who now resides with me and another child who is in foster care. Queensland police have advised that their file on the case is now closed as my ex-wife left Australia in July 2001 after having been detained as an illegal immigrant? It appears an officer in your department phoned police after her disappearance was aired on national TV a year ago. To date no contact has been received from her or by her family in her former country.

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40 *Committee Hansard*, 8 August 2005, p. 24.

41 Answers to questions on notice received from DIMIA on 19 August 2005.

42 *Committee Hansard*, 8 August 2005, p. 36.

43 *Committee Hansard*, 8 August 2005, p. 38.

44 Answers to questions on notice received from DIMIA on 19 August 2005.

Prior to her going missing in Brisbane she has been hospitalised on occasions due to a mental illness. As this forms a very similar pattern to the 'Rau' case I seek advice as to who I should contact so full details can be disclosed for further investigation.

I have contacted the DIMIA call centres previously to report the matter however they advise that it cannot be further pursued due to privacy considerations. This I find hard to accept when there has been an overwhelming amount of confidential information disclosed in the Rau case.

This is a serious matter concerning an Australian citizen who appears to have been deported from Australia due to a mental illness. For the sake of 2 children who just want to know what happened to their mother your intervention would be appreciated.<sup>45</sup>

4.49 Finally, the information about Ms Solon's removal from Australia could not be ignored.

#### ***DFAT and more enquiries about Ms Solon***

4.50 Documents provided to Mr Freedman from DIMIA indicate that in September 2004, DIMIA requested Vivian's passport records from DFAT but that this information was not provided as it was not in the correct format. Mr Freedman noted there did not appear to have been any follow up to this request by either DIMIA or DFAT.<sup>46</sup> DIMIA officials were unable to explain why that occurred.<sup>47</sup>

4.51 DFAT records show that DIMIA requested Ms Alvarez Solon/Young's passport dossier twice but the reason for the request was not explained on either occasion. The first occasion was around October 2004 and the Passports branch prepared the dossier for handing over and asked DIMIA to provide documentation stating the legal basis for its request under the Privacy Act. It was noted that DIMIA did not follow up. The second occasion was on 21 April 2005 when DIMIA again requested her passport dossier and photograph and provided appropriate privacy authorisation.<sup>48</sup>

4.52 From the time Ms Solon came to DIMIA's attention in 2001 to 2005, numerous opportunities arose that could have established the connection between Ms Alvarez and Ms Solon Young. Unfortunately, they came to nothing. Both DFAT and DIMIA have introduced measures intended to rectify some of the shortcomings exposed by the Solon case.

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45 Email from Mr Robert Young to the Minister for Immigration in April 2005.

46 *Committee Hansard*, 25 July 2005, p. 39.

47 *Committee Hansard*, 6 September 2005, p. 58.

48 Document S327A, DFAT talking points dated 23.4.05.

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*What has been done to stop this happening again*

4.53 Ms Daniels, DIMIA, told the committee that:

There are a number of recommendations in the Palmer report that go to DIMIA systems, for example, and those matters are rapidly receiving attention.<sup>49</sup>

4.54 She further stated:

One of the prime initiatives that the minister has recently announced is the initiation of a National Identification and Verification Advice Unit that requires very strict adherence to certain protocols in the face of issues where there are identity concerns. It would be reasonable – in fact, it is a requirement – that if, for example, we do not find details of a person's entry into the country on our systems, as we did not in this case, there should then be a strict regime that an officer needs to follow, in consultation with the central office advice unit, to identify the person, prior to any action being taken against that person.<sup>50</sup>

4.55 Ms Daniels said 'certainly, under the systems that we have in place now, somebody who claims to be a citizen or a permanent resident would receive immediate investigation of their status—to the extent that those cases are required to be referred to detention review managers within a 24 hour period'.<sup>51</sup>

4.56 Ms Daniels explained that 'the establishment recently of detention review manager positions in all states is one major initiative to ensure that detention decisions, particularly those in respect of issues to do with identity, are very regularly reviewed and that, while identity is not clearly established, the process is done in consultation with the national identification verification advice unit in central office'.<sup>52</sup>

4.57 At a later hearing, Mr Rizvi, Acting Deputy Secretary, DIMIA, provided the committee with an update on steps being taken to address the issues arising from the Palmer report:

A range of initiatives have been introduced to address some of the systemic weaknesses identified by Mr Palmer. These include: creation of detention review manager positions in each state to review all cases of detention within 24 hours of the decision to retain and review of all ongoing detention cases; review by state and territory directors of all decisions to detain when a claim of citizenship is made—this review is separate to the review by detention review managers mentioned above; and establishment of a national identity and verification and advice unit and formal escalation of identity matters to the unit within tight time frames. The unit facilitates

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49 *Committee Hansard*, 8 August 2005, p. 8.

50 *Committee Hansard*, 8 August 2005, p. 9.

51 *Committee Hansard*, 8 August 2005, p. 9.

52 *Committee Hansard*, 8 August 2005, p. 11.

access to identification capabilities of other agencies, assessment of cases and advice of avenues of investigation to confirm a client's identity. All decisions to remove unlawful non citizens are now cleared by an SES officer.

Improvements have been made to mental health services at Baxter and there is the establishment of a detention health task force to assist in implementing the government's response to those parts of the Palmer report that go to the healthcare of detainees. Finally there is a restructure of the border control and compliance and unauthorised arrivals and detention divisions to better focus on detention and compliance matters.<sup>53</sup>

4.58 Mr Smith, DFAT, admitted that with the benefit of hindsight more could have been done by DFAT to follow up the inquiry by the Queensland police and they have identified areas for improvement. They have taken steps to ensure the cable system is used for communication with posts which has a wider distribution than email and ensures other officers who need to know about important matters learn about them. He also outlined changes to the cooperation arrangements with the AFP which are noted above.<sup>54</sup>

4.59 Ms Smith also emphasised that:

...in fairness to the officers at the time, the information that they had was limited. This was a request put to us in a very informal manner by the Queensland police. It was a telephone call. It was not followed up with a letter. There was not any further follow up when we got back to them with the information they requested <sup>55</sup>...I think we can say that it is regrettable that they did not focus a bit more sharply on that particular piece of information. I cannot explain why they did not...like the officer in Canberra, they may well have been working on the assumption that the investigation side was being properly followed up with the Queensland police.<sup>56</sup>

## Conclusion

4.60 DIMIA admitted that in July 2003, the fact that Ms Alvarez and Ms Solon were the same person was discovered but it was not brought to the attention of senior management. The committee can only express its disbelief at this inaction. As the committee was unable to speak to those involved, it expresses the hope that Mr Comrie's investigation will be able to answer the question of why this vital information was not brought to the attention of senior management. The committee considers that along with systems, DIMIA's processes need to be reviewed so that such information is passed to relevant persons who can act on it.

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53 *Committee Hansard*, 6 September 2005, pp. 2-3.

54 *Committee Hansard*, 6 September 2005, p. 6.

55 *Committee Hansard*, 7 September 2005, p. 6.

56 *Committee Hansard*, 7 September 2005, p. 12.

4.61 DIMIA also responded to another request from Queensland missing persons bureau in 2004. It appears there may have been crossover from at least one person working on the request in 2003 and then again on the request in 2004. This indicates that there was at least one officer who should have been able to make a connection between the two requests. Once again as the committee could not speak to those involved, it was unable to discover whether this connection was made by the officer involved, or whether the system again hampered this connection being made. Regardless, once again, DIMIA's systems and processes did not facilitate this connection being made and stopped action being taken.

4.62 In 2003, DFAT was in possession of the information regarding Ms Solon that she had been removed and was a citizen but no action was taken as DFAT officers had not formally been requested to initiate any action to find her. This is, to some degree, understandable as they would have assumed an investigation was underway by the Queensland police and that they would be called on to provide assistance as required. However, the committee believes their duty of care to Australian citizens would not preclude DFAT asking for more information or offering to take further action. DFAT officials stressed to the committee that they are not a missing persons bureau. However, they seem to have obtained the information requested by the Queensland police within one day and in 2005, they were tasked to coordinate the search for Ms Solon.

4.63 In 2003, evidence indicates that Mr Young made an attempt to locate his ex-wife but that this was rebuffed by DIMIA on privacy grounds. DIMIA admitted that a more skilled operator may have asked Mr Young to put his concerns in writing.

4.64 Mr Young continued his efforts in 2004 via the Queensland police, resorting to writing an email to the Minister which finally yielded results. This timeframe and the response to Mr Young's inquiries were clearly inadequate. The excuse of privacy concerns was clearly not appropriate in this instance and the committee recommends DIMIA ensure that call centre staff receive appropriate training. Training was another area identified by Mr Palmer as deficient and the committee supports his recommendations on this issue.

4.65 Documentation indicates that DIMIA requested Ms Solon's passport dossier in 2004 but that they did not supply privacy documentation so it was not handed over. This request does not appear to have been followed up by either DIMIA or DFAT. They requested her passport dossier again in 2005, along with the correct documentation, and it was provided. Without speaking to the individuals involved the committee is unable to discuss this lack of follow up but expresses its concerns that it further indicates poor processes.

4.66 Chapter five will examine the search and discovery of Ms Solon.



# Chapter 5

## Search and Discovery

5.1 This chapter examines the actions taken by DFAT and DIMIA in the search for and discovery of Ms Solon in 2005.

### Search

#### *DFAT involvement*

5.2 Mr Smith told the committee that DFAT was asked to help locate Ms Solon on 21 April 2005. They were briefed by DIMIA on the full circumstances of her removal to the Philippines and they then coordinated the effort to find her.<sup>1</sup>

5.3 Mr Freedman questioned what steps were taken to find Ms Solon as Vivian was found by Father Michael Duffin.<sup>2</sup>

5.4 A DIMIA file note indicates that on 22 April 2005 the Australian Ambassador to the Philippines convened an initial taskforce meeting of representatives from DIMIA, AFP and DFAT and formed a taskforce comprising the DFAT, DIMIA and AFP officers. The Head of Mission indicated that as a matter of urgency, all departments were to engage their interlocutors in Philippine Government Agencies to identify other organisations that might be in a position to help and make maximum efforts to locate Ms Solon. He pointed out that the task was a DFAT Consular matter and an Australian Government priority. He also advised that the matter was extremely sensitive as it had been raised with the Minister for Immigration by the ex-husband of Ms Solon and he requested confidentiality be maintained.<sup>3</sup>

5.5 Documentation provided to the committee details the activities undertaken by the taskforce to locate Ms Solon. This included inquiries with the Philippines National Police, National Bureau of Investigation, Bureau of Immigration, the Department of Foreign Affairs and relevant welfare agencies.<sup>4</sup> Regular updates on search activities were provided from the Ambassador to senior officials in DIMIA.<sup>5</sup>

5.6 On 17 May 2005, the press reported that a letter dated 10 September 2003, from the missing persons bureau of Queensland Police was sent to Philippine

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1 *Committee Hansard*, 8 August 2005, p. 52.

2 *Committee Hansard*, 25 July 2005, p. 16.

3 Document S109A, File note titled Manila post inquiries to locate Vivian Young, no date.

4 Document S327A, DFAT talking points dated 23.4.05.

5 Documents S239A-241A, Letter from Philippines Ambassador to DIMIA Deputy Secretary regarding search inquiries for Ms Solon.

authorities asking them to check records to ascertain where Ms Solon went after she arrived in the Philippines. They reported that this request was never answered.<sup>6</sup>

5.7 In response, the Embassy of the Philippines provided the following information in a media release dated 17 May 2005:

The Embassy understands that the Australian media interviewed the officials of the Overseas Workers Welfare Administration (OWWA) in Manila, including its head, the Administrator. The Australian report stated that the OWWA did not reply to the letter of the Queensland Police dated 10 September 2003 "asking for Ms Young to be found". The *Age* and the *Sydney Morning Herald* reports stated that the "Australian Government has blamed mismanagement by the OWWA for the length of time it took to locate her".

The Embassy checked with OWWA in Manila and learned that the OWWA officials and personnel made themselves available for interview to the Australian media in order to shed light on Ms Alvarez' arrival in the Philippines. OWWA clarified to the media the procedures for receiving distressed Filipino overseas workers and other distressed Filipino nationals at the airport.

The Embassy learned from OWWA that the inquiry of the Queensland Police failed to reflect in its 2003 letter that it was in fact looking for an Australian citizen deported to the Philippines in July 2001. OWWA was therefore not aware that the person who was the subject of the search was an Australian citizen. OWWA explained that the initial search did not come up with the results because Ms Alvarez was not a returning overseas worker. Subsequently, due to changes in personnel, OWWA was not able to complete the process of responding to the letter. Since OWWA did not also receive any follow up inquiry, the lack of response stayed. OWWA is now tracing the action on this letter. The Embassy believes that an official inquiry/request coursed through the Philippine Embassy in Canberra stating the true status of Ms Alvarez would have produced better and immediate results...

When the Philippine Honorary Consulate General interviewed Ms Alvarez on 16 July 2001, she provided information about her origins, the date of the marriage to an Australian citizen and the date of her arrival in Australia. The information Ms Alvarez gave led the Consulate to believe that she could still be a Filipino citizen.

The Philippine Embassy wishes to clarify that Ms Alvarez could not have possessed dual citizenship at the time of her deportation to the Philippines. Republic Act No 9225 allowing former natural-born Filipinos who acquire foreign citizenship through naturalisation to regain their Philippine Citizenship did not exist until 17 September 2003.

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6 See for example, the *Australian*, 17 May 2005, p. 2; the *Age*, 17 May 2005, p. 1; *Sydney Morning Herald*, 17 May 2005, p. 5.

Immigration also presented to the Consulate a certification from a doctor stating that she was fit to travel, as well as a letter from an Australian social worker stating that she was able to take care of herself. Ms Alvarez had said that she had nowhere to go home to in the Philippines. The Embassy requested the Department of Foreign Affairs (in Manila) to ensure that the OWWA counter at the Ninoy Aquino International Airport would be able to assist (ie. provide a wheelchair, transportation and provisional accommodation).

In view of the Immigration determination, the medical certification and on the assumption that she remained a Filipino citizen, the Philippine Consulate had no recourse but to issue her a Travel Document. As part of its assistance to nationals, the Consulate also contacted Filipino community leaders to inform them about the plight of Ms Alvarez. They responded and were able to collect a donation for Ms Alvarez. However they failed to gain access to her and were not able to give her pocket money. On 16 July 2001, the Philippine Embassy also instructed the Consulate to make representations with Immigration to give her "therapeutic counselling" and further treatment for trauma before sending her home. The delay would also give more time to look for a charitable organisation in the Philippines that would shelter Ms Alvarez. However, the deportation proceeded on 20 July 2001, with the Immigration [dept] informing the Consulate that it had also contacted its Embassy in Manila to assist in looking for a social welfare group that could take care of Ms Alvarez.<sup>7</sup>

### **When did DFAT first become aware of Ms Vivian Solon?**

5.8 Statements from the Minister for Foreign Affairs on 16 and 17 May 2005 indicate that his department advised him that they were not aware of Vivian's case before 22 April 2005.

5.9 In an interview on 16 May 2005 regarding the Solon case, the Foreign Minister responded:

Well, look. I'm not familiar with the story, except what I've just heard on this program this evening. I can only say to you that as far as my department is concerned, we didn't know anything about her case until the end of last month, and when we were asked – our embassy in Manila – was asked to try and find her, then they duly did that, and she, having been found, then they provided her with the appropriate assistance. I really can't add anything more to it than that...I don't suppose if I speak to my department about it, they'll be able to throw any light on it, because I asked them a week ago or so when they first heard about her and they gave me an answer. I think the date they gave me was April 22. Prior to that, they didn't know anything about her, according to the information they gave me.<sup>8</sup>

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7 Embassy of the Philippines Press Release #050517/AU dated 17 May 2005 accessed at <http://www.philembassy.au.com/new-home.htm> on 5.7.05.

8 Lateline transcript 16.5.05 accessed at <http://www.abc.net.au/lateline/content/2005/s1369789.htm> on 6.7.05.

5.10 In a doorstep interview on 17 May 2005, the Minister for Foreign Affairs reiterated:

...on the basis of the information they [the Foreign Affairs Department] gave me, a week or so ago, my Department advises me they had no knowledge of this case at all until April 22 2005.<sup>9</sup>

5.11 In another interview on 17 May 2005, Mr Downer again stated:

Look I have not followed this case very closely in one respect and that is that it hasn't really involved my department at all. It is something that Amanda Vanstone and the Immigration Department are handling. I did ask my department nevertheless to provide me with information of when they first heard about this case and their response was that they weren't aware of it until 22 April this year. So they have not been able to give me any information that is of particular value at all. But nevertheless they'll be able to talk to the Palmer Inquiry and all of these different stories that were coming out, there was one on the ABC Lateline Program last night, they can all be investigated by the Palmer Inquiry.<sup>10</sup>

5.12 On 17 May 2005 the shadow Minister for Foreign Affairs, Mr Kevin Rudd, told the press that the Department of Foreign Affairs and Trade must have known of Ms Young's deportation after the Immigration Department's contact with the Australian embassy in Manila. 'In other words, if the Philippine Embassy statement is correct, then Mr Downer's Department knew of the Young case nearly four years before Mr Downer claimed was the case'.<sup>11</sup>

5.13 A DFAT email dated 17 May 2005 provides clarification of some statements in the above media release by the Philippines Embassy:

The Philippines media release...contains a possibly misleading ambiguity in the last sentence of the third last paragraph on the second page [Last sentence of second last paragraph above]...I rang the Philippines HOM, who had sent me the press release to clarify. She confirmed the reference was to the Philippines DFA, not Canberra DFAT.

Another clarification ref the last sentence of the penultimate para on p2 [last sentence above], Immigration (Brisbane) informed the Philippines Consulate in Brisbane that it had also contacted its Embassy (in fact it was the DIMIA PMO at the time...who has confirmed it was him) to assist in looking for a social welfare group for Ms Solon. (The DIMIA PMO) contacted the OWWA and asked them to meet Ms Solon but did not go to the airport himself for her return, and she was only met by OWWA.<sup>12</sup>

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9 17 May 2005 Minister for Foreign Affairs Doorstop Interview – Sydney Airport transcript, accessed at [http://www.foreignminister.gov.au/transcripts/2005/050517\\_ds.html](http://www.foreignminister.gov.au/transcripts/2005/050517_ds.html) on 5.7.05.

10 17 May 2005 Minister for Foreign Affairs interview with ABC 3LO transcript, accessed at [http://www.foreignminister.gov.au/transcripts/2005/050517\\_3lo.html](http://www.foreignminister.gov.au/transcripts/2005/050517_3lo.html) on 5.7.05.

11 The *Australian* 18.5.05, p. 4.

12 Document S385, DFAT email titled Philippines Media Release, dated 17.5.2005.

5.14 Mr Smith, DFAT, clarified for the committee that:

I can confirm again that officers of this department, both in Canberra and at the Australian embassy in Manila, had no knowledge of Ms Solon's whereabouts in the Philippines until she was located on 11 May. There had been some earlier contact between DFAT embassy officers in Manila and the OWWA after 22 April. That of course is the time at which DFAT became aware of the full circumstances of Ms Solon's removal, when we were asked to help locate her. The advice we had from the OWWA at that time was that they could not locate the file on Ms Solon and the only mention that they had in writing was an entry in a log showing that an OWWA employee had met Ms Solon on her arrival in Manila in July 2001.<sup>13</sup>

## Summary

5.15 Evidence shows that Ms Solon was known to DFAT prior to 22 April 2005. On 20 July 2001, a DFAT officer wrote an email to officers at the embassy in Manila to inform them of the concerns raised by the Philippines Embassy prior to the removal of Ms Solon.

5.16 In September 2003, DFAT answered a request from the Queensland Missing Persons Bureau, providing Ms Solon's details and the details of the person who met her from OWWA so the Queensland police could contact this person directly. At this point they knew she had been wrongfully removed but they were not asked by Queensland police to take any further action. This did not preclude DFAT from taking the initiative and asking questions about the request from DIMIA and the Queensland police and if they had done so it may have prompted the search to begin earlier.

5.17 The committee is concerned to hear that this information which was passed to Queensland police was searched for by DIMIA in 2005, was not found and the same actions had to be repeated. This added to the time taken to locate Ms Solon and indicates poor record keeping.

5.18 Ms Solon's story thus far has exposed poor processes, poor systems, poor training, poor record keeping and a culture in DIMIA which does not empower staff to make the best judgements. This confirms the initial findings of Mr Palmer regarding inadequate systems and training and the committee supports his initial recommendations.

5.19 The committee was unable to speak with those who dealt directly with Ms Solon and has left that task and the production of a detailed report and recommendations to Mr Comrie at this stage. The committee decided to concentrate on the written records provided to the committee by DIMIA and DFAT to bring some coherence to them and will produce a final report when Mr Comrie's report is available. Regardless, the committee was very disappointed that DIMIA officials were

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13 *Committee Hansard*, 8 August 2005, p. 51.

unable to provide the committee with a complete picture of what happened in the department which allowed Ms Solon's circumstances to arise and continue. The committee considers DIMIA's lack of action throughout Ms Solon's case to be of grave concern and that it shows a department in need of a renewal of processes and culture to ensure Ms Solon's experience does not happen to others.

## Conclusion

5.20 Throughout this report, the committee has presented evidence from various perspectives but none from Ms Solon's. It is only proper that she have the opportunity to be heard. On 19 May 2005, Mr Harry Freedman spoke on her behalf. He told a press conference:

First of all, she and her family are very grateful for all the assistance that have [has been] given to her. She's been through some extraordinary traumatic events over the last few years. She has been deported from a country she's called home for fifteen years and this deportation occurred at a time when she's been most vulnerable. It was two weeks after she'd been admitted to hospital having suffered an accident involving skeletal and brain injuries. There's also some evidence coming to light that she'd suffered a seizure in the presence of an immigration officer a short time before she was sent for deportation. There's further evidence that this sick woman, having been deported improperly and removed from Australia [was] effectively, left abandoned in the Manila airport in a wheelchair.

Up until a few days ago, Vivian was a lady without any possessions, money or other effects. Notwithstanding all of the trauma she's been through, she's extremely thankful to so many people who've provided her with assistance and comfort over these years. Father Mike Duffin and the nuns of the Sisters of Charity have looked after her for most of the time since she's been back in the Philippines.

The Australian Consular's assistants have made arrangements for Vivian to be reunited with her family and accommodated in Manila. Vivian acknowledges the apologies made by the Prime Minister and the Minister for Immigration as a result of her deportation.

...

It's a strong desire for her to return to Australia as soon as possible. We're presently making arrangements and enquiries to secure accommodation, financial support, and access to medical treatment whilst she is in Australia.<sup>14</sup>

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14 Transcript of Press Conference conducted by Mr Harry Freedman for Ms Vivian Alvarez Solon, 19 May 2005.

5.21 At the time of finalising this report, Ms Solon remained in the Philippines. Her return to Australia is still a matter of negotiation between Ms Solon and her legal representatives and the Australian Government. It is not the right time for the committee to make any findings in this regard.

SENATOR STEVE HUTCHINS  
CHAIRMAN



# **Appendix 1**

## **Public Submissions**

**(Tabled, 12 September 2005, with the report titled Mr Chen Yonglin's request for political asylum)**

- P1      Federation for a Democratic China
- P2      United Nations High Commissioner for Refugees (UNHCR)
- P3      Dr Klaus Neumann
- P4      Falun Dafa Association of NSW Inc.
- P5      Australian Security Intelligence Organisation
- P6      Mr Bernard Collaery
- P7      Refugee Advice + Casework Services (Aus) Inc.
- P8      Mr R B Wilson
- P9      Dr Ann Kent



## **Appendix 2**

### **Public hearings and witnesses**

#### **Monday, 25 July 2005 - Sydney**

Chin, Mr Jin, Chairman, Federation for a Democratic China

Daniels, Ms Yole, Assistant Secretary, Compliance and Analysis Branch, Border Control and Compliance Division, Department of Immigration and Multicultural and Indigenous Affairs

Deller, Mr John, President, Falun Dafa Association of New South Wales Inc.

Freedman, Mr Harry, Legal Team for Ms Vivian Solon

Hughes, Mr Peter Gerard, First Assistant Secretary, Refugee, Humanitarian and International Division, Department of Immigration and Multicultural and Indigenous Affairs

Illingworth, Mr Robert Laurence Mark, Assistant Secretary, Onshore Protection Branch, Refugee, Humanitarian and International Division, Department of Immigration and Multicultural and Indigenous Affairs

Liang, Mr John, Vice Chairman, Federation for a Democratic China

Lindsay, Ms Louise, Business Manager, Onshore Protection, New South Wales, Department of Immigration and Multicultural and Indigenous Affairs

Newhouse, Mr George, Legal Team for Ms Vivian Solon

O'Callaghan, Mr James Gerard, State Director, New South Wales, Department of Immigration and Multicultural and Indigenous Affairs

#### **Tuesday, 26 July 2005 - Canberra**

Chen, Mr Yonglin, Private capacity

Collaery, Mr Bernard Joseph Edward, Legal representative of Mr Hao, CC Law

Foskett, Mr Douglas, Director, Consular Operations, Department of Foreign Affairs and Trade

Gilding, Mr Simeon Richard, Assistant Secretary, Consular Branch, Department of Foreign Affairs and Trade

Green, Mr Mark Grenville, Coordinator, Refugee Advice and Casework Service (Australia) Inc.

Hao, Mr Charles Feng Jun, Private capacity

Larsen, Mr James Martin, Legal Adviser, Department of Foreign Affairs and Trade

Luo, Ms Serene, Interpreter for Mr Hao

Lynch, Ms Philippa, First Assistant Secretary, Information Law and Human Rights Division, Attorney-General's Department

Manne, Mr David Thomas, Coordinator, Refugee and Immigration Legal Centre Inc

Morton, Ms Lydia, First Assistant Secretary, North Asia Division, Department of Foreign Affairs and Trade

Neumann, Dr Klaus, Private capacity

Peace, Mr Brendan Scott, Associate Legal Officer, United Nations High Commissioner for Refugees, Regional Office

Robinson, Mr Jeff, Assistant Secretary, East Asia Branch, Department of Foreign Affairs and Trade

Russ, Miss Jenny, Manager, Economic and Special Operations, Australian Federal Police

Sheedy, Ms Joan Marie, Assistant Secretary, Information Law Branch, Attorney-General's Department

Wei, Ms Junling, Interpreter for Mr Hao, CC Law

Wright, Mr David Neill, Regional Representative, United Nations High Commissioner for Refugees, Regional Office

### **Monday, 8 August 2005 – Canberra**

Daniels, Ms Yole, Assistant Secretary, Compliance and Analysis Branch, Department of Immigration and Multicultural and Indigenous Affairs

Foskett, Mr Douglas, Director, Consular Operations, Department of Foreign Affairs and Trade

Gallagher, Mr Patrick James, Assistant Director, Compliance, Department of Immigration and Multicultural and Indigenous Affairs

Gilding, Mr Simeon Richard, Assistant Secretary, Consular Branch, Department of Foreign Affairs and Trade

Hughes, Mr Peter Gerard, First Assistant Secretary, Refugee, Humanitarian and International Division, Department of Immigration and Multicultural and Indigenous Affairs

Illingworth, Mr Robert Laurence Mark, Assistant Secretary Onshore Protection Branch, Department of Immigration and Multicultural and Indigenous Affairs

Larsen, Mr James Martin, Legal Adviser, Department of Foreign Affairs and Trade

Lindsay, Ms Louise Jean, Business Manager, Onshore Protection, New South Wales, Department of Immigration and Multicultural and Indigenous Affairs

Robinson, Mr Jeff, Assistant Secretary, East Asia Branch, Department of Foreign Affairs and Trade

Smith, Mr Rod, First Assistant Secretary, Public Diplomacy Consular and Passports Division, Department of Foreign Affairs and Trade

**Tuesday, 6 September 2005 – Canberra**

Daniels, Ms Yole, Assistant Secretary, Compliance and Analysis Branch, Department of Immigration and Multicultural and Indigenous Affairs

Illingworth, Mr Robert, Assistant Secretary, Onshore Protection Branch, Department of Immigration and Multicultural and Indigenous Affairs

Kennedy, Mr Matt, Deputy Chief Information Officer, Department of Immigration and Multicultural and Indigenous Affairs

Rizvi, Mr Abul, Acting Deputy Secretary, Department of Immigration and Multicultural and Indigenous Affairs

Storer, Mr Des, First Assistant Secretary, Parliamentary and Legal Division, Department of Immigration and Multicultural and Indigenous Affairs

Tyler, Ms Deborah Anne, Director, Response Coordination Unit, Department of Immigration and Multicultural and Indigenous Affairs

Williams, Mr Jim, Assistant Secretary, Unauthorised Arrivals and Detention Operations Branch, Department of Immigration and Multicultural and Indigenous Affairs

**Wednesday, 7 September 2005 – Canberra**

Gilding, Mr Simeon Richard, Assistant Secretary, Consular Branch, Department of Foreign Affairs and Trade

Grigson, Mr Paul, First Assistant Secretary, South and South East Asia Division, Department of Foreign Affairs and Trade

Smith, Mr Rod, First Assistant Secretary, Public Diplomacy, Consular and Passports Division, Department of Foreign Affairs and Trade



## Appendix 3

### Additional information, tabled documents, and answers to questions on notice

#### *Tabled Documents*

Department of Foreign Affairs and Trade (documents made public)

- email dated 9 September 2003 from DFAT re call from QLD police missing persons unit
- background briefing "consular in confidence" undated (2005) by Assistant Secretary, Consular Branch, DFAT
- letter dated 5 May 2005 from Consul, Australian Embassy Manila to Chief Record Division, National Center for Mental Health, Mandaluyong City
- letter dated 11 May 2005 from Principal Migration Officer, Australian Embassy Manila to Director, Passports Division, DFAT
- letter dated 16 May 2005 from Director, Consular Operations, DFAT to First Secretary, Embassy of the Philippines, Canberra
- note no. 143/05 dated 17 May 2005 from Australian Embassy Manila to the Philippines Bureau of Immigration
- email dated 17 May 2005 from First Assistant Secretary, Public Diplomacy, Consular and Passports Division, DFAT re Philippines media release
- case notes on Vivian Alvarez dated 18 May 2005 from Overseas Workers Welfare Administration, Manila (3 pages)
- correspondence "consular-in-confidence" dated 17 May 2005 from DFAT Canberra to Adelaide and Manila re Palmer Inquiry request for files
- email dated 19 May 2005 from DFAT officer to Secretary, DFAT re file search
- email dated 20 May 2005 from Assistant Secretary, Consular Branch, DFAT re recollection of dealings with QLD police in September 2003
- emails dated 17 and 18 May 2005 from Principal Migration Officer, First Secretary (Immigration), Australian Embassy Manila re inquiries with OWWA (2 pages)
- email dated 19 May 2005 from Head of Mission, Australian Embassy Manila re response to news reports (2 copies)
- email dated 19 May 2005 from Consular Operations Section, DFAT re documents from Philippines Embassy
- email dated 19 May 2005 from Consular Operations Section, DFAT re story on page 1 of *The Australian*
- email dated 23 May 2005 from Head of Mission, Australian Embassy Manila re contacts with OWWA and DFA (2 pages)

Department of Immigration and Multicultural and Indigenous Affairs (documents made public)

- S230 – file note (undated) re Lismore Base Hospital notification
- S534A – facsimile dated 3 April 2001 from Compliance Manager, Southport Area Office, DIMIA to Lismore Base Hospital
- S109 – file note dated 23 April 2001 by Compliance Section, Southport Area Office, DIMIA re discussions with Lismore Base Hospital and a social worker at Liverpool Hospital
- S93 – file note dated 7 June 2001 by Southport Area Office, DIMIA re discussions with Lismore Base Hospital and St Vincents Hospital
- S239 – file note dated 21 June 2001 by Parramatta office, DIMIA re social worker
- S562A – email dated 12 July 2001 re detention of Vivien Alvarez
- S46–S57 – Record of interview with suspected unlawful non-citizen between DIMIA Southport officer and Vivian Alvarez dated 13 July 2001 (12 pages)
- S36 – email dated 16 July 2001 re removal of Vivian Alvarez
- S29 – letter dated 17 July 2001 from Compliance Section, DIMIA re removal arrangements
- S26 – email dated 18 July 2001 re detention and removal of Vivien Alvarez
- S432A – file note dated 19 July 2001 re conversation with SBICLS
- S431A – file note dated 19 July 2001 re arrangement of medical examination for fitness to travel
- S23 – email dated 19 July 2001 re removal of Vivien Alvarez
- S376A – facsimile dated 19 July 2001 from Investigations, DIMIA to QPS re arrival and departure records for Vivian Alvarez
- S14 – handwritten file note dated 20 July 2001 re conversation with escort, Jane Beare
- S105A – handwritten file note dated 20 July 2001 re removal
- S427A – Direction to accompany and restrain dated 20 July 2001 from DIMIA to Officer-in-charge, Arthur Gorrie Correctional Centre, WACOL
- S422A – Escort Instructions dated 20 July 2001 for escort, Senior Constable Jane Beare
- S423A – Agreement for Escort Service
- S424A – Agreement by Escort dated 20 July 2001
- S425A – For the Information of the Escort
- S15 – file note dated 20 July 2001 by Manager Investigations re conversation with embassy staff in Manila
- S419A – movement details for Vivian Alvarez, departed 20 July 2001
- S656 and S657 – briefing note dated 20 July 2001 re Alvarez (2 pages)
- S103A – movements details for Vivian Alvarez, departed 20 July 2001

- S413A–S414A – minute dated 16 August 2001 from Assistant Finance Officer, DIMIA to Manager, Investigations and Enforcement Section re writeoff of irrecoverable removee debts (2 pages)
- S643 – movements details for Vivian Alvarez Young, arrived 7 July 1984
- S652 – email dated 21 August 2003 re Vivian Solon Young
- S450A – email dated 9 September 2003 re Vivian Solon
- S653 – movements details for Vivian Solon Young between July 1984 and June 1992
- S654 – part of email (undated) from Entry Systems and Movement Alert Section
- S245 – email dated 4 April 2005 sent to Minister for Immigration from Robert Young requesting an investigation into the disappearance of his ex-wife Vivian Solon Young
- S275 – email dated 21 April 2005 from Deputy State Director, QLD re passport photo of Vivian Young
- S214–S217 – draft chronology dated 21 April 2005 re Vivian Solon Young (4 pages)
- S325A–S327A – Consular Branch talking points "Whereabouts inquiry: Vivian Alvarez Solon/Vivian Solon Young" dated 23 April 2005 (3 pages)
- S328A–S331A – Provisional DIMIA talking points and DIMIA chronology re Vivian Solon Young dated 22 April 2005 (4 pages)
- S931–S932 – restricted correspondence dated 23 April 2005 from Canberra to Ambassador, Manila, cc: DFAT, PM&C, AFP re instructions on handling the Alvarez/Young matter (2 pages)
- S207 – email dated 22 April 2005 from Assistant Secretary, Compliance and Analysis Branch, Border Control and Compliance Division re chronology and media points
- S208–S210 – Chronology: Vivian Solon Young (4 pages)
- S211 – draft media points dated 22 April 2005
- S202–S203 – email dated 22 April 2005 from Chief of Staff, Office of the Minister for Immigration and Multicultural Affairs and Indigenous Affairs re points for discussion with Mr Robert Young (2 pages)
- S204 – media points
- S280 – email dated 22 April 2005 re proposed DFAT amendments to media points
- S281 – draft revised media points dated 22 April 2005
- S451–S452 – restricted correspondence dated 22 April 2005 to DFAT, PM&C, AFP, Foreign Minister's Office re urgent request to locate Australian citizen (2 pages)
- S311A – file note dated 11 May 2005 re attempts to locate Ms Grace Olajay
- S309A–S310A – email dated 25 April 2005 from Consul General re attempts to locate Vivian Solon-Young (2 pages)

- S194 and S192–S193 – email dated 26 April 2005 from Assistant Director, Compliance Section re request for passenger cards for Vivian Solon Young (3 pages)
- S278A – email dated 27 April 2005 from Consul General re attempts to locate Vivian Solon Young
- S476–S480 – emails sent between 27 and 28 April 2005 re media points for Alvarez case and whether the Alvarez case has been formally referred to the Palmer Inquiry (5 pages)
- S481 – media release "Extension of the Palmer Inquiry" dated 30 April 2005
- S927 – email dated 3 May 2005 re telecon with Manila and movements search
- S174 – email dated 3 May 2005 re movements checks
- S482 – email dated 5 May 2005 re media points for the Philippines Embassy
- S485 – email dated 9 May 2005 re talking points
- S486 – talking points
- S488–S489 – email dated 9 May 2005 re talking points (2 pages)
- S493 – email dated 5 May 2005 from Entitlements Verification Policy Section, Identity Fraud and Biometrics Branch re report from movements
- S496 – email dated 5 May 2005 from State Director, South Australia re request for briefing from Palmer Inquiry
- S497 – email dated 5 May 2005 from Entitlements Verification Policy Section, Identity Fraud and Biometrics Branch re draft talking points for the Minister
- S498–S499 – Talking points re attempts to locate Vivian Alvarez (2 pages)
- S500–S506 – Table "Vivian Solon Young – Location – Log of enquiries with external information sources (last updated 9 May 2005) (7 pages)
- S507 – email dated 9 May 2005 from Assistant Director, Compliance Section re access to QLD police missing persons file
- S509 – email dated 9 May 2005 from Public Affairs Manager, Australian Embassy Manila re media article "Militant group won't accept PM Howard's apology on Pinay's 'wrong' deportation"
- S510 – media article re Filipino community in Australia being up in arms over the wrongful deportation of Vivian Alvarez
- S511 – email dated 10 May 2005 from Director, DIMIA Response Coordination re request for briefing on steps taken to locate Vivien Alvarez
- S514–S515 – email dated 10 May 2005 re transcript of Lateline interview (2 pages)
- S545 – email dated 10 May 2005 from Parliamentary Coordination Section re briefing PMQ AO18 Australian citizens removed

- S925–S926 – emails dated 9 and 10 May 2005 from Principal Migration Officer, First Secretary (Immigration), Australian Embassy Manila re engaging NGOs to assist in locating Vivian Alvarez (2 pages)
- S554–S555 – emails dated 9 and 10 May 2005 from Legal Policy Section to State Director, South Australia re bridging visa regulations and the use of regs 2.25 and 2.20 (2 pages)
- S589 – email dated 11 May 2005 from DIMIA Response Coordination re media report in *The Age* and talking points
- S577 – email dated 11 May 2005 from Assistant Director, Compliance Section re systems search for Alvarez and Solon/Young
- S594 – email dated 11 May 2005 from Entitlements Verification Policy Section, Identity Fraud and Biometrics Branch re Vivian Solon-Young
- S595 – email dated 11 May 2005 from Assistant Director, Compliance Section re passport application lodged with Philippines authorities
- S602–S603 – Consular Branch talking points "Whereabouts inquiry: Vivian Alvarez Solon/Vivian Solon Young" and background dated 12 May 2005 (2 pages)
- S616 – emails dated 13 and 16 May 2005 re specialist medical assessment for Mrs Alvarez
- S662 – email dated 17 May 2005 re papers faxed
- S663–S665 – emails dated 17 May 2005 re transcript of ABC radio interview with Alexander Downer (3 pages)
- S213A – email dated 17 May 2005 from Principal Migration Officer, First Secretary (Immigration), Australian Embassy Manila to Assistant Director, Compliance Section re claims about an embassy official meeting Vivian Alvarez on arrival at Manila airport on 20 July 2001
- S214A – email dated 17 May 2005 from Adviser, Office of the Minister for Foreign Affairs re claims about an embassy official meeting Vivian Alvarez on arrival at Manila airport on 20 July 2001
- S215A – email dated 17 May 2005 from Consul General re claims about an embassy official meeting Vivian Alvarez on arrival at Manila airport on 20 July 2001
- S100A – emails dated 18 and 19 May 2005 re DIMIA record check
- S109A–S130A – briefing 'consular in-confidence' re "Manila post inquiries to locate Vivian Young" dated 20 May 2005 (22 pages)
- S763 – email dated 24 May 2005 re Alvarez Q&A
- S764–S777 – draft talking points for Senate Estimates "Alvarez Matter – possible questions" dated 24 May 2005 (14 pages)
- S405–S426 – draft talking points for Senate Estimates "Alvarez Matter – possible questions" dated 24 May 2005 (22 pages)
- S427–S432 – questions and answers re attempts to locate Vivian Alvarez (6 pages)
- S239A–S241A – briefing from Ambassador re action taken by post to locate Vivian Alvarez Solon (3 pages)
- S609–S610 – media release dated 1 June 2005 from Australian Embassy Manila re Vivian Alvarez Solon (2 pages)

- S129–S130 – email dated 31 May 2005 re systems information (2 pages)

Department of Foreign Affairs and Trade

- correspondence dated 13 September 2005 – answers to questions on notice from hearing on 7 September 2005

***The following were tabled (12 September 2005) with the report titled Mr Chen Yonglin's request for political asylum:***

Department of Foreign Affairs and Trade

- correspondence dated 18 July 2005
- opening statement prepared for public hearing, 26 July 2005

Federation for a Democratic China

- opening statement prepared for public hearing, 25 July 2005
- additional information provided at the Committee's hearing on 25 July 2005

Falun Dafa Association NSW Inc.:

- undated letter of complaint concerning Chinese radio program "Good day Sydney" broadcast on radio 2000
- summary of issues for Falun Gong practitioners seeking refugee protection in Australia – 8 July 2005
- Additional information, dated 11 August 2005, arising from the 25 July 2005 hearing.

Mr George Newhouse

- correspondence dated 4 August 2005

The Epoch Times Australia Inc.

- *Interference with the Epoch Times' normal business by the Chinese Government's personnel and agents in Australia – July 2005*

Attorney-General's Department

- answers to questions on notice at public hearing on 5 August received 8 August 2005

Department of Immigration and Multicultural and Indigenous Affairs

- answers to questions taken on notice at the Committee's hearing in Sydney on 25 July 2005

- response dated 12 August 2005, to questions on notice arising from the 8 August 2005 hearing
- response dated 16 August 2005, to questions on notice arising from the 8 August 2005 hearing
- response dated 19 August 2005, to questions on notice arising from the 8 August 2005 hearing in relation to Vivian Solon.
- response dated 23 August 2005, to question on notice asked by Senator Ludwig arising from the 8 August 2005 hearing.

Tabled (6/9/05) papers including Secretary's briefing – 8 August 2005; People. Our Business; copy of Ms Alvarez Qantas travel form.

Tabled at the Committee hearing on 6 September 2005:

- Minute - Deputy Secretary Correll - 25 August
- Removals Quality Assurance Forms – Description
- Removal Availability Assessment (revised)
- Draft MSI extract - 5.2 - Unresolved Identity or Nationality
- Air travel forms.pdf)
- Draft MSI extract - Notification of Proposed Air Travel
- Notice of Your Removal from Australia
- Request for Removal from Australia (revised)
- General Information for Escorts
- Progressing and Effecting Removal

Mr Mark Green

- Letter from Minister Vanstone dated 14 June 2005, tabled 26 July 2005
- Letter from Minister Downer dated 14 June 2005, tabled 26 July 2005

Australian Security Intelligence Organisation

- Letter from Mr Paul O'Sullivan dated 24 August 2005

Sen the Hon Amanda Vanstone

- Letter from Minister Vanstone dated 2 September 2005

Commonwealth Ombudsman

- Covering letter dated 5 September 2005-09-09
- Letter to Senator the Hon Amanda Vanstone, 1 September 2005

- Letter to Secretary of the Department of Immigration and Multicultural and Indigenous Affairs