

Evaluation of the
Palmer and Comrie Reform Agenda –
including Related Ombudsman Reports

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Mr. Andrew Metcalfe
Secretary
Department of Immigration and Citizenship
CANBERRA

Dear Mr. Metcalfe,

In July this year, I was asked to evaluate the Department's reforms in response to the Palmer and Comrie Reports, and to 10 reports by the Ombudsman on immigration matters.

This evaluation is now submitted to you in response to that request. In undertaking this work, I have had access to a large number of people in your Department, in other Government Departments and agencies, and to a range of individuals with expertise and interest in the issues raised by the Comrie, Palmer and Ombudsman Reports. I have also had access to internal reviews, external and internal audit papers, departmental files, staff survey material and other relevant material to assist me to arrive at the conclusions in this evaluation. In the course of the evaluation, I visited the Villawood and Maribyrnong Immigration Detention Centres and the Melbourne Immigration Transit Centre, as well as the Melbourne Contact Centre and Global Feedback Unit, and the Victorian and NSW State Offices. I also had access to material about the Child Support Agency and its cultural change program.

To all your staff who gave of their time and expertise, I pass on my thanks, as I do to Ms. Jane Evers, who provided secretarial assistance during the 3 months in which I undertook this work.

Yours sincerely



ELIZABETH PROUST
20 November 2008

Executive Summary

The Palmer and Comrie Reports published in 2005, a few months apart, made headlines and were a significant turning point in public attitudes to detention and immigration. The reports drew to public attention systemic problems within the Department of Immigration and Citizenship (DIAC) and provoked an outcry which the then Government could not ignore. The reports documented how one Australian citizen and a permanent Australian resident had both been wrongfully detained, and in the case of Vivian Alvarez Solon, wrongfully deported.

In addition, this evaluation also covers 10 Ombudsman Reports in the period 2006 – 2007. They range from issues concerning the treatment of one individual to systemic issues such as handling detainees with mental health problems. In total they cover 247 individuals, and in many cases mirror the findings of the Palmer and Comrie Reports.

Today, significant changes have occurred and I can report that most of the recommendations of the Palmer, Comrie and Ombudsman Reports have been implemented. This is a significant achievement in three years.

I note that the Ombudsman has acknowledged that DIAC has addressed many of the issues raised by Palmer, Comrie and his own reports and he believes that the changes which have occurred in DIAC since 2005 to both policies and culture make it far less likely that similar issues would arise in the future.

My evaluation covers the recommendations and the extent to which they have been implemented and then discusses the extent to which cultural change has occurred. I believe that the time has come to move on from the current focus on Palmer and Comrie to a focus on building and maintaining a high performance culture; one which would ensure that the lessons from these various reports continue to be learnt.

While this evaluation makes it clear there is more to be done, it must be stressed how much has been achieved in three years. I pay tribute to the people in DIAC and elsewhere who acknowledged the extensive shortcomings in the system of detention and other aspects of their department, and who have worked diligently to rectify those shortcomings.

It should also be acknowledged that all this took place in an environment where DIAC also dealt with a significant immigration program, the citizenship test, changes of Ministers and Parliamentary Secretaries and then a change of government. That so much has been achieved to rectify the wrongs identified by Palmer and Comrie while all this has occurred is significant indeed.

I found that, in the time that has passed since the 10 Ombudsman Reports were published, DIAC has made substantial progress in implementing the recommendations of these reports.

The cultural change programs that have been underway since the publication of the Palmer and Comrie Reports in 2005 have been a major factor in ensuring a different and more positive approach to the criticisms contained in the Ombudsman's Reports.

(Note: the Department has had a number of name changes and is referred to in the two reports as DIMIA. To minimise confusion, I have used its current name, throughout this evaluation.)

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Part 1 – Palmer and Comrie Reports

Views held about DIAC pre-Palmer and Comrie Reports

I set out views, as expressed to me by external observers of DIAC, before the release of the Palmer and Comrie Reports, to provide some context for the subsequent discussion of the changes that occurred. The views are those of people with a close interest in detention and immigration issues who were at arm's length from DIAC, as well as people who were arguably closer, for example, involved in DIAC related groups such as the Immigration Detention Advisory Group (IDAG).

People spoke to me of a closed culture, one where external views were not sought, and, when they were expressed, they were largely not welcome. They talked about a lack of systems, and the lack of an assurance culture. They described a culture where the decision makers rarely had their decisions checked and where the Compliance function was almost divorced from the rest of DIAC.

People who were within or close to the public sector made adverse comments about how different DIAC was from the rest of the public sector. They talked about how far behind best practice it was in terms of its financial and other management systems in addition to problems with its culture. Those who joined DIAC in the months after the release of Palmer and Comrie used terms like “damaged department” and a “culture of fear”. All of this is consistent with the findings of the Palmer and Comrie Reports.

Palmer commented on “*a culture of denial and self-justification that the Inquiry found to be at the heart of the problem. Rigid, narrow thinking stymies initiative and limits the ability to deal successfully with new and complex situations. A wider, questioning and enabling culture is required*”. (Palmer 2005, p.168).

The external people I spoke to all acknowledged that DIAC has made significant progress since the Palmer and Comrie Reports. They differ on how far that change has extended and what remains to be done. I refer to this in more detail below.

Findings of the Palmer and Comrie Reports

As the reports of Palmer and Comrie are publicly available documents (for the Palmer Report see www.immi.gov.au/media/publications/pdf/palmer-report.pdf and for the Comrie Report see www.immi.gov.au/media/publications/pdf/alvarez_report03.pdf) I do not intend to repeat here the very large numbers of recommendations made in them. I briefly outline the findings of the two reports and then provide a summary of the extent to which they have been implemented.

The Palmer Report

The Palmer Report, published in July 2005, was an inquiry by Mr. M. J. Palmer into the circumstances whereby a permanent resident, Ms. Cornelia Rau, was held in detention as a suspected “unlawful non-citizen”. Palmer’s recommendations included the need to improve training, arrangements with State and Territory Governments (over, for example, the use of correctional services centres, police powers, etc), alternatives to detention, the need to develop identity techniques, mental health arrangements, the environment of immigration detention, data management, record keeping, and problems in the State Offices (including Queensland, NSW and South Australia). On all of these issues his findings reflected poorly on DIAC.

However, Palmer’s most stringent comments were reserved for the factors which lay behind, and may be said to be the causal factors in, the events that led to this particular detention and to other similar problems. Chapter 7 of his report cannot have been good reading for those in DIAC at the time. Headed “Culture, Structure and Operations” it dealt with the issues which were contributors to the malaise in DIAC. A few quotes will suffice. Palmer “*found evidence of deafness to the concerns voiced repeatedly by a wide range of stakeholders...and a culture that ignores criticism and is unduly defensive, process motivated and unwilling to question itself*”. (Palmer 2005, p.164). It also found that the approach DIAC’s management “*to the complexities of implementing immigration detention policy is ‘process rich’ and ‘outcomes poor’*”. (Palmer 2005, p.171).

The Comrie Report

The Comrie Report, published in September 2005, was a report of the Commonwealth Ombudsman of an inquiry undertaken under the *Ombudsman Act 1976* by Mr. N. Comrie. It followed on from the Palmer Report. Mr. Comrie inquired into the circumstances in which an Australian citizen, Ms. Vivian Alvarez Solon, was detained and deported. The Comrie Report supported a large number of the recommendations made by Palmer. It highlighted problems in the Queensland Office, made recommendations about the IT systems in DIAC and focused on issues to do with the health, including mental health, of detainees. This report agreed with Palmer on issues of culture. It recommended that the cultural issues in the Queensland Office (where the two cases stemmed from) be addressed as a matter of urgency, and that checks be made in all other offices to ensure that similar problems did not exist in them.

How well have the recommendations been implemented?

In this section, I group the recommendations (adopting the numbering system from both reports) and comment on their implementation. Where I have found that the recommendations have been adopted, I add little by way of commentary. Where there are gaps, or where, for example, in the case of cultural change, one can never speak of the work as having been finished, I express views on what more needs to be done.

Training

This section deals with the training recommendations in Palmer (**recommendation 3.1**) and in Comrie (**recommendations 5, 6 and 8**).

In summary these recommendations dealt with the training of relevant staff to ensure that they understood their tasks and had the requisite skills to undertake them. They focused on the need for IT training, on the need for objectivity in decision making, and on the need to train people to be better able to detect people with mental health problems.

After the Palmer and Comrie Reports were published, DIAC established the College of Immigration to provide accredited training to all field operations staff who exercise powers to detain people. Since that time, this training has been extended to detention service officers and investigators; pilot courses have begun for removals, case management and border entry staff. A training package was developed for police in relation to their detention powers and the DIAC Police Compliance Practice Network was established to oversee the training for police in detention related matters.

Training at the College includes use of IT systems in compliance, detention and investigations training programs. It also focuses on objective and ethical decision making, and the need for good record keeping. Modules on client identification and understanding mental health issues have also been added. To ensure that the courses remain relevant and meet their desired outcomes, they are regularly evaluated, including through external assessment.

This is in line with the actual recommendations and with the spirit of those recommendations and I find that this has been done effectively. My only advice in this area is to ensure that the quality of the courses remains high, that new field staff are not able to undertake their duties until the completion of the relevant courses, and that these courses continue to be updated as legislation, policies and processes change.

For example, detention-related decision making mandatory control points have been designed to ensure nationally consistent practices, so that all stages of a case are handled legally and effectively, and so that all steps are always implemented. The effectiveness of this process importantly relies on both IT systems and relevant training. There is therefore a need for ongoing monitoring and vigilance in the initial training provided, and subsequently. I comment in more detail on pages 23 and 24.

Palmer (**recommendation 7.4**) and Comrie (**recommendation 6**) raised a range of other issues around the need for training for compliance and detention officers. These included ensuring that there be a review of every

decision to detain a person on the basis of “reasonable suspicion of being an unlawful non-citizen” within 24 hours or as soon as possible after that.

These issues have also been picked up in the courses developed for the College of Immigration. In addition, Detention Review Managers have been established in the State and Territory Offices and mandatory control points have been established to review decisions to detain. Since the Minister, Senator Evans, announced the “*New Directions in Detention*” in July this year, DIAC is redesigning the detention review process. This will include three and six monthly reviews of the decision to detain. The Detention Review Committee has been restructured to ensure the lawfulness and appropriateness of detention decisions.

Information Systems Review

Palmer (**recommendation 8.1**) and Comrie (**recommendation 4**) called for a thorough, independent review of DIAC’s IT systems. The recommendations focused on such matters as the need for single search entry, interconnectivity, cost effectiveness and compliance management functionality.

As a result of these reports (and of similar recommendations in the 10 reports of the Commonwealth Ombudsman) DIAC commissioned a number of reviews of its information systems. These reviews identified a range of systems and technology issues across the department.

The roadmap for the new system, known as *Systems for People*, was developed by July 2006 and DIAC chose IBM as its strategic partner to deliver the systems, with the first change release delivered in April 2007. In the Federal Budget of May 2006, very significant investment (\$495 million over four years) was provided to deal with the issues identified from a systems perspective.

The first seven of 12 major releases have been delivered. Priorities have included a single view of the client (to overcome many of the identity issues highlighted in the Ombudsman’s reports), and the improvement of performance in compliance, case management and detention, and border security. The next phase involves visa processing services.

Significant progress has been made in implementing *Systems for People*. However, as with many large and long-running IT projects, significant issues have arisen and further work remains. A detailed review of the program was conducted by Boston Consulting Group (BCG) from January 2008 – July 2008. In January this year, BCG assessed the status of *Systems for People* and found significant problems, including with the governance structure, stakeholder engagement, alignment of the senior team behind the program and costs.

As a result of BCG’s reviews, a fundamental restructuring of the program’s administration occurred in March 2008, which saw senior experienced APS employees replace independent contractors in key roles of Program Director and Program Manager. By July 2008, BCG concluded that “In our view, from a planning perspective, the Program is in good shape compared to commercial projects of a similar size and complexity”.

The Department of Finance and Deregulation’s Gateway Review of September 2008 noted the significant improvements in all facets of the project – ranging from engagement with business areas, prioritisation of work, change control, budget, scope and benefits realisation, that have occurred under the new leadership. The Gateway review made only six recommendations – none of which warranted remediation before the project proceeds.

I am advised that the department draws input on the program from external stakeholders through membership of its Systems Committee and monthly meetings of a Consultative Committee to monitor and review progress. The former contains members from the Australian Taxation Office’s major change program as well as a senior partner from IBM plus the former head of technology at the Commonwealth Bank, Mr Peter Reynolds, who managed the bank’s major CommSee business transformation program. The Consultative Committee comprises representatives from the Department of Finance and Deregulation, the Department of the Prime Minister and Cabinet and the Australian Government Information Management Office.

For additional rigour, I note the Secretary has recently established a taskforce to enhance linkages between the business and IT areas working on the visa portal. This will complement the successful working arrangements that were evident with the compliance, detention and border security portals.

The *Systems for People* program is a significant business transformation project with major deliverables in a complex and changing environment. It is some two years into its four-year development cycle, and with the benefit of strong oversight, BCG and Gateway advice, is now a more mature program.

However, it is essential that senior management maintain a very close watch on whether *Systems for People* will deliver all that was originally planned. It is my strong view, given the size and complexity of the *Systems for People* program, that there needs to be high level oversight of the program, including through some enhanced external expertise, to ensure that the program remains within its funding envelope and delivers quality products to staff and clients.

Immigration Review Tribunal's IT Systems

Palmer (**recommendation 8.2**) recommended that DIAC establish links to the Immigration Tribunal's IT systems to ensure that the names and immigration status of people whose circumstances are subject to review are readily available to DIAC compliance officers.

This recommendation has been partially implemented. Work is continuing to complete automation of the data transfer. It is part of *Systems for People* and will be released in March 2009. In the meantime manual arrangements are in place.

Care of People in Correctional Centres

The Palmer report (**recommendations 3.2 and 3.3**) stated that, as a matter of urgency, DIAC should formalise arrangements with the Queensland Department of Corrective Services over the appropriate care for immigration detainees. It also recommended that where immigration detainees had not committed a criminal offence immediate steps are taken to remove them from correctional facilities. They were to remain in correctional facilities only until suitable alternative arrangements can be made for their immigration detention.

I find that these recommendations have been implemented. As a result of these recommendations, DIAC has not held immigration detainees in Queensland correctional facilities since the middle of 2006, unless as a matter of last resort and then for the shortest practicable time. An instruction about people held in correctional centres was issued in April 2007.

Care of People in Immigration Detention facilities

The Minister announced in his speech, *New Directions in Detention – Restoring Integrity to Australia's Immigration System*, that detention policy and practice will have a risk-based approach (29 July 2008).

I note the Baxter, Woomera, and Singleton Immigration Detention Centres were closed, as was the Port Augusta Residential Housing Centre. Upgrades have occurred to the Villawood, Maribyrnong, Perth and Northern Immigration Detention Centres (but not to the very unsatisfactory Stage 1 facilities at Villawood), and the Brisbane and Melbourne Immigration Transit Centres have been built. The latter provide much more suitable accommodation than the Detention Centres.

DIAC should continue to improve the conditions in which detainees are held, especially at Villawood, and also continue to reduce the numbers of people in such centres. Commendable progress has been made with numbers reducing from 817 on 6 July 2005 to 247 as at 26 September this year; 42 of these are in community detention.

1. Queensland correctional facilities are those managed by Queensland Department of Corrective Services.

Identity Issues

In both the Palmer and Comrie Reports, the identity of the two women who were the subject of the reports, was a key issue. Palmer recommended (**recommendation 3.4 and 5.2**) (mirrored in Comrie in **recommendation 3**) that a dedicated Identity and Immigration Status Group be established to deal with issues of unresolved identity of detainees. It further recommended procedures for regular review of identity for people in detention centres and that there be a checklist to be used as a minimum standards template for conducting identification inquiries.

To do this, the role of the National Identity Verification Advice Unit was expanded, and Detention Review Managers were established in each State and Territory Office to deal with these issues. DIAC now has a procedure which includes a series of checklists to follow in establishing identity. Training in this area is ongoing, including the provision of modules on client identification.

When a suspected unlawful non-citizen is found, DIAC procedure is now for a series of interviews to be held to elicit information to assist the decision about detention and possible removal. These interviews must be recorded and entered into Departmental systems.

This issue has been dealt with, but continuing care needs to be taken in this area. As the two reports highlighted, this can be a vexed issue for people with mental illnesses. Systems development will assist in this area but it needs an ongoing focus.

It is pleasing to note more recent cases similar to Cornelia Rau were handled in a much better way.

Detention Review Committee

The Palmer Report (**recommendation 3.5**) found that the Detention Review Committee of DIAC did not actually review detention matters, nor conduct inquiries into the reasons for detention (p. 55). It recommended that it be critically reviewed and that it be responsible to executive management for advice on critical or sensitive detention cases.

This has been done, with an emphasis on ensuring that there are appropriate mechanisms for monitoring difficult or complex cases. This includes assurance that cases are being managed lawfully, reasonably and promptly. The role of the Detention Review Committee has been changed to focus on systemic detention issues and cases of particular concern. Each State Office now has specific responsibility for providing assurance on individual client's case management.

Records Management

The Palmer Report found that poor file keeping practices contributed to the issues associated with the lengthy stay of Ms. Rau in custody. It recommended (**recommendation 4.1**) that DIAC develop and implement arrangements to ensure that a detainee's file accompanies the person at all times and that such files should be tracked by Canberra.

This has been done with the system developed to enable this to occur. Training modules were developed in compliance and detention training as part of the records management initiatives.

Palmer (**recommendation 5.1**) and Comrie (**recommendations 2 and 10**) dealt with a range of issues about file creation, records management and email records. Comrie recommended the development of a compulsory checklist to record the removal of a person from Australia and that such removal needed to be approved at senior levels in DIAC.

Records management has had a major focus in DIAC, given the deficiencies pointed out in both reports. A comprehensive Records Management Improvement Plan was commissioned, and DIAC incorporated a review by the National Archives of Australia of its record keeping against best practice which led to 77 recommendations.

Clearly, while much has been done, this needs to have an ongoing focus. The Secretary has regularly highlighted this area to staff. DIAC now has in place procedures for use when people are to be removed from Australia. All such removals must now be authorised by a member of the Senior Executive Service seven days before the removal is to occur.

Communication with Detainees

The Palmer Report (**recommendation 4.3**) found poor communication between DIAC and its outsourced detention services provider, GSL on the one hand, and detainees, contributed to the problems.

DIAC regards this recommendation as implemented after the development of a Communication Strategy with Detainees and a National Communication Strategy. In each Immigration Detention Centre (IDC), there are regular Community Consultation Groups for external input to services. In addition, there are weekly internal reference groups between DIAC, the detention services provider, and detainees, to discuss issues and receive suggestions on how to improve services.

Similarly, all IDCs have DIAC staff onsite responsible for contract management and dealing directly with the detainee population to ensure services are delivered appropriately. The new detention tender process is being completed which will further ensure that services are delivered to a high quality.

Detainees also now have access to phones and the internet, which has greatly increased communication options for detainees.

However, this was an area which received criticism from external people who believe that the Telephone Interpreter Service is inadequate, especially for people with languages not widely spoken in Australia. On my own visits to Villawood and Maribyrnong I saw little evidence of written communication (for example, by way of posters) in languages other than English. More emphasis could be given to this area.

I note the range of languages of clients in Immigration Detention Centres (IDCs) and that it is not practical to provide all material in all languages. Key documents are translated into the predominant languages of the client population. Information about each IDC (a Centre Handbook) is also translated into the predominant language for that IDC. The detention services provider where possible places staff in IDCs with language skills which align with that of the predominant population.

Baxter

Palmer directed considerable criticism to a wide range of issues at Baxter, the immigration detention centre in South Australia. While Baxter was closed in August 2007, the recommendations have informed improvements made at other centres.

Palmer made a large number of recommendations about the conditions at Baxter. They ranged over the state of the visitors' centre, contractual arrangements with GSL (the outsourced detention services provider); the quality of food provided, the general environment, and file keeping. DIAC began the task of implementing these recommendations but the closure of the centre made this unnecessary.

Missing Persons

Palmer recommended (**recommendation 5.3**) that the Commonwealth take a leadership role with State and Territory Governments to develop a national missing person's policy to guide the development of an integrated national missing persons' database.

This recommendation involved the Commonwealth Attorney-General's Department, the Australian Federal Police, external bodies such as the Salvation Army as well as State and Territory Governments. The policy was endorsed in June 2006 and is in place.

Facial Recognition Software

As an addition to recommendation 5.3, Palmer recommended (**recommendation 5.4**) the development of biometric data to assist in the identification of missing people.

This is a long term initiative which is being led by the Australasian Police Ministers' Council. It is expected that this will be implemented by October 2009 (subject to funding) and completed by May 2011.

Missing Patients

Palmer recommended (**recommendation 6.1**) that the Commonwealth Government encourage the States and Territories that on each occasion a "missing patient" report is made, it must be accompanied by sufficient information about the patient's record to indicate the degree of risk and vulnerability of that person.

The Council of Australian Governments (COAG) endorsed the *COAG National Action Plan on Mental Health 2006 – 2011* in July 2006.

Given the relatively poor record of Federal/State and Territory cooperation on health matters, one cannot help but feel that this is still an area of uncertainty and risk. Given that it is largely outside DIAC's control, it is hard to recommend other than that DIAC keep a watching brief on this area, and via its Minister, raise any concerns with the Health Ministers or directly to COAG.

Clinicians and Detainees

Palmer recommended (**recommendation 6.2**) that governments and health authorities encourage clinicians to be more assertive in creating the optimal conditions in which to assess patients.

DIAC has published a comprehensive document which deals with these, and many more, issues. The *Detention Health Framework* was developed in 2007 in consultation with the Detention Health Advisory Group (DeHAG). It covers all aspects of health care, the practical arrangements for health service delivery and a comprehensive program for ongoing quality improvement. It is publicly available: www.immi.gov.au/managing-australias-borders/detention/services/detention-health-framework.pdf.

Work was also undertaken, jointly with the Royal Australian College of General Practitioners (RACGP) which led to the publication of *Standards for health Services in Australian Immigration Detention Centres*, published in April 2007. This is available from the RACGP.

Taken together, these constitute a serious effort to deal with a range of health issues identified in both Palmer and Comrie, and in some cases go beyond these reports.

They are valuable additions to the initiatives in the area of health services, including mental health and DIAC and the RACGP are to be commended for the quality of the work.

Fitness to Travel

Comrie recommended (**recommendation 9**) that DIAC ensure that where medical officers are reviewing the fitness to travel of an unlawful non-citizen, they have access to all the relevant medical history and records of that person.

DIAC has revised its instructions and this advice is contained in its Procedures Advice Manual. All people being discharged from immigration detention (including those to be removed from Australia) require a health assessment by a qualified health professional. This assessment includes the review of the person's medical history and their current health status.

Behavioural Issues

Palmer recommended (**recommendation 6.3**) that hospitals, medical centres and other health facilities pay particular attention to detainees presenting with "odd" features or an "odd" history.

A large number of initiatives have been undertaken in response to this. They include case management (every detainee is assigned a case manager to co-ordinate the full range of health services needed by the detainee), multi-disciplinary mental health teams and mental health screening, and the funding of a number of medical positions to liaise with external health bodies.

Medical Records

Palmer recommended (**recommendation 6.4**) that DIAC develop systems and procedures to ensure that all records of a detainee are collected so that they, together with medical information can be given to the clinicians making mental health assessments and deciding on treatment options.

DIAC has developed standardised screening tools to collect information on detainees at detention centres and now has an integrated management plan for those with mental disorders. A single clinical record exists for each person. *Systems for People* has implemented Compliance, Case Management and Detention Portals to support consistent national processes in this area.

Queensland Government

Palmer recommended (**recommendation 6.5**) that the Commonwealth Government work with the Queensland Government to find ways to allow for continuity of clinical care between prison and in-patient units for detainees.

The Queensland Government subsequently decided that people in immigration detention would not be held in correctional facilities (see page 10 above). DIAC now has an arrangement with Queensland Health that provides for continuity of care for all people in immigration detention who use State health services.

Mental Illness Detection

Palmer recommended (**Recommendation 6.6**) that DIAC work closely with the Queensland Department of Corrective Services to review clinical pathways and training to explore practical ways for the more speedy detection of mental illness, and institute effective reporting and consultation mechanisms in this area.

Queensland Department of Corrective Services no longer holds people in immigration detention (see page 10 above). Since 2005, DIAC has established an enhanced mental health service and an integrated mental health screening program for all people in immigration detention. DIAC has also established agreements with relevant State Health Services, including QLD, to provide for acute hospital admissions for people in immigration detention with physical or mental health issues. Such agreements are yet to be completed with NSW and WA.

National Biometric Database

Palmer recommended (**recommendation 5.7**) that a national database of fingerprints and other biometric data be established and that DIAC ensure that their policies and decisions in this area are consistent with national standards.

Work began on this in November 2006 and it is expected that this recommendation will be implemented by March 2009.

Privacy

Palmer recommended (**recommendation 5.5**) that DIAC reassess its position in relation to privacy in all its public policy operations associated with immigration detention. Palmer believed that DIAC staff were operating on a misconceived view of the *Privacy Act 1988*, and that if they had been properly informed and trained, Ms. Rau may well have been identified earlier.

DIAC has created a Privacy Section and has entered into a Memorandum of Understanding with the Office of the Privacy Commissioner. This allows DIAC to seek advice directly from the Privacy Commissioner. In addition, privacy training is provided to staff. Privacy is often misunderstood and can be used as an excuse for avoidance of decisions if it is thought that a person's privacy may be impacted by a decision to raise an issue that could be said to go to their private matters. Ongoing training in this area is crucial.

One Stop Shop

Palmer recommended (**recommendation 5.6**) that a “one stop shop” be established for inquiries about immigration detainees.

As a result of this recommendation, DIAC set up the Immigration Status Service Call Centre which operates 24 hours, seven days a week. It is available to all State and Territory police in Australia as well as to Australian embassies and high commissions around the world.

Responsibilities of GSL

In **recommendation 6.7**, Palmer focused on the responsibilities of the outsourced detention services provider, GSL, to be better trained at detecting symptoms of mental illness. Palmer further recommended that GSL recruit people with health and welfare training to their various roles in detention centres, and be responsible for passing on concerns about any mental illness issues amongst detainees in a timely fashion.

DIAC has renegotiated the contract with GSL to require these conditions. Training in relation to signs of mental health and risk factors for detention officers has been included in training courses. GSL now includes the identification of risk and warning signs of potential suicide in their standard operating procedures.

The Mental Health Sub-Group of DeHAG (the Detention Health Advisory Group) will shortly conduct a detailed needs analysis for mental health training for all people working in the detention environment.

Health Services in South Australia for Baxter

Palmer recommended (**recommendation 6.8**) that consideration be given to contracting out mental health services for detainees at Baxter to an arm of the SA Government.

Interim arrangements were put in place for this, but with the closure of Baxter, further work became unnecessary.

Memorandum of Understanding with the South Australian Government

Palmer recommended (**recommendation 6.9**) that DIAC and the SA Government explore ways to ensure that there was a clear definition of roles and responsibilities for adequate mental health care between the two bodies.

A memorandum of understanding was signed in October 2005 to ensure that now occurs. Similar arrangements are in place with the NT, Victoria, Tasmania and Queensland, and draft MOUs are being worked on with NSW and WA.

Health Advisory Panel

In **recommendation 6.10** Palmer recommended that DIAC urgently establish the Health Advisory Panel to assist GSL to develop and review Baxter's health plans, and to provide access to well-qualified specialists, especially in complex or protracted cases.

While this was focused on Baxter, DIAC established DeHAG in March 2006 to advise it more broadly. It comprises experts in general practice, psychiatry, psychology, nursing, public health, mental health and dentistry.

Immigration Detention Health Review Commission

Palmer recommended (**recommendation 6.11**) that an independent body, Immigration Detention Health Review Commission, be established under the Ombudsman's legislation, to carry out independent external reviews of health and medical services provided to detainees.

While DIAC regards the arrangements via DeHAG as meeting this recommendation, DeHAG itself believes that an independent body such as the Immigration Detention Health Review Commission is still needed. The Ombudsman did not believe that such a body was appropriate for his office, but DeHAG does not believe that it is sufficiently resourced, nor does it meet regularly enough to undertake the various tasks proposed by Palmer.

I understand the previous government decided not to establish a Detention Health Review Commission, but rather to establish the Detention Health Advisory Group, noting the increased powers of the Ombudsman. This is now an issue for the current government, with this matter raised with the Joint Standing Committee on Migration for consideration in the context of its Inquiry into Immigration Detention.

Research into Mental Health

In **recommendation 6.12**, Palmer proposed that the Immigration Detention Health Review Commission would investigate the relevant studies of detainee populations and advise on the level of mental health services applicable to the immigration detention population in Baxter.

DeHAG, rather than the Immigration Detention Health Review Commission, has an advisory role for DIAC in two research projects to date:

- A detailed analysis of the health records of 720 people in detention between 1 July 2005 and 30 June 2006, conducted by the University of Wollongong.
- A review of the suicide and self harm instrument and protocol conducted by Monash University.

These projects only deal with part of the broader research that Palmer recommended be undertaken. Funding has been a constraint on the broader project. There is now an initial amount of \$300 000 to begin this project. The Immigration Community and Detention Research Reference Group has been established to decide on the research agenda and to oversee the research program. This will be done in conjunction with the Research and Evaluation Branch which has recently been established in DIAC.

Adequacy of Professional Development Systems

Palmer recommended (**recommendation 6.13**) that the Immigration Detention Health Review Commission review the adequacy of current systems for continuing professional development, to ensure that high quality care is delivered to immigration detainees.

This is underway but not complete. The Mental Health Sub-Group of DeHAG has been working on this since mid-2007. It has provided guidance on training needs for health professionals conducting mental health assessments.

South Australian *Mental Health Act 1993*

Palmer recommended (**recommendation 6.14**) that the SA Department of Health amend the Mental Health Act to ensure that there is greater access to psychiatric in-patient assessment for involuntary patients.

At the time of writing, a Bill to enact these changes is currently before the SA Parliament.

Case Management

Palmer recommended (**recommendation 7.1**) that DIAC develop and implement a case management system that ensures that every immigration detention case is assessed comprehensively, is managed to a consistent standard, is conducted in a fair and expeditious manner and is subject to rigorous continuing review.

DIAC has implemented such a case management system and has a case management service in each State and Territory Office. A community care pilot program was begun in May 2006 to provide immigration information and community care services to vulnerable clients.

Systems for People has developed a portal which allows staff to access and document decisions in the management of their clients. An Integrated Business Model has been developed to ensure that staff work in an integrated way, understanding the key processes that are involved in deciding whether to detain or not.

Migration Series Instructions

In **recommendation 7.2**, Palmer recommended that DIAC review all its Migration Series Instructions to remove

those which are redundant, to rewrite others, to ensure training in the instructions is up to date, and to audit them regularly. Comrie (**recommendation 2**) also touched on this issue.

DIAC has implemented this recommendation via a project which simplified the instructions and ongoing communication to staff about the importance of these instructions. There is also an audit of instructions as part of the rolling internal audit program. There is to be an annual review of this to ensure that instructions continue to be up to date.

Need for an Independent Review of Various Divisions in DIAC and of the Brisbane Office

Palmer (**recommendation 7.3**) referred to the need for an independent review of several key parts of DIAC's operations: the Border Control and Compliance Division and the Unlawful Arrivals and Detention Division. Comrie (**recommendation 1**) recommended the Secretary take steps to redress the negative culture of the Brisbane Compliance and Investigations Office.

In August 2005, the Secretary of DIAC restructured the detention, compliance and border security areas, appointed three Deputy Secretaries to ensure clear lines of accountability, and created the new position of Senior Deputy State Director in the Queensland Office to begin to implement the necessary changes in Queensland.

Initiatives to deal with the negative culture in the Queensland Office were developed. This includes new governance arrangements, and the introduction of a performance culture which included a focus on quality assurance and accountability. For further discussion of the Queensland Office, see page 30 below.

Australian National Audit Office and the GSL Contract

In **recommendation 7.5** Palmer recommended that DIAC seek a detailed briefing from the ANAO on its review of the GSL detention services contract to understand where changes were needed and how improvements could be made.

DIAC held these discussions with the ANAO and engaged an independent consultant who considered the advice and recommendations of the ANAO in advising DIAC on these findings.

Detention Contract Management Group

Palmer recommended (**recommendation 7.6**) that the Minister establish a Detention Contract Management Group, comprised of external experts, to provide guidance to DIAC on the management of the detention services contract.

The independent review (see **recommendation 7.5** above) recommended a different solution. Rather than a Detention Contract Management Group the consultant advised that there would be more value in having the relevant expertise on hand on an "as needs" basis. The existing Contract Operations Group and Contract Management Group were merged to improve the management of the performance of the contractor. The terms of reference for the Immigration Detention Advisory Group (IDAG) were also expanded to assist in this process.

Changes to the Detention Contract

Palmer recommended (**recommendation 7.7**) that the contract for the provision of detention services be reviewed as a matter of urgency to lead to the better provision of services by the outsourced detention services provider, GSL.

DIAC had an independent review conducted which made 26 recommendations about the detention contract which have been implemented to give effect to the recommendation.

Removals from Australia

Palmer recommended (**recommendation 8.3**) that a briefing program be developed for immigration detention and compliance managers to ensure that they understand the responsibilities of exercising the power of

determining a decision to remove a person from the country. He further recommended that the central factors around removals and identity investigations be included in DIAC's training programs.

This has been done. The relevant training is done through the College of Immigration. Revised instructions have been issued about the removal of people from Australia. These include a checklist of actions to be addressed and the need for approval to be signed by an officer at Senior Executive Service (SES) level.

Review of the Operations of Contact Centres

Comrie recommended (**recommendation 7**) that DIAC review the operation of contact centres to determine more effective procedures for dealing with the information which these centres receive.

Initially this recommendation was dealt with by providing staff with training. Then DIAC commissioned a review of its contact centre operations. This was finalised in August 2006 and made a series of recommendations highlighting the need for improvement in areas such as IT support platforms, training, workforce planning and recruitment.

In implementing this review, DIAC has changed recruitment activities in contact centres, instituted quality control processes, introduced performance management practices and developed new training packages.

Commendation

Comrie recommended (**recommendation 11**) that DIAC write to Mr. Robert Young, the former husband of Ms. Alvarez Solon, and commend him for his diligence in pursuing the matter of Ms. Alvarez Solon and bringing it to government attention.

This was done in October 2005.

Code of Conduct

Comrie recommended (**recommendation 12**) that the conduct of three officers involved in the matters raised in his report might constitute a breach of the Code of Conduct, as outlined in the *Public Service Act 1999* (s.13).

Mr. Dale Boucher, the former CEO of the Australian Government Solicitor, was asked to conduct this inquiry. One officer retired, and one resigned. On the third one, Mr. Boucher found that his actions did not constitute a breach of the Code of Conduct as he had drawn the issues around Ms. Rau to the attention of a senior officer.

Conclusion

As can be seen from the analysis of the Palmer and Comrie recommendations, DIAC has substantially implemented them. Where they are incomplete, plans exist for their implementation. It is time to publish the progress that has been made to date, as even for well informed external stakeholders, there is insufficient knowledge of what has been accomplished since the Palmer and Comrie Reports were published. This should take the form of a factual document outlining the recommendations and the measures taken to implement them. It may be that what is written here could form the basis of such a document. This would allow a greater understanding of the extent of the implementation of Palmer and Comrie and would improve the dialogue and cooperation (already much stronger than previously) between DIAC and its various external stakeholders.

Part 2 – 10 Ombudsman's Reports

This evaluation covers 10 reports from the office of the Commonwealth Ombudsman in the period 2006 – 2007. They are the reports into referred immigration cases 04 and 06-08/2006 inclusive and 07-11/2007 inclusive, and report 05/2006 into the management of a frail aged visitor to Australia. These reports are all publicly available (see www.ombudsman.gov.au) so it is not my intention to cover the reports or their recommendations in detail in this evaluation. Rather, I group the recommendations and make comments about their implementation or otherwise, and then deal with the question of the extent to which there has been cultural change within DIAC to minimise the prospect of the recurrence of similar problems.

In 2005 and 2006, the Commonwealth Government referred to the Ombudsman the cases of 247 people who had been detained by DIAC and later released.

The Ombudsman's comments in the foreword of 11/2007 indicate that he believes that DIAC has made significant progress in implementing the recommendations of the Palmer and Comrie Reports, as well as the referred detention cases:

"While this report draws many examples from the referred immigration reports, the purpose in doing so is not to direct any further criticism at immigration administration. The Department of Immigration and Citizenship gave its full cooperation and support to these investigations and has worked hard since 2005 to address the weaknesses that were identified." (McMillan 2007, p.1).

This summary reflects my own conclusions. There is still much to be done, but very significant changes have been made since Palmer and Comrie, and much of the change is reflected by the approach DIAC has taken in responding to the criticisms in the various Ombudsman Reports.

Current views of the Ombudsman

During the course of this evaluation, I interviewed the Ombudsman, Professor John McMillan, the Deputy Ombudsman, Dr Vivienne Thom and the Senior Assistant Ombudsman, Mr George Masri. In the course of the interview, the Ombudsman acknowledged that DIAC has addressed many of the issues raised by Palmer and Comrie as well as by his 10 reports into immigration and detention issues. He thought that the changes which have occurred in DIAC since 2005 make it far less likely that similar issues would arise in the future. He described DIAC today as more engaged, open and proactive; accepting of the role of the Office of the Ombudsman in detention monitoring. Previously DIAC was suspicious of the Ombudsman's office, maintaining a "standoffish" relationship.

An important factor in ensuring that this change continues is the involvement of the Office of the Ombudsman (in the person of Dr Thom) on the Values and Standards Committee of DIAC. This Committee, established post Palmer and Comrie, also comprises other external members. It oversees the Australian Public Service Code of Conduct in DIAC and ensures that issues to do with values are discussed and implemented. The Committee is an important part of the "new" DIAC with a focus both on appropriate values, and also on external relationships, especially on its clients; a focus which was lost in the years leading up to 2005.

On cultural change, the Ombudsman commented that there is clear evidence that the culture of DIAC, so roundly criticised by Palmer and Comrie, has greatly improved, especially at senior levels. He commented that he sees clear manifestations of this change, with active case management and review, early advice to the Ombudsman's Office about emerging problems. Whilst the number of complaints received relating to DIAC has increased since the Palmer and Comrie Reports, the Ombudsman considers that this arose from the significantly enhanced scrutiny of the Department, and does not represent a worsening of its overall complaints position. In addition, DIAC not only looks at the specifics of individual recommendations, it also addresses systemic issues including record keeping, the nature of Departmental Instructions and data problems. As an example of the change, the

Ombudsman pointed to the fact that DIAC considered how it might learn lessons from the Callinan Report on the recent Equine Influenza outbreak indicating that it showed that DIAC is now a more open and learning organisation.

Other indicators of cultural change referred to by the Ombudsman include early advice to the Ombudsman's Office of an emerging issue, with an invitation to the Ombudsman to use his powers of investigation to examine that issue. The comment was made that such an approach was unlikely to have occurred five years ago when the relationship between the Office of the Ombudsman and DIAC required improvement.

There are still areas of concern for the Ombudsman. These include issues within the Migration Act, in particular section 189, which will continue to cause problems unless DIAC has impeccable management and information systems, something being worked on but with much still to be done.² The Ombudsman believes that DIAC is beginning to deal with this issue through training and guidelines.

Another issue concerns Bridging visas. Here the legislation is too prescriptive and allows little flexibility. The Ombudsman is now seeing more liberal use of Bridging visas so that fewer people are being detained.

Most complaints received by the Ombudsman relate to delays in decision-making and with communication. While much has been done to improve communication since Palmer and Comrie, there are still improvements that could be made, including communication around the likely timelines in which decisions will be made.

In addition, the speed of decision making could be improved. Other agencies and stakeholders made similar comments.

There are still examples of national inconsistency between State and Territory Offices in dealing with immigration and detention issues. The Ombudsman commented that each office is different and it can feel like walking into a different organisation. I deal with these issues subsequently. The Villawood Immigration Detention Centre was singled out for a special mention. While some work has been done to improve this Centre, the Ombudsman believes that it took too long to acknowledge that Villawood, especially Stage 1, needed to change, recognising that this may have been beyond DIAC's control. I have visited this Centre and agree with the assessment that improvements are long overdue.

Summaries and Outcomes of the 10 Ombudsman Reports

This section summarises each of the 10 reports and provides high level commentary on the status of the implementation of the recommendations. More detail on the nature of the recommendations, and of the implementation, can be found in Appendix 1.

04/2006: Report on Referred Immigration Cases: Mr T

This report dealt with the circumstances of the detention of a person suffering from mental illness.

The Ombudsman made 11 recommendations, and also restated a number of recommendations from the Palmer and Comrie Reports. Of the 11 recommendations, DIAC agreed with them and moved to implementation. Some of these recommendations are still being implemented (see Appendix 1 page 37 below).

05/2006: Management of a Frail Aged Visitor to Australia

This report dealt with the death of an elderly woman on the eve of her deportation from Australia. (The matter was referred by the Secretary of the department to the Ombudsman for investigation.)

The Ombudsman made eight recommendations and DIAC accepted all of them and moved to implementation.

2. S189 is the power to detain, which imposes a mandatory requirement to detain a person based on a subjective 'reasonable suspicion' test that they are and continue to be unlawful non-citizens. To meet this obligation requires impeccable management systems, which would be difficult for any organisation to meet.

06/2006: Report into Referred Immigration case: Mr G

This report covered the circumstances surrounding the detention of a person suffering from mental illness.

The Ombudsman made nine recommendations. DIAC accepted eight of them and began implementation. On the ninth, (recommendation 1 about instructions to State and Territory police officers) DIAC responded that it was a matter for Government whether its role should be altered to do this.

07/2006: Report into Referred Immigration Cases: Mental Health and Incapacity

This report dealt with nine cases of people with mental health or incapacity issues.

The Ombudsman made one over-arching recommendation about the need to improve administrative arrangements in this area which DIAC accepted and agreed to implement.

08/2006: Report into Referred Immigration Cases: Children in Detention

This report covered the cases of 10 children taken into detention.

Again, the Ombudsman made one over-arching recommendation about the need to improve administrative arrangements in the area of children in detention. DIAC accepted this and in its response outlined that which had already been implemented and what was planned.

07/2007: Report into Referred Immigration Cases: Detention Process Issues

This report addressed the systemic issues that arose from the investigation of individual cases and deals with the need to reform detention processing.

The Ombudsman did not make any additional recommendations in this report but reminded DIAC of the lessons of earlier reports. DIAC responded by indicating steps being taken on policies, systems, training and procedures.

08/2007: Report into Referred Immigration Cases: Data Problems

This report dealt with 45 cases of people in detention where data recording errors occurred.

As in the previous report, the Ombudsman did not make any additional recommendations but reminded DIAC about data management, the integrity of the compliance function, and the need to revise an instruction around Bridging visas. This was accepted by DIAC.

09/2007: Report into Referred Immigration Cases: Notifications Issues

This report dealt with 21 cases where there was a problem of notification of people of decisions affecting their visas, and 57 cases that were affected by decisions of the Federal Court.

The Ombudsman made an over-arching recommendation to improve the notification procedures arising from the *Srey* decision in the Federal Court. This was accepted by DIAC.

10/2007: Report into Referred Immigration Cases: Other Legal Issues

This report dealt with the detention of 33 people with disparate issues largely around the cancellation or refusal of their visas.

The Ombudsman made three recommendations (one of them specific to one individual) which were accepted by DIAC.

11/2007: Lessons for Public Administration: Ombudsman Investigation of Referred Immigration Cases

In this report the Ombudsman outlined 10 lessons for public administration arising from his investigation of the 247 cases.

This report focused on “lessons learned” rather than on specific recommendations. The report was jointly launched by the Ombudsman and the Secretary of DIAC, Mr Andrew Metcalfe, indicating publicly the extent of change in DIAC, at least at the senior levels.

Mr Metcalfe outlined the reforms undertaken by DIAC in the two prior years, and added an eleventh lesson: culture and values. He said: *“We can have the most perfect systems and processes in place but they will not be effective unless we have a strong set of values in place, which is consistent across an organisation’s roles and locations.”* (Metcalfe 2007, p.4).

A summary of these lessons is worth outlining here as they are germane not only to the learnings from the 10 reports (as well as from Palmer and Comrie) but are relevant to all organisations, public and private sector alike.

Lesson 1

Maintain accurate, comprehensive and accessible records

Lesson 2

Place adequate controls on the exercise of coercive powers

Lesson 3

Actively manage unresolved and difficult cases

Lesson 4

Heed the limitations of information technology systems

Lesson 5

Guard against erroneous assumptions

Lesson 6

Control administrative drift

Lesson 7

Remove unnecessary obstacles to prudent information exchange with other agencies and bodies

Lesson 8

Promote effective communication within your own agency

Lesson 9

Manage complexity in decision making

Lesson 10

Check for warning signs of bigger problems.

If these lessons had been part of the culture of DIAC before 2005, one can only speculate on the problems and heartache, for people wrongfully detained and their families and communities, as well as the problems for people in DIAC which might have been avoided.

Evaluation of DIAC’s Responses

As will be clear from reading Appendix 1, DIAC has substantially completed the implementation of the recommendations of the 10 Ombudsman’s Reports. The key through all the reports included training, systems, processes, communication and culture. The recommendations of the 10 reports were implemented by DIAC at the same time in which they were implementing the recommendations of Palmer and Comrie.

Training

A very significant effort has gone into training. The College of Immigration has been established to train DIAC officers on a range of matters. The College is now an accepted part of DIAC, and, equally importantly, its programs and its effectiveness are regularly evaluated by external bodies to ensure that the necessary quality standards and relevance are maintained.

The curriculum at the College of Immigration is broader than subjects such as IT systems, DIAC policies and procedures, etc. Training also focuses on such matters as ethical decision making, the detection of people with mental illness, etc. This goes to the heart of many of the recommendations of the Ombudsman and is in keeping with the spirit of many of the suggested changes.

Vigilance is always needed in training large numbers of people. Courses need to be kept up to date, and regularly assessed. But, in addition, ongoing training, both face to face and via the internet or intranet, must continue to be part of “business as usual” to ensure that there is no reversion to the behaviours and values that gave rise to the reports in the first place. Training is discussed further on page 8 of this report.

Systems

Many of the issues in the 10 reports related to deficiencies in systems and processes in DIAC. As a result of these reports, and of Palmer and Comrie, the Government has invested heavily in IT systems in DIAC. The roadmap for the new system, known as *Systems for People*, was developed by July 2006 and DIAC chose IBM as its strategic partner to deliver the systems, with the first change release delivered in April 2007. In the Federal Budget of May 2006, very significant investment (\$495 million over four years) was provided to deal with the issues identified from a systems perspective.

The first seven of 12 major releases have been delivered. Priorities have included a single view of the client (to overcome many of the identity issues highlighted in the Ombudsman’s reports), and the improvement of performance in compliance, case management and detention, and border security. The next phase involves visa processing services.

As outlined in more detail on page 9 of this report, significant progress has been made in implementing *Systems for People*. However, as with many large and long-running IT projects, issues have arisen and further work remains.

Audit of the Recommendations

How can one be confident that the Ombudsman’s recommendations have been implemented, and, equally importantly, that there will be ongoing improvement on all the issues that were the subject of the Ombudsman’s Reports?

To assist in answering this question, I have had access to many reports and papers, including to the reports prepared for the Departmental Audit Committee (DAC) including reports produced by Ernst & Young for the Governance and Assurance Branch.

The most recent one is June 2008: *Review of Detention Related Decision Making*. That review was undertaken to provide assurance regarding the use of Mandatory Control Points, which were designed to achieve nationally consistent practices in the handling of cases, rather than each State and Territory Office developing their own processes. Ernst & Young noted the desired consistency was not being achieved. The department assures me that this issue is a priority and is being taken very seriously. There is minimal tolerance for relaxation on key controls which will be hardwired into the *Systems for People* portals. Further training will be provided within the service delivery network on acceptable risk based approaches.

Notably, these reviews have found improvements in decision-making and processes, however the last audit report expressed a note of caution about a growing non-compliance. (*Review of Detention Related Decision Making – Part 2*, 2008).

To put this in context, the internal audit of the integrated business model found that, compared to previous years, operations across Compliance, Case Management and Detention are “more effectively controlled; better supervised; better administered; and better documented”. It also found use of the portal is patchy and there are varying levels of compliance between and within the State and Territory Offices. The single view of the client is compromised.” (*Management Initiated Review: Post Implementation Audit of the Integrated Business Mode*, 2008, p.8).

These findings are concerning and emphasises the need to reinforce training and record keeping. It raises the questions of the need for consistency of policy and administration in a national organisation. It highlights the fact that, in areas where services are being provided to people, including to vulnerable people, the need for ongoing monitoring and vigilance is high.

Despite the fact that DIAC has implemented or is in the process of implementing most if not all of the recommendations of the Ombudsman, it still leaves the question of the underlying causes of the problems raised by the Ombudsman. These need to be addressed on an ongoing basis as, in any organisation which provides diverse services to a wide client base, the task of ensuring that all staff understand the values and behaviours appropriate to their roles, never ends.

If the culture and values of an organisation are strong, if people within the organisation are actively engaged with their work and with each other, it is less likely that the sorts of issues outlined in the 10 Ombudsman's Reports (and in Palmer and Comrie) will recur.

The extent to which these issues have been addressed, and change has occurred as a result, is addressed in the evaluation of the Palmer and Comrie Reports. I can conclude in this evaluation that the implementation of the recommendations from the 10 Ombudsman's reports is substantially complete. DIAC is to be commended for the progress, both in policy and cultural terms, in three years.

While one can never say that the problems identified by the Ombudsman could not recur, the changes that DIAC has made make it far less likely that errors of commission or omission will not be detected quickly. It is also likely that remedial action will be taken to handle the particular problem and to deal with any systemic issues that may cause the problem.

Part 3 – Cultural change

Palmer devoted a whole chapter (Chapter 7, “Culture, Structure and Operations”) to the question of the organisational culture of DIAC. Comrie did not spend as much time on the issue but certainly referred to it: “a *flawed organisational culture*”. (Comrie 2007, p.77).

Palmer did not make specific recommendations about culture per se; rather his recommendations in this chapter went to some of the underlying issues. These include the need for a case management system, the need for a number of independent reviews, and new training programs. DIAC, in implementing these, also saw the need for a focus on the culture of the organisation, and some fundamental changes.

The publication of the Palmer and Comrie Reports led to staffing changes at the senior level, including the appointment of a new Secretary. The new Secretary, Mr Andrew Metcalfe, was joined by a number of senior people from elsewhere in the public sector: DEEWR, Centrelink, Department of Health and Ageing, Department of the Prime Minister and Cabinet, etc.

As part of this evaluation, I was asked to assess the extent to which the reform agenda flowing from Palmer and Comrie has been achieved. To do this, I have interviewed senior people in DIAC, together with senior people in the Department of the Prime Minister and Cabinet, and the Department of Finance and Administration (in these two departments I spoke to people whose job involves regular dealings with DIAC); I have also spoken to people who observe DIAC closely (for example, their auditors) and external people who work closely with DIAC, or with the people DIAC serves.

The previous government, in the face of calls for Royal Commissions, set out a very broad approach for the department to achieve in a very short time frame. There was also extensive and comprehensive communication with stakeholders at the time to ensure that their views informed what needed to be done.

There was no appetite from the then-government to allow longer. They required the Secretary to submit a Cabinet Submission with an implementation strategy to Parliament at the end of September, some 12 weeks after the Palmer Report, to coincide with the release of the Comrie Report and to meet lead times for Budget processes. All this had to take place against a background of significant policy changes and an increased business as usual program, including:

- an ever increasing migration program
- change of Ministers and Parliamentary Secretaries
- some significant individual cases which have engaged DIAC staff to provide positive outcomes for clients
- implementation of a citizenship test
- security enhancements
- 457 initiatives.

Early Days

The people who were moved into DIAC in the aftermath of the Palmer and Comrie Reports describe an environment which was apprehensive, fearful, damaged and shell shocked by the reports and by the subsequent media storm. The newcomers described the SES as “shaken to the core” by the reports. The atmosphere was described as “grieving” with many people believing that they were wrongly blamed for implementing the then Government’s policy on detention.

It was described as insular, with recruitment largely occurring from within: only three SES officers had been recruited externally in the five years before 2005. Below the SES level, the newcomers realised that people knew that there were problems but were too afraid to raise them. Palmer had described the serious problems

in DIAC as stemming “from a deep-seated culture and attitudes and a failure of executive leadership in the compliance and detention areas”. People who were not in compliance and detention felt that their areas of responsibilities were different but that they had all been blamed and stigmatised because of the failures of a minority. Clearly significant action and change were called for.

It was not just the newcomers who were concerned about the cultural problems. There were people who had been in DIAC for some time, who had great concerns about the issues raised by Palmer and Comrie who felt that they had been constrained by the then Government’s policies and who were welcoming both of the changes that came after the two reports were released, and of the newcomers to the organisation.

The first few months

My discussions with those senior people who were new arrivals in the latter part of 2005 (some of whom have since moved on to other roles in government) left me with the impression of enormous activity as people strove to implement the very large numbers of recommendations. The department embarked on a significant reform agenda agreed by Government which imposed an ambitious timetable which some people believed was unrealistic and unreasonable. Implementation of the reform agenda was somewhat more challenging being done in the full glare of the media and community spotlight.

A lot had to be achieved in a short timeframe and had more time been available, the Secretary observed it may have allowed a more measured approach.

Notwithstanding, to meet the tight timeframes from government, a Change Management Taskforce was established, reporting directly to the Secretary, and incorporating a mix of internal and externally recruited staff, whose role it was to generate ideas for a response. This was done following an intense but extensive consultation process which included key stakeholders.

Beyond responses to the specific recommendations, the department developed a Strategic Plan with a focus on changing the culture of the organisation. ‘**People** our business’ was introduced as a key theme, supported by introduction of the ‘triangle’ departmental objectives of becoming an *Open and Accountable* organisation, with *Fair and Reasonable* dealings with our clients, and *Well Trained and Supported* staff. The department’s staff survey results conclude that these objectives are well understood across the organisation.

Importantly, measures beyond those in the government response have been progressively introduced as the reform agenda has progressed, such as integrating and undertaking a review of all instructional material for staff, rather than only reviewing the Migration Series Instructions component, as recommended by Palmer.

I conclude the department is well progressed towards achieving the above-mentioned objectives, operating as an open and accountable organisation, with fairer more reasonable dealings with clients, well-trained staff with increasing support both from IT and other tools, and enhanced leadership. Notwithstanding that, more can be done in the areas of engagement, IT and leadership, as outlined in my report.

As will be obvious from a number of my comments on actions taken by DIAC to implement the Palmer and Comrie Reports, much depends on the training and attitudes of the individual staff members involved. What follows is an analysis of what has been done to begin to change the culture and what remains to be done.

External Recruitment

There was a strategy to recruit staff from other agencies to increase the range of skills and experience in facing this reform agenda. It is understandable in that circumstance that some early tensions emerged between the new and existing staff, something which has largely dissipated over the three years of the reform agenda to date.

Leadership

Due to serious and regrettable incidents giving rise to the adverse Palmer and Comrie Reports, the government of the day took the decision to replace many of the top level executive of the department. That gave rise to

a perception by some that the former leadership team had unfairly taken the blame for implementation of government policies. Staff felt that they also were being blamed across the board for what had been, in their eyes, done by a handful of people in isolated incidents. There was some early resistance to an across the board reform agenda, which was noted by outside observers.

A significant effort was made in enhancing the SES and broader leadership of the department. SES forums were held periodically, and a program of leadership speakers was introduced, to share leadership messages and experiences from both the private and public sector agencies. Some 1200 Executive Level staff attended a tailored leadership program. The Secretary sends regular leadership messages to the SES leadership team. A strong focus was afforded to strategic and business planning to ensure there was a shared understanding across the department of the role and objectives of the business. Notwithstanding, as outlined below, leadership remains an area of continued focus and importance for the department.

Stakeholder Engagement

Stakeholder engagement has been a priority for the department, consulting on key policy changes, including external membership on several key governance committees, Practitioner Information Forums are held in capital cities, and the Department has also published both a one and two-year response to the Palmer Report.

Staff Surveys

There had not been staff surveys undertaken in the department for many years prior to the Palmer Report. This may have contributed to the poor culture noted by Palmer. The Secretary introduced staff surveys as a key mechanism, together with a significant stakeholder engagement program, to obtain staff feedback and gauge progress with some aspects of cultural change.

Since 2005, DIAC has conducted regular staff surveys, using external companies to do this. These surveys provide a snapshot of how the staff feel about a range of issues impacting their roles, and gives guidance to what more needs to be done. Analysis of the results is used to develop evidence-based strategies which can be tailored to the needs of a local work area.

The major aims of the staff surveys were to identify and report the level of staff engagement; map and report on the DIAC culture; and benchmark the department's employee engagement against other Australian public sector organisations.

2005

A staff survey was undertaken at the end of 2005, in the aftermath of the Palmer and Comrie Reports. The results were available in February 2006. There was a 69% response rate to the survey. The most favourable response was about the extent to which employees have a clear understanding of the overall goals and objectives of DIAC (78% positive) with the most negative response, unsurprisingly, being the image of DIAC (only 21% positive), which measured employee opinion of the public, client and employee image of DIAC.

In comparison to the Australian National Norm (ANN), used by the survey company, ISR, staff ranged from 3% less favourable than the norm on goals and objectives, to 45% less favourable about the image of their department.

The survey also measured how engaged in their work the staff were. This included how employees think, feel and act in relation to the support for goals, values, a sense of belonging and preparedness to 'go the extra mile' and stay. They found that the score was 61%, 13% below the ANN. They found that 36% of staff were above average on all scores, and were actively engaged; while 31% were disengaged, but staying in DIAC (that is, not looking to leave despite being disengaged), with 19% cognitively engaged but leaving and 14% actively disengaged. These results were not surprising coming so soon after the Palmer and Comrie Reports.

ISR recommended that as a result of these findings, DIAC should focus on leadership at all levels of the organisation ensuring that clear direction and communication was provided; and the articulation of clear values that define what DIAC stands for to guide its staff in its decision making and actions.

As noted above, in response some 1200 Executive Level staff attended a leadership program which the National Training Branch led, with expertise from the HR firm Yellow Edge. To complement the '**people** our business' focus, and the broad cultural objectives of the triangle (outlined above), the department ensured clear direction through an enhanced business planning and performance management process, developed its own set of organisation-specific values beyond those generally in the Code of Conduct for the APS. These have been expanded to include: High Performance/Service Excellence; Humanity with respect; Teamwork; Openness; and Commitment.

2007

The next survey was conducted in May 2007 by another company, Hinds, which structured the survey around seven measurable criteria: Job (how our work challenges and uses our skills and abilities); Alignment (how well we understand our organisational direction and are encouraged to contribute); Employer (positive supportive working environment); Development (opportunities for recognition, learning and development); Influence (respect for individual needs and opinions); Leadership (effectiveness, integrity of our executive leadership team and how they communicate); and Manager (style and effectiveness of our immediate manager).

In this survey, DIAC reached the benchmarks on all norms except for leadership. The survey providers commented that the strategic themes recommended in 2005 (leadership and communication of clear values and directions) were embedded and having a positive effect on staff motivation, but needed further strengthening.

More than 80% of DIAC staff participated. Hinds commented that the results showed an organisation committed to its purpose and values, staff clear about the direction of DIAC, with solid levels of staff satisfaction. The main area for further improvement remained leadership. Hinds recommended that DIAC take action to continue to improve SES leadership, reduce work pressure, have an increased focus on engagement rather than communication with staff and continue to promote its successful programs.

Each branch held conversations about what the staff survey results were telling the department, and invited suggestions for strategies to improve that, culminating in a branch action plan.

2008

The most recent survey (also by Hinds) was undertaken in August 2008, at a time of about 235 staff cuts required to ensure the department was positioned to responsibly meet its reduced budget position for the 2008-09 fiscal year. To ensure the cuts were made to the most appropriate areas, the department undertook a functional review of its operations, re-located some functions to the Service Delivery Network, amalgamating others within National Office. What resulted was significant churn within the National Office staff level of the department, many of whom had a change in leadership through the restructure process.

Despite this, the results were largely positive. Since 2005, eight items have been tracked, all of which showed significant improvement this year. They include attitudes to training, a clear understanding of the goals of DIAC and understanding by staff of how their roles relate to the overall objectives of DIAC. In 2008, over 86% of DIAC staff completed the survey.

As mentioned, all eight items improved but some are off a low base. These include how well staff believe that DIAC is regarded by the general public (30% thought it was positive compared to 13% in 2005), by its clients (33% compared to 19% in 2005) and by its own staff (36% compared to 32% in 2005). All other scores were above 50% (having the right tools and training, confidence to go to higher authority if needed, understands how work contributes to overall objectives).

Based on the consultant's assessment of the combined results of the previous year's scores across all of the seven drivers and motivation definitions, DIAC set itself an overall target of 60.56 for 2008, and exceeded this, reaching 61.91, which beat its 2009 target of 61.69. As Hinds commented, this was a significant performance improvement. These scores are a combination of the scores for the seven drivers being measured, plus scores for interest, satisfaction and commitment.

In addition to the comparatively lower scores on regard by the general public, staff and clients, the other observation was that the "leadership" score went backwards by three points. This was driven by the survey results from the National Office which is likely to have been impacted by the staff cuts there. DIAC now sits at or above both the public and private sector benchmarks for almost all of the seven drivers, whereas it is below both those benchmarks on leadership. On the other six of seven scores, there was improvement over the 2007 survey.

To better understand the survey results on leadership, DIAC arranged for a number of focus groups of staff to be held. Specifically, an external group, Yellow Edge was asked to find out more about the leadership results and to provide information to the Secretary about this ahead of his communication with staff on the survey results, and development of action plans to move leadership forward. The survey results showed State and Territory Office leadership had improved slightly.

Conversely, the recent National Office restructure may have impacted results as social networks have been disrupted and staff are feeling their way with new reporting lines and sometimes new work to do.

Surveys of the Senior Executive Service (SES)

In 2007 and 2008, DIAC engaged the Nous Group to undertake a 360 degree exercise on the SES to ascertain the strengths of the leadership group and to identify areas for improvement. About 90 SES officers were involved in both exercises. Comparing the data from 2008 with the prior year's Nous found that six of the 12 top ranking scores were in the capability "exemplifies personal drive and integrity" and seven of the lowest 12 were within "cultivates productive working relationships". Nous found an improvement on all categories in 2008 over 2007.

The SES strengths were found to be commitment to DIAC, energy and enthusiasm, sharing of knowledge and expertise, a results orientation and strategic thinking. The areas in need of further improvement were found to be performance feedback, communication, leadership stress (too much pressure on senior people) and issues around risk, trust and delegation.

On performance feedback, SES officers commented on the challenges (as with all APS agencies) in addressing under-performance.

Comments around communication were directed at such aspects as the need for greater accessibility of some senior people.

On risk, trust and delegation, which goes to the heart of much of what Palmer and Comrie found, comments were made about the reactive culture where senior people were reluctant to delegate decision making, perhaps being fearful that the mistakes identified in Palmer and Comrie could be repeated unless they were personally involved in many decisions. People felt that this represented a lack of trust.

There is a need to find a balance here, as, rightly, there is a high level of sensitivity in the senior team to ensuring that the mistakes of Palmer and Comrie are not repeated; it may be time to review the levels of decision making and delegation to ensure that the balance is right. SES officers expressed concerns that the workload in DIAC, especially for the very senior people, was too high with concern being felt for people's health as a result.

State of the Service Report

Each year, the Australian Public Service Commission (APSC) surveys public servants on a range of issues including values, the Code of Conduct, attraction, recruitment and retention, job satisfaction, diversity and

organisational productivity. Each department and agency is then provided with a copy of its own results, with comparisons made to the rest of the APS. This allows each department to understand how it compares to others.

The most recent report is from December 2007. This is a very comprehensive report which provides rich data to departments. I will only touch on a few issues here. A statistically significant difference between DIAC and other departments exists on statements such as “I am proud to work in my current agency”, and “I would recommend my current agency as a good place to work”. On the former statement, DIAC scored 58% compared to the APS wide score of 69% and on the latter, 50% compared to 65%.

Notably, on a range of items regarding working with external stakeholders, DIAC exceeded the APS norm. For example, on anticipating the needs of stakeholders and providing courteous, prompt and professional service, DIAC rates 88% against the APS norm of 71%. Similarly, DIAC scored significantly higher than the APS average on the item ‘people in my workgroup treat each other with respect’, rating 89% compared with the APS norm of 80%. The department recognises notwithstanding this, much more can be done, and proposes to continue with staff surveys as a key tool to enhance departmental culture.

Value Creation Workshops and Client Feedback

In 2007 and 2008, DIAC sought feedback on how it was perceived by its various stakeholders and by its clients. The purpose of the exercise was to gain insight into clients’ and stakeholders’ perceptions of DIAC and to understand how DIAC’s processes impact on both groups. Some staff were involved in these sessions so that they could hear the perceptions at first hand, and, in subsequent sessions, make suggestions for changes to processes.

What emerged from the 2007 sessions with clients was the need for more accurate, timely communication, improved professional and friendly services, and for services in more than one language. Stakeholders (including migration agents, community support and advocacy people, and people from other government agencies) wanted similar outcomes. They valued open communication, timely and professional service, client focused outcomes and greater accessibility of information, staff and communication.

In 2008, the exercise was repeated but this time with internal service providers (for example, HR Services, IT Services, Legal, and National Communications). The intention was to improve the internal working of DIAC to provide a better outcome for its clients. A large number of ideas came from these sessions including improved communication, a focus on risk management, creating more opportunities for two way communication and better consultation. These were translated into practical ideas to improve how DIAC operates internally.

Client feedback is now actively received on a range of its operations through the centralised Global Feedback Unit. Feedback received is analysed and strategies implemented to address. The Executive of the department places importance on client feedback, receiving regular reports on the nature of feedback received and strategies to resolve.

Other Tools

What has been described above is some of the tools DIAC has used to improve its operations internally and externally. These were used across the whole Department.

There were other tools used in areas where particular problems had been identified in Palmer and Comrie, for example, in the Queensland Office. Just as there were wholesale changes in the leadership of the Department, so there were in the Queensland Office. An extensive program was developed in this office to respond to the stringent criticisms made especially in Comrie. The new Senior Deputy Director of the office described the culture he found on taking on the role as dysfunctional, partly as a result of management practices that had existed in the time leading up to the events described in Palmer and Comrie.

The initial steps included discussion of the reports with all staff, implementation of an incident reporting regime, a Values and Behaviours Workshop facilitated by the St James Ethics Centre, and the development of a leadership development course. Work was also started on identifying what the culture was in the office and what needed to be done to change it.

A company with experience in cultural change, Human Synergistics, was engaged to work with the Queensland Office. The work done identified that the dominant culture was a passive defensive one. Such a culture is characterised by:

- Keeping up appearances – pretend to be in control even if you are not;
- Making decisions that please your superiors rather than the right ones;
- Avoiding mistakes by pushing decisions up the organisation;
- Staying under the radar when mistakes are made; and
- Focusing on detail not the whole picture.

This work found a culture consistent with the findings of Palmer and Comrie. These findings were accepted and work began on making changes, acknowledging that the changes would take years.

A number of initiatives were developed including the development of a balanced scorecard for performance reporting, the implementation of a reward and recognition policy, and learning circles for staff to discuss their workplace issues.

In May 2008, the Human Synergistics exercise was repeated. This showed a significant move in the culture with a reduction in the intensity of negative behaviours within the Compliance Branch but interestingly not within the Queensland Office as a whole. As the consultants had commented in 2005, it might take 8–10 years to make fundamental changes in the office, given the nature of the problems identified; so some three years into the cultural change agenda, the Queensland Office is heading in the right direction but with more to be done.

Part 4 – What does this mean for cultural change?

Before I look at some lessons from another agency, it is worth examining the implications of all of the above findings for DIAC's future directions. Clearly much has been achieved in the three years since the Palmer, Comrie and Ombudsman's reports were published. There has been a concerted and continuing effort to change the culture that was so criticised in these reports, while at the same time, DIAC has had a heavy workload of implementing the recommendations and dealing with major new initiatives for government and delivering business as usual.

What emerges from my discussions with a range of people, internal and external, and from an analysis of the various surveys that DIAC has employed is an organisation that has been through very significant change. What it now needs to do is to focus on simplifying its messages, improve leadership, become better at delegating, and decide on what kind of organisation it wants to create. I will deal with each of these in turn.

Communication in DIAC is quite structured and substantial. For example, the Secretary sends an email to all staff twice per week which not only provides news on significant events, including senior staffing appointments, but also highlights key areas of the department's activities and provides regular feedback on major change processes. In addition, there is a monthly electronic newsletter and a TV news-style program.

There are also other internal newsletters and messages on relevant topics from senior leaders at the divisional, branch, State and Territory Office and overseas level.

I understand this extensive communication network, which uses electronic means of distribution to target very large numbers of staff in dispersed locations, was identified as critical to keep staff informed about developments at a time of huge change reform. This also was necessary to respond to criticism at the time that staff communication needed to improve.

While doubtless this extensive communications program has been important in moving the department forward, I believe that now, some three years after the Palmer Report, it needs to be reviewed. There is a sense that some staff have stopped listening to some of the messages; some of the feedback I received is that some of it is seen as "spin". In my view, this is disappointing, given the time and effort that has gone into keeping staff informed; but it is a perception and needs to be dealt with.

I was struck initially by the quantity and quality of the communication program, clearly representative of a large portfolio delivering programs and outcomes in almost 100 locations in Australia and overseas. DIAC now has a 30-person National Communications Branch, established in July 2005 as part of the department's response to the Palmer and Comrie Reports. (The branch was reduced by seven staff [including one SES officer] in the recent staff cuts.)

This is a relatively large unit, but comparable to like agencies such as Centrelink (130 communications staff for 27 500 employees) and AFP (38 communications staff for 6200 sworn/unsworn staff). It provides messages in all forms for both internal and external use: videos, podcasts, brochures, reports, talking points, media releases etc. This is consistent with other service delivery agencies' communications capabilities, although DIAC maintains all of its resources and skill sets in-house.

I propose a review of internal communication because the very nature of the formal messages and the number of them seems overwhelming to some, and this may be a matter for the Secretary to consider. There needs to be a balance between too much and not enough communication, and to ensure communication is effective, to achieve quality not just quantity.

What comes through in many of the surveys described above is the desire for face-to-face communication, for authentic leadership and for leaders who tell the message as it is. Any review should take into account the role of the National Communications Branch in assisting the senior leadership team with effective internal communication.

There is a level of concern and interest in senior leaders as there is in any organisation. The various surveys reveal concern that people at senior levels are under great pressure. There is also concern that senior people spend a great deal of time in numerous committee meetings. I certainly observed this and had access to documents describing the governance arrangements in DIAC. Many of them were essential in the aftermath of the Palmer and Comrie Reports and, while there have been reviews; it may again be time to revisit the number of committees and their membership.

The aim of such a review would be to eliminate those which are no longer needed, and also to limit membership to those who truly need to be involved. This would have the effect of freeing up people to do other tasks, including spending more time in face to face meetings with their teams. Certainly some of the feedback I received about the inaccessibility of some senior people acknowledged that they have to spend much of their time in a range of meetings about which they seem to have little control. There could also be an opportunity to improve the conduct of meetings to ensure they support efficient and effective outcomes. The department notes to date the Committees have been an important mechanism for coordination, communication and consultation in a highly complex organisation undergoing a substantial reform agenda.

People externally commented that if they had a problem, especially an urgent problem, they would contact the Secretary and be confident that he would solve it. Indeed I had several examples of this occurring in the three months I was involved in this evaluation. While external people are reassured that they have a ready point of escalation, it does make for a risk averse organisation, knowing that the Secretary will be turned to if all else fails. Such an approach was necessary in the months after Palmer and Comrie when there was little trust in the whole organisation. It is now time to review delegations, formal and informal, which will send a positive message of trust in people in more junior positions.

Because there has been so much focus on the range of projects needed after Palmer and Comrie much of the work has been tactical, and reactive. There has not been a great deal of time to spend on issues such as the type of culture DIAC wishes to create. A number of cultures are evident: there is a desire to build a high performing culture but this is at odds with the risk averse, mistake avoidance culture. There is also the desire to build a client focused organisation but heavy reliance on processes, instructions and procedures, together with some aspects of the legislative framework, interferes with this. The staff survey indicated some staff believe senior leaders are focussed on achieving outcomes for their own area, not striving for 'whole of department' outcomes.

DIAC is very task oriented (as the Nous analysis of the SES revealed). While this is very helpful in dealing with their heavy workload, it is somewhat of a hindrance to senior leaders in managing and leading the people in the organisation. In addition to simplifying their messages, the senior team (including all the SES) needs to be more visible to people in DIAC. There is too much managing by instructions and emails, and not enough managing by walking around and talking to people. This change, best described as moving from communication to engagement, is not able to be achieved by simply giving instructions that this is to occur.

None of this is to underestimate the work pressures on people in a busy department. However, having achieved much by taking on the work involved in implementing the Palmer and Comrie recommendations (and those of the Ombudsman), the next stage should be less task and project oriented; if the messages from the large ranges of instruments that DIAC have used to understand their environment are to be heeded, the next phase must be one where the senior leaders do more to engage people in DIAC about its mission, simplify the messages and fully utilise the very high levels of commitment that people have demonstrated to DIAC and to its clients.

It is instructive to look at what others have done in this area. No one organisation can ever claim to have reached the perfect culture. It is very much a journey, one which often sees backward steps taken and unforeseen obstacles encountered. However, learning from other experiences is one way to minimise the problems and to develop a high performing culture.

Part 5 – Cultural change in another agency

I was asked to examine cultural change in another agency to make comparisons and to learn what lessons could be drawn from a similar change program in that agency. The chosen agency was the Child Support Agency (CSA). There are a number of parallels between DIAC and CSA: both are relatively large organisations (over 7000 staff in DIAC and 4200 in CSA). Both provide their services through distributed offices and both have experienced significant change over roughly the same period of time.

The role of the CSA is to ensure that separated parents provide financial support to their children. In doing this, CSA works with government, non-government bodies and the community.

The change program in CSA was not imposed by external events as occurred in DIAC; rather, government pressure (and pressure from backbenchers) led to a decision to change the way CSA operated. A new CEO, Mr Matt Miller, was appointed in April 2005. To enable the required changes, the Government made \$520 million available over four years, of which \$20 million was to assist in the cultural change process. CSA employed similar tools to DIAC to undertake the changes and to track them. Value Creation workshops were held and Nous was engaged to assist.

Both DIAC and CSA were conscious that they were undertaking similar processes at the same time, and exchanged information and ideas as the programs rolled out. Mr Matt Miller acknowledges that the establishment of DIAC's College of Immigration informed his organisation's learning and development programs. One of DIAC's Deputy Secretaries, Ms Carmel McGregor, was a member of CSA's monthly review committee. Thus for the last three years, there have been numerous opportunities for the two agencies to exchange ideas and to learn from each other.

The central theme of CSA's change program was putting the customer first. This meant turning a largely transactional agency into one which was customer focused. A key initiative to achieve this was the *Customer Focus Training Program*. Nous was engaged to assist with the change to customer focus. This program attempted to change the terminology used within CSA from "client" to "customer" which meant moving from a transaction, case management approach to one in which staff were trained to deal with the whole person.

In the first two years of CSA's program, considerable time was spent on ensuring that the top 150 were aligned with the program. As with DIAC, CSA found that their staff scored them poorly on leadership in the organisation, and they acknowledged that this had to change.

In 2006, a Human Synergistics exercise (similar to the one undertaken in DIAC's Queensland Office) was undertaken in CSA. It showed an organisation with the following characteristics: staff were engaged in activities of little value to their customers; felt constrained by the rules and processes of CSA and lacked the information and authority to make decisions.

In addition the systems available to support people were fragmented and complex. Both their customers and external advocacy groups were highly critical of the agency.

The strategic shift that CSA had to make was from an organisation which saw its mission as one which presided over the transfer of payments to one which supported separated parents as part of its role in the wider family support system.

Using the Human Synergistics work, CSA outlined its preferred culture as one in which their customers would report that staff act with integrity, go out of their way to assist, take initiatives to solve customers' problems and deliver to them what they promise.

The method chosen to do this relied less on formal methods of communication and more on engagement with people in CSA. This involved using strong executive leadership teams to drive the change, and investing heavily in communication and engagement. For the leadership team and for Mr Matt Miller personally, this meant being

both accessible and visible to staff, role modelling the expected behaviours, and making the change program meaningful to staff at all levels. This involved focus groups, and design of programs involving consultation at all levels in CSA.

In two years, customer complaints have reduced by 27% and over 69% of staff believe that their leaders display the values they espouse. Interestingly, on the EMPI measures, taken in January 2008, leadership was a negative issue (as it was in DIAC) with CSA lagging both the private and public sector means on this score, indicating that this is an issue (as with DIAC) that still needs work. Mr Matt Miller believes that the key to improving this score is improving the focus on engagement – with senior leaders more visible and engaged in the activities of CSA.

Nous commented in January this year that at least two aspects of the program required reinforcement to improve engagement: reinforcement of the Customer Focus Training Program and more focus on middle management leadership. The training program needed a new focus to ensure that staff knew that this was an ongoing initiative to ensure CSA becomes a better customer focused organisation and not a one-off initiative. A perceived lack of leadership at middle management level was a source of frustration and disillusionment for staff. As part of the focus, Nous recommended that CSA look at leadership behaviours and their impact on workplace productivity and morale, and better manage the impact of change on people in the organisation.

As with DIAC, the process has not been without its problems. Large, complex organisations with identified cultural problems do not change overnight. They require visible leadership, ongoing engagement with the people in the organisation, leaders who are seen to espouse the agreed values, and regular feedback and dialogue. Clearly DIAC and CSA will continue to learn from each other. The main learning for DIAC from my analysis of the success CSA has achieved to date is around the move from communication (especially the quantity of formal communication) to engagement with its staff.

Part 6 – External views

I conclude with views expressed by a wide range of external people about the changes which have occurred in DIAC since Palmer and Comrie. All agreed that the changes that have occurred have been for the better, and acknowledge that much has been achieved in three years. Not surprisingly, there are a range of views about the changes, with some observers wishing to see further changes, and with some being unaware of all that has been accomplished. This is true for people who work relatively closely with DIAC which means that it might be useful for DIAC to consider publishing a report on what has been achieved to implement the recommendations of Palmer, Comrie and the Ombudsman.

Within other government agencies, it is acknowledged that DIAC has made considerable efforts to implement the necessary changes. These agencies are now focused on assisting DIAC to develop a longer term strategy for the future. If finances become tighter in the future they acknowledge that DIAC will need to be better at articulating its priorities and leaving aside some lower order tasks.

They acknowledge that the risks of a repeat of the circumstances which lead to the Palmer and Comrie inquiries in the first place is low, although it can never be ruled out. There is a level of concern about *Systems for People* and central agencies are watching this closely to ensure that it continues to have a strong business case and delivers on its promises.

Outside government, the views vary. All people I spoke to acknowledge the much greater consultation that DIAC engages in post Palmer and Comrie. Almost all of them mentioned that further change would not occur until there was a rewriting of the Migration Act. They believe that DIAC operates reasonably well within the limitations and constraints of the current legislation but almost everyone I spoke to argued for legislative change to overcome the problems inherent in the current legislation.

Areas that have been mentioned consistently by these external stakeholders as improved since 2005 included the responsiveness of DIAC staff to ideas from outside the Department, greater follow up on issues, that DIAC staff initiating dialogue, and that many ideas proposed by these people have been implemented. They spoke of significant efforts, especially by senior DIAC people, to build relationships with them and with others across a wide stakeholder group.

As has already been mentioned, DIAC would be assisted in its communication with external stakeholders if it published a document on what has been accomplished in the three years since Palmer and Comrie (see also, page 18). Despite extensive communication with stakeholders (for example, public progress reports, annual reports, etc) more still needs to be done to inform stakeholders about progress. There is a much improved relationship with DIAC and this would be assisted further with greater knowledge of what has been done with all of the recommendations that were contained in Palmer and Comrie (and in the 10 relevant Ombudsman's reports).

Appendix 1 – Status of responses to Ombudsman’s Report Recommendations

This Appendix delves into more detail about the nature of the Ombudsman’s recommendations in each of the 10 reports, and outlines DIAC’s decisions as a result of these recommendations.

04/2006: Report on Referred Immigration Cases: Mr T

Summary of Recommendation 1

The Ombudsman recommended review of s.189 of the Migration Act (dealing with detention, release from detention and questions of a person’s identity and immigration status) and also review of the systems and training that support s.189.

Summary of DIAC Response

In consultation with the Ombudsman’s Office, DIAC has clarified policy and procedures in relation to s.189. In July 2007, revised instructions were published to ensure that officers understand how detention powers under the Migration Act operate, and to ensure that officers exercise their powers fairly, lawfully and reasonably. In April 2008, new guidelines were provided on establishing identity and immigration status in the field, the detention of children and people at risk, dealing with persons with mental health issues, the detention process and the release of people from immigration detention.

The administration of s.189 detention powers are now incorporated into the DIAC College of Immigration Compliance course material. Three levels of quality assurance have been developed to ensure ongoing compliance:

- mandatory quality control – local managers checking key decisions;
- quality assurance – random sampling of compliance cases three times a year;
- total quality control – independent biannual assessment by Internal Audit.

The DIAC executive promoted these changes to all staff during April and May this year.

Implementation completed.

Summary of Recommendation 2

The Ombudsman recommended that compliance officers be trained on the requirements of s.192 of the Migration Act (authority to detain).

Summary of DIAC Response

The requirements of s.192 have been incorporated in the DIAC College of Immigration Training, and there are also practical exercises for lawfully utilising detention powers undertaken. The revised policy guidelines on detention powers, including s.192, were published in August 2007; providing guidance to compliance officers on the process of taking people into immigration detention and ensuring that the basis for the detention is lawful.

Implementation completed.

Summary of Recommendation 3

The Ombudsman recommended that the Minister should ensure that only trained and certified “officers” should exercise detention powers.

Summary of DIAC Response

A training program for officers involved in detaining clients has been implemented.

Implementation completed.

Summary of Recommendation 4

The Ombudsman recommended that DIAC should develop a clear policy and guidelines specifying the nature of the Department's responsibilities towards people with mental illnesses and the arrangements that should be made for the continuing care of such people on their release into the community. He further recommended negotiating appropriate arrangements with State and Territory Governments for this care.

The Ombudsman also recommended that DIAC should develop a release package that includes arrangements to ensure that appropriate support agencies, such as Centrelink, are advised of the detainee's needs at the time of release from detention.

Summary of DIAC Response

With the exception of the ACT Government, in principle agreement has been reached with all governments. Given that much of this care is provided by State and Territory Governments it is crucial to avoid a repeat of some of the issues identified in the Ombudsman's reports (as well as in Palmer and Comrie), State and Territory Governments should be encouraged by the Federal Government to conclude these arrangements as soon as possible.

In relation to the development of the release package, at the time of writing, this is still being developed. A proposal is currently being developed to provide immediate post release support for people released from detention into the community.

Implementation of this recommendation is incomplete.

Summary of Recommendation 5

The Ombudsman recommended that compliance officers be trained to act with caution before detaining a suspected unlawful non-citizen held by police, and to satisfy themselves that police have exhausted all appropriate avenues of identification before taking people into custody.

Summary of DIAC Response

The Immigration Status Service (ISS) provides a 24 hour a day, seven day a week contact point for police nationally to direct enquiries regarding the immigration status of suspected unlawful non-citizens. ISS was established as a result of the Palmer Report (**recommendation 5.6**).

When DIAC systems indicate that a person being held by police is an unlawful non-citizen, ISS will arrange to conduct a field interview with the person to confirm their identity and immigration status. ISS procedures require that police powers be used to establish identity prior to contacting the service for an immigration status check. In support of the role that police play in assisting with the location of unlawful non-citizens, DIAC has established a police liaison network in each State and Territory Office.

Implementation completed.

Summary of Recommendation 6

The Ombudsman recommended that DIAC, through Commonwealth representation on CrimTrac, should maintain interest in the development of the Minimum Nationwide Person Profile (MNPP) Project and take the necessary steps to ensure that it has access to any national biometric database developed as a result of this project.

Summary of DIAC Response

The implementation of this recommendation is continuing. DIAC has been advised that the current National Police Reference System and the MNPP Project completion are planned for the first quarter of 2009. The focus of this project is on delivery of services to police. CrimTrac is in the early stages of preparing to set up a program of activity and it is anticipated that this will recognise the broader law enforcement community including DIAC

Implementation of this recommendation is incomplete.

Summary of Recommendation 7

The Ombudsman recommended that DIAC should include training on the awareness of cultural, language and ethnic issues for all compliance officers, and that this training should include instruction on the use of translators and interpreters.

Summary of DIAC Response

The DIAC College of Immigration Compliance course includes a session on cultural awareness and sensitivity, and on the effective use of translators and interpreters.

Implementation completed.

Summary of Recommendation 8

The Ombudsman recommended that DIAC should amend its direction to staff to ensure that, when a person is detained, there is an appropriate record in the ICSE database. The entry must be brought simultaneously to the attention of the responsible manager who must ensure that a file is created, and then be responsible for the quality control of all aspects of the file.

Summary of DIAC Response

Training at the DIAC College of Immigration covers these requirements. Detention Review Managers are required to review the initial s.189 detention decision and continue to review the cases of people in immigration detention on an ongoing basis to ensure their detention remains lawful, reasonable and progresses to an immigration outcome.

This area will need to be monitored carefully until the Systems for People portal, currently being implemented, is completed. This will allow DIAC staff (and other service providers) to record, monitor and manage information about people in the system in an integrated way. DIAC is well aware of the issues in this area, but it does remain vulnerable to human error until the systems work is complete.

Implementation completed.

Summary of Recommendation 9

The Ombudsman recommended that DIAC should take all necessary action to ensure that information that may assist in identifying a detainee is gathered from detention centre service providers.

Summary of DIAC Response

In November 2006, DIAC revised its instructions to all relevant staff on this issue.

Implementation completed.

Summary of Recommendation 10

The Ombudsman recommended that DIAC should interview detainees as soon as possible and no later than four hours after detention. In exceptional circumstances this may be extended, but the reason for this must be recorded and should not exceed 24 hours, including over a weekend or holiday period.

Summary of DIAC Response

Instructions to implement this recommendation were issued on 19 December 2005.

Implementation completed.

Summary of Recommendation 11

The Ombudsman recommended that DIAC should take steps to redress the wrongful detention of Mr. T.

Summary of DIAC Response

A confidential settlement was approved by the NSW Supreme Court on 29 April 2008. This was necessary because of Mr. T's legal incapacity.

Implementation completed.

05/2006: Management of a Frail Aged Visitor to Australia

Summary of Recommendation 1

The Ombudsman recommended that when DIAC decides that an independent medical examination is needed for a temporary visa holder who claims to be ill and/or unfit to travel, that person should be told that he/she can have that examination in their own home.

Summary of DIAC Response

Training has been changed to ensure that officers are aware of this requirement and that they exercise care and sensitivity in dealing with the frail and vulnerable. This is ongoing.

Implementation completed.

Summary of Recommendation 2

The Ombudsman recommended that DIAC and Health Services Australia (HSA) should review the instructions given to HSA medical examiners to ensure that there are consistent criteria for assessing fitness to travel, especially in the case of frail aged persons.

Summary of DIAC Response

Guidelines have been developed for use by HSA medical practitioners and for Commonwealth medical officers when they are assessing whether people are fit to travel.

Implementation completed.

Summary of Recommendation 3

The Ombudsman recommended that DIAC should review delegations issued to Compliance staff to ensure that there are adequate supervisory and quality assurance arrangements in place.

Summary of DIAC Response

A compliance quality assurance program has been developed to ensure consistent processes in Onshore Compliance activities. (This quality assurance program is described at page 37 above).

Implementation completed.

Summary of Recommendation 4

The Ombudsman recommended that DIAC should ensure that all documents lodged with the Department should be date stamped and entered into a records management system.

Summary of DIAC Response

This has been implemented.

Implementation completed.

Summary of Recommendation 5

The Ombudsman recommended that DIAC should make special arrangements for illiterate people in relation to visas with conditions and Ministerial discretion.

Summary of DIAC Response

This is still being implemented. In consultation with State and Territory Office and overseas posts, DIAC has updated its instructions. The relevant form is on DIAC's website and is in 22 languages. Officers have been

trained to take extra care where applicants are, or may be, illiterate. This will be updated in 2009.
Implementation of this recommendation is incomplete.

Summary of Recommendation 6

The Ombudsman recommended that DIAC should clarify the process to be followed when a waiver is considered.

Summary of DIAC Response

Training has been undertaken on this and guidelines produced.
Implementation completed.

Summary of Recommendation 7

The Ombudsman recommended that DIAC should examine the guidelines for granting a Bridging visa especially where they apply to a person whose departure has been delayed for health reasons.

Summary of DIAC Response

DIAC issued a Bridging visa guideline on 26 April 2008. This provides a practical and pragmatic interpretation of the "acceptable departure arrangements criterion" in the regulations and takes account of the individual circumstances of clients.

Implementation completed.

Summary of Recommendation 8

The Ombudsman recommended that DIAC should ensure that departmental staff display sensitivity when dealing with people, especially the frail who have medical conditions.

Summary of DIAC Response

Officers have been provided with training in this area to ensure that they deal sensitively with people, especially the frail.

Implementation completed.

06/2006: Report into Referred Immigration case: Mr G

Summary of Recommendation 1

The Ombudsman recommended that DIAC should issue an instruction to provide guidance to police officers and DIAC staff on the exercise of s.189 (powers to detain).

Summary of DIAC Response

DIAC only agreed in principle with this recommendation on the basis that, while it can issue instructions to its own staff, it cannot do so in relation to police officers. Relevant actions here include training packages delivered by DIAC for police, the provision by ISS of a 24 hour, seven day a week contact point for police nationally (see DIAC response to recommendation 5 of the case of Mr. T (above at page 38)) and the establishment in each of DIAC's State and Territory offices of a police liaison network.

Implementation completed.

Summary of Recommendation 2

The Ombudsman made recommendations about the training and proper record keeping in relation to absorbed person visas.

Summary of DIAC Response

This issue has been covered in the DIAC College of Immigration training and by guidelines developed for officers in the field. There are a relatively low number of enquiries about this particular visa so officers have access to a Legal Opinions Helpdesk and the Compliance Helpdesk.

Implementation completed.

Summary of Recommendation 3

The Ombudsman recommended that DIAC should ensure that its officers are trained to pursue relevant information from all available sources, to understand the Privacy Act and to document and properly distribute all relevant information about detainees which comes to their attention, regardless of their role.

Summary of DIAC Response

DIAC agreed with this recommendation and addressed these issues in its training programs at the College of Immigration. Further development of *Systems for People* will assist with improved record keeping.

Implementation completed.

Summary of Recommendation 4

The Ombudsman recommended that DIAC should conduct comprehensive training for its staff on recognition of mental illness, the implications of mental illness for compliance and detention activity, the legal issues arising from mental incapacity, and the steps that should be taken where officers suspect a person may lack the ability to understand the nature of any documentation they are being asked to consent to.

Summary of DIAC Response

Mental health awareness training has been included as part of the mandatory course run by the DIAC College of Immigration to ensure that officers in the field are more appropriately prepared to recognise characteristics that may be a result of poor mental health. The training was developed and delivered in conjunction with the NSW Institute of Psychiatry.

DIAC has initiated measures including enhanced training and procedural guidelines to ensure that people who display signs of mental health issues are handled appropriately, including early referral to medical professionals.

The training provided by the College includes instructions on referrals to DIAC's Case Management area, as well as the protocols to be followed for referral to a mental health service provider. This covers the type of information that must also be collected and transferred with the detainee.

Implementation completed.

Summary of Recommendation 5

The Ombudsman recommended that DIAC should ensure that its officers who conduct interviews be trained on such matters as note taking, making accurate recordings of the interviews, the appropriate use of interpreters, etc.

Summary of DIAC Response

DIAC agreed with the recommendation. The issues are covered by the relevant training at the College of Immigration. Training in the effective use of interpreters and translators is conducted by the National Accreditation Authority for Translators and Interpreters.

Implementation completed.

Summary of Recommendation 6

The Ombudsman recommended that DIAC should instruct its staff about the potential value of information held by medical practitioners and detention services contractors.

Summary of DIAC Response

DIAC agreed with this recommendation. Its training in record keeping emphasises these issues. The development of portal solutions will improve this area in the future, facilitating enterprise-wide data and information management capabilities.

Implementation completed.

Summary of Recommendation 7

The Ombudsman recommended that DIAC should take steps to ensure that its systems enable the entry of accurate immigration status information.

Summary of DIAC Response

This recommendation was implemented through formal training courses at the College of Immigration and by the extensive systems investment, *Systems for People*. In April 2007, the Compliance and Case Management Portals were released providing improved support for record keeping and data management. Further enhancements are planned.

Implementation completed.

Summary of Recommendation 8

The Ombudsman recommended that DIAC should develop a policy for informing its staff and the East Timorese community about the circumstances surrounding the arrival and current status of East Timorese refugees who came to Australia in 1975.

Summary of DIAC Response

In October 2006, DIAC developed a strategy to assist members of the East Timorese community to regularise their status. This was done in consultation with the community and is ongoing.

Implementation completed.

Summary of Recommendation 9

The Ombudsman recommended that DIAC should take steps to redress the detention of Mr. G.

Summary of DIAC Response

This matter is being handled by the WA Public Trustee on behalf of Mr. G. DIAC has pursued this matter on numerous occasions and at the time of writing is awaiting a response.

Implementation of this recommendation is incomplete.

07/2006: Report into Referred Immigration Cases: Mental Health and Incapacity

Summary of Recommendation 1(a)

The Ombudsman recommended that DIAC should properly instruct its officers about taking people into detention, and releasing them when there is no longer a reasonable suspicion to sustain continued detention.

Summary of DIAC Response

In September 2005 an instruction was issued that the authority to detain could only be exercised by officers who had undertaken certified training. This issue is covered by training at the College of Immigration. A revised guideline on *Detention Powers* was published in August 2007, providing guidance to officers on the process of taking people into detention. In addition, Detention Review Managers are required to review the initial s.189 detention decisions and continue to review the cases of people in immigration detention on an ongoing basis to ensure that detention remains lawful, reasonable and progresses to an immigration outcome.

Implementation completed.

Summary of Recommendation 1(b)

The Ombudsman noted that officers should be mindful that information provided by people who suffer from poor mental health, or who are intoxicated, may be unreliable as a base for forming a reasonable suspicion leading to detention.

Summary of DIAC Response

Training in the recognition and management of mental health problems is being delivered by the DIAC College of Immigration in conjunction with the NSW Institute of Psychiatry.

Implementation completed.

Summary of Recommendation 1(c)

The Ombudsman recommended that Compliance officers should seek professional advice on what is appropriate in the circumstances in dealing with a person who is delusional or mentally incapacitated.

Summary of DIAC Response

See the response to 1(b) above.

Implementation completed.

Summary of Recommendation 1(d)

The Ombudsman recommended that medical officers who are asked to assess people for immigration purposes be given information that points to any mental illness suffered by the person being examined.

Summary of DIAC Response

DIAC has initiated measures including enhanced training and procedural guidelines to ensure that persons of interest who display signs of mental health issues are handled appropriately, including the early referral to medical professionals. Training at the College of Immigration covers the type of information that must be collected and transferred with the person. This training was developed in conjunction with the NSW Institute of Psychiatry.

Implementation completed.

Summary of Recommendation 1(e)

The Ombudsman recommended improved record keeping in relation to accurate and accessible information about people.

Summary of DIAC Response

A significant amount of work has gone into this area. It is a component of the College of Immigration, as well as being provided by e-learning. All inductees into DIAC are informed of this issue. The development of portal solutions will enhance this area.

Implementation of this recommendation is incomplete.

Summary of Recommendation 1(f)

The Ombudsman recommended that the arrangements for the referral of people to DIAC by the police should be reviewed, including a review of the information held on detainee dossiers about their criminal history.

Summary of DIAC Response

The ISS was created in February 2006 to assist police to determine the immigration status of suspected unlawful non-citizens.

A training package was developed for delivery to police in each jurisdiction and a joint DIAC Police Management Network was established, meeting for the first time in February 2007.

Implementation completed.

Summary of Recommendation 1(g)

The Ombudsman recommended that the arrangements for people being held in correctional facilities should be reviewed to ensure that these people are easily accessible to DIAC officers and that an adequate record of their health and well-being be kept.

Summary of DIAC Response

DIAC agreed with this recommendation and issued instructions about visits to people in correctional facilities including the requirement that they be visited within 24 hours of arrival at such a facility with subsequent contact at least once a week and a personal visit at least once every 28 days. The nominated DIAC person must ensure that the person is kept informed of their status and provided with interpreters and translations when needed.

In addition, the DIAC officer must ensure a welfare check on the person in such facilities and must provide a report on any change in circumstances within 24 hours. Each case must be formally reviewed at least once every 28 days with Detention Review Managers providing an independent check on detention decisions to ensure that detention remains lawful.

Implementation completed.

08/2006: Report into Referred Immigration Cases: Children in Detention

Summary of Recommendation 1(a)

The Ombudsman recommended that officers be properly instructed in the requirements of Australian citizenship law and practice.

Summary of DIAC Response

This is covered by the training for compliance officers at the College of Immigration.

Implementation completed.

Summary of Recommendation 1(b)

The Ombudsman recommended that officers be properly instructed to give individual consideration to the circumstances of any children whose immigration status needs to be determined.

Summary of DIAC Response

DIAC issued revised guidelines that affirm the principle that the detention of minors is a measure of last resort and that compliance officers must determine at or before the time of detention whether or not the person is a child under the age of 18. Where it is determined that the person is a minor, officers must take proactive steps to avoid the detention of minors and in the event a minor is detained minimise the impact of detention.

Implementation completed.

Summary of Recommendation 1(c)

The Ombudsman recommended that DIAC record keeping be improved especially about the immigration status of people, the reasons for detention and the release of the person from detention.

Summary of DIAC Response

Record keeping is a part of the training provided at the College of Immigration.

Implementation completed.

Summary of Recommendation 1(d)

The Ombudsman recommended that detention costs not be recorded against children.

Summary of DIAC Response

DIAC's current practice is to place unaccompanied minors in community detention which does not attract a detention cost that would be recorded against the child.

Implementation completed.

Summary of Recommendation 1(e) and 1(f)

The Ombudsman recommended that Memoranda of Understanding ("MOU") signed between DIAC and State Governments be reviewed to ensure that they accurately reflect legislative and policy changes.

The Ombudsman recommended that the obligations imposed by these MOUs be notified to DIAC staff and that other MOUs be negotiated where necessary.

Summary of DIAC Response

DIAC is negotiating with various State Departments but the implementation of this recommendation is incomplete.

Implementation of this recommendation is incomplete.

Summary of Recommendation 1(g)

The Ombudsman recommended that DIAC develop a comprehensive policy document to deal with all relevant issues of children in detention.

Summary of DIAC Response

Work on this issue is incomplete. Instructions have been issued to provide guidance for officers undertaking compliance and detention activity where children may be involved. These new instructions apply the legal principle that detention of minors is a measure of last resort.

Implementation of this recommendation is incomplete.

07/2007: Report into Referred Immigration Cases: Detention Process Issues

In this report, the Ombudsman made no further recommendations but reminded DIAC of the need to improve its administrative arrangements. The Secretary of the Department issued a letter agreeing that this needed to be done.

08/2007: Report into Referred Immigration Cases: Data Problems

As with 07/2007, the Ombudsman made no new recommendations but reminded DIAC of previous recommendations around data management and record keeping. Again the Secretary issued a letter agreeing with this.

09/2007: Report into Referred Immigration Cases: Notifications Issues

Summary of Recommendation

In this report, the Ombudsman drew attention to administrative deficiencies that occurred during 2000-2005 in the handling of 20 cases. The Ombudsman recommended that DIAC take steps to rectify problems identified in this report. These included problems with deficient notification of a decision to detain, lack of comprehensive file notes, the need for further inquiries when notification procedures appear deficient, and the need to ensure that officers are aware of issues associated with migration agents, authorised recipients and third parties to ensure that notification requirements are met.

The Federal Court, in the *Srey* case, held that a Migration regulation that specified when a notice from DIAC was deemed to have been received by a person was invalid. This decision impacted on 57 cases. The Ombudsman recommended that DIAC examine the broad policy implications of this decision, look at the relevant training and work closely with Tribunals to ensure that there is effective communication about matters such as court decisions.

Summary of DIAC Response

Through the College of Immigration, officers are provided with training in this area including, for example, a two day module on visa cancellation. Instructions issued now alert officers to the possibility that people may be affected by certain court decisions and that a thorough check of systems and records is required to determine a person's immigration status.

Mandatory Control Points for onshore compliance activities were introduced in December 2006 to provide a nationally consistent quality assurance framework. In addition, future legislative change is planned in this area.

In the *Srey* case, DIAC has implemented a strategy for identifying and managing such cases. Training has been improved and there is regular, and ad hoc, information exchange with tribunals to improve communication. Implementation completed.

10/2007: Report into Referred Immigration Cases: Other Legal Issues

Summary of Recommendation

The Ombudsman recommended that DIAC consider the desirability of a specific legislative power to revisit and set aside a flawed or inappropriate decision, especially where the decision has resulted in an unintended or undesirable consequence.

Summary of DIAC Response

DIAC is still examining this recommendation as it believes that the issue is very complex. It expects to have a response by December 2008.

Implementation of this recommendation is incomplete.

Summary of Recommendation

The Ombudsman recommended that DIAC review the case of Mr. A and determine whether he should be compensated and whether there were lapses in professional standards by its staff involved in this matter.

Summary of DIAC Response

A response provided to the Ombudsman in September 2007 is being considered as part of the recommendations relating to the 247 cases. A review of staff issues is ongoing.

Implementation of this recommendation is incomplete.

Summary of Recommendation

The Ombudsman recommended that DIAC review all cases in which a person who is no longer serving a criminal sentence is the subject of a deportation order that remains unexecuted.

Summary of DIAC Response

DIAC believes that there are nine such cases and has contacted these people, asking that they provide information for consideration in their review.

Implementation of this recommendation is incomplete.

Appendix 2 – External stakeholder meetings with Ms Proust

In undertaking this evaluation I consulted widely, both within and external to DIAC.

External consultation included other government agencies, the Ombudsman's Office, the Australian Human Rights Commission, external members of key DIAC governance and advisory committees, and other individuals or organisations who have held long interest in the portfolio including those who have been critics of the department.

I observed detention service delivery (including at the Maribyrnong and Villawood Immigration Detention Centres); and other service delivery (including the Global Feedback Unit and the Contact Centre in Melbourne).

The insights and contributions by all consulted were invaluable, and I thank them for their candid views and generosity of time. Those I spoke to included:

Person	Role, Agency / Organisation
Professor Peter Shergold AM OA	Now Head of the Centre for Social Impact at the University of New South Wales. Former Secretary, Department of the Prime Minister and Cabinet, at the time of the 2005 Palmer and Comrie Reports.
Mr Andrew Tongue	Now Deputy Secretary, Department of Infrastructure, Transport, Regional Development and Local Government. Former Chair of the DIAC Change Management Task Force charged with developing the response to the Palmer and Comrie Reports.
Dr Wendy Southern	Now First Assistant Secretary, Department of the Prime Minister and Cabinet. Former Member of the Change Management Task Force.
Professor John McMillan	Commonwealth Ombudsman
Dr Vivienne Thom	Deputy Commonwealth Ombudsman and Member, Values and Standards Committee
Mr George Masri	Senior Assistant Ombudsman
Ms Lynne Tacy	Former Deputy Public Service Commissioner and Member, Values and Standards Committee
Ms Meryl Stanton	Independent Member, Values and Standards Committee
Mr Graeme Innes AM	Human Rights Commissioner, Australian Human Rights Commission
Ms Susan Newell	Acting Director, Human Rights Unit, Australian Human Rights Commission
Ms Karen Toohey	Complaints Manager, Australian Human Rights Commission
The Hon. John Hodges	Chair, Immigration Detention Advisory Group
Air Marshall (Ret) Ray Funnell AC	Member, Immigration Detention Advisory Group
Associate Professor Harry Minas	Chair, Detention Health Advisory Group
Professor Louise Newman	Member, Detention Health Advisory Group
Mr Paris Aristotle AM	Member, Detention Health Advisory Group
Mr Ian Deane	Special Counsel, Australian Government Solicitor
Mr Peter Bell	Primary Audit Provider, Ernst & Young
Mr Robert Tonkin	Independent Chair, Departmental Audit Committee

Person	Role Agency / Organisation
Mr Julian Burnside QC	Barrister
Mr John Gibson	President, Refugee Council of Australia
Mr David Manne	Coordinator, Refugee and Immigration Legal Centre
Mr Kim Terrell	Assistant Secretary, Cabinet Implementation Unit, Department of the Prime Minister and Cabinet
Ms Barbara Deegan	Consultant, Subclass 457 Integrity Review

Appendix 3 – Summary Terms of Reference

Background:

The Department of Immigration and Citizenship (DIAC) has sought an independent evaluation of its implementation of the Government's response to the 2005 Palmer and Comrie ('Palmer Plus') and related Ombudsman reports.³ The high level objective of the evaluation is to assess the progress and external confirmation or otherwise of the effectiveness of the response to date to the above reports.

Scope:

The Evaluation will include:

- a. an assessment of the appropriateness of the response by DIAC in relation to the specific findings and recommendations contained in the reports;
- b. an assessment of the effectiveness of steps taken by DIAC to date in addressing the key issues as expressed in the findings of the reports;
- c. the identification of any remaining or new issues to be considered in DIAC's Reform Agenda, which the successful tenderer may become aware of during the course of the Evaluation;
- d. an external validation from DIAC's key stakeholders, such as the Commonwealth Ombudsman and the Human Rights and Equal Opportunity Commission (HREOC), obtained by liaising with those stakeholders to ascertain their views on the effectiveness of progress made by DIAC and outcomes to date, in relation to DIAC's response to the recommendations contained in the reports;
- e. consultation with other Departments or agencies which may have implemented a comparable change process, to understand how they approached the task and measured whether they had been successful; and
- f. briefings with the Minister on a monthly basis and as required with the primary Departmental contact, with further reporting on an exception basis where warranted.

In conducting the Evaluation, any relevant underlying contextual factors will be considered, including factors that existed during the writing of the reports, and currently. This may include consideration being given to the complexity of DIAC's business environment.

The Evaluation is expected to be completed by 31 October 2008.

3. Department of Immigration and Multicultural Affairs – Reports into referred immigration cases: 04-08/2006 and Department of Immigration and Citizenship – Reports into referred immigration cases: 07-11/2007 inclusive

Appendix 4 – Curriculum Vitae – Ms Elizabeth Proust

Ms Elizabeth Proust has held leadership roles in the private and public sectors in Australia for almost 25 years. Ms Proust left ANZ at the end of 2005 to pursue non-executive roles and to work as a mentor and leadership coach. She has an outstanding track record in leading organisations, and in involvement in a range of arts, charitable, university and business boards. She was at the ANZ for eight years, and prior to that held senior positions in the Victorian Government as Secretary of the Department of Premier and Cabinet, and of the Attorney-General's Department. She was also CEO of the City Of Melbourne.

Ms Proust is on the Board of Perpetual Ltd, Spotless Group Ltd, Insurance Manufacturers Australia Pty Ltd, and Sinclair Knight Merz Pty. Ltd. She is a mentor with the international organisation, Merryck & Co and is on the Advisory Board of JP Morgan.

She is a Fellow of the Australian Institute of Company Directors, Chairman of the Melbourne Symphony Orchestra, Chairman of the Centre for Dialogue at La Trobe University and a Director of Nonprofit Australia. In 2006-07 she chaired a review of the Defence Department for the then Defence Minister, Dr. Brendan Nelson, and in January this year completed a review of his personal powers for the Minister for Immigration and Citizenship, Senator Chris Evans. Ms Proust has a Law degree (University of Melbourne) and a Bachelor of Arts (Honours) degree from La Trobe University.

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'Review of Detention Related Decision Making – Part 2' 2008, Ernst and Young, Australia.