



Australian Government
Department of Immigration and Citizenship

SECRETARY

May 2007

Dr Vivienne Thom
Acting Commonwealth and Immigration Ombudsman
GPO Box 442
Canberra ACT 2601

Dear Dr Thom

Thank you for providing me with your draft *Report into Referred Immigration Cases: Detention Process*. Your findings, and the observations that you make, demonstrate the serious errors that have occurred in the past, which have directly impacted on many peoples' lives. They are very clear reminders of the importance of my department maintaining direction with the substantial changes it has made, and continues to make, aimed at preventing such mistakes recurring.

As you have noted, the issues you raise in your report are already being addressed by DIAC's significant program of reform. That program has maintained a consistent focus on ensuring that decisions to detain people under s 189 are made lawfully, and in a way that treat clients fairly and with respect. My responses to previous reports describe many of the major policy, systems, training and procedural initiatives that have been adopted by DIAC to strengthen and support officers' capacities to make sound decisions. Of particular relevance to the observations in your current report are specific measures, such as:

- new policy instructions making clear that a reasonable suspicion must be based on the careful consideration and weighing of all relevant information; and that a client's inability to provide documentation of their immigration status or identity is not, by itself, sufficient for forming a reasonable suspicion;
- revised Compliance Field Interview forms which require evidence of decisions to detain, and the reasons for them, to be systematically recorded by compliance officers;
- instructions and mandatory control points requiring officers to review their decisions to detain in light of new information to determine if detention continues to be supported by reasonable suspicion;
- the establishment of Detention Review Managers to provide quality assurance reviews of detention decisions for clients who are already detained;
- the establishment of the Immigration Status Service for police referrals to ensure that consistent procedures are followed to establish the best information available in considering decisions to detain under s 189;

- the establishment of a training strategy for police, including a training package to ensure that police fully understand their roles and responsibilities under the *Migration Act 1958*, and
- the initiation of a *Systems for People Portal* in April 2007 to ensure full client information, consistent decision-making and data quality assurance across the business activities of Compliance, Case-management and Detention.

DIAC continues to engage in further measures, including the updating of policy guidance and instructions such as *MSI 409 – Establishing identity in the field and in detention*.

These and other reforms contribute to a heightened capacity and professionalism among DIAC staff, to ensure that detention decisions and processes will be of high quality.

A clear sign of the cultural change taking place in DIAC is our commitment to strengthening internal processes of monitoring, performance management and accountability, so that client-service goals continue to be met in line with principles of good governance. DIAC's recent review of its governance arrangements is an example of this commitment.

Your observations in this and other reports have been instructive in reminding DIAC of the issues and systemic risks that my department will remain alert to. As we have both agreed, DIAC has already put in place many of the organisational reforms necessary to prevent these issues and risks recurring. DIAC is also committed to monitoring the effectiveness of these reforms, and to responding quickly and effectively where any issues might arise.

Yours sincerely

(Andrew Metcalfe)