

# National Inquiry into Children in Immigration Detention

Sydney Public Hearing

Friday, 4 April 2014

**President** Thank you. The next witnesses are from the Department of Immigration and Border Protection and perhaps you might come to the area, and if we may well ask each of you to make the oath or affirmation. [*swearing and affirming of witnesses from the Department*]

**President** Perhaps we could begin, if we may, with Mr Mark Cormack, the Deputy Secretary of the Immigration Status Resolution Group.

**Mr Cormack** Good morning President. Thank you for the opportunity to deliver an opening statement on behalf of the Department. Before commencing, we'd like to acknowledge that this meeting is being held on the traditional lands of the Gadigal people and pay our respects to all those past and present.

The Commission's previous report published in 2004 represented a significant investigation into an analysis of Australia's laws and practices in relation to children who arrived in Australia without a valid visa and the treatment of those children in Australia's immigration detention centres for the period covering 1999 to 2002. Of course, Australia's laws are a matter for the Parliament and the Department must, and does, work within the legal and policy framework set by the Government of the day. I would like to take this opportunity to acknowledge some of the significant improvements that have been made in the management of immigration detention since the last inquiry. There has been, in particular, a marked improvement in the Department's approach to the management of mental health and welfare of children, and young people who are taken into immigration detention as unlawful non-citizens.

There's no doubt that immigration detention remains one of the most challenging, complex and sensitive areas of public administration. The policy of mandatory detention has had bipartisan support of successive Governments since its introduction two decades ago. The Australian public expects its Government to preserve a strong border security regime which prevents the exploitation of individuals by people smugglers and which minimises a further loss of life at sea. The Department currently operates within a challenging policy context. We're responsible for administering policies that apply to different groups of people. For example, those who arrive prior to 19 July 2013 and those who arrived after that time for whom offshore processing applies. We also administer our policies and services across different programs in held detention, community detention and bridging visas and with regard to Australia's immigration detention network. The Department has a central role in managing those policies in a way that's fair and reasonable, observant

of the Government's duty of care obligations to people who are detained and which preserves to the utmost extent the health and welfare of children and adults alike.

The services that are delivered are done so with the assistance and expertise of industry and community sector experts. Some 95% of people currently in immigration detention arrived in Australia by boat. There is no doubt that the individuals arriving by this means are in difficult circumstances. In 2004, the year of the last inquiry was published, one boat carrying 15 asylum seekers arrived in Australia. Since that time, 52,000 asylum seekers have arrived by boat. Each person taken into detention comes with their own unique and multi-faceted history and their own special needs and vulnerabilities. In that context, the care and management of people in immigration detention is uniquely challenging and in the decade since the previous inquiry the Government, sorry, the Department has significantly increased its engagement with stakeholders, industry and sector experts, and public scrutiny bodies in order to ensure that it continues to improve our management of unlawful non-citizens. The Department remains open to scrutiny in this respect and we welcome the regular visit inspection programs of the Commission, the Commonwealth Ombudsman, the Australian Red Cross and the Minister's Advisory Council on asylum seekers in detention.

One of the most significant reforms of the last decade has been the introduction of legislative changes in 2005 to enable community detention. Community detention allows the Minister to place low risk, unlawful non-citizens into the community under their own recognisance but subject to a set of conditions which are appropriate to their circumstances. Since October 2010, over 8,600 people, including 4,500 children have been approved for community detention. As at 31 March 2014, there were 3,101 people in community detention, including 1,560 children of whom 348 were unaccompanied minors. Along with the greater utilisation of bridging visas, we've seen significant movements of children out of detention and into community based arrangements over the last three years, in particular. It must be recognised however, that community placement is not available, nor appropriate for all individuals in all circumstances. These are often the most complex cases to manage and can require the most intensive support.

The Department remains acutely mindful of this and we continue to explore new ways to ensure the best possible care and support for individuals facing these circumstances, particularly where this affects children in our care. The Department recognises the need to move children in held detention to a community setting as soon as possible, but also recognises the importance of keeping family units together and the primary role of parents and guardians as decision-makers and care providers for their children. Over the past decade, the Department has implemented and

refined its case management framework which prioritises timely resolution of a person's immigration status. This has been the primary means by which the duration of immigration detention can be limited. This increased focus and status resolution emphasises the provision of care and support to address the vulnerabilities of people which prevent them from engaging with the Department in order to help resolve their own immigration status. The Department also gives particular focus to the needs of families, children, unaccompanied minors in held detention.

Family accommodation such as immigration residential housing provides a residential style of accommodation which helps parents to create a family environment more akin to that in the community for their children. It promotes greater autonomy and self-agency, including going shopping for food, being responsible for cooking and cleaning etc. This type of accommodation had just been introduced during the previous inquiry period. The Department, with the support of bodies such as the Commission and the Commonwealth Ombudsman, have adapted these arrangements over time and refined care and support models that reflect the needs of individuals in our care, particularly children. Children attend school and are also supported through after school programmes and excursions which complement and develop their education. Other alternative places of detention such as the Inverbrackie Facility in South Australia also provide housing style accommodation for family units and a level of amenity and freedom of movement within the facility.

Since 2009, the Department has engaged specialist pastoral care service providers for unaccompanied minors to ensure that this particularly vulnerable group has a separate and independent source of support. These welfare officers are involved in the development of programmes, activities and excursions and they provide oversight and support to ensure school is attended. Homework is completed and a normal healthy daily routine is observed.

The Department substantially expanded its internal governance arrangements regarding the provision of health and mental health services and, in late 2006, we separated health services from general detention services to allow direct engagement of health providers. Arrangements regarding health and mental health services have matured since substantially over the past decade and the current health services contract is worth over \$900 million over 5 years. People in immigration detention have good access to primary and specialist care that is commensurate with the Australian community standards. Children's health is prioritised and specialised arrangements are in place where required to ensure health, mental health and wellbeing is maintained. In addition, torture and trauma counselling services are provided by a range of expert service providers around Australia.

Another example is the Department's implementation of policies and processes relating to the care and welfare of children is the introduction of our age determination

process. The arrival of undocumented asylum seekers presents major challenges in relation to their identity including whether a person is a minor or an adult. In 2010, the Department developed an age determination process to determine whether a person is more likely than not a minor or an adult. This process was developed in consultation with a range of stakeholders including the Commission, the Commonwealth Ombudsman and the Minister's Advisory Council. Clearly, it is important for the Department to establish if a person is an adult or minor to enable appropriate placement and allocation of services to ensure that minors are not knowingly accommodated with unrelated adults. Of course, no method of age assessment is 100% accurate; however, the process has received positive comment in the Commission's inquiry into age determination in 2012 and is now accepted as a whole of Government process. We continue to strengthen our internal governance arrangements for the management of children including the establishment of a principal advisor in 2010 and, now, the Community Programmes and Children's Division which has over 140 staff and policy responsibility for community detention, age determination and guardianship policy amongst other matters. Over the last decade a permanent status resolution, particularly for children, has been a key focus for the Department and, since 2004, more than 55,000 children have been granted permanent protection or humanitarian visas under the off-shore and on-shore humanitarian programmes. The Department's unaccompanied humanitarian minors programme, a settlement programme for unaccompanied minors has been adapted and refined over recent years to provide tailored services to the specific needs of unaccompanied minors.

Where the Department has been able to modify and improve services, policies and processes over the last decade we have done so and, of course, this does not happen in isolation. In addition to the Department's own staff, service providers, advisory groups and other partners and stakeholders contribute to the very valuable work we do in providing services to vulnerable people in our care, particularly children.

Finally President, I would note the Department will take on notice any questions today regarding off shore processing arrangements on the basis that we are still considering whether those arrangements are within the scope of this inquiry. We would like to extend our thanks to the Commission and the President for inviting the Department to appear at this meeting, we look forward to any recommendations of the inquiry that will assist us in improving the services offered to children in immigration detention within the current legislative framework. My colleagues and I are happy to respond to any specific questions that you might have. Thank you President.

**President**

Thank you very much Mr Cormack. I think we might just move this a little if we may.

Mr McCormack as you know I am going to try to ask the questions by reference to our international legal obligations. I think you understand that that is our mandate at the Human Rights Commission. The core principles for International Covenants on Civil and Political Rights, the International Covenant on Economic and Social Cultural Rights and most particularly the Convention on the Rights of the Child.

I would like to begin by asking you about Article 37 of the Convention on the Rights of the Child which provides that no child shall be deprived of his or her liberty unlawfully or arbitrarily and detention or imprisonment of the child shall be used only as a measure of last resort and for the shortest appropriate period of time. I notice that at least twice in your submission, for which I thank you, you have emphasised the importance of assessing the characteristics of each individual child, they are not to be dealt with as categories or groups for any purpose and I do appreciate that. I would like to concentrate for the moment on Christmas Island and the closed detention there. I think you will be aware that since the 19 July 2013 when the current government's policy was announced children have been held there for 6 – 8 months. Would you explain to us whether any consideration has been given to detaining families and children in the community while they are waiting to be transferred offshore?

**Mr Cormack** We are required to act in accordance with our legislation, our legislation requires that all arrivals, since July 19, are transferred to offshore processing centres so that is the principal guidance. We don't have the liberty or indeed the right to override legislation or Government policy. The Government policy is clear, it is as clear under the previous Government as it is under the current Government and all those that arrive following July 19 are subject to transfer to offshore processing.

**President** So the answer in essence is that you do not give consideration to holding the children in community or any other form of alternative detention because your view is that they must remain on Christmas Island before transfer to Nauru.

**Mr Cormack** That is not what I said President.

**President** Would you tell me what you

**Mr Cormack** What I said is as follows, I will repeat it. We are required to follow our legislation framework which requires that all arrivals are to be subject to transfer to offshore processing centres.

**President** Well then I return to my question. International law and this Convention requires that there be consideration of holding them for the shortest period of time, that the detention is a last resort. I know that you must apply domestic Australian law and Government policy but what I want to know is will that policy allow you to consider

community detention in relation to any of these children and is any consideration given to alternative means of looking after these children prior to their transfer?

**Mr Cormack** We undertake all reasonable steps to provide the best possible care and welfare for children in detention that are subject to the regional transfer arrangements in our legislation and we take that responsibility very seriously. We also, President, take responsibility very seriously, consistent with Government policy, for the prevention of deaths at sea and the prevention of growth in people smuggling businesses through any departure from Government policy. We need to recognise that a primary concern is, of course, the health, wellbeing and welfare of the child in question but there is also another primary consideration is that in recent, over the years of accelerated boat arrivals over 1000 people have died at sea that we know of. That would include a very significant number of young children, some of them unaccompanied and we also need to ensure that in discharging our responsibilities under the various international obligations that we do not inadvertently contravene our own legislation, depart from Government policy and indeed to, in some way, encourage the development of a new business line for people smugglers, that is the position that we take President.

**President** Can you tell me does Australian law require the children to be held in detention centres?

**Mr Cormack** Australian law requires that, well mandatory detention has been a bipartisan policy for over two decades as I outlined in my opening statement.

**President** I would like to know what the law requires you to do.

**Mr Cormack** I am required to follow the legislation which is that all of the arrivals post July 19 are subject to transfer to an offshore processing centre, President.

**President** So the law may not prevent you from holding the children in a community detention process centre.

**Mr Cormack** Well my understanding is that, my understanding of the law that we operate under is that we are required to transfer all arrivals after July 19 - that was the policy of the previous Government - it has been continued under the current Government and that policy does not allow for the Department to have any discretion to not prepare people or transfer people to an offshore processing centre. That is what we are required to, we don't have that discretion President.

**President** So when in your submission you twice emphasised the extreme importance of recognising the individual characteristics of each child and the needs of each child, you are not in fact doing that in relation to the holding of the approximately 300

children currently held on Christmas Island.

**Mr Cormack** I disagree with you entirely there, President. We are taking those matters into account but in taking those matters into account does not give us either the policy or the legal freedom to breach our legislation which requires that we transfer these people to an offshore processing centre. You are getting into a policy debate – we are a Government department and we are implementing the policies of the Government of the day.

**President** Well as you understand, my concern is the extent to which these policies breach international law and in particular treaties to which Australia has become party. Is it of any concern to you and your Department that you are carrying out policies which appear or raise the possibility of breaches of these principles of international law?

**Mr Cormack** It would always be of concern were the Department to breach international law but we don't have any evidence that that is the case and our position is that we are required to follow the policy and legislation of the Government of the day and that's what we do.

**President** So the answer really to my core question as to whether you are in fact considering the individual needs of the child in terms of whether they should be held in the community detention rather than in closed detention is simply not something that you are giving any consideration to.

**Mr Cormack** I think we have, I have answered this question on a number of occasions.

**President** By repeating that it is Government policy to transfer them offshore.

**Mr Cormack** Correct and it is government policy, it's our legal requirement. We do not have, as a Department, the discretion to depart from our governing legislation and Government policy. That is a matter you should be addressing, with respect, to the Government not to the Department.

**President** Well as you know one of the purposes of this inquiry is to be absolutely certain about our facts and to understand what it is the Department is doing and what these early questions in relation to the Department seem to be suggesting is that despite the international legal position you are giving effect to a Government policy which gives you no discretion to take into account the needs of children to be in community detention rather than held in closed detention on this island.

**Mr Cormack** No, that is incorrect President. Another rephrasing of what I have said, we do take into account the requirements under our international obligations and we do take into account and are required to operate within the law and the policies of the

Government of the day and that is what we do. Anything that you suggest that says we do not take that into account is incorrect and I haven't said that and I don't wish to be recorded as having said that.

**President** Well can you explain to me how you take into account the individual needs of children when you do not place any children held after the 19 July in community detention, you hold them for months until such time as they are transferred.

**Mr Cormack** We hold them until they are ready and able for transfer. We provide them with a range of services and supports to ensure that their health and welfare is looked after. We also have another primary consideration which is to prevent further children from being exploited by people smugglers in source countries and having to come on boats and continue to risk their lives at sea and to pour millions and millions of dollars into illegal criminal networks that profit from this. So that is a consideration that we have and we also have another consideration which is that we have a border control system in Australia. The Government requires us to keep that in place so we have a number of considerations to take into account including the best interests of the child and we take into account the best interests of children who may potentially find themselves embroiled in illegal activity which places their life at risk and adds to the problem of significant numbers of children already in detention. We believe President in addition to the programmes, services and policies that we are putting in place the best way to deal with the numbers of children coming into detention is to stop them coming in the first place. And there has been no child or person enter our detention system through the illegal migration system since December last year and that is as a direct result of the policies and practices that we put in place and we believe if we look back at the numbers that have come in the period prior to that we have probably prevented deaths and additional harm to children who are now not coming to Australia through an illegal and unsafe manner. That is the interest that we also need to take into account.

**President** We are not here to explore those broader policies nor to engage in hypotheticals about whether deaths are occurring at sea or in other detention camps. Those matters are well outside the intention of this inquiry. What we are interested in is the extent to which your Department is complying with the core obligations that Australia has under international law and I would like to explore again this question of closed detention of children. I understand from your website that the children are now being, have been detained for up to 8 months, they appear to be being held longer than children were being held in the past. Can you explain why children are now being held for increased amounts of time relative to last year for example?

**Mr Cormack** Well there have been significant arrivals in the last 12 months including the first couple of months of this financial year which were record arrival rates. So there are

large numbers of arrivals in our system, therefore, larger numbers of children awaiting processing of one form or another. We have implemented a policy of offshore processing which has resulted in the transfers of significant numbers of people who have arrived illegally by boat including families with children and that process takes some time to get the necessary arrangements in place and also over the course, as you would be well aware President, over the course of the last 6 to 7 months there has been a change of Government. We have been through a period of policy refinement and policy adjustment and we are now very solidly in the process of particularly in the onshore system of increased numbers of families and kids being released on bridging visas and being released into community detention arrangements and we anticipate with those arrangements now more or less back in full swing plus no arrivals since December that there has been spike, it is incontrovertible that there has been spike in the amount of time people are spending in detention but certainly across the detention network we will see that decline quite significantly.

**President** One of the characteristics that we have observed particularly in the last few weeks is that you are now transferring unaccompanied children to Nauru. I wonder if you could explain why there seems to be an increased willingness to expose unaccompanied minors to those conditions at Nauru and why you are selecting those children as distinct from other children to take that additional trip and to be then placed under the jurisdiction of Nauru?

**Mr Cormack** I'll just make an opening comment President. If it's ok, I might ask my colleague Ms Pope to talk about in detail the UAM transfers to Nauru. But in summary the Government's policy in relation to offshore processing does not have exceptions. It applies to all arrivals including unaccompanied minors. In the case of unaccompanied minors, the Government has determined that those that are subject to transfer will be transferred to Nauru and it took some time to put in place the necessary service arrangements, accommodation arrangements, guardianship arrangements in the Government of Nauru to enable and facilitate the transfer of unaccompanied minors. Those arrangements are now in place and we have begun, we commenced a month or two ago, the process of transferring those. We recognise that this is a big change and we are also very conscious that we are working within the legal framework of another sovereign government and we need to make sure that the Government of Nauru and the service providers on Nauru were equipped to be able to accept this full implementation of Government policy.

**President** Perhaps I could ask you before you move the question, do you consider that it's in the best interests of an unaccompanied child to transfer them to Nauru?

**Mr Cormack** We are required to make a best interests assessment prior to transfer and we make that assessment consistent with international law and also the broader considerations that I outlined before. So the short answer is yes.

**President** Perhaps you could explain to us how, as a matter of international law, transferring the children to Nauru is in their best interests?

**Mr Cormack** We recognise that the best interests of a child is a primary consideration, if it's not the primary consideration, it's a primary consideration. The other considerations that we take into account, consistent with Government policy, consistent with legislation, is the need to ensure that we prevent additional children, either as part of family groups or unaccompanied minors from commencing or considering a venture to enter Australia illegally. We believe, as I indicated before in my earlier statements, that reducing the best way, the best way to reduce the harm, or potential harm that comes to children within the detention centres is for them not to enter it in the first place and the best way.

**President** Again, I'm not interested in talking and for you repeatedly to explain what you think is the underlying rationale for Government policy. What I'm trying to do is to understand the extent to which you are complying with international law and I want to know how, as a matter of international law, the best interests of a child, unaccompanied by adults, is being protected.

**Mr Cormack** I'm going to ask Ms Pope to take that question.

**Ms Pope** The best interests of an individual child are a primary consideration but not the primary consideration.

**President** That point has been made several times and we do all understand the difference between the definitive article and the non-definitive.

**Ms Pope** Indeed, and in that context Senator the transfer decision does not consider whether the best interests of an individual child are being served by being transferred to an offshore processing centre but rather the range of factors that my colleague has set out. They are not suggesting that the best interests of an individual are served in that regard. However, we do this mindful of a range of other considerations which include that Nauru is party to the Convention on the Rights of a Child and has embedded that obligation in their domestic legislation. We take into account the undertakings that Australia and Nauru have both made in a Memorandum of Understanding in relation to special arrangements for vulnerable cases including unaccompanied minors and that specific arrangements have been made for minors and unaccompanied minors at the Nauru centre, including in relation to the provision of appropriate accommodation

and the guardianship arrangements that are in place for unaccompanied minors under Nauruan law. All of those circumstances are taken into account. An assessment is made of the individual child as to whether their needs and welfare concerns can be met in that environment.

**President** Do you believe in the context of the legal system as it operates in Nauru at the moment and the difficulties that we've been understanding, that these legal provisions of the Memorandum of Understanding can properly be met by the Government of Nauru?

**Ms Pope** Yes, I do President because we worked very closely with them on individual cases. As I said, we prepare a dossier of information on each child which is provided to the Nauruan Government in advance of the transfer of the child and they have the opportunity to come back to us with any additional information that they might seek and they are very conscientious in carrying out their obligations under their own Act for the guardianship of children and they make decisions on the basis of the information they have received as to whether they're prepared to accept the transfer of individual children. So, we do work very closely with them. We've set up very specific arrangements for the care and welfare of unaccompanied minors and very close monitoring on both parts of the arrangements that are in place.

**President** So you're confident that Nauru has the capacity to carry out these obligations?

**Ms Pope** I am, yes President.

**President** One issue that I would like to take up with you particularly Ms Pope if I may is the role of the Minister of Immigration as the guardian of unaccompanied children that arrive in Australia. One matter that arises is the right or the concerns of the Committee on the Rights of the Child that agencies or individuals whose interests could potentially be in conflict with those of a child should not be eligible for guardianship. Do you think that there's a conflict in the role between the Minister of Immigration and his immigration portfolio and his role as guardian of unaccompanied children that arrive in Australia?

**Ms Pope** This is a question that we've discussed with, not only the Commission, but with others quite extensively Madam President. While we recognise that there has been a lot of public discussion around the potential for a conflict of interest, we believe that the most important aspect for us to focus on is the services that we deliver so that individual children are well cared for and the process of delegation of the Minister's guardianship through officers of our Department and

**President** Doesn't that entirely avoid the question of whether there's a conflict of interest?

**Ms Pope** I don't think it's for me to say Madam President, whether there is or isn't a conflict of interest. We've looked at other means of developing and managing the guardianship arrangements, including the potential to transfer the relevant piece of legislation to another agency to look at another Minister having responsibility for it and so on and we have had discussions with the Commissioner for Children.

**President** But none of these has been taken up?

**Ms Pope** Not at this stage President, no.

**President** Ok. Perhaps I'll move on now to something that comes up a great deal in practice and that is the education of children on Christmas Island, and we've heard about the experiences from 10 years ago. Now of course we're concentrating on what the position is today. You will be very familiar I imagine with Article 28 of the UN Convention on the Rights of the Child, that there is a core minimum obligation to ensure that primary education should be compulsory and available and free to all. One of the concerns that we've had in our visits to Christmas Island is a significant number of complaints about the lack of access for education to children. Their parents have complained, the children themselves have complained to me personally and we are told that in the 6 to 8 months that these children have been held on Christmas Island they have been able to have as little as 2 weeks' technical school which often is categorised by the children as little more than a play group. I wonder if you could tell us a little bit about the policy in relation to education of these detained children and what the Department is doing to ensure that we meet that core obligation of primary education?

**Ms Pope** The policy is as you stated that children who are in immigration detention are expected to attend school. Arrangements are made so that that is possible. We share your concerns that in relation to access to education on Christmas Island it hasn't been as available to the children there as it should have been and that the way the model changed around the length of time that children were spending on Christmas Island previously and are spending now, meant that access to education has become much more limited to a point and we agree. We are working very closely with the Department of Infrastructure and Regional Development which has responsibility through the West Australian Department of Education for the provision of education services on Christmas Island and are pursuing budget measures to increase the access to education on Christmas Island. At the same time, we are working with our service providers to increase the options within the centres, recognising that it may take longer than we would like for the other arrangements to be put in place and, for example, the program that Maximus, our child focus service provider, has for unaccompanied minors that I think you might have observed, heard

about while you were on Christmas Island, has recently been reinstated as a structured program to provide services, and there is provision in the local school, but it is, as you have outlined, very limited. And the teachers do come from the school to the centre to provide additional education for other children outside of hours but, in total, it's not adequate to the needs of the children there and we are working very hard to address that as quickly as possible.

**President** Well I appreciate those sentiments but it is very worrying that this was a problem when I visited Christmas Island 15 months ago and we raised it with the Department that we were concerned about the lack of education, virtual total lack of educational opportunities, we do appreciate the difficulties of integrating the children into the local school, the facilities are not there and it creates other tensions and problems. But my concern is that this isn't something that we just discovered 3 weeks ago in our last visit to Christmas Island, it's something that's been an ongoing matter of concern. And I appreciate too that we've had a change of Government but that Government has been in power for some 6 months. I'd like a fuller explanation as to what the difficulties are in ensuring that properly trained teachers are spending time with the children in the camps and why indeed the resources of those asylum seekers who happen to be trained teachers are not used when they've offered their services. I think we need to explore this a little more deeply.

**Ms Pope** I'm happy to help to do that President. The challenges are around infrastructure as you would appreciate and logistics, given the [*inaudible*]. It's also, I would have to say, complicated by the network of relationships required to make a difference on the ground. As I described, we work through another Federal agency and then through the State Department of Education in WA because they provide the education on Christmas Island. The proposals that we are working through at the moment include the provision of additional teachers and teacher's aids and working with the infrastructure that we currently have, the physical infrastructure that is currently available on Christmas Island. And also with the numbers coming down somewhat on Christmas Island within our own facilities, the ability to use some of the accommodation that's available there for additional classrooms and education facilities. And, I can only assure you, that we are working on it very assiduously, as we speak, to make those arrangements come into place.

**President** What are the difficulties of hiring teachers and taking them straight to the Island? There are rooms and facilities there, I've seen them. Why can't you simply hire teachers, teaching different age groups and start to get something going to work with these children?

**Ms Pope** The challenge is that we don't hire the teachers directly ourselves President and we

have to work through the Department of...

**President** But all Departmental bodies have emergency teachers, people that they can move quickly around their respective States and Territories. Why is it so difficult to get teachers on to Christmas Island?

**Ms Pope** I can't answer that question in terms of whether it's a difficulty to actually find teachers to send, but we're working with our service providers where we have more direct responsibility and influence to bring those resources to bear as quickly as possible. We would prefer if the children could be integrated into the Christmas Island school and that was the approach that we were initially focussed on. The time frames don't look to be as positive as we had hoped they would be so we are really now focussed on what we can do directly with our own resources, recognising that it's better for the children to be attending school outside of the centre.

**President** And I assume you understand the implications also that because the children and being held for longer, the consequences on their development and education are obviously going to be more severe.

**Ms Pope** I certainly recognise that access to proper education services is really important for the development of children President.

**President** I'd like if I may to move away from the educational questions to health services and perhaps through you Mark Cormack you can pass on the questions. But again I think you will be aware that Article 24 of the Convention of the Rights of the Child requires that all children in Australia enjoy the highest attainable standard of physical and mental health that Australia can possibly offer. Since January 2013 there have been many actual and threatened self-harm incidents involving children in detention. I wonder if you could tell us a little bit more about these reports. We ourselves have reported on this matter that between the 1<sup>st</sup> January last year and the 14<sup>th</sup> August last year there are reports of 50 incidents of actual self-harm and 49 incidents of threatened self-harm of unaccompanied children at Pontville. Perhaps you could tell us a little bit about self-harm in general and perhaps in particular if you have those statistics, incidents that have concerned Christmas Island.

**Mr Cormack** President, I'll just make a brief comment and then I'll refer to my colleague John Cahill and also to Dr Parrish who may be able to shed some more light on your specific questions. But, for the benefit of context, we have a comprehensive health service provider contracted to the Department, IHMS and Dr Parrish is the medical director of that group. All of our facilities have a comprehensive range of onsite primary medical and other and specialist and access to specialist health services, and this includes mental health. And as I indicated in my opening remarks, the

access and availability and standard of those services is commensurate with Australian community standards and indeed probably in excess of those due to the 24 hour availability of services. That's just an opening comment but perhaps I might pass to Mr Cahill and to Dr Parrish to answer aspects of your questions.

**Mr Cahill** So Madam President, did you have particular questions arising from that?

**President** Well, I'm attempting to understand the standard of health care that's being offered to children throughout the detention centre process but perhaps particularly Christmas Island, but I also want to explore the extent to which we have incidents of threatened or actual self-harms and threatened suicide and how these are being dealt with by the health authorities.

**Mr Cahill** Perhaps for the specifics, I might actually pass to Dr Parrish but certainly the Department endeavours to ensure that the standards of health care that are provided in detention, mental health and other health issues, services that we provide are commensurate with those available in the Australian [inaudible]. Though we endeavour to be vigilant about that my understanding is that the data which we can provide to you in response to [inaudible] based under section 20 Notice that you have issued, the data shows that the incidence of mental health issues is at or below that. Although, that is nothing to be complacent about, and we aren't but we do endeavour to respond in a range of ways to [inaudible] I might pass to Dr Parrish, he had some comments today.

**President** Well we will certainly be very interested to receive that data, we've been relying in part on the data produced from the ombudsman's office, with very, very worrying statistics of the incidents of self-harm and threatened suicide. And I think we need to be clear as you know an objective of this inquiry is to get our facts right and these incidents of self-harm appear to be well beyond anything that would happen in the general community. So we need that material and we would be grateful to receive it when you are able to give it to us. Hello Dr Parrish.

**Dr Parrish** Maybe I could give you an overview of the services that we provide and then focus a little bit on the mental health issue that you raised just now. So, International Health and Medical Services provides community equivalent, general practice services to all of the immigration detention centres. So it is very similar to the general practice that you or I might visit when we have a health care issue. In addition to that, we have a significant mental health element of that program; in fact, approximately 30% of our staff are mental health staff and those comprise psychologists, counsellors, mental health nurses and mental health team leaders and we also have visiting psychiatrists. Those visiting psychiatrists are both general psychiatrists in adult psychiatry and those experienced in child and adolescence psychiatry. What we try to do, and aim

to do, is to manage health issues that occur including mental health issues but as much as possible try to prevent them occurring in the first place. So from a mental health perspective we have a series of mental health screens that all individuals in the network are screened at regular times through their time in the network, so when they first arrive, they will have a mental health screening as part of their initial arrival medical assessment and that continues throughout their time in the network. With that, we are able to pick up a fairly large amount of mental health issues and target specific programs to deal with those. At the same time, we will deal with mental health issues as they arrive if they come to see us either in our clinics in a formal presentation but also what I would say in the compounds and in the community of the centre, we run a number of outreach clinics so those outreach clinics are designed really to do two things, they are designed to work with individuals in the centres to help them with their mental health issues and to identify particular mental health concerns so we can target particular treatment programs for them.

**President**

Dr Parrish, I really do need to interrupt you because I am less interested in you telling us what you're theoretically providing, and I'm more interested in understanding what is actually being provided and what is actually occurring in relation to mental health. So perhaps, before we move to mental health, perhaps we could look at the quality of the medical services being offered and you've suggested that those services are comparable to the sort of thing that would arise when I go down to my medical practitioner where I live in Sydney. Now the evidence that we are receiving and as I say, we are genuinely concerned to get our facts right, but the evidence we are receiving from our own visits to detention centres and from the evidence of those we've been talking to is nowhere near the standard that you're describing. On Christmas Island we are told that a Doctor is to be available but they are told that they are not regularly available. On Villawood we are told that there is to be a Doctor there for several hours on a Sunday, and one person told me that they haven't been there for three months. Now I don't know if that is true or false, but the evidence we are getting paints a very different picture and I saw with my own eyes children with bloodshot eyes, sores festering in the heat of Christmas Island, people with untreated conditions and complaining consistently that they were neither getting general practice medical assistance, nor were they getting specialist assistance because it was difficult to get them off the island. Now, I really would like a response as to why there is such a stark contrast between your description of what you believe you are offering as services and the evidence that we're receiving from people who are deeply concerned that the quality and availability of those medical services.

**Dr Parrish**

Yes, and I will be very interested as well, because certainly the information that you described just then is very different to that which we would say that we provide and, for instance, we comply with the Royal Australian College of General Practitioners

Guidelines for the management and provision of healthcare in immigration detention and we are accredited at our network centres by the College for that and so I would be delighted to look at particular facts, it is very hard just having the rhetoric and obviously to give you some information about this but in general, maybe I could talk a little bit. You may not wish for generalisations but it hard for me to deal with specifics without the facts. Maybe I could talk about on Christmas Island how we provide those services because that might help in understanding. We provide general practice services at all of the centres on Christmas Island which are run by nurses and mental health staff that I mentioned and general practitioners. We have 10 general practitioners on the island at the moment. And we would therefore provide those services that are available in general practice. Where we are unable to provide particular services because that goes beyond let's say the level of care that we can provide, we would refer patients to the Christmas Island Hospital for inpatient care if necessary. We would also look at a number of other ways of providing assistance and care. One is by using telehealth; so we have a telehealth set up on Christmas Island and one is by having specialists visiting Christmas Island and so as much as possible we will try and bring care to the patient if we can. But we know there is a balance there and there is a certain amount that you can do and an extended general practice environment and then sometimes when you need to have patients seen elsewhere. So if it's a requirement for us to have a patient, whether it be an adult or a child, seen elsewhere, we will arrange for that individual to be transferred to the Australian mainland for the specialist care that he or she requires.

**President**

We observed people on Christmas Island who did not have hearing aids, who couldn't communicate. Many parents complained that their children did not have their glasses, they were broken, lost or in one instance actually, taken away from them and left in the property held in Christmas Island, although that problem was addressed when we raised it, but we are getting a very significant disconnect between what you're describing as a process and as a service that you technically agree to deliver and what is actually being delivered. I interview children who and I'm not a medical practitioner, who were manifestly ill when I was interviewing them. Apart from the lack of education opportunities we were constantly being approached by parents for their children about the various medical conditions that they had and in particular skin diseases that were really not being addressed. I would be grateful if you could at least take some of these matters home and I think you will hear other evidence today that suggests that the structures and policies that you've got in place are not actually delivery services and I think we need to know about that, but can we move on to mental health.

**Dr Parrish**

Yes of course.

**President** Because this is something, yes.

**Mr Cahill** It's not just a matter of our service provider being left to their own devices as to what they say they are doing and what they are actually doing, there are contractual obligations that are in force.

**President** Indeed.

**Mr Cahill** There are auditing arrangements, there are independent visits that occur to review these matters.

**President** Have you been to Christmas Island?

**Mr Cahill** Yes I have.

**President** And has Dr Parrish been to Christmas Island?

**Dr Parrish** Yes

**President** And have you observed these conditions?

**Mr Cahill** I have observed, I'm not a medical.....

**President** Neither am I but I can see what is in front of my eyes.

**Mr Cahill** But I can see what I can observe. I'm not aware of any impediment whatsoever that in circumstances where individuals or families, mothers, parents have issues around the health and well-being of their children and families that there is any impediment whatsoever seeking assistance. There is no impediment to them visiting clinics, there are case managers, there are other programs in place with other service providers, Maximus, Serco. So there are balances and checks in the system that ensure that what Dr Parrish is saying is happening is actually happening and all of our information (and I, like Dr Parrish, would be very interested in cases if they can be brought to our attention because I would be very happy to explore those in more detail) but in a broad sense the standard of service and care on the health front that we provide is very good and as I say, if there are issues that detainees have, there are opportunities to address those immediately. As there are in the Australian community.

**President** Well we do provide you with the cases of which we are particularly aware, and we will continue to do so in the hope that the particular issues can be addressed. So Dr Parrish let's move on the mental illness aspect because that is of particular concern to this inquiry and of course the mental illness of children that reflects the anxiety, depression and concerns of their parents, could you tell us a little bit about this?

**Dr Parrish** I can tell you about the mental health that we provide is that what you ask, or the way it's described?

**President** No, your responses to my questions are very much in terms of what you are contractually required to provide and how you go about doing it. What I am trying to do is to understand what is actually being delivered and what are your observations on the ground of the mental health of children reflecting in part I imagine, the mental health of their parents, so could you tell us a little bit about, you monitor the children for mental health, you've told us that, can you tell us what the outcomes of these monitoring exercises are, whether you have any data about the nature of the mental state and the developmental state of these children.

**Dr Parrish** Yes, and I would need to provide you with that data separately, Madam President because I don't have it here in front of me. We provide, as I mentioned, an outreach service as well as in-clinic mental health programs. What we do know is that, the longer one is in a detention environment, the increased likelihood you are to have mental health conditions, we are all very well aware of that. And therefore we put in place programs that we try to manage that as best we can and we feel that the best way, the best evidence to show us the way to manage it, is to deal with it up front and early on and in the network centre, rather than waiting for problems to occur.

**President** Well again, that's a very theoretical answer, what I want to know is what do you know about the conditions of these children on Christmas Island, in Villawood, in the Darwin Centres, have you examined and studied the conditions of these children to see whether they are in good mental health or if they're not you have some sense of how many there are and how they are being treated?

**Dr Parrish** Yes, and I would say that there would be a range and I can't give you the exact figures in front of me now, but I am delighted to provide those later on and there will be some children as there are adults in the system who have significant mental health issues and illnesses which we deal with and there are some who have less and some none; there was a range of those things and what we can do is provide you with the information on that and the numbers on that and that over time.

**President** Can we move to the concerns that we have about incidents about threatened or actual self-harm by children in the statistics that we have available or the data we have available in the first six months of last year. Are you yourselves keeping data on the self-harm incidents and what are you doing to either prevent it or to counsel and manage the children who are engaging in these practices?

**Dr Parrish** Yes, we keep the data, I don't have it in front of me now. The way that we manage to prevent it and deal with it, is as I described earlier.

**President**

Well, I'm grateful for that and I'm pleased that you and your Departmental Officials will provide us with the information, I might however note that we have been requesting this information for many, many months and it is an unfortunate phenomenon that we have had to call an inquiry where we do have compulsion powers in order to get this information. I would have hoped that concern for the children alone would have ensured that this information would be available to us, but I think we are trying to understand whether we are achieving the standard that is required as a matter of international law and that is why we need this information to know exactly what the consequences are.

One area that has been briefly touched on I think by you Mark Cormack is the question of identifying the age of children and we appreciate that this can be extremely difficult to achieve. I think you might be aware that under the Convention under the Rights of the Child a child should be given the benefit of the doubt where it's not clear what the age of that child would be. We understand that a number of children have been aged assessed as adults and sent off-shore or to single male adult facilities in Australia who have subsequently been found to be children and I believe that that occurred while we were on Christmas Island three weeks ago. Can you tell us how often a mistake has been made about the age of a child and can you tell us why these mistakes are being made, particularly in light of the very co-operative relations we had with the Department in dealing with the difficulties of wrist x-rays that was a good outcome, a positive outcome but we are concerned that since that report there still appear to be mistakes being made, one of which we observed ourselves on Christmas Island.

**Mr Cormack**

President, I will hand over to my colleague Ms Pope who can give you the kind of chapter and verse or indeed Ms Constantinou can do that as well; what I can say is that in response to your opening comments, certainly our current policy and practice does very heavily go in the benefit of the doubt direction, so if there is doubt, then the presumption is that the person is a minor. Secondly, we have not knowingly transferred anyone to an off-shore processing centre; thirdly, there have been a number of incidences where subsequent to transfer, and these include cases where the person themselves has identified as an adult prior to transfer, and then upon transfer to Nauru, has subsequently raised a claim to be not an adult, there have been a number of these incidences that have been fully investigated and in all cases where it is reasonable, there is either reasonable doubt or they are confirmed to be a minor, appropriate action has been taken to bring them back out of that particular environment. So, I don't actually accept that there is a history of mistakes, I think it is important that the Commission understand that this is not a precise science, that there are a number of factors that can influence the determination of an individual as an adult or child and some of them, in some instances, and I'm certainly not saying

the majority can be to gain the system and we're conscious and aware of that but this is not a precise science but I'll ask Ms Pope to really outline our current approach.

**Ms Pope**

Madam President, I won't go into a description of the process that we use because I know that you are very familiar with that. I really want to focus on the issue that you've specifically raised. We take all the issues in relation to whether a child, whether a person is a minor or an adult, very seriously and there have been instances as Mark Cormack has outlined where people have claimed after being transferred to Manus. We need to clarify we're talking about transfers to Manus, not where we weren't transferring unaccompanied minors, so this was where we were transferring adults and people claimed after the fact to have been minors. We investigate all of those cases, we go as far as contacting parents in home countries to seek documentation because I need to be clear that in almost all of these cases there is no piece of paper at all in relation to age so the work we do is around the interviewing approaching so on that you're familiar with and we've been successfully in securing documents from parents in Burma and Iran and other places. It takes some time and it's a challenging process, I know you are aware of that. Where we review a case and find that, yes, if we apply the benefit of the doubt and with the information that the person is now bringing forward that we find a different outcome then we have been bringing those people straight back to Australia as outlined.

Where a document is produced, has credibility and, again, suggests that the person is a minor, again we've brought them back. That also includes cases where we have done a formal age determination prior to transfer found the person to be an adult and then concerns are raised subsequent to that or continue to be raised and there are two instances where people who had been assessed as adults prior to transfer were subsequently on review found to be minors and they were returned to Australia as well.

It really sits in the context of this being an imprecise, I wouldn't even call it a science, but an imprecise exercise and that our policy has always been to apply a wide margin of error. We continue to do that where a challenge or further information comes forward or question to ask, we review, we have a formal process of review and where we find in contradiction to the earlier finding, we act on that finding as quickly as possible.

**President**

Well perhaps I could tell you our experience because we were not there for very long, the team was on Christmas Island for a week and in that relatively short space of time a young man came forward claiming to be I think 16 or 17 it was obvious on a common sense practical basis that this young man was not an adult, he was not 18, it was obvious to anybody who looked at him and then spoke to him. That worries us because while what you say sounds rational it sounds, it's based in good faith,

mistakes get made its difficult it's not a science we appreciate that, but there is a key requirement as a matter of law that the benefit of doubt be given to them, I appreciate that there may be some who even claim to be adults who turn out to be children and it does make your life extremely difficult I'm sympathetic to that, but I am very concerned that per chance we arrive at a particular week and it doesn't take the team very long at all to find an immediate case where it's very clear that this person was a child. How do you respond to us unearthing this or discovering this in such a short space of time, in a case where an ordinary person would believe that this person was a child?

**Mr Cormack** Madam President, it's not at all unusual, given the attention that your inquiry has brought to this matter, it's not at all unusual that on your visits to centres such as Christmas Island where your arrival and activities are well known to all there that people would not take the opportunity, so I'm not the least bit surprised, that somebody would raise a claim and we would be delighted, if we haven't already done so, to receive details of that particular claim and have it assessed through the process. We receive it is not an uncommon occurrence for us to have this matter raised and in each case that it is raised we follow that up, investigate it as formally as fully as we can as we will in the case that you've just raised.

**President** Well thank you and we certainly will pursue that one.

**Ms Constantinou** President, Katie Constantinou, Assistant Secretary, AHRC Inquiry Taskforce. President, I am aware of the case that you have referred to and certainly talked to your team about that whilst we were on Christmas Island and we have received further information. This was a particular case where the person himself provided us with different information at different points in time and highlights the challenges that we face in this process. We also have some documentation that we are considering as well so I can advise you that that is absolutely under live consideration; we thank you for bringing it to our attention.

**President** Well thank you and that's one of the benefits of having this attention and departmental officials who will take these matters up and we do appreciate that thank you very much. There a couple of a few other things I would like to explore before we finish although if I may take your time for longer that we were originally scheduled to do. One that does disturb me and again Mr Cormack has raised it as being an objective of the Department to keep families together we heard many many and have heard many complaints that families are not being held and kept together but one that disturbs me and is relevant in particular to young people is that when a person turns 18 they are immediately vulnerable to and will in fact be transferred to Manus Island despite the fact that that might leave the rest of their family on Christmas Island or in another facility, why is this happening and why is it felt necessary to transfer

somebody who who has turned 18 so immediately to a facility which on all reports says is stressful and apparently dangerous.

**Mr Cormack** Thank you for the question President. Look it's our position, the Department's position, that nuclear family members remain together wherever possible including for short duration medical transfers or other instances. We also acknowledge that on some occasions there have been instances where the practice of keeping families together, I'm not referring specifically the incidents that you've raised have fallen short of that of that position and where that's been brought to our attention we rectify that and indeed there's renewed efforts over the last few months as we have there's been a large number of transfers we've been focused on that. So I can't comment specifically about the specific matter but I can I can say that it is our position that we keep nuclear family members together, it is also the Government policy position that we are required to transfer all maritime arrivals subsequent to July 19, 2013 so they are subject to that transfer. We are also cognisant that for operational reasons, and I will give you a very good example in Nauru where we have separate areas or compounds for different cohorts including there is a separate one for unaccompanied minors and there is a separate one for single adult males and there's a separate one for single adult females and there's a separate one for families with kids. We are extremely conscious that while recognising as a person ages out so to speak that we need to balance the risk of unrelated adults being in a family compound with ready access to young children are not related to them and we need to balance that all the time, so we recognise that people would be concerned about being transferred to Manus but that is Government policy but we also recognise that we have an overarching, an overriding duty of care for the children who are in detention to not put them at additional harm and you know to be frank at times we have to balance those those competing priorities. We also currently are able to accommodate both families and single adult males on Nauru and that at least gives the opportunity if there is a need to separate an aged out member of a family as in the case that you've identified to be in the same offshore processing centre and consistent with our policy of keeping nuclear family members together, we endeavour to do that.

**President** The last matter that I want to really explore with you is the evidence we're getting from our own detention visits and from approaches made to us that the children themselves observe an environment that they see as one of constant surveillance supervision and harassment they in Villawood for example are concerned that Serco staff will threaten with them a loss of privileges if they don't do as they're told, teenage girls, like teenagers everywhere will not always abide by the rules and not inappropriate rules sometimes in terms of when the computers must be turned off that sort of level of detail but nonetheless it was a very very consistent story whether at Villawood or at Christmas Island or other detention centres that staff have visited

that there's an unnecessary level of surveillance and that where they fail to abide by the rules they are being told that their mother won't be allowed to go shopping that week or the visit to the father in a separate compound will not be permitted or that they won't be allowed to go on the school excursion. These are these are very worrying and it's the children themselves who are trying to be protective of their parents as we've just heard from [redacted] this extraordinary phenomenon of children being in a sense protective of their parents that they are actually being being harassed and overly supervised where they're in fact they are not presenting any kind of risk to either anybody else or to themselves. Can you comment at all on how this atmosphere is created and whether it's possible for the Department to rethink the extreme levels of surveillance at least that they are engaged in.

**Mr Cormack** Well look, certainly President, I can acknowledge that it is an inevitable consequence of being in a detention environment that you will be subject to a greater degree of scrutiny of techniques to manage behaviour that threatens the wellbeing of the centre and of other individuals and that part of managing that is applying consequences that's, that's just the reality. Having said that, we are very concerned to receive any reports of that being overly and unnecessarily intrusive and we will certainly through John who, Mr Cahill who looks after our contracted service providers, we will most certainly follow up on any inappropriate behavioural intervention and the extent to which it borders on abuse or intimidation or harassment completely unacceptable. That's a complete violation of the service providers' contractual requirements and would indeed be a very serious breach of our duty of care and we would, to be frank, we would come down on our providers and, if it was our own staff, like a tonne of bricks, we find that unacceptable; we agree with you completely it shouldn't [inaudible].

**President** Well thank you and I know this is not entirely the place for it but we would very much like you to follow up on the extent to which those elements of surveillance are not necessary in the context in which these children are being held. There's one issue though that I would like to raise with you and that is one that again Ms Rim Jezaan referred to as her experience 10 years ago but we're seeing it replicated today and that is this practice of being woken in the middle of the night or very early in the morning in the case of Christmas Island of families and children and sometimes unaccompanied children being woken up at 4 in the morning and told to get their belongings ready and go to the airport. They're not being given advance advice of this and so one of the things a constant refrain was that they lie in fear and it brings back to this problem of intimidation fear every day when they go to bed that they're going to wake up sometime in the night and be woken up by officials demanding that they collect everything they've got around with him and then come out onto the planes. Is that necessary, is it happening is it necessary and is there a better way of

managing this that doesn't create that atmosphere of intimidation?

**Mr Cormack** Ok well look, we'd be very concerned about people being under constant fear of that happening; however, what I would say is that all people that came on Christmas Island are advised on arrival on initial detention on a regular basis that, at any time, you're subject to transfer to offshore processing centre in a consistent Government policy and requirement that we're required to do that so people should not be surprised that they will be transferred to an offshore processing centre because that is our legal obligation to do so.

**President** I understand that is there not a more humane and a way that respects their dignity as human beings to do it in a way that doesn't create this environment of fear?

**Mr Cormack** Look, I think they're always better ways to do this and we're happy to look into the specific circumstances of those complaints. I would say though, that we do need to look at the overall order of the centre and balance the need to give people appropriate notice and we certainly do give them regular notice if they will be subject to transfer with the need to manage outbreaks of non-compliant behaviour which sometimes happens, its unavoidable to a certain extent, and we find the best way to manage that is to do it in a timed and deliberate manner but it's not our intention to cause people alarm and concern in doing that but what we can do is to work with our service providers to reinforce and communicate to all of the detainees that they are subject to transfer and that and that would happen as matter of course, but I completely agree with you but it's not our intention to unnecessarily frighten people or alarm people and we also need to be mindful of the impact of outbreaks of collective non-compliant behaviour in environments such as Christmas Island about 1600/1700 people there to look after and the order can quickly deteriorate if there is a large amount of organised protest behaviour wants to action taken to transfer.

**President** Well I'm sure you're well aware one of the greatest causes for anxiety or as you put it non-compliant behaviour is the length of time in which people are held in detention where their claims to refugee status are not being assessed. I think you're as well aware as I that we have something well over 30,000 people in the Australia community or approximately 5 of them in enclosed detention but nonetheless their claims are not being met that is of course true of those Christmas Island as well. I wonder if you could tell us what your plans are to begin this legal obligation that we have to assess their claims to refugee status.

**Mr Cormack** These are currently matters that are the subject of a range of legislative ... of regulations. Some of which have been disallowed and also subject of legislative change, some of which have been missed but it is the intention of the Department consistent with Government policy to commence the processing of the backlog. The

Government has made very clear to address that but that has been delayed somewhat by the disallowance of a number of regulations and the inability to progress aspects of legislation.

**President** But I'm sure you understand as well as I that one of the causes for these the tension and anxiety of the parents reflected onto the children is that their basic legal rights are not being met in terms of their rights to be assessed as refugees.

**Mr Cormack** We recognise that any delay in assessment of a valid refugee claim that of deep concern for the individuals and we are well aware of the impact that that has on their wellbeing and the Government, through its legislative program, and the Department, in response to those directions, will progress the processing of that large backlog that you refer to. As soon as we are able.

**President** And a final question if I may, rather sadly it seems to me, since we announced this inquiry there has been a significant increase in the number of transfers of unaccompanied minors and children to Nauru. Can you give me some sense of your plans in relation to these children over the next few weeks or months? Is it your intention, for example, to transfer all of those remaining 300 or so that were there when I was there 3 weeks ago to Nauru within the next few weeks?

**Mr Cormack** I can't specify the timetable for transfers but I can say that the Government policy that all arrivals post-July 19 which is [*inaudible*] took everybody on Christmas Island is subject to transfer to regional [*inaudible*].

**President** Okay. Is there anything else? Right, well thank you very much all of you. You have been ... I've been greatly appreciated that you've come up from Canberra many of you, not all and I appreciate your answers to the questions and I hope that we can continue to work together as we have been for a long time in a fruitful and courteous way but critically we ... I understand that we have given you a significant burden with the notice to produce information but that information will be absolutely critical to the accuracy and impact of our report. So I appreciate the extra resources that you are going to have to need to ... that you will need to meet those requirements but I do appreciate it and thank you for coming here today.

**Mr Cormack** Thank you very much.