

**A submission by the Australian Psychological Society to the
Australian Human Rights Commission**

National Inquiry into Children in Immigration Detention 2014

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Contact person:

Heather Gridley

Manager, Public Interest

Phone: (03) 8662 3327

Email: h.gridley@psychology.org.au

Level 11, 257 Collins Street
Melbourne VIC 3000
PO Box 38
Flinders Lane VIC 8009
T: (03) 8662 3300
F: (03) 9663 6177
www.psychology.org.au

Introduction

The Australian Psychological Society (APS) welcomes the opportunity to make a submission *National Inquiry into Children in Detention 2014*. We particularly commend the commission on providing an opportunity to give voice to those who have first-hand experiences of living in immigration detention, as well as those who have worked within these facilities.

Given the purpose of this inquiry - to investigate the ways in which life in immigration detention affects the health, well-being and development of children, the APS believes psychological evidence and the practice-based experience of those who have worked within detention centres is highly relevant and should be considered as part of the inquiry.

The APS is not in a position to comment from a legal perspective. Rather, we frame our response in psychological terms, drawing on current evidence and practice within our broad discipline and profession. Along with research evidence, this submission has been particularly informed by feedback received from psychologists working with people in immigration detention. With their permission, their comments have been included in italics under relevant headings.

The preparation of this submission has been coordinated by the APS Public Interest team in collaboration with the APS Refugee Issues and Psychology Interest Group, with input from other expert advisers, including Researchers for Asylum seekers (RAS).

Executive Summary and Recommendations

Ten years ago the then Australian Human Rights and Equal Opportunity Commission (HREOC) released *A last resort? the report of the National Inquiry into Children in Immigration Detention*. The National Inquiry found that Australia's system of mandatory immigration detention of children was fundamentally inconsistent with Australia's human rights obligations. The National Inquiry also found that children in immigration detention for long periods of time are at high risk of serious mental harm.

We stand by our original submission to that Inquiry, which did not support *the practice of detaining child asylum seekers and their families, on the grounds that it is not commensurate with psychological best practice concerning children's mental health and wellbeing*.

When we made our submission to the HREOC in 2004, we stated that 'there is limited psychological research pertaining directly to the unique impact of mandatory detention on children in Australia'. Rather, we drew upon

psychological theories, principles and knowledge to inform the impact of current practices on the immigration detention of children, in particular, conceptual models of trauma and empirical studies of the impact of trauma.

There is now much more evidence available that points to the independent, adverse impacts of detention on the mental health and wellbeing of refugees seeking asylum. Much of this is from the Australian context. The outcomes for children in particular are extremely concerning. We now have over a decade of experience and research from the detention of significant numbers of children and the reported mental health consequences are alarming.

With approximately 1000 children currently in immigration detention (including some in offshore locations), it is timely to again review the evidence and outcomes for children and families who have been exposed to this environment. It is time for decisions to be made based on this evidence and in line with our international obligations under the *Convention on the Rights of the Child*.

The mental health, physical health, social and economic consequences of detaining asylum seekers, particularly children, extend well beyond the period of detention. They also extend beyond individual asylum seekers to ripple effects experienced in the wider community, both in terms of the challenges individuals who have been subject to detention face in settling once released from detention into the community (for example the ongoing impact on our health system), and more broadly on our social and community standards of what we consider acceptable in the way we respond to and treat the most vulnerable in our society.

Australia's immigration detention policy is also in direct opposition to the wealth of evidence and current international practice of promoting optimal settings for children to thrive, as well as outside the Australian Government's policies supporting effective mental health and suicide prevention programs.

Recommendations

Recommendation: Research has shown that detention has an independent, adverse effect on mental health by exacerbating the impacts of previous traumas and is in itself an ongoing trauma. The APS therefore recommends that immigration detention is only used as a short-term option, for as long as is needed to enable appropriate security and health clearances to be completed.

Recommendation: Immigration Detention has been found to be particularly harmful for children. Detention accentuates developmental risks, threatens the bonds with significant caregivers, limits educational opportunities, has destructive psychological impacts and exacerbates the impacts of other traumas. The APS recommends that children should be processed on the Australian mainland and, pending the outcome of their Refugee Assessment Status claims and security clearances, they should be placed in the community.

Recommendation: The detention environment is not an appropriate environment for children or families. Should detention be deemed necessary, children and families should be accommodated separately from other asylum seekers and appropriate resources and indoor and outdoor spaces should be provided for children.

Recommendation: Based on the evidence linking longer periods of detention with poorer mental health outcomes, the APS recommends that where detention is deemed to be necessary, it is for the shortest time possible. The APS strongly supports the removal of indefinite or arbitrary detention.

Recommendation: Detention constitutes a high risk environment for child abuse to occur. Currently there is a lack of experience and/or structure to respond to child abuse. The APS recommends that a rigorous child protection framework be developed and implemented in all detention facilities that house children.

Recommendation: It is recommended that mental health services are provided to detainees, including children, which include access to appropriately trained interpreter services. For the provision of appropriate mental health services, the APS recommends the Government re-convene an advisory panel such as the previous IHAG and work within existing State and Territory mental health frameworks and policies.

Recommendation: Detention limits educational opportunities. If there must be mandatory detention, regular (daily) access to meaningful play opportunities and facilities, as well as educational opportunity, appropriate to the child's age and stage of education should be provided. For psychological health reasons this should occur offsite from the centre.

Recommendation: If there must be mandatory detention, adequate child and adolescent mental health and maternal and child health services should be provided. Pregnant women and those with serious illness needing medical care should access treatment outside of the detention facility, and where asylum seekers are transferred out for their care, they should not be returned to offshore detention centres post-care.

Recommendation: The Convention on the Rights of the Child states that children have a right to remain with both their parents (unless contrary to their best interests). It is therefore recommended that children remain with their families while in immigration detention and that family separation within the detention network be avoided.

Recommendation: The Convention on the Rights of the Child states that children who are without their family have a right to special protection and assistance. The APS recommends that unaccompanied minors be processed in the community, and where detention must occur, unaccompanied minors, particularly females, should be provided with separate, safe accommodation and appropriate support while in detention. In terms of guardianship, the best interest of the child principles should apply to this group so that they are treated according to appropriate human rights standards.

Recommendation: It is recommended that community-based alternatives to detention are prioritised, especially for children, as part of a system-wide reform of the detention network and policy. We refer to two comprehensive reports - one by the UNHCR (2011) and the other by the LaTrobe Refugee Research Centre (2011), and to the majority of host countries around the world, where mandatory detention is not utilised.

Impacts of mandatory detention on mental health

Research examining the mental health of refugee claimants in immigration detention has shown the deleterious effects of detention. A systematic review of studies from the USA, UK and Australia investigating the impact of immigration detention on the mental health of children, adolescents and adults concluded that research consistently “supported an association between the experience of immigration detention practices and poor mental health... (finding that) detention itself (has) an independent adverse effect on mental health” (Robjant, 2009, p. 310).

A thorough review of relevant psychological theory and available research findings was also completed by the APS (2008), which concluded that detention is a negative socialisation experience, particularly for children, and that detention exacerbates the impacts of other traumas. Subsequent research has supported this finding, demonstrating that detention, particularly long-term detention, is detrimental to the mental health of refugees (e.g., Dudley et al, 2012; Steel et al, 2011) and is responsible for new mental health problems among those who are exposed to immigration detention (Zimmerman et al, 2012).

A thorough review of relevant psychological theory and available research findings from international research led us (the APS) to conclude in 2004 that holding children and young people in detention is particularly harmful. That review stated that detention accentuates developmental risks, threatens the bonds with significant caregivers, limits educational opportunities, has destructive psychological impacts and exacerbates the impacts of other traumas (APS, 2004; Thomas & Lau, 2002).

These impacts were amply documented in the HREOC Inquiry into Children in Immigration Detention (2004), which found alarming levels of suicidal ideation and acts of self-harm amongst young detainees; alarming levels of Major Depressive Disorder and Post Traumatic Stress Disorder amongst young detainees; diagnosis of other mental health problems, including anxiety, nightmares, bed wetting, dissociative behaviour, emotional numbing and a sense of hopelessness. Evidence also suggested that the levels of mental health care required by these young people could not be delivered effectively in a detention setting.

More recent research has confirmed these findings, showing high levels of psychopathology in child and adult asylum seekers, attributable to traumatic experiences in detention and, for children, the impact of indefinite detention (Mares & Jureidini, 2004). Detained children experience mental and physical

health difficulties of recent onset, which appeared to be related to the detention experience (Lorek et al, 2009).

Along with the direct impacts of detention on the mental health and wellbeing of children, is the impact of detention on parents and their ability to parent effectively within while (and subsequent to) being detained. Immigration detention profoundly undermines the parental role, renders the parent impotent and leaves the child without protection or comfort in already unpredictable surroundings where basic needs for safe play and education are unmet (Mares et al, 2002).

These impacts are exacerbated in offshore locations, where the remoteness severely restricts access to a range of structures and supports, including mental health services, that are required to ensure the safety and healthy development of children (Proctor et al, 2014).

Recommendation: Research has shown that detention has an independent, adverse effect on mental health by exacerbating the impacts of previous traumas and is in itself an ongoing trauma. The APS therefore recommends that immigration detention is only used as a short-term option, for as long as is needed to enable appropriate security and health clearances to be completed.

Recommendation: Immigration Detention has been found to be particularly harmful for children. Detention accentuates developmental risks, threatens the bonds with significant caregivers, limits educational opportunities, has destructive psychological impacts and exacerbates the impacts of other traumas. The APS recommends that children should be processed on the Australian mainland and, pending the outcome of their Refugee Assessment Status claims and security clearances, they should be placed in the community.

Responding to the terms of reference

The appropriateness of facilities in which children are detained
How would you describe the immigration detention facility? Are there fences, checkpoints and mechanisms that limit the movement of children?

Is there access to a natural environment for children?

Is there private space for children and families for living and sleeping?

Is the immigration detention facility a clean and pleasant environment?

In your view, what is the impact of detention on children? Describe your response to the conditions of detention for children.

The detention environment

Several aspects of the detention environment raise concerns including the physical environment, what happens within detention (the routine, activities, culture) and more specifically, how the environment accommodates children and their families.

The physical detention environment is prison-like and has been described as a maximum security environment. Centres are surrounded by barbed wire and razor wire fencing which reflects the continued punitive culture. Bull et al (2012) point to the similarities to prison environments, including the management by private company Serco Australia Pty Ltd. Stressors of indeterminate detention, presence of violence and risky self-harming behaviours, overcrowding and lack of access to adequate health treatments in an environment which is essentially punitive in character, the lack of meaningful activities and erosion of personal and social resources for coping exacerbate the destructive impacts of any previous trauma or mental health problems. Detainees, including children, have also been reported to be referred to by their numbers not their names.

Particularly in offshore detention, conditions involve 'crowded hot and humid living conditions in an enclosed detention environment with minimal access to meaningful activities, for prolonged periods with uncertain endpoints' (Proctor et al, 2014, p.2). General detainees are subject to intrusive headcounts during the night and guards asserting authority regularly for example where or not they could sit (Jureidini & Burnside, 2011). These multiple restrictions and regulations impact on more than the loss of freedom of movement (Bull at al, 2012).

Appropriateness for children

We are concerned however, that along with the overall harmful conditions outlined above, there is also a lack of child-friendly resources and spaces across the detention centre network and particularly in offshore locations. Access to toys, shaded playgrounds, diverse environments, opportunity to play and explore, and space for different age groups to socialise safely are inadequate in many facilities. An APS member psychologist who had worked in an immigration detention centre observed:

There was a lack of play equipment or child oriented activities on the sites where I worked and staff like myself would often use our own funds to buy what we could and raid local Op Shops to provide play activities for the children.

Impact of detention on children and families

Research has found significantly high rates of psychological distress and disorder including depression, suicidal ideation, anxiety, Post Traumatic Stress Disorder, and sleep disorder of those subject to immigration detention (Bull et al, 2012; Coffey et al, 2010; Robjant et al, 2009; Steel et al, 2011).

Children in particular have been found to exhibit extremely high rates of psychiatric disorder (Steel et al. 2004 found that children had a tenfold increase in psychiatric disorder subsequent to detention). Mares and Jureidini (2004) confirmed these high levels of psychological distress among adults and children in detention, finding most children studied had made significant attempts at self-harm and had persistent severe somatic symptoms. The majority (80%) of preschool-age children were identified with developmental delay or emotional disturbance. They found very high levels of psychopathology in child and adult asylum seekers. Much was attributable to traumatic experiences in detention and, for children, the impact of indefinite detention.

Along with the direct impacts of detention on the mental health and wellbeing of children, is the impact of detention on parents and their ability to parent effectively within while (and subsequent to) being detained. Immigration detention profoundly undermines the parental role, renders the parent impotent and leaves the child without protection or comfort in already unpredictable surroundings where basic needs for safe play and education are unmet (Mares et al, 2002). This potentially exposes the child to physical and emotional neglect in a degrading and hostile environment and puts children at high risk of the developmental psychopathology that follows exposure to violence and ongoing parental despair (Mares et al, 2002).

Parents have reported feeling like they were no longer able to care for, support, or control their children (Steel et al, 2004). Some parents have been found to have withdrawn from their parenting role, due to the sense of helplessness they experience living in detention (Dudley et al, 2012; Steel et al, 2004). This has serious implications for the healthy development of children. The extent therefore to which the physical and emotional wellbeing of the adult upon whom children depend for nurturance and support is affected by their [the adults'] experiences can pose a particular risk for children (APS, 2004). This is supported by the practice experience of another APS member psychologist, who observed:

The parents of the children in the detention centres were restricted in their ability to parent their children well. Due to the parents' lack of supervision I

had many concerns regarding the potential for children to be abused by other individuals.

Recommendation: The detention environment is not an appropriate environment for children or families. Should detention be deemed necessary, children and families should be accommodated separately from other asylum seekers and appropriate resources and indoor and outdoor spaces should be provided for children.

The impact of the length of detention on children

Does the timeframe of the detention have a particular impact on children? For example, is there any difference in the ways in which a child responds to immigration detention after 1 week, 1 month, 3 months, 6 months, 1 year? Please give examples.

From my experience, a child's length of stay in detention remains the most devastating factor in current and future mental and social wellbeing. I am absolutely certain that children who have been detained for prolonged periods, in addition to the immediate impact that detention has, will have ongoing difficulties well into the future... this also has an impact on families, as a child's wellbeing is often a major source of anxiety amongst detained parents (Psychologist who worked in immigration detention).

Accumulated research demonstrating the harm associated with extended periods of detention concludes that "longer periods of detention are associated with worse outcomes" (Robjant et al, 2009, p. 310).

Sultan and O'Sullivan (2001) suggest that psychological difficulties observed among detainees increased through successive stages, triggered by negative outcomes on asylum decisions, while Green and Eagar (2010) found that time in detention was significantly related to the rate of new mental health problems among detainees, finding that 40% of those held for 2 years or longer developed new mental health symptoms.

Steel et al (2006) found that those who were detained for longer than 6 months showed greater levels of traumatic distress related specifically to past detention compared to those who had been detained for shorter periods. A higher proportion of those who had been detained in excess of 6 months met diagnostic cut-offs for PTSD, depression, and moderate to severe mental health-related disability than those who had been detained for shorter periods or who had not been detained.

This has been further validated by Coffey et al (2010), who interviewed refugees who had been detained for extended periods (three years on

average) three years post-release and found that all participants were struggling to rebuild their lives in the years following release from detention, and for most the difficulties experienced were pervasive.

Lorek et al. (2012) found that child detention was associated with post-traumatic stress disorder, major depression, suicidal ideation, behavioural difficulties and developmental delay, as well as weight loss, difficulty breast-feeding in infants, food refusal and regressive behaviours, and loss of previously obtained developmental milestones. Importantly, these children were detained for relatively short periods of time (on average, 43 days), suggesting that even brief detention can be detrimental to children.

Bull et al. (2012) also identified a harmful relationship in relation to physical and mental health whereby poor health worked to extend the period of detention and detention also contributed to deteriorating mental health. Detention was identified as causing or exacerbating health problems, and poor health was linked to delays in removal and difficulty in proceeding with required migration processes, extending the period of detention. They concluded the most significant impact on asylum seeker health was the duration of detention with an uncertain outcome. Recent studies suggest that the mental health effects may be prolonged, extending well beyond the point of release into the community.” (Silove & Steel, 2007, p.359).

Recommendation: Based on the evidence linking longer periods of detention with poorer mental health outcomes, the APS recommends that where detention is deemed to be necessary, it is for the shortest time possible. The APS strongly supports the removal of indefinite or arbitrary detention.

Measures to ensure the safety of children

Can you describe the measures to protect children from harm?

Is there support for children who may be suffering from trauma either as a result of previous life experiences or in relation to the experience of detention?

Please describe the security checks for children as they enter and leave immigration detention facilities. Do you think these checks are appropriate for children?

Exposure to trauma and risk within detention

Child asylum seekers are a population with a high incidence of trauma and torture experiences already, and are one of the most vulnerable groups of displaced persons. The detainee experience, with limited ways of communicating one's plight, shapes the expression of distress (Newman et al, 2008).

Exposure to trauma within detention is commonplace. Self-harm and suicidal behaviours are common among adult detainees and children too have been reported to self-harm, although the rates are not as clear. All adults and the majority of children have been reported to be regularly distressed by sudden and upsetting memories about detention, intrusive images of events that had occurred, and feelings of sadness and hopelessness (Steel et al, 2004).

There is also a significant risk of child abuse (including sexual abuse) for children held in immigration detention, where large numbers of children are held with adults in crowded conditions without normal social structures (Proctor et al, 2014). Despite this risk, detention centres do not all have child protection frameworks (Proctor et al, 2014). As described by a psychologist with experience in immigration detention:

In short, there is no uniform policy on child protection from any of the stakeholders involved in immigration detention. Because of this 'grey area', steps taken to address such issues are often implemented on a case by case basis, are inconsistent and can often do very little to mitigate the risk to children.

Rather than support children who may (or are likely to) have experienced trauma, the detention facility itself is a traumatic experience which is unsafe for children. Children who have been displaced and/or who are detained in Australian detention centres have been exposed to a number of cumulative risk factors, which makes them particularly vulnerable and less resilient.

Recommendation: Detention constitutes a high risk environment for child abuse to occur. Currently there is a lack of experience and/or structure to respond to child abuse. The APS recommends that a rigorous child protection framework be developed and implemented in all detention facilities that house children.

Access to services and support

The lack of access to support for detainees, particularly mental health services, is of particular concern, especially in offshore detention facilities. Despite an Ombudsman report identifying that mental health staffing has increased, there remains a significant unmet demand for services, especially in offshore facilities (Commonwealth Ombudsman, 2011).

The detention setting places significant obstacles in the way of clinicians providing effective and, ethical mental health services, making significant improvement in such an impoverished environment improbable.

The experiences relayed to the APS of psychologists working within detention have highlighted the inadequacy of the resources and lack of appropriately trained professionals to deliver mental health services:

At all centres there is a lack of facilities or resources to conduct thorough psychological assessment, treatment with children. Additionally there are few, if any, clinicians who are trained to work with children. At XXXX centre we have one child and adolescent psychologist who works two days a week. Given the population, this is completely inadequate. I am aware that at [another centre] children have been approved to attend external psychological providers who have the appropriate facilities to assess and treat children.

Outside of the consult room, other facilities and services are often limited, becoming more problematic the longer children are detained. As you are more than aware good mental health and development cannot be provided by mental health professionals alone if the foundations are not in place. Families are often limited in the services outside of school their children can take part in. (Psychologist who worked in immigration detention)

The Immigration Health Advisory Group (IHAG), on which APS was represented, had provided independent expert oversight on the provision of health services to asylum seekers. The capacity of the Department needs to be strengthened to make accurate decisions regarding the health of people in detention with the assistance of independent expert advice.

It has been noted (e.g. by Dudley, 2003) that the Australian Government's policies supporting successful suicide prevention programs stand in contrast to its policy regarding indefinite mandatory detention of asylum seekers.

Recommendation: It is recommended that mental health services are provided to detainees, including children, which include access to appropriately trained interpreter services. For the provision of appropriate mental health services, the APS recommends the Government re-convene an advisory panel such as the previous IHAG and work within existing State and Territory mental health frameworks and policies.

Provision of education, recreation, maternal and infant health services

Is formal education available to children? Please describe the types of education that are available. Is it appropriate for the age, the educational level and needs of the child?

Are there playgrounds and play equipment for children?

Can you describe the medical services and support that is available for expectant mothers and new mothers? Can you describe the medical support for babies and infants? Do you think these services are appropriate?

Education for children in detention

Structured, routine opportunities for children to participate in a rich learning environment in the company of peers within the confines of detention centres are considered to be one of the minimal requirements of child care. Opportunities to learn both in the language of origin and in the language of the detention context should be provided in order to facilitate children's psychological sense of identity and place, and their ability to adjust, cope and grow with adversity.

There are also significant concerns about the level and quality of education available to children in detention, with reports that only limited access to education is being provided, particularly to those in offshore detention. Proctor et al. (2014) for example, reported that children detained on Nauru had limited opportunity to play and reduced hours of schooling in difficult conditions.

Recommendation: Detention limits educational opportunities. If there must be mandatory detention, regular (daily) access to meaningful play opportunities and facilities, as well as educational opportunity, appropriate to the child's age and stage of education should be provided. For psychological health reasons this should occur offsite from the centre.

Access to maternal, child and health services

Women who are pregnant in detention are particularly vulnerable, and are at risk of perinatal depression and anxiety. This typically begins during pregnancy and may worsen after delivery with risk to both mother and infant. There are limited perinatal mental health services in all remote areas and that this contributes to delays in appropriate treatment in some cases.

Proctor et al (2014) reported that all most pregnancies on Nauru have been categorised as high risk (due to mental and/or physical health concerns) and have required that the woman be transferred to the mainland. Mental health staff reported that most pregnant women had "consistently high" scores of depression on the Edinburgh postnatal depression scale. "Most women scored around 24, where the cutoff point for detecting significant depression is 10," the report says.

There have also been reports of pregnant women and sick people being transferred from offshore detention facilities to the mainland for

birth/treatment, only to be sent back to offshore detention following their treatment. This is severely disruptive to optimal health and mental health.

Recommendation: If there must be mandatory detention, adequate child and adolescent mental health and maternal and child health services should be provided. Pregnant women and those with serious illness needing medical care should access treatment outside of the detention facility, and where asylum seekers are transferred out for their care, they should not be returned to offshore detention centres post-care.

***The separation of families across detention facilities in Australia
Do you have experience of family separation due to immigration detention?***

Are you aware of instances of family separation as a result of immigration detention?

What forms of contact are available for families to maintain communication?

What efforts were made to reunite children with siblings and parents?

What are the effects of family separation on children?

Refugee children are already likely to have experienced loss and/or separation from family members as part of their refugee journey. Ensuring that family members remain together while in detention therefore is essential to avoiding exacerbating any previous sense of loss/separation. The presence of family has been found to be a protective factor in preventing further distress, particularly for children (APS, 2008).

There have been reports of families being involuntarily separated between the mainland and offshore detention facilities (Proctor et al, 2013) and in other countries such as New Zealand, and that this separation contributed to poor psychological outcomes in both parents and children (Bull et al, 2012). One experience of family separation has been provided by a psychologist who has worked in immigration detention:

I worked very closely with a family (husband, wife and two primary school age children) who were separated. The family in question had arrived a number of months earlier, they were reunited with their husband/father at one detention centre who had received an ASIO adverse security clearance and been in detention a number of years. The family were abruptly moved to another detention centre while the father moved to a different centre. They were not provided with a reason as to why they had been separated. During this time the man was at increased risk of self-harm and his mental health deteriorated significantly. His family was one of his only protective factors. I

also know this had a devastating impact on the children. The family were eventually reunited after he had his independent review for his adverse security assessment.

Frequent relocations between asylum-seeker centres are associated with mental distress in asylum-seeking children (Goosen et al, 2014), with the risk of mental distress greater in asylum-seeking children who had undergone a high annual relocation rate. This risk increase was stronger in vulnerable children. These findings contribute to the appeal for policies that minimise the relocation of asylum seekers.

Recommendation: The Convention on the Rights of the Child states that children have a right to remain with both their parents (unless contrary to their best interests). It is therefore recommended that children remain with their families while in immigration detention and that family separation within the detention network be avoided.

The guardianship of unaccompanied children in detention in Australia

What care and welfare services are available for children who arrive in Australia without parents or family members?

Are the supports adequate?

Is closed detention appropriate for unaccompanied minors? How can they be best supported?

The Minister for Immigration and Border Protection is the legal guardian for unaccompanied children in detention – is this an appropriate arrangement?

The separation of young people from their primary caregiver may occur in the pre-migration phase; however, the impact may be felt post migration. Young people could very well view separation from their parents or primary caregiver as a traumatic event, and unavailability of the primary carer may be a missing protective factor (Bronstein & Montgomery, 2011).

Unaccompanied minors have been identified as a particularly at risk group, with unaccompanied female minors being particularly vulnerable. While it is recommended that unaccompanied minors are accommodated separately from adult asylum seekers, accommodation of unaccompanied minors, particularly female minors in compounds with families poses additional risks of sexual predation.

There is also a conflict of interest for the Minister for Immigration to be both simultaneously the legal guardian of unaccompanied minors while also responsible for the Migration Act and decisions relating to Immigration. The

best interests of unaccompanied minors are not being adequately respected (AHRC, cited in Jureidini & Burnside, 2011).

Recommendation: The Convention on the Rights of the Child states that children who are without their family have a right to special protection and assistance. The APS recommends that unaccompanied minors be processed in the community, and where detention must occur, unaccompanied minors, particularly females, should be provided with separate, safe accommodation and appropriate support while in detention. In terms of guardianship, the best interest of the child principles should apply to this group so that they are treated according to appropriate human rights standards.

Alternatives to detention

There are alternatives to mandatory indefinite detention. We refer the committee to a recent publication by the LaTrobe Refugee Research Centre (Sampson et al, 2011), which is a comprehensive review of alternatives to detention. The report identifies:

- that within an international context, “most countries do not use detention as the first option in the majority of cases; that a number of countries rarely resort to immigration detention, if at all; and that successful migration systems break down the population before considering management or placement options” (p.6).
- that alternatives to detention involve laws and policies that enable asylum seekers to reside in the community with freedom of movement while their claims are being assessed.
- assessment of each case is the focus of alternatives to detention and ensuring that community structures are in place to support the individual while their claims are being assessed.
- a range of benefits associated with the prevention of unnecessary detention, including lower costs, higher rates of compliance, reduced wrongful detention, and improved client health and welfare.

The research concludes that “with effective laws and policies, clear systems and good implementation, managing asylum seekers, refugees and irregular migrants can be achieved in the community in most instances” (p.5).

Recommendation: It is recommended that community-based alternatives to detention are prioritised, especially for children, as part of a system-wide reform of the detention network and policy. We refer to two comprehensive reports - one by the UNHCR (2011) and the other by the LaTrobe Refugee Research Centre (2011), and to the majority of host countries around the world, where mandatory detention is not utilised.

Conclusion

Detention has traumatic impacts on child asylum seekers; it reduces children's potential for recovering from trauma and exacerbates impacts of other traumas. Detention accentuates developmental risks, threatens bonds with significant caregivers, limits educational opportunities, has destructive psychological impacts, and undermines parental roles and family processes.

While there is now more research and awareness about the detrimental impacts on the mental health, health and wellbeing of asylum seekers exposed to detention, this has not led to improved policy or a decrease in those being detained. In fact, there are as many if not more children now detained, including in offshore locations, since the Commission's last Inquiry.

While there have been some positive changes, such as the development of a community detention network, this is not available to all children and families. As we stated in our original submission, Australia's current policy (and practice) of detaining children, especially for prolonged periods, is arguably in violation of the Convention on the Rights of the Child. According to the Convention, 'the best interests of the child should be a primary consideration in all actions concerning children'. It is difficult to see how knowingly exposing children to the kind of harms documented in the psychological literature is in the best interests of children.

About the APS

The Australian Psychological Society (APS) is the national professional organisation for psychologists with over 21,000 members across Australia. Psychologists are experts in human behaviour and bring experience in understanding crucial components necessary to support people to optimise their function in the community.

A key goal of the APS is to actively contribute psychological knowledge for the promotion and enhancement of community wellbeing. Psychology in the Public Interest is the section of the APS dedicated to the communication and application of psychological knowledge to enhance community wellbeing and promote equitable and just treatment of all segments of society.

Psychologists regard people as intrinsically valuable and respect their rights, including the right to autonomy and justice. Psychologists engage in conduct which promotes equity and the protection of people's human rights, legal rights, and moral rights (APS, 2007). The APS continues to raise concerns and contribute to debates around human rights, including the rights of clients receiving psychological services, and of marginalised groups in society (such as Aboriginal and Torres Strait Islander people, asylum seekers and refugees and LGBTI individuals and groups) (<http://www.psychology.org.au/community/public-interest/human-rights/>). Underpinning this contribution is the strong evidence linking human rights, material circumstances and psychological health.

APS activities response to mental health and detention

APS members have involved themselves in a range of support and advocacy activities in relation to *refugees over the past 10 years*. The APS has contributed to many [public inquiries](#) into aspects of immigration detention.

The APS has a [position statement](#) on the psychological wellbeing of refugees seeking asylum in Australia. The aim of this statement is to provide an overview of concerns related to refugee mental health and wellbeing within the Australian context, and to position psychologists' responses to these issues. The statement is derived from consultation with psychologists working with refugee communities, a review of current refugee research and practice, and a comprehensive [literature review](#) released by the APS titled: Psychological Wellbeing of Refugees Resettling in Australia (APS 2008).

The APS was also represented on the Detention Health Advisory Group that developed evidence-based policies and procedures in regard to the health and wellbeing of detainees, particularly around suicide and self-harm issues.

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