Submission to the Australian Human Rights Commission’s Inquiry into Children in Immigration Detention.

Submission Date: 15 June 2014

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Introduction.

Thank you for the opportunity to contribute to this inquiry.

This submission comments on each of the Commission’s terms of reference with an emphasis on an examination of the psychological consequences of immigration detention for children. The views in this submission are derived from my experience of assessing many hundreds of detained and formerly detained asylum seekers over the past 16 years while working as a clinical psychologist within public mental health services and with Foundation House (the Victorian Foundation for Survivors of Torture). In the past four years I have assessed and treated a few hundred detained asylum seekers referred by detention health services and many others who have been released into the community. The majority of detained asylum seekers assessed have been detained at Maribyrnong Immigration Detention Centre and the Melbourne Immigration Transit Accommodation, although nearly all have been detained earlier at other places of detention throughout Australia and have often described their experiences in those facilities. Among those I have assessed have been parents and their children and unaccompanied children. An additional and equally important source of information for this submission are accounts provided by colleagues who are working with detained asylum seekers throughout Australia, including Christmas Island. I consult with a number of clinicians and counsellors providing services to asylum seekers detained within the immigration detention network.

I made oral and written submissions to the AHRC inquiry in 2004; I will comment on changes in the detention arrangements over the last decade.

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The views expressed herein are my own and are not necessarily those of the organisations at which I am employed.

1. A brief historical note on detention arrangements for children.

A decade ago, at the time of AHRC’s first inquiry, children were held in Immigration Detention Centres. At that time I had assessed a number of families and children who were held at Maribyrnong IDC and others, by then in the community, who had been held in remote centres such as the Baxter and Woomera facilities. At Maribyrnong IDC there had been a number of single mothers with children under five years old. They came from countries such as Afghanistan and Somalia and had experienced civil war, severe material deprivation, loss of immediate family, and in a few instances the murder of their husbands. Maribyrnong IDC was, and still is, a closed, institutional and prison like environment with little open area. At that time there was a complete lack of suitable space for children to play. The population consisted of asylum seekers and people facing deportation, sometimes owing to the commission of violent offences. A number of the mothers I assessed suffered post-traumatic symptoms, acute grief and severe depression. They felt unable to adequately care for their children because of their depression and feelings of fear, exhaustion and despair and because the detention environment was so incompatible with their children’s well-being. I recall a severely depressed and withdrawn mother who spoke no English and who had lost many family members in a civil war whose children were moved into the community because she had not been able to care for them. She remained in detention. Another very young mother despaired at her inability to look after her children and said she was losing her mind to the point that she was forgetting the rudiments of her culture such as traditional children’s stories which she wanted to impart to her children. She decided to return to Afghanistan without completing her asylum claims. She returned to her village with her children but found it razed. Her contacts in Australia last heard from her in 2005 when she was living on the Afghan-Pakistan border.

Many former asylum seekers who were detained children at this time have described to me oppressive conditions in remote centres during which they were exposed to riots, self-harm and violence.

Legislative and policy reforms from 2005 have meant, with recent exceptions described below, that there has not been a repetition of such detention arrangements for children. Children have not been held in immigration detention centres in the last ten years. In 2004 release of families into a version of community detention was highly unusual and was achievable only through the Minister’s powers under s 5 of the Migration Act 1958 to designate a place in the community as a place of detention. The family was required to be ‘held by, or on behalf of, an officer’, which in practice usually meant they were under constant close supervision of a departmental employee.
The residence determination provisions have meant that for most of the last ten years families and children have moved into the community prior to the completion of their asylum claims. Unlike in 2004, there have been the statutory mechanisms and the infrastructure in place to move children rapidly into the community. This has not however always occurred.²

From mid 2009 numerous children were detained in facilities such as the Alternative Place of Detention on Phosphate Hill, Christmas Island, and then in mainland facilities such as the Melbourne Immigration Transit Accommodation (MITA). On 14 January 2011 there were 1040 children in detention facilities and 25 children in residence determination.³ The evidence was that many children between 2009 and late 2011 became despairing and withdrawn, and a considerable number developed psychological disorders⁴. Children were often exposed to violence and self harm. For example, in just over three months from mid November 2010, there were 10 incidents of self-harm at the MITA⁵ which in January 2011 held 129 unaccompanied children⁶.

The announcement by the Minister for Immigration and Citizenship, Chris Bowen, on 18 October 2010 that a majority of detained children would be moved into community detention by mid 2011 appeared to be, from a humanitarian and mental health perspective, one of the most important immigration detention policy developments in recent times, and one, contrary to many prior policy commitments, which was acted upon. By early July 2011, 62% of children had been moved into community detention⁷, although over 400 children remained in closed detention facilities.⁸ I understand that in 2012 there was a policy of attempting to move families and children off Christmas Island within a month; once on the mainland it appeared many families were moved within weeks or a month or two into community detention. The movement of children into the community was facilitated by the Department’s increased emphasis on identifying obstacles to status resolution and the allocation of dedicated case managers to each detained person. The pattern of release for the entire detained population reflected this commitment; from June 2011 when 69% of detainees had been detained for longer than six months, the proportion steadily fell until November 2012 when 15% were detained for over six months⁹.

² The following three paragraphs are adapted from my ‘Submission to the Joint Select Committee on Australia’s Immigration Detention Network, 15 August 2011.
³ Community and Detention Services Division, DIAC - As at 14 January 2011.
⁴ The Victorian Foundation for Survivors of Torture has had extensive experience with children detained at the Melbourne Immigration Transit Accommodation.
⁵ Senate Legal and Constitutional Affairs Legislation Committee, 21 February 2011, Additional Estimates (190, Senator Cash).
⁶ Community and Detention Services Division, DIAC - As at 14 January 2011.
⁸ Parliamentary library report 33.
Despite the intentions of the October 2010 policy announcement however, children continued to be held in closed facilities and the numbers again began to increase - on 31 December 2012, there were 1221 children in immigration detention facilities and alternative places of detention. The majority of children I and colleagues had contact with were being moved into the community in under six months, however for reasons that were often not clear, some asylum seekers including families with young children experienced much longer periods of detention. Some families arriving in this period spent a year or more in a detention facility after which they were released into community detention.

The policy following Minister Bowen’s announcement resulted in many children being held in immigration detention facilities for a few months or less and doubtlessly this reduced the sum of psychological harm caused to the population of detained children who avoided extended detention. However, even if this was, from the perspective of the psychological well-being of asylum seeker children, an improved policy, it did not conform to the principle contained in s4AA of the Migration Act that children only be detained as a measure of last resort. The approach of avoiding the placement of children in immigration detention centres, but holding them in other facilities would appear to neither comply with the law governing these children nor succeed in avoiding harm. Informed opinion has never considered it the case that harm to children could be avoided by detaining them in less prison like facilities than a detention centre. Incarceration and the deprivation of liberty, the absence of normal social life and educational opportunities for children who may be traumatised and without family causes distress and among some will cause significant harm.

Following the previous government’s announcement on 19 July 2013 that all unauthorised maritime arrivals will be transferred to a regional processing country and will not be resettled in Australia, children have been held in Christmas Island facilities awaiting transfer. All asylum seekers arriving prior to that time have been transferred to the mainland other than those repatriated. The consequence of this policy, which was continued by the present government, has been that children on Christmas Island have been held in detention facilities for what is at the time of writing up to 11 months. The only prospect of the current detention arrangements concluding for them is that they are transferred to a detention facility on Nauru.

2. The determinants of the psychological responses of children in immigration detention.

Adult asylum seekers’ experience of detention, their reaction to being detained and its effect on them, is influenced by their mental and physical health status upon arrival; their expectations regarding immigration detention and the system of refugee status
determination; the conditions of detention; their ongoing relationships with family and others; and the length of detention and status resolution. Older children will be directly affected by the same factors; while younger children will often be affected by them most powerfully through the influence they have on the capacity of the parent to care for them. I have organised the following commentary into various categories relating to detained children’s well-being.

a. The developmental stage of the child.

There is now incontrovertible evidence that the mental health of asylum seekers deteriorates with length of time in immigration detention. This evidence includes research commissioned by the Department of Immigration and Border Protection. Possible mechanisms by which length of detention affects psychological well-being have been explored. A deterioration in a parent’s mental health directly affects children. There is considerable evidence that children can suffer long term adverse psychological sequelae when their parents have been unable to provide them with consistent care owing to mental illness and alternative sources of nurturance have been unavailable. More generally, there is evidence that childhood stress and adversity in the absence of protective factors such as strong familial support can lead to emotional difficulties in adolescence and earlier adulthood. Scholars of child development recently reviewed the current evidence:

Exposure to family stress is associated consistently with maladaptive outcomes in childhood and adolescence. Research suggests that early exposure to stressful contexts, including substandard housing, crowded households, family turmoil, and poverty, alter physiological responses to stress ... Early life stressors and childhood adversity have long lasting effects by altering the reactivity and regulation of the stress response.

It is a commonplace occurrence for trauma counsellors and detention mental health staff to assess parents who are psychologically incapable of providing the care their children need while in the detention environment. Depending on the nature of the disorder, parents can become inattentive; self absorbed; lacking sufficient energy to

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11 Green, P, and Eagar, K; The Health of People in Australian Immigration Detention eMJA Rapid Online Publication, 14 December 2009.
12 Coffey,G; Kaplan, I; Sampson, R; and Tucci, M (2010) The Meaning and Mental Health Consequences of Immigration Detention for people seeking asylum Social Science and Medicine 2070-2079.
14 Benjamin G. Shapero and Laurence Steinberg; Emotional Reactivity and Exposure to Household Stress in Childhood Predict Psychological Problems in Adolescence J Youth Adolescence (2013) 42:1573–1582
help with every day assistance; irritable and intolerant of the child’s requests; and in the case of more severe disorders, the parent can induce unreasonable fears in their children. The precise effects will depend on a range of variables, the obvious being exactly how the parent’s parenting skills are impaired; the child’s age and developmental stage; pre-existing vulnerability; and the availability of alternative care.

In the past six months I have observed and colleagues have described to me a range of psychological disturbance in children which appear to be at least partially attributable to the parents’ mental illness or level of distress.

**Mother’s with new born infants**

A number of women with children born while detained have suffered depression and anxiety following the birth of their child. Many have required specialist mental health services delivered by mother-baby units. Some appear to feel overwhelmed by the prospect of raising a child in what they regard as the bleak and alien environment of a detention facility. All these women have been transferred from either Christmas Island or Nauru. There appears to be a very high level of post-natal depression in pregnant women transferred from Nauru which requires further investigation. The mothers say the conditions in the facilities they were previously held in and to where they expect to be returned, are incompatible with caring for an infant. They describe harsh conditions in which it was difficult to maintain one’s own well being quite apart from doing so while caring for a baby and perhaps also other children. One pregnant woman with young children said that she had requested a termination of her pregnancy when on Nauru and after she was transferred back to Australia because she didn’t believe she could raise another child in the detention environment and couldn’t see what future lay ahead for her. There are reportedly other women who have made the same request. Some expectant mothers have very significant trauma histories which predispose them to post natal psychological complications. For example one pregnant woman had lost an infant at sea; another had a history of political persecution which included rape, the kidnapping of siblings, and ongoing death threats and intimidation by government authorities. Parents have been told they would be returned to Nauru within a few weeks or a month of the birth even though they were suffering antenatal psychological difficulties. In a number of instances these transfers have been delayed due to the need for treatment and legal action which has led to a stay on sending the families back to Nauru.

**Pre-school aged children**

Some parents have felt unable to adequately supervise their young children and worry about the influence of older children, the occurrence of bullying and exposure to

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15 Among the women transferred to the MITA from Christmas Island and Nauru in order to receive antenatal care, and have their child, my understanding is that about half have required post-natal inpatient treatment at a mother-baby unit. These figures need to be confirmed.

16 Refugee advocates have alleged that three pregnant women detained on Nauru were transferred to Darwin to have terminations of their pregnancies and that the women made this decision because they could not face looking after an infant while detained on Nauru. The veracity of this claim warrants inquiry.
violence. Parents, regardless of their mental state, complain that they are unable to control the social environment which their children are exposed to in the facility; but parents who are depressed or in some instances frightened of mixing with others due to a mental disorder are less capable of supervision and mediating their child’s experience. Some children have taken on their parents’ trauma related or delusional fears and are reluctant to have contact with other children and try to avoid people in the facility the parent believes are dangerous. In pre-school children we have seen regressed or disturbed behaviour such as needing to cling to parents at night and refusing to sleep in their own bed; separation anxiety; incontinence; uncharacteristic aggression; the development of a stammer; and slowed language development. In nearly all cases the behaviour has emerged during detention, and often after a series of distressing incidents such as family separations and witnessing violence.

A cycle of inadequate engagement is set up whereby the child’s behaviour causes the unwell parent to become even less able to cope. One depressed mother told me she needed to be away from her children and to be alone, that she can’t care for them or think about them in the way she used to. She had no history of mental illness prior to arriving in Australia. One of her children had suffered severe trauma in the months prior to their departure. Another mother feels too distracted and unwell to care for her two year old and relies heavily on her husband to ensure the child is safe.

Some detained children in this age group have experienced severe trauma in their country of origin such as being separated from or losing a parent; being exposed to war related violence; experiencing displacement and subsequent severe material hardship; and having been kidnapped or held in captivity. Parents report that pre-existing problems become more pronounced in their children over time in detention despite provision of mental health care from detention health services. One mother reported that her child had become more irritable and withdrawn; didn’t like mixing with other children and often said he wanted to be left alone to sleep.

**Primary school aged children**

Parents report regressed and aggressive behaviour in this age group. For example a 10 year old girl who had previously shown no signs of mental disorder began to bed wet and was irritable a lot of the time. Her mother, who was severely depressed, had lost a sense of her daughter’s needs and spoke explicitly in front of her about her own troubles and feeling suicidal. The daughter often mediated between her parents and others in the camp: she translated and conveyed inquiries. She looked after her younger brother. Some children in this age group behave both in a regressed and precocious manner. They become distressed and demanding more easily but take on adult like responsibilities in assisting the family. Some children take on the language they hear from older children and adults and speak about assessment of protection claims; transfers to Nauru; people who are visibly disturbed and have self-harmed; and sexual matters. They developed critical and dismissive attitudes to recreational activities...
offered, seeing them as repetitive and boring. Children in this group report being bullied by adolescents.

As discussed below, the lack of access to education on Christmas Island has deprived children of a purposeful daily routine and a place to develop relations with peers. Children detained on Christmas Island in the past two years (primarily Aqua and Lilac compounds, and Construction Camp), have lacked opportunities for education and play which has induced boredom and frustration.

Secondary School aged children
Adolescent children often develop critical views of what is happening around them. Over the course of their detention some children come to experience the institutional control of their everyday life as humiliating and belittling. Schooling and recreational activities in a number of centres, and particularly on Christmas Island, are regarded by them as inadequate, perfunctory and not worth attending.

These children ask questions about delays in visa processing, why there is no time frame and why some people are released and others are not. One unaccompanied adolescent said to me that the system makes no sense, case managers say different things, and that boys who had caused trouble were released while he who had caused none was still detained after a year. A sense of injustice about the system is hardly exclusive to youth, but youthful asylum seekers are more apt to consider the way they are treated as directed at them personally, and for that treatment to shape their views on the fairness of the world more generally. Some children blame their parents for bringing them to Australia. Some identify with adult asylum seekers who attempt to protest against perceived unfairness through fasting and self-harm. Some have told me that they feel permanently psychologically damaged by detention and can’t see a future for themselves. Some express an angry defiant attitude toward detention authorities. They see detention practices as a deliberate attempt to break their spirit and teach them a lesson for seeking asylum.

A number of adolescents I have assessed in recent years have become embroiled in a cycle of self-harm. At least at certain times in recent years rates of self-harm among detained children appear to be significantly in excess of the incidence in the Australian community\(^\text{17}\). Self-harm among detained adolescents can be a consequence primarily of

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\(^\text{17}\) Departmental data indicates there were 42 incidents of actual self-harm, 3 incidents of attempted serious self-harm and 74 incidents of threatened self-harm by children in 2011-2012 (cited by the Commonwealth Ombudsman op. cit. fn 9, p42). This was at a time when the population of children detained varied between about 400 and 600 (see http://www.refugeecouncil.org.au/r/pb/P81303-Children.pdf), suggesting an incidence of roughly one event for every five children. However the figures don’t indicate the number of individuals affected; some children may have been involved in self-harm repeatedly. It is difficult therefore to compare these figures with Australian community prevalence rates. The inadequacies in the Departmental data regarding self-harm and suicide was commented in the Ombudsman’s report.
severe depression and hopelessness and a desire to escape intolerable feelings of despair. It is often not however primarily related to suicidality but is employed as a means of coping with distress. Sometimes it is partially a protest against injustice and a means to draw attention to their predicament. A pattern of self-harm as a means to regulate and cope with distress is often seen among adult detainees. However for children repeated self-harm is more likely to result in personality changes which make self injurious behaviour more likely in the future.

Adolescent children with mentally or physically unwell parents may feel a heavy responsibility and take on a leadership role in the family. Unaccompanied children will often express a responsibility for their family. Their family may have sacrificed much of their savings and property in order to deliver their child to safety and their son (only occasionally a daughter) now bears a duty to establish himself, earn and deliver financial assistance. That this can’t be done causes guilt, frustration and sometimes a breakdown in the relationship with parents. One Afghan boy told me his mother was living in dire circumstances and was pleading with him to send assistance when he could – his father was deceased and older brother had developed a mental illness and couldn’t work after being tortured by the Taliban.

The unaccompanied children I have assessed over the past five years have been between the ages of 15 and 17 years old. A high proportion of unaccompanied minors have strikingly high levels of trauma, loss and material deprivation in their histories. A recently assessed child whose mother and step-father were murdered in the past two years was fearful that the perpetrators could still reach him and harm him. There were a few compatriots detained with him but no relatives. He was having to deal with his grief and fear without family and the support and guidance of a trusted adult and without the cultural traditions which make sense of the experience – he wished to speak with an Imam but there was not one on Christmas Island. A large proportion of unaccompanied Afghan children have lived in perilous conditions for most of their lives within Afghanistan or in Pakistan or Iran. Some have told me they haven’t lived with their parents for years, have been subject to regular threats and violence including torture and rape, and have worked to support themselves from the age of eleven or twelve years. Some have never held a book in their hands and have received no education except brief religious instruction.

b. The physical environment and amenities.

I will comment on the physical environment and amenities of those detentions facilities which children and their parents have described to me. I am familiar with the centres in Melbourne and on Christmas Island. The Melbourne Immigration Transit
Accommodation (MITA) is indisputably a preferable facility to hold children in compared to Maribyrnong IDC, the remote centres of the past such as the Woomera and Baxter centres and the current facilities on Christmas Island. It does not have the oppressive and closed presence of a high security facility; one can see beyond its perimeter from most points within it, and there is open space which is used for recreational activities. Being set in a metropolitan area there is much better access to external health services and schools than in remote centres. Visitors, including compatriots of detainees and community groups, have ready access. The MITA has not seen the same levels of rioting, hunger strikes and self harm as other centres and generally people detained there are less likely to be exposed to violence. Most asylum seekers I have spoken with acknowledge after their arrival at the MITA that the centre is far more open and relaxed than the Christmas Island facilities. The detention officers are said to place less emphasis on security and control and more on building relationships with detained people. In the past few months children have attended school full time.

Despite the relatively benign environment compared to other centres, the MITA and other alternative detention arrangements are inimical to the conduct of normal family life and recovery from trauma and loss. One observes there the same pattern of mental health deterioration over time as in more closed centres, albeit sometimes less precipitously. Parents describe the following difficulties in their daily lives at the MITA:

- There are no means to prepare food. Mothers with infants have commented that they need certain culturally prescribed meals which can’t be made. Some pre-school children find the food unpalatable and go for extended periods eating little. Food can’t be brought to the room and in cases when a parent or child can’t tolerate the common areas due to social anxiety or depression, they either go without or another family member has to bring concealed food to them.
- Mothers with babies say the their rooms are cramped and difficult places in which to care for an infant.
- The rooms share common walls which are thin and there is a lack of privacy. Noise from neighbours during the night wakes children.
- There are headcounts at midnight and 3am (and one further time during the day) which involve a Serco officer opening the door of the room; this often wakes children.
- There is no space in which the family can be together in privacy and younger children can play unsupervised. The huts are too small for the children to be in for any time and outside young children need constant supervision. Parents who are depressed or physically unwell say this level of supervision is exhausting but also necessary because their children are sometimes bullied or subject to the wrong influences.
- Parents have expressed concerns that their adolescent girls are not safe at night because their accommodation does not feel secure.
- There is a two hour play group each morning for pre-school children but generally there is a lack of structured activities for this age group and parents find it difficult to occupy them.
- It is difficult to maintain and impart religious and cultural practices.
- Children are surrounded by people who are unhappy and in some cases angry, depressed and disturbed. Parents don’t have the means to regulate who their children have contact with.
- Children’s friendship are constantly disrupted by families being transferred or released.

Notwithstanding its advantages over other centres, the MITA is a closed institutional facility which provides children with an impoverished physical and social environment.

On Christmas Island families were held until the last few months in the Aqua and Lilac compounds adjoining the North West Point IDC. Parents and children have described the following difficulties in these facilities:
- Small living areas and open compounds meant that children were exposed to the detained population for most of the time. It was impossible to create an environment in which the parents set the emotional tone of family life and created a sense of routine, order and safety.
- Almost daily children of all ages were exposed to the violent and disturbed behaviour of some detainees. Children witnessed detention officers grappling with and restraining detainees. Mentally unwell people behaved in frightening or distressing ways in front of children.
- There were few activities for pre-school and school aged children (access to schooling on Christmas Island is commented on below). One parent said her primary school aged children had access to activities groups with colouring books and some English classes but they became bored and unsettled and stopped attending.
- There were no safe and contained places for children to play.
- Everyone including children had to queue for food for up to ninety minutes. A single mother described how she would queue with her two younger primary aged children.
- It was necessary to queue for the toilet and they were unclean and didn’t feel safe.
- Access to a washing machine required a long wait.

In the past two months, families and unaccompanied girls have been accommodated at Construction Camp while unaccompanied boys are held in Bravo Camp. Families occupy small cabins with their own bathrooms. The camp has an area with playground equipment and a basketball court. Parents and children have made the following observations about Construction Camp:
There is less violence than was seen in Aqua and Lilac and the camp is generally less chaotic. However there are still violent incidents and frequent arguments and tensions. An adolescent girl described to me an incident in which members of a family had recently attempted to harm themselves with shards of a broken window. She said she often hears people shouting and arguing at night. Some of the people who yell out sound like they are mentally unwell. She said a recent incident involving an attempted hanging by a child had unsettled other children.

- The facility is cramped. There is limited privacy. It is not possible to create an intimate family environment in which the family feel together and apart from others, and parents regulate what children are exposed to. Families can be either confined in their small cabins or move among a large population of detained people.

- Families cannot prepare food for their children or eat together in the absence of others. For each meal of the day, one must queue for up to an hour. Sometimes someone else can mark your place for you, but this can lead to arguments. Sole parents have to queue with their children.

- Mothers have to queue for nappies and formula

- There are no suitable areas for infants to crawl and toddlers to learn to walk. The surfaces and level of sensory stimulation is not adapted to the child’s needs to allow the child to feel supported and secure.

- The areas for pre-school children to play in are limited. The living areas are too small and the playground requires the parent’s attendance. The play areas become monotonous and unstimulating after months in detention.

- As commented on below, access to education has been limited and sporadic. This has created frustration, boredom and tensions among school aged children.

- Recreational activities include access every few days to a nearby oval and occasional access to the recreation centre pool (one child said she had been to the pool twice in eleven months). There are occasional excursions involving driving around the island in a bus. During the wet season it can rain for days and outdoor activities aren’t possible. There is a fitness class for women and a youth group with some activities. Adolescent children say they are bored and inactive, often stay in bed during the morning, and spend a lot of time in their rooms, sometimes listening to music. To book use of the internet can require queuing for up to three hours.

- The monotony and confined living cause marital tensions and family conflict.

In all centres, in their own way, but unmistakably, parents speak of the erosion of family life. Parents say there is no place physically or psychologically for children to be childlike. The lack of separation between adult and children’s worlds is illustrated by children’s language use - children as young as five or six take on the preoccupations of adults. While speaking little English they use the English words for ‘self harm’ and ‘transfer’ (to Nauru or Manus Island). Parental authority is undermined by the power of the detention authorities. Children observe their parents being unable to do ordinary
things for them. One father said to me, clearly humiliated by his loss of role, that his child had told him that “officers can do everything and you can do nothing”. The child had asked his father to show him how to ride a bike.

c. The separation of families.

There are numerous incidents of family separation which cause distress for children and parents. Within the detention network, family members can be separated for a number of reasons. The brother or male relative who might be the main support for a sole mother and her children is placed in a facility for single men rather than remain with her. A son upon turning eighteen is placed with single men away from his parents and siblings. An ill parent is separated from his or her partner and children when transferred to receive treatment. A number of parents have told me that separations of this kind have been a source of intense distress and have harmed their children. The following examples are illustrative:

- For reasons which were unclear to the family, a father was held in a detention centre while his wife and pre-school son were placed in a facility for families. They were separated for three months during which time the boy developed behavioural problems. The boy now bed wets, screams in his sleep, and bites other children resulting in him not being able to be left to play with his peers.

- A sole mother with a history of mental illness was separated from her brother, upon whom she and the children relied, for the duration of their four month stay on Christmas Island. For the first 25 days the mother had no contact with her brother and after that she saw him every two to four weeks.

- A mother of a pre-school girl was transferred for three months to another facility for medical treatment of a physical condition. The girl and father remained on Christmas Island. The girl had never been apart from her mother and she became fearful that her mother was going to be killed. The mother’s mental health deteriorated over the course of the separation. When re-united the husband said he barely recognised his wife. She subsequently required psychiatric hospitalization. Their daughter developed intense separation anxiety, didn’t want her parents out of her sight; needed physical contact with her mother throughout the night; frequently bed wet; and had the same fearful view of others in the facility as her mother who believed detainees and staff were a physical threat to her.

- A number of mentally unwell pregnant mothers transferred from Nauru waited between a week and a month to be joined by their husbands; they found the separation distressing and did not understand why it needed to occur.

- A sole father requiring psychiatric hospitalisation was transferred from Christmas Island without his three boys who were placed in the facility holding unaccompanied minors. The 12 year old found the experience distressing and subsequently became quite regressed and developed separation anxiety, withdrawal, fear of others, bed wetting, and nightmares. A father on Christmas Island with his adolescent son was transferred to the mainland due to the need
for medical treatment. The boy, who stayed with a relative, had never been separated from his father previously. There have been a number of such instances of sole parents going to the mainland for treatment while children remain on Christmas Island.

- Finally, an example of the potential separation of a peer grouping formed in the absence of family. Three unaccompanied children who were the only sources of companionship for one another were told by departmental officers that there could be no assurance that they would not be separated as a consequence of transfers.

When families are separated, it is difficult to have any form of regular contact. Families who have been separated told me they tried to maintain contact by email.

Some asylum seekers have permanent resident family members living in Australia and receive visits or phone calls from them. Often asylum seekers regard this contact as vital to their ability to cope with detention. Current government policy regarding transfers to regional processing countries is that for asylum seekers arriving after 19 July 2013 the existence of family members residing in Australia is not a basis for delaying or seeking an exemption from transfer: “[f]amily unity is not a ground for referral under the Minister’s s198AE Guidelines for post-19 July UAMs”.18

**d. Arrangements for transfer to regional processing countries.**

*Policy guiding transfers.*

Asylum seekers arriving without visas on or after 13 August 2012 must be transferred to a regional processing country as soon as reasonably practicable. However constraints on capacity on Nauru and Manus Island have meant that the vast majority of asylum seekers arriving before 19 July 2013 were not transferred (and many of those that were have been returned to Australia). The Ministerial policy guidelines now in force distinguish between considerations relevant to children arriving before 19 July 2013 and those arriving subsequently. Under section 198AE of the *Migration Act* the Minister can determine that it is not in the public interest to transfer a person subject to the regional processing arrangements. Earlier Guidelines issued prior to 19 July indicated that children under seven and pregnant women (together with people with post traumatic psychological conditions or severe mental illness) should not be transferred. However the current guidelines indicate that there will be no exemptions for people arising after 19 July besides for those raising credible protection claims against the regional processing country. The guidelines indicate that all minors require a best interests assessment and that this assessment may result in transfer not being appropriate at the time; but it would appear the child remains liable for transfer once the health or other

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consideration has been addressed and will never be deemed exempt from transfer. Moreover what is in the child’s best interests may be overridden by other considerations: “The best interests of the child must, however, be considered with other considerations, including those that arise under the Migration Act and the Migration Regulations”\textsuperscript{19}.

What this policy means in practice is that no children are exempt and there is a very high threshold of health or other concern before consideration is given to a transfer being postponed. Infants, pre-school age children and pregnant mothers are being transferred to Nauru. Pregnant women in psychologically vulnerable states due to trauma and loss and parents with histories of mental illness are transferred.

*The conduct of transfers and its psychological effects.*

Asylum seekers arriving after 13 August 2012 are told that they are liable to transfer. Those assessed as having credible asylum claims who arrived after 19 July 2013 are held on Christmas Island and told they will be transferred, but are not told when. People who have witnessed transfers or have been transferred themselves have provided consistent descriptions about how transfers are conducted. Many parents are apprehensive about being transferred because they have heard conditions are harsh on Nauru and they worry about how they will care for their children, how long they will be detained for, when the assessment of their claims will be finalised, and where they will be resettled. Children from pre-school age onwards are aware of the adults’ concerns and talk about what being transferred will mean.

Families first learn that they are to be transferred when officers arrive at their accommodation to tell them they are being moved to another facility. The time this has occurred varies, between 4am and 9am. Some families woken at 4am have been told they have ten minutes to pack their belongings and ready themselves. Children are carried asleep from their beds. Families are told to put their belongings in a black garbage bag. Others have been notified at 9am and are given an hour to prepare. Many are not told where they are being taken, only that they are moving to another facility. Having been led out of their rooms they are transported to another part of the facility or directly to the airport. Flights are reported to be in the mid to late afternoon. A sole mother told me she found the pre-transfer process very distressing. Officers came to her and her children’s room at 7am and she was given ten minutes to pack the family’s belongings. She was not told what was occurring. She was unable to notify her detained sister who was her main support. They were put on a bus and she was told to remove her shoes, jewellery, and hair bands. The family were taken to the airport and in an interview there were told they were going to Nauru.

Apparently some people physically resist being transferred and the ensuring fracas is witnessed by children. It is reported that there was an organised attempt among

\textsuperscript{19} Procedures Advice Manual 3 Regional Processing – Pre-transfer assessment; reissued 24 March 2014.
detainees to avoid being woken from sleep in order to be transferred through people taking it in turns at night to watch for approaching officers. A colleague has informed me that the stated rationale for providing no warning of time of transfer is to reduce anticipatory anxiety and worrying as the date draws near.

Unheralded transfers create a climate of anxiety; do not allow farewells to family and friends; and sever without preparation existing treatment relationships. Trauma counsellors do not have forewarning of transfers and sometimes find out only when they attempt to book the client’s next appointment.

Transfer back to Nauru following childbirth or medical treatment.
Asylum seekers who have been transferred to Nauru are retuned to Australia to give birth or if they have a medical condition that can’t be treated in the regional processing country. These people are told they will be returned to Nauru after childbirth or once their condition is treated. Pregnant mothers are told they will be retuned to Nauru within a month of their child’s birth. In the cases I am aware of transfer has not occurred because the mother has developed post natal depression requiring specialist treatment and in a number of instances care in mother-baby units. As mentioned, there appears to be a strikingly high incidence of post-natal depression in this group that requires further investigation.

The mothers I have spoken with regard a return to Nauru as unconscionable. Their views are of course informed by their recent experience. They describe a range of challenges while detained on Nauru:

- The precipitous method of transfer, as described
- At the family facility, RCP-3, there were about 200 detainees. The perimeter fence was about two metres high, similar to that at the MITA.
- Accommodation consisted of tents, one per family. There was no air conditioning
- The heat was oppressive and there were limited ways of escaping it. The family tent was too humid to stay in during the day. There was limited shade – one mother said you could sit in the shade of a tree, over which there was competition among detainees, or in the shade of the toilet block. Another said people gave up their piece of shade to her because she was pregnant. There were many insects.
- Pregnant women who were feeling unwell had nowhere to rest and lay in communal areas on the ground.
- There were high rates of self harm including attempts to commit suicide by hanging and some attempts were witnessed by children
- At night the foam beds provided were too hot to lie on, and families preferred to lie on the ground

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20 The description of conditions pertains to those existing in the first months of 2014.
- There were long queues for food, up to forty minutes. The children queued with the families and were often not interested in eating by the time the food was obtained. The quality was poor and children often ate mainly fruit. Everyone ate in a big tent.
- There was five minutes allocated for washing in the public showers, including changing time and sometimes this was insufficient, for example for hair washing. People argued about the time spent in the bathroom.
- Toilets were dirty.
- There was little for children to do. Some classes were held in a tent but the tent was too hot to sit and study in.
- The heat sapped children’s interest in becoming involved in anything. The ground was covered in pebbles and the children often threw them at one another. They played with water at the water tank, putting water in a jar. A playground was installed in recent months, but the despondency among many children inhibited their use of it.

Parents describe a deterioration in their children’s physical and psychological well-being while on Nauru. One mother said her seven year old son lost weight and became anxious and withdrawn. A mother I spoke with became suicidal after a few months on Nauru and made an attempt on her life by hanging which was witnessed by her child.

e. Access to education.

Besides conforming with a child’s right to an education, access to daily schooling provides a chance to learn, a purposeful routine, the opportunity to be with other children in a noncustodial setting, and time in an environment adapted to the needs of children rather than security requirements.

In the past few months nearly all children at the MITA have attended primary and secondary school full time. This is an important development after years of arrangements which did not provide for full time external education. Parents have reported to me that generally their children are enjoying school and are pleased to be able to spend extended periods outside the MITA.

On Christmas Island access to school has been sporadic. Primary schooling has been at the primary school. Children have been rostered for two weeks of attendance and then may have a period of non-attendance for some weeks, but sometimes for as long as a few months. One eight year old had attended about 20 days schooling in nine months. The school day for them is about 2.5 hours long. Secondary schooling, which is delivered within the detention facility, has also been rostered with a similar level of access. Secondary school children complain that there is no organised curriculum and that they do not learn anything systematically. They are taught English and are involved in
activities. Many children, owing to their mental state and despondency and because the curriculum is unstimulating and haphazard, cease attending school.

Undertaking primary or secondary education while detained mitigates the adverse effects of detention. Children currently attending full time schooling in the MITA are not exposed to the same level of harmful circumstances as children in other facilities who cannot attend regularly. This mitigatory effect should not be overstated however. Children are still subject to all the adverse influences of detention outside school hours and a normal family life is not possible. Some children whose psychological state has deteriorated over time cease to attend school, having become too unsettled and anxious to concentrate, and slip back into a directionless existence in detention. I have seen this occur among a number of unaccompanied children in particular.

f. Status resolution.

Just as with adults, children from later primary school years onward express variously bemusement, frustration and anger about delays in visa processing and the lack of information about time frame for visa outcomes and the length of detention. Families, unaccompanied children and asylum seekers generally who arrived in Australia after 19 July 2013 have not had any processing of their protection claims other than a screening interview to determine whether they have a prima facie need for protection. Some parents claim that enquiries about timeframes are met with no specific information and advice that they are free to return to their country. Some pre-19 July 2013 families remained in detention for extended periods. For example one family was held in a detention facility for a year without any processing and after being placed in community detention, has continued to have no processing after six more months. Experience over many years demonstrates that the lack of a known time frame for the assessment of visa claims and an orderly and predictable process adds significantly to the distress of detained asylum seekers.

The initial interview conducted on Christmas Island, the ‘Unauthorised Maritime Arrival and Induction Interview’ occurs without access to legal assistance. It is a brief interview sometimes lasting less than an hour however upon it rests the decision as to whether the asylum seeker will be repatriated or permitted to have claims assessed in a regional processing country. It is unclear the extent to which this interview may influence decisions made in the future refugee status assessment, but its importance is made evident in the preamble: the asylum seeker is told that ‘[t]his interview is your opportunity to provide any reasons why you should not be removed from Australia. If you do answer questions a decision may be made on the basis of the information we have’. Unaccompanied children are interviewed in the presence of a ‘responsible adult’ provided by the agency ‘Maximus Solutions’. However these children do not receive independent legal assistance.
Clinicians report that in the past year that the attitude of departmental officers has hardened toward asylum seekers. Whereas previously they were referred to as ‘clients’ or asylum seekers, they are now described as ‘detainees’ or ‘transferees’. Asylum seekers who have been ‘screened in’ and have therefore been assessed as having prima facie credible claims, are frequently reminded that they will be transferred to a regional processing country but not when. They are also regularly told they have the option of retuning to their own country at any time. If such statements amount to pressure or influence, this conduct is inconsistent with ensuring an asylum seeker does not face persecution as a consequence of an action by the protecting state. If such influence is exerted upon unaccompanied children this is particularly concerning. A number of unaccompanied children have told me that when they express difficulties about their situation they are told that if they do not wish to continue to be detained or transferred to Nauru, they should consider returning to their home country.

Some unaccompanied children arriving in the past five years had at best sporadic contact with their lawyer who was often in another state due to the children being shifted from one centre to another. The children were sometimes quite confused about what was happening with their protection application. Some became cynical and detached from the process; as one boy who regularly cut his forearm said “no-one tells the truth, nothing makes sense”. The lack of information made them vulnerable to rumours and misinformation about what was going on – for example one boy told me emphatically that he had heard that Australian law requires someone to be released after one year of detention but if you are compliant with the system you will stay in detention longer. Some children spoke about the feeling of being locked in a place where the passage of time seems to have no meaning and all the while their lives were being wasted.

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g. Access to mental health services and counselling.

I have commented elsewhere about mental health service delivery to detained populations. It remains my view that:

less reliance should be placed on private providers and that state mental health services should be more actively involved in service provision to detainees through becoming integrated into service delivery. It may be that a funded and dedicated team from within state services is required. This is a model that exists in some correctional facilities21.

Having said that, mental health services to detainees have vastly improved since the AHRC’s 2004 inquiry. In my experience the mental health staff employed by IHMS in Melbourne have been skilled and dedicated clinicians. There has been for the past four years initial and recurrent screening for mental disorder and the presence of a trauma history. Whereas in the past a traumatised detainee may not receive a referral to a torture and trauma counselling service for months or years, in general asylum seekers

21 ‘Submission to the Joint Select Committee on Australia’s Immigration Detention Network, 15 August 2011.'
with traumatic histories appear to be identified early in their detention and appropriate referrals are made. However the provision of services to the metropolitan centres is considerably superior to what can be provided on Christmas Island. On Christmas Island more severe psychiatric conditions in adults and children necessitate the ill person’s transfer to the mainland. As noted, this has led to family separations for extended periods on Christmas Island. It has not been possible for the torture and trauma service to approach meeting the demand for counselling despite seeing large numbers of traumatised asylum seekers including families and children. The trauma service has employed four clinicians this year (without the possibility of coverage for leave) during a time when there has been between about 1900 and 1300 detained people, many of whom have post-traumatic psychological conditions. Last year the same number of clinicians were employed when the Christmas Island detention population rose above 3000. There is a lack of access generally in the detention network, but most acutely on Christmas Island, to child psychiatric and clinical psychological specific services. I understand that a child psychiatrist visits every few months for a few days and there is no child clinical psychology positions within the services. Clinicians involved in psychological screening assessments have informed me that the assessment of children is often not thorough, relies heavily on parental report, and is done under considerable time pressure.

Finally, with regard to mental health service delivery I again restate an opinion expressed in an earlier submission22:

An important caveat needs to be added to any discussion of the adequacy of mental health care for detained people. No matter how adequate the treatment provided, the evidence is that many detainees’ mental health continues to deteriorate. This is because it is the detention environment itself that is the primary cause of the deterioration and psychological and psychiatric care in this context is at best often only a partially effective treatment. It should be underscored that the typical decline in mental health over time occurs despite the best efforts and interventions of available mental health services.

**Conclusion - a public health perspective on the mental health of detained children.**

This submission has taken a psychological perspective on the immigration detention of children. This is an important perspective but not the most fundamental one. More fundamental is the perspective that recognises that each day of detention is a day subtracted from the sum of days a child lives in freedom. When this is recognised, it is self evident that the detention of children requires the most exacting justification.

22 'Submission to the Joint Select Committee on Australia’s Immigration Detention Network, 15 August 2011.
Note has been made of a number of examples of improved practice in the reception of asylum seeker children in the past decade. Children are no longer detained in high security detention facilities. Early detection of psychological vulnerability including histories of mental illness or trauma has significantly improved. Mental health services are better resourced and more competent than they were previously. Detained children together with other detained people now have a dedicated case manager overseeing the passage of their visa processing and their detention arrangements. More resources have been dedicated to achieving timely status resolution. From 2011 until mid 2013 a proportion of children were moved into community detention relatively rapidly.

To every improvement identified there must be strong caveats attached. The statutory principle derived from international law that children be detained as a last resort has been observed in the breach; there has not been since this provision’s enactment in 2005 any serious attempt to ensure children are not detained. For child asylum seekers arriving after 19 July 2013, the principle has been entirely abandoned.

Such improvement as there has been in the detention arrangements for children have not prevented psychological harm continuing to occur.

There have now been more than two decades of clinical and anecdotal evidence indicating that prolonged detention is detrimental to the mental health of asylum seekers and that children are often the most harmed. In comparative terms Australia has advanced statutory based procedures for detecting and addressing child neglect and abuse and public health responses to preventable illness. Detained children are under the direct care and supervision of the Commonwealth. It is strikingly anomalous therefore that a practice that is apparently harmful to children has continued largely unaltered. In any other imaginable context if strong prima facie evidence arose that a large group of children were being psychological harmed by a practice or environmental ‘toxin’, there would be a number of immediate responses. Firstly, to the extent possible children would be removed from the source of the harm. Secondly, an epidemiological study would be conducted to establish whether the identified apparent risk was in fact the cause of the harm which was being documented clinically. Identifying the relative risk of psychological harm attributable to immigration detention and the causes of that risk would not be an unusually difficult epidemiological exercise. However a public health response has been absent. Children have continued to be subject to extended detention in closed facilities. The Department of Immigration has been criticised with regard to its data collection practices in relation to mental health status of detainees.23

It has commissioned one study of the health status of the detained population\textsuperscript{24}. This study, which described a deterioration in the mental health of asylum seekers over time and was an important scientific contribution to the field, contained a small number of children the health status of whom was not separately reported\textsuperscript{25}. Other than that study, there have been a number of small sample studies of detained people with whom clinicians have had contact. Australian government detention practices for the past 30 years have therefore been conducted without the benefit of scientific data on the nature of specific risks associated with immigration detention. The absence of such research (which can only be undertaken with the imprimatur of the Department of Immigration) has impeded the construction of an approach to the reception of asylum seekers without visas which meets visa processing and security imperatives and is psychologically benign. It should not be concluded however that a lack of research evidence somehow justifies the continuation of existing practice. Notwithstanding the absence of the kind of data needed for a scientifically based public health initiative, the uncontested direction of the clinical and anecdotal evidence has meant that if the mental health and emotional well-being of asylum seeker children had been a policy priority, the current practice of detaining children would have ceased two decades ago – or would perhaps never have begun.

Expertise and public health oriented research should underpin the redesign of Australia’s system of immigration detention. However an understanding that current detention arrangements are harmful to children requires neither expertise nor research. Anyone who has been a parent or who can remember their childhood or has the rudiments of empathic intelligence knows this if presented with the facts. We know children need a secure attachment to parents or someone occupying that role and that if parents are distressed, overwhelmed and distracted their children will suffer. Children need to play and in order to do so they need to feel safe. If children have to be vigilant to feel safe, their intellectual and imaginative world shrinks. Their play and exploration should not be trammelled by unnecessary restrictions. Children need an environment which is varied, stimulating and challenging. They need a place of emotional intimacy into which they can regularly retreat. Unpredictable or forced separations from family members are distressing. Unregulated contact with adults who are stressed and sometimes disturbed may, depending on other supports available, be overwhelming. Witnessing violence and self-harm within the immediate environment is shocking to a

\textsuperscript{24} Green, P., and Eagar, K; The health of people in Australian Immigration Detention eMJA Rapid Online Publication, 14 December 2009. A further study entitled

\textsuperscript{25} There were 46 children under 17 years in the sample. Unauthorised boat arrivals comprised less than a quarter of the sample. A further important investigation commissioned by the department shed light on the experience of immigration detention. The study involved the interview of 144 detained irregular maritime arrivals (and 9 non-IMAs), together with detention staff and others with experience of immigration detention. The interviewees were 18 years and older: Katz, I., Powell, A., Gendera, S., Deasy, T., and Okerstrom, E. (2013). The experiences of Irregular Maritime Arrivals detained in immigration detention facilities: Final report for the Australian Government Department of Immigration and Citizenship. Sydney: Social Policy Research Centre, University of New South Wales and Australian Survey Research Group.
child. Children need to be educated to fully develop intellectually and emotionally and extended disruptions to their education can have lasting consequences for their ability to learn. If their daily lives are deprived of opportunities to learn, children feel empty, directionless and insecure.

These are pedestrian observations. They should not need to be made; but the evidence is that such ordinary awareness of a child’s needs does not inform decisions about the disposition of asylum seeker children.

Thank you again for the opportunity to make this submission.