



The harsh reality of onshore immigration detention in Australia

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“Rules for visitors have become stricter, procedures more onerous and conditions for visits less welcoming. Changes appear to be designed to deter visits. I believe they are achieving this goal. Because of this I have increased my visits to twice weekly.” – A detention visitor in Victoria

Introduction

Three recent suicides in just over six months at immigration detention facilities in Sydney and in Western Australia are yet another painful illustration of the human toll that prolonged immigration detention has caused people in Australia, including children and people seeking asylum.¹ Numerous independent reports over many years have documented shocking levels of mental health problems, cases of self-harm, hunger strikes, deaths and mistreatment in detention.

While the number of people in onshore immigration detention has decreased in recent years, visitors, organisations and people formerly detained all describe conditions that have grown increasingly harsh. In parallel, the rules and regulations pertaining to visiting people in detention have also been widely criticised as opaque, constantly changing and overly restrictive.

In 2017, the Refugee Council of Australia (RCOA) documented some of the challenges faced by visitors to immigration detention facilities, including arbitrary and inconsistently applied rules, invasive searches and drug tests, and other intensified security conditions that made visits less sociable.² Information provided to Jesuit Social Services by regular visitors to immigration detention centres in Melbourne, Sydney and Western Australia suggests that little has changed since RCOA's report. In some respects, the situation is getting worse.

In a system where people feel forgotten, where they are desperate enough to forgo food, to self-harm, and worse, the important role of visitors to detention should not be overlooked. Unnecessary restrictions on visits that may deter or inhibit people providing valuable friendship and support to those detained across the country should be opposed.

Drawing on the voices of visitors, this brief sets out key facts on the current situation in onshore immigration detention in Australia; the conditions and impacts of prolonged detention; the important role of visitors and the nature of restrictive rules and regulations on visiting detention centres.

Conditions of detention

“You can see that the mood can be pretty bleak at times... There's been a couple of suicides in the Villawood centre this year and attempted suicides. We are very aware of the shifts in people's emotions.” – A detention visitor in New South Wales

Since 1992, Australia has maintained a strict policy of mandatory immigration detention for all “unlawful non-citizens” (i.e. people without a valid visa), including people seeking asylum, until they are granted a visa or leave the country. This form of detention is supposed to be administrative, not punitive. In practice, however, this stated purpose is undermined by the fact that there is no time limit on immigration detention nor an effective, transparent and independent merits review process. The arbitrary and indefinite nature of immigration detention has been found by the UN Human Rights Committee to contravene Australia's international treaty obligations.³ Some people have spent years in detention, caught in a legal black hole where they have effectively been deprived of the rule of law.

THE CURRENT SITUATION: KEY FACTS⁴

- There were 1,270 people in onshore immigration detention as at 31 May 2019 – the most recent figures available.
- Of these, 429 people (33.8 per cent) are described as having arrived ‘unlawfully’ by air or by boat. 841 people (66.2 per cent) have either overstayed their visas or had their visas cancelled.
- The average period of time for people held in detention is currently 503 days (up from 428 days as of May 2018).
- 542 people have been detained for one year or more (276 people for two years or more).
- There are ‘less than five’ children in immigration detention or alternative places of detention.
- There are seven main immigration detention facilities on the Australian mainland (in Adelaide, Brisbane, Darwin, Melbourne, Perth and Sydney, as well as Yongah Hill, around 100km from Perth).

1 Monash University, Australian Border Deaths Database ([link](#)).

2 Refugee Council of Australia (August 2017) *Unwelcome Visitors: Challenges faced by people visiting immigration detention* ([link](#)).

3 UN Human Rights Committee, Communication No. 2233/2013, *F.J. et al v Australia*, UN doc CCPR/C/116/D/2233/2013.

4 Department of Home Affairs, Immigration Detention and Community Statistics Summary, 31 May 2019 ([link](#)).

A number of recent reports point to an immigration detention environment that is increasingly harsh. The Australian Human Rights Commission, which visits and reports on Australia's immigration detention facilities, issued several inspection reports in 2018, including on detention centres in Perth, Adelaide and Brisbane. The Commission found that:

- None of the facilities were appropriate for people who were likely to be detained for long periods of time.
- There were vulnerable individuals detained in all three facilities, including people with significant physical health issues, mental health issues, people who had experienced trauma, and pregnant women.
- None of the facilities had adequate case management support provided by Status Resolution Officers.
- The use of restraints on people in detention in Brisbane and Perth may have been excessive.⁴

Children in onshore detention between 1 Jan 2009 and 22 Jan 2019

PERIOD DETAINED	NO. OF CHILDREN
7 days or less	292
8 - 31 days	524
32 - 91 days	2,628
92 - 182 days	3,643
183 - 365 days	1,472
366 - 547 days	595
548 - 730 days	121
More than 730 days	37
AVERAGE: 152 days	TOTAL: 9,312

Source: Australian Border Force, <https://www.homeaffairs.gov.au/foi/files/2019/fa190100418-document-released.PDF>

A *Guardian Australia* investigation, published in March 2019, uncovered allegations of abuse and mistreatment of people detained, rising tensions within centres, claims that people had been arbitrarily transferred away from their home states to other places of detention, and allegations that complaints were covered up.⁵ Visitors to detention that engaged with Jesuit Social Services reported similar issues of concern.

Government policies and practices have also created an increasingly punitive detention environment. From early 2017, the Australian Border Force planned to confiscate the mobile phones and SIM cards of all people held in immigration detention – a measure that was only prevented by a court injunction and subsequently ruled invalid by the Federal Court. While the Federal Government has closed a number of onshore immigration detention facilities since 2013, it has upgraded security arrangements at other facilities, including building new higher security compounds, such as the north wing at the Melbourne Immigration Transit Accommodation (MITA).

This approach appears to be in response to the number of people in immigration detention who are deemed to be higher risk, including non-citizens detained on 'character' grounds who may have committed criminal offences. In 2014, section 501 of the *Migration Act 1958* was amended to expand the cancellation powers of the immigration

THE CURRENT SITUATION: KEY FACTS (continued)

- In the 2019-20 Budget, the Federal Government earmarked over \$1 billion in spending each year, over the next four years, for onshore detention and related compliance.
- Two people detained in Sydney's Villawood immigration detention centre suicided in January and March 2019, respectively. A person detained at Yongah Hill immigration detention centre in Western Australia suicided in September 2018.
- The Federal Government announced in January 2019 that 19 immigration detention facilities had been closed or put into contingency since September 2013.
- According to the Department of Home Affairs, as of April 2019, 74 per cent of people in onshore immigration detention were classed as 'high risk'.
- Multinational firm Serco has a five-year contract to run Australia's onshore immigration detention centres, which ends in 2019. The contract has two two-year extension options available.
- Christmas Island immigration detention centre was placed into contingency in October 2018. The government reopened the facility in February 2019 following the passage of legislation that would facilitate the transfer of seriously ill people from offshore processing countries to Australia for medical treatment. As part of the 2019-20 budget, the government announced that it plans to repeal this legislation and return the centre to a contingency setting by July 2019.

4 See, Australian Human Rights Commission, *Inspection of Brisbane Immigration Transit Accommodation: Report (2018)*; *Inspection of Adelaide Immigration Transit Accommodation: Report (2018)*; and *Inspection of Perth Immigration Detention Centre: Report (2018)* ([link](#)).

5 The Guardian (25 March 2019) *Secret recordings allege excessive force by guards in Australia's detention centres* ([link](#)).

minister, introduce further grounds for failing the character test, and create a mandatory cancellation provision.

In short, the amendments lowered the threshold for annulling a person's visa. As a result, between 2013–14 and 2016–17, the number of visa cancellations on character grounds increased by over 1,400 per cent.⁶

In this context, refugee advocates have expressed concern at the co-location of different cohorts of people and the increased securitisation of facilities, which has had an impact on everyone held in immigration detention.⁷ For example, at the Yongah Hill detention facility in Western Australia, the impact of the mixed population has resulted in a significant hardening of security measures, with less activities and excursions, heightened surveillance and "arbitrary rules that govern every aspect of their movement, privacy and choice within the centre".⁸

Some people detained in the MITA facility in Victoria have declined to seek medical treatment outside the centre because they are made to wear handcuffs while being escorted by multiple guards. They have told visitors that this makes them feel humiliated and they are conscious of the way people look at them. "People tell me that the lack of respect wears them down", said one visitor. "It's very offensive for people who have no bodily autonomy."⁹

There is growing evidence of a correlation between the duration of detention and the severity of mental health issues.¹⁰ This underscores concerns over the average period of time that people are detained in Australia's onshore detention facilities, which is currently 503 days. The average period of time for children held in onshore detention over the past 10 years stands at 152 days *[see table on page 3]*.¹¹

While the full extent of the issue of self-harm in onshore facilities is difficult to quantify, what is known is shocking. Government data obtained under freedom of information in 2016 revealed that there were 706 acts of self-harm in one 12 month period – almost two incidents per day – across Australia's onshore detention network.¹² One detention visitor in Victoria related to Jesuit Social Services the harrowing scene of a man attempting suicide by jumping from the roof of a facility in 2013. "I did not see the poor man jump," the visitor said. "But I did hear the dreadful howl from those who did."

Sadly, as recent reports of suicides in Sydney and Yongah Hill demonstrate, acts of self-harm, suicide and mental health problems continue to plague Australia's onshore immigration detention network, with a conspicuous lack of acknowledgement or action from government.

AM v Commonwealth of Australia (Department of Home Affairs)

- Mr AM, a Sri Lankan national, arrived by boat to Christmas Island on 16 July 2012.
- He was held in immigration detention for more than five years, during which time he was transferred on multiple occasions – from Christmas Island to Darwin to Perth and back to Darwin.
- Documentation on his case noted that he had "a history of mental health issues associated with the length of time he has been in held immigration detention".
- Mr AM filed a complaint with the Australian Human Rights Commission in 2016, writing: "I am very mentally distressed by my situation. I have lost hope, I feel helpless and suicidal".
- In 2018, the Australian Human Rights Commission found that the Department's failure to make timely referrals to the Minister for consideration of alternatives to detention resulted in Mr AM's detention becoming arbitrary.
- Mr AM was eventually released into the community on a bridging visa in November 2017.

*See: AHRC, *AM v Commonwealth of Australia (Department of Home Affairs)* [2018] AusHRC 124 ([link](#))

6 Department of Home Affairs, *Key visa cancellation statistics* ([link](#)). Section 116 of the Migration Act 1958 also provides the minister with cancellation powers on a range of grounds.

7 Refugee Council of Australia (February 2017) *Submission to the Parliamentary Standing Committee on Public Works inquiry into the proposed Melbourne Immigration Transit Accommodation project* ([link](#)).

8 Joanna Josephs, Centre for Asylum Seekers, Refugees and Detainees, speech at the Refugee Council of Australia's *Refugee Alternatives Conference*, 19 February 2019.

9 Interview with detention visitor in Victoria, May 2019.

10 M. von Werthern et al (2018) *BMC Psychiatry*, 'The impact of immigration detention on mental health: a systematic review' ([link](#)).

11 Australian Border Force (2019) ([link](#)).

12 This included asylum seekers living in the community or in community detention and covered a one year period to July 2015. See, Fairfax Media, *Self-harm in detention centres at epidemic levels, internal documents show* ([link](#)).

'Little things for lots of people': The vital role of visitors

"One of the first questions I ask people seeking asylum who are new to the Yongah Hill [facility] is whether they know anyone or have any friends in Perth. They usually answer 'no' to which I reply, 'well now you do.'" – A detention visitor in Western Australia¹³

Visitors to immigration detention centres around the country provide vital friendship and support to vulnerable people detained. Many have done so voluntarily over many years. They listen and share and their presence helps to assure people that they are an individual who is cared for.

One visiting group takes musical instruments into detention, enabling people to share songs or learn how to play. Another group has banded together to visit regularly and purchases items such as warm jumpers for all those who need them. They all share in common a spirit of volunteerism and a commitment to fostering a welcoming and inclusive community. They see people in detention as human beings, not 'non-citizens', 'prisoners' or 'unlawful arrivals'. As one visitor described it, they do "little things for lots of people".

"If there's any little thing I can do to bring a bit of humanity and light into that place, that's really my motivation — just to go in and be a friend". — A detention visitor in New South Wales

Visitors also provide important insights into a detention system that is largely opaque. They have reported encountering people who do not understand the reasons for their ongoing detention and who have not received adequate advice. It has often been up to visitors to help connect people with legal support. "Some people seem to fall through the gaps," a detention visitor in New South Wales said. "Some people's English isn't that good. Some people are so traumatised that they don't take in the information."¹⁴

Often, visitors are one of the few contacts people can turn to when they are released into the community. In some cases, people have phoned a visitor they know shortly before they are released wondering what their next steps are. The case of one person who was released from immigration detention in Brisbane illustrates the vulnerable circumstances people find themselves in when released:

"He was taken and put in a motel room. He wasn't even shown where the local shop was. He was terrified. He did not go out until I arrived the next day and walked him around the block and explained that he was quite safe and no one would hurt him and that he could go to a shop. He'd never handled Australian money. You can imagine how vulnerable someone is after eight years, with no autonomy and no capacity to make decisions. He was also mentally very, very unwell. This is the situation that people are in now, that after long-term detention, they can suddenly be vomited onto the street with nothing. The only thing that saves them is having visitors and contact with visitors to help them find somewhere to sleep that's safe and some food to eat until they get back on their feet."¹⁵

The crucial human connection visitors provide to people in detention, who may be suffering poor mental health, face uncertainty over their situation and have few connections in the community, should be recognised and facilitated. Instead, restrictions that have increasingly been reported since the establishment of the Australian Border Force in 2015 and the changing population in detention, have made visits more difficult and less sociable.

Rules and restrictions for visitors to detention

"Every second time I go out there, there's a bunch of new rules. It chops and changes".
– A detention visitor in New South Wales

A 2017 report by the Refugee Council of Australia (RCA), based on feedback gathered from 55 people across Australia, offered a detailed insight into some of the rules that serve to frustrate visits.¹⁶ These included the challenges of booking a visit, including having to book five days in advance; drug tests that are not reliable and resulted in false positives; limited opportunities for relaxed and less regulated visits where activities can be engaged in; and restrictions on taking in food items.

¹³ Excerpt from public speech by Joanna Josephs at the Refugee Council of Australia's *Refugee Alternatives Conference*, 19 February 2019.

¹⁴ Interview with detention visitor in New South Wales, May 2019.

¹⁵ Interview with detention visitor, May 2019.

¹⁶ Refugee Council of Australia (August 2017) *Unwelcome Visitors: Challenges faced by people visiting immigration detention* ([link](#)).

Almost two years since RCOA documented these challenges and made a suite of recommendations, information provided to Jesuit Social Services by regular visitors to immigration detention indicates that little has changed. Recurring concerns raised include that visitors are only able to see one person per visit, impeding individual visitors' capacity to meet with small groups of people; cases where people in detention are not made aware that they have a visitor or are only informed well into the allotted time; and the often arbitrary restrictions on bringing in items for people detained. There are also additional challenges of booking a visit for people without ready access to a computer or with limited English language skills.

Drug testing, too, continues to be cited as an issue, with one visitor in Victoria describing that an elderly priest had tested positive twice, as had an elderly woman. The latter visitor was told by guards not to take public transport to the detention centre to avoid the risk of contamination – advice that was not feasible as she travelled from country Victoria to Melbourne by train.

Especially frustrating for visitors is the apparent arbitrary nature of some rules, particularly in relation to bringing in items. At the Melbourne facility, items such as blank paper, a visitor's walking stick, and Christmas cards have been denied. Recently, one visitor who was attempting to bring in a packet of *Ferrero Rocher* chocolates was made to individually unwrap each one to apparently satisfy entry requirements. In other cases, where an item is permitted one week, it may be prohibited the next. "One guy requested a watch," one detention visitor explained. "He was given permission to get it. He got the watch. Then some other guards came and took it away from him."¹⁷

In some cases, the bureaucratic process involved in requesting and receiving items in detention has acted as a deterrent. It has also meant that spontaneous gifts cannot occur, as prior approval is required. A visitor to detention in Victoria described the process of attempting to give one person a primary-school level book to assist with his English language practice:

"He was not allowed to take it back to his living area, as it had to go through the correct process. I asked for the form but was told they were in the living area so couldn't get them. I told the young man to get the form and get it filled in. Next week he explained that he couldn't fill in the form and they wouldn't help him. I asked for a copy of the form so I could help him. This was not allowed. I asked, could I have what information was required, 'no' again. He was not allowed to take the form to an area where other [people detained] could help. After about 6 weeks he gave up and said, 'I don't want to learn'".¹⁸

In the past, many visitors would bring homemade or specially sourced food to share with people in detention. This was important on several levels, including that culturally appropriate food "helped people overcome the feeling of homesickness and added more diversity to the limited food options available in detention".¹⁹ It was also a gesture of sharing and generosity on the part of visitors, and helped as a bonding experience. At present, however, any food brought for people in detention must be sealed and packed, with a visible expiry date. This means items such as fruit and homemade foods are effectively prohibited. People detained are also not permitted to take food out of the visitor's area – meaning any food brought in must be consumed during the visit. "I used to make a point of cooking food from the [person's] homeland," a detention visitor said. "But now I can't."²⁰

CONDITIONS OF ENTRY FOR VISITORS*

- Visits should be applied for five days in advance.
- The name and details of the person being visited is required.
- Visitors are generally only permitted to visit one person per visit.
- All visitors and belongings undergo security screening, including x-ray and substance detection.
- 'Controlled items' must not be brought in, including sporting equipment, devices for internet access and money.
- To bring in some items, such as medication, prior approval is required.
- Food must be commercially packaged and sealed, with a visible expiry date, and only consumed during the visit.

'Australian Border Force, Immigration Detention in Australia' ([link](#))

¹⁷ Interview with detention visitor in Victoria, May 2019.

¹⁸ Information provided by a detention visitor in Victoria, March 2019.

¹⁹ Refugee Council of Australia (August 2017) *Unwelcome Visitors: Challenges faced by people visiting immigration detention*, p. 14 ([link](#))

²⁰ Information provided by a detention visitor in Victoria, March 2019.

A more humane approach

The current situation for people detained in, and visitors to, onshore immigration detention centres in Australia is unacceptable. All policies and practices relating to immigration detention must have at their core a basic respect for each person's dignity and humanity in detention. They should at all times reflect the administrative nature of immigration detention, which must not become arbitrary or indefinite. While we recognise that onshore immigration detention is a complex policy area, it's clear that the legislative and policy settings underpinning Australia's onshore detention system are causing harm to people that it is Australia's legal and moral obligation to protect.

It is not difficult to imagine a future where we look back on the practice of mandatory immigration detention with deep shame. Indeed, many Australians already are. But this harsh approach is neither irreversible nor inevitable. Even in recent times, prior to 2015, onshore immigration detention was managed in a more humane way, with more access for visitors and less securitised conditions. There is no reason to accept the current status quo.

Jesuit Social Services believes that people seeking asylum in Australia should be supported to live in the community while their applications are processed. No child should be in detention.²¹ The detention of people seeking asylum should only take place as a last resort, with all decisions made on an individual basis and subject to independent review. Legislated timeframes for immigration detention should be introduced to guard against cases of prolonged and indefinite detention.

Finally, the government should recognise and support the important role of visitors to detention, with efforts made to ensure more sociable visits and the lifting of inflexible or arbitrary rules.²² While reasonable security conditions on visiting are understandable, Jesuit Social Services is concerned that administrative barriers and confusing rules are inhibiting visits.

What is heartening, however, is the determination of so many visitors to persevere, despite the obstacles. "Every time they change the system, we think, 'we can't stop now'," a visitor in New South Wales said. "There's always people [in] need."

"None of us can get to the point where we stop coming."

²¹ Jesuit Social Services supports the End Child Detention Coalition recommendation that the Australian Government pass legislation which ensures the well-established practice on the Australian mainland of placing children in alternative to detention programs in the community.

²² For comprehensive recommendations on better facilitating visits to detention, see RCOA, *Unwelcome Visitors: Challenges faced by people visiting immigration detention*, from page 22, ([link](#)).