



National Immigrant Justice Center

**Creating “Truly Civil” Immigration Detention
in the United States:**

Lessons from Australia

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Heartland Alliance’s National Immigrant Justice Center (NIJC) provides direct legal services to and advocates for immigrants, refugees, and asylum seekers through policy reform, impact litigation, and public education. Visit immigrantjustice.org or contact: Helen Harnett, Director of Policy, (312) 660-1363, hharnett@heartlandalliance.org or Mary Meg McCarthy, Executive Director, (312) 660-1351, mmccarthy@heartlandalliance.org

EXECUTIVE SUMMARY

As the United States reforms its immigration detention system, best practices from other countries, such as Australia, provide valuable insights into the reform process. Although there is a significant difference between the size of the immigrant population detained in Australia compared to that in the United States, the Australian civil detention model – a sustainable model that reduces prolonged detention and related costs – *can* be scaled to the current U.S. system.

Heartland Alliance’s National Immigrant Justice Center (NIJC) recently studied the Australian immigration detention system, which prior to reform was similar to the U.S. system in its failure to adhere to human rights standards. In addition to transforming agency culture and engaging community stakeholders, the development of a risk assessment tool and individual case management have been critical to the improvements seen under the Australian model. A humane, civil detention system incorporates individualized assessments and alternatives to detention programs. In order to achieve its reform objectives, the United States must reduce the number of noncitizens held in immigration detention.

I. INTRODUCTION

On August 6, 2009, Janet Napolitano, Secretary of Homeland Security (DHS), and John Morton, Assistant Secretary of Immigration and Customs Enforcement (ICE) committed to overhaul the U.S. immigration detention system in order to make it “truly civil.”¹ Although immigrant and civil rights advocates are increasingly concerned about ICE’s continued expansion of immigration enforcement, its proposed creation of a civil detention system is the first step towards ensuring humane treatment for immigrant detainees. Any civil detention system should be developed jointly with an effective risk assessment tool to ensure that only noncitizens who pose a risk of flight or community danger are detained.

The purpose of this report is to demonstrate the relevance of Australia’s civil model to the U.S. immigration detention system and to illustrate how the lessons learned by the Australian government may be applicable in the United States.² To conduct this research, in February 2010 an NIJC Policy Fellow traveled to Australia to visit the Maribyrnong Immigration Detention Center, the largest facility in the state of Victoria, where the civil detention model began in 2005. The Fellow also reviewed the Australian government’s alternatives to detention program, a key component of its civil immigration detention system.

As with the United States, Australian reform efforts were prompted by increasing scrutiny of its immigration detention practices by government agencies, non-governmental organizations (NGOs) and the international community, which included documentation of repeated incidents of human rights violations and routine denial of basic medical care. In response, the Australian government engaged in systemic reform of its immigration detention system shifting from a punitive “one-size-fits-all” enforcement model to an individual case and risk management model. This provides

guidance to the United States government as it undergoes its own process of reform and works to create a civil detention system.

II. THE RELEVANCE OF THE AUSTRALIAN MODEL TO THE UNITED STATES

Australia and the United States share a historical path towards immigration reform. Like the United States, Australia detains individuals who have entered the country unlawfully or who have violated visa conditions, including through the commission of crimes.³ Similar to current U.S. law, in 1992 Australia made detention mandatory for noncitizens during the pendency of their immigration application.⁴ The law made no distinction for individual circumstances, age or personal needs, which led to the long term and indefinite detention of many vulnerable individuals by Australia's Department of Immigration and Citizenship (DIAC). Some noncitizens were detained for more than seven years.⁵

Since its inception, Australia's mandatory detention policy had attracted intense domestic and international scrutiny which gained momentum as the public became increasingly aware of the gross physical and psychological impact of prolonged detention on individuals. In much the same way that American practices have attracted mounting criticism, reports about Australia's immigration detention system highlighted the inadequate and, at times, abusive treatment of detainees by authorities and facility personnel, the inhumane conditions at immigration detention facilities, and the lack of transparency and oversight.⁶ A 2005 inquiry commissioned by the Australian government issued a set of recommendations for reform (the Palmer Report).⁷ This report expressed deep concern for the authority of immigration officers who exercised "exceptional, even extraordinary powers" without adequate training, proper management or oversight, effective information systems, or any genuine quality assurance.⁸

In 2005, responding to this crisis, Australia began to overhaul its immigration detention system through administrative and legislative reform in order to move towards a civil model of detention, including the establishment of meaningful community-release programs. Australia expanded its reform effort in 2006 when it introduced a case management system to conduct appropriate risk and needs assessments of noncitizens prior to detention and removal decisions being made.⁹ In July 2008, the Australian government introduced a historic change in policy, in which individuals are detained only as a measure of last resort, if they are found to pose a risk of flight or endanger the community.¹⁰ Now that fewer noncitizens are being held in detention, the Australian government has greater resources to improve immigration facilities and access to services for those remaining in detention.

Although Australia detains a much smaller number of immigrants than the United States, many of the lessons learned from the Australian experience are applicable to the U.S. ICE should consider the various elements of the Australian model and prioritize, evaluate and determine how they can be scaled to meet the requirements of the U.S. immigration detention system. Respect for and protection of the human rights of each individual provides the foundation for any immigration detention system.

III. ELEMENTS OF THE AUSTRALIAN MODEL

A. CIVIL DETENTION

(i) Language of Civil Detention

The Palmer Report concluded that there was a “serious cultural problem” within DIAC and that “urgent reform was required.”¹¹ The most striking feature of the Australian model is the acculturation of the civil concept into day-to-day operations and the separation of immigration detention facilities from criminal detention. This separation has helped to decriminalize the treatment of noncitizens held in civil detention. The most obvious feature of this cultural shift is the language of civil detention used at Maribyrnong Immigration Detention Center (Maribyrnong) and the absence of criminal justice terminology. For example, immigrants held in detention are referred to as “clients” and decisions regarding detention and removal are determined by a “client-focused approach” and through the use of “case plans” which are based on criteria developed under a “client placement model.” Terms such as “detention and removal” have been replaced by “immigration pathway” and “case resolution.” DIAC reported that the new language has altered the mindset of government officials and facility personnel, helping to improve the culture of immigrant detention.

(ii) Relationship Between Immigration Authorities and Private Contractors

Private contractors manage immigrant detention facilities in Australia. For many years, the government had great difficulty identifying private contractors capable of appropriately managing civil detention.¹² Then, in 2009 DIAC hosted consultations with more than 60 community organizations and NGOs, as well as the Australian Human Rights Commission, the Commonwealth Ombudsman’s Office and the United Nations High Commissioner for Refugees, to create civil contract language and identify an appropriate provider.¹³ In June 2009, DIAC appointed Serco, Ltd., as its new immigration detention contract provider. Serco, which runs detention and alternatives to detention programs in the United Kingdom, Germany, and Australia, provides the government with a detention model that aligned with its reformulated detention values.¹⁴ Since the Australian government only contracts with one private company, the culture of civil detention can be assimilated within all immigration detention centers across the country, promoting greater consistency in practices and procedures.

(iii) Case Management

During an investigation into the 10-month detention of a German citizen, the Palmer Report concluded that the lack of comprehensive case management, effective accumulated assessment and health care review process “significantly affected” both the quality of care the individual received and the amount of time she spent in detention.¹⁵ As a result of the Palmer Report’s recommendations, DIAC created a Case Management Unit in 2006 to operate as an internal unit within the immigration agency. The Unit

performs an individual assessment of each client brought into immigration detention. Caseworkers evaluate each client based on various factors, including health and well-being, family structure, access to community support, eligibility for relief from deportation, cultural and religious sensitivities, and potential to pose a danger to the community. The caseworker then makes a recommendation about whether it is appropriate to continue to detain the client or if the client should be referred into an alternatives to detention program.

DIAC's case management model is premised on the principle of early intervention in which the client's particular needs are identified quickly and any security risks are promptly assessed. This model promotes DIAC's expeditious decision-making, minimizes an immigrant's time in detention, and ensures that clients receive identified services (e.g., medical and mental health care) in a timely manner.¹⁶ Caseworkers track clients' ongoing needs to maintain a "holistic" and up-to-date profile of the client's welfare, and identify any gaps in available services.¹⁷ In most instances, caseworkers have a background in social work, psychology or social science and a strong understanding of immigration law.¹⁸

(iv) Location of Facilities and Visitation

Maribyrnong's proximity to downtown Melbourne has significantly increased access to qualified legal service providers. Attorney visits are permitted daily between 9:00 a.m. and 5:30 p.m., although visits outside of these hours may also be arranged.¹⁹ Daily family visitation hours include evening access to clients. As a response to criticism of visitation practices at other Australian immigration detention facilities,²⁰ Maribyrnong's Visitation Center is complete with a large recreation room including private areas, couches, televisions, DVD players, telephones, and children's games. Contact visits are permitted, without screens or any obstructions between the client and the visitors. From time to time, local schools and local musicians have performed for clients in the Visitation Center, offering interaction with the outside world.

(v) Facility Features and Lay-Out

DIAC developed building design standards to ensure that its facilities appear non-institutional and are built to the scale of domestic architecture. The design standards are based on principles which support the health and well-being of people held for extended periods in immigration detention, with infrastructure that will facilitate "a normalized community environment while ensuring the safety of residents, staff and visitors."²¹ The room size and amenities incorporate standards of residential care settings (such as assisted living facilities) and are designed to allow clients to associate and socialize freely with other clients.

The Maribyrnong facility has been used for immigration detention since 1983, at which time the Australian government used an existing building on the site. In 2005, as part of the immigration reform process, the government upgraded the facility and increased its capacity to 70 clients (with a contingency capacity for a further 30 clients).²² When NIJC

visited the facility in February 2010, approximately 55 clients were held at Maribyrnong.²³ The facility has separate pods for male and female clients and has the capacity to house couples in a more private space. Each pod contains individual rooms that house a maximum of three clients, with telephones, a lounge area, computer, laundry, outdoor courtyard, kitchenette and basic cooking equipment. Clients are encouraged to use these facilities to prepare light meals outside of regular meal times. Fresh produce and other items are available for purchase. Clients wear their own clothes, are without shackles, and are free to move between the pods. Clients are not required to stay in their pods after a certain time in the evening and there is no “lights out” policy.

(vi) Medical Treatment and Mental Health

The Palmer Report criticized the inadequate provision of psychiatric care in Australia’s immigration detention system. The Report noted that an effective clinical system of care required frequent, regular visits by trained psychiatrists, as well as psychologists, primary practitioners, and nurses trained in mental health related issues.²⁴ In response to these recommendations, DIAC revised its policy allowing all individuals held in immigration detention access to health care at a standard generally comparable to the health care available to the Australian community at large.²⁵ Service providers are sensitive to the diverse and potentially complex health care needs of people in immigration detention. Most primary health services are available onsite with referral to external providers available as clinically required, including dental care and physiotherapy.

DIAC offers a comprehensive medical screening to every client entering immigration detention to identify conditions that may require further medical attention.²⁶ This assessment includes collecting clients’ personal and medical history, as well as conducting a physical examination and formalized mental health screening and assessment. Treatment management is coordinated through a general practitioner for all clients who have a clinically identified need for ongoing medical treatment. A general practitioner is onsite at Maribyrnong at least two days every week and an onsite clinic is open every other day. After-hours requests for medical assistance are made available through a 24 hour triage hotline. The mental health team at Maribyrnong includes a psychiatrist, counselor, psychologist and mental health nurse with a rotating weekly schedule. A health discharge assessment is undertaken for each client at the completion of their detention at Maribyrnong. As needed, referrals are made to relevant community health providers to facilitate ongoing care beyond discharge and, if necessary, in the home country to which they are being removed.²⁷

(vii) Activities, Educational Programs and Religious Worship

A number of programs for immigrants held at Maribyrnong have been introduced to contribute to personal development and improved quality of life. An Activities Coordinator arranges programs including cultural and lifestyle classes, sporting activities, as well as educational services, such as English language instruction.²⁸ On occasion, escorted excursions outside of Maribyrnong are allowed. Clients may submit requests to the Activities Coordinator about preferences for upcoming excursions. Resources and

equipment for study include computers, internet and newspaper access, DVDs, arts and crafts supplies, sport and recreation facilities and equipment and access to a library with a variety of material in various languages. At Maribyrnong, once a week, staff arrange cultural theme nights. Further, staff provide culturally appropriate meals and water, tea and coffee is available for clients throughout the day. Qualified religious representatives, religious books and materials and communal areas for religious activities are also offered to clients at the facility.²⁹

B. ALTERNATIVES TO DETENTION PROGRAMS

A critical element of Australia's civil detention model is its alternatives to detention programs. The use of risk assessment, case management, and a partnership with the Red Cross has allowed Australia to significantly reduce the number of noncitizens in detention while maintaining an extremely low rate of absconders. Since 2005, Australian immigration authorities have had the discretion to determine what defines a place of detention, allowing for less restrictive detention outside of immigration facilities for vulnerable populations, such as children and families, elderly persons and clients suffering from chronic physical or mental health issues.³⁰ This led to the creation of Australia's Community Detention program. In addition, specialist programs for asylum seekers and immigrants with temporary visas who have complex needs (e.g., individuals unable to work due to the effects of torture and trauma) have been developed under the Asylum Seekers Assistance Scheme and the Community Assistance Support program.³¹

(i) Effectiveness of Alternatives to Detention Programs

Between 2006 and 2009, Australian alternatives to detention programs yielded a 94% compliance rate.³² This represents the number of individuals who remained in contact with authorities and did not abscond during the reporting period. On average, more than two-thirds of participants in the Community Detention program who lost their immigration cases elected to voluntarily depart.³³ Use of the Community Detention program has grown significantly in capacity following results released in September 2008 which reported that less than 1% of clients had absconded.³⁴ Further, alternatives to detention programs have been cost-effective for the Australian government: Program costs are approximately one-third of those associated with traditional detention and removal practices.³⁵ Daily detention costs averaged \$113 USD in the 2008/2009 period.³⁶ Whereas, for individuals requiring specialized care the cost of providing welfare, legal, and voluntary return services averaged less than \$35 USD per day in 2008/2009.³⁷

(ii) The Role of the Australian Red Cross

DIAC partners with the Australian Red Cross to administer its alternatives to detention programs. The Red Cross provides welfare support to clients, while DIAC maintains responsibility for compliance and immigration matters. With its history of providing humanitarian support to vulnerable populations, the Red Cross is in a unique position to work with DIAC and successfully navigate the sometimes more challenging relationship

between government agencies and NGOs. The Red Cross is required to notify DIAC if a client has absconded, but it is not required to carry out DIAC's compliance work.

(iii) Critical Role of Case Management

In practice, DIAC notifies the Red Cross that the release of a client from immigration detention (as part of the alternatives to detention programs) is imminent. A Red Cross caseworker then visits the detention center, assesses the individual and develops a "case plan" for the client based upon the client's housing options, income, health, education, and access to community support. The client's existing Case Management Unit case worker acts as a liaison between the Red Cross caseworker and DIAC to monitor the individual's ongoing development. For example, under the Community Detention model, "Residence Determination" permits the client's freedom of movement within the community, but requires residence in a designated location.³⁸ The individual may not spend the night outside of that individual's "Designated Residence." DIAC may visit the individual's designated residence periodically to confirm compliance, while the Red Cross caseworker responds to any of the client's particular health and welfare needs.

(iv) The Provision of a Basic Living Allowance, Housing and Health Services

Under all Australian alternatives to detention programs, in addition to a Red Cross caseworker, clients are eligible to receive a basic living allowance, assistance locating suitable accommodation, and coverage for essential healthcare and medical expenses and counseling.³⁹ Clients residing in Community Detention are free to enter into the private rental market and use the basic living allowance for rental expenses. In cases of dire financial hardship, Red Cross case workers make referrals to community-subsidized accommodation. Since July 2009, some asylees are also eligible to apply for work authorization.⁴⁰ In cases where employment is secured for clients, the basic living expense provided by the Red Cross is adjusted according to the client's income.

(v) Cooperation with Community Groups

In addition to Maribyrnong, NIJC visited the Sanctuary in Brunswick, Victoria. The individuals residing at the Sanctuary are asylum seekers referred to the Sanctuary by the Red Cross. The Baptist Church owns and manages the 29-room, converted aged care home. Each room has a bed, private bathroom, table and refrigerator. In every house there is a communal lounge room with televisions, DVDs, computers, internet access, laundry facilities and a shared kitchen with full cooking equipment. There is no curfew and clients may leave and return to the Sanctuary at their own convenience. The Sanctuary has two full time caseworkers who meet with clients regularly.⁴¹ Pastoral care, social and educational activities, community involvement programs and specialized referral services are also offered at the Sanctuary.

IV. LESSONS LEARNED FROM THE AUSTRALIAN MODEL AND RECOMMENDATIONS FOR THE U.S. CONTEXT

Lesson 1: The policy of detaining noncitizens only as a measure of last resort promotes effective and humane government practices, reduces detention costs, addresses issues of prolonged detention, and can mitigate the risk of litigation.

Recommendation: In consultation with NGOs and community groups, finalize a risk assessment tool to identify individuals eligible for referral into alternatives to detention programs.

Lesson 2: The use of a risk assessment tool, a civil detention model, and alternatives to detention programs protect the human rights of detained noncitizens, meet the needs of vulnerable populations and provide a cost-effective alternative to the penal-detention model, while ensuring compliance with immigration enforcement.

Recommendation: Continue to consult with experts in risk assessment, civil detention, and alternatives to detention, to design a civil detention model which includes referral into community-based programs.

Lesson 3: The ethos of the civil detention model is early intervention and early identification of a client's particular needs through a case management model. Case management allows immigration authorities to monitor the detained population, foster a culture of accountability and transparency, facilitate client access to legal and social services and make referrals to alternatives to detention programs.

Recommendation: Develop guidelines for the roles, responsibilities, background and expertise, and recruitment process for caseworkers and training manuals for case management staff.

Lesson 4: Minimizing the number of private contractors used to detain immigrants in custody centralizes policy reform, promotes consistency in detention practices and reduces logistical obstacles to monitoring compliance with detention standards.

Recommendation: Create partnerships with private contractors who have the capacity to replicate the civil detention model, including the use of staff with a social work—not correctional—background.

Lesson 5: Alternatives to detention programs administered by specialized social service providers ensure that vulnerable clients benefit from the expertise of those providers and increase compliance with immigration enforcement requirements.

Recommendation: Nominate an appropriate entity to administer and pilot alternatives to detention programs in the United States.

Lesson 6: The provision of a basic living allowance, housing and coverage for essential medical and health care reduces detention costs, lowers the chance of a client absconding and allows vulnerable populations to reside in less restrictive, more appropriate settings which take account of their particular needs.

Recommendation: Conduct a cost analysis of alternatives to detention programs in the United States.

Fundamental Recommendation: Humane immigration detention requires an effective oversight mechanism and a consistent commitment to transparency. ICE should continue to work with the DHS Office of Civil Rights and Civil Liberties and the DHS-NGO Enforcement Working Group to develop the roles and responsibilities of an oversight body.

¹ Nina Bernstein, “U.S. to Reform Policy on Detention for Immigrants” *New York Times*, August 5, 2009 available online at <http://www.nytimes.com/2009/08/06/us/politics/06detain.html>; see also ICE Fact Sheet, *2009 Immigration Detention Reforms*, August 6, 2009 available online at

http://www.ice.gov/pi/news/factsheets/2009_immigration_detention_reforms.htm

² Other civil detention models have been developed internationally, including models piloted in Belgium, Portugal and Hungary. However, these models have traditionally focused on asylum seekers whereas the Australian model has a broader focus.

³ DIAC, *Immigration Detention Statistics Summary as at March 26, 2010* [hereinafter referred to as DIAC Detention Statistics] available online at <http://www.immi.gov.au/managing-australias-borders/detention/pdf/immigration-detention-statistics-20100326.pdf>

⁴ ss189, 196, 198 *Migration Act 1958* (Cth) [hereinafter referred to as Australian Migration Act]. In 1994 this law was further expanded.

⁵ DIAC, Supplementary Submission to the Joint Commission on Migration, *Inquiry into Immigration Detention*, Sub 129d. September 30, 2008 available online at <http://www.aph.gov.au/house/committee/mig/detention/subs/sub129d.pdf>

⁶ See generally, Australian Human Rights Commission (then known as the Human Rights and Equal Opportunity Commission), *A Last Resort? The National Inquiry Into Children in Immigration Detention*, 2004 available online at http://www.humanrights.gov.au/human_rights/children_detention_report/report/index.htm; Submissions to the *National Inquiry Into Children in Immigration Detention* available online at

http://www.hreoc.gov.au/Human_Rights/children_detention/submissions/subs_index.html; Dana Robertson, “More Australian Citizens Illegally Held in Detention: Commonwealth Ombudsman,” *Lateline: Australian Broadcasting Corporation*, October 26, 2005 available online at <http://www.abc.net.au/lateline/content/2005/s1491530.htm>; Human Rights Watch, “Australia: Letter to Prime Minister Howard on Recent Amendments to the Migration Act,” October 31, 2001 available online at <http://www.hrw.org/press/2001/10/australia1031-ltr.htm>; “Govt Says 33 Have Been Wrongly Detained,” *The Age*, May 2, 2005 available online at <http://www.theage.com.au/news/National/Govt-says-33-have-been-wrongly-detained/2005/05/02/114886315719.html>

⁷ Mick Palmer, *Inquiry Into the Circumstances of the Immigration Detention of Cornelia Rau*, July 14, 2005 [hereinafter referred to as the Palmer Report] available online at

<http://www.immi.gov.au/media/publications/pdf/palmer-report.pdf>; see also Office of the Commonwealth Ombudsman, *Inquiry Into the Circumstances of the Immigration Detention of Vivian Alvarez Matter*, September 26, 2005 available online at http://www.immi.gov.au/media/publications/pdf/alvarez_report03.pdf

⁸ Palmer Report at 9.

⁹ DIAC (then known as the Department of Immigration and Multicultural Affairs), *Case Management in DIMIA*, 2005 [hereinafter referred to as DIAC Case Management Fact Sheet] available online at <http://idcoalition.org/australia-departmental-material-on-case-management-and-the-community-care-pilot/>. Also in 2006 the Australian government paid an eleven year old Iranian child \$370,000 USD for the psychological harm he suffered while being held in detention between 2000 and 2002 see “Immigration Pay Boy \$400,000 [AUD],” *The Sydney Morning Herald*, March 3, 2006; see also Caro Meldrum, “Villawood Detainee Sues Immigration Department” *Australian Broadcasting Corporation*, July 13, 2007 available online at <http://www.abc.net.au/news/stories/2007/07/13/1978192.htm>

¹⁰ Minister for Immigration, Senator Chris Evans, “New Directions in Detention – Restoring Integrity to Australia’s Immigration System” July 29, 2008 available online at <http://www.minister.immi.gov.au/media/speeches/2008/ce080729.htm>

¹¹ Palmer Report at 8.

¹² Michael Flynn and Cecilia Cannon, “The Privatization of Immigration Detention: Towards a Global View” *Global Detention Project* September 2009, available online at http://www.globaldetentionproject.org/fileadmin/docs/GDP_PrivatizationPaper_Final5.pdf; see also Palmer Report at 28, 30 and Recommendation 6.2.

¹³ DIAC Press Release, “Serco Contract Signed,” December 11, 2009 available online at http://www.newsroom.immi.gov.au/media_releases/770?page=3&

¹⁴ *Id.*

¹⁵ Palmer Report at 11.

¹⁶ DIAC Case Management Fact Sheet.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Serco, “Visitors Conditions of Entry” available online at <http://www.immi.gov.au/managing-australias-borders/detention/pdf/irh-visitor-conditions-entry.pdf> and Serco, “Visitor Application Form” available online at <http://www.immi.gov.au/managing-australias-borders/detention/pdf/idc-visitor-conditions-of-entry.pdf>

²⁰ Palmer Report at Recommendation 4.7.

²¹ DIAC Fact Sheet, *Standards for Design and Fitout of Immigration Detention Facilities*, available online at <http://www.immi.gov.au/managing-australias-borders/detention/facilities/standards-for-design-fitout.htm>

²² DIAC, *Maribyrnong Immigration Detention Center* available online at <http://www.immi.gov.au/managing-australias-borders/detention/facilities/locations/maribyrnong/>

²³ [DIAC](#) Detention Statistics.

²⁴ Palmer Report at 25.

²⁵ DIAC Detention Fact Sheet, *Immigration Detention Health Services* available online at <http://www.immi.gov.au/managing-australias-borders/detention/services/health-services.htm>

²⁶ *Id.*

²⁷ *Id.*

²⁸ DIAC Fact Sheet, *Services Provided at Immigration Detention Facilities* available online at <http://www.immi.gov.au/managing-australias-borders/detention/services/services-at-facilities.htm#a>

²⁹ *Id.*

³⁰ s197AB Australian Migration Act; *see also* International Detention Coalition, *Case Management as an Alternative to Immigration Detention – The Australian Experience*, June 2009, p.1 [hereinafter referred to as Australia ATD Manual] available online at <http://idcoalition.org/wp-content/uploads/2009/06/casemanagementinaustralia.pdf>

³¹ DIAC Fact Sheet 86a, *Community Assistance Support Program* available online at <http://www.immi.gov.au/media/fact-sheets/86acommunity-assistance.html>

³² Australia ATD Manual, p.1.

³³ *Id.*

³⁴ *Id.*; Despite the significance of the Community Detention program, individuals remain in administrative detention, often experiencing extended periods of uncertainty with associated mental health implications.

³⁵ DIAC, Additional Budget Estimates Hearing, 'Immigration and Citizenship Portfolio' February 24, 2009 available online at http://www.aph.gov.au/Senate/Committee/legcon_cte/estimates/add_0809/diac/38.pdf

³⁶ Minister for Immigration, Senator Chris Evans, *Migration Amendment (Abolishing Detention Debt) Bill 2009*, Second Reading Speech, November 18, 2008 available online at <http://www.minister.immi.gov.au/media/speeches/2009/ce090318.htm>

³⁷ Average cost refers to the Community Care Pilot (now known as the Community Assistance Support program) *see* DIAC, Supplementary Submission to the Joint Commission on Migration, *Inquiry into Immigration Detention*, Sub 129f. October 15, 2008 available online at <http://www.aph.gov.au/house/committee/mig/detention/subs/sub129f.pdf>; Based on participation in the pilot of a maximum of 400 people during 2008/2009, the average daily costs was less than \$35 USD per person, excluding case management costs; *see generally* Australian ATD Manual, p.11.

³⁸ s197AC Australian Migration Act

³⁹ Red Cross Fact Sheet, *Community Detention* available online at http://www.redcross.org.au/ourservices_aroundtheworld_tracingrefugeeservices_commdeten.htm; Red Cross Fact Sheet, *Asylum Seeker Assistance Scheme* available online at

http://www.redcross.org.au/ourservices_aroundtheworld_tracingrefugeeservices_ASAS.htm; Red Cross Fact Sheet, *Community Care Pilot* (now known as the Community Assistance Support program) available online at http://www.redcross.org.au/ourservices_aroundtheworld_tracingrefugeeservices_commcare.htm

⁴⁰ DIAC Fact Sheet, *New Permission to Work Arrangements*, July 1, 2009 available online at <http://www.immi.gov.au/refugee/permission/>

⁴¹ The Sanctuary, *Welcome Booklet for Residents*, p.6 available online at <http://www.baptcare.org.au/lwp/wcm/connect/Baptist/Services/Sanctuary>