



## Seeking justice for people seeking asylum in Australia

October 2020

“And you are to love those who are foreigners, for you yourselves were foreigners in Egypt.”  
Deuteronomy 10:19

“When we consider, as Christians, what is necessary for a just society, the imperatives to care for the stranger and bring freedom to the oppressed are central. A just society upholds the dignity of every person and the life of every person is valued, while those who are most vulnerable and in need of care and protection find safety and security and are able to fulfil the hope of a decent life for themselves and their family.”

*Shelter from the Storm, A Uniting Church in Australia Statement on Asylum Seeker & Refugee Policy, July 2015*

The Commonwealth Ombudsman is required by law to assess the appropriateness of the arrangements for people who have been detained for two years in immigration detention every six months. As a result, the Commonwealth Ombudsman produces a report on immigration detention in Australia every six months. The latest report covered the period from July 2019 to December 2019. The report was made public in August 2020.

The Commonwealth Ombudsman reported that in early 2019 a person in detention complained of injury as a result of excessive use of force by private detention officers employed by Serco. The Commonwealth Ombudsman reviewed CCTV and body camera footage of the incident. They concluded the use of force was outside of standard operating procedures and appeared unlawful. The Ombudsman concluded the person had not posed a risk to the safety of themselves or any other person. The Ombudsman found internal investigations by Serco and the Department into the incident had been inadequate.

The Ombudsman provided an alarming general finding regarding the use of force by staff in immigration detention:

*We are concerned that there appears to be an increasing tendency across the immigration detention network for force to be used to resolve conflict or non-compliant behaviour as the first rather than the last choice and can be exercised in a manner both inconsistent with the Department's procedures and possibly without legal basis.*

The Commonwealth Ombudsman also stated on immigration detention:

*I remain concerned that people continue to be held of lengthy periods with, in some instances, no probability of being released in the foreseeable future. Delays in resolving the immigration status of detainees place considerable strain both on detainees and their families.*

The Department of Home Affairs responded to state that each person in detention has their case reviewed monthly.

*The Saturday Paper* reported on 22 August 2020 that it had obtained data about people who had applied for asylum in immigration detention through Freedom of Information from the Department. The data showed there were 106 people who had applied for asylum who had been held in immigration detention for more than five years. Another 22 people seeking asylum had been in detention for more than eight years.

People in detention that do not comply with the rules of the detention facility can be placed into ‘High Care Accommodation’, where they are isolated from other detainees. The Commonwealth Ombudsman found that a small number of Serco staff continue to inappropriately threaten people in detention with being placed in High Care Accommodation.



The Commonwealth Ombudsman expressed concern that the security risk assessment of people placed in immigration detention is resulting in higher risks being assigned than are warranted. The Department of Home Affairs agreed to make improvements. However, the Commonwealth Ombudsman expressed concern that it continued to find cases where the person in detention is identified as the offender in an incident when they were the victim. The Ombudsman found the placement of undue weighting on criminal offences committed over 15 years ago and that mitigating circumstances are not being taken into account.

On the positive side, the Ombudsman noted that staff were more willing to de-escalate situations when transferring people being detained rather than use additional physical restraints.

### **What You Can Do**

Write a polite and respectful letter to:

The Hon Alan Tudge MP  
Acting Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

Salutation: Dear Minister

Points to make in your letters:

- Express concern that the Commonwealth Ombudsman found that a person in immigration detention was injured due to unlawful use of force by Serco employees. Further express concern that the Ombudsman found there was an increasing tendency to use force to resolve conflict and deal with people in detention who did not comply with the rules in detention.
- Ask what further safeguards the Government has put in place to ensure the use of force against people in immigration detention is a last resort.
- Express the view that detention of people who have applied for humanitarian protection in Australia should itself be a last resort.
- Welcome the finding by the Commonwealth Ombudsman that staff involved in the transfer of people in immigration detention are more willing to de-escalate situations that apply additional physical restraints.
- Note the Commonwealth Ombudsman expressed concern that some people who have applied for humanitarian protection in Australia and who remain in detention have been placed in locations away from family, friends and other support networks. Ask what steps the Government is taking to address the problem.
- Ask what actions have been taken to ensure that Serco staff at detention facilities do not make inappropriate threats against detainees to place them in 'High Care Accommodation', as recommended by the Commonwealth Ombudsman.
- Ask that the Government fully implement the recommendation of the Commonwealth Ombudsman for reform of the Security Risk Assessment Tool and processes, so that the risks posed by a person in immigration detention are accurately assessed. Note that an adverse assessment results in inappropriate and unnecessary restrictions being placed on the person.
- Seek assurances that the Government will continue to work towards allowing people in immigration detention access to external recreational and religious excursions unless there is a strong reason not to. Note that the Commonwealth Ombudsman recommended such access. They reported in August 2020 that the recommendation was still being implemented but had not been completed.