



VISITORS' ACCESS TO PEOPLE IN DETENTION

"It is really important that visitors play the role of witnesses in a system where there is no independent scrutiny. By making it hard for us to get in, we are placing people at risk."- A detention visitor in Victoria

"While I go to the detention centre to bring hope, I often find nowadays [with added restrictions] I have, like the detainees, been drained of any hope."- A detention visitor

Every day, ordinary Australians visit people detained in Australia's onshore immigration detention facilities. This is an important and often under-appreciated role. These visitors provide emotional support to people in detention, advocate on their behalf and fill in the gaps that exist in provision of services and information in immigration detention facilities. One person who had spent several years in different immigration detention facilities told us *"visitors make us feel normal again, even if it is for a few hours"*. People who visit immigration detention also often provide the only public information about what is happening in our immigration detention facilities as Australia does not have an official national body that publicly and regularly reports on visits to immigration detention facilities.

It is not easy to visit people in immigration detention, to hear their stories and to speak up for those who are the victims of Australia's current punitive approach to people seeking asylum. Visiting immigration detention facilities takes time, energy and commitment, and often has a significant impact on the wellbeing of visitors. Yet, all too often, we hear politicians and the media falsely blaming these visitors and advocates for encouraging people to harm themselves or to disobey rules.

In recent months, the Refugee Council of Australia (RCOA) has increasingly heard from these visitors that security conditions in immigration detention facilities are being ratcheted up and it is now more difficult to visit people in immigration detention. Correspondingly, people in immigration detention are increasingly isolated from the wider community, negatively impacting their mental and physical wellbeing. As a result, we have started a national study to explore those concerns further. The focus of this research is on access to people in onshore immigration detention facilities.

RCOA interviewed regular visitors to immigration detention across most states and territories. The participants in this research have been visiting the immigration detention facilities in different capacities (for example: social visitors, religious service providers, lawyers, etc), some for over ten years. RCOA also spoke to a small number of people who have been recently released from immigration detention to hear their thoughts about the role of detention visitors.

This policy brief provides a summary of the challenges detention visitors are facing in accessing people in detention and puts forward some recommendations.

RCOA welcomes any feedback and observations immigration detention visitors or others would like to share with the Refugee Council of Australia to better inform our final report which will be published in the

first quarter of 2017.¹

Barriers to accessing people in immigration detention

Lawyers, advocates, friends and family of people in detention report increasing difficulties in arranging visits. Rules surrounding the reception process differ greatly from one centre to another. Either there is no standardised system for organising visits or it is not being implemented properly.

The inconsistencies include:

- The amount of time it takes to process visitor applications
- The notice a visitor is required to give to secure a visit: while in most facilities policy dictates that this should be done 24 hours prior to a visit, some (such as Christmas Island and Maribyrnong Immigration Detention Centre) require a 48-hour notice
- The number of people a visitor is allowed to see per visit
- The duration of each visit, and
- The items a visitor can take into visits.

Most people we spoke to said that the constant change of rules without prior warning both confuses and frustrates visitors and people in immigration detention. Further, our research has found that rules are applied inconsistently not only between different detention facilities but even within the same centre, depending on the staff implementing the rules.

The inconsistencies can be illustrated by comparing Melbourne Immigration Transit Accommodation (MITA) to Brisbane Immigration Transit Accommodation (BITA). Both centres are considered by the Department of Immigration and Border Protection as detention facilities for people “who represent a low security risk, low flight risk and have no known health concerns that preclude their placement in ITA”:²

- In MITA, the official process to book a visit is to submit visitor applications 24 hours in advance. However, most visitors tend to send in their applications at least a week before their planned visit to ensure their application is approved. Visits are booked by table allocation rather than capacity. 10 tables are available with a maximum of 6 people per table. As of 31 October 2016,³ the population of MITA was 130. This means that, at that time, the visit area could not even hold half of the number of people detained in the detention facility, even if there were no visitors.
- In BITA, while there is the same requirement of booking 24 hours in advance, visitors at times have waited over two weeks to have their request to visit approved. People spoke about a new online booking system which they believed has made the application process even more difficult rather than streamlining it. Each visitor can request to visit only one person in detention (family groups are exempted) and the visiting capacity allows for up to 14 people only, including two Serco staff. Further, each visitor is allowed to visit the detention facility only twice per week and each person in detention can have only two visits per week. As of 31 October 2016, the population of BITA was 84. This means that, at that time, there were almost six times the number of detained people than places available in the visit area.

People also commented about the poor communication between different staff who process visitor applications. This often results in misplacing applications and making errors with essential details.

Other inconsistent and arbitrary rules apply once a person gets to visit. For instance, in MITA if a person in detention needs a toilet break, they are not allowed back into the visitor area and the visit is terminated. In BITA, the arrangement of the visitor rooms has seen sofas being replaced with fixed chairs that cannot

¹ Further information and feedback should be sent to detention@refugeecouncil.org.au

² Department of Immigration and Border Protection, *Detention Service Manual, Chapter 2 - Detainee placement - Placement options within the immigration detention network*

³ As of 20 December 2016, the latest publicly available statistic relating to the number of people in immigration detention on the website of Department of Immigration and Border Protection is from 31 October 2016.

be moved further, promoting the impersonal nature of any community contact. This is made worse by the constant and obvious presence of at least two Serco staff in the room.

Securitisation of immigration detention facilities

The introduction of the Australian Border Force and an increase in the number of people in immigration detention facilities whose visas have been cancelled under section 501 of the Migration Act (which is often the result of a criminal conviction) have resulted in the increased securitisation of immigration detention facilities affecting all people.

The increasing ‘military-style’ approach adopted in detention facilities has created an atmosphere similar to that of prisons. There are now much stricter regulations on what visitors are allowed to take in. There have been reports of people being asked to remove rings and prevented from taking books, home cooked food, aluminium packaging, plastic bags and drinks inside the visit area.

Body searches before entry have also become much more intrusive. Individual searches have expanded to include invasive drug tests, including saliva swabs and pat downs. The tests conducted on visitors are reportedly highly unreliable, many needing to be performed numerous times before an accurate reading is shown. Many of the visitors who spoke to RCOA spoke of the humiliating nature of these searches and the screening process before entry. For example, on many occasions elderly Australians, including nuns, have been refused entry for allegedly testing positive to Cocaine and explosives. These denials of access not only have had an emotional impact on the visitors, they also mean people in detention are denied the opportunity to see their family and friends.

Finally, reports from visitors to some detention facilities, such as Villawood Immigration Detention Centre, state that Serco staff at times walk around the visiting area with cameras strapped to their front which are recording images and voices. This creates a threatening and fearful environment; or in the words of one of our participants, a “Kafkaesque” situation.

Filling the void

Most of the people in immigration detention report lacking required access to legal advice and information. They also lack meaningful activities to fill their time and to allow social interaction with others. We heard consistently from those in detention that it is the visitors who are filling this void. Not only do they provide emotional support, offer friendship and promote mental stability, but visitors also assist people to navigate an extremely complex immigration and legal system by providing information, assistance and referrals. As one of the visitors reflected:

“We have found people hidden away in the back blocks of that detention centre who don’t know that they have to make applications through lawyers; they don’t know how to apply and they just get left behind and forgotten.”

Impacts of the policies on detention visitors

The resilience of visitors cannot go unmentioned. Visitors, who volunteer their time are often left feeling frustrated and hopeless from their experience of visiting immigration detention facilities. They are confronted with an inevitable sense of anger, combined with powerlessness in a system where advocating for people has become increasingly difficult and policies and procedures are increasingly unjust. This is taking a substantial toll on visitors, all of whom embody the spirit of humanity and volunteerism. If these issues are not addressed, there is a real risk that visitors will be unable to continue to provide emotional support to an increasingly traumatised group of people.

As reflected by one of our participants;

“I’ve felt miserable, burnt out, guilty, desperate and depressed but I’ve also felt joy, excitement and hope.”

Steps forward

Difficulties in accessing people in immigration detention not only affects them, it is also affecting people in the community who tirelessly volunteer their time to meet with people in detention. Those barriers deprive people of a much needed social interaction and contact with family and friends.

Guideline 8 of the UNHCR Detention Guidelines (*“Conditions of detention must be humane and dignified”*) emphasises that as a minimum standard:

“asylum-seekers in detention should ... receive visits from relatives, friends, as well as religious, international and/or non-governmental organisations, if they so desire ... Facilities should be made available to enable such visits. Such visits should normally take place in private unless there are compelling reasons relevant to safety and security to warrant otherwise.”⁴

The current barriers faced by detention visitors is undermining this principle. The recent decision of the Australian Border Force to ban access to mobile phones only further isolates the people in detention. Therefore it is paramount that barriers to accessing people in detention be addressed as soon as possible.

To address these barriers, RCOA recommends that the Department of Immigration and Border Protection, together with the Australian Border Force:

- ensure the rules are designed to facilitate visits, recognising the important role such visits play in the wellbeing of those inside detention, and recognising that immigration detention is administrative rather than punitive in nature.
- ensure the rules around visiting process are transparent and consistent across all immigration detention facilities. This could be achieved through the draft and implementation of a set of updated national standards on visit management.
- appropriately consult with the communities, people in detention and detention visitors about any change in rules on visiting process, before those rules are implemented. The Community Consultative Groups are forums that are already established and could be used for this purpose.
- implement a system to effectively facilitate visits with enough visiting space suitably proportional to the population in any particular facility.
- improve on inadequate communication among frontline staff, ensuring the reception process is organised and streamlined.
- revise arbitrary rules putting unnecessary pressure on both visitors and people who are detained.
- not place people seeking asylum and those whose visas are cancelled under section 501 of the Migration Act in one section of a detention facility and ensure the scrutiny of the visitors are proportionate to the risks of the cohort they are visiting.
- recognise in principle and in action the important role of visitors and the value they add to managing people in detention.

RCOA also supports the recommendations put forward this year by Michel Forst, United Nations Special Rapporteur on the situation of human rights defenders, to “restore an atmosphere of trust and confidence with human rights defenders and consider adopting a national action plan on human rights, through meaningful consultation with civil society.”⁵

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⁴ UNHCR (2012), *Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, <http://www.unhcr.org/505b10ee9.pdf>, page 30.

⁵ UNHCR (2016), *End of Mission Statement by Michel Forst, United Nations Special Rapporteur on the Situation of Human Rights Defenders*, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20689&LangID=E>