



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT STANDING COMMITTEE ON MIGRATION

Migrant settlement outcomes

WEDNESDAY, 18 OCTOBER 2017

CANBERRA

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JOINT STANDING COMMITTEE ON MIGRATION

Wednesday, 18 October 2017

Members in attendance: Mr Drum, Mr Georganas, Mr Neumann, Ms Vamvakinou, Mr Wood.

Terms of Reference for the Inquiry:

To inquire into and report on:

Migrant settlement outcomes with reference to:

- the mix, coordination and extent of settlement services available and the effectiveness of these services in promoting better settlement outcomes for migrants;
- national and international best practice strategies for improving migrant settlement outcomes and prospects;
- the importance of English language ability on a migrant's, or prospective migrant's, settlement outcome;
- whether current migration processes adequately assess a prospective migrant's settlement prospects; and
- any other related matter.

The Committee shall give particular consideration to social engagement of youth migrants, including involvement of youth migrants in anti-social behavior such as gang activity, and the adequacy of the Migration Act 1958 character test provisions as a means to address issues arising from this behaviour.

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ALY, Dr Anne, Member for Cowan, Commonwealth Parliament**Committee met at 10:01**

The following evidence was taken in private but was subsequently made public at the request of the committee—

CHAIR (Mr Wood): Welcome. One of the things which has been coming up, especially when we went overseas, is that the inquiry has gone from focusing on settlement services to gangs to, all of a sudden, potentially, what we are doing with extremists. This was not raised by the police; I think it was initially raised by the migrant English—

Dr Aly: AMEP?

CHAIR: Yes. We have obviously been asking questions about that. We are concerned about whether 'radicalisation' is a good term to use, and then we are looking at whether there is such a thing as deradicalisation. Maybe you can help us with that.

Dr Aly: I will address all of those things, but I will start by making a few points on what the trends are at the moment with terrorism and terrorist actors—and I am speaking specifically here about violent jihadists, because the right-wing or white supremacist movement tends to be a little bit different. The violent jihadist actors are mostly second generation. There is a new book out by Olivier Roy called *Jihad and Death*—which is not a good book to take on a plane!—that really expands on that as well. So they are mostly second or third generation, and that trend seems to be continuing. There is a specific appeal of ISIS to the second generation.

The other trend is that, more and more, ISIS tends to appeal to those who have a criminal past or—in the research that I have done, which looked into the pasts of terrorist actors from Western nations—tend to have some elements of aggressive histories. They are not necessarily what we have focused on with the hypothesis of them being marginalised or alienated—not necessarily marginalised or alienated in the sense that we might think. I can reference here the London bombers. Mohammad Sidique Khan was actually very well integrated into the community. He was a community worker; he worked with youth. So they are not necessarily marginalised or alienated, and that marginalisation hypothesis actually fails to cover the range of push-and-pull factors that might be implicated in somebody's trajectory to violent extremism.

What is lacking, however, is support for parents who may be first generation migrants. There is research around that, but for me it is predominantly anecdotal evidence. I have worked with a lot of parents: parents of young people who have gone overseas to fight, parents of people who have been incarcerated here in Australia, and parents of young people who are currently in the court system for terrorism related charges. There is no support for parents whatsoever.

There are programs out there that attempt to engage parents, teachers and 'senior community leaders'. But they tend to miss the mark. They might say: 'Come to a morning tea'. And they will talk about things like, 'If your son is doing this' or 'if your son is doing that' or 'if your daughter is doing this or that' then that might be a sign of 'radicalisation'—I will come to the terminology in a minute. But, in terms of providing actual support for parents, there is nothing. I have had parents call me and say: 'My son has gone overseas to fight. I knew this was going to happen. I went to this group and this group and this group, and nobody was able to help me.' That is a very important point to make.

In terms of settlement outcomes, the link between settlement outcomes and terrorist activities is very tenuous. We don't really have a body of empirical evidence to support any kind of direct linkages between poor settlement outcomes or good settlement outcomes and the propensity towards or not towards violence. But there are lessons to be learned from France and Europe, with a caveat that the phenomenon in Australia is very different to the phenomenon in France and other parts of Europe, because parts of Europe have a history of colonialisation that is currently being played out in the movements there, particularly the way the jihadist movement has unfolded there. In Australia we have a very different phenomenon. Nonetheless there are lessons to be learned.

Those lessons are that good settlement outcomes do contribute to the things that matter—for example, participatory citizenship. That is the ability of people—first generation, second generation migrants—to participate in a substantive manner. This is where citizenship is not just a station that is conferred upon somebody; it also comes with substantive opportunities to participate in social, economic and political life as a full citizen. That concept of participatory citizenship versus formal citizenship is quite important here. How do we translate participatory citizenship and how do we implement that in our settlement programs so that we have positive settlement outcomes? It is not just about opportunity; it is also about opportunity for equitable outcomes. It is not just about making services available or giving people the opportunity to participate; it is about ensuring that, when they do participate, there are equitable outcomes at the end of it for them. Western Australia had a

charter of citizenship back in 2003—I know because I wrote it when I was there—that really focused on participatory citizenship as opposed to formal citizenship.

The other thing is that good settlement outcomes have a big impact on individual health and wellbeing. That is a factor in social cohesion. We often talk about social cohesion as if it is the be-all and end-all, a kind of panacea for terrorist violence. But what we mean about social cohesion can get lost in that kind of rhetoric. I like to use the OECD's definition of social cohesion, which takes in three factors. The first is building individual trust between individuals and each other—so you trust your neighbour; you trust the people that you work with—and the individuals and the institutions that govern them. With the rising populism around the world, the trust has been disintegrated. That is why we have this kind of populist trend. Trust between individuals and institutions, whether those institutions are schools, universities, politics, police and the media—we often leave out the media when we talk about institutions—has disintegrated. If you look at countries that are vulnerable to terrorism, or where what I like to call radicalising environments take hold, it is where you have that disintegrated trust between individuals and groups and individuals and institutions that govern them. Social cohesion is actually a factor in radicalisation. If people don't have those levels of trust, that can lead to radicalisation as well as other forms of violence. But it's only one factor in a very, very complex puzzle.

Moving on to that terminology of 'radicalisation' and 'deradicalisation', when these kinds of terms get used in the media as shorthand for a whole range of things, that kind of tends to seep through how we use the terminology as a society, how we use it in terms of policy making and how we use it in terms of program development, as well. So the terms 'radicalise' and 'radicalisation' really have not had much clarity around them. We do need to revisit what we mean by radicalisation and we need to continually revisit what we mean by that because of the changing trends in terrorism recruitment, in the appeal of terrorism and in the individuals that it appeals to, as well as increasing trends in different forms of terrorism or different forms that terrorism takes.

I want to make the point here about white supremacists and neo-Nazi terrorism also being a factor of concern. Recently in Western Australia we had a man who travelled to the United States and trained with an organisation there called Aryan Nations, which is listed terrorist organisation. He came back to Australia, got the permission from them to set up a branch in Australia—a branch of Aryan Nations in Western Australia. He has since been arrested for murder. He murdered the estranged boyfriend of his new girlfriend, or something like that. The group that he set up is now called Aryan Strikeforce. So they have moved into a more action oriented terminology in how they see themselves and a more action oriented identity.

CHAIR: Rather than use the word 'radicalisation'—because I know the Deputy Chair of the committee has been focused on this, and I agree—how do we come up with a better term? Would it be better just to use the term 'violent extremism' rather than 'radicalisation'?

Dr Aly: Yes. And I think that's a key point there, Jason. Often when we talk about radicalisation and extremism we leave out the point that we're really interested in, which is violence. That's the point we're really interested in. Radicalisation, in and of itself, doesn't necessarily pose a threat. In fact, throughout history we've relied on radicals to progress society in different ways. Mick Jagger was once called a radical.

Ms VAMVAKINO: It's a misappropriation of the word.

Dr Aly: But also the leaving out, the ignorance of that term 'violence' so that then radicalisation becomes about belief and ideology as opposed to the behavioural aspect of it, which is the carrying out of violence in support of or—

CHAIR: That covers the white supremacists and covers everyone. Is there a stage where a person has such extreme violent extremist views that there is a point of no return?

Dr Aly: Absolutely. We talk about two kinds of components to violent extremism. One part is what you might call the cognitive radicalisation. So somebody adopts a belief system—whether it's white supremacists, whether it's violence jihadists, neo-Nazis or whatever. The second component is the behavioural radicalisation. So you will see this in the literature—cognitive radicalisation and behavioural radicalisation. Once they adopt the behavioural radicalisation, which is that they have fully adopted an idea that they will carry out an act of violence, it is way past being able to 'deradicalise' them. The best option is to remove them and remove the opportunity. That is the other thing that often gets missed out in the mix: the opportunity to carry out violence. You need to remove that opportunity, either through incarceration or programs that separate them and take them out of the radicalising environment and resocialise them, using the family as a conduit to resocialisation.

CHAIR: We had the Islamic Council of Victoria put in a submission, which I assume you agree with—leading the witness. It's a program with a centre where they have youth workers and a hotline—not a national

terrorist hotline—and different to the one in New South Wales, where it is not manned by people with a Muslim background?

Dr Aly: Yes.

CHAIR: I don't know if committee members are aware, but it only had five phone calls. Having that, if someone is concerned about a family member, they can ring up and have a youth worker get involved and potentially have help with jobs and all that sort of assistance. I assume you would agree with that?

Dr Aly: I do agree, but I would also say that there is not one solution. Having a youth centre and a youth thing is fantastic, but people need to be able to go there. There is a big question of leadership in Muslim communities. Who do people trust? What does leadership mean? I know that the young people I have worked with have not come through the leaders. In fact, when I have reached out to the so-called leaders and said, 'Can you help me with this young fellow?' they have all said: 'I don't want to ruin my reputation. I don't want to get involved in this stuff.' They have come to me through their friends.

CHAIR: The other issue we had, and the Attorney-General's Department gave evidence, is that every program they have is voluntary. The issue I have raised before, and I know it is now going to be on the next COAG agenda, is having something similar to an intervention order, like a family violence order—the term we are using is a community protection intervention order—where you could actually have a family member who is concerned about someone, or it could be law enforcement and they go before a magistrate. The magistrate would hear and firstly determine whether the person is potentially a violent extremist and could then make directions not to associate with certain people or, as in the case of Benbrika, not to hang around outside a mosque and try to recruit other people. The third aspect of this is what I have been talking to the Islamic Council of Victoria about. I have to say that their initial reaction is that they don't like it, but they also understand the potential if you had a magistrate direct a person to go and visit the Islamic Council of Victoria to get mentoring and advice and all those sorts of things. Can that help in the process?

Dr Aly: I will use a real-life example. I won't use the name of this young fellow. I will just call him A. He was 13 years old when he started getting involved with a group that co-opted him. He is now approaching 15, or he might have just passed 15. He has been incarcerated. I am working with his family. His family were absolutely helpless. I have always found that to be the case: the families are absolutely helpless with the young person. Think about teenagers; think about teenage rebellion; think about when your kids were teenagers. I know from when my kids were teenagers that when you tell them to do something, they will do the opposite. I have met with so many exasperated parents who have said: 'Can somebody just put him somewhere? Do something.' They need to be able to remove the individual from what we call the radicalising environment in order for them to be able to work with that individual.

Mr GEORGANAS: It is like a drug environment. You have to get them out of it.

Ms VAMVAKINO: I want to ask you this because it is really important. Families are key. I agree with you totally. We're now talking about individuals within a particular community who are primed to a certain message, which we probably haven't discussed, and a lot of it is geopolitical as well. They are no different to the kid who's on drugs or the kid who wants to follow a cult or whatever. Communities are used to this sort of thing. Supporting the family is key. We'll talk now about the Muslim community. That's what we're talking about. What sort of support can be tailored to these families that doesn't require the services of the mainstream community—that requires something different? Is there anything in that space that is specialised? Then I'm going to ask you about this young person of 13, because I've had a few young people in my electorate. What is the siren song that a 13-year-old hears? In my case, the young man's family was our local doctor. So I agree with you: economic marginalisation is not where the action is.

Dr Aly: Yes, it's certainly not economic marginalisation—

Ms VAMVAKINO: So, the siren song: what then is the special assistance that is nuanced to deal with this particular cohort?

Dr Aly: First of all, I would caution against focusing on and placing all programs only within the Muslim community.

Ms VAMVAKINO: Yes, I know, but—

Dr Aly: Because there is such division within the communities—

Ms VAMVAKINO: Yes, there is—

Dr Aly: There is a lack of trust between Muslim communities. Also, over the period of years of this, there is has also been a division within the Muslim communities with those who want to go: 'Well, it's not people who

look like me; it's that guy over there with the beard. That's the bad Muslim; I'm the good Muslim.' That has created even more friction and less trust—remember that I said earlier that you need to have trust between individuals and groups in order to build things up.

I think that we do need to bring in mainstream service provision. There is a model in Germany called the Hayat model, which has had a lot of success. I did set up Hayat Australia, back before I entered politics, to try to bring that model to Australia. We were unsuccessful in doing that, but we did have all the sign-off from the German model to bring it to Australia. That model works with families in a kind of case management style. It doesn't work with individuals, it works with the families and it uses the family as that front line in re-socialising—moving the individual from the radicalising setting and re-socialising them—

Ms VAMVAKINOU: How does it remove them? What does it do?

Dr Aly: First of all, families don't have a lot of capacity with this. If I were to take the young 13-year-old, his mum is a hairdresser and his dad is a tradie. His mum and dad were raised in Australia. They have Aussie accents. They are not 'visibly' Muslim, if I can use that term. She doesn't wear the hijab—all of that stuff. And they don't know what to do. It is working with the families and building their capacity to say: 'Right, this is how you work with your son to remove him from that situation. This is what your son is going through; this is what your role as a parent is in helping him back from that brink.'

Another example is an Aussie family whose son went overseas. When the mother came to me, she was at her wit's end. They were just about to cut all ties with him. He was in Syria—

CHAIR: Is he still—

Dr Aly: He's still in Syria. They were about to cut all ties with him. I sat down with her for two hours and counselled her about not cutting those ties, and about calling him every day and not talking about, 'When are you coming home?' Talk about what home is like, because if you talk about what home is like they then start to see the reality of their lives. For them, their reality is skewed. They think that this kind of world of war is where it's at. They forget that they were once happy kids in a happy family environment—and they usually are from happy family environments. Very rarely in the violent jihadist movement are they from dysfunctional homes or broken homes. That is more the white supremacist movement. They forget about all of that, and so to bring them back is almost like sending out a lifeline or sending out a buoy—

Ms VAMVAKINOU: How do they get to forgetting about that? How do they get from forgetting that they were in a happy home to ending up in Syria?

Mr GEORGANAS: Does it need a course—

Ms VAMVAKINOU: I'm trying to identify that, because if they have mental health issues, that's another issue. What is it?

Dr Aly: Olivier Roy, and also the work that I've done, confirms this. ISIS doesn't actually doesn't necessarily appeal to religion or to religious identity. What they appeal to is a cult of violence that is increasingly taking hold of our young people. It's in the video games that they play, it's in the movies that they watch and it's in everything that they see—the post-apocalyptic-type stories that they read. He talks about this cult of violence being what ISIS appeals to.

ISIS and al-Qaeda never used to appeal to that. Al-Qaeda used to appeal to religious identity, hence their recruits tended to be older and they tended more to be ideologues who were first radicalised cognitively and then adopted violence. ISIS appeals to those who have a fascination with violence first. They target behavioural radicalisation first. It's violence that is at issue here.

Mr GEORGANAS: On Sunday night, it was one of the those sleepless nights where I couldn't sleep at 2 am, and I was watching SBS. There was a movie about the Red Brigade in Italy. It showed how it started and finished. It was about a group of petty criminals in jail, basically, who were pissed off with the system. They were violent, and went out to start with the first assassination of the judge, then police, then recruited other violent people, then it became an international terrorist organisation. The foundation was the violence. It was really interesting. They were petty criminals.

Dr Aly: What we find with the ISIS recruit is that the ideology tends to be tacked onto the violence.

Mr NEUMANN: Can I ask you to comment on this: when I've been with Border Force at international airports they have told me, consistently with what you're saying—and I'd like you to comment on this—that the young people they tend to get, they'll ring up mum and dad and say, 'We've got your son'—usually it's the son, though sometimes it's the daughter—and they're going to Syria.' They're almost invariably non-observant Muslims from the sons and daughters of doctors and lawyers and business people. The Border Force staff have

said, 'We can't believe it.' The parents will come and they cannot believe it. They live in Kenmore Hills, Ascot, Hamilton and places like this—the leafy, Liberal Party upper middle class and upper class areas. Almost invariably they say—is that what you're saying?

Dr Aly: Absolutely.

Mr NEUMANN: The Border Force people are incredulous about it. They cannot believe why the son is doing it. This is the consistent message. This is the 15-year-olds, the 19-year-olds, the 20-year-olds.

Dr Aly: That's what Olivier Roy talks about as well. You know teenage rebellion. The Muslims of my generation who migrated to Australia—I'm first generation, although I came here when I was two—were very liberal. Those who came in the 60s, 70s and 80s came from liberal nations. In Egypt, when my parents left, women wore miniskirts. Now you go to Egypt and one-third of the women wear full face coverings. There has been that change in the countries they came from.

Ms VAMVAKINO: Turkey is the same.

Dr Aly: I remember that when my son was a teenager he would come to me and say, 'Why don't you wear hijab? Mum, you should wear hijab. Mum, why don't you pray five times a day?'

Mr GEORGANAS: Where are they getting that from?

Ms VAMVAKINO: We're going back to the geopolitics.

Dr Aly: Since 9/11 this younger generation identify first as Muslim. In my generation we identified first as Egypt, and Muslim was just part of that. It wasn't how we primarily identified ourselves. Since 9/11 you don't talk to a young person and they say they're Lebanese or Bosnian or Egyptian—they say, 'I'm Muslim'.

Ms VAMVAKINO: And we refer to that.

Dr Aly: It becomes like a badge of identity. It is an identity crisis among second generation Muslims. They hang their hat on the Muslim part of it.

Mr NEUMANN: Can we come back to the participatory citizenship, which I think is really important. I don't think in this country we have anything like the inculcation into Australian values and ethics and what it's like. We don't perpetrate violence against women; women and men are equal and all that. We don't have that training. When we were overseas as part of this committee, we heard that Sweden and Germany do this better. We don't have that. It's not about Simpson and the donkey. It's not about how many runs Don Bradman scored in his batting average. It's about the values and the pledge that we do at citizenship ceremonies.

Dr Aly: Absolutely. When you pledge your loyalty to Australia and her people. I always make that point when I give a citizenship speech.

Mr NEUMANN: Is that the sort of thing that you talked about when you drafted that in Western Australia. Can you get a copy of that?

Dr Aly: Yes. I can dig up a copy of our Western Australian Charter of Multiculturalism for you, which talked about that. But I think that the other thing is that if we look at the role of the AMEP—I used to be an AMEP teacher. Oftentimes, as an AMEP teacher, you are the first Australian people meet when they come into the system, if they're eligible for AMEP—and that comes back to the eligibility for settlement services and all of that. You are the first Aussie you meet, if someone's in the AMEP, as an AMEP teacher. The AMEP is solely focused on English language learning, and now, with changes to the AMEP, it's solely focused on language for the workplace. But the AMEP is the primary and first socialising into Australian culture and values that most people will come across.

CHAIR: One thing that I think you'll find, when we come up with a recommendation, is that we're looking at the German and Swedish models, with 100 hours on how to become an Australian citizen. Even with the community legal service, a lot of these young guys get in trouble because they don't know what it means to go on bail or all those other things.

I just have a few quick questions. I know we've heard the discussion about the age of people before. I met up with the Islamic Council. At what age are young people getting these violent extremist views? What's the youngest you've heard of?

Dr Aly: Thirteen is the youngest, but they could be starting to play with the idea from the age of 10. It all starts with seeking behaviour, which is why I work with Google a lot so that, when someone gets on Sheikh Google to look for this or that, the algorithms that respond to it don't point them to an extremist website or to ISIS propaganda but take them to an al-wasatiyyah type website.

CHAIR: What's the term?

Dr Aly: Sheikh Google.

CHAIR: Yes.

Dr Aly: Islam is a very diffuse kind of religion; we don't have a central structure like the Vatican. So a lot of young people—but it's happening in Christianity, including Catholicism, too—seeking answers to religious identity questions will go and google it.

CHAIR: And the danger is it goes to the extremists.

Dr Aly: They get an extremist answer.

Ms VAMVAKINO: It's a bit like when you google your medical condition and your GP has a heart attack because you're going against all of the science.

Dr Aly: I do that all the time.

Mr NEUMANN: As a Christian, when you google eternity, it's pretty hard to work it out.

CHAIR: Just on the intervention order idea, in my electorate, with my Afghani community, at one function I had five parents come up to me and say: 'I need your help. What are you doing? What's out there?' I was saying, 'Um, um.' That's when I called you to run the MyHack program. Do you think the intervention order thing has merit?

Dr Aly: I think it does. I think that, with the parents that I've spoken with—remember this is also teenage rebellion in many of its aspects as well. To start, for want of a better word, a process of 'deradicalisation'—and I don't mean that as reverse brainwashing or anything like that; I prefer to use the term 'resocialising' an individual—you need to be able to remove them from radicalising settings and radicalising influences. Oftentimes the parents do not have the capabilities or the resources to do that and, as with all teenagers, they sometimes need to have that imposed on them in order for them to start to be able to work with that.

CHAIR: As I said, I caught up with the guys last week, and they said, 'You know, sometimes all it would take is the police coming around to someone's door and say, "Mate, what are you doing?"'

Dr Aly: Absolutely—'Pull your head in.'

CHAIR: So that's something.

Dr Aly: Yes.

CHAIR: But, when they were speaking to Nouman Haider, he was basically saying, 'Up your jumper.'

Dr Aly: 'Up yours,' yes, because he's lost that kind of relationship with law enforcement, and there could be several factors to that. That's why, again, having that kind of participatory citizenship in the bill—

CHAIR: I was hoping to get this on the record, but we haven't got it on the record. That was excellent. I think it really helped the committee, so thank you very much for that.

Dr Aly: Thank you.

Mr NEUMANN: Could you just get us that stuff on participatory—

Dr Aly: I'll send you that.

CHAIR: Yes. Thanks, Anne.

Committee adjourned at 10:34

BURGESS, Mr Mark Anthony, Chief Executive Officer, Police Federation of Australia**Committee met at 10:38**

CHAIR (Mr Wood): I declare open the public hearing of the Joint Standing Committee on Migration. In accordance with the committee's resolution of 12 October 2016, this hearing will be broadcast on the parliament's website, and the proof and official transcripts of proceedings will be published on the parliament's website. Those present here today are advised that filming and recording are permitted during the hearing. I also remind members of the media who may be present or listening on the web of the need to fairly and accurately report the proceedings of the committee.

I now call on the representative of the Police Federation of Australia to give evidence. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and, therefore, has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement before we proceed to discussions.

Mr Burgess: Thank you. As you're aware, the Police Federation of Australia represents the professional and industrial interests of in excess of 60,000 Australian police officers from state, territory and federal police across the country. We appreciate the opportunity to make our submission and to appear before you today. For some time, the PFA has had a keen interest in migration legislation fuelled primarily by the Taufahema case in 2009, which is dealt with in detail in annexure A of our submission. We are also strong supporters of the Migration Amendment (Character and General Visa Cancellation) Bill 2014, and we made a submission to that inquiry.

PFA continues to support legislation that will make Australia a safer place. It is our view that the refusal or cancellation of a visa on character grounds in section 501 of the Migration Act 1958 does that, and is supported by information provided in our submission regarding the reoffending of those deported to New Zealand. We're very clear in our view: anyone that's convicted of a crime of violence and is a non-citizen of this country should have their status to remain in Australia immediately reviewed. Whilst we have given several examples of offences that we suggest fall into that category in our submission, we believe there are many other crimes that could also be considered for inclusion. At the same time, however, we've offered some tangible suggestions for consideration that might help alleviate any unintended consequences of the application of section 501, particularly section 501(7)(c) and (d). However, none of our suggestions should be considered to be assisting anyone who has committed a crime of violence to escape the provisions of section 501. We likewise have made some comments about the limitations of the Administrative Appeals Tribunal and some suggestions about how that process, we believe, might be improved. I'd be happy to take any questions from the committee on our submission and other issues.

CHAIR: Thank you very much. If we need to go in camera, we will do so. You've raised the issue in your submission regarding the 12 months of imprisonment. It says that:

The PFA believes that on the occasion where a non-citizen has been "convicted" of a "crime of violence" such as serious assault, home invasion, car-jacking, use of a weapon in the commission of an offence etc, then those matters should be automatically referred to the Department of Immigration and Border Control, for a review of the non-citizen's visa, regardless of the penalty imposed by the court.

I'm reading into that that your view would be that it would be a referral to look at cancelling their visa. What would the referral be for?

Mr Burgess: Our view is, and we highlight that there has been anecdotal evidence provided to us across several states, that magistrates and judges, for whatever reason, are making mention of the provisions of section 501 of the act and are therefore imposing sentences that are below the 12 months to ensure that people don't come under those provisions. We're not saying that they automatically have a cancellation of their visa, but it would be an opportunity to review their visa. In other words, if someone's convicted—we're using the words 'convicted of a serious crime of violence' and we've used some examples, but I'm sure there are many others that we could raise—then we believe, regardless of the penalty that's imposed, that visa should be reviewed. There should be a process for the review of that visa. That means, then, that there is at least some consistency—and we've got hopes of consistency—that some people might be escaping provisions of section 501 because of who they appear before and others are not.

Ms VAMVAKINO: When you say 'review', you mean not to take into consideration the present trigger, which is imprisonment of 12 months or more? That's the trigger, isn't it?

Mr Burgess: That's right—an automatic trigger. If someone gets 11 months, the trigger doesn't apply. If someone gets 12 months, the trigger does apply. As I've said anecdotally—and perhaps the committee has seen some of this as well—I've seen some transcripts where it's been mentioned about the Migration Act and, therefore, lesser penalties have been imposed. We're suggesting that it's an opportunity then for the department, and whatever that process might look like going forward, to actually review a visa to see whether or not there should be some formal review or cancellation of a visa based on the incident.

CHAIR: We probably will go in camera after this to get some specifics. Would committee members require that?

Ms VAMVAKINO: I would like to ask a specific question.

CHAIR: Does it need to be in camera?

Ms VAMVAKINO: I'm not going to name anybody.

Mr Burgess: I'm not giving any specific examples of individuals either.

Ms VAMVAKINO: I'm interested in this review with the 12-month trigger. You made it very clear that you referred to violent crime.

Mr Burgess: Yes.

Ms VAMVAKINO: I'm assuming that there are certain areas associated with what constitutes violent crime as opposed to someone who may inadvertently commit a crime that might be violent or result in death but it wasn't intentional. They serve X number of years and are not a citizen, and are automatically up for review. Should that—I'm sorry, I'm just trying to get a good idea. I think you know where I'm going, because there are different circumstances—

Mr Burgess: Yes. I think we all agree that defining some of these things becomes somewhat problematic, and I agree that that's a really difficult aspect of how you deal with the legislation. And you're right: there are examples without going into details that I've heard of, and I'm sure you have, of—

Ms VAMVAKINO: I have indeed, yes.

Mr Burgess: people who have made a fundamental error of judgement, and it's certainly changed the course of their life. That's why we talk about some other aspects of suspended sentences and those sorts of things, where we're trying to be balanced in this but, quite clearly, where you've got people that are of no mind as to who they hurt, what they do et cetera, then we say: do they have a place to remain in Australia? And our answer is, simply, no.

CHAIR: And, when we look at it here, you've referred to serious assaults, home invasions, carjackings.

Mr Burgess: Use of a weapon.

CHAIR: Yes, weapons, so obvious violence.

Mr Burgess: Deliberate intent to do things, and I agree with the deputy chair that there are—this isn't trying to throw a blanket over everybody. What we're keen to see is a process that ensures that there aren't—as we talk about in our submission—unintended consequences as we move forward.

Mr NEUMANN: Surely the first subparagraphs of 501, where the minister:

...reasonably suspects the person does not pass the character test...

The minister already had that power. There is a power that says that they fail automatically, if they don't get the hundred and—so surely it's covered already?

Mr Burgess: It probably is, and I think we go on—

Mr NEUMANN: It clearly is. Sorry, with respect, subparagraph (1) of 501, subparagraph (2) and subparagraph (3) already cover this. But, if under subparagraph (3A), the minister must, if they fail the 12-month provisions. Under that, it's already covered.

Mr Burgess: Yes; what I'm saying, though—and we do say it later on in our submission as well. What is required, we believe—and people can correct me—is far greater communication and processing between Immigration, police, the corrections systems, et cetera. I would imagine that there would be many instances where people would go to court, be given sentences for various things and never find their way to Immigration or anyone else—apart from the police, of course. So it's about ensuring that at least those things are on people's radars and, as I said, the issue, as we talk about later on, about people that are held in immigration detention at the expiration of a custodial sentence, to me, says that there needs to be greater coordination across the various agencies in that aspect, which would be the same as this. So, if someone was given six months for quite a serious

assault, that wouldn't automatically raise the provisions of the act. But it might bring in a whole range of other issues around that individual, and that they would come up for review and someone would make a determination as to whether they're fit and proper to remain in Australia.

Mr GEORGANAS: Is that currently under the regulations?

Mr Burgess: People would say, and Mr Neumann says, that it currently is, but what I'm suggesting though is that the penalty imposed would not necessarily find its way to anyone in the immigration area to—

Ms VAMVAKINO: You're saying there's no link.

Mr Burgess: There doesn't appear—

Mr GEORGANAS: There's no trigger.

Mr Burgess: Yes, there's no trigger. So I got asked a question—

Mr GEORGANAS: But with 12 months, there's a trigger automatically?

Mr Burgess: I got asked a question recently where someone suggested that police might treat someone differently who's on a visa when they have an interaction with them and arrest them to charge them for a particular matter. But, I can tell you, police wouldn't know whether they were on a visa or not because there is no provision for them to know that. So it's about getting people's systems—

Mr NEUMANN: I think the strongest part of your evidence is that there needs to be better coordination between corrective services, the police and immigration, not the amendment to the legislation, but I think you make a really strong point about the need for better coordination.

Mr Burgess: Yes, and I think then, as you say, if that was there and it came to the attention that someone had been sentenced to six months, nine months, 11 months—a quite serious matter—then at least the department's aware of it and people can make decisions as to whether they do something about it or not.

Mr NEUMANN: I think you make a very cogent argument about the need for better cooperation, but I think you make a poor argument about the fact that legislation needs to be changed.

CHAIR: As a former police officer—and, obviously, you're in charge, representing all the police across the country—the evidence you gave was: if certain people commit serious violent crimes, home invasions, carjackings and they're on a visa, their visa should be, at the very least, reassessed to see if they should become an Australian citizen. Is that what—

Mr Burgess: And whether that requires an amendment to legislation or whatever that might be—

CHAIR: It would be regulation.

Ms VAMVAKINO: Can I clarify here: is it whether they should become an Australian citizen or whether they should be removed from Australia?

Mr Burgess: With a person who is a noncitizen commits a serious crime of violence and they get a custodial sentence or some other sentence of less than 12 months, which wouldn't automatically trigger section 501, for those matters, where there are certain crimes identified, at least there should be a process where the department becomes aware and says, 'Do we do something about this or not?'

Ms VAMVAKINO: And that coordinating point should occur when that person is at court or at the point of being picked up for a serious crime? At what point does that happen?

Mr Burgess: Again, we didn't put it in our submission—

Ms VAMVAKINO: That's fine. We are just trying get the logistics going.

Mr Burgess: but there is a lot of discussion at the moment—and I don't want to bog the committee down with this aspect—with the national criminal intelligence system. It's about getting greater coordination across our agencies across Australia. As I said, if someone today arrested a person who was a noncitizen for a serious offence, they would not necessarily know that they're on a visa.

CHAIR: They wouldn't know at all.

Mr Burgess: They wouldn't know unless they made inquiries with the department—

CHAIR: Can I just interrupt there. I think that's one of the recommendations, potentially, that the committee will look at, because we heard this from Immigration, we heard it from police and we had the merry-go-round of trying to find out from Victoria Police how many people potentially on visas committed offences, and they didn't know. It went to the corrections department, and they didn't know. It went to Immigration, and they didn't know. If you might just quickly explain the national intelligence system and how that could fix this problem we are talking about with the communication.

Mr NEUMANN: I am all in favour of better coordination. The problem lies in the fact that the current government has punted more than 3,000 people under this section 501 character test, and the minister said that two days ago in parliament. It's in record numbers.

CHAIR: Can you just—

Mr NEUMANN: This is the very point that Mr Burgess is making in relation—

CHAIR: Let him explain the system and then you can follow with questions.

Mr Burgess: I am happy to take any questions.

CHAIR: If you can just explain the importance and the benefit to police of the national intelligence system to potentially correct or fix this communication issue.

Mr Burgess: In a really thumbnail sketch, it is about linking all of the current systems—linking state police systems and other agencies' systems—basically so that all the information that we believe should be available to our agencies is readily available from an intelligence perspective, from a criminal record history perspective and for motor vehicles—et cetera, et cetera. Obviously, there is a massive safety issue in this, and I could give you numerous examples of where the lives of police officers and members of the public have been put at risk because we don't readily have access to that sort of information across the country. I would envisage, and we would envisage, that such a system would give access to immigration information as well, so that at the time of someone's arrest, or at the time that the paperwork is being prepared for that person to go to court, at least it would be known that the person is on some sort of visa or that they are a noncitizen, if that makes sense. With the NCIS, which at the moment is subject to some funding from the government for a trial, we are obviously agitating with a number of other groups to try and get it fully funded to be rolled out nationally.

Mr NEUMANN: On this particular point, how do you reconcile what you initially started off with and the fact that the government has punted, in record numbers, people under section 501 of the Migration Act? How does that gel with what you are saying? With what you said initially, the impression I got was that there was a problem in coordination on this issue in terms of that. I accept that we need to do better. I accept we've had evidence that we need to do better, but it doesn't fit with the evidence where the minister—in fact, in parliament two days ago in question time—said that we keep sending people out of the country under section 501.

Mr Burgess: I think it's at the top of page 2 of our submission, but the issue that we raise specifically in here is the area where it has been indicated to us—certainly anecdotally, but I'm sure that the committee could easily find the information—that there have been many occasions where the judiciary have imposed penalties of less than the 12 months so that someone doesn't fall immediately under the provisions of section 501 for automatic cancellation of the visa. What we're saying is that where the offence committed is a crime of violence—we've identified some aspects that we think fall under that, and there would be many others—we're not saying that they have their visa immediately cancelled, but we say there should be a process where that visa is then reviewed to determine whether or not it should be cancelled, or we just let them go on. When you say 'reconcile that with the record numbers that have been put out of Australia', they've been put out of Australia under a whole range of provisions of the act. You're correct, there are thousands of them—in excess of nearly 55 per cent of those to New Zealand. About 10—

Mr NEUMANN: Of the 1,300 people who are currently in immigration detention facilities in the country, 36 per cent of them are 501s.

Mr Burgess: Yes. The statistics and the data that's in our submission that's come back from police in New Zealand tell us that within two years, 51 per cent of those people who have been returned to New Zealand are actually committing offences and being arrested by police. I think it actually justifies the decision.

Mr NEUMANN: We support 501 migration.

Mr GEORGANAS: Just on that point: that's really interesting. I was in Tonga recently, where we've had quite a few who have been deported back. We met with the police there, and they were saying 'within three months'. One of the reasons is because they have no network. A lot of them came over here when they were one or two. They have absolutely no connections to anyone in Tonga. They seem to gravitate to one another. That was just one thing—

Mr Burgess: I think that's the same, we've been told, with New Zealanders.

Mr GEORGANAS: Very quickly, you mentioned some cases where you feel that the sentences were perhaps lowered because they didn't want the 501 to kick in. Were those cases appealed by the police?

Mr Burgess: I don't have all of that. I just know that in my discussions with police officers, when I've raised this, police officers from three states particularly have given me indications that, yes, that's exactly what's happened here. Some of those were in your own state.

Mr GEORGANAS: Yes. The other thing is: when you arrest or charge someone, you have no idea what their visa situation is. You pull someone over in a car, you put in their rego, they give you their name and a whole list of things will come up—I don't know what comes up. Is there any way of connecting that with—

Mr Burgess: That's the sort of thing that the National Criminal Intelligence System ultimately will allow us to do. As I said, without taking the time of the committee, there are some specific examples around motor vehicles and—

Mr GEORGANAS: Your address will come up, for example.

Mr Burgess: Exactly, and the various associates—all of those sorts of things.

CHAIR: But the database between systems don't link between states. That's one of the issues. It doesn't link back to the watch house.

Ms VAMVAKINO: I think this might have been clarified—this is on the back of what Shayne was saying. You identified, from what I can understand, a shortcoming in this 12-month trigger. This is what the presentation is, is that right—that people are potentially escaping the trigger because they're getting 11 months and one day, or something, and you're looking for—

Mr Burgess: Sorry, if you don't mind, I'd like to identify two issues. One is that aspect, but there is the other where some people are getting caught up with the 12-month trigger who perhaps shouldn't be.

Ms VAMVAKINO: That's why I raised that other case because, yes, that is the other side to this.

Mr GEORGANAS: It goes both ways.

Mr Burgess: It does.

Ms VAMVAKINO: I can understand the need. I just wonder whether it would lead to a mindset where people would be treated by enforcement agencies, even at the most menial level—you could be in community detention for running a red light camera, and you'll come up as a non-citizen and then you might be subjected potentially to a process. Have you thought about some of those unintended consequences for the citizen and the non-citizen, and how they're treated by enforcement agencies?

Mr Burgess: One aspect of most legislation we deal with is the unintended consequences of when you try and tighten down on an area and what happens in another space. I don't see where, particularly for traffic violations and those sorts of things, there would be the issue of whether someone is on a visa or not.

Ms VAMVAKINO: That's the most menial of issues.

Mr Burgess: Yes. Basically what we're talking about here is in the judicial process—so once the person has been convicted.

Ms VAMVAKINO: That's the point, yes.

Mr Burgess: I know people probably don't like this argument, but that takes away the judicial discretion about, 'Do I give them 11 months or 12 months?' Because if I give them 12 months, this trigger comes in,; if I give them 11 months, it doesn't come in. What we're saying is, once convicted—so you're convicted of the offence, no arguments about that, and it's a serious offence of violence, then it doesn't—

Ms VAMVAKINO: It's not the length of the custodial sentence.

Mr Burgess: trigger an automatic cancellation, it will trigger a review.

CHAIR: Can I just say one point in regards to that. Maybe if you had the system in place, rather than—I can see where Maria is coming from. You never want the situation for a policeman to say, 'Hey, mate, we know you're on a visa, you'd better tell us this.' Where if the national intelligence system potentially worked the other way, and if someone was on a visa, that immigration would get the notification as soon as they walk in the station. Another reason is, say, you've got a young person who may potentially go on bail, the first time there's any intervention at all, and we found this in Victoria, they may want five lots of bail, where if they went on the first time, immigration gets notified. They then potentially have someone counsel the young person, or send a warning notice or whatever, saying, 'You've now come under police attention. You're jeopardising your visa. You need to do blah, blah, blah.' Because if you do it when it gets to conviction, as you and I, as a former policeman, know, you quite often find that they get six or seven cases in court on the one day and they get the conviction for what we call the hamburger with the lot. So that is one other way of dealing with that.

Mr Burgess: Your suggestion about a trigger at immigration perhaps, as opposed to coming up with a big red flag on a screen in front of the police officer, may be a way of getting around any perception that police would in some ways treat this person differently.

Ms VAMVAKINOU: Or the circumstances might create that, it's intended but it could be an unintended situation which would have—

Mr Burgess: Exactly. And at the end of the day, a decision upon somebody's visa is not a matter that rests with the police.

Ms VAMVAKINOU: No.

Mr Burgess: It's a matter that rests with either the department or minister or somebody else. So perhaps having a process whereby, when someone is put into the system and charged with a particular offence—and perhaps one of the questions would be if they're on a visa or not—then that would automatically trigger something at immigration and then they would make a determination whether or not they need to be more actively involved in this matter, or look at the circumstances and just flag it anyway.

CHAIR: This comes from looking at young migrants and getting involved in youth activities and sports programs and youth workers. From your dealings with the police agencies across the country, how effective is it to have law enforcement being involved in youth programs with migrant communities? We're hearing from other groups that youth activities are so important, sports are so important—I know this is throwing that at you—but I assume you have a view of it.

Mr Burgess: I suppose I come from an era where we had a lot of that. There weren't too many people of my vintage that didn't have some involvement in Police-Citizens Youth Clubs or boys' clubs, as they were called at the time, but now youth clubs, et cetera. And you've only got to go particularly into the more regional, remote areas of the country to find some of the activities between police and youth are absolutely amazing—and unfortunately it doesn't get positively reported, as it should do. So I think there is a particular role, and a very important role, for police officers to be involved, particularly in that area of youth. It helps to build the relationships, but it also gives some of the youths—some of them who don't really have someone in their home life that they can talk to, perhaps they've found someone in a police officer they can trust and talk to.

CHAIR: Thank you. And then there's going to be a last paragraph from your submission. 'In preparation of the submission, the PFA has also considered the report proposal for community protection, intervention orders and, in principle, supports the concept.' The issue which surprised me, when we had the Attorney-General's Department come in, we're talking about violent extremism here, where all the programs currently are voluntary. So if the situation is of a person who has violent, extremist views—and it could be the young person the family is worried about or the community is worried about, or the school is worried about—or the more hard-core of the spectrum, someone like Van Brifi, who has been kicked out of his own mosque but then comes back to recruit young followers. What's your view of the police perspective on dealing with that?

Mr Burgess: There's a place for it, and that's why we say 'in principle'. Obviously, you'd need to be clear on what the detail looked like. I know that it's certainly something that's been discussed in earnest in Victoria, and there is a great deal of interest, particularly, in that state. I see it as probably not a whole lot different to a family violence order. We have the provision in most states for a senior officer to provide an interim order but, ultimately, it needs to go before a court. I wouldn't envisage that police officers would be providing community intervention orders. There would need to be a proper judicial process for that so that it was independent from the police for want of a better term.

At the end of the day, I think we've all seen it in families, whether it be issues around counterterrorism or whatever, where parents and family members get exacerbated by kids who potentially go off the rails, mix in the wrong company et cetera. Do we wait until they do something completely stupid that destroys their life, or is there a way for us to intervene and try and prevent that sort of thing from happening? Perhaps community prevention intervention orders are a way in which that could be done.

Ms VAMVAKINOU: I'm assuming that parental desire or consent for something like that as well—is that your experience? Parents become so exacerbated that they do need someone else to—

Mr Burgess: From my own experience as a police officer, the parents are beside themselves oftentimes how to do it. It might not necessarily be parents; it could brothers, sisters, uncles, aunts—family members—et cetera. The real issue here is: this is not something that we would envisage police officers would be determining; this is something that the judiciary, a magistrate or someone—

Ms VAMVAKINOU: I think my question was: in your experience, have you found that parents welcome such—that's what I'm asking you, given you deal with a lot more.

Mr Burgess: Absolutely, and in fact parents get exacerbated that we can't do anything. I say, 'The kid hasn't committed an offence. What do you want me to do?' We can't take them into custody and hold them at the police station et cetera.

Mr NEUMANN: Even for an apprehended violence order you need evidence, and there needs to be, for example, acts of physical violence, sexual assault or harassment and the likelihood of it occurring again. How do you get the evidence of someone who goes on a computer and just looks at something? You're talking about extraordinary intervention into family life where surely this is real nanny-state stuff. This is almost totalitarian intervention into people's domestic and family life without the individual concerning committing any act. If they engage in a conspiracy to commit a crime, that's another thing: they can be charged. But if they actually just engage in some sort of radical thought, that's not a crime. Even if we find that utterly distasteful and abhorrent in a liberal democracy, that is not a crime.

Mr Burgess: I certainly understand that view, but I suppose the counterargument is when people are concerned around that person—be it family members and others—do we just sit back and wait for them to do something that, as I said, destroys the rest of their lives and potentially other people's lives; or is there a way to intervene? I agree with the concern about what that intervention might look like, but how do we intervene and have that determination of the intervention made by a court as opposed to an individual, so at least there is some basis behind it rather than Sergeant Burgess just deciding that I'm going to sign an intervention order against a young bloke? There should be a process you've got to go through and certain evidence or whatever you might have to put before them to actually justify any decision that's taken. The counter is: what do you do? Do you wait until they do something completely outrageous and then say, 'I wish we had done something earlier'?

Mr NEUMANN: If they commit a crime and they conspire to commit a criminal act, they can be charged on that. I don't know any police officers that have expertise or psychiatrists, psychologists, counsellors in those circumstances or even judges, lawyers or anyone.

Mr Burgess: I appreciate that, and that's not to say—and I agree and, as a police officer, I wouldn't be supporting our members having to go through a process to be the ones who sign off on something like that. I think, if this was to be implemented, there would need to be a quite stringent process as to how it would unfold, how it would work. I don't disagree with you about who would be involved in that process and whether that's just a magistrate or a whole lot of other people who are assisting in the possible outcome. I go back and ask: when people are concerned about the activities of an individual, particularly young individuals, do we sit back and wait until, heaven forbid, they actually do something, or is there a way for us to appropriately intervene and, hopefully, steer them in the right direction?

Ms VAMVAKINO: This process too, from what I'm gathering, is an opportunity to hone in on an individual who may have mental-health issues that may mean they are diverted elsewhere for attention. People have all sorts of multiple complexities associated with what they do. Is this midway almost?

Mr Burgess: Absolutely. I would think, if you put some evidence before whatever the appropriate person or persons looked like and they made the determination that this isn't an individual who's hell-bent on blowing up the building—"This person's got major mental-health problems; let's divert them over there," as opposed to going through this process—in principle, it's the complexity of the whole issue and how you deal with it. But it is a way, hopefully, potentially, of preventing a young person doing something that could destroy their life, their family's lives and a lot of other people's lives, and we could have intervened.

Mr GEORGANAS: In this situation, where you do have someone who's been radicalised and is getting involved in a whole range of bad activities but hasn't actually committed a crime—we've seen examples of this where people are monitored and at the point of conspiring to commit a crime they're arrested—what is the power you guys have to step in? We started with ASIO and the Federal Police and the local police. At some point, there would be some discussion with you guys that this is taking place. Do discussions usually go from the ground up or the top down or is it a mixture?

Mr Burgess: Yes, you've got the control orders at a very high level, and this is really talking about something at a lot lower level, if that makes sense—

Mr GEORGANAS: Yes.

Mr Burgess: Again, the devil in all—

Mr GEORGANAS: When do you guys say, 'This has to go over to our national intelligence agency'?

Mr Burgess: It depends on the circumstances of the individual, but you are right. Getting back to the NCIS system, if mum and dad called the police and said, 'I've got a real problem with my child,' if we had access to the various systems—for example, you put in the child's details and it comes up with a flag that says there's

information held at ASIO or somewhere like that; we mightn't have the information but we know that something's held. It alerts, straight away. Alarm bells start to go off. So that gets back to this whole notion of having these systems linked up—if it came up that there were alarm bells with ASIO, and you contact a case officer who says, 'We've just been to' such and such home 'and the parents are concerned.'

Mr GEORGANAS: That's currently the case?

Mr Burgess: Yes. But it could be that there's nothing on the system. It could be just mum and dad who have concerns about what the kid's doing.

Mr GEORGANAS: Would that case be at ASIO or another agency?

Mr Burgess: It might be that there is nothing on this individual at all; it's just that mum and dad have concerns because their kid's on the computer—

Mr GEORGANAS: If you determine there is some danger, what's the next step?

Mr Burgess: Again, I don't think we've actually worked out exactly what that step is going to be. As I understand this, as we speak, it is currently in discussion.

CHAIR: The classic is—and this is where this came about for the committee members—someone like Numan Haider in Victoria who was at the Dandenong shopping centre walking around with an IS flag. The police were greatly concerned about him. Apart from saying, 'Please leave the shopping centre,' they couldn't take it any further. Subsequently, at the Endeavour Hills police station, he attacked two police officers with a knife and was shot. There's always that hypothetical: maybe, as soon as the sprout started to come up that parents and schoolfriends and others were concerned about him, he could have had an order in place to try and assist him. Every program we are hearing about now is voluntary. So if they refuse a program what do the police do? Do they wait for something bad to happen to him? I suppose that's a question. I believe it was raised at COAG, and you need all the states and territories to come up with something which potentially works.

I'd like to make another point. The family violence orders work on a civil platform. It's not like they've committed a criminal offence. Obviously, if they do breach the order, then it does.

Mr GEORGANAS: On that point, wouldn't you alert other agencies higher up that this incident has taken place, even though you can't do anything?

CHAIR: Definitely.

Mr Burgess: You would have part of a process, and depending on—

Mr GEORGANAS: So that creates a case.

Mr Burgess: Exactly, and it depends on the circumstances. We all know that some parents might get a little bit horrified about their kids doing something that, on reflection or investigation, is nothing that a lot of other kids aren't doing as well. But certainly, as I said, once you'd gone and taken the detail, I would envisage that you would do all the relevant checks. If it were involving potential acts of terrorism, there would certainly be a process whereby the police would record certain information et cetera.

Mr GEORGANAS: How do you determine terrorism and violence?

Mr Burgess: Terrorism is violence.

Mr GEORGANAS: Yes.

Mr Burgess: But there would be certain holdings in places that might relate to information around bomb making and those sorts of things. If the young person was just threatening violence against kids at school because of bullying, that's a bit different, if you know what I mean—as opposed to someone who might be on a computer screen looking at how to make a bomb and do those sorts of things.

Mr NEUMANN: Yes, that's a crime, if they're doing acts in relation to that.

CHAIR: It's not a crime to look on the internet to see how to make a bomb.

Mr NEUMANN: No—but if they act on it.

Mr Burgess: Yes. I think what we're saying is that this is about trying to—

Mr NEUMANN: Gather the pieces together.

CHAIR: Yes, that's the whole point.

Mr Burgess: This is about trying to do something, potentially, before it happens. I certainly agree—it's about what the process looks like, who's involved in that process and having the right checks and balances. But I'm sure that there would be many parents who would love the fact that someone could intervene when parents are at wits' end as to what to do.

Mr NEUMANN: This is where it comes into section 61B of the Family Law Reform Act, with parental responsibility, and section 114 of the Family Law Reform Act, where the Family Court's got the power to make the sorts of orders that we're talking about, partly in relation to parental responsibility. Then you've got the whole range of issues that deal with—if we're talking about these types of orders, we're talking about extraordinary intervention, contrary to the whole international convention in relation to the rights of children.

Mr Burgess: I'm not disagreeing with you. As I said, that's why we say in principle, and there would need to be a lot of work done and a lot of checks and balances in whatever the process might ultimately look like.

Mr NEUMANN: I'm on duty in the House of Representatives for Kate Ellis, who's on maternity leave, so I have to leave. I'm sorry about that.

CHAIR: Thank you, Mark, for the work behind your submission and all the great work the police members across the country are doing. Thank you for your attendance here today. If the committee has any further questions, they will be put to you in writing. You will be sent a copy of the transcript of the evidence and you will have an opportunity to request corrections to transcription errors. Thank you very much.

MICHELL, Dr Michael, President, Australian Council of TESOL Associations

MOORE, Dr Helen, Spokesperson, AMEP and SEE Programs, Australian Council of TESOL Associations

[11:18]

CHAIR: Welcome representatives of the Australian Council of TESOL Associations. Although the committee does not require you to give evidence under oath, I should advise you that this hearing is a legal proceeding of the parliament and therefore has the same standing as proceedings of the respective houses. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attracts parliamentary privilege. I now invite you to make a brief opening statement before we proceed. I must say, Dr Moore, you've been a big groupie of this committee. I don't know how many times you've appeared, but finally we've got you in front of us.

Dr Moore: What a relief! Thank you for this opportunity for Dr Michell and I to appear before you on behalf of the Australian Council of TESOL Associations. The media release for today's hearing describes us as coming to discuss the effectiveness of the AMEP. This narrowing of the focus of both our main and supplementary submissions perturbs us. The problems with adult English provision extend well beyond the AMEP. Even more fundamentally, we respectfully submit that this inquiry must address issues in all education sectors where English bears on successful settlement—early childhood, schools, and all post-school adult sectors, including TAFE and universities.

It might assist you to know what Dr Michell and I bring to the inquiry in representing grassroots English language teachers. Dr Michell has extensive classroom experience with migrant and refugee high school students and 18 years experience as an ESL consultant and policy officer with the New South Wales Department of Education. He has worked on curriculum and assessment projects and in formal and informal professional development for teachers. He is well placed to answer questions that we very much hope you will ask about English language provision for new arrivals and other English language teachers in schools.

My background is as a teacher, educator and researcher—beginning in Australia the week before Malcolm Fraser was elected. At La Trobe University, I set up the first fully professionalised degree in Australia for teachers of English to speakers of other languages. My first submission was to the Galbally review, and I have been writing submissions ever since. When the AMEP was turned over to competitive contracting, I was acting head of the La Trobe University language centre and responsible for our AMEP courses. My PhD analyses policymaking, or the lack thereof, for ESL in schools from 1948 to 1996. In the 1990s, I was the principal researcher for the AMEP Research Centre's investigation into provision for refugee youth with minimal or no previous education. This is one reason I am very interested in this inquiry.

ACTA's main submission took six months of almost full-time research, consultation and writing to prepare. It is a comprehensive review of English provision as it relates to settlement outcomes. As committee members are aware, I have attended most of the Canberra hearings. I have also read many of the submissions and some of the *Hansard*. The committee has heard repeatedly that English is important—as your third term of reference implies—and that English provision is inadequate. Our supplementary submission follows from my sense that this committee would like to engage with concrete proposals about what needs to be done. Our supplement presents such proposals as clearly as we could. In preparing our evidence today, we have assumed you have that submission in front of you.

CHAIR: Yes, it is a very good submission.

Dr Moore: As per page 4, our first proposal is that the National Settlement Framework should be given the teeth to monitor outcomes. It should broaden out its near exclusive focus on adults. It should explicitly incorporate attention to English language provision in all sectors. None of that is true at the moment, or at least so it appears to us. Our second proposal, as per page 5, is that national recognition of early childhood education as fundamental to educational—and therefore settlement—outcomes must extend to migrant and refugee families. Reversing their current lack of access should be monitored through the National Settlement Framework. Our third proposal, as per pages 6 to 7, relates to schoolchildren. It is that the Commonwealth, states and territories must stop hiding from the fact that, aside from ACTA surveys, we have no national picture of learners' English language needs and, equally bad, no way of knowing how effective provision is. If our members' reports are anything to go by, English language provision in schools is largely in crisis. The solution to this problem is, firstly, to conclude the work on the national measure of English language proficiency and, secondly, to agree to hold schools, systems, states and territories accountable against that measure.

Our fourth proposal, as per pages 8 and 9, is to reverse the ever-increasing fragmentation, overlap, and lack of clarity in responsibilities across the whole of provision for adult migrants. We note that the department, when

they appeared before you, only talked about the AMEP. They said nothing about the SEE program—Skills for Education and Employment. And that is because the department thinks that program is about employment, not about English language provision, even though the bulk of the learners in that program are English language learners.

CHAIR: Can I just ask you a question specifically regarding that. To your knowledge, is there any audit process about English migrant programs in schools?

Dr Michell: No. The answer is no. As we outlined in the submission—

CHAIR: And it's a great submission, so if you've got that here—

Dr Michell: ESL—English as an additional language—support in schools is collapsing, basically, and it's collapsing under the influence of school autonomy policies, where you've got flexible resource management and so on. So, as our members are telling us and in the comments you've got there as well, the resources that do get to those schools are being diverted to all sorts of things.

CHAIR: So it could be spent on a basketball court or whatever?

Dr Michell: Yes.

Dr Moore: This morning Michael was—

Mr GEORGANAS: There's no binding of that money—

Dr Michell: There's no binding of that money; it's all about flexible resource management. That's the whole point of it, and that's why the states have been very keen to adopt that approach, because—

CHAIR: they use it for what they want to use it.

Dr Michell: 'Don't tell us what to do with the money.'

Mr GEORGANAS: It's individual schools that are doing good things that will come up, because individually they may wish to do something quite—

Dr Michell: They might.

Dr Moore: We have no picture of what's happening nationally. Michael was online this morning trying to update information about allocations for ESL. You can't find it online.

Dr Michell: It's not in the budget papers. There's nothing in the recent act about—

CHAIR: I'm not speaking on behalf of the whole committee, but I assume that could be a recommendation we make: the concern is the complete lack of an audit process of where money is going.

Dr Michell: Just any transparency around the money that's allocated.

Mr GEORGANAS: Or maybe a listing of where the money has gone?

Dr Michell: Yes.

Mr GEORGANAS: So it gives us a national idea of where we've—

Dr Michell: Theoretically you could look at the My School website at an individual school, and ask: what was their Gonski—

Mr GEORGANAS: Because there are some schools that are doing great stuff. I've got a couple in my electorate.

Dr Michell: Yes. The problem is that even the Gonski money is aggregated. It's not disaggregated according to English language—it's a general equity thing. You're still none the wiser in terms of what money is going to support for English language learning in schools.

Mr GEORGANAS: Since the competitive tendering came in, can you give us a bit of an overview of its positives and negatives, and how, whether in a positive or a negative way, has it affected our migrants learning English? It is a very broad question, but it would be good to have it on the record.

Dr Moore: Let's say that it's got progressively worse. I guess it's put people on their toes a little bit, and, in putting people on their toes, it's also made them very defensive. So the progression is a progressive set of wasteful work done preparing tenders. The last set of contracts was catastrophic, I would say. An American company with no track record in the area was given a tender. What are they called? It's gone out of my head. You can go online, and they say nothing about their ability to deliver an English language program. I wrote, before the tenders were allocated, about how the best refugee youth program in the country lost its contract. It does not exist anymore, as of 1 July. That program had links with the Western Bulldogs. It had—

CHAIR: What was the program?

Dr Moore: It was a refugee youth program. If you look in our main submission, you'll see a diagram there of everything it covered. The woman in charge of it is now in America.

CHAIR: Why did that collapse?

Dr Moore: Because they lost the contract.

Dr Michell: A casualty of the contract system.

Dr Moore: They lost the contract.

Dr Michell: The point behind this, I guess, is that quality is not really a major consideration in this contractual process.

CHAIR: That's why if you had an audit process to check and quantify it afterwards—is that what you're saying?

Dr Moore: No. I'm saying that DET needs to commit itself to delivering English language programs. You had before you people who deliver the AMEP, and nobody talked about the SEE program. The SEE program is supposedly a pathway from the AMEP, but the two groups see themselves as completely separate. If you ask the SEE program, 'What about English language?' 'No, no, we are engaged in getting people into employment.' All these blockages occur.

CHAIR: Is it called 'Seed'?

Dr Moore: It's called 'SEE'—Skills for Education and Employment.

Dr Michell: That whole sort of thing, with 'It's not our responsibility,' also applies to schools. They say, 'Well, that's a state issue and we do get involved in reporting or doing anything around that.'

Dr Moore: I've deviated from your question. After I decided to do this supplementary submission, I sent out a note to everybody saying, 'Give us your stories.' People rang me up and told me stuff which they would never write down. They're too afraid to say what happened. One group of people talked about how they were all told that they had to get everything out of the premises. They gave away their computers; they gave away all the library books and they were told they didn't have a job. The next day they were told, 'Oh, sorry. You're being rehired by the people who've got the new contract. We'll have to buy up all these computers, books and things.'

Dr Michell: Wastage and churn is a major problem.

Dr Moore: There is huge wastage. It's wicked. With the system that we put forward in our submission, we've been putting it forward for years. It's really simple. It's actually quality control. If you look at it, what is the problem with instituting that system and getting rid of all that nonsense? I want to go back to the point about the SEE program and the AMEP. I also need to correct a mistake I made when I gave evidence to you in that little piece that I did before. We talked about functional English and we said it was idiomatic English. At your request, I actually went out and got samples, which you've now got in that submission. Functional English is clearly a much higher level than what we were talking about. Then I thought about it some more. The real problem is the number of hours and the low level at which people come into the program.

CHAIR: I know you've mentioned the 510 hours in problem 6. The government, since 1 July for humanitarian visas, has put in place another 490 hours.

Dr Moore: They have and that's about a year. Then in their *Hansard* evidence to you they talked about the Special Preparatory Program, which, to be perfectly honest, was a fudge. That's because the SPP is for people with no previous schooling or very limited previous schooling. It's a very small group and they need a lot more than a year.

CHAIR: I understand that. I know you're saying it's not enough hours, but one of the things committee members are potentially looking at is a recommendation. We do have that extra 490 hours. Not everyone needs that; I think on average it's 320 hours.

Dr Moore: A lot of people drop out.

CHAIR: We may have the flexibility of pooling hours for people who need more.

Dr Moore: I've given you a table in the submission. What you do is allocate entitlements based on the level of English people have and the amount of previous education. They are the determinants of how much English people need. People do not stay in that program if they get a job or they don't need any more English. According to teachers—I've given you estimates there of how many hours people actually need—they won't take their hours if they don't need them.

CHAIR: I understand that. We just trying to help the ones who do need them, at the end of the day. I apologise that it's all been a bit rushed, but we did get you on as a late inclusion. You have put a very good submission forward.

Dr Michell: As a closing comment, I just want to make a general point to help understand, perhaps, what lies behind the problems that we are identifying in our submissions. Australia boasts a proud history of developing English-language programs as part of a competitive approach to the successful settlement of child and adult migrants. However, it's our view that this boast is hollow because it hides a national complacency by the Commonwealth, state and territory governments in this area. Inaction, misdirection and displacement, as we've described in our submissions, now characterises policy and the provision of Australia's English-language programs, whose existence and efficacy is simply being taken for granted. The critical problems that we've identified are the outcomes of that complacency. We argue that it requires your urgent attention. We commend our proposals to you.

CHAIR: Thank you very much. We will conclude there. The committee will be going through what we determined to be the recommendations of the final report. Thank you for your attendance here today. If the committee has any further questions they will be put you in writing. You will be sent a copy of the transcript of your evidence and will have an opportunity to request correction of transcription errors. Thank you very much for your attendance and participation. That concludes the proceedings.

Resolved that these proceedings be published.

Committee adjourned at 11:35