

Complaint by Mr Z about his immigration detention

ABRIDGED VERSION OF REPORT NO. 02/2005.
THE FULL REPORT HAS NOT BEEN MADE PUBLICLY AVAILABLE
TO PRESERVE THE PRIVACY OF THE COMPLAINANT

May 2005

Report into the investigation of a complaint by Mr Z about his immigration detention

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Mr Z complained to the Commonwealth Ombudsman in early 2003 that a year previously he was taken from his home to an Immigration Detention Centre by officers of the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA). He said the officers took the only key to his home and, subsequently, a number of his personal possessions had gone missing.

My investigation of Mr Z's claims proved difficult and it took some time to establish that Mr Z had in fact been removed from his home by State police officers, not DIMIA officers.

The crux of Mr Z's complaint was that he had lost valuable items of property. Because of the absence of documentary records, my investigation was unable to resolve this aspect of his complaint. This is a matter of concern.

My investigation drew attention to various problems concerned with the deficient documentary record surrounding Mr Z's detention:

- questions about who had custody of Mr Z at critical points during the process of removing him from his home and lodging him in immigration detention – there was doubt whether appropriate procedures had been followed when transferring custody from police to DIMIA;
- the apparent absence of formal and documented Memoranda of Understanding between the Department and the local police service regarding interaction and assistance on immigration matters;
- the absence of formal and documented procedures for the conversion to cash by DIMIA of property seized from certain categories of persons;
- the absence of proper procedures for the control and audit of Official Notebooks used by DIMIA officers; and
- the appropriateness of a DIMIA officer's actions, particularly in respect of his record-keeping and his dealings with external parties.

I reported to the Department pursuant to s15 of the *Ombudsman Act 1976* and made the following recommendations:

Recommendations

Recommendation 1

In the short term, the Department document whatever “informal agreements” are currently in place between its State or Territory offices. The Department should give priority to establishing MOUs with local police services.

Recommendation 2

The Department ensure all of its regional offices either have in place, or take immediate steps to put in place, a documented formal process whereby seized property is converted to cash. Also, the Department consider amending its procedures to include a requirement that all seizure and sale of property is recorded in a register held in the relevant State or Territory office of the Department.

Recommendation 3

The Department:

1. Remind its Compliance Managers of the requirement to regularly audit registers of Official Notebooks.
2. Issue national instructions or guidelines setting out the manner in which Official Notebooks are to be issued, returned and accounted for, such document to also set out the underlying principles which govern the use and control of the Notebooks.

Recommendation 4

The Department review the DIMIA officer’s conduct, particularly in relation to his dealings with clients and external agencies, his record-keeping responsibilities generally, and his responsibilities towards accountable documents such as Official Notebooks specifically, with a view to considering appropriate remedial action.