



Commonwealth  
National  
Preventive  
Mechanism

 FOR CONSUMERS

# Post Visit Summary

Merchant Vessel (MV) *Besant* and  
Australian Defence Vessel (ADV) *Guidance*

06 March 2025

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# Summary

## Our visit

Two OPCAT Monitors from the Commonwealth National Preventive Mechanism (NPM) conducted semi-announced visits to Australian Defence Vessel (ADV) *Guidance* and Merchant Vessel (MV) *Besant* on the 3<sup>rd</sup> and 7<sup>th</sup> of October 2024, whilst they were alongside at HMAS Stirling in Rockingham, Western Australia.

These ships are Royal Australian Navy (RAN) Auxiliary vessels, and they were assigned to Operation Resolute<sup>1</sup> at the time of the visits. Operation Resolute is the Australian Defence Force (ADF) contribution to the whole-of-government effort to protect Australia's borders and offshore maritime interests. The ADF provides forces under Operation Resolute to Maritime Border Command, a multi-agency taskforce within the Australian Border Force (ABF). Maritime Border Command undertakes civil maritime security operations including to protect against illegal maritime arrivals, maritime terrorism, piracy, robbery and violence at sea, compromise to biosecurity, illegal activity in protected areas, illegal exploitation of natural resources, marine pollution, and prohibited imports and exports.

While they were assigned to these operations, both vessels had temporary detention facilities installed on them to accommodate people detained at sea, with no defined maximum time period for the detention. These detention facilities were the subject of our visit.

The vessels are crewed by Naval Liaison Officers and civilian contractors through Teekay Australia<sup>2</sup>. Medical services are provided by military medical officers and contracted medics provided by OPSTAR<sup>3</sup>. The operation of the detention facilities is managed and controlled by onboard ABF officers, who are supported by ADF members responsible for security (Transit Security Element or TSE).

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<sup>1</sup> [Operation Resolute | Defence Activities | Defence](#)

<sup>2</sup> [Teekay](#) are a marine services company who provide contracted vessel operation services to the Australian Government, including the ADF and ABF.

<sup>3</sup> [OPSTAR](#) provide operational support services to government and industry, including search and rescue, specialised emergency response, critical infrastructure security, aviation support services.



## What we found

As neither vessel was designed to accommodate detained persons at sea, they had been retrofitted with temporary detention facilities to carry out tasks for Operation Resolute.

The facilities onboard the MV *Besant* had been installed for approximately a year, but we were advised by Home Affairs that they were only used on two occasions for durations of less than two weeks at a time. We were told by Defence personnel that after each deployment to sea, feedback provided by staff had resulted in changes and upgrades being progressively made to the detention facility. However, despite these efforts, the detention area was still not fit for purpose. There were significant shortfalls in accommodation and ablution facilities for people detained, and no appropriate interview, dining, or recreational facilities. The detention facility was never appropriate for use for detention.

ADV *Guidance* had recently been fitted with a new modular detention facility which offered a number of significant improvements to the accommodation, but still lacked appropriate interview, dining, and recreational facilities. Home Affairs advised that the detention facilities on ADV *Guidance* had not yet been used to accommodate people detained at sea.

At the time of the visit, the detention facilities on MV *Besant* were in the process of being dismantled and we were advised that new detention facilities similar to those we viewed onboard ADV *Guidance* would be installed before the vessel's next Operation Resolute mission.

Although we asked both during and after the visit to see the policy and guidance for use of the detention facilities, none was provided. In their response to our findings, Home Affairs advised that ABF and Navy have a number of documents related to detention of people at sea, but we have not yet seen this documentation. Facilities and processes between the two vessels varied considerably.



### Recommendation 1

The department develop a full suite of human rights compliant policy and procedures specifically regarding detention at sea within six months and provide these to me.



# Recommendations

Based on our visit to these two vessels, I recommend the following:



## **Recommendation 1**

The department develop a full suite of human rights compliant policy and procedures specifically regarding detention at sea within six months and provide these to me.

## **Recommendation 2**

The department ensure that prior to use, any facilities that may be used to detain people at sea are appropriately assessed to ensure there is compliance with minimum standards for places of detention.

## **Recommendation 3**

The department ensure that people detained at sea have access to the same standard of medical care as the crew of the vessel they are onboard (as is required by domestic and international standards).

## **Recommendation 4**

Any vessel that is used to accommodate people detained at sea must have an area that can be used for private interviews with detained people.

## **Recommendation 5**

People detained at sea be given access to accredited interpreters (which can be via electronic means) for all official interviews and assessments.



# MV *Besant*



The *MV Besant* is an Auxiliary Naval Vessel, primarily used for submarine search and rescue<sup>4</sup>. Vessel staff told us that a temporary detention facility was installed in mid-2023 when the vessel was assigned to Operation Resolute. At the time of our visit, preparations to dismantle and remove the detention area from the ship were underway and we were advised that a new modular detention facility, similar to that on *ADV Guidance*, would be installed prior to its next Operation Resolute deployment.

We were advised that the vessel had undertaken three seagoing deployments with the detention facility in place and a number of the personnel that we spoke to had seen the detention facility in use, with people detained whilst at sea. However, these civilian contractor (Teekay) crew members were not directly involved with the management of people in detention. We asked Defence how long detained persons were held onboard but did not receive an answer. ABF advised us that there is no prescribed time limit for how long a person could be detention for at sea: it could be days or weeks.

The ABF has advised us that senior ABF officers are deployed onboard vessels for each Operation Resolute deployment and are ultimately responsible for the care and treatment of any person detained at sea for any reason. Security of the detention area is generally provided by a Defence personnel Transit Security Element (TSE).

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<sup>4</sup> [MV Besant | Royal Australian Navy](#)

## Accommodation did not meet minimum standards

The detention area on MV *Besant* consisted of an enclosed area on the ship's rear deck [Figure 1]. It comprised a floor area of heavy plastic grating raised approximately 15 to 20 centimetres above the ship's deck. The area was bordered on two sides by shipping containers, and the front and rear of the detention area consisted of solid metal bars with gates opening into enclosed walkways. The enclosed area was covered by plastic coated wire mesh with curved metal framing supporting a tightly fitted, plastic coated, fabric cover. CCTV cameras were installed at either end of the detention area.



Figure 1: Detainee area MV *Besant*

We were advised during the visit that the capacity of the detention area was 48 people. We were advised there were guidelines regarding the number of people who could be held in the detention facility and the amount of time they could be held. We sought



details of these policies from Defence immediately after the visit but at the time of drafting this report we had not received this information. We understand these may be ABF policies, not Defence.

Within the detention area there was no furniture or beds, and we were advised that foam ‘jigsaw mats’ are provided to people detained within the facility [Figure 2]. These mats are approximately four centimetre thick foam mats that can be interlocked together. These mats would be placed over the plastic grate decking and people in detention would sleep, sit, and eat on these mats for the duration of their stay – which could be weeks – within the detention facility. We did not see any blankets or other bedding provided to the people in detention. However, in their response, Home Affairs advised “that blankets and other personal items were available and provided under ABF supervision, but had already been removed during the dismantling of the facility.”



Figure 2: Jigsaw mats

In light of the number of hours spent detained on a daily basis, the conditions of accommodation have a considerable impact on the experience of deprivation of liberty. The minimum standards of this accommodation should be comparable to average living standards in the outside world, in this case, equivalent to that provided to crew members onboard the ship. Rule 13 of the *Nelson Mandela Rules*<sup>5</sup> provides that all

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<sup>5</sup> *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules)

accommodation used by detained persons, in particular all sleeping accommodation, shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation. The facility onboard MV *Besant* fell well short of this standard.

We were advised that the two shipping containers that opened into the detainee area were used as storage areas, but that during inclement weather or rough sea conditions these containers could be opened and people in detention could take shelter within them. Although the practice of converting shipping containers into accommodation within Australia is gaining popularity, those structures must comply with the same regulations that govern a traditionally built home and meet liveability standards<sup>6</sup>. A shipping container with no modification is not appropriate. There was no ventilation in these containers, and we have significant concerns about the safety of this practice. In their response, Home Affairs clarified that the rear port shipping container was configured with an opening on the long edge to enable detainee access. Other containers were used for storage. They advised that at no time were any persons enclosed in shipping containers.

## Ablution facilities were not acceptable

Within the detention area, there were four (4) portable toilets, which meets the World Health Organisation (WHO) standard of one for every 25 detained persons<sup>7</sup>. There are built in wash basins in each of the toilets but no additional washbasins outside. Handwashing with soap after defecation and any potential contact with faeces should be supported by the availability of soap and water close to sanitation facilities. We did not see any soap, but note the detention area was not in use and was being dismantled during our visit.

The ablution facilities were not connected to the ship's waste treatment facility and sewage. Instead, wastewater had to be stored within the ablution facilities and regularly emptied directly into the ocean. We were advised that there were strict rules<sup>8</sup> about where the waste could be dumped at sea and that they were rigorously adhered to. Waste disposal piping was attached to the rear of the ablution facilities following crew

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<sup>6</sup> *Australian Building Codes Board Liveable Housing Design Standard* © Commonwealth of Australia and the States and Territories of Australia 2022, published by the Australian Building Codes Board

<sup>7</sup> [Guidelines on sanitation and health](#). Geneva: World Health Organization; 2018. Licence CC BY-NC-SA 3.0 IGO

<sup>8</sup> [Environment Protection \(Sea Dumping\) Act 1981](#), [Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972](#)

feedback after one of the previous missions where a number of sewage spills had occurred on the vessel's rear deck (the deck where the detention area is), posing a health risk to crew members and people detained.

There were also two cold-water showers. The shower facility within the main accommodation area was immediately adjacent to the portable toilets and was open to view from the accommodation area [Figure 3]. We were advised that the shower had been partially dismantled, and the privacy screening had been removed, but would normally be in place.

We were informed that a second shower facility would be used by any detained women, which was positioned in the enclosed walkway at the rear of the detention area, in a very exposed area of the vessel and only fitted with a drop-down camp shower to provide privacy. This shower facility had also been partially dismantled when we visited [Figure 4].

The showers were connected to the ship's water supply by hose pipes, but no hot water was available. This is not compliant with the Association for the Prevention of Torture (APT) guidance which provides that hot water must be available in sufficient quantity and it must be possible to alter the water temperature according to the seasons and the climate.



Figure 3: Shower facility in the main detention area



Figure 4: *MV Besant* enclosed walkway and shower facility at rear of detainee area

## The medical facilities were excellent

As a submarine search and rescue vessel, *MV Besant* is fitted with an extensive medical treatment area including a triage area, multiple treatment bays, and medical wards which could be sealed and used to isolate any person or group suspected of having an infectious disease. We were advised that an ADF Medical Officer would be aboard the ship if it was deployed on an Operation Resolute mission but there were no medical personnel on the ship at the time of our visit. On past missions, people in detention who required medical treatment had been placed into the medical facility and received treatment there.

The vessel carried extensive medical equipment and medicines for its normal role, but prior to each Operation Resolute deployment additional specialist medical supplies are taken on board to ensure that the needs of any person detained on the vessel could be met.



We were advised that on previous missions, people detained on this vessel had all been transferred from other vessels and had undergone preliminary medical assessments prior to boarding the *Besant*.



Figure 2: Medical ward



Figure 3: Medical Treatment Area



## Human rights concerns

The detention area onboard MV *Besant* did not provide even basic amenities such as adequate shelter from the elements, beds, furniture, proper ablutions, and privacy for the people held within the facility. The Commonwealth NPM does not consider it fit for purpose, and it was never appropriate for use to detain people.

While we understand that this detention facility has now been dismantled and will be replaced with modular units similar to those we viewed on the *ADV Guidance*, we are concerned that it was approved for use at all.

While we commend attempts by the crew onboard to address some of the problems identified, by providing feedback after each mission, and the actions taken to address some of the concerns raised, the facilities were not in line with Australian and international human rights standards and guidelines to ensure that detained people are always treated with respect and dignity.



### **Recommendation 2**

The department ensure that prior to use, any facilities that may be used to detain people at sea are appropriately assessed to ensure compliance with minimum standards for places of detention.

# ADV *Guidance*



The ADV *Guidance* is also an Auxiliary Naval Vessel that was assigned to undertake civil maritime security operations as part of Operation Resolute. At the time of the visit, the vessel was preparing to depart on its first Operation Resolute mission. A detention facility, referred to as a Transferee Accommodation Module (TAM), had been retrofitted to the rear deck of the ship but at the time of the visit it had not yet been used.

## Facilities designed to accommodate people

The entire detention area was surrounded by steel framed fencing approximately 2.5 to 3 metres high, topped by anti-climb drum cowling.



Figure 4: ADV *Guidance* fencing around detention area

The detention facility consisted of four modified shipping container accommodation modules and two ablution modules arranged along two wooden walkways enclosed at each end. The units are identical to those typically used on offshore oil and gas platforms. We were advised that there is capacity to double the size of the existing detention facility by installing additional modules within the existing fenced area.





Figure 8: Transfree Accommodation Module (TAM)





Figure 9: Enclosed walkway between accommodation modules

Each of the accommodation modules contained two rooms each with six (6) beds in a triple bunk arrangement. Each room was fitted with a standalone air-conditioning unit, lighting and a CCTV camera.

We noted that there was no dining room in the detention area, and we were advised that meals would be prepared in the ship's kitchen, delivered to the detention area, and consumed within the accommodation area.



Figure 5 Interior of TAM accommodation room

Ablution modules contained two showers, a sink unit and four toilet cubicles, each with a lockable door ensuring the privacy of users. The ablution units were separately plumbed with pipes leading to waste treatment equipment.





Figure 6: Interior of Ablution Module

## Medical facility not available to detained persons

The medical facility on the *Guidance* was smaller than on the *Besant* and consisted of a single treatment room. During normal operations, it would be staffed by a single contracted paramedic. In preparation for the vessel's first Operation Resolute mission, an additional military medical officer had been deployed on the vessel. On the day of our visit, this officer had only just arrived on the vessel and was familiarising himself with the facilities.

During our visit to the *ADV Guidance*, we were advised by medical staff that detained persons would not be taken into the ship's medical facilities to prevent the spread of any potential infectious diseases. Instead, all medical services would be provided in the detention facility, including initial medical assessments, ongoing treatments, medical isolation and the distribution of medication. However, there was no dedicated space for medical services to be provided in the main detention space. When asked where in the detention area these services would be delivered, we were told that a desk would be set up on the rear deck or services provided in one of the accommodation rooms. This is not compliant with the Mandela Rules. Rule 24 provides that anyone detained must enjoy the same standard of healthcare as that available in the community – in the case of a vessel at sea, the same as that provided to the crew of the vessel. Rule 30(d) requires provision of clinical isolation and treatment for any person suspected of having a contagious disease. Rule 31 requires that all medical examinations be undertaken in full confidentiality. In their response, Home Affairs noted that the *ADV Guidance* facilities had not yet been used, but that if the onboard paramedic or medical officer determined that specific medical treatment or isolation was necessary for a person detained on board they would be treated in the sickbay. They said that on initial review, this approach is commensurate to the crew's access to medical treatment. Whilst we appreciate the system has not yet been tested, the advice we received from medical staff onboard during the visit was inconsistent with the approach described by Home Affairs.



### Recommendation 4

The department ensure that people detained at sea have access to the same standard of medical care as the crew of the vessel they are onboard (as is required by domestic and international standards).



# General Observations

## Conduct of interviews and use of interpreters

Neither vessel had interview facilities in the detention area. When we enquired where people in detention would be interviewed for identification or processing purposes, we were advised that a table would be set up in the enclosed walkaway at the entrance of the detainee area or on the ship's deck and any interviews would be conducted there. The area where interviews would be conducted on each vessel offered no privacy. Highly sensitive interviews including medical assessments, asylum claims and identity interviews would therefore be conducted in full view and hearing distance of other people in detention, vessel crew, and security personnel. Where possible such interviews should be conducted in private. In their response, Home Affairs said that there were areas that could be used for private interviews internally in the superstructure of the vessel, that the appropriate location for sensitive interviews may be influenced by factors such as weather and specific operational requirements, and that every effort would be made to ensure that interviews were conducted in private. However, this is inconsistent with what we were advised during the visit, which was that although facilities may have been available outside of the detention area, they would not be used.

We asked about the use of interpreters and were advised that they have not previously carried an interpreter but that some of the ABF or Australian Fisheries Management Authority officers speak Bahasa Indonesian and act as interpreters. If an interpreter was not available, they used illustrated cards to communicate with those being interviewed. We were advised that telephone interpreters were not used. Australian and international standards and guidelines such as the *International Covenant on Civil and Political Rights* make it clear that people deprived of their liberty have the right to communications in a way they can clearly understand, and we are concerned that the failure to provide interpreters may breach that right. In their response, Home Affairs noted that the nature of being in a remote location at sea may limit the timeliness of access to an interpreter, but that no formal interview processes are undertaken without an accredited interpreter available in person via video/phone. While we note the advice that all formal interviews would be conducted using accredited interpreters, we are of the view that there are less formal communications that could effect the safety and wellbeing of people in detention that occur without accredited interpreters, such as initial medical screening and basic identity screening, or, if they have been moved between vessels, handovers to new staff.





#### **Recommendation 4**

Any vessel that is used to accommodate people detained at sea must have an area that can be used for private interviews with detained people.

#### **Recommendation 5**

People detained at sea be given access to accredited interpreters (which can be via electronic means) for all official interviews and assessments.

## **No purposeful activities available**

We noted that neither vessel had recreational facilities available for people held in detention and no facilities for purposeful activities to be undertaken. We were advised by staff that they carry items such as packs of cards that are distributed to people in detention, but no other activities are undertaken.

Persons deprived of their liberty have the right to take part in cultural, sporting, and social activities, and must have opportunities for healthy and constructive recreation. Whilst we understand the facilities for this will be limited onboard a seagoing vessel, we consider that more could be done despite these limitations.



# Methodology

The primary function of an NPM is visiting places of detention.

The Commonwealth NPM visits places of detention to:

- Monitor the treatment of people in detention and the conditions of their detention.
- Identify any systemic issues where there is a risk of torture or ill-treatment.
- Make recommendations, suggestions, or comments promoting systemic improvement.

The Commonwealth NPM conducts three types of visits: announced, unannounced, and semi-announced. The type, location, and timing of each visit is determined by the Commonwealth NPM alone.

Each place of detention is assessed in terms of its performance based on the management and conditions for people in detention. We assess these against the five indicators of a healthy detention facility, adapted from those used by other international and domestic visiting bodies.

The five indicators of a healthy centre are:<sup>9</sup>

<b>Safety</b>	People in detention are held in safety and that consideration is given to the use of force and disciplinary procedures as a last resort.
<b>Respect</b>	People in detention are treated with respect for their human dignity and the circumstances of their detention.
<b>Purposeful activity</b>	The detention facility encourages activities and provides facilities to preserve and promote the mental and physical well-being of people in detention.
<b>Well-being and social care</b>	People in detention are able to maintain contact with family and friends, support groups, and legal representatives, and have a right to make a request or complaint.
<b>Physical and mental health</b>	People in detention have access to appropriate medical care equivalent to that available within the community. Stakeholders work collaboratively to improve general and individual health conditions for people in detention.

<sup>9</sup> These indicators have been adapted from expectations used by international and domestic inspectorates.



This report is based on:

- Interviews and discussions with staff.
- The observations of the visiting OPCAT Monitors.

During these visits, OPCAT Monitors met with the following staff:

- Naval Liaison Officers on both vessels
- The ship's captain on *ADV Guidance*
- The medical officer and paramedic on the *ADV Guidance*
- Crew members on both vessels.



# Mandate

The *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) is an international human rights treaty designed to strengthen protections for people deprived of their liberty.

OPCAT does not create new rights for people who are detained, rather it seeks to reduce the likelihood of mistreatment. OPCAT combines monitoring at an international level (by the Subcommittee for the Prevention of Torture) and by National Preventive Mechanisms (NPMs) at a domestic level.

NPMs are independent visiting bodies, established in accordance with OPCAT, to examine the treatment of persons deprived of their liberty, with a view to strengthening their protection against torture and other cruel, inhuman, or degrading treatment or punishment.

An NPM is not an investigative body. The mandate of an NPM differs from other bodies working against torture in its preventive approach: it seeks to identify patterns and detect systemic risks of torture, rather than investigating or resolving complaints concerning torture or ill-treatment. A separate team within the Office of the Commonwealth Ombudsman, outside the NPM, receives and considers complaints from people in detention.

In July 2018, the Australian Government announced the Commonwealth Ombudsman as the visiting body for Commonwealth places of detention (the Commonwealth NPM). At present, the Commonwealth NPM visits places of detention run by:

- the Department of Home Affairs
- the Australian Federal Police
- the Australian Defence Force.





# CHIEF OF THE DEFENCE FORCE



EC25-000669

**Mr Iain Anderson**  
Commonwealth National Preventative Mechanism  
Commonwealth Ombudsman  
Office of the Commonwealth Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

*Dear Iain,*

## COMMONWEALTH NPM'S FINDINGS FROM YOUR VISIT TO MV BESANT AND ADV GUIDANCE

Thank you for the opportunity to comment on the draft Commonwealth National Preventive Mechanism findings from visits to *MV Besant* and *ADV Guidance*. I appreciate the ongoing co-operation between your Office and the Australian Defence Force, and look forward to continuing to support this important oversight mechanism.

I appreciate you noting that the inspection of facilities onboard *MV Besant* occurred during a period of demobilisation prior to the installation of improved facilities similar to those onboard *ADV Guidance*. I also note that the visit to *MV Besant* occurred in the absence of key staff who may have been able to provide more context regarding some of the OPCAT Monitors' observations of the demobilised facilities. The ADF will continue to support Home Affairs and Australian Border Force in relation to your recommendations. I have no concerns regarding the public release of the report.

My point of contact for this matter is Provost Marshal Australian Defence Force, [REDACTED]

Yours sincerely

[REDACTED]

**David Johnston AC**  
Admiral RAN  
Chief of the Defence Force

*19* February 2025

R1-5-CDF Suite  
PO Box 7900  
CANBERRA BC ACT 2610



**OFFICIAL: Sensitive**

EC25-000934

Mr Iain Anderson  
Commonwealth Ombudsman  
Office of the Commonwealth Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

*Iain*  
Dear Mr Anderson,

Thank you for your letter of 23 January 2025 regarding the Post Visit Summary report on *Merchant Vessel (MV) Besant* and *Australian Defence Vessel (ADV) Guidance*, 3rd and 7th October 2024.

I welcome the assessment and observations contained therein, and have asked the Commander of Maritime Border Command (MBC) and Operation Sovereign Borders (OSB), Rear Admiral (RADM) Brett Sonter, RAN to lead in considering these issues and following up on the associated recommendations. I would be pleased to provide a more detailed response to any issues you consider insufficiently addressed after reviewing the information attached, including through an in-person briefing with RADM Sonter if required.

I am committed to ensuring the Department of Home Affairs (the Department) and Australian Border Force have the highest regard to protecting the dignity and humanity of all persons administratively detained in the course of Departmental business, including during civil maritime enforcement and safety of life at sea (SOLAS) activities. Accordingly, I have directed that in instances where appropriate standards have not been met, prompt action should be taken to ensure the relevant concerns are addressed. Noting the joint agency nature of civil maritime security efforts, I will also ensure that the outcomes of our internal considerations are made available to the Australian Defence Force. I also expect that Defence will make their own submission noting that some recommendations are associated with Australian Defence Vessels.

I note that inadequacies identified in the nature of the now-decommissioned accommodation on *MV Besant*, including in relation to the ablution facilities and availability of hot water, were already being rectified at the time of the visit. I thank you for drawing my attention to these issues.

The Department's response is included at Attachment A. It accepts all recommendations, and provides additional context and the correction of several errors of fact in the table entitled 'editorial comments'. I do not have any concerns about operational sensitivities in this instance.

Should your staff wish to discuss any aspects of the response in the meantime, they can contact

[Redacted contact information]

Alternatively, you are welcome to contact me directly if that would be helpful.

[Redacted signature]

Stephanie Foster PSM

20 February 2025

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Editorial Comments (errors of fact or omissions):

Page/paragraph	Commonwealth Ombudsman statement	Home Affairs comments
p.3, para 4	<p><i>While they were assigned to these operations, both vessels had temporary detention facilities installed on them to accommodate people detained at sea, with the detention being for <b>indefinite periods that could extend for weeks</b>. These detention facilities were the subject of our visit.</i></p>	<p>In relation to the characterisation of detention as 'indefinite' in the context of lawful civil maritime security operations conducted in accordance with the <i>Maritime Powers Act 2013</i> (the MPA) and other relevant legislation - The Department notes that each such detention is for a specific purpose and that every effort is made to ensure arrangements to resolve the status of persons detained are completed as expeditiously as possible.</p> <p>A number of factors and operational considerations can affect the length of time people are held on-water. There is no prescribed time period. However, in all cases, detention is maintained for the minimum possible period required to determine and confirm arrangements to appropriately resolve the status of the persons intercepted undertaking suspected unlawful activity within Australia's maritime domain. The duration of detention can include periods of time in transit between remote locations.</p> <p>A review of records held by Maritime Border Command (MBC) confirms that the now-decommissioned accommodation facilities on board <i>MV Besant</i> were used on two separate occasions for a period of less than two weeks each time.</p> <p>The facilities on <i>MV Guidance</i> have, at the time of writing, never been used to accommodate people detained at sea.</p> <p>In instances when it is not possible to resolve a civil maritime security operation involving the detention of persons at sea within a period less than 'weeks' the suitability of the on-water accommodation for on-going detention is an important consideration</p>



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		<p>in operational decision making on a daily basis.</p> <p>CJATF/COMMBC has a range of assets and capabilities available to him at any given time, which can be tasked in support, including ADF and ABF vessels with a range of facilities available on board.</p>
p.4, para 2	<p><i>The facilities onboard the MV Besant had been <b>in use</b> for approximately a year.</i></p>	<p>It may be relevant background to note that while installed for approximately one year, these accommodations were <i>in use</i> on two occasions for a duration less than two weeks at a time. Feedback from these operations was taken into account in the decision to replace the accommodations.</p> <p>The Department will continue to consider this report and the constructive observations included in relation to shortfalls in the now decommissioned accommodations on <i>MV Besant</i> in the context of future requirements.</p>
p.4, para 5	<p>It appears that <b>there is currently no formal policy or guidance for detention of people at sea.</b> Facilities and processes between the two vessels varied considerably.</p>	<p>A number of work instructions exist within the ABF's Marine Safety Management System to support consistency of practice in the management of persons detained on board vessels during civil maritime security operations under Operation Maritime Protector and Operation Resolute. The ABF's work instructions are applicable aboard <i>MV Besant</i> and <i>ADV Guidance</i>, as the ABF is responsible for overseeing the detention of persons detained at sea on these vessels. The Navy also maintains documentation in relation to adequacy of accommodation required to support Operation Resolute.</p>
p.8, para 2	<p><i>It appears <b>that there were no blankets or other bedding provided to the people in detention:</b> at night they would simply lie on the mats on the deck.</i></p>	<p>Blankets and other personal items were available and provided under ABF supervision. This was not apparent during the visit as the process of dismantling the facility was in progress and no ABF officers were present to enable further discussion.</p>

**OFFICIAL: Sensitive**

<p>p.9, para 1</p>	<p><i>We were advised that the two shipping containers that opened into the detainee area were used as storage areas, but <b>that during inclement weather or rough sea conditions these containers could be opened and people in detention could take shelter within them.</b> Although the practice of converting shipping containers into accommodation within Australia is gaining popularity, those structures must comply with the same regulations that govern a traditionally built home and meet liveability standards. A shipping container with no modification is not appropriate. There was no ventilation in these containers, and we have significant concerns about the safety of this practice.</i></p>	<p>The rear port shipping container was configured with an opening on the long edge to enable detainee access. Other containers were used for storage. At no time were any persons enclosed in shipping containers.</p> <p>This facility has now been decommissioned.</p>
<p>p. 20, para 2</p>	<p><i>During our visit to the ADV Guidance, we were advised by medical staff that <b>detained persons would not be taken into the ship's medical facilities</b> to prevent the spread of any potential infectious diseases. Instead, <b>all medical services would be provided in the detention facility</b>, including initial medical assessments, ongoing treatments, medical isolation and the distribution of medication. However, there was no dedicated space for medical services to be provided in the main detention space.</i></p>	<p>The <i>ADV Guidance</i> facilities have not been used to accommodate persons detained at sea.</p> <p>Under normal operations any persons to be detained on <i>Guidance</i> would have already had a preliminary medical check when they were brought onboard via the initial interception vessel.</p> <p>If the onboard paramedic or medical officer determined that specific medical treatment or isolation was necessary for a person detained on board they would be treated in the sickbay.</p> <p>On initial review of the information available, the Department considers that this approach is commensurate to the crew's access to medical treatment.</p>
<p>p.21</p>	<p><i>Neither vessel had interview facilities in the detention area. When we enquired where people in detention would be interviewed for identification or processing purposes, we were advised that a</i></p>	<p>Both vessels have areas that can be used for private interviews internally in their superstructure.</p> <p>The appropriate location for sensitive interviews may be influenced by factors</p>



	<p><i>table would be set up in the enclosed walkaway at the entrance of the detainee area or on the ship's deck and any interviews would be conducted there. The area where interviews would be conducted on each vessel offered no privacy. <b>Highly sensitive interviews including medical assessments, asylum claims and identity interviews would therefore be conducted in full view and hearing distance of other people in detention, vessel crew, and security personnel. Where possible such interviews should be conducted in private.</b></i></p>	<p>such as weather and specific operational requirements.</p> <p>Every effort is made to ensure that sensitive interviews with people detained at sea are conducted in private.</p>
<p>p.2, para 2</p>	<p><i>We asked about the use of interpreters and were advised that they have not previously carried an interpreter but that some of the ABF or Australian Fisheries Management Authority officers speak Bahasa Indonesian and act as interpreters. If an interpreter was not available, they used illustrated cards to communicate with those being interviewed. <b>We were advised that telephone interpreters were not used.</b> Australian and international standards and guidelines such as the International Covenant on Civil and Political Rights make it clear that people deprived of their liberty have the right to communications in a way they can clearly understand, and we are concerned that the failure to provide interpreters may breach that right.</i></p>	<p>All people detained at sea during operations under Operation Sovereign Borders are provided access to accredited interpreters for the conduct of official interviews and assessments.</p> <p>Access to satellite internet and telephone in remote locations can be a limiting factor in the timeliness of interpreter availability, but no formal interview processes are undertaken without an accredited interpreter available in person or via video/phone</p> <p>AFMA are the lead investigative authority in relation to Fisheries Offences under the Fisheries Management Act 1991 (Cth), and as such they provide interpreter services and formal interviews when they are placed into fisheries detention ashore. This Part 1 C Crimes Act right is deferred until it is reasonably practical to offer with the lead investigative authority, being AFMA.</p> <p>Some interactions with Illegal Foreign Fishers outside this context are supported by non-accredited Bahasa speakers and illustrated cards to support understanding.</p>

**Operationally sensitive matters**

The Department appreciates that protecting sensitive information about operational elements of civil maritime security activity needs to be balanced with the imperative for transparency about the operation of government.

To ensure this balance can be appropriately maintained in relation to future National Preventative Mechanism (NPM) reporting, the Department suggests that the NPM consult with the relevant areas of the Department or ABF ahead of submitting a request for response. Where there is information or context that can be shared with appropriately security cleared staff from the NPM in addition to the written response, the Department can facilitate this process.

**Recommendation 1: Accepted**

**The Department develop a full suite of human rights compliant policy and procedures specifically regarding detention at sea within six months and provide these to me.**

The Department and ABF will review existing documentation relevant to the issues outlined in the report to assess whether additional guidance is required in relation to protecting detainees' human rights and dignity within the context of the maritime operating environment. This process will be undertaken within six months of the report's finalisation. The Department notes separately that the majority of deficiencies identified in the now de-commissioned accommodation on *MV Besant* will be addressed through the provision of an upgraded accommodation module.

**Recommendation 2: Accepted**

**The Department ensure that prior to use, any facilities that may be used to detain people at sea are appropriately assessed to ensure there is compliance with minimum standards for places of detention.**

The Department is committed to treating people detained at sea with dignity and humanity, in accordance with the requirements of the *Maritime Powers Act* at s.95 as well as Australia's international and domestic legal obligations. As a part of the process outlined above, the Department's review of existing documentation will consider whether a formal assurance process should be established to ensure facilities that may be used to detain people at sea are assessed on a regular basis. This additional assurance process could be undertaken via an existent capacity within the ABF.

**Recommendation 3: Accepted**

**The Department ensure that people detained at sea have access to the same standard of medical care as the crew of the vessel they are onboard (as is required by domestic and international standards).**

The Department and ABF will review existing documentation relevant to the standards of medical care provided to people detained at sea to assess whether additional guidance is required. The Department considers that people detained at sea do have access to equivalent standards of medical care to the crew. If required on the advice of the medical officer on board, detainees can be treated in the same facilities.

**Recommendation 4: Accepted**

**Any vessel that is used to accommodate people detained at sea must have an area that can be used for private interviews with detained people.**

The Department confirms that an area is available to conduct private interviews with people detained at sea on board both vessels visited. The location of interviews will be influenced by several factors, including weather and the number of persons detained. Arrangements to ensure sensitive interviews can be undertaken in private is implemented on all vessels undertaking civil maritime security activity.

**Recommendation 5: Accepted**

**People detained at sea be given access to accredited interpreters (which can be via electronic means) for all official interviews and assessments.**

The Department and ABF will review existing documentation relevant to the provision of this access to accredited interpreters to assess whether additional guidance is required. All people detained at sea during operations under Operation Sovereign Borders are provided access to accredited interpreters for the conduct of official interviews and assessments.

AFMA are the lead investigative authority in relation to Fisheries Offences under the Fisheries Management Act 1991 (Cth), and as such they provide interpreter services and formal interviews when they are placed into fisheries detention ashore. This Part 1 C Crimes Act right is deferred until it is reasonably practical to offer with the lead investigative authority, being AFMA. Some interactions with IFF outside this context are supported by non-accredited Bahasa speakers and illustrated cards to support understanding.

Access to satellite internet in remote locations can be a limiting factor in the timeliness of interpreter availability, but no formal interview processes are undertaken without an accredited interpreter available in person or via video/phone.



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Commonwealth Ombudsman

Level 5, 7 London Circuit

Canberra ACT 2600

Tel: 1300 362 072

Email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)