

A review of the failure of the Immigration & Nationality Directorate to consider some foreign national prisoners for deportation

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**May 2007**

# Executive Summary

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1. This review has sought to understand why the Immigration and Nationality Directorate (IND) of the Home Office over a number of years failed to consider for deportation the cases of some serious foreign national prisoners. The review has looked at the development of the Criminal Casework Team (CCT) which was responsible for considering these cases, and has examined in particular the three years from the end of 2002, when the problem began to grow, to April 2006, when it became public.
2. For many years it has been public policy that foreign prisoners convicted of serious offences should be considered for deportation as a means of protecting the public from the risk of further offending. Deportation is a statutory procedure, with several stages spread over a number of months. Decisions on deportation are not automatic, and the grounds for deportation must be balanced against the subject's ties with the UK and any other human rights concerns which might arise. Decisions must be taken in the full knowledge of the circumstances of the individual, and gathering and assessing that information is resource-intensive.
3. IND does not know about the conviction of foreign criminals unless it is informed of them by the police or prisons. In the past IND was informed of only a small fraction of convicted foreign criminals. As the number of foreign nationals in prison rose sharply from 5,600 in 2000 to 9,650 in 2005 (an increase of 73% compared with an 11% rise in the total number of prisoners over the same period) it caused political and public concern. When CCT came under new management in 2002, it set out to increase the number of foreign prisoners referred to it by the Prison Service. The result was that CCT's caseload grew rapidly.
4. A financial crisis early in 2003, followed by a recruitment and budgetary freeze during 2003/4, prevented planned extra resources being put into CCT. When new resources became available in April 2004 they were not enough to keep pace with the rapidly growing caseload. The caseload was further increased in June 2004 by the early removal scheme for foreign prisoners, which was aimed at reducing prison overcrowding; and again in October 2005 with a further initiative to reduce the prison population. Although additional temporary staff were provided for the early removals casework, the underlying growth remained under-resourced.
5. CCT's aim was to start cases 12 months before release (the earliest permitted in law) so that deportation decisions could be completed by the date of release. As its caseload grew without a commensurate increase in resources, it coped only by starting cases closer and closer to the date of release. At first only a few cases were left too late to start before the prisoner was released. But by the beginning of 2005 caseworkers were starting most cases only shortly before release, and the number of prisoners who were released without any consideration multiplied. The systems for tracking cases were weak and the extent of this failure went unrecognised.
6. The cases released without consideration included serious offenders. In part this is explained by poor tracking and casework procedures. But there was also a conflict of

priorities between CCT's core business of harm reduction, and other priorities which CCT was asked to meet. At various times CCT was asked to prioritise failed asylum seekers, early removals cases, and cases which would contribute to reducing the prison population. Many of these of these were not serious offenders, and they diverted resources from dealing with more serious offenders. A Home Office-wide initiative to improve the speed of response to Ministers' letters from MPs also drew resources from processing cases. Once the seriousness of the problem began to be identified in November 2005 substantial extra resources were provided, but the damage had already been done.

7. Despite its failures, by 2005 IND was considering, deporting and removing more than three times as many foreign criminals as three years earlier, and a significantly higher proportion of them, notwithstanding the growth in their numbers. Public protection was undoubtedly greater in 2005 than in 2002, but with more resources it could have been better still.
8. There are number of contributory reasons as to why the required level of resources were not allocated:
  - Initially the caseload was small and CCT was a niche operation compared with the other major casework areas of IND. The implications of the growth of the caseload on CCT's systems, management and resourcing, was not recognised.
  - CCT was in effect running a production line in which a number of actions had to be completed before foreign prisoners reached the end of their sentences. This paradigm, and the consequences of not resourcing it, were never fully analysed or articulated.
  - A budget and recruitment freeze in 2003/04 meant that the delayed resourcing when it eventually came in April 2004 – although generous by normal standards – was by then too little and late to reverse the growing problems.
  - A wholesale change of senior staff in 2004 dimmed the institutional memory of the criticality of CCT's casework problems as they had been first identified late in 2002.
  - CCT was hitting its key performance target, but it was not recognised that the target showed only one element of performance, and did not provide early warning of failure.
  - There were ambiguous lines of accountability between the Directors and the Senior Director, and a long chain of responsibility to the staff dealing with deportation cases. This meant that the nature of the work was not fully understood at more senior levels. CCT was showing apparently good performance results, and senior staff, who had other priorities to pursue in their large commands (see the organisation chart at paragraph 20), did not look behind the figures.
  - In what had become a politically sensitive and growing case-work area, CCT needed a more senior head of unit at an earlier stage. This would have shortened the lines of communication and provided capacity for closer management and analysis of the casework.
  - Other priorities, including asylum and reducing prison overcrowding, diverted caseworkers' attention and resources from harm reduction.

9. But even had all these matters been addressed it is not clear that the crisis of April/May 2006 would have been avoided. The crisis revealed a gulf between public expectations that all serious foreign criminals would be considered for deportation, and the reality that for many years only a small fraction of cases were referred to IND and considered by them. To meet these expectations eventually required a more than twenty-fold increase in resources over the level of four years earlier. It is not conceivable that the normal processes of incremental change through annual planning rounds could have delivered such a step change in resourcing.
  10. In retrospect what was needed from 2003 onwards was a strategic re-appraisal of IND's response to foreign criminals – its purpose, priority, and resourcing. This would have required consideration at the level of the IND Board, and almost certainly approval by Ministers either to redirect resources from other priorities, or to decide that the ambition of considering all serious foreign prisoners was not going to be pursued. At no time over the three year period – until the seriousness of the problems became known in November 2005 - was the removal of foreign prisoners referred to, or considered by, the IND Board, nor were strategic options put to Ministers.
  11. Since the events discussed in this report the IND Board has instituted a new process for reviewing the risks to IND business which provides a fuller opportunity for new risks to be identified and escalated. The process links with a wider Risk Management plan across the Home Office.
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## Glossary of acronyms and abbreviations

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CCD	Criminal Casework Directorate
CCT	Criminal Casework Team
DP04, DP06	IND financial plans for 2004 and 2006
IND	Immigration and Nationality Directorate
NAO	National Audit Office
PAC	Public Accounts Committee
PADR	Performance, Development and Appraisal Reports
PSO	Prison Service Order

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## **1. Introduction**

1. For many years it has been Government policy that – in order to reduce the risk of harm to people living in the UK - foreign nationals who commit serious criminal offences may be deported from the UK. From 1999 to 2006 the Criminal Casework Team (CCT) of the Immigration and Nationality Directorate (IND) of the Home Office was responsible for considering these cases.
2. During the autumn of 2005, following an investigation by the National Audit Office (NAO)<sup>1</sup>, and a hearing by the House of Commons Committee of Public Accounts (PAC)<sup>2</sup>, it was established that over a six year period CCT had failed to consider for deportation 1013 convicted foreign prisoners referred to it. On 26 April 2006, at a meeting of the PAC<sup>3</sup> it became clear that this state of affairs had continued, and worsened, in the months after it had first been publicly identified. It was also established that inaccurate and incomplete information on the number of such cases had been given to the PAC by the Home Office in its oral and written evidence in 2005. These failures led to the departure of the Home Secretary from the Home Office on 5 May 2006. CCT was replaced by a new and better resourced unit.
3. The new Home Secretary ordered that once IND had the situation under control, a review should be conducted to identify what went wrong so that the lessons could be learnt. The review has looked at the work of CCT in the three years from the end of 2002, when it was re-created as a separate unit in the Enforcement Directorate, to April 2006, when the crisis broke. It was over this three-year period that the problem of unconsidered cases became significant. Interviews and meetings have been held with staff from IND and other agencies, including the police and prisons, and files and records have been examined.

## ***Terms of Reference***

4. The Terms of Reference given to the review team were:

*To establish the circumstances which led up to a substantial number of cases referred to IND for consideration of deportation that were not considered, and in particular:*

- *What procedures and processes existed for receipt, allocation of work and tracking of workflow.*
- *What performance management arrangements were in place within the team, and between the team and their direct management.*
- *What resource management and risk management considerations were given on a regular and ad hoc basis.*
- *Whether any work allocation or prioritization system existed.*

- *If and when it became apparent to any staff that:*
    - *Any backlog existed*
    - *That serious prisoners were amongst those cases not being completed*
  - *What if any remedial or escalating action was taken within the unit by managers or senior managers to deal with any evident backlog and if action was taken what was the effect*
5. The conclusions of the review are set out at the end of this report. It also contains three Annexes:
- Annex A describes the process of deportation and administrative removal
- Annex B describes the process within CCT for allocating and managing casework
- Annex C provides some statistical information.
6. As well as looking at the reasons for the failure, the review has identified a number of minor improvements to existing practices which have been fed directly back to management through the Senior Director of Enforcement.

## **2. Deportation and administrative removal of foreign criminals**

7. A full description of the arrangements for deportation and administrative removal are given in Annex A. Deportation is an arrangement set out in statute. It has a number of stages which provide the subject with the opportunity to challenge a putative decision to deport. In reaching a decision the grounds for deportation must be balanced against the subject's ties with the UK and any other human rights issues which might arise. The decision is subject to independent appeal, and the final decision is taken by a Minister on the advice of officials. The complete process can take 6 months or more. Someone deported from the UK may not return during the currency of the deportation order, which may be a matter of years or for life.
8. "Administrative removal" is a simpler process which does not usually confer a right of appeal from within the country. However it does not bar the subject from return to the UK, and that is why deportation is preferred when removing a convicted criminal.
9. The deportation of convicted criminals may take place on one of two statutory grounds: either because a court has recommended their deportation; or because their deportation is deemed "conducive to the public good". Only a small proportion of convicted criminals are in fact recommended for deportation by the courts, and not all are serious offenders. There is a high level of attrition at the various stages of consideration. The number of removals of foreign criminals is shown in Annex C, Tables 1 and 2. A breakdown of cases recommended by the courts is in Table 4.

## **3. The history of the Criminal Casework Team (CCT)**

10. The crisis which broke in April and May 2006 cannot be understood without a knowledge of the recent history of work on the deportation of foreign criminals, the growing demands on the staff responsible for this work, and its resourcing. The following sections describe this history.

### **Before 2002**

11. Historically convicted foreign criminals were one of a number of categories of deportation cases dealt with by the Deportation and Removals Section of IND. Criminals comprised about a quarter of the caseload. In 2000 the law was changed<sup>4</sup> so that ordinary immigration offenders could be proceeded against by administrative removal, leaving convicted foreign criminals as the only group routinely proceeded against by deportation. These cases were handled by the Criminal casework Team (CCT).

### ***The Integrated Casework Directorate***

12. In 1999 all casework functions of IND, including deportations, were brought within a new “Integrated Casework Directorate”, where the handling of the casework was computer-assisted. This approach was intended to create efficiencies, and was required to be self-financing, funded by cuts in the casework staff. The computer system did not work as planned, backlogs built up, and the Directorate was disbanded progressively from 2001.

### **2002/03**

### ***The Enforcement and Removals Directorate***

13. CCT became a part of the Enforcement and Removals Directorate in 2002. CCT was led by a Higher Executive Officer on temporary promotion, and because of the legacy of the Integrated Casework Directorate it had a backlog of work and only 22 staff. On its joining the Enforcement and Removals Directorate a more senior head and new middle managers were appointed, bringing the level of staff up to 30.

### ***Increasing the number of referrals from prisons***

14. IND is not aware of the convictions of foreign nationals unless it is informed of them by the police or prisons. Although for many years it had been policy that convicted foreign criminals would be considered for deportation, in reality only a small fraction were ever referred to IND<sup>5</sup>. The police tended to refer them only if they were part of an illegal immigration investigation. And for many years prisons were obliged to refer only foreign prisoners recommended for deportation by a court. Consequently the number of actual deportations of foreign criminals averaged under 400 a year in the years from 1996 – 2001 (see [Annex C](#), Table 1).

15. The low number of referrals and deportations was a matter of concern to the new Head of CCT in 2002, at a time when the foreign prisoner population was known to be growing. CCT conducted a sample survey of foreign nationals in prison which indicated that it was aware of only one in four of them. CCT set out to increase this number by creating a small support team of immigration officers to visit prisons and to identify prisoners who should be considered for deportation.

### ***Bid for more staff***

16. CCT made a bid in December 2002 to recruit 105 new staff in the next financial year, at a cost of £2.8m. These extra staff were needed in part to manage the existing caseload, and in part in anticipation of future growth in the caseload due to the work of the support team. The bid was at first accepted, but then rescinded when it was discovered that the

Directorate was facing a large overspend. **At the end of 2002/03 CCT had 1,700 cases and 30 staff.**

### **2003/04**

#### ***Freezing of budgets and recruitment, and the growth of the caseload***

17. Because of the requirement in the Treasury's Spending Review 2002 to create a single asylum budget, the IND budget was frozen during most of 2003/04. This, together with a recruitment freeze throughout the Home Office, meant that staffing levels in CCT remained largely unchanged, except for a small transfer of resources from elsewhere in the Directorate. The underlying caseload continued to grow, and two further pressures arose. In April 2003 the law was changed to give court-recommended deportees a right of appeal<sup>6</sup>. That increased the amount of case-work and meant that court-recommended cases were no longer quick wins. And in October CCT 2003 was made responsible for deporting European Union criminals, but no extra resources were allocated for this work. **At the end of 2003/04 CCT had 5,000 cases and 40 staff.**

### **2004/05**

#### ***Recruiting new staff***

18. CCT renewed its bid for 105 staff in the Departmental Planning round, known as DP04, for the financial year 2004/05. It was awarded enough money to recruit around 50 staff. There was a delay in confirming the resources and it was not until June 2004 that advertisements for new staff were published, and it was not until November 2004 that the first new staff arrived.

#### ***The early removals scheme***

19. In June 2004 the early removals scheme for foreign prisoners was introduced. This was intended to relieve pressures on the prison population, and allowed foreign prisoners to be removed up to 4 ½ months before the end of their sentence. The cases were referred by prisons to CCT which was responsible for considering the cases and achieving the removals. At the start of the exercise about 500 referrals were made to CCT each month under the scheme. Some of these were minor offenders who would not have been considered for deportation under normal criteria. CCT was given the temporary loan of 15 staff from the Asylum Directorate to handle the early removals.

#### ***New senior staff***

20. In the summer of 2004 the three senior staff above the management of CCT (two at Director and one at Grade 6 level) were replaced in planned moves. The following chart shows the structure after that date<sup>7</sup>:

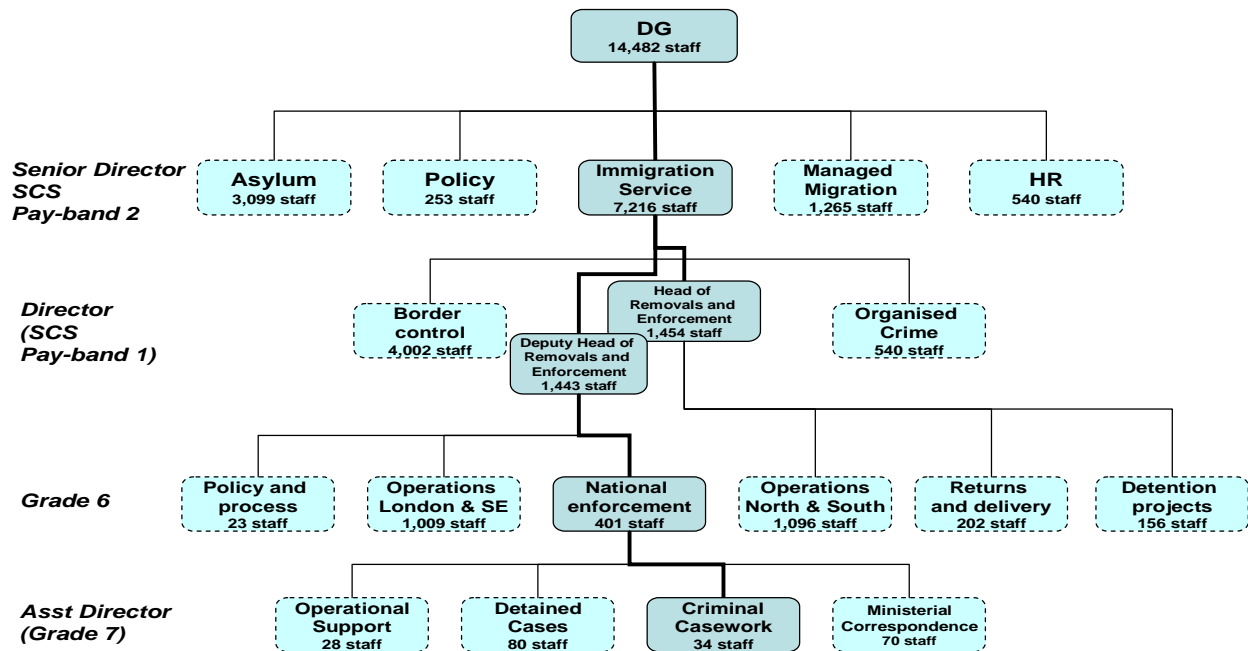


Figure1: Organisation of IND, Summer 2004

### ***New Prison service Order***

21. In September 2004 a new Prison Service Order (PSO) was issued requiring Governors to inform CCT of all foreign prisoners and those of doubtful nationality on their first arrival in prison. This replaced the old instruction to refer only prisoners recommended by a court. The new PSO, coupled with the improved liaison with prisons brought about by CCT's support team (see paragraph 15, above), led to further growth in the number of cases on CCT's books. **At the end of 2004/05 CCT had 9,000 cases and 85 staff.**

### **2005/06**

### ***Asylum and further prison population pressures***

22. In July 2005 the NAO report<sup>8</sup> on the removal of failed asylum seekers was published. It noted – somewhat in passing - that prisoners who were failed asylum seekers had been released without their cases for deportation having been completed. At the time it was believed by CCT managers that none of these was a serious offender, and no special steps were taken to identify the cases. In September CCT was given funds to recruit 27 temporary additional staff to process prisoners who were failed asylum seekers, in order to contribute to the end of year "Tipping the Balance" target. In October the Home Secretary introduced a further initiative to remove more foreign prisoners in order to reduce prison overcrowding. CCT was asked to remove 120 prisoners a month to contribute to this initiative.

### ***New funding***

23. In November it was recognised for the first time at a senior level that “Category 1” offenders (ie those serving sentences of a year or more) had been among those not considered for deportation. It was still not known that very serious cases were included among this number. The matter went to the IND Board (for the first time) and it was agreed that funding for 205 extra staff would be provided from April 2006, and that 100 of these would be found before April 2006 by moving staff from other IND units.

### **2006/07**

#### ***Serious cases identified***

24. Further work was done in January 2006 to understand the nature of the cases which had been released without consideration, and by early February it had become clear that some very serious offenders were included among them. This led to more detailed work looking at cases back to 1999, to identify all the individuals and their offences. A more senior head of CCT was appointed (at Deputy Director level), Ministers were alerted, and the details were given in a submission to Ministers on 30 March 2006.

#### ***Following the crisis***

25. On 25 April 2006 it became known publicly in a letter from the Home Secretary to the Chairman of the PAC<sup>9</sup> that 1,023\* foreign prisoners, who met the *prima facie* criterion for deportation, had not been considered over the period 1999 to 2006. The majority of these failures had taken place during 2005, and included some serious offenders. CCT was replaced by a Criminal Casework Directorate (CCD), headed by a Director. By October 2006 CCD had 530 staff at an annual running cost of £10.6m<sup>10</sup>. This was more than four times the size of the unit at the end of 2005 and 24 times larger than when it first joined the Enforcement and Removals Directorate in 2002.

## **4. The questions posed in the Terms of Reference**

### ***What procedures and processes existed for receipt, allocation of work and tracking of workflow?***

26. The processes and workflow within CCT are described in Annex B. They were not sophisticated and had been established when CCT was dealing with cases numbered in hundreds a year. They assumed a caseload sufficiently small that caseworkers were able to exercise a close oversight of all the files on their desks. As the caseload grew into the thousands, and as caseworkers had hundreds of active files at any one time, the weakness in the processes showed. They did not deliver vital management information: for example, they did not relate inputs to outputs, so the size and growth of pending cases could only be discovered by manual counts. They did not enable performance to be disaggregated between different casework teams. Caseworkers were not consistently using the electronic case information system, CID because it was not user-friendly and added to their workload. There was no central sifting of cases by priority: it was left to each caseworker to prioritise

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\* This figure was in due course revised to 1,013 owing to duplicate names

their own cases. Cases were not tracked centrally against the date of release: it was left to individual members of staff to track their own cases, within a number of separate queues. There was no means of identifying at a central level if cases were not being started before their release date.

27. Given the severe pressure they were under, CCT managers initially decided that they could not afford the distraction of developing more effective processes for overseeing the flow of cases. Once they were better resourced, proposals for improving the processes, and the management information derived from them, were developed in 2005, and improvements had begun to be made – including a common queue - when the crisis of April 2006 arrived.

***What performance management arrangements were in place within the team, and between the team and their direct management?***

***What resource management and risk management considerations were given on a regular and ad hoc basis?***

28. In accordance with Home Office practice, at the start of each financial year a Business Plan was drawn up by the Head of CCT for the coming year, and objectives were agreed for each member of staff and set out in a Performance, Development and Appraisal Reports (PADR). These objectives would normally include relevant targets drawn from the Business Plan. Performance of staff against objectives should have been reviewed at the 6 month stage and at the end of the year to inform the annual appraisal. In practice the pressures on the unit meant that reviews were often missed.
29. From April 2003 onwards CCT set itself a key performance target of achieving 85% of removals within 28 days of completion of the subject's sentence. Performance against this target was examined each month by the Senior Director, both in relation to the month's performance and performance in the year to date, as part of a "Balanced Scorecard", which included some 30 targets across the whole command of the Senior Director. The status of each target was scored each month on a score of 1 to 4. (1 = 10% over target; 2 = on target; 3 = within 20% of target; 4 = more than 20% below target.) The records from March 2005 to February 2006 show CCT achieving 90% (ie 5% above target) in March 2005, and declining but staying within Band 3 for most the rest of the year. (By contrast some other major targets, including those for asylum removals, were in Band 4 for much of the year, no doubt commanding most attention.)
30. Every month to six weeks the Senior Director had separate bilateral meetings with the Head and Deputy Head of Removals and Enforcement to discuss performance using the balanced scorecard. The Deputy Head in turn held regular meetings with the Grade 6. And the Grade 6 held regular meetings with Head of CCT. Despite the known pressures on CCT from the growing caseload and the early removals scheme, the fact that it was close to meeting its key performance target was taken as evidence that it was performing well and was not a risk to the organisation.
31. Within CCT performance was by line management against the range of process targets set out in the business plan. But it was noted in a review of CCT's management information systems conducted in April 2005 that the systems did not allow performance of individual

units within CCT to be compared. The caseload pressures also limited the time which managers could devote to line management of their staff.

32. Many times between 2003 and the end of 2005 the head of CCT drew attention to the pressures upon it. There could have been no doubt that CCT was struggling badly for lack of resources during 2003 and at the start of 2004, following the budget and recruitment freeze of the previous year. But its funding more than doubled in 2004/05 (although it had bid for more), and by March 2005 the new staff were in place and it appeared to be meeting its targets. It is perhaps understandable that things seemed to be back on course.
33. By the time the NAO and PAC inquiries had drawn attention to the question of unconsidered cases the reputational risks of under-resourcing had become more apparent. In June 2005 CCT took the opportunity to apply for more resources in DP06. But it was not until towards the end of 2005 that the issue of releases without consideration had been identified at a high level within IND as a risk, and the allocation of resources accelerated.

***Did any work allocation or prioritisation system exist?***

34. As described in Annex B, cases were distributed to caseworkers according to the subject's name or file number. Cases which did not meet the criteria for deportation were sifted out and referred to Local Enforcement Offices for ordinary immigration action. In other respects cases were not pre-sifted by priority, and any prioritisation was the responsibility of each casework officer.
35. High level policy on which cases to consider for removal was not set within CCT, but by the Enforcement and Removals Policy and Process Team (see the organisation chart at paragraph 20 above). The core priority was harm reduction – ie to deport the most serious foreign criminals. But “serious criminals” were defined as those serving 12 month sentences or longer, or two years in the case of EEA nationals. These thresholds, which were derived from the equivalent criteria for refusal of entry, encompassed a very broad category of offenders and could include anyone from a thief to a murderer. Within this wide category, and as a matter of local CCT policy, detained cases (ie those who had reached the end of their sentences and were being detained under immigration powers) took precedence over those still serving their sentence.
36. Additionally CCT was bound to consider those whom the courts had recommended for deportation, even though some were serving sentences of under one year, and were not dangerous. Such cases would not have been considered had they not been court-recommended.
37. As time went on other priorities were added. From June 2004 reducing the prison population also became a major priority, first through the early release scheme and additionally from October 2005, following the Home Secretary's initiative to target foreign prisoners as a way of reducing prison overcrowding.
38. A further priority was removing failed asylum seekers, in order to contribute to the “Tipping” target<sup>11</sup>. The National Audit Office and the Prime Ministers Delivery Unit both visited CCT to see its contribution to removing failed asylum seekers. Although failed asylum seekers made up only one-fifth of CCT's caseload, in June 2005 CCT was given funding for a team

of 27 staff to deal exclusively with them. In September 2005 it was asked how many more failed asylum seekers it might be able to remove, including those on short sentences, in order to meet the end of year “Tipping” target.

39. There were also tactical considerations to be weighed in deciding which cases to prioritise. Trying to remove a dangerous offender to a problematic country like Iraq or the Sudan was likely to tie up resources in appeals and judicial reviews. So pragmatic decisions had to be made as to whether to pursue one serious but difficult case which might in the end be nugatory, or to deal with several more straightforward but less serious cases where deportation was almost certain.
40. Finally, during 2004 and 2005 the Home Office had a major concern about delays in responding to letters from MPs and it shortened the number of days allowed for draft replies to be given to Ministers, with potential sanctions if they were exceeded. This placed further pressure on caseworkers. Dealing with MPs letters was seen by CCT as second only in importance to dealing with detained cases.
41. There was said to be a general understanding that CCT caseworkers would always prioritise cases by seriousness of offence. However there was no formal instruction to this effect, and the profile of offenders released without consideration suggests that this was not happening consistently, since they included some very serious offenders including murderers, rapists and child sex offenders.
42. On a number of occasions the Head of CCT suggested that the minimum sentence length triggering consideration for deportation should be raised from one year to two or four years, in order better to match priorities to available resources. These suggestions were not acted upon, largely because on each occasion there was an expectation of extra resources being provided.

***When did it become apparent to any staff ...***

***....that any backlog existed***

43. There was no time in its history after leaving the Integrated Casework Directorate when CCT did not have what were described as “backlogs”. As discussed later in this report, this was a misleading word to apply to CCT’s situation and it obscured the nature of CCT’s problems and how they should be mitigated.
44. Initially there was no clear definition as to what was meant by a backlog, but then it came to be used of cases which were within 12 months of release (the *Chindamo* criterion – see Annex A, paragraph 9), but on which no action had yet been taken. A review of management information in August 2005 identified that there 2,496 cases of this kind, of which 1,300 were within six months of release, 921 within 12 months, and 275 had already been released. It also found that the backlog of such un-actioned cases was rising at the rate of around 120 cases a month.

***....that serious prisoners were amongst those cases not being completed?***

45. CCT used the term “serious case” to refer to any offender sentenced to 12 months or longer (see paragraph 35 above). These were also described as Category 1 cases. They were the only cases which CCT – given its level of resourcing - aimed to consider for deportation.

Under this definition it had been known for some time that “serious” cases were being released without consideration, but it was believed that they were the shorter sentenced, less serious end of this wide spectrum of cases.

46. On several occasions between 2002 and the end of 2005 CCT managers drew attention to their resourcing problems, and said that that some prisoners were being released without their cases being completed. CCT staff who were interviewed in the course of this inquiry reported that from at least as early as 2004 they had experience of cases not being considered for deportation before release. However, the cases were only occasional, and often involved shorter sentenced offenders (whose cases, by definition, allowed less time for consideration). In such cases the practice was to find out the offence, and if it was serious enough then to continue with deportation action after release. But there was no formal guidance on how to approach these cases.
47. When it was first reported by the National Audit Office in July 2005 that prisoners were being released without consideration, it continued to be assumed that they did not include the more serious offenders. The PAC was informed accordingly at its meeting of 26 October 2005. It was only in late January and early February 2006, as follow-up work was done, that it became known that very serious offenders were indeed among those released. A review was then undertaken to identify the cases and to establish the precise numbers and offences involved and Ministers were alerted to the matter (see paragraph 24 above).

***What if any remedial or escalating action was taken within the unit by managers or senior managers to deal with any evident backlog and if action was taken what was the effect?***

48. The historical section of this report has described the efforts of CCT managers to obtain additional resources, which included not only bidding for more money in formal bidding rounds, but also borrowing staff from other units. Senior managers on a number of occasions gave their help in resolving problems by obtaining staff on loan from other parts of IND. This approach was subsequently endorsed by the IND Senior Executive Group on 14 November 2005, when it was accepted that the problems in CCT were to be considered a “corporate responsibility”, ie to be resolved by redirecting resources within the organisation. Options were also proposed by CCT managers for reducing the caseload by raising the threshold for the consideration of cases (see paragraph 42 above). These were not pursued, and do not appear to have been pressed with any force.

## **5. Conclusions**

49. Why did the management of CCT and senior managers in IND not see what was happening? And why was CCT not better resourced despite frequent references to its casework problems? There are several contributory answers to these questions, which are set out in the paragraphs below.

### ***A problem of success***

50. In one sense the problems which arose were problems of success, due to the much better identification of foreign prisoners as a result of the work of the CCT support team in liaising with prisons. Several times more foreign criminals than ever before were being identified, considered for deportation, and removed at the end of their sentences rather than returning

to the community in the UK. In real terms, and despite the failures, public protection was significantly better served by 2005 than in earlier years. CCT had responded quickly and effectively to the demands of the early release scheme and other Ministerial initiatives, and had contributed to the “Tipping” target. It was seen to have done very well, and that was indeed true. But these successes brought a false sense of assurance and disguised the underlying problem of long term under-resourcing, which eventually brought about the crisis.

**A confused analysis of the workflow problem**

51. The many analyses conducted by CCT into its workflow, in common with the Terms of Reference for this review, refer to “backlogs”. This is a misleading word to use in the context of CCT’s work, and contributed to obscuring the urgency of the difficulties it faced.

52. A backlog is a queue. But unlike most other casework operations in IND, CCT was not processing a queue. It was staffing a production-line, in which a number of processes had to be completed in a set order before the case reached the inevitable date of release. The consequences of under-resourcing a backlog is that it grows larger and those in the queue are delayed. But nothing was going to delay the release of prisoners at the end of their sentences if deportation action had not already been started. In the real world when a production line is under-resourced the speed of the line is slowed. This was not an option for CCT: the speed of the line was determined by the rate at which foreign prisoners completed their sentences. And as the number of identified foreign prisoners grew after 2002, the effective speed of the line increased.

53. For a while CCT was able to buy time by starting cases later and later. But this was the equivalent of a worker on a car assembly line moving down the line to finish fixing a component. Eventually he reaches the end of the line and the cars behind him are unfinished. By the start of 2004 the entire CCT workforce was bunched at the end of the process, dealing with cases shortly before they would otherwise be released. It was from this point onwards that the number of unconsidered cases accelerated, as shown in the chart below.

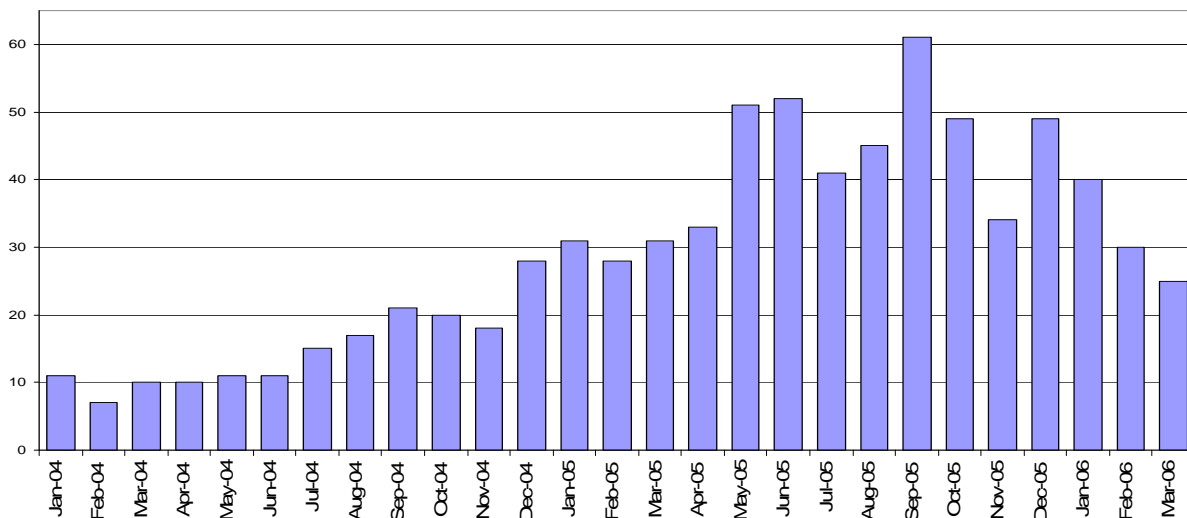


Figure 2: Number of prisoners released without consideration of deportation (2004 -2006)<sup>12</sup>

54. With a clearer analysis of the paradigm of a production line, CCT might have made clearer exposition of the nature of the operation and its difference from other casework operations in IND. This might have highlighted more effectively – both to CCT itself and to senior managers - the implications of not matching resources to priorities or caseload.

***Inappropriate performance targets***

55. The key indicator used within CCT and by senior managers to judge performance in dealing with criminal casework was that 85% of prisoners should have been removed within 28 days of completing their sentence. This was a good indicator as to timeliness at one stage in the process, but a poor indicator for performance as a whole, for three reasons. First, it was an indicator over which CCT did not have full control. Removals were done by Local Enforcement Offices, which had other priorities (of which removing failed asylum seekers was the highest and a continual cause of complaint within CCT). Even when, from late 2004, CCT was able to set its own removal directions, there were reasons for delay outside its control, such as problems in obtaining travel documents, which undermined the validity of the indicator as measure of its performance. Second, the 85% figure said nothing about what happened to the 15% of cases which fell outside it. This might not have mattered so much in other casework contexts, but with foreign criminals each case was potentially critical. Third, because it was an indicator about performance at the very end of a long process (ie the “production line”), it gave no early warning of problems. Rather, it told about problems after they had happened.

56. The inappropriateness of the target is illustrated by comparing the following chart with the one in paragraph 53 above (figures are available only from March 2005). This shows that there was very little correlation between the performance target and the number of prisoners released without consideration.

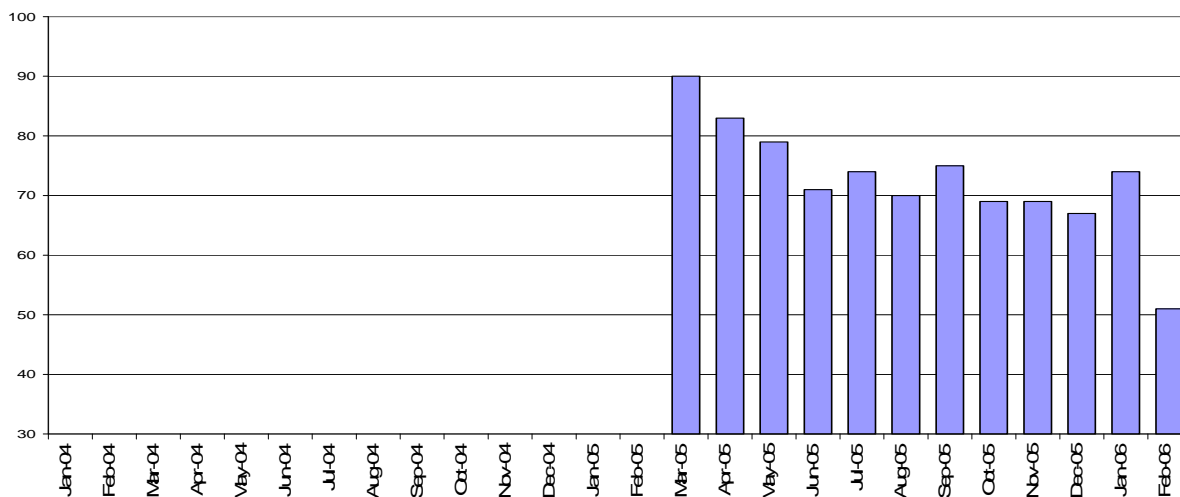


Figure 3: Percentage of cases meeting 28 day target for removal

57. An indicator which would have given clearer description of the state of play within CCT, and which would have given early warning of problems, would have been one which measured an upstream process, such as the number of days before release that cases were started, or the percentage of unconsidered cases within six months of release. Such indicators were explored in the review of management information in CCT in August 2005 (see paragraph 44 above), but because of the inadequacies of the systems within CCT they required a manual count and could not be systematised before the crisis broke.

#### ***Weak processes for tracking cases***

58. There were undoubted weaknesses in the tracking and overseeing of cases within CCT, which contributed to the failure and to its extent. Had the tracking of cases been done better it would have identified the unconsidered cases sooner, and there might have been an opportunity to mitigate the effects of the most serious releases.

#### ***Imprecise and conflicting priorities***

59. At first sight it is surprising that CCT had no written instructions about prioritising cases by seriousness of offence, beyond the very broad requirement to consider all cases where the prison sentence was a year or more. However, it is clear that detailed guidance would have been difficult to draft, given the complex range of possible scenarios which might arise. For example, what guidance would be given on the relative priorities of deporting a fraudster serving a 5 year sentence, as opposed to a violent offender serving a 12 month sentence? Or of a 52 year old murderer who had lived in the UK from the age of seven (one of the actual unconsidered cases), as opposed to a less serious offender who was a more recent arrival?

60. Nevertheless, despite the complexity some attempt could have been made to guide staff on more detailed priorities and to advise them what to do if a case was moving towards release without being considered. However, it is not clear whose responsibility it would have been to draft such guidance. Policy was set by the Policy and Process Unit (see chart at paragraph 20, above). Would subsidiary guidance have interfered with the remit of the Policy and Process Unit? The separation of policy and operational functions may have contributed to the lack of such guidance.

61. Leaving aside the lack of guidance, the wide range of priorities which CCT was expected to meet, as described in paragraph 35 to 42 above, itself detracted from harm reduction and caused confusion to caseworkers. Were they to maximise the number of deportations, so as to help deal with the prison population and help to meet the “Tipping” target? Or to maximise harm reduction, by concentrating on the most serious offenders? These dilemmas were highlighted by junior staff in CCT who raised precisely these kinds of questions with their managers and asked where Ministers would stand on them.

#### ***Lines of accountability***

62. Following the appointment in the Summer of 2004 of the new Head and Deputy Head of Enforcement and Removals (both of whom were of the same grade), it was not clear whether the Deputy Head reported on his areas of responsibility direct to the Senior Director, or did so through the Head of Enforcement and Removals. This ambiguity became

apparent only after the crisis. In either event there was a long chain of accountability to the front line staff dealing with deportation cases (see chart at paragraph 20), who numerically represented only a small part of the staff of the Directorate, and who were dealing with work which was outside the main spotlight of IND concerns at that time. These two sets of circumstances were bound to soften the focus given by senior staff to CCT amongst the many other demands of them.

### ***Seniority of the Head of CCT***

63. Deportation casework is potentially complex and often impinges on the human rights of those affected, either in relation to their continued detention after completing their sentences or in relation to their family ties. The Head of CCT, as well as managing the unit and its staff, was also responsible for dealing with the most difficult casework. As the caseload grew, and as the unit took on more challenges such as the early removals scheme, the Head of CCT was stretched in covering all these responsibilities. There was a good case from 2004 onwards for raising the grade of the Head of CCT, at least to grade 6, as eventually happened in February 2006. This would have allowed one or more deputies to have been appointed at Assistant Director level to deal with the difficult casework and line management tasks, leaving the Head of CCT more time to concentrate on strategic management and on improving casework processes. The latter had lagged behind the growth in casework, but there had never been time to bring them up to date. Appointing a Head of CCT at a more senior level would also have removed one link from the long chain of accountability.

### ***Accidents of timing***

64. It was extremely unfortunate that the budget and recruitment freeze of 2003/04 delayed the staffing increase which it had been recognised as needed in December 2002. This was probably the last opportunity which CCT had to keep abreast of its casework. The problem was then compounded by the change of the three key senior staff in the Summer of 2004, which caused the institutional memory to be dimmed about how critical the situation had been a year earlier. The new senior staff had large and complex commands, and it was some months before attention began to focus back on the needs of CCT.

### ***Lack of strategic consideration***

65. Had any of the issues described above been dealt with differently they might have delayed the crisis, but it is unlikely that they would have staved it off for ever. The deeper problem was that foreign prisoners were not a part of IND's strategic planning. At no time before the crisis was the question of foreign prisoners considered at Board level, although there were occasions when this might have been appropriate. For example, it would have been good practice, before seeking to raise the number of referrals from 2003 onwards, to have presented a strategy paper to the IND Board setting out the direction of travel and its implications. The same might have been done when it became clear how quickly the size of the population of foreign criminals in prison was growing, and the public concern about it. Or in response to the extra work created by the early removal scheme in June 2004, which represented a significant departure for IND from its usual priorities, in that it was being

asked for the first time to contribute to reducing the prison population, something which arguably should have been funded from the Correctional services budget.

66. There were also recognised conflicts between resources and priorities which could only have been resolved at Board and Ministerial level. In the absence of extra resources, the only way in which CCT could “slow” the production line would have been to raise the threshold for consideration of cases, so that fewer cases needed to be considered. This question, and the question of the relative importance of harm reduction versus other priorities were raised several times over the three years, but were never taken forward. But they were issues which would have benefited from being put to the IND Board and to Ministers.
67. A further reason why strategic discussion was necessary was that – as became clear after May 2006 - the scale of resourcing needed to meet public and political expectations about the deportation of foreign criminals was far beyond that which could be provided by incremental increases in the yearly planning rounds. By 2006 public expectations about the Government’s approach to harm reduction had been raised by a number of high profile cases of British prisoners’ re-offending after release, and these expectations carried across into immigration policies towards foreign criminals. What was required was a radical new approach within IND to the removal of foreign prisoners, as eventually came after May 2006 with the creation of the Criminal Casework Directorate. This required a five-fold increase in staff resources (more than twenty-fold compared with only four years earlier) and was the kind of massive realignment of resources which could only be taken by the Board and with Ministerial agreement.
68. Following the crisis in the handling of foreign prisoners, the IND Board has since introduced a more effective risk management process. Each month there is an opportunity to update the IND risk register. At three monthly intervals the Board devotes part of a meeting to considering the risk register, identifying new risks to the business and reviewing the progress in managing existing risks. Those risks which are considered to be of sufficient significance are also included within the wider Home Office risk management process. If these new risk process encourage units further down the chain to identify and report their risks they should reduce the likelihood of a similar failure happening again.

**May 2007**

# Annex A: Deportation and administrative removal

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## ***Deportation***

1. Deportation is a statutory process<sup>13</sup> with a number of stages:
  - A warning of liability to deport must first be served, inviting the person to make representations as to why they should not be deported.
  - Any representations must be considered and responded to before a substantive decision is taken to proceed with deportation.
  - If it is decided to proceed, a “notice of intention to deport” is issued explaining the reasons for the decision and where it is proposed to send the person.
  - In most cases the person has a right of appeal to the Asylum and Immigration Appeal Tribunal.
  - If the Tribunal’s decision is to proceed, a deportation order is signed by a Home Office minister, following a reasoned submission by officials.

## ***Grounds for deportation***

2. There are five grounds for deportation under the Immigration Act 1971:<sup>14</sup>
  - a) Breaching conditions of limited leave or overstaying
  - b) Obtaining leave by deception
  - c) The Secretary of State deems it conducive to the public good
  - d) A court has recommended deportation as part of its sentencing decision
  - e) Being a member of the family of a deportee.
3. In October 2000 Section 10 of the Immigration and Asylum Act 1999 was implemented allowing the administrative removal of people in categories (a) and (b) above. Since that time, and with a few exceptions, deportation has been confined to convicted criminals, either under c), “conducive” powers, or under d), a court recommendation.

## ***Conducive deportations***

4. For many years the policy has been that conducive deportation will be considered where the criminal:
  - Has been sentenced to 12 months or more in prison (2 years in the case of European Economic Area (EEA) citizens)
  - Has had more than a minimum number of shorter sentences within 5 years (the precise criterion has changed over the years)

## ***Court recommendations for deportation***

5. Until 2003, when the law changed<sup>15</sup>, there was no right of appeal against a court recommended deportation, (except about destination). Under a court recommendation for deportation the offender is automatically subject to continued detention once the sentence is completed. By contrast, in a conducive deportation papers must have been served on the offender before the end of sentence if detention is to continue uninterrupted.

6. Only a small proportion of foreign nationals who are convicted by the courts are recommended for deportation. For example, in the years 2001 to 2003 on average 576 were recommended for deportation by the courts each year<sup>16</sup>. In the year to April 2006 there were 1528 recommendations made by the Crown Court<sup>17</sup>. These represent fewer than 1 in 10 of convictions of foreign nationals in these periods. Nor are the most serious offenders necessarily recommended for deportation. Up to 80% of court recommendations are for drugs offences<sup>18</sup>.

### ***The decision-making process***

7. In deciding on deportation a balance must be struck between the grounds for deportation and the person's ties with the UK and any human rights issues which may arise from the deportation. In criminal cases the decision will usually turn on the likelihood and seriousness of reoffending<sup>19</sup>. In order to strike a proper balance, and to make a decision which will be upheld on appeal or on judicial review, the circumstances of the offender must be examined in some detail, including matters such as the length of residence in the UK, the position of their family and dependants, human rights issues in the country of deportation, as well as their offending history and likelihood of re-offending.
8. Gathering and analysing the facts in a case takes time and is resource intensive. It was estimated that the productivity of caseworkers who took the decisions was between 0.32 and 0.58 cases per day, depending on their level of experience. There are also high levels of attrition in the casework and cases can fall at each stage of the process. Even after a deportation order is made a removal may not take place, for example if the country of removal is uncooperative. It is estimated that only one third of cases initially considered ends with a substantive deportation.
9. From start to finish the deportation process can typically take six months, or very much longer if the person seeks judicial review or claims asylum during the process. As a result of a legal decision in the case of *Chindamo*<sup>20</sup>, consideration of deportation may not start more than 12 months before the release to ensure that the decision is taken in the light of circumstances prevailing at the time of deportation. Prisoners serving under 4-year sentences are released automatically after half the sentence, and may have already served part of their sentence on remand. Therefore in many cases there is only a narrow window of opportunity to consider the cases before the prisoner is released.
10. If consideration is not started before the prisoner is released, the normal practice is to refer the case to a Local Enforcement Office of IND to consider whether removal is possible under normal immigration proceedings.

### ***Administrative removal***

11. In contrast to detention, administrative removal (not to be confused with "removal" meaning the physical expulsion of a person from the country) is a simpler process which can be used when the foreign national has no legal right to be in the UK. An administrative removal is normally not subject to a right of appeal within the UK, but people removed in this way are free to return to the UK if they satisfy the normal requirements for entry. That is why it is always preferred to use deportation powers for criminals, despite the more resource-intensive nature of the process.

### ***Sources of information on convicted foreign criminals***

12. IND depends upon the police, courts and prisons to inform them of the conviction of foreign prisoners. In the past little information has come from the first two, and the main source of referrals has been the prisons. Until 2004 the requirement on prison governors was to inform IND only of prisoners whom a court had recommended for deportation<sup>21</sup>. In September 2004 a new Prison Service Order (PSO) was introduced requiring governors, to inform IND of all foreign prisoners<sup>22</sup>.

# Annex B: Workflow processes in the Criminal Casework Team

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1. The following description of the processes in CCT is drawn from the review of CCT's workflow conducted in January 2005 and represents the position as it developed between 2002, until substantive changes were introduced in May 2006.

## **Organisation**

2. CCT was divided into:
  - Two general casework teams
  - A detention and parole team
  - A Criminal Cases Support Team of immigration officers visiting prisons and conducting interviews where necessary
  - An early release team.

## **Casework**

### **Receipt of cases**

3. On receipt of referred cases (from prisons, the police or elsewhere), checks were made by Administration Assistants (AAs) as to whether a file already existed for the subject.

### **Court collation**

4. The AAs arranged for any missing papers from the courts, prisons and the prosecuting bodies, to be provided. These included the court warrant and certificate, the judge's sentencing remarks, police report details of offence, previous convictions etc.

### **The sift**

5. A decision was made as to whether the case fell within the criteria for consideration.

### **Allocation**

6. If a file existed it was called from the registry and passed to Administration Officers (AOs). Initially this was done in a common queue in order of date of release, but as the unit grew cases were allocated according to an alphabetical split. If no files already existed the cases were passed to AOs along the same split. The AOs then made further enquiries as to the existence of files or arranged for a new file to be raised through the File Creation Unit (in urgent cases this could be done by phone).

### **Court recommended cases**

7. In cases involving a court recommendation, AOs took the case through to completion unless it proved complex or an appeal was made to the Immigration Appellate Authority (IAA). In such cases the file was passed to an Executive Officer (EO) on a number split.

### **Other cases**

8. In cases where there was no court recommendation or in cases involving EU/EEA nationals, the file was passed to an EO along a number split, for consideration as to whether it was conducive to the public good to pursue deportation.

## **Consideration**

9. Once allocated, the caseworker (EO or AO) would assess whether deportation was appropriate according to the existing criteria. If not, the immigration status of the subject would be checked to see whether any Leave to Remain existed. If it did, the file would be noted and then put away, in case the individual came to notice at a later time as a result of re-offending. If no immigration status existed the file would be passed to the relevant Local Enforcement Office for consideration of administrative removal.
10. Because of *Chindamo* deportation casework was not started earlier than 12 months before the earliest release date. Therefore in longer-sentenced cases the files were placed in “holds” (in lockable cupboards) until nearer the release dates.

## **Service of papers**

11. In both the AO and EO work-streams, if deportation action proceeded a number of notices had to be served upon the subjects. In court recommended cases a notice of intention to deport was served by the AO. In other cases, the EO served a notice of liability to deportation (which also asked the subject to forward factors that militated against their removal).

## **Asylum applications**

12. A prospective deportee might claim asylum at any stage in the process. In that event deportation action was paused. An immigration officer conducted an asylum interview and the case was then sent to the Asylum Casework Directorate for a decision on the asylum claim. (Under the 1951 Refugee Convention asylum claims must be considered by another body than the border control authority). Similarly any applications or representations that could not be considered within CCT were referred to other business areas.

## **Appeals**

13. Depending on whether or not the individual was detained under Immigration powers, there was a time limit of either 5 or 10 days in which to lodge an appeal against the Notice of an Intention to Deport. If an appeal was made, the allocated caseworker then had to prepare an explanatory statement outlining the grounds for the decision and pass this, with the case file, to the Appeals Processing Centre (in a separate Directorate), for onward transmission to the Immigration Appellate Authority.

## **Dummy files**

14. Where a file needed to leave CCT, a dummy file, containing photocopied material from the main file, was often created. The dummy file allowed for some oversight of the case and separate, associated casework (such as detention reviews) to be undertaken. As these files, unlike the originals, were not bar-coded, they could not be placed on the File Tracking System, although a note should have been placed on the system to highlight both the existence and location of the dummy file.

## **Deportation Orders**

15. Where – after considering all the evidence - it was decided that deportation was appropriate, either the AO, in court recommended cases, or the EO, in other cases, prepared a draft Deportation Order and a submission to Ministers, who had to approve and sign the Order. Once signed the Deportation Order was served on the prisoner.

## **Removal**

16. Once the offender was due for release the cases were passed normally to the Local Enforcement Office to arrange removal. In some cases removal might not be possible immediately, because of problems in travel documentation. Once removal had happened information should have been passed to the Warnings Index Unit, so as to update this Immigration Service intelligence database. It is clear however, that this was not done in all cases, and it was ambiguous as to who was responsible for this task.

## **Holds**

17. When not in active use - for example, awaiting the return of information from the courts - case files were stored in 'holds' (lockable cupboards) and the File Tracking (bar code) System updated as to their location. There were 13 different kinds of holds, representing different stages of the casework and different kinds of cases, including parole, lifers, detained cases, removal directions, bail etc. When the file was required caseworkers would check the File Tracking System for its recorded location and recover it, having booked the file back out on the database. However, if the File Tracking System was not informed about the movement of a file – as often happened - files could be “lost” and time wasted searching for them.

## **Cases in immigration detention**

18. At the end of 2001, a national unit, the Management of Detained Cases Unit (MODCU) was set up in Leeds. This Unit assumed responsibility for all immigration detainees whose continued detention had in law to be considered at monthly intervals. However, in an attempt to streamline their own caseworking processes, CCT re-established a small in-house Detention & Review Unit during June of 2002. The responsibilities for this unit soon increased in response to the Immigration & Asylum Act 2002, which amongst other things, created the requirement to complete a detailed Bail Summary at the same time as a detention review.

19. In May 2003 CCT revised its guidance on consideration of detention beyond the end of a custodial sentence. Hitherto CCT had informed the Detention, Escorting and Population Management Unit (DEPMU) only of male prisoners serving sentences of less than 12 months, on the assumption that only these were suitable for detention outside prison. Following the revised guidance, all cases (except those convicted of violent and sexual offences), were referred to DEPMU for consideration of transfer into the detention estate.

## **Parole cases**

20. Prisoners sentenced to 4 years and over are subject to discretionary release between the half and two-thirds point of their sentence. The Parole Team comprised 3 staff. Each week it received from the Prison Service a list of around 30 names of foreign prisoners within 10 weeks of their parole eligibility date. The list included those for whom a positive parole decision had just been taken, those where the parole decision remained pending, and advice on others prisoners in whom CCT might have an interest. The team's role was to progress or monitor the situation in each case, with a view towards initiating deportation proceedings at the right point. In reality this team were only ever able to deal with cases where a positive parole decision had been taken – around 6 or 7 a week - and where release from prison was imminent. In these cases staff sought to prioritise the more serious

offenders first.

### **The Criminal Casework Support Team**

21. The Criminal Casework Support Team began as a 6 month pilot at the beginning of January 2003 with a staff of six immigration officers recruited from Local Enforcement Offices. Their main role was to find out – through visits and surgeries in prison – how many foreign prisoners were in prison and to identify individuals so that they could be considered for deportation. Pressures elsewhere in IND meant that the team remained small until the beginning of 2005. When it was able to expand it also began to take control of the removal of CCT cases.

### **Early Release Team**

22. This team was created as a temporary unit in May 2004 to manage the expected bulge of cases at the start of the early release scheme.

## Annex C: Statistics

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**NB: The figures used in the tables below, except where taken from published sources, do not represent figures validated by the Government Statistical Service**

**Table 1: Deportations on conducive or court recommended grounds, 1991 to 2001<sup>1</sup>**

Year	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
<b>CONDUCTIVE CASES</b>											
Notices made	270	150	110	130	90	130	100	135	90	120	
Decisions not to deport	100	30	10	20	20	30	60	70	40	55	
Deportation orders	120	160	120	110	90	120	110	120	85	175	
Removals	<b>90</b>	<b>140</b>	<b>140</b>	<b>100</b>	<b>80</b>	<b>100</b>	<b>110</b>	<b>110</b>	<b>115</b>		
<b>COURT RECOMMENDATIONS</b>											
Cases considered	400	340	310	350	390	370	360	335	365	615	
Decisions not to deport	10	40	10	30	50	30	20	40	30	20	
Deportation orders	350	280	300	300	250	280	270	280	250	335	
Removals	<b>470</b>	<b>500</b>	<b>410</b>	<b>220</b>	<b>250</b>	<b>270</b>	<b>250</b>	<b>235</b>	<b>260</b>		
<b>Total removals</b>	<u>560</u>	<u>640</u>	<u>550</u>	<u>320</u>	<u>230</u>	<u>370</u>	<u>360</u>	<u>345</u>	<u>375</u>	n/a	<u>450</u>

<sup>1</sup> Figures for 1996 to 2001 from *Control of Immigration Statistics United Kingdom 2001*, Cm 5684 page 95.

Figures for 2001 from *Control of Immigration Statistics United Kingdom 2005*, Cm 6904, August 2006, p 86. These figures may include a small number of non-criminal deportations.

**Table 2: Deportations on conducive or court recommended grounds, 2004 to 2005<sup>2</sup>**

<b>Year</b>	<b>2004</b>	<b>2005 Jan to Sept</b>
Deportees removed	1,607*	1063

\* includes 641 removals under the early removals scheme

**Table 3: Number of foreign prisoners in prisons, and staff in CCT, 1999 to 2005**

<b>Date</b>	<b>Total prisoners</b>	<b>No. of foreign nationals in prisons</b>	<b>No. of EO caseworkers (staff total)</b>
June 1999	64,500	5,600	9 (22)
June 2002	71,200	7,700	17 (31)
June 2003	73,700	8,800	17 (31)
June 2004	74,500	8,900	20 (40)
June 2005	76,200	9,650	47 (89)

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<sup>2</sup> Figures from note to the Director General of IND, 2 November 2005 (figures for 2005/06 averaged from figures for January to September 2005)

**Table 4: Number of defendants recommended for deportation by courts, England and Wales, 2002 to 2003<sup>3</sup>**

Offence	2002	2003
Violence against the person	18	38
Sexual offence	12	36
Burglary	7	16
Robbery	14	20
Theft and handling	25	21
Fraud and forgery	72	105
Criminal Damage	1	1
Drug offence	827	505
Other indictable (excl. motoring)	40	72
Indictable motoring	1	2
Summary, non-motoring	9	9
Summary motoring	1	3
<b>Total</b>	<b><u>1027</u></b>	<b><u>825</u></b>

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<sup>3</sup> *Recommendation for deportation following a criminal conviction*, Consultation Paper by the Sentencing Guidelines Council, 8 March 2005, Annex A, page 16,

**Table 5: Budget for the Criminal Casework Team (rounded to nearest £100k)<sup>4</sup>**

	<u>£m</u>
2004/05	£2.2
2005/06	£2.5
2006/07	£10.6

**Table 6: Average number of full time equivalent staff in the Criminal Casework Team 2002 to 2005<sup>5</sup>**

2002/03	24
2003/04	32
2004/05	54
2005/06	94.5
2006/07	530 <sup>6</sup>

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<sup>4</sup> Written Answer by John Reid, 13 March 2007, Column 289W

<sup>5</sup> Written Answer by John Reid, 26 October 2006, Column 2126W

<sup>6</sup> Written Answer by John Reid, 13 March 2007, Column 289W

# Notes

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<sup>1</sup> Returning failed asylum applicants. Report by the Comptroller and Auditor General, HC 76 Session 2005-2006, 14 July 2005 (“The NAO Report”)

<sup>2</sup> Returning failed asylum applicants, House of Commons Committee of Public Accounts, Thirty-fourth Report of Session 2005–06, HC 620. Hearing held on 26 October 2005 and report published on 27 February 2006

<sup>3</sup> Home Office Resource Accounts 2004-05 and follow up on Returning failed asylum applicants, House of Commons Committee of Public Accounts, Sixtieth Report of Session 2005–06, HC 1079. Hearing held on 26 April 2006 and report published on 21 July 2006

<sup>4</sup> Immigration and Asylum Act 1999, s10, commenced October 2000

<sup>5</sup> The assessment that only a small fraction of convicted foreign criminals was referred to IND derives from the following evidence. On 30 June 2000 there were 50,434 prisoners held under sentence in prisons in England and Wales (including those whose nationality was un-recorded). Of these 46,805 were recorded as British nationals and 3,518 (7.5%) as foreign nationals. (At this time the proportion of foreign prisoners had remained steady since figures started to be collected in 1993.) Over the course of 2000 there were 90,000 prisoners of all nationalities received into custody under sentence, of which 30,300 (34%) were sentenced to 12 months or more. Published figures do not provide a breakdown by nationality of sentence lengths, but assuming that foreign nationals had a broadly similar distribution of sentences to the prison population as a whole, this suggests that during 2000 about 6,700 foreign nationals were sentenced to prison (7.5% of 90,000), of which about 2,200 were sentenced to 12 months or more (34% of 6,700). By comparison published figures show that in the years 1991 to 2000 typically only 500 to 600 foreign criminals were considered for deportation each year by IND (see Table 1 at Annex C of this report). It has not been suggested that at this time IND was failing to consider a significant number of cases referred to it, therefore the conclusion has been drawn that only a small fraction of convicted foreign nationals was actually referred to it. (Sources: Prison Statistics, England and Wales 2000, Cm 5250, August 2001, Table 1(f), page 12, paragraph 6.5, page 108, and Table 6.4, page 119.)

<sup>6</sup> Nationality and Immigration Act 2002, Section 82

<sup>7</sup> The chart is a simplified version of that at Appendix 6 of the NAO Report.

<sup>8</sup> See Note 1

<sup>9</sup> Home Office Resource Accounts 2004-05 and follow up on Returning failed asylum applicants, House of Commons Committee of Public Accounts, Sixtieth Report of Session 2005–06, HC 1079, 12 July 2006, page Ev21

<sup>10</sup> Written Answer by John Reid, 13 March 2007, Column 289W

<sup>11</sup> “Tipping the Balance” was the target for removing failed asylum seekers agreed with the Prime Minister’s Delivery Unit, and was seen as IND’s most important target. The Technical Note to the target states: “*The Tipping the Balance target states that the number of failed asylum applicants removed each month exceeds the number of new asylum applicants who, it is predicted, will not be granted leave to remain in the UK, as a result of their asylum application.*”

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<sup>12</sup> Figures taken from supplementary memorandum to the PAC, published in *Home Office Resource Accounts 2004/05, and follow up on Returning failed asylum seekers*, HC1079, page Ev31

<sup>13</sup> Section 3 of the Immigration Act 1971

<sup>14</sup> *Immigration Act 1971*, s3(5)

<sup>15</sup> *Nationality and Immigration Act 2002*, Section 82

<sup>16</sup> Written Answer by Andy Burnham, 14 June 2005, Column 286W

<sup>17</sup> *Immigration Control*, House of Commons Home Affairs Committee, Fifth report of Session 2005 -06, 13 July 2006, HC 775 -1, paragraph 531

<sup>18</sup> *Recommendation for deportation following a criminal conviction: consultation paper by the Sentencing Guidelines Council*, 8 March 2005, Annex A

<sup>19</sup> *Samaroo* [2002] INLR 55

<sup>20</sup> *Chindamo* 2001, Immigration Appeals Tribunal (OOTH2345).

<sup>21</sup> *Prison Service Order 4630*, issued 9 December 1998, paragraph 3.1

<sup>22</sup> Revised *Prison Service Order 4630*, issued 20 September 2004. It became mandatory for Prison Governors to inform IND at first reception of “*all foreign nationals, dual nationals and those whose nationality is unclear...* ”; and on conviction and sentence of “*all foreign nationals ... unless the prisoner has been sentenced to less than twelve months imprisonment with no previous convictions....*”.