



Jenny Goldring
Assistant Coroner – London Inner South Jurisdiction
Southwark Coroner's court
1 Tennis St,
London SE1 1YD

Dear Ms Goldring,

**MR MANOEL MESSIAS SANTOS
REGULATION 28 REPORT TO PREVENT FUTURE DEATHS**

Thank you for your Regulation 28 report, dated 3 October 2023, following the inquest into the death of Mr Manoel Messias Santos (Mr Santos). I am grateful to you for sharing your findings, and for the opportunity to reflect on the processes that were in place around the time of Mr Santos' detention in 2020 and any improvements that can be made in light of your report. I am sorry to learn of Mr Santos' passing and would like to express my condolences to his friends and family.

I can assure you that the Home Office takes the health and welfare of people detained under immigration powers very seriously. The concerns you have identified have been carefully considered by officials. This response summarises the action taken to address these concerns where they pertain to the Home Office. I also hope it will be useful to set out some wider reforms which impact on the detention of foreign national offenders (FNOs) as well as those actions taken following the death of Mr Santos in HMP Belmarsh, on 2 November 2020.

Consideration as to whether FNOs can be notified at an earlier stage of their sentence that they are not going to be released.

Following conviction, where criminality is considered to meet the deportation criteria in a case involving a non-EEA Foreign National Offender (FNO), they are served, usually shortly after their conviction, with a deportation decision (Stage 1) and notified of why their deportation is deemed conducive to the public good. Within the Stage 1 letter, the FNO will also be notified of their liability to be detained under immigration powers. The individual is given an opportunity to submit information or evidence to support their claim about why they should not be deported or be allowed to remain in the UK. Following this, a Stage 2 deportation decision is made and depending on the nature of the representations, the individual is given an appeal right against the Stage 2 decision. The general expectation is to make the Stage 2 decision at an early stage, during an individual's custodial sentence. This enables the FNO's deportation within the Early Removal Scheme (ERS) window (depending on the length of the custodial sentence, the ERS window could be up to 12 months before the conditional release date), although this is not always possible; for e.g., due to delays caused by applications pursued by the FNO; asylum applications, referrals to the National Referral Mechanism, or pending prosecutions etc. Where a Stage 2 decision cannot be made during the individual's custodial sentence, or it is not possible to

deport the individual by the end of their custodial detention, the caseworker will consider whether, at the end of their custodial sentence, the individual should be detained under immigration powers to facilitate their deportation. There is a presumption in favour of liberty for all individuals and decisions to detain are made in line with the published guidance. The published policy requires written reasons to be provided to the individual through the service of form IS 91R, before they are detained under immigration powers. However, under neither statute nor detention policy is there a specified timescale for the service of an IS 91R prior to the actual start of immigration detention. A person detained from the community will usually be served an IS 91R on the day of their initial detention. For those being transferred from custodial detention to immigration detention, the form IS 91R is completed and served closer to the actual date of immigration detention as the decision (to detain) is made on the basis of up-to-date information. Conversely, if the detention decision is made too early, it is likely to require a review each time there is a change in the circumstances, thus adding a disproportionate case working burden. The 30-day aspirational target for the service of a IS 91R was identified as the optimum term after consultation with operational teams across the Home Office and the Ministry of Justice. It seeks to strike the right balance between enabling a sufficiently up-to-date detention decision to be taken and providing the individual reasonable prior notice to enable them to seek legal advice and/or apply for bail as necessary.

Consideration as to how to ensure more effective communication/ information exchange between the SSHD and the prison and Healthcare.

The Home Office is committed to a collaborative relationship with HMPPS, prisons and other stakeholders in the management of persons subject to deportation action both during their custodial sentence and if detained in a prison estate following its completion. Regular bilateral meetings between the Home Office and stakeholders at various levels support this closer working relationship and allow for opportunities for joint working to be effectively highlighted.

Prisons refer all custodial sentenced FNOs to FNORC using an electronic referral form. The ERS estimated date (ERSED) is calculated at the same time as other key dates such as the conditional release date (CRD) and is included on the referral form. As part of a weekly update FNORC is notified of any changes to the ERS or CRD dates.

The prison sends the form to FNORC's Intake and Triage team, who prepare the necessary paperwork and allocate the case to a caseworker to process the case towards deportation or removal if appropriate, ideally in time for the FNO's ERSED. The same form is used by FNORC to confirm to the prison the individual's immigration status and likely removability (whether the Home Office intends and is able to deport or otherwise remove the prisoner during their ERS period). The form is also used by FNORC to inform the prison of the caseworker's contact details.

Once the prison governor has made a decision as to early removal under ERS, the prison will issue either an 'ERS authorisation form' or an 'ERS refusal form' to the individual and copy it to FNORC. If FNORC confirm they intend to pursue deportation an ERS is authorised by the prison governor. FNORC can then proceed towards deportation and ideally set removal directions for the ERSED or as soon as possible thereafter.

Shortly after the initial referral, FNORC's Intake and Triage team make a request, using the Request for Risk Information (RRI) form, for a copy of the OASys report or an updated risk assessment and an assessment of the suitability of the proposed bail address. The form is also used to obtain the contact details of the relevant Offender Manager (OM). FNORC caseworkers routinely use this form to seek ongoing updates from the OM, in relation to risk assessments and the suitability of release addresses.

The FNO Coordination Hub, set up in early 2022, with embedded HMPPS staff, assist FNORC caseworkers with all queries relating to HMPPS. Furthermore, a bi-lateral working group, comprising of senior operational representatives from both HMPPS and FNORC,

meet every month to collaborate on operational issues and feed into the HMPPS/FNORC task force.

The Home Office understands that 'in person' contact with individuals subject to deportation action is hugely important. A dedicated team of immigration officers embedded in the prison estate carry out that engagement and endeavour to induct the individual soon after they arrive at a prison. This induction seeks to explain the deportation process, obtain basic person details and any vulnerabilities or medical conditions. The induction process is periodically reviewed, and the interactions are now recorded and accessible to other Home Office officials on internal databases. FNOs can also request to speak with an immigration officer on an individual basis via a wing application that is lodged with the prison's wing office which is then passed to the embedded Immigration Prison Teams (IPTs).

Due to third party confidentiality implications, healthcare teams at a prison or an IRC require the FNO's consent before their medical records are disclosed to the Home Office. Therefore, in order to make informed detention decisions, caseworkers seek the individual's consent at the earliest possible stage of the process. Once consent is given, the caseworker will directly contact the healthcare team within a prison or an IRC to obtain updated medical information relating to the individual.

At a local level, the Home Office's IPTs work very closely with prison colleagues, with established lines of communication and regular meetings between the two parties. IPT officers recognise it is paramount to consider the individual circumstances of an FNO and their vulnerabilities when serving immigration notices. This routinely takes place in prisons across the country where FNOs are serving their sentences. IPT Officers will make the relevant Offender Manager Unit and wing offices aware when serving immigration notices to ensure the FNO can access support as necessary. This will also be recorded on Home Office databases for other officials to view. A further line of assurance is provided by monthly meetings with senior immigration officers to discuss vulnerable cases and take forward actions in our hub prisons.

Communications are also appropriately documented. IPT officers ensure all conversations are recorded and where appropriate signed by the FNO. Digitalisation improvements have allowed for engagements with FNOs to be raised on internal databases along with any vulnerability concerns promptly after interactions, while IPT Officers have access to a Ministry of Justice system, to ensure immigration contact and records are widely shared. We will continue to review where further technological improvements can be made to ensure the timely and secure exchange of information between itself and prison officials.

We recognise the benefit of improving a mutual understanding of relevant processes to both departments in our aim to work more cohesively. Therefore, awareness sessions have been provided at our hub prisons providing an overview of the deportation process, the service of immigration notices and the work of our immigration officers.

Consideration to be given as to why the Internal report dated February 2021 was not disseminated/placed on the Home Office file and to ensure this does not occur again

The Home Office is fully committed to ensuring that all immigration cases, including those relating to FNOs, are handled with care and in accordance with the published policies. Teams are expected to work collaboratively, both internally and with partner organisations in order to share best practice, to use continuous improvement to enhance existing capabilities and to develop and test new approaches. Feedback loops are put in place to ensure lessons are learnt promptly and operational delivery maximised.

The Professional Standards Unit (PSU) report in this case was commissioned on 6 November 2020, by the Deputy Director responsible for the team that had the conduct of Mr Santos' case. On completion, the report was sent to the Commissioning manager. Whilst the report was contemporaneously shared with the senior managers, and an action plan drawn up to address the recommendations, in the absence of a central repository for

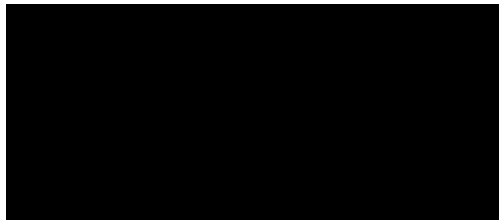
such reports, there was no mechanism in place to track the report or the action plan. The documents were neither placed on the Home Office file nor recorded on our central databases. Consequently, once the Commissioning manager left FNORC, the corporate knowledge about the PSU report and the action plan was lost with their departure.

We recognise and regret that this was a significant oversight and have taken immediate steps to address this issue. Following consultation with the PSU we have implemented new commissioning and handling processes to ensure that work commissioned by us from the PSU receives appropriate Director's attention. Within FNORC a new team, the Strategic Improvement Operations team, has been set up to log, review and track recommendations from all internal and external investigations/ audits on our central records. The team is responsible for maintaining a central record of all the recommendations, assigning ownership, monitoring progress and coordinating actions with the central Immigration Enforcement Assurance and Risk team to ensure all FNORC risks are managed through a consistent assurance process and recommendations are implemented in a timely manner. We are confident that the changes that have been implemented within PSU and FNORC, will significantly improve the handling of PSU reports and eliminate the risk of similar oversights being repeated.

This Department is committed to learning lessons to prevent future deaths of persons detained under immigration powers and once again I am grateful to you for your report and for sharing your findings.

Yours sincerely,

Yours sincerely,



Michael Tomlinson KC MP
Minister of State for Countering Illegal Migration