

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 099/06

This is the second s 486O report by the Ombudsman on Mr X as he remained in immigration detention for a further six months following the Ombudsman's first report (14/05). The Ombudsman's first report was sent to the Minister on 1 December 2005 and tabled in Parliament on 1 March 2006. This report updates the material in that report and should be read in conjunction with it.

Principal facts

Detention history

1. Mr X was released from Villawood Immigration Detention Centre (IDC) in February 2006.

Visa applications

2. According to the Department (DIMA), Mr X has not made any applications for a visa. The Minister exercised her detention intervention powers and granted him a Removal Pending Bridging Visa (RPBV) on 11 February 2006.

Current immigration status

3. Mr X is residing in the community on a RPBV.

Ombudsman consideration

4. DIMA's reports to the Ombudsman under s 486N of the *Migration Act 1958* are dated 5 October 2005 and 14 January 2006.
5. Ombudsman staff invited Mr X to provide information by telephone or in writing, but did not receive a response. In August 2006, Ombudsman staff communicated in writing with Mr X about a Centrelink matter.

Key issues

Nationality

6. DIMA reports that it is still investigating Mr X's identity and has taken steps including interviewing Mr X's visitors, checking with overseas authorities, searching databases, and communicating with state and territory police.
7. In its January 2006 report, DIMA states that the National Identity Verification and Advice Section (NIVA) is pursuing the avenue of publishing photos of Mr X to assist in identification efforts. Under s 336FC, disclosure of photos to the general public is allowed with the DIMA Secretary's authorisation, which can be given if DIMA has exhausted all other 'reasonable steps' to identify the person. Disclosures that are authorised by law do not breach the Information Privacy Principles.

Health and welfare

8. In Report 14/05, the Ombudsman suggested that Mr X could have a mental illness, which may be difficult for DIMA to confirm, given he has not cooperated with mental health assessments.

Ombudsman assessment/recommendation

9. Report 14/05 recommended that DIMA seek further legal advice on whether there were grounds to support the continuing detention of Mr X under s 189. The Minister states Mr X was released from immigration detention on a RPBV, following receipt of legal