

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 487/08

This is the second s 486O report by the Ombudsman on Mr X as he has remained in immigration detention since the Ombudsman's first report (432/08). The Ombudsman's first report was sent to the Minister on 1 May 2008 and tabled in Parliament on 4 June 2008. This report updates the material in that report and should be read in conjunction with it.

Principal facts

Visa applications

1. The Refugee Review Tribunal affirmed the Department's (DIAC) decision to refuse Mr X a Protection Visa (PV) (February 2008); Mr X sought judicial review by the Federal Magistrates Court (FMC); following the Minister's Review of long term detainees (May 2008) the Minister indicated he would not intervene and that Mr X's removal from Australia should proceed; FMC application dismissed (June 2008); combined request under s 48B/417 of the *Migration Act 1958* lodged (July 2008); assessed as not meeting the guidelines for referral to the Minister (October 2008).

Current immigration status

2. Mr X is an unlawful non-citizen detained at Villawood Immigration Detention Centre (IDC).

Removal details

3. DIAC advises that Mr X's travel document expired on 16 July 2008 and a new travel document was requested from the People's Republic of China (PRC) Consulate in August 2008. DIAC advises that it will actively pursue removal once a further travel document is obtained.

Ombudsman consideration

4. DIAC's further report to the Ombudsman under s 486N is dated 3 September 2008.
5. Ombudsman staff sighted a psychological summary report from Professional Support Services (PSS) dated 11 August 2008 and a medical summary report from International Health and Medical Services (IHMS) dated 12 August 2008.

Key issues

Health and welfare

6. The PSS report states that Mr X was placed on SASH (Suicide and Self-Harm) watch in May 2008 when he received a '*negative outcome from DIAC regarding his visa application*'. The report states that the decision to place Mr X on SASH watch was '*due to his presentation in which he appeared anxious and restless and reluctant to engage*'.

Ombudsman assessment/recommendation

7. Mr X has remained in immigration detention since 1 March 2006. The Ombudsman notes that when Report 432/08 was completed, Mr X had an outstanding matter before the FMC that has since been dismissed. Mr X has since lodged a combined s 417/48B

request which was unsuccessful. His removal from Australia now seems imminent and is only dependent upon DIAC obtaining a travel document.

8. The Ombudsman notes that if Mr X remains in detention, a third report under s 486N will fall due in March 2009. At the time of completing the next report on Mr X, the Ombudsman will review his circumstances, considering again the impact of detention upon his health and the suitability of continued detention in an immigration detention facility.



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Prof. John McMillan
Commonwealth and Immigration Ombudsman



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Date