

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 510/09

This is the eighth s 486O report by the Ombudsman on Mr X as he has remained in immigration detention since the Ombudsman's seventh report. The Ombudsman's combined first and second report (63/06) was sent to the Minister on 24 April 2006 and tabled in Parliament on 20 June 2006. The Ombudsman's combined third, fourth and fifth report (333/07) was sent to the Minister on 23 November 2007 and tabled in Parliament on 13 February 2008. The Ombudsman's sixth report (386/08) was sent to the Minister on 31 March 2008 and tabled in Parliament on 14 May 2008. The Ombudsman's seventh report (466/08) was sent to the Minister on 18 September 2008 and tabled in Parliament on 15 October 2008. This report updates the material in those reports and should be read in conjunction with them.

Principal facts

Visa applications

1. Mr X's appeal to the Federal Court (FC) which commenced in February 2005 is listed for final hearing in March 2009. A submission was referred to the Minister about the People's Republic of China fugitive cases in immigration detention which included Mr X's case (October 2008). The Minister decided that Mr X should remain in Community Detention (November 2008).

Current immigration status

2. Mr X remains an unlawful non-citizen detained in the community.

Removal details

3. The Department (DIAC) advises that it will not progress removal action until the FC has made a decision. DIAC also states that prior to Mr X's removal it will complete an International Treaty Obligations Assessment.

Ombudsman consideration

4. DIAC's further report to the Ombudsman under s 486N of the *Migration Act 1958* is dated 1 December 2008.
5. Ombudsman staff sighted a medical summary report from International Health and Medical Services (IHMS) dated 10 November 2008.

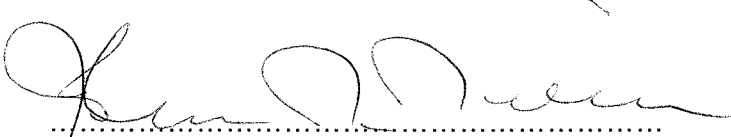
Key issues

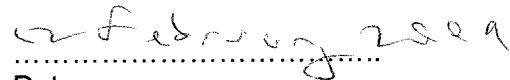
Health and welfare

6. IHMS notes that there has been no significant change to Mr X's health in the last six months.

Ombudsman assessment/recommendation

- 7. Mr X has been detained since February 2002 after his Student Visa was refused on the basis that there was an Interpol notice for his arrest. The Ombudsman notes that Mr X has a current appeal before the FC. The Ombudsman makes no recommendations in this report.


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Prof. John McMillan
Commonwealth and Immigration Ombudsman


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Date