

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 520/09

This is the fifth s 486O report by the Ombudsman on Mr X as he has remained in immigration detention since the Ombudsman's fourth report. The Ombudsman's first report (139/07) was sent to the Minister on 30 March 2007 and tabled in Parliament on 13 June 2007. The Ombudsman's combined second and third report (409/08) was sent to the Minister on 17 April 2008 and tabled in Parliament on 14 May 2008. The Ombudsman's fourth report (499/08) was sent to the Minister on 28 November 2008. This report updates the material in those reports and should be read in conjunction with them.

Principal facts

Visa applications

1. Report 499/08 noted that the Minister indicated he would consider granting Mr X a Global Special Humanitarian Visa (GSHV) subject to health and character checks (March 2008). The Department (DIAC) advises that the checks have been completed but it has recently received adverse information relating to Mr X. DIAC states that it needs to consider the adverse information before a second stage submission can be completed and referred to the Minister.

Current immigration status

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

Ombudsman consideration

3. DIAC's report to the Ombudsman under s 486N of the *Migration Act 1958* is dated 12 December 2008.
4. Ombudsman staff sighted a medical summary report by International Health and Medical Services (IHMS) dated 3 December 2008.

Key issues

Health and welfare

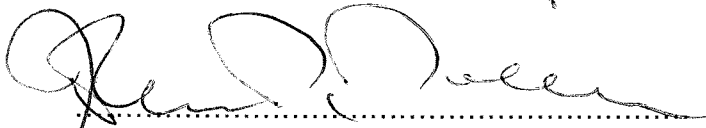
5. The IHMS report states that Mr X was '*referred to Foundation House for ongoing management related to emotional distress*'. Foundation House confirms that Mr X is seen on a regular basis. Previous reports have noted that Mr X suffers from an '*adjustment disorder with chronic depressed mood*'. The IHMS report of December 2008 notes that '*No significant medical or mental health issues have been identified since the last report*'.

Criminal history

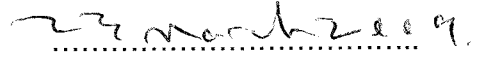
6. DIAC advises that a police check from South Africa indicates that Mr X was convicted of robbery in April 2003 and sentenced to 12 months imprisonment.

Ombudsman assessment/recommendation

- 7. Mr X has been detained for over four years, including nine months in Community Detention. Report 499/08 noted Mr X's frustrations with the time taken for a decision to be made regarding the GSHV. The Ombudsman notes that the relevant checks have been completed and DIAC is considering adverse information prior to a second stage submission being referred to the Minister. The Ombudsman makes no recommendations in this report.



Prof. John McMillan
Commonwealth and Immigration Ombudsman



Date