

# REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN TO THE MINISTER FOR IMMIGRATION AND CITIZENSHIP

*Under s 486O of the Migration Act 1958*

*Personal identifier: 592/10*

**This is the third s 486O report on Mr X as he has remained in immigration detention since the Ombudsman's first report. Previous reports are:**

**Report 535/09 tabled in Parliament on 17 June 2009**

**Report 559/09 tabled in Parliament on 16 September 2009**

**This report updates the material in those reports and should be read in conjunction with them.**

## **Principal facts**

### *Visa applications*

1. In May 2009 the Minister declined to grant a Removal Pending Bridging Visa but agreed to consider Mr X for Community Detention; a corresponding submission under 197AB of the *Migration Act 1958* was deferred (September 2009) and the Minister lifted the s 48A bar in view of fresh information about Mr X's identity; Mr X lodged an application for a Protection Visa (PV) (October 2009); an associated Bridging Visa application was refused; PV application refused (January 2010); affirmed by the Refugee Review Tribunal (April 2010).

### *Current immigration status*

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

### *Removal details*

3. The Department (DIAC) advises that in August 2009 Mr X provided '*details of his true identity*'. However, although DIAC says that it has received a copy of a travel document under Mr X's true identity, it considers that further confirmation of identity is required before Mr X's immigration status can be resolved. DIAC's investigations into Mr X's identity are ongoing.

## **Ombudsman consideration**

4. DIAC's further report to the Ombudsman under s 486N is dated 26 November 2009.
5. Ombudsman staff interviewed Mr X by telephone on 7 April 2010. Ombudsman staff also spoke to Mr X's migration agent on 7 April 2010.
6. Ombudsman staff sighted a medical summary from International Health and Medical Services dated 28 October 2009.

## **Key issues**

### *Health and welfare*

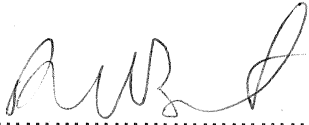
7. No significant health issues have been reported for Mr X.
8. Mr X told Ombudsman staff that he is '*nervous and upset*' and that he is fearful about going back into the community '*after being in here [Villawood IDC] for three and a half years*'. Mr X's migration agent said that Mr X is in a distressed state because he is dealing with events in his past.

*Identity*

9. Mr X's new claims '*acknowledge his involvement in activities which may amount to war crimes*' and are being assessed by DIAC's War Crimes Unit.
10. DIAC advised in its 486N report that Mr X's placement in Community Detention will be reconsidered at the conclusion of its investigations.

**Ombudsman assessment/recommendation**

11. The Ombudsman notes that DIAC has deferred consideration of Mr X's placement in Community Detention and will reconsider his placement when current investigations are concluded. The Ombudsman makes no recommendations in this report.



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Ron Brent  
Acting Commonwealth and Immigration Ombudsman

12 May 2010  
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Date