

## Case history of Mr A and his daughter Mary

### Source<sup>i</sup>

- 1 1998 Mr A is divorced from his wife and judge awards him full-time custody of his daughter, Mary 2 years old, with the mother having her one day per week. Wife remarries five to six months after divorce and unsuccessfully sought custody of Mary.
- 2 2000 Nov Mr A leaves Iran with his daughter as he feared persecution. Due to this, he did not inform his ex-wife or anyone else of his departure. Mr A says that although his wife was upset he left Iran without telling her, he had not been served or received any documents relating to the daughter's removal to Australia.
- 3 2001 Mr A and Mary arrive in Australia as unauthorised boat arrivals and claim asylum. They are detained in Curtin Detention Facility in far north Western Australia and are later moved to the Baxter facility when it opens in 2002.
- 4 2001-2003 Advocates<sup>ii</sup> claim during this period Mr A becomes a target of Greg Wallis, the DIMIA detention centre manager. Mr A came to the notice of Greg Wallis due to his agitating for human rights for detained asylum seekers. Advocates claim on numerous occasions, Mr A was threatened with the removal of his daughter by Greg Wallis as a method of forcing Mr A to leave Australia.
- 5 2003 Feb Allegations of child abuse were made against Mr A to South Australian Family and Youth Services (FAYS.)<sup>1</sup> Mary was removed by FAYS from Baxter detention centre for two weeks. Mary was returned with acknowledgement by FAYS that no evidence of sexual abuse was found.
- 6 2003 Mr A asked to be moved from Baxter to another detention centre due to pressure from fellow detainees over the child sexual abuse allegations.
- 7 2003 July 8 Mr A began a hunger strike as nothing had been done about his request to move detention centres.
- 8 2003 July 14 Five ACM officers enter Mr A's room at Baxter and searched it. Mr A claims they beat him on his head, right knee and chest, attempted to conduct a strip search in front of his young daughter, and when he refused to take off his clothes they handcuffed him and confined him in the Management Unit.
- 9 2003 July 14-22 Each day at around 5 pm he was taken from the Management Unit to the visits compound to see his daughter. Visits were

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<sup>1</sup> It is unknown who made these allegations of inappropriate sexual behaviour by Mr A towards his daughter. Advocates believe it is possible the allegations were made by DIMIA officers for the purposes of making the later removal of Mary from her father more feasible.

supposed to take 90 minutes but would sometimes be only 40-45 minutes long.

- 10 During this period, Mr A claims he was pressured to sign an acknowledgement that he had beaten officers. He claims he was told that if he did not sign the papers and confession, then he could not visit his daughter. Mr A further claims that Terrina Wallis – deputy DIMIA manager and wife of Greg Wallis - told him that if he signed the paper she would give him recent photographs of Mary.
- 11 2003 July 17 Mr A is given a 'behaviour plan' with special conditions regarding visits with his daughter Mary. By 23 July he had not signed this plan.
- 12 2003 July 23 DIMIA officers removed Mary from Australia and returned her to her mother in Iran.
- 13 During the day Mr A speaks to the Management Unit Review Team (MURT) with a complaint that visits with his daughter were not the full 90 minutes as agreed in the behaviour plan. He is reassured that this will be taken care of.
- 14 At around 5.00 pm Mr A asked to see Mary. An officer – either a Detainee Manager or an ACM officer – told him that she had been taken shopping by Greg and Terrina Wallis and that he could see his daughter later.
- 15 At around 7.30 pm he was told by the same officer that he could not see Mary that day because Greg and Terrina Wallis had taken her to their house.
- 16 Mr A became upset and asked to speak to his daughter but was not allowed because he had not signed the paper.
- 17 2003 July 24 Mr A is seen by Dr Gorton, who is retained by DIMIA to provide psychiatric assessments of detainees. Dr Gorton's report on this assessment notes that the doctor was aware that Mary had been deported and that A was not aware of this<sup>iii</sup>. Dr Gorton also notes that Mr A will deteriorate further upon hearing this news.
- 18 MURT is told by Greg Wallis that Mary has been returned to her mother in Iran, which had been requested by Interpol for many years. Mr Wallis states that Mr A had no legal right to take Mary from Iran and there had been a lengthy legal battle over who should have custody. The minutes further state that Islamic Sharia law holds that a girl should live with her father until she is 9 and can decide who to live with, but the courts had changed this to Mary living with the mother because of the girls removal.
- 19 At around 5.00pm Mr A was visited by Greg Wallis who told Mr A he had sent Mary back to Iran. When Mr A did not believe this, Greg Wallis said Mr A could call her.
- 20 At around 7.30pm Mr A spoke to Mary in Iran who asked him 'When are you coming?'

21 After Mary's removal from Australia, Mr A remained in the management unit for some time.

22 2003 Jul 25 Trish Highfield<sup>2</sup> speaks with Greg Wallis regarding the removal, seeking information on the child's whereabouts. Greg Wallis informs her that Mr A is no longer the child's legal guardian and has no rights to information about the child<sup>iv</sup>.

23 2003 Jul 26-28 Trish Highfield calls Iran and speaks with Mary who told said regarding the removal "Trish, they told me it was a secret. I couldn't tell anyone."<sup>v</sup>

2005 Mr A is found to be in need of protection. He is granted a visa and released from detention.

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### Endnotes

<sup>i</sup> Case history sourced from affidavits of Mr A and court judgment on case Secretary, Department of Immigration Multicultural and Indigenous Affairs v A [2004] FCAFC 93 (29 April 2004.)

<sup>ii</sup> Interviews with Naleya Everson and Trish Highfield, advocates.

<sup>iii</sup> FCAFC 93 Lander [92]

<sup>iv</sup> Interview with Trish Highfield.

<sup>v</sup> Senate Legal and Constitutional Committee: *Inquiry into the administration and operation of the Migration Act 1958*. Transcript of public hearings for 28 September 2005, p. 96. <http://www.aph.gov.au/hansard/senate/commttee/S8721.pdf>

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<sup>2</sup> Mrs Highfield had written authority from the father to obtain any information from DIMIA relating to Mr A or his daughter.