

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X who remained in immigration detention for a cumulative period of more than 30 months (two and a half years) before his death on 16 September 2015.

The first report 1002242 was tabled in Parliament on 12 August 2015. This report updates the material in that report and should be read in conjunction with the previous report.

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1978 |
| Ombudsman ID | 1003201 |
| Date of DIBP's report | 12 August 2015 |
| Total days in detention | 915 (at date of DIBP's report) |

Recent detention history

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| Since the Ombudsman's previous report (1002242), Mr X remained at Facility D. | |
| 17 September 2015 | The Department of Immigration and Border Protection (DIBP) advised that on 16 September 2015 Mr X died in the Intensive Care Unit (ICU) at Hospital C which had been designated an Alternative Place of Detention. |

Recent visa applications/case progression

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| 29 March 2015 | The Minister decided not to revoke the cancellation of Mr X's Protection visa, which had been cancelled on 16 May 2014 on character grounds under s 501 of the <i>Migration Act 1958</i> . |
| 12 August 2015 | DIBP advised that it was investigating allegations regarding Mr X's nationality. |
| 16 September 2015 | Mr X died in immigration detention. |

Health and welfare

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| 19 February 2015 – 29 July 2015 | International Health and Medical Services (IHMS) reported that Mr X displayed multiple symptoms including paranoid ideation, delusions and agitation during assessments. He also reported that he feared for his life. |
| 6 June 2015 – 29 July 2015 | He was placed on Supportive Monitoring and Engagement (SME) observations following a deterioration in his mental health IHMS reported that in June 2015 he twice refused to be seen by the psychiatrist and also refused a hospital review. He was prescribed with antipsychotic medication and underwent regular mental health reviews. |

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| 21 August 2015 – 28 August 2015 | Mr X was transferred to hospital after he self-harmed. He required surgery to treat a self-inflicted laceration to his throat. IHMS advised that when he was discharged on 28 August 2015 he was placed on high SME observations. |
| 29 August 2015 | SME observations were downgraded to moderate as Mr X displayed an improvement in his mood and strongly denied any thoughts of self-harm or suicide. IHMS advised that he continued to be supported by the mental health team with daily counselling and outreach. |
| 9 September 2015 | SME observations were ceased as Mr X had reported he was feeling well, he was interacting with detainees and was in telephone contact with his family. He advised IHMS that there was no reason to be concerned about his safety as he had no further intentions of harming himself. |
| 11 September 2015 – 12 September 2015 | Mr X attempted self-harm and he was transferred to hospital. The treating psychiatrist assessed that a hospital admission would not change Mr X's mental state as his low mood was related to external factors. He was discharged the following day. IHMS reported that the discharge summary advised that Mr X was of sound mind and had chosen to self-harm as he did not like his circumstances. He was prescribed with medication and it was recommended that he undergo a psychiatry review. He was placed on high SME observations. |
| 14 September 2015 | The IHMS psychiatrist diagnosed Mr X with adjustment disorder after he presented as withdrawn with low mood. IHMS reported that Mr X said he had fleeting ideas of suicide but he denied having a plan to attempt suicide and it was assessed that his insight and judgement were not impaired. The psychiatrist adjusted Mr X's medication and following a risk assessment recommended psychological counselling, moderate SME observations and ongoing psychiatric review. |
| 15 September 2015 | IHMS reported that at 4.00 pm Mr X attended a moderate SME mental health review. He denied any thoughts of suicide and was observed to be in a good mood. At 9.40 pm IHMS responded to an emergency call for Mr X who had set himself alight. Emergency care was provided until a medivac helicopter arrived to transport him to hospital. |
| 16 September 2015 | At 9.00 am the hospital advised IHMS that Mr X had been transferred from theatre to the ICU and remained in a critical condition. At 8.23 pm Mr X was pronounced dead. |

Recent detention incidents

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| 6 July 2015 | A DIBP Incident Report recorded that planned use of force was used on Mr X to prevent him assaulting Serco officers after he refused to return to his accommodation following a visit to IHMS. Serco officers attempted to negotiate with Mr X but after he refused to comply with requests mechanical restraints were applied. After Mr X was escorted to his room he was offered a medical assessment but he declined. |
| 16 September 2015 | Following the death of Mr X, the ICU contacted Mr X's next of kin in Country E and informed them of the death, and hospital staff notified the State F Police. DIBP also contacted Mr X's next of kin to advise them of Mr X's death. |
| 9 October 2015 | DIBP advised that Mr X's death is being investigated by the State F Police and at the completion of the investigation a report will be provided to the Coroner's Court of State F. DIBP also advised that Comcare are undertaking a separate investigation and DIBP's Detention Assurance Team are undertaking a post action review into the circumstances preceding Mr X's self-harm which resulted in his death. |

Other matters

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| 9 June 2015 | The Australian Federal Police (AFP) advised that it would not be investigating an incident which had been reported to the AFP on 2 December 2014 alleging Mr X had assaulted a Serco officer. |
| 2 September 2015 | DIBP case management at Facility D requested that Ombudsman staff interview Mr X as he wanted to know what assistance the Ombudsman's office could provide him. |
| 17 September 2015 | The Ombudsman's office opened an investigation into the administrative processes surrounding Mr X's death and on 9 October 2015 received a response from DIBP. The investigation is ongoing as the Ombudsman's office is awaiting further information from DIBP. |

Information provided by Mr X

During an interview with Ombudsman staff at Facility D on 3 September 2015 Mr X requested assistance to find legal representation. He explained that he had sought judicial review of the Minister's decision not to revoke the cancellation of his Protection visa, and he needed a lawyer to represent him. Mr X stated that he had asked his case manager and Legal Aid to help him but they were unable to provide assistance.

After Ombudsman staff explained to Mr X that the Ombudsman's office could not organise legal representation for him, he stated that he would have to return to Country A. He said that his family had told him he could not return but he said he did not think he had any other option. He requested assistance to contact the International Organization for Migration to organise his return to Country A and asked that his case manager be advised that he wanted to complete the paperwork to return voluntarily.

Shortly after the interview finished, Mr X advised that he had changed his mind and that he could not return to Country A because he feared for his life. This information was conveyed to his case manager.

Ombudsman assessment

Mr X was detained on 9 October 2010 after arriving in Australia aboard Suspected Illegal Entry Vessel *Runnymede*. On 18 January 2012 he was granted a Protection visa and was released from detention.

On 20 February 2014 Mr X was convicted of seven counts of child sex offences. He was placed on a community corrections order for 24 months and placed on the Sex Offenders Register.

On 16 May 2014 the former Minister cancelled Mr X's Protection visa under s 501. He was re-detained on 20 May 2014 and transferred to an immigration detention facility. He had been detained for a cumulative period of more than two and a half years before his death in immigration detention on 16 September 2015.

The Ombudsman notes that Mr X's cause of death is the subject of a coronial inquiry and an investigation by Comcare. The Ombudsman makes no recommendations in this report.