

## REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the first s 486O report on Mr X who has remained in restricted immigration detention for a cumulative period of more than 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1978
<b>Ombudsman ID</b>	1002242
<b>Date of DIBP's report</b>	17 February 2015
<b>Total days in detention</b>	739 (at date of DIBP's report)

### Detention history

9 October 2010	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 194 <i>Runnymede</i> . He was transferred to Facility A.
29 December 2012	Transferred to Facility B.
18 January 2012	Granted a Protection visa and released from detention.
20 May 2014	Mr X was re-detained after his visa was cancelled under s 501 and he was transferred to Facility C.
16 December 2014	Transferred to Facility D.

### Visa applications/case progression

5 December 2010	Lodged a Refugee Status Assessment (RSA) application.
12 March 2011	RSA refused.
14 April 2011	Requested Pre-review examination.
14 September 2011	Found to be owed protection.
11 January 2012	Section 46A bar lifted.
18 January 2012	Protection visa granted.
14 April 2014	Issued with a Notice of Intention to Consider Cancellation (NOICC) of his Protection visa under s 501.
16 May 2014	Protection visa was cancelled under s 501.
23 May 2014	Mr X made representations seeking the former Minister's revocation of his visa cancellation decision.
20 June 2014	The Department of Immigration and Border Protection (DIBP) provided Mr X with information that would be considered in a revocation decision and requested that he comment within 28 days. Mr X was granted three extensions of time to comment due to changes in his legal representation.
28 October 2014	A Criminal Justice Stay Certificate (CJSC) was issued.

3 December 2014	CJSC was cancelled.
22 December 2014	DIBP provided Mr X with further information that would be used in a Minister's revocation decision and requested that he respond in two weeks.
9 January 2015	Mr X provided a response to DIBP.
21 January 2015	DIBP advised Mr X of changes to the character test under s 501 which would affect the Minister's possible revocation decision.
29 January 2015	Mr X provided further comment to DIBP.
17 February 2015	DIBP advised that it was preparing a submission to the Minister for possible consideration of the revocation of Mr X's previous Protection visa cancellation decision, and the submission would include information provided by Mr X.

### **Criminal history**

20 February 2014	Mr X was convicted in the State A County Court of seven counts of Q offences. He was placed on a community corrections order for 24 months and required to do 300 hours of community work. Mr X appealed the matter to the County Court.
20 August 2014	The County Court cancelled Mr X's original sentence because he had been transferred to immigration detention and sentenced him to a three month imprisonment term and directed that the sentence be wholly suspended for six months.
14 October 2014	Mr X pleaded guilty to one count of T.
2 December 2014	Sentenced to a three month term of imprisonment with a recognisance of \$500 on condition that he is of good behaviour for 15 months.

### **Health and welfare**

21 May 2014 - ongoing	International Health and Medical Services (IHMS) reported that Mr X was assessed as having suspected mental health issues. Mr X saw the psychiatrist on four occasions, the last time being on 9 July 2014. IHMS advised that Mr X would not elaborate on his personal issues and the psychiatrist made no further recommendations for follow up.
23 May 2014	IHMS advised that at Mr X's health induction a chest x-ray found abnormalities and it was recommended that he undergo a computed tomography (CT) scan.
23 June 2014	Underwent a CT scan with a repeat scan recommended for September 2014.
September 2014 (no date provided)	IHMS advised that no definite findings were found after a follow up CT scan.

6 January 2015	The Mental Health Team (MHT) was requested to assess Mr X as he was reportedly observed being preoccupied and responding to his own conversations. IHMS reported that he was found to be guarded with his responses to personal questions and he advised that he preferred to be on his own. IHMS advised that Mr X is aware of how to self-refer to the MHT if required and he is being monitored by Serco officers.
26 January 2015	Mr X was physically assaulted by another detainee. He sustained minor facial injuries and was transferred to hospital for further investigation. Mr X refused hospital care and was returned to Facility D. IHMS advised that the IHMS general practitioner saw him on 30 January 2015 and no further issues were found or reported.
9 February 2015	A repeat CT scan was conducted and results were pending at the time of the IHMS report.

### Detention incidents

<p>DIBP advised that since Mr X was redetained in restricted immigration detention he has allegedly been involved in several major and minor classified incidents including threatening self-harm, abusive and aggressive behaviour towards other detainees and detention staff, and the alleged victim of assaults by other detainees against him.</p> <p>DIBP reported that unplanned use of force was used on a number of occasions to prevent Mr X from hurting himself, other detainees or detention staff.</p>	
2 December 2014	Mr X was referred to the State A Police in relation to an incident in which he allegedly assaulted a detention centre staff member causing minor injuries. This matter is ongoing.
26 January 2015	Mr X suffered suspected head injuries after he was allegedly assaulted by another detainee. DIBP advised that this incident remains open and is under investigation.

### Information provided by Mr X

<p>During a telephone conversation with Ombudsman staff at Facility D on 19 March 2015 Mr X advised that he had no current concerns about the conditions at Facility D. He said he has no health issues, and participates in activities when he wants to. He stated that his main concern is to be released from detention as soon as possible.</p>
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### Case status

<p>Mr X's Protection visa was cancelled on character grounds under s 501. Mr X has submitted a request to the Minister to revoke the cancellation decision and is awaiting an outcome.</p>
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