

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 has remained in restricted immigration detention for a cumulative period of more than 36 months (three years).

The first report 1002258 was tabled in Parliament on 17 June 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1961
Ombudsman ID	1003267
Date of DIBP's reports	21 August 2015 and 14 February 2016
Total days in detention	1094 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002258), Mr X remained at Casuarina Prison Alternative Place of Detention.	
3 June 2015	Transferred to Perth Immigration Detention Centre.

Recent visa applications/case progression

17 February 2014	Requested judicial review by the Federal Circuit Court (FCC).
8 August 2014	Requested ministerial intervention under s 417 of the <i>Migration Act 1958</i> . The Department of Immigration and Border Protection (DIBP) advised that the request was suspended pending the outcome of judicial review.
16 September 2015	Appealed to the Administrative Appeals Tribunal (AAT) ¹ in relation to his unsuccessful Conferral of Citizenship. On 22 September 2015 the AAT found it had no jurisdiction in the matter.
1 October 2015	Requested judicial review by the Federal Court (FC) of DIBP's decision to refuse his Conferral of Citizenship. On 9 December 2015 the FC dismissed the request.
8 February 2016	Found not to meet the guidelines for referral to the Minister under s 48B.
10 February 2016	Mr X's case was referred on a ministerial submission for consideration under s 417.
14 February 2016	DIBP advised that Mr X's case has been identified for referral to the Minister for consideration of a community detention placement under s 197AB.

¹ On 1 July 2015 the Migration Review Tribunal and Refugee Review Tribunal were merged into the AAT.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received ongoing treatment and specialist monitoring for a range of physical health conditions, including type 2 diabetes, cardiac and vascular abnormalities, degenerative joint disease, osteoporosis and obesity.

IHMS further advised that Mr X was diagnosed with an adjustment disorder, depression, personality disorder, anxiety and post-traumatic stress disorder related to his history of torture and trauma and prolonged detention. He has been placed on Supportive Monitoring and Engagement observations on multiple occasions following threats of self-harm, suicidal ideation and panic attacks. IHMS advised he continues to be closely monitored by a psychiatrist and the mental health team and attends psychological counselling.

18 July 2015	DIBP Incident Reports recorded that Mr X was transferred to hospital following an alleged assault by another detainee.
17 September 2015	A DIBP Incident Report recorded that Mr X refused food and fluid as a form of protest.
6 January 2016	IHMS advised that Mr X was reviewed by a psychiatrist following threats of self-harm related to his prolonged detention. The psychiatrist reported that Mr X will remain at high risk of self-harm and suicide while he remains in restricted detention and treatment is unlikely to improve his mental health in that setting. The psychiatrist strongly recommended he be transferred to community detention.

Recent detention incidents

DIBP Incident Reports recorded that Mr X has been involved in numerous behavioural incidents, including arguments and altercations with Serco staff and other detainees.

Other matters

23 January 2015	Mr X lodged a complaint with the Australian Human Rights Commission. DIBP provided its response on 21 January 2016.
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Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and complementary protection criterion. At the time of DIBP's latest report, he was awaiting the outcome of judicial review.

The Ombudsman notes with concern information provided by IHMS that Mr X continues to experience serious mental health concerns as a result of his prolonged detention. The Ombudsman further notes advice from IHMS that Mr X's mental health will further deteriorate if he remains in restricted detention and the recommendation that he be transferred to community detention.

The Ombudsman notes that Mr X's case was identified for referral to the Minister under s 197AB for a community detention placement and recommends that DIBP expedite this referral.