

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O report on Mr X who has remained in restricted immigration detention for more than 60 months (five years).

The first report 1453/13 was tabled in Parliament on 13 November 2013, the second report 1001197 was tabled in Parliament on 9 July 2014 and the third report 1001833 was tabled in Parliament on 18 March 2015. This report updates the in those reports and should be read in conjunction with the previous reports.

Name	Mr X
Citizenship	Country A
Year of birth	1993
Ombudsman ID	1002292
Date of DIBP's reports	4 March 2015 and 4 September 2015
Total days in detention	1,827 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001833), Mr X has remained at Facility L.

Recent visa applications/case progression

5 September 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through the Department of Immigration and Border Protection's (DIBP) website. ¹
16 September 2014	Found not to be affected by the Federal Court decision of 20 March 2013. ²
23 September 2014	He provided his response concerning the privacy breach.
25 September 2014	The former Minister declined to intervene under s 197AB of the <i>Migration Act 1958</i> to allow Mr X to be transferred to community detention.
12 January 2015	DIBP advised Mr X that it had commenced an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engaged Australia's <i>non-refoulement</i> obligations.
29 April 2015	DIBP invited Mr X to comment on country information and other information relevant to the ITOA.
13 May 2015	Mr X provided his response concerning the ITOA.

¹ In a media release dated 19 February 2014 the former Minister advised that an immigration detention statistics report was released on DIBP's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as DIBP became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by DIBP.

² *Minister for Immigration and Citizenship v SZQRB* [2013] FCAFC 33.

26 May 2015	The ITOA found that his case does not engage Australia's <i>non-refoulement</i> obligations.
4 September 2015	DIBP advised that Mr X has no outstanding matters before DIBP, the courts or tribunals and is on a removal pathway. DIBP further advised that Mr X does not hold a current travel document and is not cooperating with DIBP to obtain a document through the Country A Embassy.

Health and welfare

DIBP did not provide an International Health and Medical Services (IHMS) Health Summary Report for the previous reporting period. In the latest IHMS Health Summary Report, dated 1 April 2015, IHMS advised that Mr X has a history of self-harm and suicidal ideation.	
22 June 2014	IHMS reported that the IHMS psychiatrist had diagnosed Mr X with a personality disorder based on his impulsive behaviour, anger, and emotional instability. The psychiatrist advised that Mr X had not displayed any symptoms of psychosis and prescribed him with medication.
28 July 2014	Mr X reported ongoing headaches to the IHMS general practitioner (GP), who assessed that Mr X was likely suffering from nerve pain related to an old scalp injury. He was prescribed with pain relief medication and the GP continued to monitor his condition.
June and July 2014	The psychiatrist recommended that Mr X be transferred to a facility in City C so he could be near his partner.
7 October 2014	Transferred to the hospital emergency department after he took an overdose of his prescription medication. He was discharged the same day and placed on high Supportive, Monitoring and Engagement (SME) observations when he returned to the detention facility. IHMS advised that he was closely monitored by the mental health team (MHT), his psychiatrist and GP.
7 November 2014 – 10 November 2014	Due to an ongoing risk of suicide, suicidal ideation, and an unwillingness to be voluntarily admitted to hospital for psychiatric care, Mr X was scheduled under the <i>Mental Health Act 2004</i> and admitted to the hospital. When he was discharged on the 10 November 2014 he denied any thoughts of self-harm and was given a provisional diagnosis of adjustment disorder. He was placed on high SME observations until his safety could be guaranteed within the detention setting.
16 November 2014	SME observations were downgraded to a moderate level.
7 December 2014	The psychiatrist reviewed Mr X and advised that moderate SME observations should continue.
30 December 2014	Reviewed by the psychiatrist and SME observations were ceased. It was noted that he appeared less depressed and had no psychotic features. However, while he was at no risk of immediate self-harm, he remained at risk of impulsive self-harm.
8 April 2015	IHMS advised that Mr X continued to be supported by the MHT, psychiatrist and GP. He declined antidepressant medication.

9 April 2015 – 17 August 2015	IHMS reported that Mr X did not present with any major or acute mental health problems. Although he did not attend scheduled mental health reviews in June 2015 IHMS advised that he is aware of the self-referral process.
12 August 2015	A DIBP Incident Report recorded that Mr X had self-harmed by taking an overdose of pain relief medication and was transferred to hospital. No further information was provided.

Recent detention incidents

9 June 2015	<p>A DIBP Incident Report recorded that Mr X had assaulted a Serco officer. The matter was referred to the State B Police on 11 June 2015 for investigation.</p> <p>On 24 July 2015 the State B Police advised that it would not be conducting a further investigation and the matter was finalised.</p>
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Information provided by Mr X

During an interview with Ombudsman staff at Facility L on 8 June 2015 Mr X advised that he had converted to Christianity about three and a half years ago but DIBP did not believe his conversion was genuine. He said he would like his protection claims to be reassessed and would like a lawyer to represent his case, but Legal Aid had declined to help him.

Mr X said that physically he is well and spends his time playing sport. However, he does not go to classes or on excursions and said he has not had contact with the MHT for around three months. He said that the MHT invites him for appointments but he explained that seeing the MHT only makes him feel more frustrated so he does not attend the appointments and is not taking any medication.

Mr X said he was transferred from Facility J to Facility K in 2014, and had expected to return to Facility J. He said he had made many requests to return to City C and that his mental state was declining, but instead he was transferred to Facility L. He said this affected his mental health and he was admitted to a psychiatric hospital in City D in late 2014. He said he found the hospitalisation helpful.

Mr X advised that he had a partner in City C but their relationship ended eight months ago. He would still like to be returned to City C as he has friends who can visit him regularly. He said at Facility L he has no visitors.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. DIBP advised that he has no outstanding matters before DIBP or the courts and is on a removal pathway.

The Ombudsman notes with concern that in late 2014 Mr X required hospitalisation again because of his deteriorating mental health. The Ombudsman notes that while the latest IHMS Health Summary Report dated 17 August 2015 advised that Mr X had not presented with any major or acute mental health concerns, the latest DIBP Incident Report recorded that on 12 August 2015 Mr X had been transferred to hospital due to self-harm.

The Ombudsman remains seriously concerned about the risk that long term detention poses to a detainee's mental and physical health. In consideration of Mr X's ongoing mental health concerns, the Ombudsman recommends transferring Mr X to a detention facility in City C where he has a stronger support network.