

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 immigration detention for a cumulative period of more than 48 months (four years).

The first report 1411/13 was tabled in Parliament on 26 June 2013. 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	1969
Ombudsman ID	1002861
Date of DIBP's reports	2 July 2015, 30 December 2015 and 30 June 2016
Total days in detention	1459 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1411/13), Mr X remained in community detention.	
28 May 2013	Granted a Bridging visa and released from detention.
28 May 2015	Re-detained under s 189(1) of the <i>Migration Act 1958</i> following criminal charges. He was transferred to Facility B.
27 April 2016	Transferred to Villawood Immigration Detention Centre (IDC).
29 April 2016	Transferred to Yongah Hill IDC.

Recent visa applications/case progression

28 May 2013	Granted a Bridging visa valid until 28 November 2013.
7 October 2014	Mr X remained unlawfully in the community until he was granted a second Bridging visa valid until 18 November 2014.
28 May 2015	Re-detained under s 189(1).
2 July 2015	The Department of Immigration and Border Protection (DIBP) advised that Mr X has no outstanding matters before DIBP, the courts or tribunals and is on a removal pathway.
4 January 2016	Mr X requested voluntary removal to Country A.
19 January 2016	DIBP lodged an application for a travel document with the Country A Embassy on behalf of Mr X.
6 May 2016	The Country A Embassy issued Mr X with a travel document and he was scheduled for voluntary removal on 23 May 2016.
18 May 2016	Mr X withdrew his request for voluntary removal to Country A. DIBP advised that he remains on a removal pathway.

Criminal history

30 September 2014	Mr X was charged with being in the possession of stolen property.
14 April 2015	Mr X was charged with two counts of drug possession and two counts of providing false information to police. He was remanded at Hakea Prison until 28 May 2015 when he was re-detained under s 189(1) and transferred to Facility B.
4 September 2015	Mr X was convicted of being in the possession of stolen property and sentenced to nine months imprisonment suspended for 12-months.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for back pain and bilateral heel fractures. He was reviewed by a physiotherapist and continues to be monitored by the general practitioner.

IHMS advised that Mr X has not required treatment for any major mental health issues since its first report to the Ombudsman.

Detention incidents

1 June 2015	DIBP Incident Reports recorded that Mr X sustained bilateral heel fractures after attempting to escape from Facility B. He was transferred to hospital by ambulance for treatment.
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Information provided by Mr X

During an interview with Ombudsman staff at Facility B in September 2015 Mr X advised that he had been granted a Bridging visa but was re-detained following criminal charges. He said that his court hearing is scheduled for 4 September 2015 and once this matter is finalised his immigration case can be progressed.

Mr X said that he is currently in a wheelchair as he has both legs in casts and has been transferred to alternative accommodation at Facility B that is modified for wheelchair use.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He has no matters before DIBP, the courts or tribunals and has been referred for removal action.

The Ombudsman notes that Mr X's removal is likely to be protracted as involuntary removal to Country A is not possible at present

The Ombudsman notes the Government's duty of care to immigration detainees and the serious risk to mental and physical health that prolonged indefinite restrictive immigration detention may pose. The Ombudsman recommends that consideration be given for a community detention placement until removal action can be progressed.