

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 remained in immigration detention for a cumulative period of more than 30 months (two and a half years) before his death on 31 July 2015.

Name	Mr X
Citizenship	Country A
Year of birth	1988
Ombudsman ID	1002761
Date of DIBP's reports	1 November 2014 and 11 May 2015
Total days in detention	Not provided

Detention history

1 November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 511 <i>Packard</i> . He was detained at North West Point Immigration Detention Centre (IDC), Christmas Island.
17 November 2012	Mr X was transferred to Curtin IDC.
24 July 2013	Transferred to Yongah Hill IDC.
31 July 2015	The Department of Immigration and Border Protection (DIBP) advised that Mr X died in detention on 31 July 2015.

Visa applications/case progression

DIBP advised that Mr X was part of a cohort who had not had their protection claims assessed as he arrived in Australia after 13 August 2012 and the Minister had not lifted the bar under s 46A(2).	
10 November 2012	DIBP advised that at his entry interview, Mr X provided information about his involvement in an incident in Country A which was the subject of an ongoing intelligence analysis investigation.
26 June 2013	A DIBP Senior Officer review of Mr X's case found that his detention placement was appropriate. This was primarily due to the ongoing intelligence investigation, which required offshore checks and a referral to the Australian Federal Police.
21 May 2014	Mr X's case was referred for assessment against the guidelines under s 195A for the Minister to consider granting him a Bridging visa. His case was found not to meet the guidelines due to the unresolved issue that he was subject to an allegation of offshore criminality.
30 March 2015	A second referral was initiated for consideration of a Bridging visa.

17 June 2015	<p>Mr X was found to meet the guidelines for referral to the Minister under s 195A. Analysis of the allegation of offshore criminality was still ongoing but arrangements were being made to interview Mr X.</p> <p>Mr X's case was also included in a submission for the Minister to consider intervening to lift the bar under s 46A so that Mr X could lodge a Protection visa application. This was due to be considered by the Minister on 13 August 2015.</p>
31 July 2015	Mr X died at Yongah Hill IDC.

Health and welfare

February 2013	International Health and Medical Services (IHMS) advised that Mr X reported a history of epilepsy and was prescribed with antiepileptic medication. He was referred to a neurologist for further evaluation and monitored by IHMS.
19 June 2013	He presented with sleeping difficulties and was closely monitored by Serco staff for several weeks due to his reported impulsive behaviour.
23 June 2013 - 23 July 2013	He was placed on Psychological Support Program observations for a period of one month after presenting with feelings of hopelessness.
July 2013	The IHMS psychiatrist commented that he suffered from reactive depression in relation to the length of time spent in restricted detention. No medication was prescribed but he was made aware of the self-referral process if needed.
30 October 2014	Following a two-year period without a seizure, he experienced convulsions after collapsing in the common room.
31 October 2014	A computed tomography scan of his brain returned a normal result.
20 November 2014	IHMS reported that no further mental health issues had been reported and his mental health was stable.
19 May 2015	<p>The IHMS Special Needs Health Assessment stated that there was no clinical evidence that Mr X's health conditions were likely to be exacerbated by remaining in a detention centre environment.</p> <p>At the time of the IHMS Assessment Mr X was awaiting a neurologist review at Royal Perth Hospital.</p>
31 July 2015	<p>At 9.10 pm during a routine room check and head count Mr X was found unresponsive in his room with no obvious signs of life.</p> <p>DIBP confirmed that IHMS is no longer contracted to provide a response capability beyond 8 pm. However, IHMS staff elected to attend and administered emergency first aid, including cardiopulmonary resuscitation. Mr X could not be revived and was pronounced dead by ambulance officers who were called to the scene.</p>

Detention incidents

DIBP Incident Reports advised that Mr X allegedly demonstrated abusive and aggressive behaviour towards detention centre staff on multiple occasions between November 2013 and May 2015.	
4 January 2015	He allegedly assaulted another detainee by punching him in the face.
20 March 2015	He was allegedly one of several detainees who climbed onto the roof of various compound accommodation blocks at Yongah Hill IDC to protest about their prolonged detention.
14 July 2015	<p>He reported to a Serco officer that he had been threatened and assaulted by another detainee in Hawk compound. Mr X was unable to show the officer where he had been assaulted and there was no closed circuit television footage available of the incident. However, it was noted that two weeks prior the alleged perpetrator had been placed in a custodial setting for an alleged assault on Serco officers.</p> <p>Mr X and another alleged victim, Mr Y, agreed to be transferred to Eagle compound to allow for extra monitoring to ensure their safety.</p>
31 July 2015	After Mr X was found unresponsive in his room in Eagle compound, emergency management protocols were initiated and an ambulance and police were called to the scene.
1 August 2015	The Western Australian Coroner's Office attended the scene and permission was given to remove Mr X's body. Prior to this a number of detainees were given permission to sight Mr X's body and say prayers.
8 October 2015	DIBP confirmed that Mr X's death is the subject of a coronial inquiry but a date had not been set for the inquest.

Other matters

On 13 August 2015 the Ombudsman's office opened an investigation into the administrative processes surrounding Mr X's death and received DIBP's response on 30 September 2015. The investigation was closed on 13 October 2015.

Ombudsman assessment

Mr X was detained on 1 November 2012 after arriving in Australia aboard *SIEV Packard*. He was detained for over two and a half years before his death in immigration detention on 31 July 2015.

The Ombudsman notes that Mr X was the subject of an ongoing intelligence investigation following his alleged involvement in a criminal incident in Country A.

The Ombudsman further notes that on 17 June 2015 Mr X was found to meet the guidelines for referral for the Minister to consider granting a Bridging visa. Mr X was also included in a ministerial submission to be considered on 13 August 2015 for intervention to have the bar lifted under s 46A so that he could lodge a Protection visa application.

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