

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O report on Mr X who has remained in restricted immigration detention for a cumulative period of more than 60 months (five years).¹

The first report 1358/13 was tabled in Parliament on 13 November 2013 and the second report 1001078 was tabled in Parliament on 27 May 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X
Citizenship	Country A
Year of birth	1956
Ombudsman ID	1000499-O
Date of DIBP's reports	25 November 2015 and 25 May 2016
Total days in detention	1822 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001078), Mr X has remained at Facility B.

Recent visa applications/case progression

1 May 2015	The Department of Immigration and Border Protection (DIBP) finalised an International Treaties Obligations Assessment, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
21 May 2015	Mr X requested voluntary removal from Australia. On 19 June 2015 he withdrew the request.

Criminal history

16 February 2015	Mr X attended court to in relation to his appeal against his criminal conviction. Judgment was reserved.
26 March 2015	Mr X's appeal was dismissed.
29 June 2015	The Australian Federal Police advised that it would not be investigating an incident alleged to have occurred on 17 June 2015.

¹ DIBP advised in its report of 25 November 2015 that Mr X had previously been reported on in a combined 48 and 54 month report. However, due to changes in the reporting requirement for time spent serving a custodial sentence, he would be deemed to have been in immigration detention for 54 months and again reported to have been in detention for 54 months.

Health and welfare

International Health and Medical Services advised that Mr X was monitored or received treatment for conditions including ischemic heart disease with a history of a heart attack, hypertension, high cholesterol, chronic lower back and other musculoskeletal pain, drug dependence, and adjustment disorder with anxious and depressed mood.

Recent detention incidents

March 2015 – November 2015	DIBP Incident Reports recorded that Mr X was allegedly involved in a number of behavioural incidents.
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Other matters

25 November 2015	DIBP advised that Mr X had withdrawn his request for relocation to City C as his wife, Ms Y, would continue to reside in the city in which his detention facility was located.
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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 further notes DIBP's advice that Mr X has a wife who is an Australian citizen.

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 Mr X be considered for a community detention placement until removal action can be progressed.