

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 1264/13 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, born in Country B
Year of birth	1984
Ombudsman ID	1003457
Date of DIBP's reports	29 September 2015 and 27 March 2016
Total days in detention	1094 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1264/13), Mr X remained at Villawood Immigration Detention Centre (IDC).	
13 September 2012	Granted a Bridging visa and released from detention.
23 May 2015	Re-detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. He was transferred to Villawood IDC.
13 August 2015	Transferred to Christmas Island IDC.
9 October 2015	Transferred to Wickham Point Alternative Place of Detention (APOD).

Recent visa applications/case progression

28 August 2012	Attended an interview in relation to the Independent Merits Review (IMR).
27 September 2012	IMR found that he was not owed protection.
13 September 2012	Granted a Bridging visa valid until 13 October 2013.
23 May 2015	Mr X remained unlawfully in the community until he was arrested by New South Wales (NSW) Police.
29 September 2015	The Department of Immigration and Border Protection (DIBP) advised that removal options had been discussed with Mr X, however he claimed that he is stateless and cannot return to Country A or Country B.
27 March 2016	DIBP advised that Mr X has no outstanding matters before DIBP, the courts or tribunals and is on a removal pathway.

Other legal matters

23 May 2015	Mr X was arrested and charged by NSW Police for the illegal use of a stolen vehicle.
9 July 2015	DIBP advised that the charges were withdrawn.

Health and welfare

<p>International Health and Medical Services (IHMS) reported that Mr X continued to be monitored and treated for ongoing mental health issues with psychotic symptoms including auditory hallucinations and delusions.</p> <p>IHMS advised that Mr X's mental health deteriorated when he was living in the community as he was non-compliant with prescribed medication. When he was reviewed by a psychiatrist on 4 June 2015 he was given a possible diagnosis of chronic schizophrenia and prescribed with antipsychotic medication which has been regularly reviewed. He has also attended torture and trauma counselling.</p>	
18 June 2015 – ongoing	Diagnosed with hepatitis B following routine pathology testing. A liver ultrasound returned normal results and he continues to be monitored by a general practitioner and has been referred to a specialist liver clinic.

Recent detention incidents

31 December 2015	DIBP Incident Report recorded that Mr X allegedly behaved inappropriately towards another detainee at Wickham Point APOD. The alleged victim was transferred to an alternative compound and the Northern Territory Police were notified. No further information was provided.
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Ombudsman assessment/recommendation

<p>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.</p> <p>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 also notes with concern that IHMS has reported that Mr X has chronic mental health concerns.</p> <p>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.</p>
