

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 immigration detention for more than 60 months (five years).

The first report 1659/13 was tabled in Parliament on 4 December 2013, the second report 1001388 was tabled in Parliament on 24 September 2014 and the third report 1002121 was tabled in Parliament on 3 June 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	1976
Ombudsman ID	1002814
Date of DIBP's report	22 June 2015
Total days in detention	1,826 (at date of DIBP's report)

Recent detention history

Since the Ombudsman's previous report (1002121), Mr X has remained at Yongah Hill Immigration Detention Centre (IDC).

Recent visa applications/case progression

8 April 2015	The Department of Immigration and Border Protection (DIBP) finalised Mr X's International Treaties Obligations Assessment and found that he does not engage Australia's <i>non-refoulement</i> obligations.
11 May 2015	Requested judicial review by the Federal Circuit Court (FCC).

Health and welfare

16 December 2014 – 23 June 2015	<p>International Health and Medical Services (IHMS) advised that since its previous report to the Ombudsman, Mr X continued to attend specialist counselling.</p> <p>IHMS further advised that during a routine 60-month mental health review, it was noted that Mr X was lacking stimulation and was not being mentally challenged in his current environment. It was recommended that Mr X commence a trial of prescribed medication to improve his mood and a follow-up appointment was scheduled.</p>
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Information provided by Mr X

During an interview with Ombudsman staff at Yongah Hill IDC on 2 September 2015 Mr X advised that he had recently spoken with his DIBP case manager who offered to facilitate his return to Country A if he was willing to voluntarily return. He said that he informed his case manager that he would not voluntarily return to Country A and that he had a current court case in progress. He said he had previously informed DIBP that he would face danger if he was to return to Country A.

Mr X stated that his physical health was good but he had been told that he was suffering from depression. He said that he sees the mental health team as required and they have encouraged him to take medication which he has declined.

He said that the activities provided at Yongah Hill IDC are suitable and he participates in soccer, basketball and cooking classes.

He advised that he rarely contacted his family and did not have any visitors at Yongah Hill IDC.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He is awaiting the outcome of judicial review by the FCC.

The Ombudsman notes that, with the exception of one drink driving offence while in community detention, Mr X has not been involved in any behavioural or criminal incidents during his five years of immigration detention.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. In light of this, the Ombudsman recommends that Mr X be reconsidered against the guidelines for another community detention placement or a Bridging visa.