

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the fifth s 486O report on Mr X who has remained in restricted immigration detention for more than 78 months (six and a half years) due to an adverse security assessment.

The previous reports are:

985/12 tabled in Parliament on 28 November 2012

1001004 tabled in Parliament on 18 June 2014

1001884 tabled in Parliament on 25 February 2015

1002334 tabled in Parliament on 2 March 2016.

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	1983
Ombudsman ID	1000267-O
Date of DIBP's reports	15 March 2016 and 12 September 2016
Total days in detention	2368 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002334), Mr X remained at Facility B.	
9 March 2016	Transferred to Facility C.

Recent visa applications/case progression

10 February 2014	The Independent Reviewer of Adverse Security Assessments affirmed Mr X's adverse security assessment. The Department of Immigration and Border Protection (the department) advised that this would be reassessed in February 2015.
24 December 2015	Lodged a Temporary Protection visa (TPV) application.
15 March 2016	The department advised that it was exploring detention placement options for Mr X following the closure of Facility B and his transfer to Facility C.
12 September 2016	The department advised that Mr X does not meet the guidelines for a community detention placement under s 197AB as he is the subject of an adverse security assessment. Mr X has also been assessed as unable to access the Housing and Accommodation Support Initiative (HASI) program as Facility C is not suitable for the HASI program. The department advised that it was exploring other community support options for Mr X and that processing of his TPV application was ongoing.

27 October 2016	The department advised that its records indicated that the Independent Reviewer has not finalised a review of Mr X's adverse security assessment since February 2014.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X suffers from multiple significant physical health concerns including hypothyroidism, type 2 diabetes and high cholesterol. IHMS advised that at the time of its latest report Mr X had been refusing to take any of his prescribed mental or physical health medications for six months, which has resulted in the development of further thyroid issues.

In June 2016 Mr X was reviewed by an ophthalmologist who diagnosed him with a congenital eye condition which will cause his vision to continue to deteriorate over time. He also underwent investigations for chest pain, with no abnormalities identified, and was diagnosed with a lower respiratory tract infection.

IHMS further advised that Mr X continued to receive treatment for depression, anxiety, schizophrenia and an acquired brain injury but his mental health declined significantly during this reporting period. He underwent frequent psychiatric reviews and was noted to be devastated and angry about his prolonged detention. He is supported by multiple mental health teams and continues to attend torture and trauma counselling.

Incident Reports recorded that Mr X threatened self-harm or suicide on six occasions. His psychiatrist advised that his threats of self-harm were a product of his circumstances and that in his professional opinion Mr X's mental health would improve if he were transferred to the community and he would no longer be a risk to himself or to others. On 10 August 2016 Mr X's psychiatrist made a strong recommendation that he be transferred to the community with appropriate support.

Other matters

29 April 2015	The Australian Human Rights Commission (AHRC) advised the department that it had closed its investigation of one of Mr X's complaints.
23 December 2015	The AHRC provided the department with its preliminary views on a complaint by Mr X. On 11 May 2016 the department provided its response to the AHRC. At the time of the department's latest review the matter remained ongoing.
13 January 2016 – 17 October 2016	Mr X lodged a number of complaints with the Ombudsman's office about his ongoing immigration detention. He was advised to pursue his complaints with the department in the first instance.
5 August 2016	Mr X lodged a new complaint with the AHRC.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 14 April 2016 Mr X said he has been in detention for so long now that it has affected both his physical and mental health. Mr X advised that his brother who was previously detained with him has been released into the community and said he is worried he will be forgotten in detention.

Ombudsman assessment/recommendation

Mr X has been found to be owed protection under the Refugee Convention. He is the subject of an adverse security assessment and has been held in restricted immigration detention for more than six and a half years.

On 24 December 2015 Mr X lodged an application for a TPV which remains ongoing.

The Ombudsman notes with grave concern that without changes to current policy and practice, Mr X will remain in restricted immigration detention for an indefinite period. The Ombudsman remains seriously concerned about the risk that an indeterminate period of detention poses to detainees' mental and physical health.

The Ombudsman notes Mr X's serious ongoing mental health issues and the strong recommendation by his psychiatrist in August 2016 that he be transferred to the community with appropriate support.

In September 2016 the department advised that it was exploring community support options for Mr X. The Ombudsman recommends that the department prioritise finding a supported community placement for Mr X.

The Ombudsman also notes with significant concern that Mr X's adverse security assessment does not appear to have been reviewed since February 2014, despite the recommendation that it be reviewed annually.

The Ombudsman recommends that the Minister seek an update on the status of the review of Mr X's adverse security assessment.