

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

The first report 1193/13 was tabled in Parliament on 26 June 2013, the second report 1001084 was tabled in Parliament on 18 June 2014 and the third report 1001642 was tabled in Parliament on 11 February 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	1988
Ombudsman ID	1002120
Date of DIBP's reports	18 December 2014 and 22 June 2015
Total days in detention	1,827 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001642), Mr X has remained at Yongah Hill Immigration Detention Centre (IDC).

Recent visa applications/case progression

Mr X's request for ministerial intervention under s 46A(2) of the <i>Migration Act 1958</i> , which was lodged on 3 December 2012, remained outstanding.	
20 August 2014	Found not to meet the guidelines for a referral to the former Minister under s 197AB for consideration of a community detention placement.
5 September 2014	Mr X was informed of the commencement of an International Treaties Obligations Assessment (ITOA) to reassess his complementary protection claims, as well as any additional protection claims following the unintentional release of personal information through the Department of Immigration and Border Protection's (DIBP) website. ¹ Mr X was invited to provide a response.
9 September 2014	He provided his response and DIBP advised that it was assessing whether he had raised further protection related claims as a result of the privacy breach.
11 March 2015	He attended an interview in relation to the ITOA.

¹ In a media release dated 19 February 2014 the former Minister advised that an immigration detention statistics report was released on DIBP's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as DIBP became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by DIBP.

Health and welfare

21 June 2014 – 21 June 2015	International Health and Medical Services (IHMS) advised that Mr X did not require treatment for any mental health issues.
6 September 2014	He was identified as having medical condition Q and he was referred for a surgical consultation and tests.
10 June 2015	He attended a surgical consultation and review at hospital for his medical condition. IHMS advised that it was awaiting medical documentation from this appointment at the time of its report.

Information provided by Mr X

During an interview with Ombudsman staff at Yongah Hill IDC on 1 September 2015 Mr X advised that the ITOA initiated in September 2014 found that he was not owed protection. He requested judicial review of this decision by the Federal Circuit Court and is awaiting a hearing date.

He said that his physical health is good but he suffers from depression on occasions. When he received the outcome of the ITOA, he felt hopeless and depressed and declined food or water for eight days. He recommenced food and fluid intake after receiving support from his friends in detention.

As part of the ITOA he provided DIBP with a Country A Police summons but DIBP would not consider the documents as they could not be verified. The summons states that if he fails to present to Country A authorities an arrest warrant will be issued.

Mr X said that he was uncertain if or when he will be returned to Country A. He said he would like an opportunity to live in Australia and has been of good character during his five years in detention.

Case status

Mr X has been found not to be owed protection under the Refugee Convention. He is awaiting the outcome of an ITOA and a ministerial intervention request.