

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 42 months (three and a half years).

The first report 1178/13 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
Year of birth	1983
Ombudsman ID	1002155
Date of DIBP's reports	5 January 2015 and 12 June 2015
Total days in detention	1,279 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1178/13), Mr X absconded from community detention on 16 November 2012.	
19 September 2014	Mr X was re-detained and transferred to Maribyrnong Immigration Detention Centre (IDC).
20 April 2015	Transferred to Yongah Hill IDC.

Recent visa applications/case progression

15 November 2012	The former Minister exercised his power under s 197AD of the <i>Migration Act 1958</i> to revoke Mr X's residence determination.
16 November 2012	Mr X absconded from community detention before he was notified of the revocation.
16 November 2012 - 19 September 2014	Remained unlawfully in the community.
6 February 2013	The Federal Magistrates Court proceedings were dismissed after Mr X did not appear.
19 September 2014	After he was apprehended by State B Police (date not provided), he was served with a notice revoking his residence determination and re-detained.
30 October 2014	He was notified that an International Treaties Obligations Assessment had (ITOA) commenced to determine whether the circumstances of his case engaged Australia's <i>non-refoulement</i> obligations.
13 January 2015	He provided a response to the Department of Immigration and Border Protection (DIBP) in relation to the ITOA.
14 January 2015	He was interviewed in relation to the ITOA.
20 March 2015	DIBP invited him to provide further information in relation to the ITOA.

2 April 2015	He provided a response in relation to the ITOA.
30 April 2015	The ITOA determined that Australia's <i>non-refoulement</i> obligations were not engaged in his case.
14 May 2015	Referred for involuntary removal action as DIBP stated he had no outstanding matters with DIBP or before the courts.
12 June 2015	DIBP advised that arrangements for Mr X's involuntary removal were ongoing.

Criminal matters

DIBP advised that Mr X was arrested in relation to an alleged aggravated burglary that occurred on 24 August 2014. The date of arrest was not provided.	
6 January 2015	He was scheduled to appear in Court C in relation to charges of assault.
9 February 2015	Mr X's court matters were finalised. He was found guilty of an assault charge and placed on a 12-month good behaviour bond.

Health and welfare

8 October 2014	International Health and Medical Services (IHMS) reported that at his request, Mr X was referred for specialist counselling.
10 November 2014 - 13 April 2015	Attended four appointments with a specialist counselling service.
27 March 2015	A DIBP Incident Report recorded that Mr X was among a group of detainees threatening self-harm. IHMS reported that he was reviewed by a psychiatrist.
21 June 2015	IHMS advised that he continued to be prescribed with antidepressant medication and that he attended regular reviews with the mental health team.

Information provided by Mr X

<p>During an interview with Ombudsman staff on 2 September 2015 at Yongah Hill IDC Mr X advised that DIBP had interviewed him in January 2015 but he did not know the purpose of the interview.</p> <p>He advised that as a result of his detention his wife in Country A had separated from him and remarried. He said this had significantly affected his mental health and that he saw the mental health team for regular counselling.</p> <p>He also advised that he did not have any complaints about detention conditions as detention was better than being returned to Country A.</p> <p>Mr X stated that he kept to himself because of the mix of detainees at Yongah Hill IDC. He had not experienced problems but noted that other detainees were getting into fights or being bullied and intimidated.</p> <p>He advised that he had not yet sought medical assistance for a problem arising from torture in Country A but was going to seek such assistance from IHMS.</p>

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 under consideration by DIBP, or before the courts or tribunals and has been referred for involuntary removal action.

The Ombudsman notes the reported ongoing problems at Yongah Hill IDC and has previously recommended that all reported incidents are reviewed and that steps are taken to address this reported concern.

During visits by Ombudsman staff to Yongah Hill IDC in August and September 2015 detainees, including Mr X, advised of ongoing concerns including alleged bullying, assault, violence, threats and intimidation. These concerns were also noted by detention centre staff.

In light of this, the Ombudsman recommends that the placement of detainee cohorts is reviewed as a matter of priority to ensure the safety of all detainees and staff at Yongah Hill IDC.