

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 1002349 was tabled in Parliament on 9 September 2015. 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	1990
Ombudsman ID	1003262
Date of DIBP's reports	21 August 2015, 13 February 2016 and 12 August 2016
Total days in detention	1276 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002349), Mr X remained at Maribyrnong Immigration Detention Centre (IDC).	
27 January 2016	Transferred to Facility B.

Recent visa applications/case progression

13 February 2016	The Department of Immigration and Border Protection (DIBP) advised that Mr X's case is being assessed against the guidelines for a possible referral to the Minister under s 195A of the <i>Migration Act 1958</i> .
10 March 2016	DIBP confirmed that detainees who arrived in Australia prior to 19 July 2013 who were transferred to a Regional Processing Centre and subsequently returned to immigration detention in Australia are subject to an additional bar under s 46B. On 24 March 2016 the Minister introduced a legislative instrument to bring those people subject to the s 46B bar into the 'fast track' assessment process.
18 April 2016	The Minister lifted the bars under ss 46A and 46B to allow Mr X to lodge a temporary visa application.
20 April 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. He accepted the offer on 4 May 2016 and was assigned a PAIS provider.
28 April 2016	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
23 June 2016	Lodged a Temporary Protection visa (TPV) application.
30 June 2016	The Minister declined to intervene under s 195A.

Criminal history

5 May 2015	Mr X appeared before the Magistrates Court of Victoria in relation to a behavioural incident at Melbourne Immigration Transit Accommodation on 9 July 2014. He was convicted of false imprisonment and received a sentence of three-months imprisonment suspended for 12 months. DIBP advised he lodged an appeal against the conviction and sentence on the same day.
18 December 2015	Following his appeal, Mr X was convicted of indecent assault and fined \$1750.00. He was found not guilty on the charge of false imprisonment.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment and counselling for post-traumatic stress disorder, anxiety, depression and stress related to his prolonged detention and history of torture and trauma. On 4 October 2015 the IHMS psychologist reported that Mr X's mental health continued to be compromised as a result of his prolonged detention and on 11 January 2016 the mental health team advised that his behaviour had become increasingly erratic and aggressive.

IHMS further advised that Mr X self-ceased his psychiatric medication on 9 February 2016 and continues to attend specialist counselling and is regularly reviewed by a psychiatrist.

4 December 2015	Mr X was diagnosed with bursitis and received ultrasound guided steroid injections.
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Detention incidents

DIBP Incident Reports recorded that Mr X was involved in multiple behavioural incidents, including an altercation with a detainee.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 20 December 2012 after arriving in Australia aboard Suspected Illegal Entry Vessel *Opel* and has been held in restricted detention for a cumulative period of over three and a half years.

On 18 April 2016 the Minister lifted the bars under ss 46A and 46B to allow Mr X to apply for a temporary visa and on 23 June 2015 Mr X lodged a TPV application.

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. The Ombudsman further notes advice from IHMS that Mr X's mental health continues to be compromised as a result of his prolonged detention. In light of this, the Ombudsman recommends that Mr X be considered for a community detention placement while he awaits the resolution of his immigration status.