

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O report on Mr X who has remained in restricted immigration detention for more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1982
Ombudsman ID	1003222
Date of DIBP's report	17 August 2015
Total days in detention	735 (at date of DIBP's report)

Detention history

11 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 826 <i>Jasper</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
13 August 2013	Transferred to Christmas Island Immigration Detention Centre.
22 January 2015	Transferred to Wickham Point APOD. ¹

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X is part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted the bar under s 46A.	
12 March 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through DIBP's website. ²
17 August 2015	DIBP advised that Mr X's case is being considered for referral to the Minister under s 195A for consideration of a Bridging visa. This matter remains ongoing.

¹ DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point is a designated APOD comprising three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

² 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

12 July 2015	International Health and Medical Services (IHMS) advised that Mr X presented to an IHMS nurse with ongoing pain following a wrist injury. He was provided with advice to reduce the swelling.
August 2015	Presented to his general practitioner with ongoing wrist pain. He was referred for an x-ray for further investigation.

Detention incidents

1 April 2014	A DIBP Incident Report recorded that Mr X allegedly sexually assaulted another detainee. DIBP advised that the matter was referred to the Australian Federal Police, but was not investigated as the alleged victim declined to provide a statement.
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Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 11 August 2013 after arriving in Australia aboard SIEV *Jasper* and has been held in restricted detention for over two years with no processing of his protection claims.

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. Without an assessment of Mr X's claims to determine if he is found to engage Australia's protection obligations, it appears likely that he will remain in restricted detention for an indefinite period.

The Ombudsman notes the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a Temporary Protection visa application.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of Mr X's protection claims commence as soon as possible.