

## 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).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1990
<b>Ombudsman ID</b>	1003185
<b>Date of DIBP's report</b>	3 August 2015
<b>Total days in detention</b>	731 (at date of DIBP's report)

### Detention history

2 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 818 <i>Baileyton</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
6 August 2013	Transferred to Christmas Island Immigration Detention Centre.
19 February 2015	Transferred to Wickham Point APOD. <sup>1</sup>

### 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. <sup>2</sup>

### Health and welfare

10 August 2013	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma. He advised that he had been previously diagnosed with depression and did attend counselling in his home country. He was referred for specialist counselling.
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<sup>1</sup> 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.

<sup>2</sup> 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.

11 January 2014	A DIBP Incident Report recorded that Mr X self-harmed by sewing his lips together. No further information was provided.
12 January 2014	Mr X refused food and fluids as a form of protest. IHMS advised that he was monitored by its medical and mental health team. No further information was provided.
15 January 2014	A DIBP Incident Report recorded that he threatened self-harm. No further information was provided.
10 March 2014 – 3 April 2014	Attended three specialist counselling sessions.
13 August 2014	A DIBP Incident Report recorded that he threatened self-harm. No further information was provided.
18 August 2014	A DIBP Incident Report recorded that he threatened to self-harm if he was not relocated to an alternative detention compound.
28 April 2015	Presented to a general practitioner with episodes of heart palpitations. He was referred to a cardiologist for further investigation.
July 2015	Attended a mental health assessment with no psychological issues identified. Mr X advised that he was not experiencing any mental health symptoms and was aware of the self-referral process.
7 July 2015 and 8 July 2015	Reviewed by a cardiologist. IHMS advised that it was awaiting the results of these appointments at the time of its report.

### Detention incidents

DIBP Incident Reports recorded that Mr X was involved in multiple behavioural incidents while in detention, including physical and verbal altercations with other detainees.	
8 January 2014	A DIBP Incident Report recorded that Mr X allegedly assaulted a Serco officer. No further information was provided.

### Ombudsman assessment/recommendation

<p>The Ombudsman notes that Mr X was detained on 2 August 2013 after arriving in Australia aboard SIEV <i>Baileyton</i> and has been held in restricted detention for over two years with no processing of his protection claims.</p> <p>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.</p> <p>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.</p> <p>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.</p>
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