

## 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 72 months (six years) due to an adverse security assessment.

The first report 832/12 was tabled in Parliament on 20 March 2013, the second report 1001063 was tabled in Parliament on 19 March 2014 and the third report 1001610 was tabled in Parliament on 13 May 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1973
<b>Ombudsman ID</b>	1002680
<b>Date of DIBP's reports</b>	9 June 2015 and 7 December 2015
<b>Total days in detention</b>	2,188 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1001610), Mr X remained at Villawood Immigration Detention Centre.	
30 April 2015	Transferred to Sydney Immigration Residential Housing (IRH).
25 March 2016	Transferred to Melbourne Immigration Transit Accommodation (ITA). <sup>1</sup>

### Recent visa applications/case progression

13 March 2014	The Department of Immigration and Border (DIBP) notified Mr X of the unintentional release of personal information. <sup>2</sup>
4 August 2015	The Minister lifted the bar under s 46A of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
25 August 2015	DIBP invited Mr X to lodge a temporary visa application.
1 October 2015	Lodged a Temporary Protection visa (TPV) application.
19 October 2015	The Australian Security Intelligence Organisation (ASIO) reviewed and affirmed Mr X's adverse security assessment.
16 November 2015	DIBP invited Mr X to comment on his adverse security assessment in relation to his TPV application.

<sup>1</sup> Mr X was transferred from Sydney IRH to Melbourne ITA prior to the designation of Sydney IRH as community detention accommodation, re-titled Miowera Village, on 1 April 2016.

<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.

## Health and welfare

December 2014	International Health and Medical Services (IHMS) advised that Mr X was referred for specialist counselling for his history of torture and trauma and prolonged detention.
16 December 2014	Presented to IHMS complaining of headaches and general weakness. Mr X advised that the migraines he has experienced since being detained had become more frequent. He was prescribed with pain relief medication, referred for a computed tomography (CT) scan and blood tests were conducted.
January 2015	A brain CT scan identified no abnormalities. It was noted that Mr X's migraines were likely caused by stress due to his prolonged detention.
6 January 2015 – 25 August 2015	Attended regular specialist counselling sessions.
June 2015	Mr X was assessed by the mental health team and advised that he did not currently have any thoughts of self-harm or suicide. He reported to be experiencing insomnia, low mood and memory problems and said he worried about his family in Country A and that he is getting older and wasting his life in detention. IHMS advised that Mr X receives counselling and is prescribed with medication.
19 June 2015 and 14 November 2015	IHMS advised that Mr X's high blood pressure is regularly monitored and he is compliant with his medication.
30 September 2015	Mr X attended a podiatrist appointment after reporting ongoing ankle pain. IHMS advised that it has no record of the outcome of the appointment.
5 November 2015	A general practitioner (GP) prescribed him with pain relief medication for his ankle and requested an x-ray, which showed no changes since his last x-ray. The GP also noted that he was overdue for a podiatry appointment. An appointment was outstanding at the time of IHMS's latest report.
14 November 2015	IHMS advised that Mr X continues to take medication and attend specialist counselling. He reports ongoing worries about his family and his indefinite long term detention.  IHMS further advised that there was evidence to suggest that Mr X would benefit from being placed in a less restrictive environment.

### **Ombudsman assessment/recommendation**

Mr X has been found to be owed protection under the Refugee Convention. He is the subject of an adverse security assessment and has been in restricted immigration detention for more than six years.

On 4 August 2015 the Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application and on 1 October 2015 Mr X lodged an application for a TPV. However, on 19 October 2015 ASIO reaffirmed Mr X's adverse security assessment. On 16 November 2015 DIBP invited him to comment on his security assessment in relation to his TPV application.

The Ombudsman notes with concern that Mr X is one of several people held in immigration detention for two years or more who have been found to be owed protection but have received an adverse security assessment from ASIO. Without changes to current policy and practice these people appear likely to remain in a restricted form of immigration detention for an indefinite period.

Notwithstanding the advice that Mr X's adverse security status is subject to review by the Independent Reviewer of Adverse Security Assessments, the Ombudsman remains seriously concerned about the risk that an indeterminate period of detention poses to a detainee's mental and physical health.

The Ombudsman strongly recommends that the Government give priority to finding a solution that reconciles the management of any security threat with its duty of care to immigration detainees, including considering alternative avenues for managing any security threat.