

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 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1983
Ombudsman ID	1003191
Date of DIBP's reports	17 August 2015 and 4 February 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

6 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 816 <i>Wetumpka</i> . He was transferred to Christmas Island Immigration Detention Centre (IDC).
21 February 2014	Transferred to Northern IDC.
23 February 2014	Transferred to Yongah Hill IDC.
9 April 2014	Transferred to Northern Alternative Place of Detention.
11 April 2014	Transferred to Christmas Island IDC.
18 June 2014	Transferred to Villawood IDC.
27 August 2014	Transferred to Facility B.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, Mr X was part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and were subject to the bar under s 46A.	
12 March 2014	DIBP notified Mr X of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering his protection claims.
20 July 2015	Mr X's case was referred on a first stage ministerial submission for consideration under s 197AB for a possible community detention placement.
25 September 2015	Mr X's case was referred on a ministerial submission for consideration under s 46A to lift the bar.

¹ 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.

29 September 2015	The Minister lifted the bar under s 46A to allow him to lodge a temporary visa application.
26 October 2015	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. On 30 October 2015 Mr X accepted the PAIS assistance and he was assigned a PAIS provider.
11 November 2015	Mr X was referred on a second stage ministerial submission for consideration under s 197AB for a possible community detention placement. DIBP advised that the submission was placed on hold as Mr X was identified as a person of interest by the Australian Federal Police in relation to an incident that occurred on 9 November 2015 at Facility B. No further information was provided.

Criminal matters

14 January 2014	Mr X was charged with assault following an alleged altercation.
21 September 2015	Mr X appeared before the C Magistrates Court and was issued with a one-month conditional release order.

Health and welfare

August 2013 – ongoing	<p>International Health and Medical Services (IHMS) advised that Mr X reported that he had previously sustained head injuries during a vehicle accident. Mr X advised that he experiences double vision, personality changes and speech issues as a result of his injuries.</p> <p>IHMS reported that Mr X has a history of impulsiveness, aggression and violence towards others and himself. Mr X continues to be closely monitored by detention centre staff and has received behavioural and anger management therapy. His mental health is monitored by the mental health team (MHT), a psychologist and a psychiatrist.</p>
February 2014	Reviewed by a neurologist who reported that there was no evidence of complications related to his previous brain injury. He was referred for a magnetic resonance imaging (MRI) scan for further investigation.
13 February 2014	Mr X presented with chest pain on multiple occasions and advised that he has a family history of heart disease. IHMS reported that cardiac testing identified no abnormalities and it was noted that his pain may be anxiety related.
25 February 2014 – 3 November 2014	DIBP Incident Reports recorded that Mr X threatened self-harm on three occasions. No further information was provided.
March 2014	The results of Mr X's MRI scan indicated that his symptoms are unlikely to improve and no further treatment is required.
20 March 2014 and 26 March 2014	DIBP Incident Reports recorded that Mr X self-harmed by punching walls and banging his head against hard surfaces. DIBP advised that use of force was required to prevent further injury.

14 April 2014 – 17 April 2014	DIBP Incident Reports recorded that Mr X self-harmed by strangling himself with a bed sheet, hitting his head against a wall and slapping himself. DIBP advised that he was closely monitored by detention centre staff.
26 April 2014 and 28 April 2014	A DIBP Incident Report recorded that Mr X self-harmed by banging his head against a window. No further information was provided.
4 June 2014	A DIBP Incident Report recorded that Mr X refused food and fluid as a form of protest. No further information was provided.
16 October 2014	Mr X was reviewed by a psychiatrist who recommended that he be admitted to a specialist hospital for treatment following ongoing aggressive behaviour.
19 February 2015 – ongoing	Presented with insomnia related to his ongoing headaches. He was prescribed with medication and continues to be monitored by his general practitioner (GP).
4 May 2015 – ongoing	Mr X was reviewed by a pain specialist following ongoing headaches and was diagnosed with a neurological condition. The specialist noted that his headaches were related to his prolonged detention and previous head injury and may be relieved with anaesthetic injections, however Mr X declined this treatment. The specialist further noted that behavioural treatment and exercise programs may assist in minimising his pain. IHMS reported that he was prescribed with medication and provided with a treatment plan.
5 May 2015	Mr X was reviewed by a psychiatrist after test results identified ongoing neurological abnormalities, however no psychotic or mood issues were identified.
22 July 2015 – ongoing	Presented to a GP after experiencing symptoms of a panic attack and insomnia. Mr X requested a prescription for sleeping medication, however his GP declined. He was provided with education and advised to follow the recommendations of the pain specialist.
31 July 2015	Mr X advised that he wished to receive anaesthetic injections for management of his ongoing headaches. An injection was administered on 15 September 2015, however during a follow-up review on 21 September 2015, no improvements were reported.
20 October 2015	Presented to his GP with ongoing back, neck and leg pain and associated numbness. He was prescribed with medication and provided with an exercise plan. IHMS advised that he was awaiting a physiotherapy review at the time of its report.
2 November 2015	Mr X was referred to a cardiologist after cardiac testing returned abnormal results.
23 December 2015	Referred for an occupational therapist assessment to determine the level of support he would require when residing in the community.

6 January 2016	Mr X attended a teleconference consultation with a cardiologist and was referred for a specialist appointment on 27 January 2016. IHMS advised that it was awaiting the conclusions of this teleconference at the time of its report.
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Detention incidents

DIBP Incident Reports recorded that Mr X has allegedly been involved in numerous behavioural incidents, including threatening detention centre staff, assaulting detention centre staff and other detainees, and displaying aggressive, abusive and violent behaviour towards detention centre staff and other detainees.	
31 January 2014	DIBP Incident Reports recorded that use of force was required to prevent Mr X from harming other detainees after he allegedly became aggressive and was found with a knife. DIBP advised that two Serco officers sustained minor cuts while removing the knife.
9 April 2014	DIBP Incident Reports recorded that Mr X allegedly assaulted a Serco officer by cutting their neck with a razor blade. DIBP advised that use of force was required to restrain Mr X. No further information was provided.
27 May 2014	DIBP Incident Reports recorded that Mr X allegedly became aggressive during a protest and assaulted a Serco officer with a metal crutch. DIBP advised that use of force was required to restrain Mr X to prevent further injury.
19 June 2014	DIBP Incident Reports recorded that Mr X assaulted another detainee by throwing a chair at them and threatened to harm detention centre staff.
20 September 2014 and 12 April 2015	DIBP Incident Reports recorded that use of force was required to restrain Mr X after he allegedly assaulted a Serco officer. No further information was provided.
30 January 2016	A DIBP Incident Report recorded that use of force was required to restrain Mr X after he allegedly attempted to assault Serco officers.

Other matters

24 November 2014	Mr X lodged a complaint with the Australian Human Rights Commission (AHRC) alleging that DIBP had breached its international human rights obligations. On 3 February 2015 DIBP responded to the AHRC and on 28 April 2015 the AHRC informed DIBP that Mr X no longer wished to pursue the complaint. The AHRC advised that the complaint had been referred to its legal services section and on 2 December 2015 the matter was finalised.
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Ombudsman assessment

Mr X was detained on 6 August 2013 after arriving in Australia aboard SIEV *Wetumpka* and has been held in restricted detention for over two and a half years.

The Ombudsman notes with concern the number of alleged behavioural issues and self-harm incidents involving Mr X.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application and on 30 October 2015 he was assigned a PAIS provider to assist him in lodging his application. The Ombudsman makes no recommendations in this report.