

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	1984
Ombudsman ID	1002925
Date of DIBP's report	10 July 2015
Total days in detention	734 (at date of DIBP's report)

Detention history

6 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 774 <i>Muscadine</i> . He was transferred to Phosphate Hill Alternative Place of Detention (APOD), Christmas Island.
16 July 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
24 July 2013	Transferred to Curtin IDC.
28 August 2014	Transferred to Yongah Hill IDC.
24 March 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.	
29 August 2013	DIBP advised that Mr X has been identified as a person of interest due to his overseas criminal history. No further information was provided.

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.

Health and welfare

2 January 2014 – ongoing	<p>International Health and Medical Services (IHMS) reported that Mr X disclosed a history of torture and trauma and was referred to a specialist counselling service.</p> <p>Mr X informed IHMS that he had previously spent three years in jail and had advised the counsellor that his traumatic memories were constantly triggered in the detention environment and had adversely affected his concentration and mental health. Mr X also reported sleep problems related to his trauma, worries about his family, and immigration pathway.</p>
15 January 2014 – ongoing	<p>Mr X was referred to the general practitioner (GP) because he was underweight and had a decreased appetite. Tests identified no abnormalities.</p>
March 2014	<p>The GP noted that Mr X stated he had been slim and chronically underweight all his life. He was educated about diet and lifestyle changes. His weight was monitored weekly and he was prescribed with a nutritional supplement and multivitamins.</p>
September 2014	<p>Mr X reported to his GP that he had occasional thoughts of self-harm but stated he would never act on them. He was prescribed with antidepressant medication.</p>
15 January 2015	<p>The psychiatrist reported that Mr X displayed mild anxiety and depressive symptoms related to being in detention. He was prescribed with antidepressant medication and continued to attend specialist counselling.</p>
26 May 2015	<p>Following further weight loss, Mr X informed the GP he was not eating very much because he disliked the food and did not have an appetite. Further tests were performed to determine the cause and he was prescribed with a nutritional supplement.</p>
7 July 2015	<p>IHMS reiterated the psychiatrist's report of January 2015 which stated that Mr X was experiencing symptoms of mild anxiety and depression and that Mr X's mental health was being adversely affected by his placement in restricted detention.</p>

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 6 July 2013 after arriving in Australia aboard SIEV *Muscadine* 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.