

# 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).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1987
<b>Ombudsman ID</b>	1003025
<b>Date of DIBP's reports</b>	21 February 2015 and 22 August 2015
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

## Detention history

21 February 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 588 <i>Oasca</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
25 February 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
28 March 2013	Transferred to Wickham Point APOD.
9 May 2013	Transferred to Scherger IDC.
25 January 2014	Transferred to Curtin IDC.
28 August 2014	Transferred to Yongah Hill IDC.
31 August 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.

## Health and welfare

23 July 2013	International Health and Medical Services (IHMS) advised that Mr X was identified as a tuberculosis contact. His condition is monitored as per state policy.
1 July 2014	A DIBP Incident Report recorded that Mr X threatened self-harm. No further information was provided.

<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.

5 August 2014	Disclosed a history of torture and trauma but declined specialist counselling. He was advised to self-refer to the mental health team as required.
10 February 2015	Mr X attended a mental health review with no concerns raised. IHMS advised that he appeared positive and optimistic.
20 May 2015	Attended a follow-up mental health review where it was noted that he appeared void of emotion and disengaged. He advised that he was coping on a day to day basis, however no safety concerns were raised. IHMS advised that no further mental health concerns have been reported.

### **Other matters**

DIBP advised that Mr X was identified as a person of interest after disclosing information during his induction interview.

### **Ombudsman assessment/recommendation**

The Ombudsman notes that Mr X was detained on 21 February 2013 after arriving in Australia aboard SIEV Osca and has been held in detention for over two and a half 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.