

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	1994
Ombudsman ID	1003187
Date of DIBP's report	7 August 2015
Total days in detention	734 (at date of DIBP's report)

Detention history

3 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 820 <i>Dawson</i> . He was transferred to an Alternative Place of Detention, Christmas Island.
17 January 2014	Transferred to Northern Immigration Detention Centre (IDC).
14 March 2014	Transferred to Wickham Point IDC.
4 December 2014	Transferred to Christmas Island IDC.
22 January 2015	Transferred to Facility B.

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 the DIBP's website. ¹
22 May 2014	Mr X requested voluntary removal to Country A.
8 October 2014	Mr X withdrew his request for voluntary removal.
7 August 2015	DIBP advised that Mr X's case is being considered for referral to the Minister under s 195A.

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.

Health and welfare

26 September 2013	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and reported that he was experiencing flashbacks and sleeping difficulties. He was referred for specialist counselling and advised to self-refer to the mental health team (MHT) as required.
17 December 2013 – ongoing	Mr X presented to his general practitioner (GP) with chest pain and was referred for cardiac testing. Abnormal changes were identified and he was diagnosed with a heart condition. He was provided with education and referred for a chest x-ray. DIBP Incident Reports recorded that Mr X was admitted to hospital on multiple occasions after experiencing chest pain related to his heart condition. IHMS advised that his condition continues to be monitored by his cardiologist and he is regularly reviewed by a cardiac clinic.
3 February 2014 – ongoing	Identified as a tuberculosis contact and continues to be monitored as per state policy.
11 February 2014 – 17 July 2015	IHMS advised that Mr X underwent multiple investigative tests with no abnormalities identified, however a stress test was terminated following chest pain. He was referred for a coronary angiogram.
May 2014	Mr X advised that he was experiencing feelings of hopelessness, depression, anxiety, agitation and insomnia. He was reviewed by a psychiatrist and diagnosed with personality disorder, post-traumatic stress disorder and anger management issues.
1 May 2014 – 13 May 2014	IHMS advised that Mr X was restrained by two Serco officers after attempting to jump from a balcony. He reported that he was angry about his prolonged detention and uncertain future and stated that he wished to commit suicide. He was closely monitored by Serco officers and received mental health support. The observations were ceased following improvements in Mr X's mental health.
2 May 2014	DIBP Incident Report recorded that use of force was required to stop Mr X from repeatedly hitting his head against a wall.
3 May 2014	A DIBP Incident Report recorded that Mr X self-harmed. No further information was provided.
21 May 2014	A coronary angiogram identified abnormalities. IHMS advised that Mr X's condition was recurring and he was prescribed with medication following advice from a cardiologist.
June 2014	Mr X underwent a gastric bacteria test and was prescribed with medication.
15 September 2014	A DIBP Incident Report recorded that Mr X threatened self-harm. No further information was provided.
12 November 2014	Mr X was closely monitored by Serco officers after threatening self-harm. IHMS advised that he was reviewed and monitored by the MHT. No further information was provided.

17 November 2014	Mr X self-harmed by cutting his wrist with a razor blade. He was closely monitored by Serco officers and the MHT. No further information was provided.
24 November 2014	A DIBP Incident Report recorded that Mr X threatened self-harm. No further information was provided.
July 2015	IHMS advised that Mr X attended a mental health assessment with no mental health issues identified.

Detention incidents

DIBP Incident Reports recorded that Mr X was involved in numerous behavioural incidents while in detention, including threatening Serco officers, displaying abusive and aggressive behaviour towards detention centre staff and other detainees and physically assaulting other detainees.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 3 August 2013 after arriving in Australia aboard SIEV *Dawson* and has been held in restricted detention for over two years with no processing of his protection claims.

The Ombudsman notes information provided by IHMS in July 2015 that Mr X attended a mental health assessment and no mental health concerns were identified. Notwithstanding this, the Ombudsman notes with concern the number of alleged self-harm and behavioural incidents involving Mr X in 2014.

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.