

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X who has remained in immigration detention for more than 36 months (three years).

The first report 1001867 was tabled in Parliament on 3 June 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1990
Ombudsman ID	1002327
Date of DIBP's reports	17 March 2015 and 14 September 2015
Total days in detention	1,096 (at date of DIBP's latest report)

Recent detention history

22 January 2015	Mr X was transferred from North West Point Immigration Detention Centre (IDC) to Wickham Point Alternative Place of Detention (APOD). ¹
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Recent visa applications/case progression

15 January 2015	The Department of Immigration and Border Protection (DIBP) notified Mr X that it had commenced an International Treaties Obligations Assessment (ITOA) to assess if his circumstances engaged Australia's <i>non-refoulement</i> obligations.
17, 24 and 26 January 2015	He provided DIBP with information in relation to the ITOA on these dates.
17 March 2015	DIBP advised that progression of the ministerial intervention request under s 48B of the <i>Migration Act 1958</i> , initiated in September 2014, had been put on hold pending the outcome of the ITOA.
21 August 2015	DIBP invited Mr X to comment on country information.
10 September 2015	He provided his response to DIBP.
14 September 2015	DIBP advised that the ITOA has not yet been finalised. However, Mr X's case is affected by a recent Federal Court judgment concerning the ITOA's undertaken as a result of the data breach. DIBP advised it is in the process of considering Mr X's case in light of this judgment.

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

23 September 2014	Mr X cut himself on the arm after learning that a fellow detainee would be transferring to a different centre. He was assessed by the International Health and Medical Services (IHMS) mental health team (MHT).
30 March 2015	IHMS advised that Mr X underwent surgery on his hand following an incident where he allegedly punched walls and glass.
16 April 2015	IHMS reiterated its previous advice that Mr X has been diagnosed with antisocial personality disorder and that no further appointments should be scheduled with the psychiatrist unless there was a substantial change in Mr X's mental state. IHMS advised that he is being monitored by the MHT.
27 April 2015	Requested to see a torture and trauma counsellor.
1 May 2015	Referred for physiotherapy after complaining of ongoing shin pain.
6 May 2015	Attended a mental health review. Mr X complained of poor sleep and nightmares and stated that he was increasingly frustrated by his prolonged detention. He was assessed as low risk for self-harm.
June 2015	Attended follow-up review with the hand specialist.
4 June 2015	Complained about varicose veins causing pain in his leg. He underwent an ultrasound on 17 June 2015 and was referred to a vascular surgeon.
23 July 2015	IHMS was advised by the physiotherapist that Mr X had been complaining of shin pain for the past year.
11 August 2015	Attended an appointment with the vascular surgeon.
16 August 2015	IHMS advised that at the time of its report it was waiting for the results from the vascular surgeon and hand specialist.

Recent detention incidents

18 September 2014 - 1 September 2015	DIBP Incident Reports recorded multiple incidents in which Mr X was allegedly involved in altercations, aggressive behaviour and abusive language towards detention staff and detainees.
31 October 2014	Mr X threatened to self-harm. No details were provided about the nature of the threat or response provided.
5 May 2015	Mr X was involved in an alleged assault which was referred to the police. On 15 June 2015 the police elected not to investigate any further and the matter was finalised.
4 September 2015	DIBP advised that Mr X was involved in an alleged assault. This matter was referred to the police for investigation and was still ongoing at the time of DIBP's latest report.

Other matters

24 March 2015	<p>Mr X complained to the Ombudsman about the use of restraints when being escorted to medical appointments. He said that he had made numerous complaints but no action had been taken to address his concerns.</p> <p>The complaint was investigated and finalised with the outcome that DIBP's decision was reasonable in that it was determined by its risk management guidelines. The complaint was closed on 24 April 2015.</p>
28 May 2015	<p>Mr X's complaint to the Ombudsman's office of October 2014 was finalised. The complaint was in relation to lost property and the alleged assault by a manager at North West Point IDC. DIBP offered Mr X compensation for his lost property and the Ombudsman's office concluded that DIBP had taken appropriate steps to investigate the alleged assault.</p>

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He is awaiting the outcome of the ITOA.