

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	1985
Ombudsman ID	1003159
Date of DIBP's report	29 July 2015
Total days in detention	735 (at date of DIBP's report)

Detention history

24 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 805 <i>Fruitdale</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
25 July 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
13 December 2013	Transferred to Northern IDC.
17 January 2014	Transferred to Christmas Island IDC.
19 March 2014	Transferred to Wickham Point APOD.
6 June 2014	Transferred to Facility B.
22 January 2015	Transferred to Facility C.

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 July 2015	Mr X's case is being considered against the guidelines under s 195A for a referral to the Minister for consideration of a Bridging visa.

Health and welfare

27 July 2013 – ongoing	<p>International Health and Medical Services (IHMS) advised that Mr X presented with symptoms of post-traumatic stress disorder, insomnia and depression related to his history of torture and trauma.</p> <p>Mr X was referred for counselling and is regularly reviewed by a general practitioner (GP) and a psychiatrist. He has been prescribed with alternative antidepressant medications and was advised to self-refer to the mental health team as required.</p> <p>IHMS advised that Mr X's GP, psychiatrist and counsellor recommended that he be transferred from restricted detention to community detention to avoid any further deterioration in his mental health.</p>
4 August 2013	A DIBP Incident Report recorded that Mr X threatened self-harm. No further information was provided.
23 December 2013 – 27 February 2015	Attended 10 specialist counselling sessions.
14 January 2014	Mr X presented to a GP after injuring his knee while playing soccer. He was referred for an x-ray and to an orthopaedic specialist for further investigation.
24 March 2014 – ongoing	Mr X was assessed by a hospital orthopaedic team and a magnetic resonance imaging scan was conducted. The results identified a muscle tear and he was advised that he requires a surgical procedure. On 16 April 2014 he was placed on a hospital waiting list.
5 April 2014 – 20 May 2014	Attended eight supportive group therapy sessions.
5 June 2014	DIBP Incident Reports recorded that Mr X threatened self-harm. No further information was provided.
14 June 2014	IHMS advised that Mr X attempted to commit suicide by hanging himself with a bed sheet. He was admitted to a hospital emergency department with minor neck injuries and discharged on the same day. Following his return to Facility B, he was closely monitored by detention centre staff.
16 July 2014	A DIBP Incident Report recorded that Mr X expressed thoughts of suicide during a mental health assessment. No further information was provided.
8 July 2015 – ongoing	<p>Mr X was admitted to a hospital emergency department after experiencing back and groin pain. He was diagnosed with a kidney stone and provided with pain relief medication. He was discharged on 9 July 2015 after a computed tomography scan indicated that the kidney stone had passed.</p> <p>IHMS advised that Mr X has presented to a GP with recurring pain related to this condition. He has been provided with education and advised to take pain relief medication as required.</p>

Other matters

5 September 2014	DIBP Incident Reports recorded that Mr X was allegedly involved in a physical altercation at Facility B. DIBP advised that the matter was referred to the Australian Federal Police (AFP).
18 November 2014	The AFP advised DIBP that it is no longer investigating Mr X in relation to the incident at Facility B.
9 July 2015	DIBP advised that Mr X allegedly sexually assaulted a male detainee at Facility C. The incident was reported to the State D Police.
27 July 2015	The State D Police advised DIBP that it had finalised its investigation and no further action was required.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 24 July 2013 after arriving in Australia aboard SIEV *Fruitdale* 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 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.