

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).

Name	Mr X
Citizenship	Country A
Year of birth	1989
Ombudsman ID	1003306
Date of DIBP's reports	19 August 2015 and 16 February 2016
Total days in detention	911 (at date of DIBP's latest report)

Detention history

19 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 836 <i>Trinity</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
21 August 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
31 January 2014	Transferred to Northern IDC.
14 March 2014	Transferred to Wickham Point APOD.
14 May 2014	Transferred to Christmas Island IDC.
3 June 2014	Transferred to Wickham Point APOD.
10 September 2014	Transferred to Christmas Island IDC.
5 February 2015	Transferred to Wickham Point APOD.
7 February 2015	Transferred to Yongah Hill IDC.
20 March 2015	Mr X was transferred to Casuarina Prison following his involvement in a major disturbance at Yongah Hill IDC.
16 April 2015	Released from Casuarina Prison and transferred to Maribyrnong IDC.
16 December 2015	Transferred to Christmas Island IDC.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, Mr X was part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and were subject to the bar under s 46A.

12 March 2014	DIBP notified Mr X of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering his protection claims.
16 September 2015	Mr X's case was referred on a first stage ministerial submission for consideration under s 195A.
29 September 2015	The Minister declined to intervene under s 195A. The same day, the Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
6 November 2015	DIBP invited Mr X to lodge a temporary visa application.
20 November 2015	Mr X requested an extension of time to lodge a temporary visa application. DIBP granted him an extension until 4 January 2016.
2 February 2016	Mr X requested a second extension of time to lodge a temporary visa application.
16 February 2016	DIBP advised that Mr X has been identified for a possible referral under s 195A for the grant of a Bridging visa.

Health and welfare

22 August 2013	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and attended specialist counselling.
7 September 2013	Admitted to hospital after presenting with severe abdominal pain. He was diagnosed with digestive concerns and possible renal abnormalities. He was provided with treatment and discharged with advice to follow up with a general practitioner (GP).
4 December 2013	A knee x-ray was conducted after he presented with ongoing pain related to a previous sporting injury. No abnormalities were identified.
6 December 2013 – 7 December 2013	Presented to hospital with excessive knee swelling. An x-ray identified joint abnormalities and he was diagnosed with hemarthrosis. He was treated and prescribed with medication. IHMS advised that Mr X was referred to an orthopaedic specialist and for a magnetic resonance imaging (MRI) scan following ongoing pain and reduced mobility.
12 January 2014	A DIBP Incident Report recorded that Mr X refused food and fluid as a form of protest.
13 January 2014	A DIBP Incident Report recorded that Mr X sewed his lips together as a form of protest. IHMS advised that he was closely monitored by the mental health team (MHT) and provided with specialist counselling.
27 January 2014	A DIBP Incident Report recorded that Mr X threatened self-harm.

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.

28 February 2014 – 17 April 2014	Attended seven physiotherapy sessions.
2 March 2014	Admitted to a hospital emergency department after he attempted to commit suicide by hanging himself. Mr X reported that his suicide attempt was related to his ongoing knee pain and he was provided with pain relief medication and a knee splint. IHMS advised that he declined any mental health support and was placed on Supportive Monitoring and Engagement (SME) observations. He was advised to self-refer to the MHT as required.
24 March 2014	Mr X was diagnosed with further knee abnormalities during a review with an orthopaedic specialist. The specialist reported that surgery was not required and advised that he continue attending physiotherapy.
May 2014	Mr X was provided with an exercise plan and discharged from physiotherapy following improvements in his condition.
23 May 2014	Referred for an ultrasound after presenting with symptoms of renal abnormalities. The ultrasound identified multiple kidney stones.
18 June 2014	Attended a follow up review with an orthopaedic specialist and improvements in his condition were noted. An MRI identified normal results, however it was recommended that he attend further physiotherapy sessions.
August 2014	During a mental health assessment, Mr X advised that he was experiencing insomnia, depressed mood and anger issues. He was referred to a psychiatrist.
18 August 2014	Mr X was reviewed by a psychiatrist and prescribed with sleeping medication. No further concerns were raised.
5 September 2014	Mr X was admitted to a hospital emergency department following an altercation at Wickham Point APOD. IHMS advised that he threatened self-harm and expressed symptoms of frustration and anxiety.
November 2014	Referred to a urologist after presenting with recurring abdominal pain and urinary concerns.
March 2015	Mr X experienced an acute anxiety response following an incident at Yongah Hill IDC. He presented with symptoms of agitation including head banging, hyperventilation and threats of self-harm and was placed on SME observations (dates not provided).
19 March 2015	A DIBP Incident Report recorded that Mr X threatened self-harm during a review with the MHT.
April 2015	Reviewed by a urologist and referred for a computed tomography scan for further investigation. The scans confirmed the previous diagnosis of kidney stones and identified further abnormalities. During a follow up mental health review (date not provided), improvements in his mental health were noted and no evidence of self-harm was identified.
24 June 2015	Admitted to a hospital emergency department after presenting with symptoms of renal colic. He was treated and discharged the same day.

26 June 2015	Referred to a nephrology specialist following ongoing groin pain.
4 August 2015	Admitted to a hospital emergency department after presenting with symptoms of renal colic. He was treated and discharged the following day.
7 August 2015 and 11 August 2015	Presented with kidney pain and was prescribed with pain relief medication. His condition continues to be monitored by his GP while he awaits an appointment with a nephrology specialist.
10 August 2015 – ongoing	During a mental health assessment, Mr X presented with symptoms of depression, situational stress and anxiety related to his ongoing detention. IHMS advised that he declined further mental health support and was advised to self-refer as required.
14 October 2015 – 16 October 2015	Presented to a hospital emergency department with recurring renal pain. He was transferred to a urology unit and underwent surgery to insert a stent.
22 October 2015	Admitted to hospital for surgery to remove his kidney stones and stent. He was discharged on the same day.

Detention incidents

DIBP Incident Reports recorded that Mr X was allegedly involved in multiple behavioural incidents including assaulting Serco officers, altercations with other detainees and displaying abusive, threatening and intimidating behaviour towards Serco officers and other detainees.	
6 August 2014	DIBP advised that Mr X allegedly assaulted a Serco officer and the incident was referred to the Northern Territory (NT) Police. Following an investigation, the NT Police advised that no further action would be taken and the matter was finalised.
20 March 2015	DIBP Incident Reports recorded that Mr X was allegedly involved in a major altercation between a group of detainees and Serco officers at Yongah Hill IDC. DIBP advised that Mr X allegedly threatened Serco officers and self-harmed by cutting himself with a razor blade. The matter was referred to the Australian Federal Police (AFP) for investigation and Mr X was transferred to Casuarina Prison.
10 July 2015	The AFP notified DIBP that Mr X was no longer considered a person of interest.

Case status

<p>Mr X was detained on 19 August 2013 after arriving in Australia aboard SIEV <i>Trinity</i> and has been held in restricted detention for over two and a half years.</p> <p>On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 6 November 2015 DIBP invited Mr X to apply.</p>
