

## 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 remained in restricted immigration detention for a cumulative period of more than 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1988
<b>Ombudsman ID</b>	1003311
<b>Date of DIBP's report</b>	24 August 2015
<b>Total days in detention</b>	735 (at date of DIBP's report)

### Detention history

13 October 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 470 <i>Zeitz</i> . He was transferred to an Alternative Place of Detention, Christmas Island.
22 October 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
2 November 2012	Transferred to Wickham Point IDC.
22 November 2012	Transferred to Yongah Hill IDC.
11 December 2012	Granted a Bridging visa valid until 11 June 2013 and released from detention.
17 October 2013	Re-detained under s 189(1) following criminal charges and transferred to Villawood IDC.
4 March 2014	Transferred to Maribyrnong IDC.
28 April 2014	Transferred to Villawood IDC
30 March 2015	Transferred to Christmas Island IDC.
October 2015	Mr X was released from detention when he voluntarily departed Australia and returned to Country A.

### 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.	
11 December 2012	The former Minister intervened under s 195A to grant Mr X a Bridging visa. He was released from detention the same day.
11 June 2013	Mr X's Bridging visa ceased.
17 October 2013	Mr X was re-detained under s 189(1) following criminal charges.

2 February 2015	Referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
16 February 2015	The Minister declined to intervene under s 195A.
8 May 2015	Referred on a ministerial submission for consideration under s 46A to lift the bar.
12 May 2015	The Minister lifted the bar under s 46A.
26 May 2015	DIBP invited Mr X to lodge a Temporary Protection visa (TPV) application.
19 June 2015	Mr X lodged a TPV application.
8 July 2015	DIBP notified Mr X that his TPV application was invalid because he did not pay the base application fee.
21 July 2015	DIBP invited Mr X to lodge a TPV or Safe Haven Enterprise visa (SHEV) application.
24 July 2015	Mr X lodged a SHEV application.
October 2015	Mr X voluntarily departed Australia.

### **Criminal history**

15 October 2013	Mr X was located in the community by New South Wales Police and charged with multiple offences.
12 June 2014	The charges for his multiple offences were discharged under s 32 of the <i>Mental Health (Forensic Provisions) Act NSW 1990</i> with conditions applied. DIBP advised that he met the conditions of the discharge.
6 April 2015	Mr X was charged with criminal damage and assault offences. A hearing was scheduled for 21 September 2015.

### **Health and welfare**

18 October 2012	International Health and Medical Services (IHMS) recorded that Mr X tested positive for a medical condition. His condition resolved following treatment.
1 January 2014	He disclosed a history of torture and trauma. He attended 14 specialist counselling sessions between 27 February 2014 and 26 March 2015. IHMS advised that he was referred for further sessions following transfers between detention centres and was supported by the mental health team (MHT).
7 January 2014	A DIBP Incident Report recorded that Mr X allegedly threatened self-harm if he was transferred to another compound.
8 January 2014	DIBP Incident Reports recorded that Mr X allegedly threatened self-harm on two occasions.
10 January 2014	A DIBP Incident Report recorded that Mr X claimed to be refusing food and fluid while he was placed on high imminent Psychological Support Program observations.

28 February 2014, 7 April 2015 and 2 June 2015	DIBP Incident Reports recorded that Mr X was held in an observation room for over 24 hours. No further information was provided.
26 June 2014	He was diagnosed with an adjustment disorder with depressed mood.
20 August 2014	At his 18-month mental health review conducted by an independent psychiatrist, it was noted that being transferred to community detention could resolve Mr X's adjustment disorder and acute feelings of anger and agitation.
21 August 2014	A DIBP Incident Report recorded that Mr X threatened self-harm because he was not able to take food from the dining room into his compound.
3 September 2014	A DIBP Incident Report recorded that Mr X claimed to be refusing food and fluid to IHMS because his excursion application was not approved.
6 October 2014	He complained of a headache and vomiting after hitting his head on his bed frame and was taken to a hospital emergency department. Scans of his brain and neck identified no abnormalities and he was discharged with pain relief medication.
6 April 2015	DIBP Incident Reports recorded that Mr X allegedly threatened self-harm and that he self-harmed during a minor disturbance.
7 April 2015	A DIBP Incident Report recorded that Mr X self-harmed by repeatedly punching the walls of his accommodation.
4 May 2015	He was prescribed with antidepressant and sleeping medication. He continued to see the MHT as required.
1 June 2015	A DIBP Incident Report recorded that Mr X threatened self-harm by holding a piece of glass to his neck.
2 June 2015	DIBP Incident Reports recorded that Mr X threatened self-harm by banging his head or gauging his eyes out and that he allegedly self-harmed by lacerating his arms multiple times.
20 July 2015	He presented with lower back pain and was prescribed with anti-inflammatory medication. He attended regular reviews with the general practitioner to monitor his condition.
12 August 2015	IHMS reiterated the independent psychiatrist's assessment of 20 August 2014 and stated that Mr X's mental health was likely to be adversely affected by his placement.

### **Detention incidents**

DIBP Incident Reports recorded multiple occasions where Mr X had allegedly displayed aggressive, abusive and threatening behaviour towards DIBP staff, Serco officers and other detainees.

15 January 2014 – 1 June 2015	DIBP Incident Reports recorded a number of occasions where unplanned use of force was used to prevent Mr X from assaulting Serco officers and other detainees and to prevent him from damaging Serco and Commonwealth owned property. The Incident Reports further recorded that unplanned use of force had been used to prevent Mr X from self-harming and that preapproved use of force was used to escort him to external and internal appointments.
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**Other matters**

13 May 2014	The Australian Human Rights Commission (AHRC) notified DIBP of a complaint received from Mr X. DIBP provided a response on 15 July 2014 and on 18 February 2015 the AHRC advised DIBP that Mr X had withdrawn his complaint and the complaint was closed the same day.
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**Case status**

Mr X voluntarily departed Australia in October 2015 and returned to Country A.
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