

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O report on Mr X who has remained in immigration detention for a cumulative period of more than 48 months (four years).

The first report 863/12 was tabled in Parliament on 22 August 2012 and the second report 1302/13 was tabled in Parliament on 26 June 2013. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X
Citizenship	Country A
Year of birth	1981
Ombudsman ID	1003205
Date of DIBP's reports	12 August 2015 and 9 February 2016
Total days in detention	1458 (at date of DIBP's latest report)

Recent detention history

28 May 2015	Mr X had been living in the community on a Bridging visa since 25 March 2013. He was re-detained under s 189(1) of the <i>Migration Act 1958</i> and transferred to Villawood Immigration Detention Centre (IDC).
16 June 2015	Transferred to Wickham Point Alternative Place of Detention (APOD).

Recent visa applications/case progression

31 October 2014	The Department of Immigration and Border Protection (DIBP) informed Mr X it had commenced an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
12 March 2015	DIBP invited Mr X to comment on country information relevant to the ITOA.
28 May 2015	DIBP finalised the ITOA, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations. On the same day he was re-detained.
1 June 2015	Requested judicial review by the Federal Circuit Court (FCC).
9 October 2015	The FCC declared that the ITOA was not made in accordance with law and was procedurally unfair. DIBP subsequently commenced reconsideration of the ITOA.
9 February 2016	DIBP advised that Mr X's case is affected by the Full Federal Court's (FFC) decision of 20 March 2013 ¹ and that reconsideration of the ITOA is ongoing.

¹ *Minister for Immigration and Citizenship v SZQRB* [2013] FCAFC 33.

Health and welfare

16 June 2015	A DIBP Incident Report recorded that Mr X self-harmed prior to his transfer to Wickham Point APOD.
25 August 2015	International Health and Medical Services (IHMS) advised that Mr X had a history of depression and self-harming behaviours and had been placed on Supportive Monitoring and Engagement observations after threatening self-harm when he was re-detained. He was prescribed with antidepressant medication to assist with anxiety and sleeping difficulties.
28 August 2015	IHMS advised that Mr X had a history of fractures to both wrists and recently sustained further injuries through handcuffing procedures. An x-ray identified no new acute damage.
4 November 2015 – 13 January 2016	Attended specialist counselling sessions.
14 January 2016	IHMS advised that during the latest reporting period Mr X presented with situational stress and anxiety. He was provided with strategies and his medication was adjusted.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 9 March 2016 Mr X advised he was waiting for an interview with DIBP in relation to the ITOA and his case manager had told him a request for a Bridging visa had been referred to the Minister.

Mr X said since being re-detained he had become 'mentally unwell' and was now very forgetful. He could not remember what he had eaten the previous day and sometimes forgot things like his date of birth or his parents' names. He could not get to sleep at night without taking medication, but the medication causes him stomach pain so he often did not eat breakfast. He said life in a detention centre is 'physical and mental torture'. He said he was constantly scared that DIBP staff would handcuff him and take him away somewhere.

He said both of his wrists were broken two years prior and he had had plates inserted. He did not participate in sporting activities because he was afraid of further injury.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. Mr X's protection claims are being reassessed under an ITOA.

The Ombudsman notes the advice from IHMS in January 2016 that Mr X has a history of self-harm and depression and is experiencing situational stress and anxiety in restricted detention. In light of this, the Ombudsman recommends that that his case be expedited for consideration of a Bridging visa while he awaits resolution of his immigration status.