

**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 restricted immigration detention for more than 42 months (three and a half years).

The first report 1003306 was tabled in Parliament on 31 August 2016. 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	1989
Ombudsman ID	1002051-O
Date of DIBP's reports	17 August 2016 and 15 February 2017
Total days in detention	1276 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1003306), Mr X has remained at Facility B.

Recent visa applications/case progression

22 February 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. He accepted the offer on 23 February 2016 and was assigned a provider.
26 April 2016	Mr X's case was referred on a first stage ministerial submission for consideration under s 195A of the <i>Migration Act 1958</i> for the grant of a Bridging visa.
23 June 2016	Lodged a Temporary Protection visa (TPV) application.
30 June 2016	The Minister agreed to consider Mr X's case on a second stage ministerial submission under s 195A, however this was not progressed due to his involvement in an Australian Federal Police investigation.
23 January 2017	Mr X's case was referred on a ministerial submission for consideration under s 195A.
15 February 2017	The Department of Immigration and Border Protection (the department) advised that the processing of Mr X's TPV application had been placed on hold until his criminal matters are finalised.

Other legal matters

12 June 2016	Mr X was charged with one count of obstruction of a commonwealth public official and two counts of causing harm to a commonwealth public official following a disturbance at Facility B. He is scheduled to attend a five-day trial at a Magistrate's Court commencing on 20 July 2017.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X self-harmed, threatened self-harm and refused food and fluids on multiple occasions between October and November 2016 as a form of protest regarding his immigration status. He was placed on high Supportive Monitoring and Engagement observations from 4 – 11 November 2016 and advised to self-refer to the Mental Health Team as required.

On 23 November 2016 an IHMS Medical Director reported that Mr X's history of torture and trauma made him more vulnerable to episodes of depression and anxiety within the detention centre environment. The IHMS Medical Director further reported that Mr X's self-harming behaviour appeared to be exacerbated by his ongoing detention and he is likely to continue to self-harm intermittently while in a detention centre environment, presenting the risk of a serious adverse event.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 3 May 2017 Mr X advised that his case had been placed on hold as he is due to appear before a court in relation to his involvement in a dispute at Facility B. Mr X said that he did not initiate the dispute, but was attempting to break up a fight between other detainees. He said that he is receiving legal assistance from Legal Aid.

Mr X advised that he has a history of psychological concerns but had declined further treatment from IHMS. He claimed that IHMS counsellors previously pressured him to return to his home country during appointments and this made him feel uncomfortable.

He further advised that his cousin, with whom he arrived in Australia, resides in the community in Sydney. He said he regularly speaks with his family in his home country.

Ombudsman assessment/recommendation

Mr X was detained on 19 August 2013 after arriving in Australia by sea and has been held in restricted detention for more than three and a half years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 23 June 2016 Mr X lodged an application for a TPV. However, on 15 February 2017 the department advised that the processing of Mr X's TPV application had been placed on hold until his criminal matters are finalised.

On 23 January 2017 Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.

The Ombudsman notes with concern the number of self-harm incidents involving Mr X and advice from an IHMS Medical Director that Mr X's mental health is adversely affected by his ongoing placement in restricted detention. The Ombudsman notes with serious concern the likelihood that Mr X will continue to self-harm if he remains in restricted detention.

Given this advice and the length of time Mr X has remained in restricted detention, the Ombudsman recommends that the department expedite the referral of Mr X's case to the Minister under s 195A for the grant of a Bridging visa. The Ombudsman further recommends that the department refer Mr X's case to the Minister under s 197AB for a community detention placement.