

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

Name	Mr X
Citizenship	Country A
Year of birth	1986
Ombudsman ID	1002829
Date of DIBP's report	3 July 2015
Total days in detention	741 (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) 477 <i>Gaggin</i> . He was transferred to Christmas Island Immigration Detention Centre (IDC).
19 November 2012	Transferred to Curtin IDC.
5 December 2012	Granted a Bridging visa with an associated Temporary Humanitarian Stay (THS) visa and released from detention.
14 August 2013	Mr X was re-detained under s 189(1) following the expiry of his Bridging visa and transferred to Villawood IDC.
3 April 2014	Transferred to Curtin IDC.
26 August 2014	Transferred to Yongah Hill IDC.

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.	
26 November 2012	Mr X was referred to the former Minister under s 195A for consideration of a Bridging visa with an associated THS visa.
5 December 2012	Granted a Bridging visa with an associated THS visa.
5 June 2013	Mr X's Bridging visa expired and he remained unlawful in the community until he was re-detained.
2 April 2014	DIBP confirmed Mr X's identity.

Criminal history

15 December 2008	DIBP advised that Mr X was convicted of sexual assault and bodily harm in Country B. He was sentenced to 14 months' imprisonment and was placed on the sex offenders register.
18 January 2010	He was deported from Country B.

Health and welfare

17 October 2012	<p>International Health and Medical Services (IHMS) advised that during an induction health assessment Mr X disclosed a history of torture and trauma, residual nightmares and difficulty sleeping. He also presented with symptoms of sadness and anxiety. IHMS advised that he was provided with support as required.</p> <p>Mr X also advised he had a history of chronic back pain following an alleged assault from militia. He was prescribed with pain relief medication and referred for physiotherapy.</p>
20 March 2014 – 18 December 2014	Attended 15 physiotherapy appointments.
23 April 2014	A computed tomography scan identified old compression fractures of his spine.
4 August 2014	Reviewed by an orthopaedic specialist who recommended back and abdominal strengthening exercises.
February 2015	Referred to a spinal specialist after he reported he was experiencing pain despite medication and physiotherapy.
12 April 2015	A DIBP Incident Report recorded that Mr X was taken to hospital by ambulance after breaking his leg playing soccer. No further information was provided.

Information provided by Mr X

During an interview with Ombudsman staff at Yongah Hill IDC on 2 September 2015, Mr X advised that when he was granted a Bridging visa without work rights, he lived in City Y with his aunt for a few weeks before moving in with friends.

He said that when he was re-detained and transferred to Villawood IDC his aunt and friends visited him on a regular basis. At Yongah Hill IDC he only has one visitor who is a volunteer from the community.

Mr X advised that he has a chronic back injury. He said he sustained the injury in an attack by militia while he was working with Country C forces in Country A. He stated he is in a lot of pain and is only given Panadol for pain relief. He understands that he is on a waiting list to see a specialist.

Mr X stated that he feels unsafe at Yongah Hill IDC but tries to 'stay out of trouble' by actively avoiding certain detainee groups.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was initially detained on 13 October 2012 after arriving in Australia aboard SIEV *Gaggin* and has been held in restricted detention for over two years with no processing of his protection claims.

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.

The Ombudsman notes the reported ongoing problems at Yongah Hill IDC and has previously recommended that all reported incidents are reviewed and that steps are taken to address this reported concern.

During visits by Ombudsman staff to Yongah Hill IDC in August and September 2015 detainees, including Mr X, advised of ongoing concerns including alleged bullying, assault, violence, threats and intimidation. These concerns were also noted by detention centre staff.

In light of this, the Ombudsman recommends that the placement of certain detainee cohorts is reviewed as a matter of priority to ensure the safety of all detainees and staff at Yongah Hill IDC.