

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 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1981
Ombudsman ID	1003213
Date of DIBP's report	12 August 2015
Total days in detention	733 (at date of DIBP's report)

Detention history

9 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving at an excised offshore location on Thursday Island, Queensland aboard Suspected Illegal Entry Vessel (SIEV) 827 <i>Keystone</i> . He was transferred to Thursday Island Police Watch House, designated as an Alternative Place of Detention (APOD).
10 August 2013	Transferred to Scherger Immigration Detention Centre (IDC).
26 August 2013	Transferred to Northern IDC.
14 March 2014	Transferred to Wickham Point APOD. ¹

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.	
14 March 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through DIBP's website. ²

¹ DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point is a designated APOD comprising three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

² 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.

Health and welfare

13 September 2013	International Health and Medical Services (IHMS) advised that during his induction health assessment Mr X presented with symptoms related to post-traumatic stress disorder including flashbacks and hyper-arousal. He was referred to a psychologist and attended weekly counselling.
November 2013	Mr X was discharged from psychological counselling following noted improvements in his mental health.

Other matters

24 February 2014	Mr X's case was referred to the Australian Security Intelligence Organisation (ASIO) in relation to his alleged involvement in criminal activities in Country B.
9 July 2014 and 5 November 2014	Attended interviews with ASIO.
19 October 2015	Mr X was issued with a qualified security assessment.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 9 August 2013 after arriving in Australia aboard SIEV *Keystone* and has been held in restricted detention for over two years with no processing of his protection claims.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. Without an assessment of Mr X's claims to determine if he is found to engage Australia's protection obligations, it appears likely that he will remain in restricted detention for an indefinite period.

The Ombudsman notes the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a Temporary Protection visa application.

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.