

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O report on Mr X who has remained in restricted immigration detention for a cumulative period of more than 72 months (six years).

The first report 860/12 was tabled in Parliament on 13 November 2013, the second report 1001116 was tabled in Parliament on 28 May 2014 and the third report 1001704 was tabled in Parliament on 4 March 2015. 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	1972
Ombudsman ID	1002186
Date of DIBP's reports	14 January 2015, 9 July 2015 and 8 January 2016
Total days in detention	2,186 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001704), Mr X remained at Villawood Immigration Detention Centre (IDC).	
2 October 2014	Transferred to Wickham Point Alternative Place of Detention (APOD). ¹
19 September 2015	Transferred to Christmas Island IDC.
5 November 2015	Transferred to Yongah Hill IDC.

Recent visa applications/case progression

30 July 2014	Referred to the former Minister on a first stage submission under s 197AB of the <i>Migration Act 1958</i> in relation to a possible community detention placement for detainees with criminal convictions.
16 September 2014	The former Minister declined to intervene in these cases.
23 December 2014	The Department of Immigration and Border Protection (DIBP) invited Mr X to attend an interview for the International Treaties Obligations Assessment (ITOA) commenced in July 2014.
January 2015	Attended an interview for the ITOA.
21 July 2015	DIBP determined that Mr X's circumstances engaged Australia's <i>non-refoulement</i> obligations.
24 August 2015	Mr X's case was referred on a ministerial intervention submission for consideration to lift the s 46A bar to allow him to lodge a temporary visa application.

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 was accommodated in the single adult male compound at Wickham Point APOD.

25 August 2015	The Minister lifted the bar under s 46A to allow him to lodge a temporary visa application.
2 September 2015	Mr X was invited to lodge a temporary visa application.
30 October 2015	Lodged an application for a Temporary Protection visa (TPV).

Health and welfare

2 April 2014	A specialist counsellor noted that ongoing detention continued to have a negative impact on Mr X's mental health.
July 2014	Attended two specialist counselling appointments. The counsellor's report noted that he would benefit from living in the community as a less restrictive environment would prevent further decline in his mental health and could also assist in his recovery.
1 August 2014	Complained to International Health and Medical Services (IHMS) about ongoing pain in relation to a preexisting right shoulder injury. Referred to a physiotherapist but declined to attend the appointment.
September 2014	Attended three specialist counselling appointments.
16 September 2014	Requested a mental health review. Mr X advised that he was not sleeping well and asked for medication as he was feeling depressed.
30 September 2014	Shoulder surgery was cancelled after Mr X declined treatment.
18 October 2014	An x-ray confirmed a fractured right wrist after Mr X sustained a fall. A splint was applied and he was referred for a follow up appointment with a plastics registrar.
25 October 2014	Mr X told IHMS that he no longer wanted assistance from the mental health team as he felt that he was only receiving assistance from attending specialist counselling.
28 October 2014	Declined to attend a specialist appointment for his wrist.
4 November 2014	Attended an appointment with an orthopaedic specialist who advised that he should wear the splint for up to six weeks.
6 November 2014 – 26 February 2015	Attended thirteen specialist counselling appointments. Mr X requested that his appointment in February 2015 be his last specialist counselling session. The counsellor noted that his mood had deteriorated and ongoing monitoring by IHMS may be required in the future.
31 December 2014	Attended an occupational therapy appointment for his wrist. IHMS advised that the specialist has not indicated that any further treatment is required.
15 June 2015	Referred to an ear, nose and throat (ENT) specialist for suspected tinnitus following a hearing test. IHMS advised that his condition is being monitored by the general practitioner (GP).
2 November 2015	Complained to the GP of right knee pain and was referred to an orthopaedic specialist.
24 November 2015	Complained of further pain in his right knee. The GP referred him for an ultrasound which was completed on 2 December 2015.

8 December 2015	<p>IHMS advised that Mr X is awaiting appointments with the ENT and orthopaedic specialists. It was also arranging an appointment for the GP to discuss the results of his ultrasound.</p> <p>In relation to Mr X's mental health, IHMS noted that he attended group therapy sessions.</p>
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Recent detention incidents

11 July 2014 – 1 April 2015	A DIBP Incident Report recorded that Mr X has allegedly been involved in four incidents involving physical altercations.
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Ombudsman assessment/recommendation

Mr X was detained on 13 January 2010 after arriving in Australia aboard Suspected Illegal Entry Vessel 96 *Walkerville*. He was found not to be owed protection under the Refugee Convention and the complementary protection criterion

Mr X was convicted of affray due to his involvement in the Villawood IDC riots of April 2011 and on 28 June 2013 he was placed on a two-year good behaviour bond.

On 21 July 2015 DIBP assessed his protection claims under an ITOA and found that his circumstances engage Australia's *non-refoulement* obligations.

On 25 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 30 October 2015 Mr X lodged a TPV application.

The Ombudsman notes that Mr X has been held in restricted detention for a cumulative period of over six years. In light of the length of time Mr X has been detained, the Ombudsman recommends consideration of the grant of a Bridging visa to Mr X while he awaits the outcome of his TPV application.