

## 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 remained in restricted immigration detention for a cumulative period of more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1976
<b>Ombudsman ID</b>	1002320
<b>Date of DIBP's reports</b>	12 March 2015 and 17 August 2015
<b>Total days in detention</b>	919 (at date of DIBP's latest report)

### Detention history

16 December 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 566 <i>Swindler</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
11 January 2013	Transferred to Nauru Regional Processing Centre (RPC). <sup>1</sup>
7 March 2013 – 8 March 2013	Returned to Australia and re-detained under s 189(1). On arrival, he was transferred to a hospital designated as an APOD.
29 May 2013	Transferred to Villawood Immigration Detention Centre (IDC).
3 June 2014	Transferred to Curtin IDC.
12 March 2015	The Department of Immigration and Border Protection (DIBP) advised that Mr X was located at Yongah Hill IDC (date of transfer not provided).
27 August 2015	Granted a Bridging visa with an associated Temporary Humanitarian Stay (THS) visa and released from detention.

### Visa applications/case progression

DIBP advised that prior to being released from detention, Mr X was part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister had not lifted the bar under s 46A.	
21 May 2015	DIBP advised that it received confirmation that Mr X was no longer a person of interest to the Australian Federal Police and the Western Australia Police and as a result, his ongoing placement in restricted detention was being reviewed.
6 August 2015	Referred on a ministerial intervention submission under s 195A to consider granting a Bridging visa.
27 August 2015	Granted a Bridging visa with an associated THS visa.

<sup>1</sup> Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

## Health and welfare

11 January 2013 – ongoing	International Health and Medical Services (IHMS) reported that Mr X had a history of chronic back pain which he advised was investigated in Country A and that computed tomography scans identified herniation. He was advised not to play sports until his pain resolved. He was prescribed with pain relief medication and attended physiotherapy.
12 January 2013 – ongoing	He disclosed a history of torture and trauma with flashbacks and informed IHMS of previous self-harm and suicide attempts when he was imprisoned for five months in Country A. He was referred to a specialist counsellor on 13 January 2013.
6 March 2013	A schedule to place Mr X under the <i>Mentally-Disordered Persons Ordinance 1963</i> of the Island of Nauru was issued after he was overheard talking about suicide to an interpreter. Supervised monitoring commenced.
7 March 2013	IHMS advised that supervised monitoring was ceased upon his return to Australia from the Nauru RPC.
8 March 2013 – 20 March 2013	He was admitted to hospital for psychiatric inpatient care to treat his diagnosed paranoid psychosis, depression and post-traumatic stress disorder (PTSD).  IHMS reported that his psychiatrist claimed that being detained on Nauru was a trigger for the traumatic memories of his incarceration and torture.
20 March 2013 – 29 April 2013	He was voluntarily transferred to a psychiatric hospital to continue inpatient care. He presented with symptoms of severe PTSD but his paranoia symptoms had improved.
29 April 2013 – 29 May 2013	He was transferred to another psychiatric hospital to continue inpatient care. IHMS advised that during this admission, his medication was revised and he attended daily supportive therapy sessions.  His psychiatrist reported that Mr X's mental wellbeing would decline in restricted detention and the risk of self-harm would continue. He was discharged on 29 May 2013 and it was recommended that he be provided with emotional support because of his vulnerability upon discharge. The mental health team (MHT) provided him with ongoing support upon his return to restricted detention.
31 May 2013	He informed IHMS that he felt trapped and hopeless since arriving at Villawood IDC because it brought back memories of past traumatic experiences.
1 August 2013 – 30 September 2013	He attended four physiotherapy sessions.
10 September 2013 – 24 February 2014	He attended specialist counselling sessions. IHMS advised that after attending four sessions, he declined any further contact with the counselling service.
13 July 2014	His psychiatrist noted that Mr X's PTSD was in full remission.

23 December 2014	He was treated for ongoing shoulder pain with a steroid injection following an ultrasound identifying inflammation and tissue damage and shoulder impingement. IHMS advised that he had injured himself in August 2014 playing soccer and physiotherapy did not relieve his pain.
23 March 2015	IHMS advised that at the time of Mr X's hospitalisation, he tolerated large doses of medication and took time to respond to his initial treatment. He had recovered well and had not required any prescription medication for 12 months. Mr X continued to see the MHT for support.
31 July 2015	IHMS advised that prior to his release from detention, Mr X did not require treatment for any major physical health concerns and his mental wellbeing was monitored by a mental health nurse and his GP.

### **Detention incidents**

4 September 2014	A DIBP Incident Report recorded that Mr X was abusive and aggressive towards a Serco officer. No further information was provided.
19 March 2015	A DIBP Incident Report recorded that Mr X was allegedly one of several detainees who climbed up on the roof of various compound accommodation blocks at Yongah Hill IDC. No further information was provided.

### **Ombudsman assessment/recommendation**

Mr X was granted a Bridging visa with an associated THS visa on 27 August 2015 and released from immigration detention.

The Ombudsman notes with concern that Mr X spent three months in hospital as a psychiatric inpatient after he was returned from Nauru RPC.

The Ombudsman notes that Mr X was detained on 16 December 2012 after arriving in Australia, and was held in detention for over two and a half years before being granted a Bridging visa. The Ombudsman further notes that, at the time of DIBP's review, Mr X was subject to the bar under s 46A and processing of his claims for protection had not commenced.

The Ombudsman recommends that priority is given to resolving Mr X's status to allow him to apply for a temporary visa.