

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	1988
Ombudsman ID	1003220
Date of DIBP's report	13 August 2015
Total days in detention	730 (at date of DIBP's report)

Detention history

13 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 826 <i>Jasper</i> . He was transferred to Facility B.
21 January 2014	Transferred to Facility C.
14 February 2014	Transferred to Facility B.

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.	
12 March 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through DIBP's website. ¹
13 August 2015	DIBP advised that Mr X's case was being assessed against the guidelines for a possible referral to the Minister under s 195A for consideration of a Bridging visa.

Criminal history

17 May 2014	DIBP Incident Reports recorded that Mr X assaulted a Serco officer during a physical altercation at Facility B.
10 December 2014	Mr X appeared before the D Magistrates Court and was convicted of two charges of assault. He was released on a conditional release order.

¹ 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

27 December 2013 – ongoing	International Health and Medical Services (IHMS) advised that Mr X has received ongoing treatment for his behavioural and mental health issues. He has been placed on Supportive, Monitoring and Engagement observations on multiple occasions (no dates provided) following incidents of self-harm and aggression. His mental health continues to be monitored by the mental health team.
12 January 2014	A DIBP Incident Report recorded that Mr X self-harmed by sewing his lips together. No further information was provided.
22 February 2014	A DIBP Incident Report recorded that Mr X self-harmed by cutting his chest and head with a razor blade. No further information was provided.
2 June 2014	A DIBP Incident Report recorded that Mr X self-harmed during a protest. No further information was provided.
3 November 2014 – ongoing	Mr X presented with a two-year history of nasal issues and was referred to an ear, nose and throat specialist for further investigation. IHMS advised that this appointment remained outstanding at the time of its report.
18 May 2015	A DIBP Incident Report recorded that Mr X self-harmed by cutting his forehead with a razor blade. No further information was provided.
16 July 2015	A DIBP Incident Report recorded that Mr X self-harmed by hitting his head against a door.

Detention incidents

DIBP Incident Reports recorded that Mr X has been allegedly involved in numerous behavioural incidents while in detention, including threatening detention centre staff, assaulting detention centre staff and displaying aggressive, abusive and violent behaviour towards other detainees and detention centre staff.	
19 June 2014 and 20 June 2014	DIBP Incident Reports recorded that Mr X used the aluminium legs from a stretcher bed as a weapon and assaulted a Serco officer. No further information was provided.
21 December 2014	A DIBP Incident Report recorded that Mr X allegedly assaulted a detention centre staff member by throwing a dinner plate at them. No further information was provided.
15 July 2015 and 16 July 2015	DIBP Incident Reports recorded that Mr X threatened to sexually assault and stab a detention centre staff member and urinated and defecated on the floor of his accommodation room. On the following day, Mr X allegedly indecently exposed himself and was abusive towards detention centre staff on multiple occasions. DIBP advised that Mr X was closely monitored by Serco officers following these incidents.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 13 August 2013 after arriving in Australia aboard SIEV *Jasper* and has been held in restricted detention for over two years with no processing of his protection claims.

The Ombudsman notes with concern the number of alleged self-harm and serious behavioural issues involving Mr X. The Ombudsman notes advice from IHMS that Mr X continues to present with mental health concerns and requires ongoing support from mental health service providers.

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 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.