

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 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1971
Ombudsman ID	1002530
Date of DIBP's reports	10 November 2014 and 12 May 2015
Total days in detention	Not provided

Detention history

4 November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 517 <i>Vedette</i> .
7 January 2013	Transferred to Wickham Point Immigration Detention Centre (IDC).
13 January 2013	Transferred to Villawood IDC.
12 May 2015	The Department of Immigration and Border Protection (DIBP) advised that Mr X is located at Yongah Hill IDC.

Visa applications/case progression

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(2).

Health and welfare

27 November 2012	International Health and Medical Services (IHMS) reported that Mr X disclosed a history of torture and trauma. He accepted a referral for specialist counselling.
4 November 2013	His psychologist reported that he presented with symptoms associated with post-traumatic stress disorder (PTSD) and depression.
January 2014	His specialist counsellor reported that he had failed to attend four scheduled appointments and that he had declined further counselling.
23 April 2014	The IHMS psychiatrist reported that he suffers from stress, and had a sense of hopelessness related to his prolonged detention. IHMS advised his mental health was considered to be reasonably stable as he was attending group sessions and seeing the mental health team.

7 August 2014 – 9 August 2014	He commenced voluntary starvation as ‘a statement of his human rights’ during this period.
27 August 2014	He reported continued disturbing flashbacks, troubles sleeping and nightmares to the IHMS psychiatrist. He was diagnosed with an adjustment disorder with depressed mood with symptoms of PTSD. He was prescribed with antidepressant medication and provided with sleep hygiene techniques.
17 October 2014 – ongoing	He was provided with supportive psychotherapy which IHMS reported was ongoing. IHMS advised that the psychiatrist reported an improvement in his mental health and his attitude towards his future.
18 November 2014	At a mental health review, it was reported that treatment had a positive effect on his mood and sleeping patterns, and he had denied being a risk to himself or others.
4 May 2015	IHMS advised that his mental health review reported that his symptoms are stable and that he was not attending regular counselling sessions. He remained on antidepressant medication and was aware of the self-referral process.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 4 November 2012 after arriving in Australia aboard SIEV *Vedette* and has been held in detention for over two and a half 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.