

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	1977
Ombudsman ID	1002794
Date of DIBP's reports	17 December 2014 and 10 July 2015
Total days in detention	937 (at date of DIBP's latest report)

Previous migration history

24 December 2005	Mr X arrived in Australia as the holder of a Sponsored Family Visitor (SFV) visa, valid until 20 March 2006. The Department of Immigration and Border Protection (DIBP) advised that he departed Australia before his visa had expired.
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Detention history

15 December 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 564 <i>Quest</i> . He was transferred to North West Point Immigration Detention Centre (IDC).
20 February 2013	Transferred to Wickham Point IDC.
2 April 2013	Transferred to Yongah Hill IDC.

Visa applications/case progression

31 May 2005	Lodged an application for a Temporary Work visa.
12 March 2008	Temporary Work visa refused.
9 March 2012	Lodged an application for a SFV visa. DIBP advised that this application was deemed to be invalid.
17 October 2012	Lodged an application for a SFV visa, which was refused the same day.
2 April 2013	The Department of Immigration and Citizenship (DIAC) determined that Mr X did not raise claims that engaged Australia's <i>non-refoulement</i> obligations and he was referred for removal action.
27 August 2013	Following further information provided by Mr X, DIAC determined that he did raise claims that may engage Australia's <i>non-refoulement</i> obligations, and he was 'screened in' to the refugee status determination and complementary protection process.

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
10 July 2015	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). DIBP further advised that Mr X's case is being assessed against s 195A guidelines for a possible referral to the Minister for consideration of a Bridging visa.

Health and welfare

15 December 2012 – 28 May 2014	International Health and Medical Services (IHMS) did not record any health summary information during this 15-month period.
29 May 2014 – 12 December 2014	Mr X reported fluctuating symptoms of anxiety, stress, low mood and frustration which were recently compounded by news that his father had been shot and seriously injured in his homeland. He further reported reduced motivation for exercising and attending activities that he had previously enjoyed. IHMS advised that he was provided with regular counselling and attended mental health screenings with a psychologist and the mental health team during this period.
March 2015	Received psychological counselling.
24 June 2015	IHMS advised that Mr X had recently presented for a mental health screening and it was noted that he was coping well.

Other matters

DIBP advised that it was investigating allegations in relation to Mr X's alleged involvement in criminal activities.
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Information provided by Mr X

<p>During an interview with Ombudsman staff at Yongah Hill IDC on 2 September 2015 Mr X advised that on 1 September 2015 he received a letter from the Minister inviting him to apply for a Temporary Protection visa or a Safe Haven Enterprise visa (SHEV). He stated that he was interested in applying for a SHEV in order to stay in Australia for five years.</p> <p>He said that two of his brothers were killed in Country A, but he has family living in Australia including three brothers and a sister.</p> <p>He advised that he participates in English classes and exercises to reduce stress. However, he said that he and other maritime arrivals at Yongah Hill IDC felt intimidated and threatened by certain detainee cohorts who are now located at the facility.</p>

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.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 15 December 2012 after arriving in Australia aboard SIEV *Quest* and has been held in restricted detention for over two and a half years with no processing of his protection claims.

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.

The Ombudsman notes the reported ongoing problems at Yongah Hill IDC and has previously recommended that all reported incidents are reviewed and that steps are taken to address this reported concern.

During visits by Ombudsman staff to Yongah Hill IDC in August and September 2015 detainees, including Mr X, advised of ongoing concerns including alleged bullying, assault, violence, threats and intimidation. These concerns were also noted by detention centre staff.

In light of this, the Ombudsman recommends that the placement of detainee cohorts is reviewed as a matter of priority to ensure the safety of all detainees and staff at Yongah Hill IDC.