

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 immigration detention for more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1978
Ombudsman ID	1002822
Date of DIBP's report	19 June 2015
Total days in detention	732 (at date of DIBP's report)

Detention history

31 July 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving on the Cocos Islands aboard Suspected Illegal Entry Vessel 396 <i>Barry</i> . He was transferred to an Alternative Place of Detention on the Cocos Islands.
4 August 2012	Transferred to North West Point Immigration Detention Centre (IDC), Christmas Island.
8 August 2012	Transferred to Villawood IDC.
20 August 2012	Transferred to Wickham Point IDC.
21 October 2012	Transferred to Scherger IDC.
22 November 2012	Granted a Bridging visa and released from detention.
9 October 2013	Mr X was re-detained under s 189(1) following criminal charges and he was transferred to Villawood IDC.

Visa applications/case progression

22 November 2012	The former Minister lifted the bar under s 46A to allow Mr X to lodge a Protection visa application. On the same day, the former Minister intervened under s 195A to grant Mr X a Bridging visa.
5 December 2012	Lodged a Protection visa application.
15 April 2013	Granted a further Bridging visa.
9 October 2013	Bridging visa was cancelled following Mr X's alleged involvement in a criminal matter.
25 February 2014	Found not to be owed protection.
4 March 2014	Appealed to the Refugee Review Tribunal (RRT).
9 July 2014	RRT remitted the matter to the Department of Immigration and Border Protection (DIBP) for reconsideration.
19 June 2015	DIBP advised that case progression will commence once Mr X's outstanding criminal matters have been finalised.

Criminal matters

31 May 2013	Mr X was remanded in criminal custody and charged with affray and wounding a person with intent to cause grievous bodily harm.
6 August 2013	Granted bail and released from criminal custody.
23 October 2013, 4 December 2013 and 7 May 2014	Appeared before the Q Local Court in relation to his charges.
11 May 2015	Mr X's trial was adjourned and his hearing is scheduled for 4 April 2016.

Health and welfare

7 February 2014	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma which had left noticeable scars on his left forearm and other parts of his body. He was referred for specialist counselling.
20 March 2014 – 29 May 2015	Attended 16 torture and trauma counselling sessions during this period. At his initial consultation, Mr X was reported as having post-traumatic stress disorder symptoms including stress, anxiety and nightmares. His psychologist recommended constant monitoring due to his feelings of helplessness and despair.
July 2014	The mental health team (MHT) reported that Mr X had poor sleep, reduced appetite with lowered mood and motivation.
11 July 2014	A DIBP Incident Report recorded that he received bruising to his shoulder during an alleged altercation with other detainees. No further information was provided.
23 March 2015	Presented to a general practitioner with a history of lower back and right knee pain. He was referred for an x-ray and physiotherapy. IHMS advised that Mr X attended several physiotherapy sessions but did not attend his scheduled x-ray appointment. IHMS further advised that his lower back condition continues to be monitored for any changes and he is prescribed with pain relief medication as required.
24 June 2015	IHMS reported that Mr X receives mental health support from the MHT as required.

Information provided by Mr X

During an interview with Ombudsman staff at Villawood IDC on 29 July 2015 Mr X advised that he had been found to be a refugee by the RRT. However, he was informed by DIBP that his immigration case is on hold until his criminal matters are finalised.

He said that his physical and mental health had deteriorated after receiving news that his criminal case had been postponed. He has previously received counselling from the MHT but did not feel it benefited him apart from making him feel relaxed during the sessions.

He advised that he has contact with his wife, children, mother and sisters every day. He also has regular visitors from church and advocate groups, but he has recently lost motivation to see them as a result of his prolonged detention and criminal case.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. In July 2014 the RRT remitted his case to the DIBP for reconsideration.

DIBP advised that Mr X's case progression will commence once his criminal matters are finalised.