

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	1968
Ombudsman ID	1003127
Date of DIBP's reports	4 May 2015 and 3 November 2015
Total days in detention	912 (at date of DIBP's latest report)

Detention history

5 May 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 689 <i>Penzance</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
16 May 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
4 June 2013	Transferred to Scherger IDC.
25 January 2014	Transferred to Curtin IDC.
28 August 2014	Transferred to Yongah Hill IDC.
31 July 2015	Transferred to Wickham Point APOD. ¹

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, 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 were subject to the bar under s 46A.	
17 July 2013	Mr X was identified as a person of interest to the Department of Immigration and Citizenship following information it had received in relation to his alleged offshore criminal activity.
12 March 2014	Mr X was notified of the unintentional release of personal information through DIBP's website. ² DIBP advised that the privacy breach would be taken into account when considering his protection claims.

¹ DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point is a designated APOD comprising three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

² 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.

22 May 2014	Referred to the former Minister under ss 195A and 197AB for consideration to grant a Bridging visa or a community detention placement.
4 November 2014	The former Minister declined to intervene under ss 195A and 197AB.
25 September 2015	Mr X's case was referred on a ministerial submission under s 46A for consideration to lift the bar.
1 October 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.

Health and welfare

14 May 2013 – ongoing	<p>International Health and Medical Services (IHMS) advised that Mr X presented with poor sleep and appetite and extreme vulnerability during his induction health assessment. He disclosed a history of torture and trauma and was referred for specialist counselling.</p> <p>He was also diagnosed with hypertension and prescribed with medication. IHMS reported that Mr X had been non-compliant with his medication because he believed the medication was the cause of his headaches. He was provided with education and his medication was adjusted. His condition is monitored by a general practitioner (GP).</p>
13 June 2013	Prescribed with pain relief medication following knee pain.
5 July 2013	Reviewed by a psychiatrist who recommended that Mr X be considered for a community detention placement. The psychiatrist also recommended Mr X remain active and attend group therapy sessions.
November 2013	A psychologist reported that Mr X had ongoing symptoms of post-traumatic stress disorder which were aggravated by his detention environment and that prolonged detention may result in Mr X's mental health deteriorating.
January 2014	Attended 11 specialist counselling sessions. Mr X's psychologist recommended he be relocated to a less restrictive environment and continue with counselling.
3 January 2014	Referred for an x-ray following chronic neck pain with occasional numbness. IHMS advised that a computed tomography scan in April 2014 identified age related changes and he was prescribed with pain relief medication. He was advised to see a GP if the pain persisted.

March 2014	Reviewed by a psychologist who re-referred Mr X for specialist counselling following low mood, anxiety and decreased sleep and appetite. The psychologist again recommended a community detention placement as a result of Mr X's prolonged detention.
5 July 2014	A psychiatrist report noted that ongoing detention was having a negative impact on Mr X's mental health and a community detention placement was strongly recommended.
13 January 2015	Reviewed by a psychiatrist who noted that Mr X displayed significant stress related symptoms including insomnia, poor concentration, low mood and appetite and social isolation. He was diagnosed with depression and was prescribed with antidepressant medication.
August 2015	Presented to a psychologist with situational stress and anxiety and he was educated on strategies to address this.
12 October 2015	A DIBP Incident Report recorded that Mr X threatened self-harm. No further information was provided.
14 October 2015	IHMS advised that Mr X regularly attended individual and group therapy sessions with the mental health team.

Recent detention incidents

3 September 2015 and 22 September 2015	DIBP Incident Reports recorded that Mr X allegedly received death threats from another detainee. No further information was provided.
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Other matters

12 October 2015	<p>Mr X lodged a complaint with the Ombudsman's office alleging that since his transfer to Wickham Point APOD, he had been bullied and intimidated by four detainees.</p> <p>Following an investigation by the Ombudsman's office, DIBP advised that on 2 September 2015 Mr X had been offered a transfer to a separate compound within Wickham Point APOD but he had declined this offer.</p> <p>The complaint was finalised on 2 November 2015.</p>
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Information provided by Mr X

During a telephone conversation with Ombudsman staff on 17 December 2015 Mr X advised that he has been in detention for nearly three years and is still yet to lodge a visa application. He stated that he does not understand why his case has taken so long to process.

Mr X advised that he is very confused and suffers from depression, insomnia and stress. He had previously received specialist counselling, which did improve his mental health at that time. He has recently made another request for specialist counselling.

Ombudsman assessment/recommendation

Mr X was detained on 5 May 2013 after arriving in Australia as aboard SIEV *Penzance* and has been held in detention for over two and a half years.

On 1 October 2015 the Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application. Mr X is awaiting an invitation to apply for a temporary visa.

The Ombudsman notes with concern the reported ongoing impact restricted detention is having on Mr X's mental health and that mental health professionals have recommended Mr X be considered for a placement in the community.

The Ombudsman notes that the former Minister declined to consider Mr X's release on a Bridging visa in November 2014. The Ombudsman recommends that Mr X again be considered for the grant of a Bridging visa while he awaits an invitation to apply for a temporary visa.