

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X who has remained in restricted immigration detention for more than 36 months (three years).

The first report 1002875 was tabled in Parliament on 11 November 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1987
Ombudsman ID	1003454
Date of DIBP's reports	24 September 2015 and 26 March 2016
Total days in detention	1094 (at date of DIBP's latest report)

Detention history

28 March 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 631 <i>Futura</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
8 April 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
22 April 2013	Transferred to Wickham Point APOD.
19 July 2013	Transferred to Northern IDC.
4 August 2013	Transferred to Maribyrnong IDC.
15 August 2014	Transferred to Wickham Point APOD.
23 October 2014	Transferred to Yongah Hill IDC.
10 September 2015	Transferred to Christmas Island IDC.
9 October 2015	Transferred to Wickham Point APOD.

Recent 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 January 2014	Mr X signed a request for voluntary removal from Australia and completed an application for a Country A travel document.
5 March 2014	DIBP notified Mr X of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering his protection claims.

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.

6 February 2015	DIBP advised that it had ceased processing Mr X's voluntary removal as he was no longer cooperative.
28 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
1 September 2015	DIBP invited Mr X to lodge a temporary visa application.
17 September 2015	Mr X's case was identified for assessment under s 195A.
4 March 2016	DIBP advised that Mr X did not sign the acceptance form for Primary Application Information Service (PAIS) assistance offered to help him lodge a temporary visa application. Mr X reportedly advised DIBP that he wished to return to Country A and that he intended to organise a Country A travel document.
10 March 2016	Found not to meet the guidelines for referral to the Minister under s 195A.
26 March 2016	DIBP advised that Mr X's mental health condition is delaying his case progression and he has disengaged with DIBP. DIBP further advised that while Mr X has not yet signed a new request for removal, DIBP is working with Country A authorities to progress his voluntary removal.

Criminal history

3 October 2013	DIBP advised that Mr X was involved in an incident of property damage at Maribyrnong IDC. The incident was referred to the Australian Federal Police for investigation.
31 March 2014	He was charged with damaging Commonwealth property.
21 July 2014	He appeared before the Magistrates Court of Victoria and was convicted of the offences and fined \$500.

Health and welfare

International Health and Medical Services (IHMS) reported that prior to his arrival in Australia Mr X had been diagnosed with paranoid schizophrenia. He has had two short-term admissions to hospital under mental health acts since he has been detained.

A psychiatric review conducted prior to February 2016 (no date provided) suggested that Mr X was not psychotic or a risk to himself or others and there was no evidence of mental illness. However, IHMS continued to monitor his mental health as there was a risk of relapse.

IHMS advised that Mr X has not required treatment for any major physical health issues.

Information provided by Mr X

Mr X was offered the opportunity to discuss his detention circumstances with Ombudsman staff but declined to do so.

Ombudsman assessment/recommendation

Mr X was detained on 28 March 2013 after arriving in Australia aboard SIEV *Futura* and has been held in restricted detention for over three years.

On 28 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 1 September 2015 DIBP invited Mr X to apply. However, on 4 March 2016 Mr X declined PAIS assistance and indicated that he wished to return to Country A.

DIBP has advised that Mr X's mental health condition is delaying his case progression and he has disengaged with DIBP. However, DIBP is working with Country A authorities to progress his voluntary removal.

The Ombudsman notes that Mr X was diagnosed with paranoid schizophrenia prior to his arrival in Australia and has had two short-term admissions to hospital under a mental health act. The Ombudsman further notes that a psychiatric review suggested that there was no evidence of mental illness. However, no date was provided for the finding of this review.

The Ombudsman notes DIBP's advice that Mr X's mental health condition is delaying his case progression and that, despite having the opportunity to apply for a temporary visa, he has declined PAIS assistance and is electing to return to Country A.

The Ombudsman recommends that Mr X is offered another psychiatric review to provide assurance of his mental state before progressing travel documents and arranging his return to Country A.