

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	1981
Ombudsman ID	1002557
Date of DIBP's reports	1 June 2015 and 17 November 2015
Total days in detention	912 (at date of DIBP's latest report)

Detention history

19 May 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland aboard Suspected Illegal Entry Vessel (SIEV) 709 <i>Oswestry</i> . He was transferred to Northern Immigration Detention Centre (IDC).
29 September 2013	Mr X absconded from detention. On the same day he was re-detained under s 189(1) and transferred to Northern IDC.
21 October 2013	Transferred to Yongah Hill IDC.
25 March 2014	Transferred to Christmas Island IDC.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that as Mr X arrived in Australia as a 'direct entry person' ¹ he is not barred under s 46A from lodging a protection visa application.	
12 March 2014	DIBP notified Mr X of the unintentional release of personal information ² and advised that the privacy breach would be taken into account when considering Mr X's protection claims.
11 June 2014	Lodged a Protection visa application.
16 December 2014	Protection visa application refused.
2 January 2015	Appealed to the Refugee Review Tribunal (RRT).
7 April 2015	RRT affirmed original decision.
6 May 2015	Requested judicial review by the Federal Circuit Court.
17 November 2015	DIBP advised that Mr X is a person of interest in relation to an alleged criminal matter while offshore.

¹ A maritime arrival to Australia's mainland who is seeking protection. Maritime arrivals who arrived as 'direct entry persons' after 13 August 2012 and before 20 May 2013 are not subject to the s 46A bar.

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.

Health and welfare

21 May 2013	International Health and Medical Services (IHMS) advised that Mr X reported a history of hearing difficulties in his right ear and he was referred for audiology testing.
5 June 2013 – ongoing	Mr X was diagnosed with hepatitis B. He was identified as immune and provided with education around transmission prevention. His condition is managed by a general practitioner.
8 July 2013	Audiology testing identified moderate to severe damage to Mr X's right inner ear causing hearing loss. IHMS advised that during a consultation with an ear, nose and throat specialist Mr X declined hearing aids.
25 July 2013 and 3 August 2014	Mr X's hearing was reviewed by IHMS. He reported that his hearing had improved and did not raise any further concerns.
29 September 2013	Transferred to hospital after injuring his right ankle. An x-ray identified no abnormal results and he was discharged from hospital the same day.
10 November 2014	Reviewed by a psychiatrist who reported that Mr X was coping well with his situation.
13 August 2015	During a routine mental health assessment it was noted that Mr X was experiencing memory lapses due to a lack of stimulation and his prolonged detention.

Other matters

29 September 2013	Mr X was charged by the Australian Federal Police in relation to his alleged escape from Northern IDC.
23 July 2015	The Y Magistrates Court dismissed the case against Mr X for his alleged escape from Northern IDC.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He is awaiting the outcome of judicial review.