

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	1003097
Date of DIBP's reports	24 April 2015 and 19 October 2015
Total days in detention	914 (at date of DIBP's latest report)

Detention history

18 April 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 664 <i>Newark</i> with his wife, Ms Y, and their children. The family were transferred to an Alternative Place of Detention (APOD), Christmas Island. Mr X's family are the subject of a separate Ombudsman report.
20 June 2013	Transferred with his family to Melbourne Immigration Transit Accommodation (ITA).
25 November 2013	Following an alleged domestic violence incident against his wife he was transferred to Maribyrnong Immigration Detention Centre (IDC). His family remained at Melbourne ITA until they were transferred to community detention (date not provided).
2 April 2015	Transferred to Facility B.
18 April 2015	Transferred to Facility C.
11 June 2015	Transferred to Facility D.

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.	
13 March 2014	DIBP notified Mr X of the unintentional release of personal information through DIBP's website. ¹
7 May 2015	Referred on a ministerial intervention submission under s 195A for the possible grant of a Bridging visa.

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.

28 May 2015	The Minister declined to intervene under s 195A.
25 September 2015	Referred on a ministerial intervention submission under s 46A for consideration to lift the bar.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
19 October 2015	DIBP advised that Mr X is awaiting an invitation to apply for a temporary visa.

Criminal matters

24 November 2013	Mr X was involved in an alleged incident of domestic violence against his wife. The matter was referred to the Q Police and he was charged with assault. He was released on bail the same day.
25 November 2013	Mr X appeared in court and bail conditions were imposed which restricted his contact with his estranged wife and their children. A hearing was scheduled for 9 December 2013.
9 December 2013	He attended court and was served with an intervention order which expired on 8 December 2013.
4 December 2014	He was served with another intervention order which expires on 3 December 2015.

Health and welfare

18 April 2013 – ongoing	International Health and Medical Services (IHMS) advised that Mr X has a reported history of torture and trauma and although he initially accepted a referral for counselling, he later declined mental health assistance.
29 January 2014	Mr X was admitted to hospital with chest pain. The hospital emergency staff suggested that the chest pain was related to emotional distress, as it reportedly occurred when he thought about his wife. He was discharged the same day. IHMS reported that following the episode of chest pain, Mr X complained of low mood because he missed his family. The mental health team (MHT) provided support to help him cope.
18 February 2014	A DIBP Incident Report recorded that Mr X threatened self-harm during a meeting with Ombudsman staff. Ombudsman staff spoke with DIBP case management staff and Serco welfare staff and were advised that Mr X was being monitored by the MHT.
March 2014 – ongoing	The psychiatrist diagnosed Mr X with depression and adjustment disorder and prescribed him with antidepressant medication. However, Mr X declined to take the medication. IHMS stated that Mr X received ongoing mental health support but his attendance at appointments was intermittent.
27 March 2015	A DIBP Incident Report recorded that Mr X was among a group of detainees who threatened self-harm. No further information was provided.

Other matters

1 September 2015	The Australian Human Rights Commission notified DIBP of a complaint from Mr X regarding his transfer to another detention facility and the resulting separation from his children. DIBP advised on 19 October 2015 that this matter remained ongoing.
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Case status

Mr X was detained on 18 April 2013 after arriving in Australia aboard SIEV 664 *Newark* and has been held in restricted detention for over two and a half years with no processing of his protection claims.

On 29 September 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.