

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 a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1991
Ombudsman ID	1002133
Date of DIBP's reports	18 December 2014 and 3 June 2015
Total days in detention	916 (at date of DIBP's latest report)

Detention history

10 September 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 445 <i>Zedoary</i> . He was transferred to Facility B.
16 September 2012	Transferred to Facility C.
27 October 2012	Transferred to Facility D.
25 November 2012	Transferred to Facility E.
12 February 2013	Granted a Bridging visa with an associated Temporary Humanitarian Stay (THS) visa and released from detention.
3 May 2013	Re-detained under s 189(1) and transferred to Facility F.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X is part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted bar under s 46A.	
12 February 2013	The former Minister intervened under s 195A and decided that Mr X should be granted a Bridging visa with an associated THS visa.
26 February 2013	Following allegations of criminal offences which had occurred in the community on 21 February 2013, Mr X attended an interview at the State G Compliance office. He was arrested by State G Police, refused bail and taken into custody.
2 May 2013	He was granted bail.
3 May 2013	His Bridging visa was cancelled and he was re-detained and transferred to immigration detention.
7 May 2013	Appealed to the Migration Review Tribunal (MRT).
16 May 2013	MRT affirmed the cancellation decision.

3 June 2015	<p>DIBP advised that once the Minister intervenes to lift the s 46A bar Mr X will be able to lodge a Temporary Protection visa (TPV) application and have his application decided in the fast track assessment process.</p> <p>DIBP also advised that Mr X is a person of interest to the National Security and Serious Crimes Reporting Team (NSSCRT).</p>
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Criminal matters

26 February 2013	Taken into police custody and charged with four offences including assault with act of indecency and aggravated breaking and entering.
2 May 2013	Granted bail by the State G Supreme Court.
September 2014	Attended City H District Court in relation to the four charges. The matter was adjourned until April 2015.
April 2015	Attended City H District Court. A trial date was set for February 2016.

Health and welfare

10 September 2012 – 10 June 2015	International Health and Medical Services (IHMS) advised that other than being treated for a sporting injury in May 2014, Mr X has not required treatment for any major physical issues.
21 August 2014 – 16 January 2015	<p>As part of a routine mental health assessment Mr X was reviewed by a psychiatrist. The psychiatrist noted that Mr X was suffering from adjustment disorder with anxiety, and recommended he receive ongoing psychological support. Medication was not recommended.</p> <p>IHMS reported that since the psychiatric review Mr X had sought regular counselling.</p>
10 June 2015	IHMS reported that Mr X ceased attending mental health appointments since its last report dated 16 January 2015. He was advised that he could self-refer to the mental health team (MHT) as required.

Detention incidents

3 April 2014	A DIBP Incident Report recorded that Mr X claimed he was pursuing food and fluid refusal. No further information was provided.
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Information provided by Mr X

During an interview with Ombudsman staff at Facility F on 10 February 2015 Mr X advised that he had been informed that his immigration case would not be progressed until his criminal matters are finalised.

Mr X stated that he took part in various sporting activities and attended English conversation classes. However, there were no activities scheduled on the weekends and this made it difficult to acquire full points.¹

In relation to his mental health, he said he had stopped seeing the MHT as they always asked him about his case and did not want to keep focusing on his situation. He said he had no concerns about his physical health and if the matter was urgent there were no difficulties accessing medical treatment at Villawood IDC.

Case status

Mr X was detained on 10 September 2012 after arriving in Australia aboard SIEV *Zedoary*.

He was granted a Bridging visa on 12 February 2013 but re-detained on 3 May 2013 following cancellation of his visa. He is awaiting trial for criminal matters.

¹ Section 6, Clause 5.6 of the *Immigration Detention Facilities and Detainee Services Contract* stipulates that Serco must implement and manage DIBP's approved Individual Allowance Programme (IAP) in each detention facility. Through the IAP, detainees are allocated points that can be exchanged for a variety of goods on offer, such as telephone cards, tobacco and snack food, at the facility shop managed by Serco.