

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 detention (restricted immigration detention and a correctional facility) for a cumulative period of more than 30 months (two and a half years).¹

Name	Mr X
Citizenship	Country A
Year of birth	1992
Ombudsman ID	1003060
Date of DIBP's reports	21 July 2015 and 18 March 2016 ²
Total days in detention	1039 (at date of DIBP's latest report)

Detention history

21 February 2013	Detained under ss 189(3) and 250 of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 593 <i>Talbot</i> . He was transferred to Christmas Island Immigration Detention Centre (IDC).
2 April 2013	Transferred to Darwin Airport Lodge Alternative Place of Detention.
20 April 2013	Transferred to Northern IDC.
26 April 2013	Mr X was removed from Australia.
17 July 2013	Re-detained under ss 189(3) and 250 after arriving in Australia aboard SIEV 794 <i>Oneonta</i> . He was transferred to Christmas Island IDC.
21 September 2013	Transferred to Northern IDC.
17 October 2013	Transferred to criminal custody and to Brisbane Correctional Centre the following day.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X is subject to a Criminal Justice Stay Certificate while he is detained in a correctional facility.

¹ Section 250 provides that a person serving a sentence for an offence related to being on board a vessel involved in the commission of an offence may be kept in immigration detention while serving a sentence. Mr X is therefore deemed to be in concurrent detention and will continue to be subject to reporting under s 486O even though he is not actively case-managed by DIBP.

² In response to an inquiry from the Ombudsman's office about an apparent breach of reporting timeframes DIBP advised that it did not meet its statutory obligations in relation to providing Mr X's 30-month review under s 486N. It further advised that this was due to a system-related administrative error which precluded normal reporting procedures from being followed, and that it is working with DIBP's information technology systems to correct this issue.

Criminal history

21 April 2015	Mr X appeared before the Brisbane Magistrates Court and pleaded guilty to charges relating to people-smuggling offences.
24 April 2015	He was convicted and sentenced to five years in prison with a non-parole period of three years. His earliest release date is 20 April 2018.

Health and welfare

International Health and Medical Services advised that Mr X did not require treatment for any major mental health issues while in immigration detention. DIBP advised that following his transfer to Brisbane Correctional Centre, Mr X's health and welfare has been managed by Queensland Corrective Services.	
18 September 2013	Mr X was diagnosed with syphilis and received treatment.

Ombudsman assessment

<p>Mr X will be removed at the conclusion of his custodial sentence. His earliest release date is 20 April 2018.</p> <p>The Ombudsman notes that s 486N(1)(b) records the Secretary of DIBP's obligation to report to the Commonwealth Ombudsman within 21 days after the detention reporting time.</p> <p>In the case of DIBP's 30-month review on Mr X, the Ombudsman notes that DIBP advised that it did not meet its statutory reporting timeframes due to a system-related administrative error which precluded normal reporting procedures from being followed.</p> <p>The Ombudsman further notes that DIBP advised that it is working with DIBP's information technology systems to correct this issue and makes no recommendations in this report.</p>	
---	--