

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 immigration detention for a cumulative period of more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1991
Ombudsman ID	1003193
Date of DIBP's report	4 August 2015
Total days in detention	734 (at date of DIBP's report)

Detention history

24 June 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 761 <i>Weogufka</i> . He was transferred to an Alternative Place of Detention, Christmas Island.
21 July 2013	Transferred to Curtin Immigration Detention Centre (IDC).
21 August 2013	Granted a Bridging visa and released from detention.
29 September 2013	Mr X was re-detained under s 189(1) following criminal charges. He was transferred to Facility B.
13 March 2015	Transferred to Facility C.

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 the bar under s 46A.	
21 August 2013	Granted a Bridging visa.
27 September 2013	Mr X's Bridging visa was cancelled under s 116.
12 March 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through the DIBP's website. ¹

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.

Criminal history

25 September 2013	Mr X was charged with assault and committing an act of indecency.
2 April 2014	Convicted of indecently assaulting a minor. Mr X received a suspended sentence of 12 months after entering into a good behaviour bond.

Health and welfare

27 September 2013	A DIBP Incident Report recorded that Mr X threatened self-harm. No further information was provided.
4 November 2013	International Health and Medical Services advised that Mr X was diagnosed with a genetic blood disorder. He was provided with education and no further treatment was required.
4 December 2014	A DIBP Incident Report recorded that Mr X self-harmed by cutting his forearm with a razor blade. No further information was provided.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 24 June 2013 after arriving in Australia aboard SIEV *Weogufka* and has been held in detention for a cumulative period of over two years with no processing of his protection claims.

The Ombudsman notes with concern that without an assessment of Mr X's claims to determine if he is found to engage Australia's protection obligations, it appears likely that he will remain in detention for an indefinite period.

The Ombudsman notes the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a Temporary Protection visa application.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of Mr X's protection claims commence as soon as possible.