

## 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 more than 30 months (two and a half years).<sup>1</sup>

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1979
<b>Ombudsman ID</b>	1003061
<b>Date of DIBP's reports</b>	22 July 2015 and 18 March 2016 <sup>2</sup>
<b>Total days in detention</b>	975 (at date of DIBP's latest report)

### Detention history

17 July 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) 794 <i>Oneonta</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
21 July 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
21 September 2013	Transferred to Northern IDC.
5 November 2013	Transferred to Brisbane Correctional Centre.

### 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.

### Criminal history

17 July 2013	DIBP advised that Mr X was initially detained under s 250 after he was identified as a crew member aboard SIEV <i>Oneonta</i> . His case was referred to the Australian Federal Police for investigation of suspected people-smuggling offences.
12 September 2013	Mr X was convicted of assault following an incident at an APOD, Christmas Island on 18 July 2013. He pleaded guilty and was fined \$800.
5 November 2013	Mr X was charged for his involvement in people-smuggling offences.

<sup>1</sup> 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.

<sup>2</sup> 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

21 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 17 July 2016.
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### Health and welfare

7 August 2013	DIBP Incident Reports recorded that Mr X was assessed by the mental health team (MHT) following behavioural issues and was placed on Psychological Support Program (PSP) observations. Mr X presented with suspected psychosis with paranoid ideations and had a history of hallucinations, behavioural issues, impulsivity and impaired judgement. DIBP advised that he was closely monitored by the MHT.
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DIBP advised that following his transfer to Brisbane Correctional Centre, Mr X's health and welfare has been managed by Queensland Corrective Services.

### Ombudsman assessment

Mr X will be removed at the conclusion of his custodial sentence. His earliest release date is 7 July 2016.

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.

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.

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.