

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).

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1997 |
| Ombudsman ID | 1003378 |
| Date of DIBP's reports | 25 August 2015 and 29 February 2016 |
| Total days in detention | 918 (at date of DIBP's latest report) |

Detention history

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| 25 August 2013 | Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 839 <i>Wattsville</i> . He was transferred to Christmas Island Immigration Detention Centre (IDC). Mr X arrived in Australia with his mother, Ms Y, who is the subject of Ombudsman report 1003376. |
| 28 February 2014 | Transferred to Perth IDC. |
| 20 March 2014 | Transferred to Perth Immigration Residential Housing (IRH). |
| 3 September 2014 | Transferred to a Western Australian juvenile correctional facility. |
| 10 September 2014 | Transferred to Perth IRH. |
| 24 October 2014 | Transferred to Wickham Point Alternative Place of Detention (APOD). |
| 6 January 2015 | Transferred to Perth IRH. |
| 9 January 2015 | Transferred to Facility B. |

Visa applications/case progression

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| 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. | |
| 5 March 2014 | DIBP notified Mr X of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering his protection claims. |
| 15 May 2014 | Mr X and his mother's case was referred on a ministerial submission for consideration under s 197AB of a community detention placement. |

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.

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| 19 June 2014 | The former Minister agreed to intervene under s 197AB. |
| 28 June 2014 | The former Minister revoked his approval of Mr X and his mother's community detention placement following Mr X's arrest on 27 May 2014. DIBP advised that Mr X and his mother's community detention placement did not proceed. |
| 17 August 2015 | The Australian Federal Police (AFP) notified DIBP that Mr X is the subject of an active investigation for alleged breaches of national security. |
| 29 September 2015 | The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application. |
| 12 November 2015 | DIBP invited Mr X to lodge a temporary visa application. |
| 8 December 2015 | Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. He accepted the offer on 18 December 2015 and was assigned a provider. |
| 29 February 2016 | DIBP advised that Mr X has been referred to an external agency for investigation in relation to national security concerns. |

Health and welfare

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| August 2013 | <p>International Health and Medical Services (IHMS) advised that Mr X was diagnosed with bipolar disorder and attention deficit hyperactivity disorder prior to his arrival in Australia. He has a history of mental health issues and psychiatric hospitalisations and was found to have superficial scars on his arm from self-harm.</p> <p>Mr X was referred to an IHMS child psychiatrist for assessment of behavioural issues and developmental delay.</p> |
| December 2013 | <p>Mr X was reviewed by an IHMS child psychiatrist and diagnosed with autism disorder. The psychiatrist recommended Mr X be transferred to an appropriate community detention setting as the detention environment would affect him in a negative way.</p> <p>IHMS advised that Mr X had multiple incidents of self-harm and assaulting others, including his mother. As a result he was placed on Supportive Monitoring and Engagement (SME) observations.</p> |
| 2 February 2014 – 5 August 2015 | DIBP Incident Reports recorded that Mr X threatened self-harm on 10 occasions. |
| 27 February 2014 – 10 March 2014 | <p>A DIBP Incident Report recorded that Mr X self-harmed. On the same day he was admitted to a psychiatric facility for 11 days after experiencing hallucinations with suicidal ideations. He was referred for testing to rule out a pathological reason for his violent outbursts, behavioural issues and recurrent headaches. However, the test did not take place as Mr X was transferred to another facility.</p> <p>IHMS advised that a few days after his discharge Mr X was taken to an emergency department for assessment and diagnosed with a hyperkinetic disorder.</p> |

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| 21 March 2014 – 3 October 2014 | Attended 10 appointments with a psychiatrist. |
| 22 March 2014 – 17 October 2014 | Attended 17 sessions with a psychologist for behavioural management strategies. |
| 31 March 2014 – 16 September 2014 | DIBP Incident Reports recorded that Mr X self-harmed on three occasions. |
| 22 May 2014 – 8 August 2014 | Reviewed by a hospital psychiatrist on five occasions. |
| 27 May 2014 | IHMS advised that Mr X reportedly hit his mother, self-harmed and threatened suicide. |
| September 2014 | Mr X was transferred to hospital for assessment following an alleged assault on Serco officers and threatening self-harm as a result of a pending court hearing. IHMS advised that no discharge report was received from the hospital. |
| 8 September 2014 | A psychologist reported that Mr X has severe depression, anxiety and anger management issues. It was recommended that Mr X receive cognitive behavioural therapy, interpersonal therapy, solution-focused therapy and psycho-education in order for him to develop further insight into his cognitive and behavioural processes. |
| 21 December 2014 | Reviewed by a psychiatrist who reported that Mr X's behaviour appeared to have improved. |
| 16 March 2015 | Reviewed by a neuropsychologist who diagnosed Mr X with a mild intellectual impairment and oppositional defiant disorder and confirmed previous diagnosis. Dialectical behaviour therapy with a psychologist was recommended to educate Mr X on how to cope with stress, thoughts of self-harm and regulating his emotions and improving relationships with others. |
| May 2015 – June 2015 | IHMS advised that Mr X was placed on SME observations following his transfer to another compound within Facility B after turning 18. |
| June 2015 | Reviewed by the mental health team (MHT) and was assessed as a low risk. His antidepressant medication was ceased. |
| July 2015 – 27 January 2016 | IHMS reported that Mr X was coping well apart from boredom and significant sleep disturbance. His conditions were considered well managed and he has had no reported incidents of self-harm. He continued to be monitored by IHMS and the MHT. |
| 2 July 2015 – 17 September 2015 | Attended seven specialist counselling sessions. |
| 10 October 2015 | Transferred to an emergency department after injuring his right ankle playing sport. A soft tissue injury was identified and he was discharged with pain relief medication. |
| 23 October 2015 | Referred to a dermatologist for review and management of a skin condition. |

Detention incidents

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| DIBP Incident Reports recorded that Mr X has allegedly been involved in numerous incidents including physical altercations with other detainees, threatening and assaulting detainees and detention centre staff, displaying abusive and aggressive behaviour towards detainees and detention centre staff and damaging property. | |
| 22 January 2014 – 27 May 2014 | DIBP Incident Reports recorded that spontaneous use of force was required on 18 occasions to prevent self-harm or harm to others. |
| 4 February 2014 | A DIBP Incident Report recorded that Mr X allegedly punched a Serco officer. |
| 26 May 2014 | A DIBP Incident Report recorded that Mr X punched his mother multiple times. |
| 27 May 2014 and 2 September 2014 | DIBP Incident Reports recorded that Mr X punched Serco officers and assaulted a Serco officer with a belt. |
| 14 April 2015 | A DIBP Incident Report recorded that Mr X alleged that he had been assaulted at school by a teacher. |

Other matters

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| 26 May 2014 and 27 May 2014 | DIBP advised that Mr X attacked his mother, assaulted two Serco officers and damaged property. He was charged with multiple offences including assault. He plead guilty to the charges and was issued a formal warning with no custodial sentence imposed. |
| 2 September 2014 – 10 September 2014 | DIBP advised that Mr X is under investigation by the AFP in relation to alleged incidents of assault and abusive and aggressive behaviour towards Serco officers in September 2014. |

Ombudsman assessment

Mr X was detained on 25 August 2013 after arriving in Australia aboard SIEV *Wattsville* and has been held in restricted detention for over two and a half years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. On 18 December 2015 Mr X accepted the PAIS assistance and was assigned a provider to assist him with lodging his application.

The Ombudsman notes with serious concern the number of alleged incidents and behavioural issues involving Mr X in detention. The Ombudsman makes no recommendations in this report.