

**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 36 months (three years).

Name	Mr X
Citizenship	Country A
Year of birth	1985
Ombudsman ID	1003173
Date of DIBP's reports	27 July 2015, 28 January 2016 and 25 July 2016
Total days in detention	1094 (at date of DIBP's latest report)

Detention history

25 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 809 <i>Lineville</i> . He was transferred to Facility A.
4 December 2013	Transferred to the hospital in Location B, and then transferred to a hospital in Location C on the same day.
9 December 2013	Transferred to Facility D.
9 January 2014	Transferred to Facility A.
7 February 2014	Transferred to a psychiatric hospital.
13 February 2014	Transferred to Facility E.
14 May 2016	Transferred to Facility F.

Visa applications/case progression

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.	
12 March 2015	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.
23 June 2015	Referred to the Minister on a first stage submission for his indication on whether he would be inclined to consider a community detention placement under s 197AB.
30 July 2015	The Minister agreed to consider a submission under s 197AB.
25 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.

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.

1 September 2015	DIBP notified Mr X that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application.
3 September 2015	Mr X accepted the PAIS offer and DIBP assigned a PAIS provider.
15 January 2016	International Health and Medical Services (IHMS) assessed Mr X as having an ongoing intellectual disability and recommended that a legal guardian be appointed to assist him with medical and legal decisions. DIBP advised that in light of IHMS's recommendation it had ceased any visa or removal related activity until a legal guardian was appointed.
28 January 2016	DIBP advised that Mr X was previously a person of interest to it over alleged onshore criminal matters.
25 July 2016	DIBP advised that Mr X was a person of interest to an external agency and that under the relevant ministerial intervention guidelines, the Minister would not consider Mr X's case under s 197AB until he ceased to be a person of interest to the external agency.
25 July 2016	DIBP advised that Mr X had been transferred to Facility F so he is closer to his uncle who resides in City G and to expedite the legal guardianship application for Mr X.

Other legal matters

9 January 2014	Taken into custody by the Australian Federal Police for questioning. He was charged in relation to making a threat on an aircraft.
27 February 2015	The charges were dismissed.

Health and welfare

IHMS advised that Mr X has an extensive history of mental health issues with numerous self-harm attempts and erratic behaviour. In late 2013/early 2014 he was admitted to hospital on a number of occasions following self-harm attempts. During this same period he was diagnosed with an adjustment disorder with depression, post-traumatic stress disorder and bipolar disorder.

In April 2014 a neuropsychological assessment found that Mr X has poor cognitive skills and requires support and supervision for his daily living needs. In November 2014 Mr X was assessed with a possible traumatic head injury with post-concussion syndrome. In June 2015 an occupational therapist recommended that Mr X requires a home environment with support for his daily living requirements.

IHMS advised that the mental health team has continued to monitor Mr X's mental health and prescribe him with medication to manage his symptoms.

In January 2016 a psychiatric review highlighted that Mr X has an ongoing intellectual disability and the need for a guardian. Mr X's mental health was reported to be stable.

Detention incidents

December 2013 – February 2014	DIPB Incident reports recorded that Mr X was allegedly involved in several incidents of abusive or aggressive behaviour of a minor nature.
-------------------------------	--

Ombudsman assessment/recommendation

Mr X was detained on 25 July 2013 after arriving in Australia aboard SIEV *Lineville* and has been held in detention for over three years.

On 25 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. On 3 September 2015 Mr X accepted the PAIS assistance and was assigned a provider to assist with lodging his application.

The Ombudsman notes that on 15 January 2016 IHMS recommended that a legal guardian be appointed to Mr X to assist him with any medical or legal decisions. The Ombudsman further notes that DIBP advised it is making the necessary arrangements for a legal guardian to be appointed to Mr X, and his case will not be progressed until this happens.

The Ombudsman further notes that DIBP has advised that under the relevant ministerial intervention guidelines, the Minister will not consider Mr X's case under s 197AB until he ceases to be a person of interest to an external agency.

The Ombudsman recommends that DIBP follow up with the external agency to confirm whether there has been any recent change in Mr X's status as a person of interest if it has not done so recently.