

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).

Name	Mr X
Citizenship	Country A
Year of birth	1980
Ombudsman ID	1002555
Date of DIBP's reports	1 June 2015 and 17 November 2015
Total days in detention	912 (at date of DIBP's latest report)

Detention history

19 May 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving in Darwin, Australia aboard Suspected Illegal Entry Vessel (SIEV) 709 <i>Oswestry</i> . He was transferred to Northern Immigration Detention Centre (IDC).
2 July 2013	Transferred to Yongah Hill IDC.
9 January 2014	Transferred to Christmas Island IDC.

Visa applications/case progression

<p>The Department of Immigration and Border Protection (DIBP) advised that as Mr X arrived in Australia as a 'direct entry person'¹ he is not barred under s 46A from lodging a Protection visa application.</p> <p>DIBP further advised that following legislative amendment, Mr X is only eligible for a temporary visa.</p>	
1 May 2014	DIBP advised that Mr X was identified as a person of interest to its National Security and Serious Crimes Reporting team.
20 May 2014	DIBP advised that Mr X was identified as a person of interest to its Detention Security, Risk and Liaison section.
24 June 2014	Lodged a Protection visa application.
13 October 2014	Protection visa interview conducted.
16 December 2014	Protection visa application refused.
24 December 2014	Appealed to the Refugee Review Tribunal (RRT).
13 May 2015	RRT affirmed original decision.
10 September 2015	Requested judicial review by the Federal Circuit Court (FCC).
17 November 2015	DIBP advised that Mr X's FCC hearing is scheduled for 6 May 2016.

¹ A maritime arrival to Australia's mainland who is seeking protection. Maritime arrivals who arrived as 'direct entry persons' after 13 August 2012 and before 20 May 2013 are not subject to the s 46A bar.

Criminal matters

5 September 2014	<p>A DIBP Incident Report recorded that Mr X was allegedly involved in a riot that took place at Christmas Island IDC.</p> <p>On 1 December 2014 Mr X was charged with taking part in a riot by the Australian Federal Police. The matter was listed for trial with the Perth Magistrates Court on 12 May 2015 which was heard and adjourned until 9 June 2015. DIBP advised that he was further scheduled to appear before the Perth Magistrates Court on 20 July 2015 and 10 November 2015.</p>
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Health and welfare

19 May 2013 – 28 May 2015	International Health and Medical Services (IHMS) advised that Mr X did not require treatment for any significant physical health concerns.
11 May 2014	He reported experiencing sleep disturbances and anxiety related to his pending court case.
November 2014	At an 18-month mental health review the psychiatrist noted that Mr X was experiencing depression and grief from being separated from his wife and children in Country A.
28 May 2015	IHMS advised that Mr X met with the mental health team for routine assessments and was aware of the self-referral process. He preferred to attend group counselling sessions.
29 May 2015 – 26 October 2015	IHMS advised that Mr X did not require treatment for any major or acute mental health concerns but he continued to attend group counselling sessions.
18 June 2015 – ongoing	He complained of ongoing knee pain for the past year. An x-ray identified a mild degenerative joint disease. He was advised to conservatively manage his pain with rest and to take pain relief medication.

Detention incidents

21 May 2013	<p>A DIBP Incident Report recorded that Mr X was one of six detainees who absconded from immigration detention while on a medical escort.</p> <p>DIBP advised that Mr X was located and re-detained the same day and the matter is being investigated by Northern Territory Police.</p>
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Case status

Mr X has been found not to be owed protection under the Refugee Convention and complementary protection criterion. He is awaiting the outcome of judicial review.