

**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	1977
Ombudsman ID	1003279
Date of DIBP's reports	20 August 2015 and 16 April 2016 ¹
Total days in detention	973 (at date of DIBP's latest report)

Detention history

17 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 833 <i>Quinton</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
19 August 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
10 December 2013	Transferred to Northern IDC.
13 December 2013	Transferred to Yongah Hill IDC.
19 March 2014	Transferred to Christmas Island IDC.
18 June 2014	Transferred to Wickham Point IDC.
2 July 2014	Transferred to Christmas Island IDC.
8 October 2014	Transferred to Wickham Point IDC.
13 October 2014	Transferred to Facility B.
20 March 2015	Transferred to Correctional Facility C, which was designated as an APOD.
28 March 2015	Transferred to Christmas Island IDC.
29 April 2015	Transferred to Perth IDC.
29 June 2015	Transferred to Christmas Island IDC.
12 August 2015	Transferred to Perth IDC.
1 October 2015	Transferred Facility D.
12 November 2015	Due to safety concerns at Facility D, he was transferred to Facility E and on the same day to Correctional Facility C.

¹ 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 an information technology error which precluded normal reporting procedures from being followed, and that it is working with DIBP's information technology systems to correct this issue.

25 November 2015	Transferred to Correctional Facility F, designated as an APOD. ²
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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 2014	DIBP notified Mr X of the unintentional release of personal information ³ and advised that the privacy breach would be taken into account when considering his protection claims.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
20 November 2015	DIBP invited Mr X to lodge a temporary visa application.
19 January 2016	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.
26 January 2016	Mr X accepted the PAIS offer and was assigned a provider.
16 April 2016	Mr X is a person of interest to DIBP and the Australia Federal Police (AFP) in relation to his involvement in a major incident at Facility D on 8 November 2015.

Criminal history

20 March 2015	Mr X was involved in a major disturbance and an incident of serious property damage at Facility B. The incident was referred to the AFP for investigation and Mr X was charged with destroying/damaging Commonwealth property.
23 June 2015	Mr X was involved in an incident of alleged assault. DIBP advised that the incident was investigated by the Northern Territory Police and no further investigation was required, however the police advised that the case may be reopened if Mr X was transferred back to the Northern Territory.
8 November 2015	DIBP advised that Mr X was involved in a major incident of assault and self-harm at Facility D. The incident was referred to the AFP for investigation and Mr X was transferred to Correctional Facility C. The matters remains ongoing.
26 February 2016	Mr X appeared before the Q Magistrate's Court and entered a guilty plea in relation to the incident at Facility B. He was sentenced to a six-month good behaviour bond with a reparation order of \$820.60. He was also placed on a self-recognition order of \$500.

² Following a request by DIBP under the s 5, the State G Department of Corrective Services is holding Mr X in immigration detention under s 189 for the purpose of maintaining the safety and good order of Facility D.

³ 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.

Health and welfare

DIBP did not provide an International Health and Medical Services (IHMS) Health Summary Report for Mr X for the period 17 August 2013 to 31 July 2015.	
17 September 2013 and 2 June 2014	DIBP Incident Reports recorded that Mr X refused food and fluid as a form of protest.
2 March 2014 – 8 November 2015	DIBP Incident Reports recorded that Mr X self-harmed on seven occasions by banging his head against a wall or causing lacerations to his face, wrists and body.
12 September 2014	A DIBP Incident Report recorded that Mr X threatened self-harm.
2 January 2015	During a psychiatric consultation, Mr X reported that he was frustrated with his ongoing detention and wished to cease his antidepressant medication. The psychiatrist was unable to provide a definitive diagnosis and advised that further psychiatric reviews were not required. He was advised to continue attending counselling and was monitored by the mental health team.
May 2015	IHMS advised that Mr X was previously diagnosed with hepatitis C. A routine liver function test returned normal results and he declined to attend a liver ultrasound.
5 May 2015	Admitted to hospital for knee surgery. IHMS advised that he attended follow-up appointments at a hospital orthopaedic clinic and attended physiotherapy.
31 July 2015 – 12 November 2015	Mr X was placed on Supportive Monitoring and Engagement observations following incidents of self-harm. IHMS advised that Mr X attended psychological counselling during October 2015 for management of poor impulse control.
October 2015	A routine liver function test identified mild abnormalities and he was provided with education. IHMS advised that he was unable to attend a follow-up liver function test following his transfer to Correctional Facility C.
DIBP advised that following Mr X's transfer to a correctional facility his health and welfare is managed by the State G Department of Corrective Services.	

Detention incidents

DIBP advised that Mr X has a recurrent history of abusive and aggressive behaviour and spontaneous use of force was required on eleven occasions to prevent Mr X harming himself and others. DIBP Incident Reports further recorded that Mr X has allegedly assaulted detention centre staff and other detainees on multiple occasions.

Ombudsman assessment

Mr X was detained on 17 August 2013 after arriving in Australia aboard SIEV *Quinton* 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 26 January 2016 Mr X accepted the PAIS assistance and was assigned a provider to assist with lodging his application.

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 reviews on Mr X, the Ombudsman notes with concern that DIBP advised that it did not meet its statutory reporting timeframes due to an information technology 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.