

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 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1978
Ombudsman ID	1002198-O
Date of DIBP's report	27 October 2015
Total days in detention	736 (at date of DIBP's report)

Detention history

21 October 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community and transferred to the Department of Immigration and Border Protection's (DIBP) Australian Capital Territory (ACT) and Regions Office.
22 October 2013	Transferred to Villawood Immigration Detention Centre (IDC).
14 April 2014	Transferred to Perth IDC.
9 January 2015	Transferred to Yongah Hill IDC.
28 March 2015	Transferred to Christmas Island IDC.

Visa applications/case progression

17 November 2007	Mr X arrived in Australia aboard a vessel as a holder of a Special Purpose visa. He deserted the vessel in City B.
18 November 2007	His Special Purpose visa ceased by declaration.
8 November 2010	He remained in the community unlawfully until he lodged a Protection visa application. The same day he was granted an associated Bridging visa.
23 November 2010	Request for a Bridging visa with permission to work refused.
10 March 2011	Protection visa application refused.
7 April 2011	Appealed to the Refugee Review Tribunal (RRT).
21 September 2011	RRT affirmed original decision.
26 September 2011	Found not to meet the guidelines for referral to the former Minister under s 417.
9 November 2011	Requested ministerial intervention under s 417.
11 January 2012	Withdrew request for ministerial intervention under s 417.
2 February 2012	Lodged Combined Partner visa application.
29 August 2013	Combined Partner visa application refused.

7 October 2013	Bridging visa ceased and he remained in the community unlawfully.
21 October 2013	He was located and detained under s 189(1).
13 November 2013	Appealed the refusal of the Combined Partner visa application to the Migration Review Tribunal (MRT).
25 November 2013 – 4 June 2015	Seven Bridging visa applications were refused.
3 December 2013	Lodged a second Protection visa application. DIBP advised that Mr X was not prevented from applying under s 48A for a Protection visa as his first application was made and refused before the commencement of the complementary protection provisions.
5 December 2013 – 9 April 2015	MRT affirmed six decisions by DIBP to refuse Mr X's Bridging visa applications.
9 January 2014	MRT determined that it had no jurisdiction to consider Mr X's application for review of his Combined Partner visa application as it was out of time.
12 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.
3 September 2014	Second Protection visa application refused.
15 September 2014	Appealed to the RRT.
27 October 2014	RRT affirmed the original decision.
15 December 2014	Requested judicial review by the Federal Circuit Court (FCC).
26 February 2015	The Minister withdrew from the FCC proceedings and the FCC remitted the application to the RRT for reconsideration.
29 June 2015	RRT again affirmed the original decision on the second Protection visa application.
29 July 2015	Requested judicial review by the FCC. The matter was scheduled for hearing on 20 June 2016.

Criminal matters

23 June 2011	Mr X appeared in the Q Local court to face charges relating to use of a false Australian driver's licence. He was convicted without penalty imposed under s 10A of the <i>Crimes (Sentencing Procedure) Act 1999</i> (NSW). He also faced a charge relating to intimidation of a police officer which was withdrawn.
19 April 2012	Mr X was charged and fined \$200 in relation to possession of a prohibited drug.

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.

7 December 2012	Appeared in the G Magistrates Court in relation to assault and damaging property charges. He was released on an 18-month good behaviour bond in relation to the assault and fined \$500 in relation to the property damage.
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Health and welfare

October 2013	International Health and Medical Services (IHMS) advised that on arrival Mr X reported a history of insomnia and depression. He was prescribed with medication but was reported to have been semi-compliant with his medication regime.
January 2014	At a review with a psychiatrist Mr X was reported to be experiencing psychotic symptoms in relation to previous drug use as well as anxiety and depression.
21 April 2014 – 24 June 2014	Attended three psychiatric appointments.
22 August 2014 – 21 November 2014	He was identified as having a history of torture and trauma and attended six specialist counselling sessions. He self-refers to the mental health team as required.
8 February 2015	Attended a hospital emergency department for treatment of facial injuries following an alleged altercation. He was discharged the same day.

Detention incidents

DIBP Incident Reports recorded that Mr X has allegedly been involved in numerous behavioural incidents.	
20 March 2015	A DIBP Incident Report recorded that Mr X was allegedly part of a group of several detainees who climbed on to the roofs of various accommodation blocks at Christmas Island IDC. It further recorded that he was part of a large group of detainees who allegedly assaulted multiple officers when they attempted to apply mechanical restraints to a detainee for an escort. DIBP stated that following Mr X's involvement in an incident of assault, he alleged that a Serco Emergency Response Team officer had assaulted him. The matter was referred to the Australian Federal Police (AFP) for investigation.
23 April 2015	A DIBP Incident Report recorded that Mr X allegedly made threats to kill and attempted to assault a Serco officer.
9 July 2015	The AFP advised DIBP that it was no longer investigating the alleged assault of 20 March 2015.
1 September 2015	A DIBP Incident Report recorded that Mr X was placed in an observation room for over 24 hours after allegedly threatening to harm Serco officers.

Other matters

21 October 2013	The G Police informed DIBP that Mr X had a criminal history and that it had numerous records of contact with him.
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13 February 2015	<p>Mr X lodged a complaint with the Ombudsman's office about several issues including the presence of snakes and rats in his room at Yongah Hill IDC.</p> <p>Following an investigation by the Ombudsman's office DIBP advised that Serco arranged a visit by a pest control contractor. Mr X was also provided with an explanation regarding DIBP's risk assessment and detention placement policies.</p> <p>The complaint was finalised on 31 March 2015.</p>
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Case status

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