

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 a cumulative period of more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1985
Ombudsman ID	1002199-O
Date of DIBP's report	28 October 2015
Total days in detention	732 (at date of DIBP's report)

Detention history

4 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 769 <i>Heflin</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island. Mr X arrived with his wife, Ms Y, and their son.
8 August 2013	Transferred with his family to Darwin Airport Lodge APOD.
20 August 2013	Mr X and his family were granted Bridging visas and released from detention.
12 December 2013	Re-detained under s 189(1) following criminal charges. He was transferred to Maribyrnong Immigration Detention Centre (IDC). The Department of Immigration and Border Protection (DIBP) advised that his wife and son remain in the community on Bridging visas.
5 August 2015	Transferred to Christmas Island IDC.

Visa applications/case progression

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.	
13 August 2013	Mr X and his family were referred on a ministerial submission under s 195A for consideration to grant Bridging visas.
19 August 2013	The Minister intervened under s 195A.
20 August 2013	Mr X and his family were granted Bridging visas.
12 December 2013	Mr X's Bridging visa was cancelled under s 116 following criminal charges.
19 December 2013	Issued with a Criminal Justice Stay Certificate (CJSC)

19 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.
6 August 2015	DIBP cancelled Mr X's CJSC.
29 September 2015	The Minister intervened to lift the bar under s 46A to allow Mr X to lodge a temporary visa application.
28 October 2015	DIBP advised that Mr X's case is being assessed against the guidelines under s 195A for consideration to grant a Bridging visa.

Criminal matters

12 December 2013	Mr X was arrested and charged with people smuggling offences. On the same day he was granted bail and re-detained under s 189(1).
10 April 2014, 27 May 2014 and 13 July 2014	Mr X appeared before the Melbourne Magistrates' Court.
24 July 2015	The Commonwealth Director of Public Prosecutions declined to proceed with the prosecution and issued Mr X with a Notice of Discontinuance.

Health and welfare

4 July 2013 – 1 October 2015	International Health and Medical Services (IHMS) reported that Mr X has not required treatment for any major physical health concerns.
3 August 2013	A DIBP Incident Report recorded that Mr X was allegedly refusing food and fluid. No further information was provided.
6 August 2013	He disclosed a history of torture and trauma but did not accept a referral for counselling until 27 December 2013.
14 December 2013	He reported feelings of depression and frustration to the mental health team (MHT).
2 January 2014	A DIBP Incident Report recorded that Mr X self-harmed. IHMS advised that Mr X was taken to a hospital emergency department for treatment of superficial wounds and was discharged the same day. He was reviewed and monitored by the MHT following reported aggressive behaviour towards IHMS staff and Serco officers.
5 February 2014	The psychiatrist diagnosed Mr X with adjustment issues and prescribed him with medication. He was semi-compliant with his medication and IHMS commenced close monitoring. IHMS advised that he attends regular reviews with the MHT and is aware of the self-referral process.

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.

10 March 2014	A DIBP Incident Report recorded that Mr X threatened self-harm. The report states that another detainee alerted a Serco officer to the situation. No further information was provided.
17 June 2014 and 22 July 2014	He attended specialist counselling sessions.
15 July 2014	A DIBP Incident Report recorded that Mr X threatened self-harm to police. No further information was provided.

Detention incidents

DIBP Incident Reports recorded numerous minor incidents where Mr X allegedly displayed aggressive and abusive behaviour towards Serco officers, IHMS staff and other detainees. The Reports also recorded numerous incidents of unplanned force being used against Mr X to prevent incidents while he was located at Maribyrnong IDC.

Since Mr X's transfer to Christmas Island IDC, no further incidents of aggressive or abusive behaviour by Mr X have been recorded.

Case status

Mr X was detained on 4 July 2013 after arriving in Australia aboard SIEV *Heflin* with his family. He has been held in restricted detention for a cumulative period of more than 24 months.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa application. Mr X is awaiting an invitation to apply for a temporary visa.

Mr X has been separated from his wife and son who remain in the community on Bridging visas and in October 2015 Mr X was being considered for the possible grant of a Bridging visa.