

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 immigration detention for a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1984
Ombudsman ID	1002550
Date of DIBP's reports	21 May 2015 and 3 November 2015
Total days in detention	912 (at date of DIBP's latest report)

Detention history

13 October 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 478 <i>Hansworth</i> . He was transferred to Phosphate Hill Alternative Place of Detention (APOD), Christmas Island.
19 October 2012	Transferred to Facility B.
22 October 2012	Transferred to Facility C.
4 November 2012	Transferred to Facility E.
25 January 2013	Transferred to Facility F.
30 May 2013	Granted a Bridging visa with an associated Temporary Humanitarian Concern (THC) visa and released from detention.
15 December 2013	Mr X was arrested in the community following a criminal offence and was remanded in police custody.
20 December 2013	He was re-detained under s 189(1) and transferred to Facility G. On the same day he was transferred to Facility J.
4 November 2014	Transferred to Facility G.
5 November 2014	Transferred to Facility J.

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.	
30 May 2013	Granted a Bridging visa with an associated THC visa.
6 June 2013	Mr X's THC visa expired.
30 November 2013	Bridging visa expired.
20 December 2013	He was notified by DIBP that he was an unlawful non-citizen and had breached his visa conditions. He was re-detained under s 189(1).

12 March 2014	DIBP issued Mr X with a letter inviting him to comment on the unintentional release of personal information. ¹ DIBP advised that Mr X had not yet provided his response.
21 May 2015	DIBP advised that Mr X's case met the guidelines for a referral to the Minister under s 195A for consideration of a Bridging visa.
18 June 2015	Referred for ministerial intervention under ss 195A and 46A.
26 June 2015	The Minister declined to intervene under s 195A but lifted the bar under s 46A to allow him to lodge a Temporary Protection visa (TPV) application.
9 August 2015	Mr X was again referred for ministerial intervention under s 46A.
13 August 2015	The Minister lifted the bar under s 46A to allow him to lodge a TPV or Safe Haven Enterprise visa application.
7 September 2015	DIBP invited Mr X to apply for a temporary visa.
14 September 2015	Lodged a TPV application.
23 September 2015	DIBP notified Mr X that he was eligible for the Primary Application Information Service (PAIS).
24 September 2015	Mr X accepted DIBP's offer for PAIS assistance.

Criminal history

15 December 2013	Mr X was arrested by Y Police and charged with sexual assault of a minor while in the possession of a weapon.
5 November 2014	Mr X pleaded guilty to the criminal charges. He was convicted and placed on a two-year good behaviour bond.

Health and welfare

7 November 2012	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and was referred for specialist counselling.
29 November 2012 – 31 January 2013	Attended six physiotherapy appointments for shoulder pain.
31 December 2012	A shoulder x-ray and ultrasound identified mild degenerative changes. He was prescribed with pain relief medication and attended physiotherapy.
18 April 2014	Reviewed by a psychiatrist who noted that Mr X was suffering from adjustment disorder with anxious mood in the context of his prolonged detention. It was also noted that Mr X had abnormal impulse control and anger management issues. IHMS advised that he takes prescribed medication to assist with his behavioural issues and continued to attend individual and group counselling sessions with the mental health team (MHT).

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.

9 August 2014	Mr X's nose was broken following an alleged altercation with another detainee. He was transferred to hospital for treatment and was discharged on the same day with a referral to an ear, nose and throat (ENT) specialist.
25 August 2014 and 13 October 2014	Reviewed by an ENT specialist. He was referred for a computed tomography scan and was advised to attend a follow-up appointment if he had any ongoing concerns.
17 November 2014 – 27 October 2015	Attended 29 specialist counselling sessions.
January 2015	Reviewed by a psychiatrist and it was recommended that he continue attending specialist counselling.
10 August 2015	Following ongoing nasal breathing difficulties Mr X was reviewed by an ENT specialist with no abnormalities identified.

Information provided by Mr X

During an interview with Ombudsman staff at Facility J on 29 July 2015 Mr X advised that he has an ongoing compensation case following an assault in August 2014. He said that he was assaulted by a detainee which resulted in him receiving a broken nose.

He said that he sees the MHT on a regular basis and a specialist counselling service every second month. He takes medication for depression and anxiety but feels that his mental health is deteriorating as a result of his prolonged detention. He stated that he wants his life back and is remorseful for the crime he committed.

Mr X advised that he has lost motivation to participate in activities and spends his days watching television and thinking too much. He said that other Country A detainees at Facility J avoid him as they regard him as a person with a mental illness.

He said that he has some friends and people from religious groups who visit him on a weekly basis.

Case status

Mr X was detained on 13 October 2012 after arriving in Australia aboard SIEV *Hansworth* and has been held in detention for a cumulative period of over two and a half years.

On 26 June 2015 and 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 7 September 2015 DIBP invited him to apply.