

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 (restricted detention and a correctional facility) for a cumulative period of more than 30 months (two and a half years).¹

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1985 |
| Ombudsman ID | 1002429-O |
| Date of DIBP's report | 25 June 2016 ² |
| Total days in detention | 965 (at date of DIBP's latest report) |

Detention history

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| 11 August 2013 | Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 829 <i>Marbury</i> . |
| October 2013 | Voluntarily returned to Country A after being issued with a warning by the Australian Federal Police. |
| 19 December 2013 | Re-detained under ss 189(3) and 250 after arriving in Australia aboard SIEV 871 <i>Catherine</i> . He was transferred to an Alternative Place of Detention, Christmas Island. |
| 21 December 2013 | Transferred to Christmas Island Immigration Detention Centre (IDC). |
| 15 April 2014 | Transferred to Perth IDC. |
| 16 April 2014 | Transferred to Hakea Prison, Western Australia (WA). |

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X is subject to a Criminal Justice Stay Certificate while he is detained in a correctional facility.

Criminal history

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| 16 April 2014 | Mr X was arrested and charged under s 232A with people-smuggling offences. |
| 11 December 2014 | He was convicted and sentenced to five years in prison with a non-parole period of three years. His earliest release date is 10 December 2016. |

¹ Section 250 provides that a person serving a sentence for an offence related to being on board a vessel involved in the commission of an offence may be kept in immigration detention while serving a sentence. Mr X is therefore deemed to be in concurrent detention and will continue to be subject to reporting under s 486O even though he is not actively case-managed by DIBP.

² The 486N review is a combined 24 and 30-month review. DIBP advised that it did not meet its statutory obligations in relation to providing Mr X's 24-month review under s 486N. DIBP further advised that it is working with its information technology systems to correct this issue.

Health and welfare

International Health and Medical Services did not provide a Health Summary Report for Mr X for the four-month period he was detained in immigration detention facilities on Christmas Island.

DIBP advised that following his transfer to Hakea Prison, Mr X's health and welfare has been managed by the Department of Corrective Services, WA.

Ombudsman assessment

Mr X will be removed at the conclusion of his custodial sentence. His earliest release date is 10 December 2016.

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 24-month review on Mr X, the Ombudsman notes that DIBP advised that it did not meet its statutory reporting timeframes due to a system-related administrative 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.