

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 and his daughter who have remained in immigration detention for more than 30 months (two and a half years).

Name	Mr X (and daughter)
Citizenship	Country A
Year of birth	1975
Total days in detention	1,037 ¹ (at date of DIBP's latest report)

Family details

Name	Miss Y (daughter)
Citizenship	Country A
Year of birth	2001
Total days in detention	915 (at date of DIBP's latest report)

Ombudsman ID	1002318
Date of DIBP's reports	24 March 2015 and 1 September 2015

Previous detention history

20 July 2010	Mr X first arrived in Australia aboard Suspected Illegal Entry Vessel (SIEV) 170 <i>Primbee</i> using the alias of Mr P, born in 1975. He was detained under s 189(3) of the <i>Migration Act 1958</i> and transferred to North West Point Immigration Detention Centre (IDC), Christmas Island.
30 September 2010	Mr X requested voluntary removal from Australia. The Country A consulate confirmed Mr X's identity as Mr X, born in 1975.
12 November 2010	Mr X was released from detention when he voluntarily departed Australia and returned to Country A with the assistance of the International Organization for Migration (IOM).

Detention history

23 February 2013	Mr X and his daughter, Miss Y were detained under s 189(1) after arriving on the Australian mainland aboard SIEV 598 <i>Yema</i> . They were transferred to Northern IDC.
28 February 2013	Transferred to Darwin Airport Lodge Alternative Place of Detention (APOD).
8 May 2013	Transferred to Wickham Point APOD.
28 June 2014	Transferred to Bladin APOD.

¹ DIBP's 24 month and 30 month reviews on Mr X were due in November 2014 and May 2015. DIBP advised that the delay in provision of these reviews was due to a system failure.

26 February 2015	Transferred to Wickham Point APOD.
15 June 2015	Transferred to community detention.

Visa applications/case progression

20 July 2010	Mr X was interviewed by the Department of Immigration and Citizenship (DIAC) but did not apply for asylum in Australia.
15 March 2013	Mr X and his daughter became persons of interest to DIAC.
4 September 2013	DIAC advised that Mr X was no longer considered a person of interest.
12 September 2013	Mr X and his daughter lodged a Protection visa application.
27 October 2014	Found not to be owed protection.
31 October 2014	Appealed to the Refugee Review Tribunal (RRT).
11 November 2014	Miss Y was no longer considered a person of interest to the Department of Immigration and Border Protection (DIBP).
5 March 2015	A first stage submission was referred to the Minister under s 195A for consideration of a Bridging visa.
11 March 2015	The Minister requested the submission be withdrawn and the family's case be progressed under s 197AB for consideration of a community detention placement.
20 March 2015	A ministerial intervention request under s 197AB was referred to the Minister for his consideration.
15 April 2015	RRT affirmed original decision.
19 May 2015	Requested judicial review by the Federal Circuit Court (FCC).
19 August 2015	A directions hearing was held at the FCC with a final hearing scheduled for 4 December 2015.

Criminal history

11 September 2007	Mr X was convicted of producing a prohibited substance in Country B. He served nine months of an 18-month sentence before being deported from Country B to Country A on 24 June 2008 with the assistance of IOM.
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Health and welfare

Mr X

13 October 2013	<p>International Health and Medical Services (IHMS) advised that a computed tomography scan of Mr X's cervical spine was conducted following an ongoing tingling sensation in his right arm. Results identified early degenerative disc disease and he was referred for physiotherapy.</p> <p>IHMS advised that he attended regular physiotherapy appointments and was provided with exercises to promote healing.</p>
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21 August 2014	During a consultation with a general practitioner Mr X disclosed that he was suffering from panic attacks and disturbed sleep associated with shaking and breathing difficulties. He was referred for a mental health review.
26 September 2014 – 20 March 2015	IHMS advised that Mr X was reviewed by a mental health specialist and attended several counselling appointments during this period.

Miss Y

IHMS advised that Miss Y has not required treatment for any major physical or mental health issues.

Other matters

24 March 2015	DIBP advised that Mr X has an unresolved status on its movement alert database.
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Information provided by Mr X

The Ombudsman’s office tried to contact Mr X on several occasions to discuss his community detention circumstances but was unsuccessful.

Case status

Mr X and his daughter have been found not to be owed protection under the Refugee Convention and complementary protection criterion. They are awaiting the outcome of judicial review.