

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 daughters who have remained in immigration detention for more than 24 months (two years).

Name	Mr X (and daughters)
Citizenship	Country A
Year of birth	1976

Family details

Family members	Miss Y (daughter)	Miss Z (daughter)	Miss Q (daughter)
Citizenship	Country A	Country A	Country A
Year of birth	2006	2008	2012

Ombudsman ID	1003056
Date of DIBP's report	17 July 2015
Total days in detention	730 (at date of DIBP's report)

Detention history

17 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 794 <i>Oneonta</i> . They were transferred to Facility B.
18 July 2013	Transferred to Facility C.
31 July 2013	Transferred to Facility D.
15 August 2013	Transferred to community detention.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X and his daughters are part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted the bar under s 46A(2).	
13 March 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through DIBP's website. ¹ DIBP advised that he has not yet responded to the invitation.

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.

Health and welfare

Mr X

17 July 2013	<p>DIBP advised that the boat in which Mr X and his family travelled to Australia capsized near Christmas Island, resulting in the death of his wife.</p> <p>International Health and Medical Services (IHMS) advised that Mr X received grief counselling from the mental health team following these traumatic events and the stress associated with caring for his young daughters.</p>
2 August 2013	<p>A DIBP Incident Report recorded that Mr X threatened self-harm. No further information was provided.</p>
September 2013 – ongoing	<p>IHMS advised that Mr X continued to receive mental health care from his general practitioner (GP) in the community. He was prescribed with antidepressant medication and attended specialist counselling on two occasions. IHMS advised that he declined further counselling in order to focus on the needs of his daughters.</p>
19 September 2013	<p>IHMS advised that Mr X experiences chronic headaches and is dependent on prescription pain relief medication to manage his symptoms. He was referred to a chronic pain clinic and neurologist for assessment, however IHMS was not able to confirm his attendance at these appointments.</p>
13 May 2014 – 30 April 2015	<p>Attended an appointment with a psychiatrist and was diagnosed with an adjustment disorder with anxiety and depressive symptoms. He attended a further 10 psychiatric sessions. His psychiatrist noted that he experienced thoughts of self-harm and initially refused to accept a prescription for antidepressant medication.</p>
17 July 2014	<p>A DIBP Incident Report recorded that Mr X threatened self-harm. No further information was provided.</p>
19 July 2014	<p>A DIBP Incident Report recorded that Mr X was reviewed by the crisis assessment team after he threatened self-harm to a community service provider. No further information was provided.</p>
24 September 2014 – December 2014	<p>A DIBP Incident Report recorded that Mr X left his daughters with a community service provider, returned home and self-harmed. DIBP advised that Child Protection Services were contacted and Mr X's daughters were removed from his care.</p> <p>IHMS advised that Mr X was involuntarily admitted to hospital for psychiatric care on 26 September 2014. He was discharged on 29 September 2014.</p> <p>IHMS advised that after being discharged he was compliant during his psychiatric appointment and accepted a prescription for antidepressant medication.</p> <p>In December 2014 he was reunited with his daughters. DIBP advised that Mr X continues to receive psychological assistance and improvements have been noted. He has demonstrated his capacity to care for his daughters and receives ongoing support in the community.</p>

May 2015	Attended an appointment with a GP who noted that Mr X's chronic headaches were related to anxiety and stress. His GP further noted that Mr X was reluctant to treat these underlying causes. He was referred to a physiotherapist for further treatment.
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Miss Y

5 August 2013	IHMS advised that Miss Y received ongoing mental health support while in restricted detention to manage her grief and adjustment issues following the death of her mother. While in community detention she attended an appointment with a psychologist and attends counselling as required.
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Miss Z

4 December 2014	Reviewed by a psychologist following the death of her mother and her father's mental health issues. The psychologist noted no concerns but recommended continued monitoring of her behaviour.
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Miss Q

17 July 2013	Admitted to hospital for treatment of possible pneumonia after the boat on which she travelled to Australia capsized. She was provided with intravenous antibiotics and was discharged the following day.
4 December 2014	Reviewed by a psychologist following the death of her mother. The psychologist noted that she displayed normal behaviour and that no treatment was required. It was recommended that she be monitored as she ages and gains a further understanding of her mother's death.

Detention incidents

3 August 2015	DIBP advised that Child Protection Services were contacted following an incident on 7 December 2014 where Mr X left his daughters with a community service provider when there was no caretaker to receive them.
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Ombudsman assessment/recommendation

The Ombudsman notes that Mr X and his daughters were detained on 17 July 2013 after arriving in Australia aboard SIEV *Oneonta* and have been held in detention for over two years with no processing of their protection claims.

The Ombudsman notes with concern that without an assessment of the family's claims to determine if they are found to engage Australia's protection obligations, it appears likely that they will remain in detention for an indefinite period.

The Ombudsman notes the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a Temporary Protection visa application.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of the family's protection claims commence as soon as possible.