

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O report on Mr X and his daughter who have remained in immigration detention for more than 42 months (three and a half years).

The first report 1001336 was tabled in Parliament on 19 March 2014 and the second report 1001551 was tabled in Parliament on 3 December 2014. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X (and daughter)
Citizenship	Country A
Year of birth	1981

Family details

Family members	Miss Y (daughter)
Citizenship	Country A
Year of birth	2006

Ombudsman ID	1002018
Date of DIBP's reports	17 November 2014 and 18 May 2015
Total days in detention	1,280 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001551), Mr X and his daughter have remained in community detention.

Recent visa applications/case progression

12 August 2014	The Department of Immigration and Border Protection (DIBP) advised that Mr X and his daughter were issued with a letter inviting them to comment on the unintentional release of personal information through DIBP's website. ¹
23 September 2014	Mr X and his daughter provided their response and DIBP advised that it was assessing whether they had raised further protection related claims as a result of the privacy breach.
17 November 2014	DIBP advised that Mr X and his daughter were unwilling to voluntarily return to Country A. DIBP had referred them for involuntary removal action pending its assessment in relation to the privacy breach.

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.

15 January 2015	DIBP notified Mr X and his daughter that an International Treaties Obligations Assessment (ITOA) had commenced to assess whether the circumstances of their case engaged Australia's <i>non-refoulement</i> obligations.
13 February 2015	Mr X provided a response to DIBP in relation to the ITOA.
12 May 2015	DIBP invited Mr X and his daughter to comment on country and other information in relation to the ITOA.

Health and welfare

Mr X

15 March 2013 - 23 September 2013	DIBP Incident Reports recorded that Mr X attended hospital by ambulance on four occasions following back pain.
12 May 2014	A DIBP Incident Report recorded four occasions where Mr X informed a case worker that he had self-harmed. No further information was provided.
26 May 2014	International Health and Medical Services (IHMS) advised that Mr X deliberately burnt his left hand after receiving distressing news from overseas. He treated his wound and reported the incident to a case worker who informed Mr X's general practitioner (GP).
2 June 2014	Referred to a psychologist following a previous incident of self-harm and low mood. IHMS advised the appointment was scheduled for 6 June 2014. However, there was no documentation to indicate if Mr X attended the appointment.
19 August 2014 and 20 August 2014	Attended two appointments with a GP for review of his medication in relation to allergic rhinitis. He was referred to an immunologist for further investigation.
20 August 2014	IHMS reported that Mr X has a history of chronic back pain. He advised his GP that his symptoms were alleviated by back injections but he would like to discuss surgery with a specialist.
3 September 2014	Attended an appointment with a GP for assessment of his allergic rhinitis. The GP recommended that he stop smoking and prescribed an alternative medication.
22 September 2014	IHMS advised that it had approved the referral to an immunologist but had no documentation to confirm he had attended.

Miss Y

20 January 2015	Miss Y was referred to a speech pathologist.
5 February 2015	The speech pathologist reported that Miss Y had severe receptive and expressive language skills. Five more speech therapy sessions were recommended and were approved by IHMS. However there is no documentation to indicate if she attended.

Case status

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