

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

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1982
<b>Ombudsman ID</b>	1003467
<b>Date of DIBP's reports</b>	29 September 2015 and 29 March 2016
<b>Total days in detention</b>	733 (at date of DIBP's latest report)

### Detention history

14 December 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 561 <i>Nacke</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
17 December 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
13 January 2013	Transferred to Wickham Point APOD.
2 April 2013	Transferred to Yongah Hill IDC.
7 May 2013	Granted a Bridging visa valid until 7 November 2013 and released from detention.
17 February 2014	Re-detained under s 189(1) and transferred to Maribyrnong IDC.
21 May 2014	Transferred to Wickham Point APOD.

### 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.	
6 May 2013	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
7 May 2013	Granted a Bridging visa.
7 November 2013	Mr X's Bridging visa expired and he remained in the community as an unlawful non-citizen.
9 February 2014	Mr X was identified as a person of interest to DIBP following information alleging that he had committed serious criminal offences offshore.
17 February 2014	Mr X was located by DIBP while living in the community as an unlawful non-citizen and re-detained.
25 February 2014	Received a qualified security assessment.

16 September 2014	Received a clear security assessment which superseded his qualified security assessment.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application and he was invited to apply on 5 November 2015.
22 February 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application.
18 March 2016	Found to meet the guidelines for referral to the Minister under s 195A.

### Health and welfare

29 December 2013	International Health and Medical Services (IHMS) advised that Mr X experienced recurrent headaches. A computed tomography scan returned normal results.
15 January 2014	Mr X received treatment for a stomach infection.  IHMS advised that he was diagnosed with depression and an adjustment disorder. He was prescribed with medication and attended specialist counselling for a history of torture and trauma. However, Mr X was non-compliant with his medication regime and had a history of poor engagement with the mental health team.
7 April 2014	Mr X was allegedly punched during a sports game resulting in an eye injury. He was treated by a specialist and prescribed with eye drops.
12 May 2014	Attended a follow-up specialist appointment for his eye injury. No further treatment was required.
23 June 2014	Reviewed by a psychiatrist who recommended that Mr X be transferred to Melbourne to be closer to his support network to assist with his depression and anxiety.
3 October 2014	Mr X underwent diagnostic tests for urinary issues which returned normal results.
7 September 2015 – 11 February 2016	IHMS advised that Mr X was identified to be a tuberculosis contact. His condition was monitored as per state policy and considered resolved in February 2016.

### **Information provided by Mr X**

During a telephone conversation with Ombudsman staff on 7 March 2016 Mr X advised that he feels stressed and anxious and that his prolonged detention has caused him to lose all motivation. He claimed that he is afraid to participate in sports activities because detainees at Wickham Point APOD are becoming increasingly aggressive and he is fearful of fights breaking out.

Mr X claimed that while on a Bridging visa he had no contact with his case manager until he was asked to come to a DIBP office and was re-detained. He stated that at the time he was re-detained he believed his Bridging visa was valid for another three months and that he was not living unlawfully in the community.

He further advised that he has friends in Victoria from his time in the community and would like to be transferred to a Melbourne facility so that they could visit him while he awaits an outcome to his case.

### **Case status**

Mr X was detained on 14 December 2012 after arriving in Australia aboard SIEV *Nacke* and has been held in restricted detention for a cumulative period of over two and a half years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 3 March 2016 Mr X accepted an offer of PAIS assistance.

At the time of DIBP's latest review Mr X had also been found to meet the guidelines for referral to the Minister under s 195A for the possible grant of a Bridging visa.