

**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 more than 36 months (three years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1985
<b>Ombudsman ID</b>	1003168
<b>Date of DIBP's reports</b>	10 August 2015, 25 January 2016 and 23 July 2016
<b>Total days in detention</b>	1094 (at date of DIBP's latest report)

**Detention history**

25 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 810 <i>Megargel</i> with his wife, Ms Y and their son, Master Z. The family was transferred to an Alternative Place of Detention (APOD), Christmas Island.  Mr X later became estranged from his wife, who, with their son was granted a Bridging visa on 15 January 2015 and released from detention.
4 June 2014	Transferred to Wickham Point APOD.
20 July 2014	Transferred to Christmas Island Immigration Detention Centre (IDC).
30 August 2014	Transferred to Wickham Point APOD.
4 December 2014	Transferred to Christmas Island IDC.
28 March 2015	Transferred to Wickham Point APOD.
7 May 2015	Transferred to Christmas Island IDC.
25 June 2015	Transferred to Wickham Point APOD.
19 September 2015	Transferred to Christmas Island IDC.
4 December 2015	Transferred to Wickham Point APOD.
30 June 2016	Transferred to Yongah Hill IDC.

### 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.	
13 March 2014	DIBP notified Mr X of the unintentional release of personal information <sup>1</sup> and advised that the privacy breach would be taken into account when considering his protection claims.
14 July 2015	Mr X requested voluntary removal from Australia. He later withdrew the request.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
6 November 2015	The Minister invited Mr X to lodge a temporary visa application.
10 December 2015	Lodged Temporary Protection visa (TPV) application.
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. He accepted the offer on 29 February 2016.
5 May 2016	Mr X submitted additional information in support of his TPV application.
24 May 2016	Provided post-interview submission in support of his TPV application.

### Criminal history

11 July 2014	Mr X and his estranged wife, Ms Y, were allegedly involved in an incident of domestic violence. On 13 July 2014 a Domestic Violence Order was issued against Mr X. On 19 December 2014 the order was withdrawn.
27 November 2014	Mr X was involved in an incident of abusive/aggressive behaviour while at Wickham Point APOD. The incident was referred to the Northern Territory Police for further investigation. He was charged with an offence relating to destruction or damage to Commonwealth property and aggravated assault. On 21 April 2015 he was fined \$1000 and a 12-month good behaviour bond was imposed.
19 October 2015	Mr X appeared in the Magistrates Court in Perth in relation to an incident on 4 March 2015 at Christmas Island IDC involving criminal damage and being armed or pretending to be armed in a way that may cause fear. He received fines in relation to the matter.
9 December 2015	Mr X appeared in the Local Court in Darwin in relation to an alleged assault against another detainee while in detention at Wickham Point APOD on 26 November 2014. He was placed on a four-month good behaviour bond without conviction.

<sup>1</sup> 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

International Health and Medical Services (IHMS) advised that Mr X had a history of substance abuse and received treatment for conditions including hepatitis C, pilonidal sinus, chronic back pain, myopic degeneration, self-harm, stress, low mood, situational anxiety, an adjustment disorder, anger management issues and torture and trauma.

DIBP incident reports recorded that Mr X was involved in many incidents of self-harm and a number of incidents of threatened self-harm.

May 2016	A liver specialist confirmed through a scan that Mr X did not have cirrhosis of the liver but had chronic liver disease. The specialist recommended that Mr X commence treatment with oral medication for hepatitis C and undergo further diagnostic testing to screen for hepatoma.
June 2016	An IHMS general practitioner prescribed Mr X with a 12-week course of medication for hepatitis C. Follow up appointments with his liver specialist were scheduled in July and September 2016.
15 July 2016	A DIBP Incident Report recorded that an ambulance was requested after Mr X experienced severe back pain after injuring his back.

## Detention incidents

DIBP Incident Reports recorded that Mr X was allegedly involved in numerous behavioural incidents.

## Other matters

25 June 2014	Mr X lodged a complaint with the Commonwealth Ombudsman's office about the standard of medical treatment he was receiving for a range of medical conditions. After investigation the complaint was closed on 18 September 2014.
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## Information provided by Mr X

During a telephone conversation with Ombudsman staff on 9 December 2015 Mr X advised that he was in regular contact with the IHMS mental health team but did not find them helpful. He said the longer he had stayed in detention the worse his mental health had become.

He advised he did not have contact with his wife and son and he really regretted the incident which caused their separation. He had resigned himself to not reconciling with his wife. He said he was remorseful for his past actions.

## Case status

Mr X was detained on 25 July 2013 after arriving in Australia aboard SIEV *Megargel* and has been held in restricted detention for over three 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 10 December 2015 Mr X lodged a TPV application.