

**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>	1993
<b>Ombudsman ID</b>	1002372-O
<b>Date of DIBP's reports</b>	19 April 2016 and 18 October 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

**Detention history**

14 April 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland aboard Suspected Illegal Entry Vessel 648 <i>Weinam</i> . He was transferred to Darwin Airport Lodge Alternative Place of Detention (APOD).
3 May 2013 – 27 July 2013	Transferred three times between various immigration detention facilities.
11 December 2014	Granted a Bridging visa and released from detention.
17 December 2015	Re-detained at a police watch house and transferred to Facility B.
27 December 2015	Transferred to Facility C.
21 June 2016	Transferred to Facility D.

**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.	
9 May 2013	Assessed and found to be a minor under the guardianship of the Minister under the <i>Immigration (Guardianship of Children) Act 1946</i> .
20 May 2013	An Age Determination Assessment concluded Mr X was over 18 years of age.
12 March 2014	The Department of Immigration and Border Protection (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.

<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.

9 December 2014	The Minister agreed to intervene under s 195A and on 11 December 2014 Mr X was granted a Temporary Safe Haven visa and a Bridging visa valid until 11 December 2015.
1 December 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
10 December 2015	Granted a further Bridging visa valid until 10 December 2016.
17 December 2015	Following Mr X's arrest his visa was cancelled on the same day under s 116(1) of the <i>Migration Act</i> 1958 and the police re-detained him under s 189(1).
13 January 2016	Signed a Request for Voluntary Removal from Australia form.
9 August 2016	Signed a Temporary Protection visa (TPV) application form which DIBP received via a migration agent on 26 August 2016. On the same day Mr X signed a second Request for Removal from Australia form.
2 September 2016	Mr X withdrew his TPV application.

#### Other legal matters

17 December 2015	The police located and arrested Mr X and charged him with four offences related to drug possession and cultivation.
1 February 2016	Attended a magistrates court in relation to the charges. The matter was adjourned.
6 October 2016	DIBP contacted the police to follow up on whether they were pursuing the charges. DIBP advised on 18 October 2016 that the matter remained ongoing.

#### Health and welfare

International Health and Medical Services advised that Mr X has not required treatment for any major physical or mental health issues.	
9 September 2014	A DIBP Incident Report recorded that Mr X alleged that he had been touched inappropriately by another detainee. He declined an offer to see the mental health team. The matter was passed on to the security department at the immigration detention facility for further investigation. No further information was provided.

#### Detention incidents

13 June 2013	A DIBP Incident Report recorded that Mr X was allegedly involved in a physical altercation with another detainee who was taken to hospital.
18 August 2013	A DIBP Incident Report recorded that a sharp metal object in the shape of a dagger allegedly belonging to Mr X was found during a room search.
28 February 2016	A DIBP Incident Report recorded that Mr X allegedly behaved in an abusive and aggressive manner toward Serco staff.

**Case status**

Mr X was detained on 14 April 2013 after arriving in Australia by sea and has been held in restricted detention for more than two and a half years.

On 1 December 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. On 13 January 2016 he signed a Request for Removal from Australia form.

On 26 August 2016 DIBP received an application for a SHEV from Mr X's migration agent. On the same day Mr X signed a second Request for Removal from Australia form and on 2 September 2016 he withdrew his TPV application.