

**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 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1964
<b>Ombudsman ID</b>	1002284-O
<b>Date of DIBP's report</b>	11 January 2016
<b>Total days in detention</b>	731 (at date of DIBP's report)

**Detention history**

The Department of Immigration and Border Protection (DIBP) advised that Mr X was in immigration detention between 30 October 2002 and 5 April 2005. DIBP further advised it is awaiting legal opinion to establish whether this period of detention should be calculated for the purposes of s 486N reporting.	
10 January 2014	Re-detained under s 189(1) of the <i>Migration Act 1958</i> following release from criminal custody. He was transferred to Villawood Immigration Detention Centre (IDC).
10 April 2014	Transferred to Yongah Hill IDC.
31 July 2015	Transferred to Wickham Point Alternative Place of Detention.

**Visa applications/case progression**

24 October 1996	Mr X arrived in Australia on a Business (short stay) visa.
24 November 1996	Business (short stay) visa ceased and he became an unlawful non-citizen.
24 January 1997	Lodged a Protection visa application which triggered an associated Bridging visa application. Mr X was granted the associated Bridging visa that day.
15 April 1997	Protection visa application refused.  DIBP advised that a notification letter had been sent to Mr X but it was returned.
20 May 1997	Associated Bridging visa ceased following the Protection visa refusal and he became an unlawful non-citizen.
30 October 2002	Mr X was located in the community and detained under s 189(1). He was transferred to Villawood IDC.

5 April 2005	Mr X's case was identified to be affected by the Federal Court's decision of 12 November 2003. <sup>1</sup>  The same day Mr X was notified of the Protection visa refusal decision, his Bridging visa was reinstated and he was released from detention.
15 April 2005	Appealed Protection visa refusal to the Refugee Review Tribunal (RRT).
28 June 2005 – 15 September 2010	Granted multiple Bridging visas during this period. The final Bridging visa ceased on 15 September 2010 and Mr X became an unlawful non-citizen.
9 August 2005	RRT affirmed original decision.
15 August 2005	Found not to meet the guidelines for referral to the former Minister under s 417
15 September 2005 and 10 July 2008	Mr X twice requested ministerial intervention under s 417 which the former Minister declined both times.
15 July 2009	Mr X approached the Department of Immigration and Citizenship and was granted a further Bridging visa on departure grounds.
10 January 2014	Mr X was released from criminal custody and re-detained under s 189(1).
26 February 2014	Lodged a Protection visa application which triggered an associated Bridging visa application. The associated Bridging visa was refused on 28 February 2014.
24 June 2014	Attended Protection visa application interview.
13 October 2014	Protection visa application refused.  DIBP advised that Mr X was identified to be affected by the unintentional release of personal information <sup>2</sup> and the privacy breach was taken into account when his protection claims were considered.
27 October 2014	Appealed to the RRT.
6 February 2015	RRT affirmed original decision.
27 February 2015	Appealed to the Federal Circuit Court (FCC).
6 November 2015	The FCC set aside the RRT's decision and remitted the matter to the Administrative Appeals Tribunal (AAT). <sup>3</sup>
20 November 2015	The AAT commenced reconsideration of Mr X's case.

<sup>1</sup> *Chan Ta Srey v Minister for Immigration and Multicultural and Indigenous Affairs* (2003) 134 FCR 308; [2003] FCA 1292

<sup>2</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.

<sup>3</sup> On 1 July 2015 the Migration Review Tribunal and the RRT merged with the AAT.

**Criminal history**

29 October 2013	DIBP advised that Mr X was charged with stealing. No further information was provided.
7 January 2014	He was arrested and charged with receiving tainted property.
10 January 2014	He was sentenced to four days in prison with time served. Mr X was released from prison that day and re-detained under s 189(1).

**Health and welfare**

International Health and Medical Services provided details of Mr X's health and welfare. No significant ongoing physical or mental health concerns were noted.

**Case status**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He is awaiting the reconsideration of his protection claims by the AAT.