

**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 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1960
Ombudsman ID	1002266-O
Date of DIBP's reports	16 December 2015 and 15 June 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

16 December 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. He was transferred to Villawood Immigration Detention Centre (IDC).
14 April 2014	Transferred to Yongah Hill IDC.
24 March 2015	Transferred to Wickham Point Alternative Place of Detention.

Visa applications/case progression

<p>On 8 May 1996 Mr X arrived in Australia on a Tourist visa using a fraudulent Country B passport in the name of Mr Y. In December 2012 Mr X disclosed his true identity to the Department of Immigration and Border Protection (DIBP).</p> <p>Between 13 May 1996 and 11 June 2013 Mr X held multiple Bridging visas and at times resided in the community unlawfully. He applied for a Protection visa which was refused and the refusal was affirmed upon appeal to the Refugee Review Tribunal (RRT). He also requested ministerial intervention under s 417 and s 48B but was found not to meet the guidelines.</p>	
11 June 2013	Mr X's final Bridging visa ceased and he remained unlawfully in the community.
16 December 2013	Mr X was located by authorities and detained under s 189(1).
23 December 2013	Lodged a Protection visa application.
2 January 2014	Lodged an associated Bridging visa application which was refused on 6 January 2014. He appealed to the Migration Review Tribunal (MRT) and the MRT affirmed the original decision on 17 January 2014.
28 February 2014	Lodged a Bridging visa application which was refused on 4 March 2014.

12 March 2014	DIBP notified Mr X of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering his protection claims.
3 October 2014	Protection visa application refused.
11 November 2014	Appealed to the RRT.
22 January 2015	RRT affirmed original decision.
19 February 2015	Requested judicial review by the Federal Circuit Court (FCC).
23 November 2015	FCC upheld original decision.
14 January 2016	Appealed to the Full Federal Court (FFC).
5 May 2016	The FFC heard Mr X's application for judicial review and judgment was reserved.

Criminal history

12 September 2013	Mr X was convicted of two minor driving offences and fined \$750.
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Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment for gastrointestinal issues, urinary symptoms and ongoing shoulder pain. He has been referred to see an urologist and underwent a gastroscopy after medication failed to alleviate his gastrointestinal symptoms. Mr X was also reviewed by an orthopaedic specialist in April 2016 who recommended physiotherapy, regular medication and steroid injections to treat his shoulder pain.</p> <p>IHMS further advised that Mr X disclosed a history of torture and trauma and attended group therapy sessions as required.</p>	
3 April 2014	A DIBP Incident Report recorded that Mr X was allegedly involved in a mass protest involving food and fluid refusal.

Case status

<p>Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of DIBP's latest review Mr X was awaiting the outcome of judicial review.</p>

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.