

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O report on Mr X who has remained in restricted immigration detention for more than 42 months (three and a half years).

The first report 1001429 was tabled in Parliament on 18 June 2014 and the second report 1001732 was tabled in Parliament on 11 February 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1967
Ombudsman ID	1002209
Date of DIBP's reports	22 January 2015 and 22 July 2015
Total days in detention	1,280 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001732), Mr X remained at Facility B.

Mr X's wife, Ms Y and their two children were granted Bridging visas on 2 October 2015 and released from community detention. They are the subjects of Ombudsman report 1002208.

13 March 2015	Transferred to Facility C.
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Recent visa applications/case progression

18 November 2014	Mr X and his family's case was referred for ministerial intervention to have the bar lifted under s 46A of the <i>Migration Act 1958</i> to allow them to lodge a visa application. The ministerial intervention submission also sought the Minister's consideration under s 197AB to enable Mr X to be reunited with his family, who reside in community detention.
7 January 2015	The Department of Immigration and Border Protection (DIBP) advised that the ministerial intervention submission was returned unsigned due to a change in portfolio minister. DIBP further advised that it would update and resubmit the submission for the new Minister's consideration.
5 March 2015	The Minister declined to intervene under s 197AB to allow Mr X to join his family in community detention.
14 April 2015	Mr X was invited to lodge a Temporary Protection visa (TPV) application.
19 June 2015	Lodged a TPV application.

Health and welfare

17 July 2014 – 22 December 2014	International Health and Medical Services (IHMS) reported that due to the high cardiac risk factors related to Mr X's ongoing heart condition, he was regularly monitored by doctors and prescribed with preventative medication and cardiac examinations.
25 September 2014	A routine mental health assessment found that Mr X was dealing well with his situation and remained socially involved with his family and other detainees. IHMS advised on 22 December 2014 that there were no ongoing or major acute mental health issues.
13 November 2014	Attended a specialist review of an ongoing medical condition. He was scheduled for surgery.
17 November 2014	Underwent surgery.
15 January 2015 and 10 February 2015	Attended post-operative review appointments with a specialist.
25 February 2015	Following chest pain he was transferred to a hospital emergency department for further review. An examination and pathology tests revealed that the pain was not cardiac related and he was discharged.
20 April 2015	Admitted to hospital for further surgery. He was discharged with pain relief medication and no further intervention was required.
13 May 2015 – ongoing	Mr X saw the IHMS counsellor as he was experiencing insomnia, low mood and isolation. He was referred to a specialist counselling service. IHMS advised he would continue with regular counselling therapy.
1 June 2015 and 22 June 2015	Attended counselling appointments with a specialist counselling service.

Ombudsman assessment/recommendation

Since the Ombudsman's previous report (1001732), the Minister has lifted the s 46A bar and allowed Mr X to lodge a TPV application. Mr X lodged a TPV application on 19 June 2015 and is awaiting the outcome.

The Ombudsman notes that Mr X was transferred to immigration detention on 19 June 2014 following his sentence of three years imprisonment for people smuggling offences.

The Ombudsman notes with concern that Mr X has remained in restricted detention and continues to be separated from Ms Y and their two children who were granted Bridging visas on 2 October 2015 and released from detention.

The Ombudsman recommends that while Mr X is waiting for his TPV application to be processed he be considered for a Bridging visa so he can be reunited with his family in the community.