

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	1988
Ombudsman ID	1003196
Date of DIBP's reports	4 August 2015 and 29 January 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

31 July 2013	Mr X was released from prison and detained under s 189(1) of the <i>Migration Act 1958</i> . He was transferred to Perth Immigration Detention Centre (IDC).
3 December 2013	Transferred to Yongah Hill IDC.

Visa applications/case progression

8 January 2008	Arrived in Australia as the holder of a Higher Education Sector visa.
14 February 2008	Mr X was granted a Higher Education Sector visa with work rights valid until 24 February 2010.
24 February 2010	Mr X's visa was cancelled under s 116. On the same day, he was granted a Bridging visa to allow him to seek a Merits review.
3 March 2010	Appealed to the Migration Review Tribunal (MRT).
10 March 2010	Mr X's Bridging visa expired and he remained in the community as an unlawful non-citizen.
12 March 2010 – 20 December 2010	Granted five consecutive Bridging visas. The last of which expired on 11 April 2011.
14 September 2010	MRT affirmed original decision.
31 July 2013	Lodged a Bridging visa application.
1 August 2013	Mr X's Bridging visa application was referred for consideration for refusal under s 501.
6 November 2013	Bridging visa application refused under s 501.
12 November 2013	Appealed to the Administrative Appeals Tribunal (AAT).
29 January 2014	AAT affirmed original decision.
24 February 2014	Requested judicial review by the Federal Court.

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.
6 June 2014	Federal Court affirmed original decision.
19 June 2014	Mr X was invited to comment on the unintentional release of personal information.
27 June 2014	Requested judicial review by the Full Federal Court (FFC).
1 July 2014	Mr X provided his response and DIBP advised that it was assessing whether he had raised further protection related claims as a result of the privacy breach.
11 November 2014	Mr X withdrew his request for judicial review by the FCC.
17 June 2015	Lodged a Protection visa application with an associated Bridging visa application.
29 June 2015	Bridging visa application considered invalid under s 501.
15 July 2015	Attended an interview in relation to his Protection visa application.
7 December 2015	Found not be owed protection.
8 December 2015	Requested judicial review by the Administrative Appeals Tribunal (AAT).
25 January 2016	Attended a hearing at the AAT.

Criminal history

12 August 2010	Mr X was charged with aggravated burglary, bodily harm and unlawful wounding and remanded in criminal custody. On the same day, he appeared before the Perth Magistrates Court and was released on bail.
20 May 2011	Mr X was convicted in the Perth District Court and sentenced to 28 months in prison with time served.
31 July 2013	Mr X was released from prison and transferred to Perth IDC.

Health and welfare

4 November 2013	International Health and Medical Services (IHMS) advised that Mr X presented to a general practitioner (GP) with ongoing ankle pain related to a previous injury. He was advised to wear supportive strapping during physical activities.
October 2014	An ankle x-ray was conducted following ongoing pain. The scans identified a fracture and he was transported to a hospital emergency department for treatment. He was referred for physiotherapy and provided with exercises.
8 December 2014 and 11 December 2014	Attended physiotherapy sessions.

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.

21 May 2015	Presented with ongoing ankle pain and was referred to an orthopaedic specialist.
June 2015 – ongoing	Mr X was reviewed by a psychologist and advised that he was experiencing frustration and insomnia. During an appointment with his GP he reported that he was feeling low and irritable. He was prescribed with antidepressant medication and continues to be monitored by his GP.
21 October 2015	During a routine mental health assessment, Mr X disclosed a history of anger management issues and advised that he was concerned about his visa progress. No further mental health concerns were noted and he was advised to self-refer to the mental health team as required.
29 October 2015	Mr X was reviewed by an orthopaedic specialist and feet abnormalities were identified. He was referred to a podiatrist for further assessment and advised to attend a review in April 2016. IHMS reported that he was scheduled to attend a magnetic resonance imaging scan in March 2016.
4 December 2015	Reviewed by a podiatrist and no further treatment was required. Mr X's condition continues to be monitored by his GP.

Other matters

Mr X is the holder of an expired Country A passport.	
4 August 2015	DIBP advised that Mr X's former partner, Ms Y, and their four-year-old son, Master Z, currently reside in the Australian community. On 11 November 2014 Mr X withdrew from custody matters at a Family Court relating to his son.

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 outcome of judicial review.
