

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X who has remained in immigration detention for more than 36 months (three years).

The first report 1001864¹ was tabled in Parliament on 18 March 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	1981
Ombudsman ID	1003270
Date of DIBP's reports	23 March 2015 and 8 September 2015
Total days in detention	1,094 (at date of DIBP's latest report)

Detention history

9 September 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 433 <i>Nutmeg</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island. Mr X arrived with his wife, Ms Y. She is the subject of Ombudsman report 1003422.
27 October 2012	Transferred with Ms Y to Inverbrackie APOD.
8 March 2013	Transferred with Ms Y to community detention.
30 June 2015	Mr X was transferred to Brisbane Immigration Transit Accommodation after his community detention placement was revoked following driving offences.
9 July 2015	Transferred to Wickham Point APOD. ²

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.

¹ Mr X was previously reported on in a group report of people who arrived on SIEV 433 *Nutmeg*.

² Wickham Point was designated an APOD on 11 July 2013. DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point APOD is comprised of three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

6 September 2013	Mr X lodged a Protection visa application which included his wife, Ms Y, and their daughter, Miss Z. ³
29 September 2013	The Protection visa application was invalid as Mr X and Ms Y were subject to the bar under s 46A.
13 March 2014	DIBP notified Mr X of the unintentional release of personal information ⁴ and advised that the privacy breach would be taken into account when considering his protection claims.
25 May 2015	Referred for ministerial intervention under s 46A.
26 May 2015	The Minister intervened to lift the bar under s 46A to allow Mr X to lodge a Temporary Protection visa (TPV) application.
29 June 2015	Referred for ministerial intervention under s 197AD to revoke his community detention placement after Mr X was convicted for driving under the influence of alcohol on 9 June 2015. The Minister intervened the same day and Mr X's community detention placement was revoked.
30 June 2015	Mr X was again referred for ministerial intervention under s 46A. On the same day, the Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
16 July 2015	DIBP invited Mr X to apply for a temporary visa.
27 August 2015	Mr X's wife, Ms Y, lodged a TPV application which included Mr X and their daughter, Miss Z.
2 September 2015	DIBP notified Mr X that he was eligible for the Primary Application Information Service to assist him with lodging a temporary visa application.

Criminal matters

16 May 2015	Mr X was charged with driving under the influence of alcohol.
9 June 2015	He was convicted and disqualified from driving for six months.

Health and welfare

15 October 2012	International Health and Medical Services (IHMS) reported that Mr X disclosed a history of torture and trauma. He accepted a referral for specialist counselling in November 2012.
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³ Miss Z was born in Australia in July 2013 and was detained on 12 March 2014. She has been in detention for less than two years and is not subject to reporting under s 486N. In December 2015 DIBP advised that the time that elapsed between Miss Z's birth and the date on which she was detained was due to a delay in developing and finalising new policy guidelines for the detention of babies born to parents in community detention

⁴ 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.

15 March 2013	After he was transferred to community detention he was referred for psychological counselling because of stress related to his situation.
3 April 2013 – 15 September 2014	He attended 19 sessions with a psychologist.
February 2014	The general practitioner (GP) referred Mr X for a psychiatrist's opinion as Mr X continued to display symptoms of depression after attending counselling.
12 May 2014	The psychiatrist diagnosed Mr X with a major depressive disorder and anxiety and his medication was adjusted.
19 May 2014 – 15 September 2014	He attended three psychotherapy sessions.
8 September 2014	He informed the psychiatrist that he was experiencing interrupted sleep and nightmares. The psychiatrist noted that Mr X's mood had improved and encouraged him to continue his prescription medication.
21 December 2014	A DIBP Incident Report recorded that Mr X suffered chest pains during an alleged argument with Ms Y. No further information was provided.
2 February 2015	He informed the psychiatrist that he had ceased his medication due to unwanted side effects. However, he advised that the medication had helped his mental health. The psychiatrist advised that it was in his best interests to recommence his medication and recommended he talk with a GP about a referral to a dermatologist.
22 June 2015	The psychiatrist noted that Mr X was possibly suffering from post-traumatic stress disorder and prescribed him with medication. He was encouraged to continue counselling.
11 July 2015	He was taken to a hospital emergency department with chest pain. He was referred for a cardiac stress test and discharged the same day without being admitted. IHMS advised that he attended a cardiac stress test on 14 August 2015 with no abnormalities detected and no further concerns were reported.
16 July 2015	Presented to the GP with ongoing physical health concerns which required an ultrasound. He was prescribed with medication and is monitored by the GP.

Detention incidents

2 February 2014	A DIBP Incident Report recorded that an ambulance and the police were called to Mr X's community detention residence following a burglary and an alleged domestic violence incident. Consequently Mr X and Ms Y advised their case manager that they wanted to separate.
15 December 2014	A DIBP Incident Report recorded that Ms Y allegedly requested separation from Mr X due to ongoing domestic violence issues. No further information was provided.

Other matters

2 February 2013	Mr X and Ms Y were allegedly involved in an incident of domestic violence. DIBP advised that the State B Police investigated and finalised the matter without charge.
27 February 2014	The State B Magistrates court issued Mr X with a Domestic Violence Order, which ceased on 27 August 2014.

Case status

Mr X was detained on 9 September 2012 after arriving in Australia aboard SIEV *Nutmeg* and has been held in detention for over three years.

On 30 June 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. On 27 August 2015 Mr X's wife, Ms Y, lodged a TPV application which included Mr X and they are awaiting the outcome.