

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 a cumulative period of more than 30 months (two and a half years).

The first report 1002480¹ was tabled in Parliament on 25 November 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	1985
Ombudsman ID	1002359-O
Date of DIBP's report	8 April 2016
Total days in detention	912 (at date of DIBP's report)

Detention history

18 April 2013	Mr X and his family were detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 664 <i>Newark</i> . The family were transferred to an Alternative Place of Detention (APOD), Christmas Island.
20 July 2013	The family were transferred to Wickham Point APOD.
13 September 2013	The family were transferred to community detention.
6 May 2015	The family were granted Bridging visas and released from detention.
27 October 2015	Mr X was re-detained under s 189(1) following charges in relation to domestic violence. He was transferred to Maribyrnong Immigration Detention Centre (IDC). His family remain in the community on Bridging visas.

Recent 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.	
27 August 2013	Mr X and his family's case was referred on a ministerial submission under s 197AD for consideration of a community detention placement.
29 August 2013	The former Minister agreed to intervene under s 197AD.

¹ Mr X was previously the subject of a family report with his wife, three children and nephew. The s 486N review provided by DIBP was in a schedule format which did not provide the family's detention placement history or case progression.

13 March 2014	DIBP notified Mr X and his family of the unintentional release of personal information ² and advised that the privacy breach would be taken into account when considering the family's protection claims.
29 April 2015	Mr X and his family's case was referred on a ministerial submission under s 195A for the grant of a Bridging visa.
1 May 2015	The Minister agreed to intervene under s 195A.
6 May 2015	Mr X and his family were granted Bridging visas.
31 July 2015	Mr X's Bridging visa was cancelled under s 116 following charges in relation to domestic violence.
11 February 2016	The Minister lifted the bar under s 46A to allow Mr X and his family to lodge a temporary visa application.
22 February 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. He accepted the offer on 1 March 2016.
8 April 2016	DIBP advised that Mr X is yet to be assigned a PAIS provider.

Criminal history

26 July 2015	Mr X was arrested and charged by the Victoria Police following a family domestic violence incident. He remained in police custody until 8 August 2015 when he was transferred to a remand centre.
27 October 2015	He was issued with a Community Corrections Order and released from the remand centre. He was then re-detained under s 189(1).
10 December 2015	The B Magistrates' Court issued Mr X with an Intervention Order valid until 15 September 2016. DIBP advised that the order was amended at his wife's request to allow the family to visit him in immigration detention.

Health and welfare

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

² 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.

Information provided by Mr X

During an interview with Ombudsman staff at Maribyrnong IDC on 23 March 2016 Mr X advised that he had been living in the community on a Bridging visa with his family but his visa was cancelled because of domestic violence issues.

Mr X stated he understands from his case manager that there are conditions which prevent him from applying for a visa and he needs to wait for the Minister to issue him with a visa. He said he did not know what type of visa he is eligible for.

Mr X said his mood is unpredictable and he experiences headaches for which he takes medication. He said his family visit him twice a week and this relieves the pressure.

He advised he had no complaints about the detention conditions and takes part in the activities offered. He said he has seen the IHMS counsellor once, but prefers not to see IHMS.

Case status

Mr X was detained on 18 April 2013 after arriving in Australia aboard SIEV *Newark* and has been held in detention for a cumulative period of more than two and a half years.

On 11 February 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. On 1 March 2016 Mr X accepted the PAIS assistance and at the time of DIBP's review, he was awaiting to be assigned a provider to assist with lodging his application.