

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

Name	Mr X
Citizenship	Country A
Year of birth	1983
Ombudsman ID	1003381
Date of DIBP's reports	26 August 2015 and 24 February 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

20 December 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 558 <i>Kaiser</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
21 December 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
17 January 2013	Transferred to an APOD, Christmas Island.
24 January 2013	Transferred to Christmas Island IDC.
5 February 2013	Transferred to an APOD, Christmas Island.
14 February 2013	Transferred to Christmas Island IDC.
22 March 2013	Transferred to Northern IDC.
9 April 2013	Granted a Bridging visa valid until 10 October 2013 and released from detention.
13 December 2013	Re-detained under s 189(1) following criminal charges and transferred to Facility B.

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.	
9 April 2013	The former Minister agreed to intervene under s 195A to grant Mr X a Bridging visa. He was released from detention the same day.
10 October 2013	Mr X's Bridging visa ceased and he remained unlawful in the community.
13 December 2013	Mr X was re-detained following criminal charges.

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.
20 October 2014	Mr X's case was referred on a ministerial submission for consideration under s 195A.
28 October 2014	The former Minister declined to intervene under s 195A.
14 August 2015	Mr X's case was referred on a first stage ministerial submission for consideration under s 195A.
22 September 2015	The Minister declined to intervene under s 195A.
10 February 2016	Mr X's case was referred on a ministerial submission for consideration under s 46A to lift the bar.
11 February 2016	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
24 February 2016	DIBP advised that it was yet to invite Mr X to lodge a temporary visa application. DIBP further advised that Mr X's case has been identified for assessment against the guidelines under s 195A for the Minister to consider granting a Bridging visa.

Criminal matters

13 December 2013	Mr X was located by New South Wales Police and charged with drug possession and trafficking.
26 February 2014	Mr X's court case was finalised and he was placed on a six-month good behaviour bond.

Health and welfare

12 March 2014 – ongoing	International Health and Medical Services (IHMS) reported that Mr X had a history of substance abuse and was on an opiate substitution program. IHMS advised that Mr X had a history of an adjustment disorder with anxious and depressed mood and was compliant with his prescribed medication.
8 September 2014 – 31 December 2014	Attended three consultations with a psychiatrist.
7 August 2015	IHMS advised that Mr X had reported he was unable to concentrate and felt isolated and helpless.
25 January 2016	IHMS advised that the psychiatrist had recommended on several occasions that Mr X be moved to the community where he could join his partner and baby as this would significantly improve his mental health.

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.

Other matters

28 May 2015	The Australian Federal Police advised DIBP that it was no longer investigating Mr X in relation to an incident which took place at Facility B in 2015.
26 August 2015	DIBP advised that Mr X is in a relationship with Ms Y who is living in the community on a Bridging visa. Their son, Master Z, was born in Australia in 2014.

Information provided by Mr X

During an interview with Ombudsman staff at Facility B on 18 December 2015 Mr X advised that he had married Ms Y in 2014. He said that due to their continued separation they had both become depressed, their relationship was deteriorating and his child was growing up without a father.

Mr X said that until a month ago he was going to the gym and classes but he had stopped because he was depressed and now spent all his time in his room, watching television and contacting his wife by telephone.

He said he was seeing a psychiatrist and a psychologist and had been prescribed sleeping tablets.

Ombudsman assessment/recommendation

Mr X was detained on 20 December 2012 after arriving in Australia aboard SIEV *Kaiser* and has been held in restricted detention for a cumulative period of over two and a half years.

On 11 February 2016 the Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application. Mr X is awaiting an invitation to apply for a temporary visa.

On 24 February 2016 Mr X was identified for assessment against the guidelines under s 195A for referral to the Minister.

The Ombudsman notes that Mr X's psychiatrist has recommended on several occasions that he be moved to the community where he can join his partner and baby as this would significantly improve his mental health. The Ombudsman recommends that while Mr X is awaiting an invitation to apply for a temporary visa, consideration of his case under s 195A for the grant of a Bridging visa be expedited.