

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	1980
Ombudsman ID	1003421
Date of DIBP's reports	14 September 2015 and 10 March 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

1 November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 510 <i>Oldsmobile</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
6 November 2012	Transferred to Christmas Island IDC.
8 December 2012	Transferred to Curtin IDC.
13 December 2012	Granted a Bridging visa and released from detention.
22 October 2013	Re-detained under s 189(1) after living unlawfully in the community. He was transferred to Maribyrnong IDC.
30 October 2013	Transferred to Villawood IDC.
19 September 2014	Transferred to Maribyrnong IDC.
28 May 2015	Transferred to Christmas Island IDC.
9 October 2015	Transferred to Wickham Point APOD.
27 January 2016	Transferred to Christmas Island IDC.

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.	
12 November 2012	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
13 December 2012	Granted a Temporary Safe Haven visa and a Bridging visa.
13 June 2013	Mr X's Bridging visa expired and he became an unlawful non-citizen.
24 October 2013	The Australian Security Intelligence Organisation (ASIO) issued Mr X with a qualified security assessment.
29 October 2013	Lodged a Protection visa application.

14 November 2013	Protection visa application deemed invalid.
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.
30 September 2014	ASIO issued Mr X with an adverse security assessment, which superseded the previously issued qualified security assessment.
4 August 2015	The Minister lifted the bar under s 46A to allow him to lodge a temporary visa application.
24 August 2015	DIBP invited Mr X to lodge a temporary visa application.
28 August 2015	Mr X requested judicial review by the Federal Court (FC) of the adverse security assessment issued on 30 September 2014.
15 October 2015	Lodged a Temporary Protection visa (TPV) application which triggered an associated Bridging visa application.
9 November 2015, 1 December 2015 and 11 February 2016	Mr X appeared before the FC. DIBP advised that ASIO lodged a public interest immunity claim and the case was scheduled for a further hearing in March 2016. The final hearing was scheduled for 19 April 2016.
13 November 2015	DIBP notified Mr X that the associated Bridging visa application was invalid.
22 February 2016	Mr X was notified that although he had already lodged a TPV application, he was eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. He was advised that should he accept the offer for PAIS assistance, he would be invited to lodge a new application or provide further information in relation to his existing TPV application. DIBP advised that he accepted the PAIS assistance and was assigned a provider.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X has not required treatment for any major physical health issues.	
13 November 2012	Disclosed a history of torture and trauma but declined a referral for specialist counselling.
22 October 2013	Reviewed by IHMS and referred for specialist counselling following his re-detention.
28 February 2014	Diagnosed with an adjustment disorder and referred to a psychiatrist.
30 June 2014	Reviewed by a psychiatrist and diagnosed with a depressive disorder. IHMS advised that his condition is monitored and no further mental health concerns have been identified.

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.

25 August 2015 – 3 February 2016	IHMS reported that Mr X declined to attend routine mental health assessments during this period.
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Detention incidents

DIBP Incident Reports recorded that Mr X has allegedly been involved in multiple altercations with detention centre staff and other detainees.

Other matters

14 November 2013	Mr X married Ms Y, who is a permanent resident of Australia.
19 December 2013	Mr X lodged a complaint with the Ombudsman's office in relation to his re-detention and transfer from Maribyrnong IDC to Villawood IDC. Following an investigation by the Ombudsman's office, DIBP advised that Mr X's detention placement was appropriate given security and health considerations. The complaint was finalised on 10 March 2014.
27 August 2014	Mr X lodged a complaint with the Ombudsman's office in relation to his detention placement. Following an investigation by the Ombudsman's office, DIBP advised that Mr X had been transferred to Maribyrnong IDC on 19 September 2014. The complaint was finalised on 28 October 2014.

Case status

Mr X was detained on 1 November 2012 after arriving in Australia aboard SIEV *Oldsmobile* and has been held in restricted detention for a cumulative period of more than two and a half years.

On 4 August 2015 the Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application and on 15 October 2015 Mr X lodged a TPV application. On 22 February 2016 Mr X was advised that he could lodge a new application or provide further information in relation to his existing TPV application with the assistance of a PAIS provider.