

**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	1971
Ombudsman ID	1002224-O
Date of DIBP's reports	17 November 2015 and 12 May 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

12 November 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> when he was released from prison on parole. He was transferred to Facility B.
11 June 2015	Transferred to Facility C.
30 August 2015	Transferred to Facility B.
13 November 2015	Transferred to Facility D.
7 February 2016	Transferred to Facility B.
9 February 2016	Transferred to Facility D.

Visa applications/case progression

4 January 1989	First arrived in Australia on a visitor visa.
5 September 1990	Lodged application for permanent residence on humanitarian grounds which included his then wife.
15 April 1994	The permanent residence application was refused.
30 September 1994	The decision to refuse the permanent residency application was affirmed following appeal.
7 November 1994	Mr X's then wife lodged a Protection Visa application which included Mr X and their children.
6 May 1995	The family departed Australia.
18 May 1995	The family's PV application was refused when they were offshore.
8 May 2006	While offshore, Mr X lodged a combined Spouse visa application.
19 March 2007	Mr X was granted a Spouse (Provisional) visa (SPV).
6 April 2007	Re-entered Australia on the SPV.
3 December 2008	Granted Spouse (Migrant) visa.

18 October 2013	The Department of Immigration and Border Protection (DIBP) cancelled Mr X's Spouse (Migrant) visa under s 501.
23 October 2013	Appealed the cancellation decision to the Administrative Appeals Tribunal (AAT).
15 January 2014	The AAT affirmed the cancellation.
19 February 2014	Mr X sought judicial review of the AAT's decision at the Federal Court (FC).
March 2014	DIBP notified Mr X of the unintentional release of personal information. ¹
10 October 2014	The FC dismissed Mr X's application.
30 October 2014	Lodged a Protection visa application. An associated Bridging visa application was found to be invalid on 3 November 2014.
17 November 2014	Protection visa application refused.
25 November 2014	Appealed to the Refugee Review Tribunal (RRT).
27 January 2015	RRT affirmed original decision.
25 February 2015	Requested judicial review by the Federal Circuit Court (FCC).
24 September 2015	The FCC dismissed Mr X's application.
25 September 2015	Appealed to the FC.
8 February 2016	The FC dismissed the appeal.
29 March 2016	Found not to meet the guidelines for referral to the Minister under s 417.
18 April 2016	Found not to meet the guidelines for referral to the Minister under s 48B.
29 April 2016	Applied to the High Court seeking the quashing of DIBP's decision not to refer his case to the Minister for consideration under s 417. On 12 May 2016 DIBP advised that this matter remains ongoing.

Criminal history

13 August 2012	Mr X was convicted of E and received sentences of two years imprisonment and 18 months imprisonment.
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Health and welfare

International Health and Medical Services (IHMS) advised that in 2012, prior to entering detention, Mr X underwent surgery to remove a herniated or degenerative spinal disc. IHMS advised that afterwards he required physiotherapy and medication to manage pain associated with this issue. It advised he continues to present with intermittent neck pain for which he receives pain relief medication as required.

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.

Detention incidents

4 February 2015	A DIBP Incident Report recorded that Mr X allegedly assaulted another detainee by punching him several times.
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Other matters

Mr X is divorced with five children in living in Australia.

Information provided by Mr X

<p>During a telephone conversation with Ombudsman staff on 13 April 2016 Mr X advised that he had told DIBP that he was willing to go back to Country A voluntarily after a workers compensation matter was finalised and to pay the debt arising from his detention. He said that DIBP had not accepted this offer.</p> <p>Mr X said that his mother and father called him almost every day. He was also in contact with his two older children who lived in Location F and his former wife and three young children who lived in Location G. His family had visited him when he was held at Facility B including his mother who came from Country A.</p>
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Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of DIBP's latest review Mr X was awaiting the outcome of judicial review.
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