

**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	1990
Ombudsman ID	1002281-O
Date of DIBP's reports	7 January 2016 and 7 July 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

7 January 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> following visa cancellation under s 116. He was transferred to Facility B.
11 July 2014	Transferred to Facility C.

Visa applications/case progression

23 September 2011	Mr X first arrived in Australia on a valid Country A passport. He subsequently departed from and returned to Australia a number of times, last returning on 15 December 2012.
21 September 2013	The Department of Immigration and Border Protection (DIBP) was advised that Country A had cancelled Mr X's passport on grounds of national security.
19 December 2013	DIBP issued Mr X with a Notice of Intention to Consider Cancellation of his visa under s 116.
6 January 2014	DIBP cancelled Mr X's visa and he was detained the following day.
8 January 2014	The Attorney-General's Department issued Mr X with a Criminal Justice Stay Certificate (CJSC).
16 January 2014	Applied to the Migration Review Tribunal (MRT) for review of the decision to cancel his visa.
11 February 2014	The MRT found that it did not have jurisdiction in the matter.
13 March 2014	DIBP notified Mr X of the unintentional release of personal information. ¹
19 June 2014	DIBP invited Mr X to comment on the privacy breach.

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.

7 July 2016	DIBP advised that Mr X's CJSC remained in effect.
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Criminal history

3 December 2013	The Australian Federal Police charged Mr X with foreign incursion offences.
13 October 2015	Mr X was convicted of foreign incursion offences in the Supreme Court of State D. His bail was continued.
1 April 2016	Sentencing proceedings were further adjourned.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X had been treated for ongoing back pain and hepatitis B. As of 26 May 2016 IHMS reported that Mr X's chronic back pain was considered resolved with no concerns raised for six months. IHMS advised that Mr X will continue to be reviewed concerning his hepatitis B condition.

IHMS further advised that Mr X has attended supportive counselling to address his frustration with his situation. He has not been diagnosed with any mental health concerns to date.

Information provided by Mr X

During an interview with Ombudsman staff at Facility C on 23 March 2016 Mr X advised that he was a citizen of Country A but had been living in Australia for several years with his mother and sisters. He stated he was originally from Country E and his family had sought asylum in Country A when he was eight. He said his family now lived in City F and visited him regularly, and their support was very important to him.

Mr X advised that his Country A passport and subsequently his visa had been cancelled after he had been charged. He said he had attempted to appeal to the MRT about his visa cancellation but his migration agent had lodged the appeal on the wrong form. Mr X said he had not taken the matter any further.

Mr X advised that he had no health concerns aside from deterioration in his eyesight and he had experienced no problems in accessing healthcare when he needed to. He stated he had been attending psychological counselling since October 2015.

Case status

Mr X's Country A passport was cancelled on national security grounds and consequently his visa was cancelled on 6 January 2014. He has been in restricted immigration detention for more than two and a half years.

Mr X was found guilty of foreign incursion offences in October 2015 and he remains in immigration detention pending sentencing.