

**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	1985
Ombudsman ID	1002230-O
Date of DIBP's reports	18 November 2015 and 18 May 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

18 November 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> following his release from criminal custody. He was transferred to Maribyrnong Immigration Detention Centre (IDC).
20 November 2015	Transferred to Wickham Point IDC.

Visa applications/case progression

18 August 2000	Arrived in Australia aged 14 as a dependant on his mother's Spouse (Provisional) visa.
24 May 2004	Mr X and his family were granted a Spouse (Migrant) visa.
14 October 2013	Mr X's Spouse (Migrant) visa was cancelled under s 501 due to his criminal convictions.
14 November 2013	Appealed to the Administrative Appeals Tribunal (AAT). The Department of Immigration and Border Protection (DIBP) advised that as Mr X's appeal was lodged outside the set timeframe the AAT had no jurisdiction to consider the application and it was dismissed.
March 2014	DIBP notified Mr X of the unintentional release of personal information. ¹
9 June 2014	Requested ministerial intervention under s 417.
19 June 2014	DIBP invited Mr X to comment on the privacy breach.
16 February 2015	The Minister declined to intervene under s 195A to grant Mr X a Former Resident visa or a Bridging visa.
15 May 2015	Mr X lodged a Protection visa application with an associated Bridging visa application. Consequently his involuntary removal from Australia, scheduled for 18 May 2015, did not proceed.
19 May 2015	Associated Bridging visa application was deemed invalid.

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.

10 July 2015	Interview conducted in relation to his Protection visa application.
8 September 2015	Protection visa application refused. Mr X appealed to the AAT the same day.
18 November 2015	DIBP advised that Mr X had not responded to the invitation to comment on the privacy breach.
11 December 2015	The AAT remitted Mr X's case to DIBP for reconsideration with the direction that under s 36 (2)(a), Mr X is a person to whom Australia has protection obligations.
21 January 2016	DIBP invited Mr X to provide further information in relation to his Protection visa application.
7 March 2016 and 8 April 2016	Mr X was granted an extension of time to provide his response.

Criminal history

2007 – 2013	DIBP advised that Mr X attended court on numerous occasions for multiple drug offences, affray, intentionally causing injury, possession of prohibited weapon, dishonesty and driving offences which resulted in custodial sentences.
December 2011	Mr X was convicted in the County Court of Victoria for affray and intentionally causing injury. He was sentenced to 18 month and 14 month prison terms respectively with an earliest release date of 18 November 2013.
18 November 2013	He was released from criminal custody.

Health and welfare

International Health and Medical Services advised that Mr X has not required treatment for any major physical or mental health issues.
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Other matters

18 November 2015	DIBP advised that Mr X's seven-year-old son, mother and sister are Australian citizens. He also has a brother who is an Australian permanent resident.
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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. On 11 December 2015 the AAT remitted Mr X's case to DIBP. DIBP advised that it is in the process of reconsidering Mr X's Protection visa application.
