

## 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 remained in restricted immigration detention for more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1987
<b>Ombudsman ID</b>	1003353
<b>Date of DIBP's reports</b>	21 August 2015 and 17 February 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

### Detention history

19 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 836 <i>Trinity</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.  On the same day he was transferred to Christmas Island Immigration Detention Centre (IDC).
21 June 2015	Transferred to Yongah Hill IDC.
11 July 2015	Transferred to Christmas Island IDC.
9 October 2015	Transferred to Wickham Point APOD.
16 November 2015	Transferred to Perth IDC.
11 December 2015	Transferred to Wickham Point APOD.
25 May 2016	Granted a Bridging visa and released from detention.

### 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 March 2014	DIBP notified Mr X of the unintentional release of personal information <sup>1</sup> and advised that the privacy breach would be taken into account when considering his protection claims.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.

<sup>1</sup> 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.

6 November 2015	DIBP invited Mr X to lodge a temporary visa application.
14 January 2016	DIBP granted Mr X an extension of time to lodge a temporary visa application.
16 February 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application.
25 May 2016	Granted a Bridging visa.

#### Other legal matters

5 September 2014	Mr X was identified as a person of interest to the Australian Federal Police following his involvement in an altercation with detainees of a different ethnicity at Christmas Island IDC.
12 May 2015	Appeared before the Perth Magistrates Court.
13 January 2016	Mr X pleaded guilty to charges relating to rioting and was sentenced to a six-month Conditional Release Order with a spent conviction.

#### Health and welfare

5 September 2013 – 19 January 2016	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma but he had not presented with any associated symptoms.
8 November 2013	Identified as a tuberculosis contact. Chest x-rays identified no abnormalities and he was monitored as per state policy.
24 April 2015	IHMS reported that he presented with a history of recurring back pain and that pain relief medication and physiotherapy had been ineffective. Subsequent tests and an orthopaedic specialist identified scoliosis and spinal inflammatory arthritis which prevent him from sitting for more than 30 minutes and cause him pain when walking and standing.  He was reviewed by a neurologist who referred him to a rheumatologist and recommended physiotherapy, swimming, and medication. The rheumatologist assessed Mr X for a referral for possible alternative treatment.  He was awaiting approval for swimming at the time of the IHMS report.
7 August 2015 – 19 January 2016	IHMS advised that Mr X declined to attend mental health reviews.

#### Case status

<p>Mr X was granted a Bridging visa on 25 May 2016 and released from immigration detention.</p> <p>Mr X was detained on 19 August 2013 after arriving in Australia aboard SIEV <i>Trinity</i> and was held in restricted detention for over two and a half years before being granted a Bridging visa.</p> <p>On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 6 November 2015 DIBP invited Mr X to apply.</p>
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