

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 immigration detention for more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1996
Ombudsman ID	1003102
Date of DIBP's reports	21 April 2015 and 16 October 2015
Total days in detention	912 (at date of DIBP's latest report)

Detention history

16 April 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia as an unaccompanied minor aged 16 aboard Suspected Illegal Entry Vessel (SIEV) 633 <i>Maidstone</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
20 May 2013	Transferred to Pontville APOD.
16 July 2013	Referred to the former Minister for consideration under s 197AB for a community detention placement.
17 July 2013	The former Minister agreed to intervene under s 197AB.
31 July 2013	Transferred to community detention.
17 November 2014	The former Minister revoked Mr X's community detention placement under s 197AD following the Australian Federal Police (AFP) taking him into custody.
20 November 2014	Transferred to Yongah Hill Immigration Detention Centre (IDC).
26 November 2015	Granted a Bridging visa and released from detention.

Visa applications/case progression

13 March 2014	Mr X was issued with a letter inviting him to comment on the unintentional release of personal information through the Department of Immigration and Border Protection's (DIBP) website. ¹
27 November 2014	Mr X lodged an application with the Migration Review Tribunal (MRT) to review the decision to cancel his Bridging visa.

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.

2 December 2014	The MRT advised Mr X it could not review the decision to cancel his Bridging visa as there was no evidence that suggested he had ever been granted a visa.
25 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
1 September 2015	DIBP advised Mr X that he was eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application and he accepted the offer on 3 September 2015.
16 October 2015	DIBP advised that Mr X was being assessed against the guidelines under s 195A for the Minister to consider granting a Bridging visa.
26 November 2015	Granted a Bridging visa.

Criminal matters

5 November 2014	Mr X was taken into custody by the AFP following a search warrant for drug-related matters.
17 March 2015	Following an investigation, the AFP advised that they would not pursue the matter any further as there was insufficient evidence to prosecute Mr X.

Health and welfare

7 October 2013	International Health and Medical Services (IHMS) reported that Mr X presented to his general practitioner (GP) with low mood and he was referred to a psychologist.
15 October 2013	IHMS reported that he threatened to self-harm. A DIBP Incident Report recorded that Mr X's threat of self-harm was related to wanting to move from Western Australia to Victoria within two weeks.
18 October 2013 – 6 December 2013	He attended three counselling sessions with a psychologist. He declined to attend any further sessions.
22 November 2013	IHMS reported that he threatened to self-harm. A DIBP Incident Report recorded that Mr X advised he was very depressed and wanted to cut his wrists because his request to move to Melbourne had been refused.
4 June 2014	He complained of foot pain to his GP and advised he had fractured his left foot in 2009. He was prescribed with pain relief medication. Following ongoing pain, he was referred for an x-ray on 6 August 2014 but did not attend. He continued to receive pain relief medication from his GP. Following his return to restricted detention, an x-ray was conducted on 9 December 2014 which identified no abnormalities. No further concerns were raised.
28 August 2014	A DIBP Incident Report recorded that Mr X had allegedly consumed an excess amount of pain relief medication. No further information was provided.

1 October 2014	A DIBP Incident Report recorded that Mr X's cultural support coordinator noted that within 24 hours he had consumed twice the recommended dose of his prescribed pain relief medication. No further information was provided.
13 October 2014	He disclosed a history of torture and trauma. He was referred for counselling and prescribed with antidepressant medication. IHMS had no indication that he attended counselling.
18 November 2014	He presented to his GP with anxiety and depression and was referred for counselling. IHMS advised that he did not attend counselling as he was returned to restricted detention on 21 November 2014. On his return, he was assessed by the mental health team and referred for specialist counselling which he declined. He was made aware of the self-referral process.
20 March 2015	A DIBP Incident Report recorded that Mr X allegedly made threats of self-harm during a counselling session. No further information was provided.
21 March 2015	A DIBP Incident Report recorded that Mr X head-butted a wall several times. No further information was provided.
22 May 2015 – 25 September 2015	IHMS advised that Mr X did not require treatment for any major physical or mental health issues since its previous report to the Ombudsman.
3 October 2015	A DIBP Incident Report recorded that he presented to a Serco officer with chest pain. No further information was provided.

Detention incidents

DIBP Incident Reports recorded that while in restricted detention Mr X allegedly displayed aggressive and abusive behaviour towards DIBP staff and Serco officers on three occasions and had assaulted Serco officers on two occasions.	
4 September 2013	A DIBP Incident Report recorded that Mr X had repeatedly breached his community detention conditions. A meeting took place with his case manager and Mr X was given an official warning. No further information was provided.
31 October 2013 – 11 August 2014	DIBP Incident Reports recorded that while in community detention there were frequent incidents of school absenteeism. No further information was provided.

Information provided by Mr X

During an interview with Ombudsman staff at Yongah Hill IDC on 1 September 2015 Mr X stated he came to Australia by himself when he was 16.

Mr X explained that when he turned 18 he signed a form for a Bridging visa. He said that a week later due to a 'friend' misappropriating his name and details he was picked up by the police. He claimed he had done nothing wrong and he does not know why he is still at Yongah Hill IDC.

Mr X said that he sometimes participates in the programs and activities at Yongah Hill IDC but does not see the point of the activities. He also stated that he does not like the food and is always hungry.

Mr X stated that he was tired of being at Yongah Hill IDC because it was not a good place for him.

Ombudsman assessment

Mr X was granted a Bridging visa on 26 November 2015 and released from immigration detention.

The Ombudsman notes that Mr X was detained on 16 April 2013 after arriving in Australia as an unaccompanied minor aged 16 aboard SIEV *Maidstone* and was held in detention for over two and a half years before being granted a Bridging visa.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. In the case of Mr X, the Ombudsman notes he has a history of self-harm.

On 25 August 2015 the Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application. Mr X is yet to lodge a temporary visa application.