

## 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 a cumulative period of more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1966
<b>Ombudsman ID</b>	1002553
<b>Date of DIBP's reports</b>	25 May 2015 and 11 November 2015
<b>Total days in detention</b>	915 (at date of DIBP's latest report)

### Detention history

17 August 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 417 <i>Wasleys</i> . He was transferred to Phosphate Hill Alternative Place of Detention (APOD), Christmas Island.
19 August 2012	Transferred to Lilac Aqua APOD, Christmas Island.
28 August 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
1 September 2012	Transferred to Northern IDC.
7 October 2012	Transferred to Wickham Point IDC.
16 January 2013	Granted a Bridging visa valid until 16 July 2013 and released from detention.
9 October 2013	Re-detained under s 189(1) and transferred to Villawood IDC.
12 November 2013	Transferred to Yongah Hill IDC.
26 November 2015	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 August 2013	Lodged a Protection visa application.
7 November 2013	Mr X's Protection visa application was invalid as he was subject to the bars under ss 46A and 91K.
12 March 2014	DIBP notified Mr X of the unintentional release of personal information. <sup>1</sup>

<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.

28 October 2014	The former Minister declined to intervene under s 195A to grant Mr X a Bridging visa.
13 August 2015	The Minister intervened to lift the bar under s 46A to allow Mr X to lodge a temporary visa application.
24 August 2015	DIBP invited Mr X to apply for a temporary visa.
9 October 2015	Mr X lodged a Temporary Protection visa (TPV) application.
16 October 2015	Referred for ministerial intervention under s 195A for consideration of a Bridging visa.
26 November 2015	Granted a Bridging visa.

### **Criminal history**

10 May 2013	Mr X was charged with common assault and assault with an act of indecency.
18 February 2014	He was convicted in the Y Local Court and placed on a 12-month good behaviour bond.
7 March 2014	Mr X lodged an appeal against his conviction with the P District Court. On 23 May 2014 his appeal was dismissed.

### **Health and welfare**

17 August 2012	International Health and Medical Services (IHMS) advised that during his induction health assessment, Mr X disclosed a history of torture and trauma but declined specialist counselling.
17 August 2012 – 16 January 2013	IHMS advised that Mr X presented on numerous occasions with anxiety and loneliness and was provided with counselling from the mental health team (MHT).
17 August 2012 – 17 February 2015	Reviewed by a cardiologist on eight occasions and a cardiac rhythm abnormality was identified. In December 2012 Mr X successfully underwent surgery to insert a pacemaker.
June 2014	Mr X requested additional mental health support and was referred to a specialist counselling service.
19 August 2014 and 28 August 2014	Attended specialist counselling.
8 October 2014	During a consultation with a psychiatrist Mr X reported that he was stressed as a result of his uncertain future and was suffering from poor concentration and insomnia. He was diagnosed with adjustment disorder with depressed mood but did not require medication at that time.
January 2015	A psychologist reported that Mr X presented with sleeping difficulty, anxiety related nightmares, low mood and appetite and lethargy. The psychologist recommended that he be considered for a community detention placement.
25 May 2015	Mr X presented at a mental health review as distressed, with loss of interest in activities and general coping difficulties. He was referred to see a general practitioner for review.

July 2015	A routine mental health assessment noted that Mr X was struggling with his prolonged detention and uncertain future. IHMS recorded that Mr X was not attending counselling but was aware that he could self-refer to the MHT if required.
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### **Information provided by Mr X**

During an interview with Ombudsman staff at Yongah Hill IDC on 2 September 2015 Mr X said that since he had been re-detained he has felt stressed, lonely and depressed. He said he is receiving counselling but he felt that everyone in detention was judging him.

Mr X said he has been proactive in detention and has received certificates for participating in and assisting with various classes for detainees.

### **Case status**

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

Mr X was detained on 17 August 2012 after arriving in Australia and was held in detention for over two and a half years before being granted a Bridging visa.

On 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 9 October 2015 Mr X applied for a TPV.