

## 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>	1980
<b>Ombudsman ID</b>	1003359
<b>Date of DIBP's reports</b>	24 August 2015 and 19 February 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

### Detention history

21 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 837 <i>Unalaska</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
24 August 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
31 May 2015	Transferred to Yongah Hill IDC.
11 July 2015	Transferred to Christmas Island IDC.
9 October 2015	Transferred to Wickham Point APOD.
3 December 2015	Transferred to Yongah Hill IDC.
5 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.

29 October 2015	Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application.
2 November 2015	Mr X accepted the PAIS assistance and was assigned a provider.
25 January 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
25 May 2016	Granted a Bridging visa.

#### Other legal matters

5 September 2014	Mr X was involved in an altercation with detainees of a different ethnicity at Christmas Island IDC. The incident was referred to the Australian Federal Police for investigation and on 27 November 2014 he was charged with taking part in a riot.
13 January 2016	He was sentenced to a 12-month conditional release order, however a spent conviction was not granted. The same day Mr X appealed the spent conviction decision.

#### Health and welfare

23 August 2013	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma but declined specialist counselling.
September 2013	Mr X presented on multiple occasions with symptoms of situational stress related to his ongoing detention including difficulty sleeping, memory loss, an inability to concentrate and loss of appetite. He also commenced food and fluid refusal as a form of protest (dates not provided). IHMS reported that he attended psychological and group counselling sessions and was prescribed with medication.
10 September 2013	Reported a history of blurred vision, headaches and eye pain. He was referred to an ophthalmologist, but following an optometrist review this referral was cancelled. The optometrist diagnosed a genetic condition and prescribed Mr X with glasses.
7 May 2015	Presented to a general practitioner (GP) with ongoing eye pain, headaches and reduced vision. He was provided with education and eye drops and referred to an ophthalmologist.
18 June 2015	Reviewed by an ophthalmologist who confirmed Mr X's diagnosis and recommended he see an optometrist for new glasses and attend a review in six months.
16 July 2015	Prescribed with medication and referred for counselling following a deterioration in his mental health. The counsellor noted that he was frustrated and struggling with his prolonged detention and was displaying symptoms of post-traumatic stress disorder.
4 August 2015	During a mental health assessment he presented with symptoms of stress and anxiety and his medication was adjusted.
11 August 2015 – 19 January 2016	IHMS reported that he did not present with any issues relating to his ongoing eye condition and no reviews were scheduled.

3 November 2015 – 19 January 2016	IHMS advised that following a mental health review he presented as coping well with his situation. There were no major concerns for his mental health and he was aware of the self-referral process.
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**Case status**

Mr X was granted a Bridging visa on 25 May 2016 and released from immigration detention.

Mr X was detained on 21 August 2013 after arriving in Australia aboard SIEV *Unalaska* and was held in detention for over two and a half years before being granted a Bridging visa.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 25 January 2016 Mr X lodged a SHEV application.