

**REPORT BY THE COMMONWEALTH AND  
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

*Under s 486O of the Migration Act 1958*

This is the second s 486O report on Mr X who has remained in restricted immigration detention for more than 36 months (three years).

The first report 1003171 was tabled in Parliament on 2 March 2016. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1985
<b>Ombudsman ID</b>	1001927-O
<b>Date of DIBP's reports</b>	23 January 2016 and 23 July 2016
<b>Total days in detention</b>	1094 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1003171), Mr X has remained at Facility B.
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**Recent 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 of the <i>Migration Act 1958</i> .	
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
6 November 2015	DIBP invited Mr X to lodge a temporary visa application.
16 November 2015	DIBP notified Mr X that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application.
19 November 2015	Mr X accepted the PAIS offer and DIBP assigned a PAIS provider to him.
4 February 2016	Mr X lodged a Temporary Protection visa (TPV) application.
20 April 2016	DIBP referred Mr X's case to the Minister on a first stage submission for possible intervention under s 195A for the grant of a Bridging visa.
30 June 2016	The Minister indicated he would consider intervening under s 195A. On 23 July 2016 DIBP advised the matter remained ongoing.

## Health and welfare

International Health and Medical Services (IHMS) advised that Mr X had a history of Condition C from childhood and, despite being prescribed with a number of medications, continued to experience D. He was admitted to hospital on two occasions for evaluation of drug-resistant Condition C. The conclusion was that Mr X should undergo surgery to treat the condition and this took place on 12 May 2016.

IHMS advised that, post-operatively, he had not had any further instances of D and his mood had improved. However, he continued to experience detention fatigue.

Prior to surgery two specialists had recommended that Mr X be placed in a calmer environment on account of his Condition C.

IHMS stated that a specialist team had seen Mr X in June 2016, were satisfied with his progress and had requested a further review in three months.

IHMS also stated that, prior to Mr X's surgery, the neuropsychiatrist had ceased his antipsychotic medication but recommended that he remain on antidepressant medication.

23 July 2016

IHMS advised that Mr X's liver enzyme tests continued to be abnormal and in conjunction with his treating specialists continue to monitor him. He had not reported any symptoms in relation to this condition.

## Recent detention incidents

25 December 2014 –  
2 January 2016

DIBP Incident Reports recorded that Mr X was allegedly involved in numerous behavioural incidents of a minor nature. No behavioural incidents were reported following Mr X's surgery.

## Information provided by Mr X

During an interview with Ombudsman staff at Facility B on 23 March 2016, prior to his operation, Mr X advised that he had Condition C and this had become worse since he had been detained. He now experienced headaches which were so bad he had to tie his head with two scarves to reduce the throbbing. He said he had not experienced these headaches before being detained. He had been told he would be having an operation soon but this had not taken place yet.

Mr X also complained that his case manager would come into the room when he was talking to a doctor about confidential matters.

He advised he experienced instances of D. He expressed concern about being placed in handcuffs in this and other situations. He complained that when he was transported out of the centre it was in handcuffs. He said when he had to sign a form in front of a doctor he had to do this in handcuffs. He had been told he was high risk and needed to be handcuffed.

Mr X advised that he had no family in Australia – they were all in Country A and he was in contact with a sister. Friends visited him in detention.

### **Ombudsman assessment/recommendation**

Mr X was detained on 25 July 2013 after arriving in Australia aboard SIEV *Kinston* and has been held in restricted detention for over three years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 4 February 2016 Mr X lodged a TPV application.

The Ombudsman notes that Mr X does not appear to have been involved in any significant behavioural incidents following his operation on 12 May 2016.

The Ombudsman further notes that Mr X is being considered for a Bridging visa under s 195A. The Ombudsman recommends that this matter be expedited if it has not already been finalised.