

**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 1002775 was tabled in Parliament on 10 March 2016. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1984
Ombudsman ID	1001575-O
Date of DIBP's reports	15 December 2015 and 11 June 2016
Total days in detention	1094 (at date of DIBP's latest report)

Detention history

13 June 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 747 <i>Harvest</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
17 June 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
3 August 2013	Transferred to Yongah Hill IDC.
9 January 2014	Transferred to Christmas Island IDC.
9 October 2015	Transferred to Wickham Point APOD.
17 April 2016	Transferred to Yongah Hill IDC.

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.	
12 March 2014	DIBP notified Mr X of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering his protection claims.
25 September 2015	Mr X's case was referred on a ministerial submission under s 46A to lift the bar.
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 apply for a temporary 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.

22 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. On 1 March 2016 he declined the offer.
7 April 2016	DIBP again invited Mr X to apply for a temporary visa and granted him an extension to lodge his application on 20 April 2016.
11 June 2016	DIBP advised that Mr X is yet to submit his application.

Other legal matters

5 September 2014	Mr X was allegedly involved in an altercation with detainees of a different ethnicity at Christmas Island IDC. The matter was referred to the Australian Federal Police for investigation.
27 November 2014	He was charged with taking part in a riot.
10 December 2014	Mr X attended a hearing at the Christmas Island Magistrates Court and the matter was scheduled for trial at the Perth Magistrates Court on 10 November 2015.
10 May 2016	He received a six-month conditional release order.

Health and welfare

International Health and Medical Services provided details of Mr X's health and welfare. Aside from monitoring for hepatitis B, no significant ongoing physical or mental health concerns were noted.

Other matters

24 April 2014	Mr X lodged a complaint with the Ombudsman's office alleging that an item of personal property was not returned to him when he arrived at Christmas Island IDC. Following an investigation, the Ombudsman provided Mr X with advice about progressing the matter with DIBP. The complaint was finalised on 13 February 2015.
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Ombudsman assessment/recommendation

Mr X was detained on 13 June 2013 after arriving in Australia aboard SIEV *Harvest* 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 6 November 2015 DIBP invited Mr X to apply. He was offered PAIS but declined this offer on 1 March 2016.

The Ombudsman notes that Mr X was again invited to apply on 7 April 2016 but at the time of DIBP's latest review dated 11 June 2016 Mr X had not applied for a visa.

If Mr X has not yet applied for a visa the Ombudsman recommends that Mr X is again offered PAIS to assist him with the visa application process.