

**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 has remained in restricted detention for a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1987
Ombudsman ID	1002247-O
Date of DIBP's report	4 December 2015 and 2 June 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

19 June 2012	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 353 <i>Garvoc</i> . He was transferred to Darwin Airport Lodge Alternative Place of Detention (APOD).
22 June 2012	Transferred to Wickham Point APOD.
18 August 2012	Transferred to Curtin Immigration Detention Centre (IDC).
25 October 2012	Granted a Bridging visa and released from detention.
10 April 2014	Mr X's Bridging visa was cancelled after he was charged with criminal offences. He was re-detained under s 189(1) and transferred to Brisbane Immigration Transit Accommodation (ITA).
12 April 2014	Transferred to Yongah Hill IDC.
2 December 2014	Transferred to Brisbane ITA.
6 December 2014	Transferred to Yongah Hill IDC.
28 March 2015	Transferred to Christmas Island IDC.
8 April 2015	Transferred to Perth IDC.
15 April 2015	Transferred to Villawood IDC.
3 May 2015	Transferred to Brisbane ITA.
9 May 2015	Transferred to Villawood IDC.
29 June 2015	Transferred to Christmas Island IDC.
9 October 2015	Transferred to Yongah Hill IDC.
28 November 2015	Transferred to Arthur Gorrie Correctional Centre APOD.
15 January 2016	Transferred to Facility B.
9 February 2016	Transferred to Facility C.
1 March 2016	Transferred to Facility D.

7 May 2016	Transferred to Facility E.
23 May 2016	Transferred to Facility B.
28 May 2016	Transferred to Facility E.

Visa applications/case progression

24 October 2012	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
25 October 2012	Granted a Bridging visa valid until 6 December 2012.
12 November 2012	Lodged a Protection visa application.
16 November 2012	The Department of Immigration and Border Protection (DIBP) advised that following legislative amendment, Mr X's Protection visa application was converted into a Temporary Protection visa (TPV) application.
1 February 2013	Granted a further Bridging visa after remaining in the community as an unlawful non-citizen.
27 September 2013	TPV application refused.
21 October 2013	Appealed to the Refugee Review Tribunal (RRT).
10 April 2014	Mr X's Bridging visa was cancelled under s 116.
23 July 2014	Mr X was issued with a Criminal Justice Stay Certificate.
23 September 2014	RRT set aside the original decision and the matter was remitted to DIBP.
2 July 2015	Mr X's TPV application was referred to the Visa Applicant Character Consideration Unit (VACCU) to consider refusal under s 501.
3 November 2015	Lodged a Bridging visa application.
5 November 2015	Bridging visa application deemed invalid.

Criminal history

9 September 2013	DIBP advised that Mr X was arrested and charged with two criminal charges. He appeared before the City F Magistrates Court and was granted bail.
7 May 2015	Mr X appeared before the District Court of State G and was convicted of the second charge. On 25 May 2015 he was placed on a two-year good behaviour bond of \$200. DIBP advised that he appealed his conviction and was remanded in custody.
1 October 2015	An appeal to the State G Court of Appeal was allowed with the conviction being set aside and a retrial ordered.
25 May 2016	Mr X appeared before the District Court of State G and was again convicted on the second charge. He was placed on a 12-month good behaviour bond of \$200.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received specialist counselling and was monitored by the mental health team (MHT) after presenting with behavioural concerns, low mood and aggression related to his re-detention. Mr X was placed on a Behavioural Management Plan on two occasions following incidents of aggressive and abusive behaviour. On 1 April 2016 the counsellor advised that Mr X's mental health had improved and he was advised to self-refer to the MHT as required.

IHMS further advised that Mr X received treatment for multiple physical health conditions including viral infections and elbow pain.

7 January 2015	Mr X sustained an elbow and shoulder injury after Serco officers exercised spontaneous use of force. DIBP Incident Reports recorded that Mr X allegedly threatened and attempted to assault a Serco officer. No further information was provided.
29 May 2015	Mr X was transferred to a hospital emergency department after sustaining a head injury during an altercation with another detainee. He was closely monitored by Serco officers and transferred to alternative accommodation for his own safety. IHMS advised that he was identified as vulnerable due to his criminal history and was at high risk of being assaulted by other detainees.

Detention incidents

DIBP Incident Reports recorded that Mr X was allegedly involved in multiple behavioural incidents.

Other matters

27 March 2015	Mr X lodged a complaint with the Ombudsman's office in relation to an incident at Yongah Hill IDC. DIBP provided a response on 11 June 2015 and the matter was finalised on 24 July 2015.
21 December 2015	Mr X lodged a complaint with the Australian Human Rights Commission. DIBP provided a response on 25 February 2016. The matter remains ongoing.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 19 June 2012 after arriving in Australia aboard SIEV *Garvoc* and has been held in restricted detention for a cumulative period of over two and a half years.

The Ombudsman further notes that on 2 July 2015 Mr X's TPV application was referred to the VACCU for consideration to refuse his application under s 501 and, at the time of DIBP's latest report, this assessment remained ongoing.

The Ombudsman recommends that priority is given to exploring options to enable the resolution of Mr X's immigration status.