

**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).

Name	Mr X
Citizenship	Country A
Year of birth	1992
Ombudsman ID	1002298-O
Date of DIBP's report	25 January 2016 ¹
Total days in detention	917 (at date of DIBP's report)

Detention history

22 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 800 <i>Andalusia</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
25 July 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
29 June 2015	Transferred to Yongah Hill IDC.
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 ² and advised that the privacy breach would be taken into account when considering his protection claims.
25 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
2 September 2015	DIBP invited Mr X to lodge a temporary visa application.
30 September 2015	DIBP granted Mr X an extension until 14 October 2015 to lodge his temporary visa application.

¹ DIBP advised that a manual audit identified that DIBP had not met its statutory obligations in relation to providing Mr X's 24-month and 30-month reviews under s 486N. It further advised that this was due to an information technology error which precluded normal reporting procedures from being followed, and that it is working with DIBP's information technology systems to correct this issue.

² 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.

9 October 2015	Mr X lodged a Safe Haven Enterprise visa (SHEV) application which triggered an associated Bridging visa application.
13 November 2015	DIBP notified Mr X that the associated Bridging visa application was invalid.
25 January 2016	DIBP advised that Mr X's case was being assessed against the guidelines under s 195A for the possible grant of a Bridging visa.
25 May 2016	Granted a Bridging visa.

Criminal history

1 December 2014	Mr X was charged by the Australian Federal Police for his involvement in a riot which occurred at Christmas Island IDC on 5 September 2014.
18 December 2015	He attended Perth Magistrates Court and was found guilty of taking part in an unlawful assembly. He received a spent conviction and a conditional release order to be of good behaviour for six months.

Health and welfare

29 September 2013 – 21 December 2015	International Health and Medical Services (IHMS) reported that Mr X has been treated for ongoing gastritis and back pain with medication, investigative tests and specialist referral.
May 2014 – ongoing	He self-referred to the mental health team (MHT) following stress and sleeping worries.
29 May 2014	A DIBP Incident Report recorded that Mr X claimed to be refusing food and fluid.
January 2015	A psychiatrist assessed Mr X as having high anxiety levels and recommended that he attend psychological counselling.
5 March 2015	A DIBP Incident Report recorded that Mr X sustained injuries during a suspected seizure related to a pre-existing medical condition.
11 April 2015	A DIBP Incident Report recorded that Mr X self-harmed by attempting to hang himself.
19 July 2015	IHMS advised that Mr X self-refers to the MHT and has reported stress, anxiety, low mood and social isolation related to his time in immigration detention and his criminal court matters. IHMS stated that there was evidence in his medical file to suggest that Mr X's mental health would benefit from a less restrictive environment.
August 2015	The psychiatrist diagnosed Mr X with insomnia. He was prescribed with medication and continued to attend psychological counselling.
21 December 2015	IHMS advised that Mr X was compliant with his medication and self-refers to the MHT for support.

Ombudsman assessment

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

Mr X was detained on 22 July 2013 after arriving in Australia aboard SIEV *Andalusia* and was held in restricted detention for over two and a half years before being granted a Bridging visa.

On 25 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 lodged a SHEV application.

The Ombudsman notes that s 486N(1)(b) records the Secretary of DIBP's obligation to report to the Commonwealth Ombudsman within 21 days after the detention reporting time.

In the case of DIBP's review on Mr X, the Ombudsman notes with concern that DIBP advised that it did not meet its statutory reporting timeframes due to an information technology error which precluded normal reporting procedures from being followed.

The Ombudsman further notes that DIBP advised that it is working with DIBP's information technology systems to correct this issue. The Ombudsman makes no recommendations in this report.