

**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 immigration 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	1002248-O
Date of DIBP's reports	3 December 2015 and 2 June 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

15 November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 535 <i>Nyberg</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
15 November 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
1 December 2012	Transferred to Yongah Hill IDC.
16 January 2013	Granted a Bridging visa and released from detention.
3 February 2014	Re-detained under s 189(1) after his Bridging visa expired and he remained unlawfully in the community. He was transferred to Villawood IDC.

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.	
15 January 2013	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Temporary Humanitarian Stay (THS) visa and a Bridging visa.
16 January 2013	Granted a THS visa with an associated Bridging visa.
16 July 2013	Mr X's Bridging visa ceased and he remained in the community as an unlawful non-citizen.
3 February 2014	Mr X was identified as a person of interest to the New South Wales Police and subsequently re-detained.
29 June 2015	Mr X was referred for ministerial intervention under s 197AB for consideration of a community detention placement.

21 July 2015	The Minister agreed to consider Mr X for a community detention placement once his security issues are resolved and suitable accommodation has been sourced.
13 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
26 August 2015	DIBP invited Mr X to lodge a temporary visa application.
23 September 2015	Lodged a Temporary Protection visa application.
22 February 2016	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. He accepted the PAIS assistance and was assigned a provider.
2 June 2016	DIBP advised that Mr X remains a person of interest to it and to an external agency.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X has been diagnosed with bipolar affective disorder and while detained at Villawood IDC he has had three to four manic episodes which required hospitalisation. Mr X is prescribed with medication to manage his condition, but needs to be reminded to take this. DIBP advised that Mr X is provided with a high level of care and monitoring in relation to his mental wellbeing. DIBP Incident Reports recorded that Mr X has threatened self-harm or suicide on multiple occasions. In February 2016 he advised the mental health team that he was becoming increasingly depressed, but declined further mental health support.

Mr X's psychiatrist has advised that the high stress environment of detention is placing Mr X at an increased risk of relapse, and is not suitable in light of his chronic mental illness. The psychiatrist recommended that Mr X be placed in community detention, and advised that he will require a community treatment order for injectable medication, as he is currently non-compliant with his medication. In April 2016 IHMS reiterated the recommendation by Mr X's psychiatrist that he be placed in community detention.

3 February 2014	A DIBP Incident Report recorded that while in the community Mr X threatened to self-harm by strapping a bomb to his chest. He was subsequently re-detained.
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Detention incidents

DIBP Incident Reports recorded that Mr X has allegedly been involved in numerous incidents while in detention, including assaulting detention centre staff and other detainees and damaging property.

In Mr X's 24 month review, DIBP advised that while Mr X has been involved in a number of incidents while in detention, many of these incidents have been attributed to Mr X's known mental health issues.

Other matters

12 January 2014	Mr X was involved in a civil dispute which was attended by the New South Wales Police. Mr X allegedly told the police that his family members had been killed in Country A and made threats of self-harm and threats to others offshore. Consequently he was identified as a person of interest to DIBP and an external agency.
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Information provided by Mr X

During a telephone conversation with Ombudsman staff on 1 September 2016 Mr X advised that he was re-detained in 2014 after living in the community on a Bridging visa, but said he did not understand why as he had done nothing wrong. He claimed that while in the community he attended a DIBP office to report that his Bridging visa was due to expire, and was told he could stay in the community until he was granted a new Bridging visa.

Mr X advised that on 12 January 2014 he called the police to attend a dispute over money. He said he was very upset at the time as he had recently heard that his family's house in Country A had been bombed and his mother had died. Mr X advised that he does not speak English well and there was no interpreter present when the police attended the dispute. He claims the police misunderstood him when he told them about his mother's death in the bombing, believing him to be saying that he wanted to go to Country A and bomb himself. Mr X advised that he suffers from bipolar disorder and the police subsequently took him to hospital where he was admitted for psychiatric treatment.

Mr X said he was re-detained a few weeks after he was discharged from hospital and told it was because his Bridging visa had expired. He was later told that he would not be released from detention again until he receives a clear assessment from the Australian Security and Intelligence Organisation.

Mr X further advised that a few months ago he decided to stop taking his mental health medication because it made him feel numb and he wanted to try to cope with the full reality of his situation in detention. He said prior to coming to Australia he was a successful business man, but he feels like when he eventually leaves detention it will be as a crazy person.

Ombudsman assessment/recommendation

Mr X was detained on 15 November 2012 after arriving in Australia aboard SIEV *Nyberg* and has been held in restricted detention for a cumulative period of over two and a half years.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. The Ombudsman notes advice from IHMS that Mr X has a history of significant mental health issues and that his treating psychiatrist has recommended that he be placed in community detention as the stress of restricted detention puts him at risk of relapse.

The Ombudsman further notes DIBP's advice that the Minister has agreed to consider Mr X for a community detention placement once his security issues are resolved and suitable accommodation has been sourced. The Ombudsman notes that Mr X has been a person of interest to DIBP and an external agency since an incident that took place two and a half years ago.

On 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. On 22 February 2016 Mr X accepted the PAIS assistance and was assigned a provider to assist with lodging his application.

The Ombudsman recommends that priority is given to resolving Mr X's case as soon as possible.