

**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 a cumulative period of more than 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Stateless (claimed), born in Country A
<b>Year of birth</b>	1969
<b>Ombudsman ID</b>	1002450-O
<b>Date of DIBP's report</b>	27 July 2016
<b>Total days in detention</b>	742 (at date of DIBP's report)

**Detention history**

28 March 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 631 <i>Futura</i> accompanied by his wife, Ms Y and their daughter, Miss Z.
28 May 2013	The family was granted Bridging visas and released from restricted detention.
15 September 2014	Mr X was re-detained under s 189(1) and placed in restricted detention.
19 October 2016	Granted a Bridging visa and released from restricted detention.

**Visa applications/case progression**

The Department of Immigration and Border Protection (the department) 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.	
29 April 2013	The family was 'screened in' to the protection process.
28 May 2013	The family was granted Bridging visas valid until 28 November 2013. Upon expiry of the Bridging visas the family remained in the community unlawfully.
4 June 2014	Ms Y and her daughter's cases were referred to the Minister on a submission under s 91L and s 46A for possible consideration of granting further Bridging visas. Mr X was not included in the submission as he had been issued with an intervention order with his wife and daughter named as the protected persons, with the police considering laying charges against him.
16 June 2014	The Minister agreed to intervene under s 91L and s 46A and on 9 July 2014 further Bridging visas were granted to Ms Y and her daughter.
12 September 2014	Mr X was asked to present himself to the department. He was detained under s 189(1).

28 April 2015	Interviewed in relation to an identity assessment. Following assessment, the department formed the view that on the balance of probabilities, Mr X was not stateless and likely to be a citizen of Country A.
3 September 2015	Mr X's case was referred on a ministerial intervention submission under s 195A for possible grant of a Bridging visa.
1 October 2015	The Minister declined to intervene.
18 April 2016	The Minister lifted the bar under s 46A to allow him to lodge a temporary visa application.
22 April 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 offer on 28 April 2016. At the date of the department's report it had yet to assign a PAIS provider.
27 July 2016	Mr X's case was referred on a ministerial intervention submission under s 195A for possible grant of a Bridging visa.
19 October 2016	Granted a Bridging visa.

### **Criminal history and other legal matters**

28 January 2014	Mr X's wife notified their community case worker that Mr X had been served with an interim intervention order on 24 January 2014 which prevented him from living with or having contact with her and their daughter. Further it was reported that on 26 January 2014 Mr X had allegedly contacted his wife and threatened her. She reported the matter to the police.
10 February 2014	A magistrates court issued Mr X with an intervention order, with his wife and daughter named as the protected persons.
6 September 2014	The police advised that Mr X had been charged with various criminal offences including criminal damage, making a threat to kill, two counts of intentionally causing injury, two counts of recklessly causing injury, discharge of a missile to cause injury, assault with a weapon and three counts of unlawful assault.
2 October 2014	Mr X was issued with a further intervention order which was in place until 1 October 2015.
27 November 2014	A magistrates court found Mr X guilty of two counts of unlawful assault and two counts of contravening a family violence final intervention order. He was fined \$1500 as part of an aggregate order.

### **Health and welfare**

<p>International Health and Medical Services (IHMS) advised that Mr X was diagnosed and received treatment and/or counselling for mental health conditions including a history of torture and trauma, depression, anxiety and adjustment disorder. IHMS stated that he had recently been participating in fortnightly home visits to his family to assist his wife in caring for their two young children as his wife was involved in a car accident in late 2015.</p> <p>IHMS further advised that Mr X received treatment for physical health concerns including joint pain, gastro-oesophageal reflux disorder, and chronic back pain caused by early arthritis. He was prescribed eradication therapy for a helicobacter pylori infection.</p>
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6 October 2014	Made threats of self-harm to a visiting psychiatrist.
6 December 2015	Following a fall Mr X was transferred to a hospital emergency department for review and diagnosed with musculoskeletal pain. He was discharged with oral pain relief.

**Other matters**

Mr X and Ms Y's second child, Master P, was born in immigration detention in May 2015.

**Case status**

Mr X was granted a Bridging visa on 19 October 2016 and released from immigration detention.

Mr X was detained 28 March 2013 after arriving in Australia aboard SIEV *Futura* and was held in detention for over two years before being granted a Bridging visa.

On 18 April 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa.

On 28 April 2016 Mr X accepted the PAIS assistance.