

## 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 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1988
<b>Ombudsman ID</b>	1003472
<b>Date of DIBP's report</b>	13 October 2015
<b>Total days in detention</b>	742 (at date of DIBP's report)

### Detention history

15 February 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 591 <i>Rover</i> . He was transferred to Christmas Island Immigration Detention Centre (IDC).
22 March 2013	Transferred to Northern IDC.
27 March 2013	Granted a Bridging visa and released from detention.
10 November 2013	Mr X was arrested and charged with a criminal offence. The same day he was re-detained under s 189(1) and transferred to Villawood IDC.
3 April 2014	Transferred to Curtin IDC.
26 August 2014	Transferred to Yongah Hill IDC.
31 July 2015	Transferred to Wickham Point Alternative Place of Detention (APOD). <sup>1</sup>

### 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.	
26 March 2013	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
27 March 2013	Granted a Bridging visa.
27 September 2013	Mr X's Bridging visa expired and he remained in the community as an unlawful non-citizen.
10 November 2013	Mr X was arrested and re-detained.

<sup>1</sup> DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point is a designated APOD comprising three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

12 March 2014	Mr X was notified of the unintentional release of personal information through DIBP's website. <sup>2</sup> DIBP advised that the privacy breach would be taken into account when considering Mr X's protection claims.
25 November 2014	Mr X requested ministerial intervention under s 195A.
20 January 2015	DIBP advised Mr X that he was barred under s 46A from lodging a valid onshore visa application, but that the Minister could intervene if he thought it was in the public interest to do so.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
4 November 2015	Mr X was invited to apply for a temporary visa.

### **Criminal matters**

10 November 2013	Mr X was charged with the possession of a prohibited drug. The matter was heard on 26 February 2014 and he was placed on an 18-month good behaviour bond.
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### **Health and welfare**

23 December 2013 – ongoing	International Health and Medical Services (IHMS) advised that Mr X presented with shoulder pain. He was examined and provided with pain relief medication.
13 February 2014 – ongoing	Disclosed a history of torture and trauma but declined specialist counselling. IHMS advised that Mr X attended group therapy sessions and scheduled mental health reviews.
5 March 2014	After reporting shoulder pain Mr X was referred for physiotherapy and an x-ray, which returned normal results.
6 March 2014 – 27 March 2014	Attended four physiotherapy appointments.
12 May 2014	Presented with continuing shoulder pain and was referred for a further x-ray and an ultrasound.
20 June 2014	Mr X advised the general practitioner that his shoulder pain had improved after doing strengthening exercises.

### **Case status**

<p>Mr X was detained on 15 February 2013 after arriving in Australia aboard <i>SIEV Rover</i> and has been held in restricted detention for a cumulative period of over two years.</p> <p>On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 4 November 2015 DIBP invited Mr X to apply.</p>
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<sup>2</sup> 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.