

**REPORT BY THE COMMONWEALTH AND  
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

*Under s 486O of the Migration Act 1958*

This is the second s 486O report on Mr X who has remained in immigration detention for a cumulative period of more than 36 months (three years).

The first report 1002507<sup>1</sup> was tabled in Parliament on 3 February 2016. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1972
<b>Ombudsman ID</b>	1002434-O
<b>Date of DIBP's reports</b>	30 June 2016 and 28 December 2016
<b>Total days in detention</b>	1094 (at date of DIBP's latest report)

**Detention history**

22 April 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving in Australia <sup>2</sup> with his wife, Ms Y, aboard Suspected Illegal Entry Vessel 657 <i>Fowley</i> . Mr X and Ms Y were transferred to Darwin Airport Lodge Alternative Place of Detention (APOD).
8 May 2013	Transferred to Wickham Point APOD with Ms Y.
24 June 2014	Transferred to Bladin APOD with Ms Y.
22 October 2014	Transferred to community detention with Ms Y.
6 May 2015	Granted a Bridging visa and released from detention with Ms Y.
14 January 2016	Mr X was re-detained under s 189(1) following the cancellation of his Bridging visa and transferred to Brisbane Immigration Transit Accommodation.  Ms Y remains in the community on a Bridging visa with their two children. <sup>3</sup>
21 January 2016	Transferred to Wickham Point APOD.
21 June 2016	Transferred to Yongah Hill Immigration Detention Centre.

<sup>1</sup> Mr X was previously reported on with his wife, Ms Y.

<sup>2</sup> The Ombudsman's previous report (1002507) concluded based on the information provided that Mr X and Ms Y were detained under s 189(1), that they had arrived as 'direct entry persons' and were not subject to the s 46A bar. It has since been confirmed that although Mr X and Ms Y were detained under s 189(1), they had not arrived as 'direct entry persons' and were subject to the s 46A bar.

<sup>3</sup> Mr X and Ms Y's first child, Miss Z was born in Australia in April 2014 and detained on 2 May 2014. Miss Z was granted a Bridging visa on 21 April 2016 and was released from detention.

Mr X and Ms Y's second child, Master P was born in Australia in April 2016. Both children have been in detention for less than two years and are not subject to reporting under s 486N.

### Visa applications/case progression

12 March 2014	The Department of Immigration and Border Protection (the department) notified Mr X and Ms Y of the unintentional release of personal information <sup>4</sup> and advised that the privacy breach would be taken into account when considering their protection claims.
2 October 2014	The Minister intervened under s 197AB to allow Mr X and Ms Y to reside in community detention.
1 May 2015	The Minister intervened under s 195A. On 6 May 2015 Mr X and Ms Y were granted Bridging visas and were released from detention.
14 January 2016	Mr X was issued a Notice of Intention to Consider Cancellation of his Bridging visa under s 501 following information relating to undeclared criminal convictions. Mr X's Bridging visa was cancelled and he was re-detained under s 189(1).
18 April 2016	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
22 April 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. He accepted the offer on 6 May 2016 and was assigned a provider on 11 July 2016.
26 August 2016	Lodged a Temporary Protection visa (TPV) application.
28 November 2016	The department commenced an assessment against the guidelines under s 195A for referral to the Minister.

### Health and welfare

International Health and Medical Services advised that Mr X was treated for a fractured wrist in January 2014 with no further concerns reported.
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### Other matters

27 May 2016	The Minister lifted the bar under s 46A to allow Ms Y and her daughter to lodge a temporary visa application.
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### Case status

<p>Mr X was detained on 22 April 2013 after arriving in Australia by sea and has been held in detention for a cumulative period of more than three years.</p> <p>On 18 April 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 26 August 2016 Mr X lodged a TPV application.</p>
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<sup>4</sup> In a media release dated 19 February 2014 the Minister advised that an immigration detention statistics report was released on the department's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as the department became aware of the breach from the media. The Minister acknowledged that this was a serious breach of privacy by the department.