

## 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 more than 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1967
<b>Ombudsman ID</b>	1003431
<b>Date of DIBP's report</b>	12 September 2015
<b>Total days in detention</b>	730 (at date of DIBP's report)

### Detention history

12 September 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community and transferred to Villawood Immigration Detention Centre (IDC).
14 April 2014	Transferred to Yongah Hill IDC.

### Visa applications/case progression

30 March 2003	Mr X arrived in Australia as the holder of an Electronic Travel Authority visa using a fraudulent Country B passport in another name. The Department of Immigration and Border Protection (DIBP) advised that this was not detected at the time of arrival and Mr X passed immigration and customs clearance.
14 May 2003	Lodged a Protection visa application.
21 May 2003	Granted a Bridging visa.
15 August 2003	Granted a further Bridging visa valid until 3 September 2003.
9 February 2004	Protection visa application refused.
17 March 2004	Appealed to the Refugee Review Tribunal (RRT).
1 July 2004	RRT affirmed original decision.
18 August 2004	Requested judicial review by the Federal Circuit Court (FCC).
24 March 2005	FCC affirmed original decision.
3 October 2013	Lodged a Protection visa application with an associated Bridging visa application.
9 October 2013	Associated Bridging visa application refused.
14 October 2013	Appealed to the Migration Review Tribunal (MRT).
22 October 2013	MRT affirmed original decision.

12 March 2014	Mr X was notified of the unintentional release of personal information through DIBP's website. <sup>1</sup> DIBP advised that the privacy breach would be taken into account when considering his protection claims.
16 December 2014	DIBP advised that following legislative amendment, Mr X is only eligible for a temporary visa.
12 January 2015	Protection visa application refused.
29 January 2015	Appealed to the RRT.
18 August 2015	Administrative Appeals Tribunal (AAT) <sup>2</sup> affirmed original decision. DIBP advised that Mr X had 35 days to consider judicial review of the AAT decision with the Full Federal Court (FFC).
12 September 2015	DIBP advised that Mr X is a person of interest in relation to identity and other criminal matters onshore.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X has not required treatment for any major mental health issues.	
17 October 2014	Mr X injured his knee whilst playing soccer.
6 November 2014	Knee x-rays showed a minor abnormality.
26 June 2015	He reported ongoing knee pain and was referred for an ultrasound which showed a partial ligament tear.
11 August 2015	Mr X was referred to an orthopaedic specialist. IHMS advised that this appointment remained outstanding at the time of its report.

### Detention incidents

13 April 2015	A DIBP Incident Report recorded that Mr X allegedly assaulted another detainee following an argument. No further information was provided.
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### Other matters

On 17 May 2013 Mr X was arrested by the New South Wales Police and charged with a drug offence. He was subsequently acquitted of the charge and released from criminal custody on 12 September 2013.
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<sup>1</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.

<sup>2</sup> On 1 July 2015 the MRT and RRT were merged into the AAT.

**Case status**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion.

At the time of DIBP's review Mr X had no matters before DIBP, the courts or tribunals. However, DIBP advised that he had 35 days to consider judicial review of the AAT decision with the FFC.