

## 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>	1989
<b>Ombudsman ID</b>	1003495
<b>Date of DIBP's report</b>	6 October 2015
<b>Total days in detention</b>	728 (at date of DIBP's report)

### Detention history

8 April 2013	Mr X was detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland aboard Suspected Illegal Entry Vessel 640 <i>Outback</i> , indicating that he arrived as a 'direct entry person'. <sup>1</sup>  He was transferred to Northern Immigration Detention Centre (IDC), Darwin.
27 July 2013	Transferred to Yongah Hill IDC.
27 January 2014	Transferred to Christmas Island IDC.
10 December 2014	Transferred to Wickham Point IDC. On the same day he was granted a Bridging visa and released from detention.
11 June 2015	Mr X's Bridging visa was cancelled and he was re-detained and transferred to Brisbane Immigration Transit Accommodation.
13 June 2015	Transferred to Yongah Hill IDC.

### Visa applications/case progression

<p>The Department of Immigration and Border Protection (DIBP) advised that as Mr X arrived in Australia as a 'direct entry person' he was not barred under s 46A from lodging a Protection visa application.</p> <p>DIBP further advised that following legislative amendment, Mr X is only eligible for a temporary visa.</p>	
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 his protection claims.

<sup>1</sup> A maritime arrival to Australia's mainland who is seeking protection. Maritime arrivals who arrived as 'direct entry persons' after 13 August 2012 and before 20 May 2013 are not subject to the s 46A bar.

<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.

26 June 2014	Lodged a Protection visa application with an associated Bridging visa application.
10 December 2014	Granted an associated Bridging visa.
18 December 2014	Protection visa application refused.
19 January 2015	Appealed to the Refugee Review Tribunal.
11 June 2015	Mr X's Bridging visa was cancelled under s 116 following criminal charges. On the same day he was re-detained under s 189(1).
6 October 2015	DIBP advised that Mr X is a person of interest in relation to criminal matters onshore.

### **Criminal matters**

21 April 2015	Mr X was arrested by the Victoria Police, charged with an offence and released on bail.
23 April 2015 and 11 May 2015	On two occasions Mr X was arrested by the Victoria Police and charged with breaching a condition of his bail. He was released on bail on both occasions.
7 August 2015	The Magistrates Court of Queensland heard and adjourned Mr X's case. At the time of DIBP's report the matter was ongoing.

### **Health and welfare**

10 April 2013 – ongoing	International Health and Medical Services advised that Mr X's induction chest x-ray identified abnormalities indicative of latent tuberculosis. A skin test confirmed the diagnosis and he was prescribed with medication.
22 April 2013	Pathology results identified that Mr X had previously been infected with hepatitis B and was now immune.
13 October 2013 – ongoing	Mr X was reviewed by a hospital tuberculosis clinic and discharged. He attended six-monthly chest x-rays as per state policy and his final x-ray was scheduled for 13 December 2015.
28 September 2014 – ongoing	Disclosed a history of torture and trauma but declined a referral for specialist counselling. Mr X maintains access to the mental health team and a general practitioner as necessary.

### **Case status**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He is awaiting the outcome of judicial review.

Mr X is also awaiting the outcome of his case with the Magistrates Court of Queensland.