

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 more than 42 months (three and a half years).

The first report 1002296 was tabled in Parliament on 21 October 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A, born in Country B
Year of birth	1985
Ombudsman ID	1003512
Date of DIBP's reports	16 October 2015 and 8 April 2016
Total days in detention	1269 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002296), Mr X has remained at Melbourne Immigration Transit Accommodation (ITA).

Recent 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 of the <i>Migration Act 1958</i> .	
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
2 November 2015	Mr X's case was referred on a ministerial submission for consideration under s 195A for the possible grant of a Bridging visa.
10 November 2015	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 the next day and was assigned a provider.
1 December 2015	The Minister declined to intervene under s 195A.
2 February 2016	Mr X signed a request for voluntary removal.
3 February 2016	Lodged a Safe Haven Enterprise visa (SHEV) application with an associated Bridging visa application.
8 February 2016	Mr X withdrew his request for voluntary removal and indicated he wished to continue with his SHEV application.
22 February 2016	DIBP notified Mr X the associated Bridging visa application was invalid.

Other legal matters

20 May 2015	Mr X appeared before the G Magistrates Court in relation to charges of property damage. No conviction was recorded however, Mr X was issued with a Diversion Plan ¹ which he had to comply with until 19 May 2016.
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Health and welfare

International Health and Medical Services (IHMS) reported that Mr X continued to be treated for chronic headaches and mental health issues related to anxiety and threats of self-harm.

IHMS advised that his mental state has fluctuated and he was placed on Supportive Monitoring and Engagement observations because of threats of self-harm. IHMS also advised that he displayed anger and frustration associated with his prolonged detention and in August 2015 he was diagnosed with an adjustment disorder.

Mr X has been regularly seen by the mental health team for ongoing assessment and weekly supportive counselling. He has also attended regular sessions with a specialist counsellor to address his torture and trauma history.

Other matters

2 October 2015	Mr X's former wife, Ms Y, and his son, Master Z, were granted Bridging visas. They are the subjects of a separate Ombudsman report.
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Information provided by Mr X

During an interview with Ombudsman staff at Melbourne ITA on 24 March 2016 and a telephone conversation on 14 April 2016 Mr X advised he was uncertain about what was happening with his case and he was concerned that his case was not being progressed.

Mr X stated that for several months he had rarely left his room because he was anxious and depressed and hardly slept. He said he sometimes forced himself to go to the gym.

Mr X has a son living in Melbourne and four brothers living in Sydney. He said he has not seen his son for six months. He said he sometimes contacts his family in Country A, but stated that as he is not allowed a mobile phone contacting them can be hard.

Mr X stated that he would like to be able to live with his brothers and have the opportunity to work.

Case status

Mr X was detained on 17 October 2012 after arriving in Australia on Suspected Illegal Entry Vessel *Opaque* and has been held in detention for over three and a half years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 3 February 2016 Mr X lodged a SHEV application.

¹ The Criminal Justice Diversion Program is governed by s 59 of the *Criminal Procedure Act 2009*. A Diversion Plan provides first time offenders with the opportunity to avoid a criminal record by undertaking conditions that benefit the offender, victim and the community as a whole.