

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 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1989
Ombudsman ID	1003470
Date of DIBP's reports	29 September 2015 and 31 March 2016
Total days in detention	914 (at date of DIBP's latest report)

Detention history

18 March 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 611 <i>Lantra</i> . He was transferred to Facility B.
21 March 2013	Transferred to Facility C.
14 April 2013	Transferred to Facility D.
1 May 2013	Transferred to Facility E.
16 May 2013	Granted a Bridging visa and released from detention.
27 November 2013	Re-detained under s 189(1) and transferred to Facility F.

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.	
10 May 2013	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
13 May 2013	The former Minister agreed to intervene under s 195A.
16 May 2013	Mr X was granted a Bridging visa valid until 16 November 2013.
17 November 2013	Mr X became an unlawful non-citizen.
27 November 2013	Mr X attended a DIBP office and because of non-compliance with a Community Treatment Order (CTO) he was re-detained under s 189(1).
3 December 2013 and 18 February 2014	Found not to meet the guidelines for referral to the former Minister under s 197AB.
4 June 2014	Found not to meet the guidelines for referral to the former Minister under s 195A.
5 January 2015	Mr X's case was identified for assessment against the guidelines under s 197AB for referral to the Minister.

18 March 2015	Mr X's case was referred on a ministerial submission for consideration under s 197AB for a community detention placement.
26 March 2015	The Minister declined to intervene under s 197AB in Mr X's case. In his decision the Minister noted he would consider Mr X's case in six months subject to continuing medical and behavioural compliance.
10 September 2015	Mr X's case was again identified for assessment against the guidelines under s 197AB.
25 September 2015	Mr X's case was referred on a ministerial submission for consideration to lift the s 46A bar.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application. DIBP advised that Mr X was a person of interest in relation to an alleged assault.
23 October 2015	Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. DIBP advised that it has assigned him a PAIS provider.
10 March 2016	Mr X's case was referred on a ministerial submission for consideration under s 197AB of a community detention placement.
18 March 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
24 March 2016	The Minister intervened under s 197AB to allow Mr X to reside in community detention.
31 March 2016	DIBP advised that processing of Mr X's SHEV application and community detention placement remain ongoing.

Criminal matters

29 July 2015	DIBP advised that Mr X was referred to the Australian Federal Police for investigation following an alleged assault against another detainee at Facility F.
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Health and welfare

August 2013 – October 2013	International Health and Medical Services (IHMS) advised that Mr X was admitted to a psychiatric inpatient unit and diagnosed with schizophrenia. He remained in the inpatient unit until October 2013 when he was discharged into the care of a community mental health team (MHT). He was placed on a CTO and received medication via injection until 29 July 2015.
3 April 2014	A DIBP Incident Report recorded that Mr X was refusing food and fluid.
14 May 2014	Neurocognitive testing was conducted.

10 August 2015	<p>Reviewed by an IHMS Psychiatrist who recommended that although Mr X's CTO had expired while he was in restricted detention, if he were to be returned to the community the CTO should be reinstated.</p> <p>The psychiatrist also stated Mr X's mental state was likely to be adversely affected by his current placement and recommended that he be placed in a community setting.</p>
7 September 2015 – ongoing	IHMS advised that Mr X was intermittently non-compliant with his medication.
9 September 2015	The community MHT discharged Mr X from its services and recommended he be managed by an IHMS psychiatrist as his mental health was stable at that time.
19 September 2015	Attended an independent psychiatric assessment.
29 September 2015	IHMS advised that Mr X sees the MHT for his ongoing mental health issues.
3 February 2016	The psychiatrist noted a deterioration in Mr X's mental health and that he lacked insight into his condition. The psychiatrist stated he would need a CTO in the future but there was no evidence to suggest a CTO had been approved at that time.

Detention incidents

DIBP Incident Reports recorded that Mr X has allegedly been involved in a number of minor assaults and behavioural incidents.

Other matters

26 May 2014	<p>Mr X lodged a complaint with the Ombudsman's office alleging that he had been granted a community detention placement in April 2014 but remained in restricted detention.</p> <p>Following an investigation, DIBP confirmed that Mr X's case had been considered on two occasions for a community detention placement but on both occasions his case did not meet the guidelines.</p> <p>The Ombudsman's office provided Mr X with an explanation and the complaint was finalised on 23 July 2014.</p>
14 August 2014	The Australian Human Rights Commission notified DIBP of a complaint by Mr X. On 31 March 2016 DIBP advised that the matter remains ongoing.

Information provided by Mr X

During an interview with Ombudsman staff at Facility F on 18 December 2015 Mr X stated he wanted protection in Australia in order to be able to work. He said he did not know where his family were in Country A and his life would be in danger if he was to return.

He said he participated in most activities at Facility F and his physical health was good. He said he had not experienced any difficulties in obtaining medication or support for mental health issues, however, he continued to have sleeping difficulties.

Case status

Mr X was detained on 18 March 2013 after arriving in Australia aboard SIEV *Lantra* and has been held in restricted detention for a cumulative period of over two 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. On 18 March 2016 Mr X lodged a SHEV application and on 24 March 2016 the Minister intervened under s 197AB to allow Mr X to reside in community detention.