

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 1001896¹ was tabled in Parliament on 18 March 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
Year of birth	1964
Ombudsman ID	1003314
Date of DIBP's reports	1 April 2015, 15 September 2015, and 9 March 2016
Total days in detention	1276 (at date of DIBP's latest report)

Detention history

10 September 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia with his family ² aboard Suspected Illegal Entry Vessel (SIEV) 444 <i>Yerabuena</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
15 September 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
20 September 2012	Transferred to Christmas Island APOD.
16 October 2012	Transferred to Christmas Island IDC.
20 October 2012	Transferred to Christmas Island APOD.
1 February 2013	Transferred to Darwin Airport Lodge APOD.
1 May 2013	Transferred to Wickham Point IDC.
14 June 2013	Transferred to community detention.
3 October 2013	Mr X's community detention placement was revoked following criminal charges. He was transferred to Facility C.
2 April 2015	Transferred to Facility D.
17 April 2015	Transferred to Facility C.
6 May 2015	Transferred to Facility D.

¹ Mr X was previously reported on in a group report including people who arrived on SIEV 444 *Yerabuena*.

² Mr X arrived in Australia with his son, Mr Y, who is residing in the community on a Bridging visa, and his two nephews, Mr Z, and Mr Q, who are also residing in the community on Bridging visas. Mr Z and Mr Q are the subject of Ombudsman report 1003424.

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.	
4 May 2013	The former Minister intervened under s 197AB to allow Mr X to reside in community detention.
3 September 2013	Mr X lodged a Protection visa application with his son and two nephews as dependants.
7 January 2014	DIBP notified Mr X that his Protection visa application was invalid.
30 September 2014	The former Minister revoked Mr X's community detention placement under s 197AD following criminal charges.
30 June 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
20 July 2015	DIBP invited Mr X to apply for a temporary visa.
24 August 2015	Found not to meet the guidelines for referral to the Minister under s 195A.
30 October 2015	Mr X lodged a Safe Haven Enterprise visa (SHEV) application with an associated Bridging visa application. His son is a dependant on the application.
15 January 2016	DIBP informed Mr X that the associated Bridging visa application was invalid.
27 January 2016	Attended an interview in relation to the SHEV application.
9 March 2016	DIBP advised that Mr X's case has been identified for assessment against the guidelines under s 195A for a possible referral to the Minister for grant of a Bridging visa.

Criminal history

13 September 2014	Arrested by G Police in relation to a domestic violence incident involving his nephews.
25 February 2015	Appeared before the D Magistrates Court and convicted of assault charges including assault with a weapon. No penalty was imposed.

Health and welfare

15 September 2012	International Health and Medical Services (IHMS) advised that Mr X underwent renal imaging with no abnormalities identified.
23 November 2012	Reported a history of torture and trauma but declined specialist counselling.
25 November 2012	Inguinal hernia identified and placed on a surgical waiting list.
13 March 2014	Underwent corrective surgery for the hernia with no complications reported.

12 August 2014 – ongoing	Underwent a kidney biopsy which identified abnormalities. He was diagnosed with kidney disease. IHMS advised that his condition is monitored by a general practitioner (GP) and specialist.
18 September 2014	He saw the GP for alcohol-related issues and rehabilitation following allegations that he physically assaulted one of his nephews in community detention on 13 September 2014. The GP referred Mr X to support services.
3 October 2014	Commenced on alcohol withdrawal monitoring.
26 November 2014	Mr X was identified as having an adjustment disorder. The psychiatrist suggested no medication was required and recommended psychological counselling sessions and participation in mental health outreach programs.
9 February 2015	He complained of being assaulted by another detainee. An x-ray identified a fractured rib and he was prescribed with medication.
27 March 2015	Mr X was among a group of detainees who threatened self-harm.
25 August 2015	The GP informed Mr X that a blood test showed high cholesterol. He was prescribed with medication and referred to a dietitian.

Detention incidents

23 June 2014	A DIBP Incident Report recorded that Mr X was allegedly involved in a car accident and his driver's licence was suspended for driving under the influence of alcohol.
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Information provided by Mr X

During an interview with Ombudsman staff at Facility D in March 2016 Mr X advised he lodged a Temporary Protection visa (TPV) application after his SHEV application was found to be invalid. He said he had been interviewed in relation to his TPV application.

He was concerned his kidney condition was not being monitored regularly. He was escorted to a specialist appointment two days previously which he only found out had been cancelled upon his arrival. He did not know when he was having a kidney operation.

Case status

Mr X was detained on 10 September 2012 after arriving in Australia aboard SIEV *Yerabuena* and has been held in detention for over three and a half years.

On 30 June 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 30 October 2015 Mr X lodged a SHEV application.