

**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 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	1996
Ombudsman ID	1002317-O
Date of DIBP's reports	17 February 2016 and 17 August 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

24 June 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia as an unaccompanied minor aged 16 aboard Suspected Illegal Entry Vessel (SIEV) 761 <i>Weogufka</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
13 July 2013	Transferred to Pontville APOD.
18 September 2013	Transferred to community detention.
10 December 2014	Granted a Bridging visa and released from detention.
5 August 2015	Re-detained under s 189(1) and transferred to Facility B.
6 August 2015	Transferred to Facility C
28 August 2015	Transferred to Facility D.
9 October 2015	Transferred to Facility E.
7 July 2016	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.	
7 August 2013	DIBP advised that an age determination assessment confirmed Mr X was less than 18 years old but he had since turned 18.
2 September 2013	Assessed under the <i>Immigration (Guardianship of Children) Act 1946</i> and was found to be a minor under that act under the guardianship of the Minister.

13 March 2014	DIBP notified Mr X of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering his protection claims.
10 December 2014	Granted a Bridging visa valid until 10 December 2015 and released from detention.
17 July 2015	Bridging visa cancelled under s 116 of the Migration Act after being charged with a criminal offence.
5 August 2015	Re-detained under s 189(1).
10 August 2015	Requested voluntary removal to Country A but withdrew the request on 17 September 2015.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
22 February 2016	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 on 2 March 2016.
21 April 2016	Lodged a Safe Haven Enterprise (SHEV) visa application.
27 April 2016	Attended interview in relation to the SHEV application.

Other legal matters

16 July 2015	Police arrested Mr X and charged him with dishonest dealing with documents. After his Bridging visa was cancelled on 17 July 2015 he was held at a remand centre until his re-detention on 5 August 2015
22 September 2015	The charge was dismissed by a Magistrates Court.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X has a history of torture and trauma, however, he declined specialist counselling. IHMS further advised Mr X received treatment for post-traumatic stress disorder and related insomnia, nightmares and anxiety. IHMS stated that both matters were now considered to be resolved.</p> <p>DIBP Incident Reports recorded that Mr X was transported to hospital for matters including when he had been punched in the neck/head area, ongoing issues with tonsils and chest pain.</p>	
10 September 2015	A DIBP Incident Report recorded that Mr X self-harmed with a razor.
21 September 2015 and 10 October 2015	DIBP Incident Reports recorded that Mr X threatened self-harm.

Detention incidents

May 2014 – November 2015	DIBP Incident Reports recorded that Mr X was allegedly involved in several behavioural incidents of a minor nature.
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¹ 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.

Ombudsman assessment/recommendation

Mr X was detained on 24 June 2013 after arriving in Australia as an unaccompanied minor aboard SIEV *Weogufka* and has been held in detention for a cumulative period of over three and a half years.

He was granted a Bridging visa and released from detention on 10 December 2014 but was re-detained on 5 August 2015 following his arrest on a criminal charge. On 22 September 2015 the charge was dismissed.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 21 April 2016 Mr X lodged a SHEV application.

The Ombudsman notes that Mr X has been allegedly involved in a number of behavioural incidents of concern but the last alleged incident appears to have been in November 2015.

The Ombudsman notes that Mr X does not appear to have been considered for a Bridging visa since the charge against him was dismissed in September 2015 or since his behaviour appeared to settle after November 2015.

The Ombudsman recommends that Mr X be considered for a Bridging visa or community detention placement as a matter of priority while he awaits the outcome of his SHEV application.