

## 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 restricted immigration detention for more than 36 months (three years).

The first report 1002892 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.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1975
<b>Ombudsman ID</b>	1001675-O
<b>Date of DIBP's reports</b>	30 October 2015 and 29 April 2016
<b>Total days in detention</b>	1094 (at date of DIBP's latest report)

### Detention history

1 May 2013	Detained under s 189(3) of the Migration Act 1958 after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 683 <i>Jersey</i> . He was transferred to Facility B.
9 May 2013	Transferred to Facility C.
20 May 2013	Transferred to Facility D.
24 July 2013	Transferred to Facility E.
14 July 2015	Transferred to Facility F.

### Recent visa applications/case progression

12 March 2014	The Department of Immigration and Border Protection (DIBP) notified Mr X of the unintentional release of personal information <sup>1</sup> and advised that the privacy breach would be taken into account when considering his protection claims.
22 June 2015	Found to meet the guidelines for referral to the Minister under s 195A.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
26 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.
27 October 2015	Mr X accepted PAIS assistance and was assigned a provider.

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<sup>1</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.

18 December 2015	DIBP found that Mr X did not meet the guidelines under s 195A for referral to the Minister.
21 December 2015	Lodged a Safe Haven Enterprise visa (SHEV) application.
9 March 2016	Attended an interview in relation to the SHEV application.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment and monitoring for a range of physical health issues including a past history of polio, sciatic back pain, liver cirrhosis, an enlarged spleen and Condition G.

IHMS also advised that Mr X continued to be provided with treatment and counselling for mental health issues including a history of torture and trauma and post-traumatic stress disorder.

On 14 May 2015 Mr X was admitted to hospital for assessment after he attempted to hang himself at Yongah Hill IDC. He was discharged on 17 May 2015 with recommendations that he receive regular mental health review and medication to treat a major depressive disorder.

Mr X was placed on a short-term Supportive Monitoring and Engagement/Psychological Support Program management plan. In July 2015, following a recommendation, he was transferred interstate closer to relatives for additional support.

IHMS advised that Mr X was treated with medication to alleviate insomnia and symptoms related to detention fatigue, but due to unwanted side-effects the medication was ceased. He attended counselling on a fortnightly basis and attended regular group counselling, and had also been referred for specialist counselling.

### Other matters

29 April 2016	DIBP advised that Mr X has been identified as a person of interest to an external agency.
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### Information provided by Mr X

During an interview with Ombudsman staff at Facility F in March 2016 Mr X advised that he had heard a lot of information about getting a visa and a lawyer had contacted him, but since November 2015 he had not heard anything further. He said he had not yet lodged a visa application.

Mr X indicated that his health had deteriorated and referred to a deterioration in Condition G, but there was nothing further which could be done. He also indicated that after three years in detention his mental health had been affected, but he found the counselling services to be helpful.

He said he would spend a lot of time at the gym to make the day go faster and he usually received the maximum 50 points per week for participation in activities.<sup>2</sup>

Mr X advised that he has an uncle in City H and other relatives in City I who visited him.

<sup>2</sup> Section 6, Clause 5.6 of the *Immigration Detention Facilities and Detainee Services Contract* stipulates that Serco must implement and manage DIBP's approved Individual Allowance Programme (IAP) in each detention facility. Through the IAP, detainees are allocated points that can be exchanged for a variety of goods on offer, such as telephone cards, tobacco and snack food, at the facility shop managed by Serco.

**Case status**

Mr X was detained on 1 May 2013 after arriving in Australia aboard SIEV *Jersey* and has been held in restricted detention for over three 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 21 December 2015 Mr X lodged a SHEV application.