

**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).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1976
<b>Ombudsman ID</b>	1002360-O
<b>Date of DIBP's reports</b>	5 April 2016 and 30 September 2016
<b>Total days in detention</b>	908 (at date of DIBP's latest report)

**Detention history**

2 October 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 467 <i>Valli</i> . He was transferred to Facility B.
13 October 2012 – 14 November 2012	Transferred three times between various immigration detention facilities.
14 February 2013	Granted a Bridging visa and released from detention.
19 August 2014	Re-detained under s 189(1) and transferred to Facility C.
28 November 2014	Transferred to Facility D.

**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.	
13 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
31 August 2015	DIBP invited Mr X to lodge a temporary visa application.
19 October 2015	Lodged application for Safe Haven Enterprise visa (SHEV).
19 January 2016	The Minister declined to intervene under s 195A.
16 February 2016	DIBP informed Mr X that he had been assessed as eligible to receive the Primary Application and Information Service (PAIS) to assist him either with his existing SHEV application or with lodging a new temporary visa application. On 17 February 2016 Mr X accepted the offer of PAIS assistance and on 25 February 2016 DIBP assigned a PAIS provider.
6 May 2016	Mr X's case was referred on a first stage ministerial submission for consideration under s 195A for the grant of a Bridging visa.

26 May 2016	Mr X withdrew his existing SHEV application and lodged a new application with the assistance of a PAIS provider.
30 June 2016	The Minister indicated that he was not inclined to consider a further ministerial submission in the case of Mr X.
3 August 2016	SHEV application refused.
4 August 2016	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.
28 September 2016	The IAA affirmed the decision to refuse the SHEV application.

### **Criminal history**

8 August 2014	Police charged Mr X with various offences.
18 November 2014	Mr X pleaded guilty to certain charges. The prosecutor withdrew the other charges. Mr X was sentenced to four months imprisonment, suspended for 12 months.

### **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X had a history of torture and trauma but had not discussed this matter during IHMS counselling sessions and had not requested a referral for specialist counselling. IHMS also reported that he received mental health support after expressing frustration at his immigration situation and experiencing difficulty sleeping.

IHMS further advised that Mr X received treatment for physical health concerns including reflux oesophagitis, abdominal pain, a dental abscess and lower back pain.

### **Case status**

Mr X was detained on 2 October 2012 after arriving in Australia aboard SIEV *Valli* and has been held in restricted detention for a cumulative period of more than two and a half years.

On 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. DIBP subsequently refused his application for a SHEV visa as he was found not to be owed protection and the IAA has affirmed this decision.