

**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	1990
Ombudsman ID	1002419-O
Date of DIBP's reports	27 May 2016 and 25 November 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

14 November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 534 <i>Mustang</i> . He was transferred to an Alternative Place of Detention, Christmas Island.
16 November 2012 – 6 February 2013	Transferred three times between various immigration detention facilities.
16 May 2013	Granted a Bridging visa and released from detention.
27 November 2014	Bridging visa cancelled and re-detained under s 189(1). He was transferred to Facility B.
16 December 2014	Transferred to Facility C.

Visa applications/case progression

The Department of Immigration and Border Protection (the department) 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.	
16 May 2013	The Minister intervened to grant Mr X a Bridging visa which ceased on 16 November 2013.
9 July 2014	Further Bridging visa granted.
27 November 2014	Bridging visa cancelled after being charged with a criminal offence.
1 April 2015	Appealed to the Migration Review Tribunal (MRT) against the cancellation of his Bridging visa.
14 April 2015	The MRT determined it had no jurisdiction to consider Mr X's appeal as it was lodged out of time.
13 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
13 October 2015	Lodged a Safe Haven Enterprise visa (SHEV) application.

6 January 2016	Mr X's case was referred to the Minister on a first stage submission for consideration of a Bridging visa under s 195A. On 15 February 2016 the Minister declined to intervene.
15 February 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a new temporary visa application or providing supporting information for his existing application. He accepted the offer on 17 February 2016 and was assigned a provider.
15 July 2016	Mr X's SHEV application was refused and his case was referred to the Immigration Assessment Authority (IAA) for review.
2 September 2016	The IAA affirmed the decision to refuse Mr X's SHEV application.
29 September 2016	Requested judicial review by the Federal Circuit Court.

Other legal matters

9 September 2014	Mr X was charged with a sexual offence against a minor. On 13 February 2015 the charge was dropped.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X disclosed a prior history of torture and trauma. He was offered specialised counselling and attended one consultation in April 2013. In the consultation it was recommended to him that he continue counselling due to high psychological vulnerability within a detention environment. However, he declined follow up.

At a psychiatric review on 20 May 2016 he was assessed as being frustrated due to his legal situation but there were no overt signs of a psychiatric disorder. The psychiatrist stated that Mr X was at risk of developing a mental health condition due to ongoing detention.

On 24 June 2016 Mr X reported an assault in which he was kicked in the head. He was transferred to a hospital emergency department for investigation and returned to the detention facility the same evening.

In July 2016, as a result of the assault, Mr X attended supportive counselling with the mental health team (MHT). He reported fearing for his safety and staying in his room. He also advised he had trouble sleeping. He did not attend ongoing counselling but Serco welfare was advised to follow up with him and report back to the MHT if there were any concerns.

Case status

Mr X was detained on 14 November 2012 after arriving in Australia by sea and has been held in restricted detention for more than two and a half years.

On 27 November 2014 Mr X's Bridging visa was cancelled and he was re-detained following a serious criminal charge. On 13 February 2015 the charge was dropped.

On 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 13 October 2015 Mr X lodged an application for a SHEV.

Mr X's SHEV application was refused on 15 July 2016 and on 2 September 2016 the IAA affirmed the refusal.

At the time of the department's latest review Mr X was awaiting the outcome of judicial review.