

**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 42 months (three and a half years).

The first report 1002530 was tabled in Parliament on 10 February 2016. 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	1971
Ombudsman ID	1001543-O
Date of DIBP's reports	3 November 2015 and 3 May 2016
Total days in detention	1276 (at date of DIBP's latest report)

Detention history

20 May 2000	Detained under s 189(1) of the <i>Migration Act 1958</i> following cancellation of his Tourist visa and transferred to Maribyrnong Immigration Detention Centre (IDC). The following day he was involuntarily removed from Australia.
4 November 2012	Detained under s 189(3) after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 517 <i>Vedette</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
9 November 2012	Transferred to Christmas Island IDC.
13 November 2012	Transferred to Darwin Airport Lodge APOD.
7 January 2013	Transferred to Wickham Point IDC.
13 January 2013	Transferred to Villawood IDC.
3 April 2014	Transferred to Curtin IDC.
28 August 2014	Transferred to Yongah Hill IDC.
31 July 2015	Transferred to Wickham Point APOD.

Previous visa applications/case progression

20 May 2000	Arrived in Australia on a Tourist visa using a fraudulent passport. The Tourist visa was cancelled under s 116 and he was involuntarily removed from Australia the following day.
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Current 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.	
21 February 2014	Lodged a Bridging visa application.

3 March 2014	DIBP notified Mr X that the Bridging visa application was invalid.
4 March 2014	Lodged an application for an injunction in the Federal Circuit Court (FCC) to prevent his removal from Australia. This was dismissed on 15 May 2014.
12 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.
17 April 2014	Referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.
20 May 2014	The former Minister declined to intervene under s 195A.
21 May 2015	Mr X's case was assessed against the guidelines for a possible referral to the Minister under s 195A. On 19 October 2015 it was determined that his case did not meet the guidelines for referral.
11 August 2015	Referred on a ministerial submission for consideration under s 46A to lift the bar.
13 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
1 September 2015	DIBP invited Mr X to apply for a temporary visa.
5 October 2015	Lodged a Safe Haven Enterprise visa (SHEV) application.
3 November 2015	DIBP advised that Mr X is a person of interest following outstanding criminal matters overseas.
22 February 2016	DIBP notified Mr X that he was eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. He accepted the offer on 29 February 2014 and on 14 April 2016 DIBP assigned him a provider.
22 April 2016	Lodged a second SHEV application with the assistance of his authorised representative.
28 April 2016	Mr X requested that his first SHEV application be withdrawn. DIBP withdrew the application the following day.

Health and welfare

International Health and Medical Services (IHMS) reported that Mr X continued to be monitored and treated for mental health concerns related to a diagnosis of an adjustment disorder, but as of 14 October 2015 he had not attended scheduled mental health assessments and was no longer prescribed with antidepressant medication. IHMS reported that no ongoing mental health concerns have been identified and he is aware of the self-referral process.

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.

Information provided by Mr X

During an interview with Ombudsman staff at Wickham Point APOD on 21 April 2016 Mr X advised he applied for a SHEV about five months ago but had not yet been interviewed. He said he was scheduled to see a lawyer in the coming week.

Mr X said he had no complaints about detention conditions and indicated that he regularly participated in the activities offered such as English classes, cooking and art.

He advised that his main concern is his detention. He stated that he came to Australia for his safety and when he sees other detainees being handcuffed for removal he is scared he will also be returned to Country A.

Mr X stated that he feels depressed, sad, has trouble sleeping and suffers from nightmares. He said he sometimes takes medication to help him sleep.

Case status

Mr X was detained on 4 November 2012 after arriving in Australia aboard SIEV *Vedette* and has been held in restricted detention for over three 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 and on 22 April 2016 Mr X lodged a SHEV application.