

**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 immigration detention for more than 42 months (three and a half years).

The first report 1001868 was tabled in Parliament on 4 March 2015. 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	1994
Ombudsman ID	1002532
Date of DIBP's reports	22 May 2015, 11 November 2015 and 10 May 2016
Total days in detention	1276 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001868), Mr X has remained at Facility C.

Recent visa applications/case progression

30 March 2015	Mr X requested voluntary removal from Australia. He withdrew this request on 29 April 2015.
26 June 2015	The Minister lifted the bar under s 46A of the <i>Migration Act 1958</i> to allow Mr X to lodge a Temporary Protection visa application.
3 August 2015	Mr X was notified that he was eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. On 7 August 2015 Mr X accepted the PAIS offer and was assigned a provider.
22 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a Safe Haven Enterprise visa (SHEV) application.
23 September 2015	Lodged a SHEV application.
4 March 2016	SHEV application refused.
8 March 2016	Referred to the Immigration Assessment Authority (IAA) for review of the Department of Immigration and Border Protection's (DIBP) decision.
21 April 2016	IAA remitted Mr X's case to DIBP for reconsideration with the direction that Mr X is owed protection under the complementary protection criterion.

Criminal history

17 November 2014	Mr X was charged with the assault of a Youth Justice Centre officer. On 8 April 2015 he attended a Children's Court and was found guilty of recklessly causing injury without conviction. The Court ordered that the proceeding be adjourned until 8 May 2015 on the condition that Mr X entered into a good behaviour bond.
10 September 2015	Mr X was found guilty of one count of assault by kicking and five counts of unlawful assault. No conviction was recorded and he was placed on a 12-month good behaviour bond.
11 September 2015	In a Children's Court he was found guilty of recklessly causing injury and two counts of unlawful assault. No conviction was recorded and he was placed on a 12-month good behaviour bond.

Health and welfare

International Health and Medical Services (IHMS) advised that the mental health team (MHT) continued to provide Mr X with treatment and counselling for ongoing mental health issues including polysubstance abuse, post-traumatic stress disorder, and a personality disorder.

IHMS reported that Mr X has a history of complex mental health concerns, including suicidal ideation and behaviour and anger issues resulting in harm to others and himself. He has required admission to hospital multiple times following incidents of serious self-harm. DIBP Incident Reports recorded that Mr X has self-harmed or threatened self-harm on more than 25 occasions since September 2014 as well as undertaking voluntary food and fluid refusal on multiple occasions.

In July 2015 the IHMS psychiatrist recommended that Mr X be assessed by a forensic psychiatrist for placement possibilities and to source external providers that may provide him with social skills because his inappropriate behaviours are keeping him in trouble. The forensic psychiatrist assessed Mr X in October 2015 and advised that it would be difficult to predict his behaviour in the community because of his many complex issues. A neuropsychological assessment of Mr X found that he had developed maladaptive coping behaviours which place him and the people around him at risk. The neuropsychologist noted that he has responded well to a behavioural management plan which structures his day and the IHMS psychologist advised that they were engaging with other stakeholders to develop an activity schedule for him.

In January 2016 Mr X required an urgent psychiatric assessment due to his ongoing food and fluid refusal. The psychiatrist assessed that Mr X's violent and self-harming behaviours will not subside while he remains in restricted detention and that a successful suicide is a possibility. The psychiatrist further advised that a detention centre is not designed to manage complex conditions like Mr X's. IHMS reiterated these recommendations in its report dated 6 April 2016.

Mr X has also been diagnosed with hepatitis C and IHMS advised that his condition is regularly monitored and reviewed by a specialist. He presented with further colorectal problems in February 2016, but declined the procedure recommended to assess his treatment options.

Recent detention incidents

DIBP Incident Reports recorded that Mr X has allegedly been involved in numerous behavioural incidents since the Ombudsman's previous report, including displaying abusive and aggressive behaviour and assaulting other detainees and detention centre staff. Spontaneous use of force has been required on several occasions to prevent Mr X from harming himself and others.

Other matters

During this reporting period Mr X lodged seven complaints with the Ombudsman's office about his treatment in detention by Serco staff. Five of these complaints were investigated and closed with no further investigation warranted.	
20 October 2014	Mr X married Ms Y, an Australian citizen.
11 December 2014	Mr X lodged a complaint with the Ombudsman's office alleging that his wife was touched by a male Serco officer while visiting him and that some Serco staff members deliberately try to provoke him to misbehave. The complaint was investigated and finalised, with comments provided to DIBP about shortfalls in its administrative processes.
6 January 2016	Mr X lodged a complaint with the Ombudsman's office alleging that he was held in isolation and required to wear restraints including a body belt and face mask for an extended period of time. The complaint was investigated and the Ombudsman's office provided suggestions to DIBP on improving its processes.

Ombudsman assessment/recommendation

Mr X was detained on 9 September 2012 after arriving in Australia aboard Suspected Illegal Entry Vessel *Ramsons* and has been held in restricted detention for over three and a half years.

On 23 September 2015 Mr X lodged a SHEV application and on 4 March 2016 Mr X's SHEV application was refused. Upon review by the IAA on 21 April 2016 Mr X's application was remitted to DIBP with the direction that he is owed protection under the complementary protection criterion.

The Ombudsman notes the Government's duty of care to immigration detainees and the serious risk to mental and physical health that prolonged restricted immigration detention may pose.

The Ombudsman notes with concern the advice from Mr X's psychiatrist in January 2016 that a detention centre is not an appropriate environment for managing Mr X's complex mental health conditions, and that his violent and self-harming behaviours will worsen as long as he remains in restricted detention, with a successful suicide attempt being a real possibility.

The Ombudsman recommends that consideration be given to placing Mr X in community detention or a less restrictive Alternative Place of Detention while he awaits reconsideration of his SHEV application.