

## 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 more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1990
<b>Ombudsman ID</b>	1003358
<b>Date of DIBP's reports</b>	21 August 2015 and 19 February 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

### Detention history

21 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 837 <i>Unalaska</i> . He was transferred to an Alternative Place of Detention, Christmas Island.
24 August 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
26 July 2015	Transferred to Perth IDC.
1 September 2015	Transferred to Christmas Island IDC.
9 October 2015	Transferred to Yongah Hill IDC.
28 October 2015	Transferred to Christmas Island IDC.

### 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.	
12 March 2014	DIBP notified Mr X of the unintentional release of personal information. <sup>1</sup>
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
6 November 2015	DIBP invited Mr X to apply for a temporary visa.
22 December 2015	Mr X lodged a Safe Haven Enterprise visa (SHEV) application.

<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.

16 February 2016	Mr X was notified that although he had already lodged a SHEV application, he was eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. However, if he accepted the PAIS offer, he would be invited to lodge a new application or provide further information in relation to his existing SHEV application.
18 February 2016	Mr X declined the offer for PAIS assistance and processing of his existing SHEV application commenced.
19 February 2016	DIBP advised that Mr X is a person of interest in relation to alleged national security concerns.

### Health and welfare

24 September 2013	International Health and Medical Services (IHMS) advised that Mr X reported a history of gastric pain and was provided with education and prescribed with medication.
20 October 2013	Disclosed a history of torture and trauma but declined a referral for specialist counselling. He was advised to self-refer as required.
16 June 2015	No mental health concerns were identified during a routine mental health assessment.
July 2015	Following pathology testing, Mr X was diagnosed with a stomach bacterial infection and provided with treatment.
22 July 2015	Presented with recurring chest pain and hypertension and was prescribed with medication. An echocardiogram (ECG) identified abnormalities and he was referred to a cardiologist.  IHMS advised that the cardiologist declined the referral based on Mr X's medical reports and recommended that routine tests be conducted.
24 July 2015	Admitted to hospital and provided with pain relief medication after presenting with a severe headache. IHMS advised that a possible brain abnormality was identified and he was transferred to a different hospital for further testing.
26 July 2015	A brain computed tomography scan and lumbar puncture identified no abnormalities. Hospital specialists advised that Mr X had experienced a probable acute migraine and he was discharged.
27 July 2015	Reviewed by a general practitioner (GP) and referred for a further ECG and pathology testing. He was provided with topical medication to manage pain related to the lumbar puncture test.
2 August 2015	Presented to a GP with anxiety, depressed mood and poor appetite. He was provided with counselling and prescribed with antidepressant medication.
26 August 2015	Reviewed by a psychiatrist and diagnosed with an adjustment disorder and depressed mood related to situational stressors. He was prescribed with further medication and monitored by the mental health team.

3 September 2015	Presented to a GP with difficulty sleeping, low mood and poor concentration related to situational stressors. He was referred to a psychologist for counselling.
21 September 2015	Presented with low mood and situational stress during a review with a psychologist. The psychologist noted that his mental health may deteriorate if he remains in restricted detention. IHMS advised that further psychological counselling was recommended, however Mr X declined.
October 2015	Reviewed by a GP after it was identified that he had ceased his hypertension medication. IHMS reported that no concerns were identified and the GP agreed to monitor his condition without further medication.
23 December 2015	No mental health concerns were identified during a routine assessment. Mr X advised that he had ceased his antidepressant medication and was coping effectively. He was advised to self-refer as required.

### Detention incidents

23 May 2015	A DIBP Incident Report recorded that Mr X had allegedly sexually assaulted another detainee. The incident was referred to the Australian Federal Police (AFP).
10 June 2015	DIBP advised that the complainant formally withdrew the allegation against Mr X. On 12 June 2015 the AFP advised that the incident would not be investigated and the matter was closed.
1 September 2015	DIBP Incident Reports recorded that spontaneous use of force was required to restrain Mr X after he became aggressive and refused to comply with removal instructions. DIBP advised that he was closely monitored by Serco officers during his transfer from Perth IDC to Christmas Island IDC. On 23 September 2015 Mr X lodged a complaint with Serco in relation to the spontaneous use of force.

### Case status

Mr X was detained on 21 August 2013 after arriving in Australia aboard SIEV *Unalaska* and has been held in restricted detention for over two and a half 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 22 December 2015 Mr X lodged a SHEV application.