

**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>	1979
<b>Ombudsman ID</b>	1002381-O
<b>Date of DIBP's reports</b>	26 April 2016 and 25 October 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

**Detention history**

17 November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 536 <i>Overland</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
23 December 2012	Transferred to Christmas Island Immigration Detention Centre.
9 January 2013	Transferred to Darwin Airport Lodge APOD.
16 January 2013	Granted a Bridging visa and released from detention.
26 June 2014	Re-detained under s 189(1) and transferred to Facility B and then Facility C on the same day.
13 March 2015 – 26 August 2016	Transferred eight times between various immigration detention facilities.
17 September 2016	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.	
16 January 2013 – 26 June 2014	Mr X resided in the community on a range of Bridging visas.
26 June 2014	Mr X's Bridging visa was cancelled under s 116 following criminal charges and he was re-detained under s 189(1).
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
26 October 2015	Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. He accepted the offer on 10 November 2015 and was assigned a PAIS provider.

6 January 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
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### Other legal matters

21 June 2014	Mr X was charged with a number of criminal offences.
September 2016	A District Court set a trial date of October 2016 for three of the criminal charges against Mr X.
October 2016	A Magistrates Court adjourned Mr X's second criminal matter until 17 November 2016.

### Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and has received treatment for depression, anxiety, adjustment disorder and chronic post-traumatic stress disorder. Mr X has a significant history of self-harm and suicidal ideation and has been assessed as a high suicide risk. A specialist counsellor advised in January 2015 that Mr X's prolonged detention and persistent worry about his legal situation further exacerbates his anxiety and depression. The counsellor recommended that Mr X would benefit from a community detention placement. He has been prescribed with medication and regularly attends counselling and has remained stable on his current treatment plan.</p> <p>IHMS further advised that Mr X has received treatment for a range of gastric concerns, back pain, and chronic headaches.</p>	
6 November 2014 – 15 July 2015	DIBP Incident Reports recorded that Mr X attempted suicide on four occasions.
11 January 2015 – 28 September 2016	DIBP Incident Reports recorded that Mr X self-harmed on two occasions and threatened self-harm on a further two occasions.
2 May 2016	Admitted to hospital after losing consciousness.

### Other matters

Mr X arrived in Australia with his wife, Ms Y. She is currently residing in the community on a SHEV.
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### Ombudsman assessment/recommendation

<p>Mr X was detained on 17 November 2012 after arriving in Australia by sea and has been held in restricted detention for more than two and a half years.</p> <p>On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 6 January 2016 Mr X lodged an application for a SHEV.</p> <p>At the time of DIBP's latest review Mr X was awaiting resolution of his outstanding criminal matters.</p> <p>The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose and the advice from a specialist counsellor who noted that Mr X's high suicide risk is directly related to his placement in restricted detention.</p> <p>In light of this advice, the Ombudsman recommends that consideration be given to placing Mr X in a less restrictive detention environment, or upon completion of his criminal matters, community detention if appropriate.</p>
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