

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the fifth s 486O report on Mr X who has remained in restricted immigration detention for more than 84 months (seven years). The previous reports are:

870/12 tabled in Parliament on 20 March 2013

1001065 tabled in Parliament on 28 May 2014

1001611 tabled in Parliament on 18 March 2015

1002681 tabled in Parliament on 14 September 2015.

This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X
Citizenship	Country A
Year of birth	1985
Ombudsman ID	1000034-O
Date of DIBP's reports	4 June 2016 and 5 December 2016
Total days in detention	2550 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002681), Mr X has remained at Melbourne Immigration Transit Accommodation.
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Recent visa applications/case progression

18 February 2016	Mr X's case was referred on a combined ministerial submission for consideration under ss 195A or 197AB of the <i>Migration Act 1958</i> for the grant of a Bridging visa or a community detention placement.
25 March 2016	The Minister declined to intervene under s 195A but agreed to consider a community detention placement under s 197AB.
30 March 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
20 May 2016	Mr X was issued a qualified security assessment. The Department of Immigration and Border Protection (the department) advised that Mr X's protection claims will be assessed based on new and updated country information and that following receipt of the updated security assessment a second stage ministerial submission under s 197AB was withdrawn unactioned.
5 October 2016	Mr X's case was referred on a combined ministerial submission for consideration under ss 195A or 197AB. On 26 October 2016 the Minister declined to intervene.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for a sprained ankle and lower back pain.

IHMS further advised that Mr X continued to attend counselling sessions and engaged with the mental health team and a psychiatrist for the management of an adjustment disorder and depression. Mental health assessments reported a decline in his mood, an increase in his sense of helplessness and hopelessness and poor sleep patterns. It was reported that Mr X suggested he would benefit from a psychiatric inpatient admission which was declined. IHMS reiterated advice from a psychiatrist in September 2015 that recommended Mr X be transferred to community detention as remaining in a restricted detention environment would most likely further negatively impact his mental state and coping skills.

Ombudsman assessment/recommendation

Mr X was detained on 10 December 2009 after arriving in Australia by sea and has been held in restricted detention for over seven years.

On 7 December 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 30 March 2016 Mr X lodged a SHEV application.

Mr X was found to be owed protection under the complementary protection criterion in June 2014. The Ombudsman notes that Mr X was issued a qualified security assessment on 20 May 2016 and that the department has advised that Mr X's protection claims will be reassessed based on new and updated country information.

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

The Ombudsman further notes a treating psychiatrist's recommendation that Mr X be transferred to community detention as remaining in restricted detention may further negatively impact his mental state and coping skills.

Given the length of time that Mr X has been held in restricted detention, the Ombudsman strongly recommends that Mr X's case be expedited and referred to the Minister for consideration of a community detention placement while he awaits the outcome of his SHEV application.