

**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 immigration detention for a cumulative period of more than 30 months (three and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1997
<b>Ombudsman ID</b>	1002413-O
<b>Date of DIBP's reports</b>	25 May 2016 and 23 November 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

**Detention history**

11 March 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 603 <i>Dussenberg</i> with his parents, Mr Y and Ms Z, and brother, Master P. He was transferred to Christmas Island Immigration Detention Centre (IDC).
21 March 2013	Transferred to Christmas Island Alternative Place of Detention (APOD).
15 April 2013	Transferred to Leonora APOD.
30 May 2013	Granted a Bridging visa and released from detention.
2 May 2014	Located and detained under s 189(1) by police and held overnight at Facility B. On 3 May 2014 he was released without being charged. <sup>1</sup>
15 August 2014	Located and detained under s 189(1) by police and transferred to Facility B.
27 November 2014 – 30 September 2016	Transferred six times between various immigration detention facilities.
The Department of Immigration and Border Protection (the department) advised in a report to the Ombudsman in March 2017 that Mr X had been transferred to community detention.	

**Visa applications/case progression**

The department 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.	
30 May 2013	Granted a Bridging visa valid until 30 November 2013 and released from detention. He was re-detained on 15 August 2014.
17 July 2015	Found to meet the guidelines for referral to the Minister under s 195A.

<sup>1</sup> The department advised that Mr X's detention under s 189(1) ceased on his release from Facility B on 3 May 2014 and that it was aware he was in the community as an unlawful non-citizen from 3 May 2014 until 15 August 2014.

17 July 2015	Referred to the Minister under s 197AB for a possible community detention placement.
29 September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
13 October 2015	The department invited Mr X to lodge a temporary visa application.
21 April 2016	Declined an offer of Primary Application Information Service (PAIS) assistance with lodging a temporary visa application.
23 May 2016	The Minister declined to intervene under s 197AB to allow Mr X to reside in community detention.
7 July 2016	Lodged an application for a Safe Haven Enterprise visa (SHEV).
12 October 2016	Mr X's case was referred on a ministerial submission for consideration under s 197AB. His wife, Ms Q <sup>2</sup> was referred on the same ministerial submission.

#### **Other legal matters**

5 June 2015	Found guilty of two charges of unlawful assault but no conviction was recorded. Mr X entered into a good behaviour bond for six months.
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<sup>2</sup> Mr X married Ms Q in June 2016. Ms Q is the subject of Ombudsman report 1002255-01.

## Health and welfare

International Health and Medical Services (IHMS) stated that Mr X has an extensive history of behavioural disturbances, affective instability, physical aggression towards others and self-harming behaviour. Incident reports also recorded that he was the victim of assaults.

Mr X saw a child and adolescent psychiatrist soon after arrival in detention as a 15-year-old boy. In the consultation his parents reported a history of hearing, speech, attention and school difficulties and the psychiatrist noted longstanding intra-familial conflict.

Mr X's behaviours were reported to have caused school and management problems, and increased family anxiety and parent-to-child conflict. IHMS engaged the family in therapy and reviewed Mr X on a regular basis.

In August 2014, after Mr X's return to detention without his family, he self-harmed as a consequence of distress and sadness at the separation. He self-harmed again in September 2014.

Mr X received counselling for his concerns about having a pregnant wife who was also in detention and difficulties in managing the situation while in restricted detention. He expressed distress about being unable to accompany her to medical appointments and verbalised suicidal thoughts in June 2016 when his wife was taken to a hospital emergency department.

An IHMS psychiatrist noted in an appointment on 12 October 2016 that Mr X had matured considerably and wanted to fulfil his responsibilities. He continues to receive mental health support from IHMS.

IHMS advised that Mr X also received treatment for a haematoma, testicular pain and impaired hearing. IHMS noted that Mr X had previously declined to use hearing aids and a general practitioner had observed that he lip read. An appointment with an audiologist was pending at the date of IHMS's latest report.

## Detention incidents

Incident Reports recorded that Mr X was involved in numerous behavioural incidents of a minor nature including displaying abusive and aggressive behaviour and fighting with other detainees.

2 May 2014	An Incident Report recorded that Mr X was arrested for driving an unregistered, un-roadworthy vehicle without a valid driver's licence. He was fined and released the following day.
15 August 2014	An Incident Report recorded that Mr X was taken into police custody for allegedly breaching a safety intervention order.
9 November 2014	An Incident Report recorded that Mr X was allegedly involved in an indecent assault on another detainee. The incident was referred to police for investigation.

## Other matters

Mr X's parents and brother reside in the community. The department advised that all members of the family had lodged SHEV applications, which it was currently assessing.

The department further advised that Mr X and Ms Q were married in June 2016 and that at the time of its most recent report, Ms Q was pregnant.

**Case status**

Mr X was detained on 11 March 2013 after arriving in Australia by sea and has been held in detention for more than 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. On 7 July 2016 Mr X lodged an application for a SHEV.