

**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 36 months (three years).

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| <b>Name</b>                    | Mr X   |
| <b>Citizenship</b>             | Country A  |
| <b>Year of birth</b>           | 1988   |
| <b>Ombudsman ID</b>            | 1002456  |
| <b>Date of DIBP's reports</b>  | 29 April 2015, 21 October 2015 and 20 April 2016 |
| <b>Total days in detention</b> | 1094 (at date of DIBP's latest report)           |

**Detention history**

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|------------------|---|
| 23 October 2009  | Detained under s 189(3) of the <i>Migration Act 1958</i> after travelling with his four younger sisters to Saibai Island.<br><br>The former Minister agreed to transfer the children to community detention to reside with their mother who was a permanent resident of Australia. DIBP advised that Mr X's customarily adopted mother arrived in Australia on 21 May 2009 and was granted a Protection visa on 1 September 2009. |
| 2 November 2009  | Mr X was transferred to Horn Island, Queensland.  |
| 18 November 2009 | Transferred to Tropic Sunrise Apartments Alternative Place of Detention, Cairns, Queensland.  |
| 7 March 2011     | Granted a Bridging visa and released from detention.  |
| 25 August 2014   | Re-detained under s 189(1) and transferred to Brisbane Immigration Transit Accommodation (ITA).   |
| 26 August 2014   | Transferred to Villawood Immigration Detention Centre (IDC).  |
| 12 November 2014 | Transferred to Yongah Hill IDC.   |

**Visa applications/case progression**

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|------------------|---|
| 2 November 2009  | The Department of Immigration and Border Protection (DIBP) advised that a request for ministerial intervention under ss 195A and 197AB was initiated on behalf of Mr X. |
| 13 November 2009 | The former Minister approved a community detention placement.   |
| 20 January 2010  | A ministerial intervention request under ss 195A and 46A was initiated to further progress Mr X's case.   |
| 8 February 2010  | The former Minister intervened under s46A to allow Mr X to lodge a Child (Residence) visa application.  |
| 7 March 2011     | Lodged a Child (Residence) visa application. On the same day the former Minister intervened under s 195A to grant Mr X a Bridging visa.                                 |

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| 23 May 2014      | Child (Residence) visa application was refused.  |
| 20 June 2014     | Lodged a Protection visa application which was invalid.  |
| 25 August 2014   | He was re-detained and returned to immigration detention following his arrest for outstanding warrants.  |
| 21 October 2015  | DIBP advised that Mr X was identified for possible referral to the Minister for consideration under s 46A to lift the bar and allow him to lodge a temporary visa application.<br><br>DIBP further advised that Mr X's case was being assessed for referral to the Minister for his consideration to grant a Bridging visa under s 195A. |
| 26 November 2015 | The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.   |
| 22 December 2015 | Lodged an application for a Safe Haven Enterprise visa (SHEV).   |
| 22 March 2016    | Associated Bridging visa application was determined to be invalid.   |
| 20 April 2016    | DIBP advised that Mr X's case was being assessed against the guidelines for possible referral to the Minister under s 195A to grant a Bridging visa and it had requested additional documentation from Mr X in order to finalise the assessment.   |

#### **Criminal history**

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| 23 August 2014 | Mr X was arrested by the Queensland Police on outstanding warrants of failure to attend court, burglary and fraud. |
| 8 October 2014 | He pleaded guilty to all charges and was given a conditional suspended sentence.                                   |

#### **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X was provided with ongoing treatment for shoulder pain and chronic tuberculosis (TB) and is on a waiting list to see an orthopaedic specialist for his shoulder condition. IHMS further advised that as of 8 February 2016 Mr X's TB condition was considered resolved.

IHMS also reported that Mr X had not been diagnosed with any mental health conditions but had been reviewed by the mental health team (MHT) in October 2015 when he requested excursions due to experiencing boredom. IHMS advised that Mr X declined to attend a psychiatric review in February 2016 but was aware of self-referral to the MHT.

#### **Other matters**

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| 29 April 2015 | DIBP advised that Mr X was previously in a relationship with an Australian citizen and has two Australian-citizen children. |
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**Information provided by Mr X**

During an interview with Ombudsman staff at Yongah Hill IDC on 2 September 2015 Mr X advised that he has three children and a partner living in City B and is in regular contact with his family.

He stated he had no problems with detention conditions, and while he felt a little depressed he kept active and participated in activities offered in the facility. He advised he had no problems accessing IHMS and regularly met with his case manager.

**Case status**

Mr X was initially detained on 23 October 2009 after arriving on Saibai Island and remained in community detention until he was granted a Bridging visa on 7 March 2011. He was re-detained on 25 August 2014 following his arrest for outstanding warrants and remains in restricted detention.

On 26 November 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.