

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

*Under s 486O of the Migration Act 1958*

This is the second s 486O report on Mr X who remained in immigration detention for a cumulative period of more than 42 months (three and a half years).

The first report 1001864<sup>1</sup> was tabled in Parliament on 18 March 2015. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1987
<b>Ombudsman ID</b>	1003235
<b>Date of DIBP's reports</b>	23 March 2015, 11 September 2015 and 8 March 2016
<b>Total days in detention</b>	1276 (at date of DIBP's latest report)

### Detention history

9 September 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard SIEV 441 <i>Vanilla</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
29 September 2012	Transferred to Darwin Airport Lodge APOD.
7 March 2013	Transferred to community detention.
31 March 2014	The former Minister revoked Mr X's community detention placement under s 197AB for breaching his community detention conditions. He was transferred to Brisbane Immigration Transit Accommodation (ITA).
17 April 2015	Transferred to Melbourne ITA.
15 March 2016	Granted a Bridging visa and released from detention.

### 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.	
6 September 2013	Lodged a Protection visa application which was deemed to be invalid the same day.

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<sup>1</sup> Mr X was previously reported on in a group report of people who arrived on Suspected Illegal Entry Vessel (SIEV) 441 *Vanilla*.

13 March 2014	DIBP notified Mr X of the unintentional release of personal information <sup>2</sup> and advised that the privacy breach would be taken into account when considering his protection claims.
13 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
27 August 2015	DIBP invited Mr X to lodge a temporary visa application.
20 January 2016	Mr X's case was referred on a first stage ministerial submission for consideration under s 195A for the grant of a Bridging visa.
28 January 2016	Mr X lodged a Safe Haven Enterprise visa (SHEV) application with an associated Bridging visa application.
15 February 2016	Associated Bridging visa application refused.
24 February 2016	The Minister indicated that he would consider Mr X's case under s 195A.
2 March 2016	Mr X's case was referred on a second stage ministerial submission for consideration under s 195A.
15 March 2016	Granted a Bridging visa.

### **Criminal history**

29 January 2014	Mr X was charged with driving a motor vehicle without a driver's licence, driving under the influence of alcohol and contravening direction or requirement.
25 June 2014	He appeared before the Y Magistrates Court and received a \$1250 fine and a six months driving suspension.

### **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X did not require treatment for any major physical health issues.	
28 September 2012	Mr X disclosed a history of torture and trauma but declined specialist counselling.
9 November 2014	During a consultation with a psychiatrist he expressed concerns about his family situation. The psychiatrist reported that Mr X's mental health would benefit if he was returned to community detention so he could look after his mother.
1 February 2015	At review with a psychiatrist Mr X again raised concerns about the welfare of his family in the community. The psychiatrist again recommended he be transferred to community detention.

<sup>2</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.

22 February 2015	Reviewed by a psychiatrist following increased levels of stress. He reported that he had been fasting for five days as a result of his family situation. An IHMS mental health review confirmed he was fasting rather than refusing food and fluid. He was provided with counselling and increased levels of mental health support until he was seen resuming food and fluid intake.
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**Other matters**

DIBP advised that Mr X arrived in Australia with his mother, Ms P, and sister, Ms Q, who are residing in the community.	
9 January 2013	He was issued with a Domestic and Family Violence Order following an alleged incident of domestic violence against his sister.

**Case status**

<p>Mr X was granted a Bridging visa on 15 March 2016 and released from immigration detention.</p> <p>Mr X was detained on 9 September 2012 after arriving in Australia aboard SIEV <i>Vanilla</i> and was held in detention for over three and a half years before being granted a Bridging visa.</p> <p>On 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 28 January 2016 Mr X lodged a SHEV application.</p>
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