

**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 remained in restricted immigration detention for a cumulative period of more than 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1984
<b>Ombudsman ID</b>	1002485-O
<b>Date of DIBP's report</b>	29 August 2016
<b>Total days in detention</b>	730 (at date of DIBP's report)

**Detention history**

20 September 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 452 <i>Gabi</i> .
14 February 2013	Granted a Bridging visa and released from restricted detention.
24 January 2015	Re-detained under s 189(1) following criminal charges.
16 September 2016	Granted a Safe Haven Enterprise visa (SHEV) and released from restricted detention.

**Visa applications/case progression**

The Department of Immigration and Border Protection (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.	
14 February 2013	Following ministerial intervention under s 195A, Mr X was granted a Bridging visa with an associated Temporary Humanitarian Stay (THS) visa. The THS visa ceased on 21 February 2013.
14 August 2013	Bridging visa ceased.
24 January 2015	Re-detained under s 189(1) following criminal charges.
13 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
31 August 2015	The department invited Mr X to lodge a temporary visa application.
19 November 2015	Lodged an application for a Safe Haven Enterprise visa (SHEV).
18 February 2016	The Department notified Mr X that although he had already submitted a SHEV application, he was eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. He was informed that if he chose not to accept the PAIS offer, assessment of his existing application would recommence. He accepted the offer on 8 March 2016 and was assigned a PAIS provider.

23 May 2016	The Minister indicated he was not inclined to consider Mr X's case under s 195A.
1 July 2016	Mr X withdrew the SHEV application that had been lodged on 19 November 2015 and lodged a new SHEV application.
16 September 2016	Granted a SHEV visa.

### **Criminal history**

23 January 2015	Arrested by police.
24 January 2015	Charged with criminal offences and released on bail.
6 January 2016	Issued with a Criminal Justice Stay Certificate, preventing his removal from Australia.
29 January 2016	The department refused to grant Mr X a Criminal Justice Stay visa.
18 February 2016	Mr X was found not guilty of the charges.

### **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X received treatment for type 2 diabetes and joint pain for which he was referred to a physiotherapist with appointment pending at the date of IHMS's report, 26 July 2016.

Mr X was also reported as declining prophylactic medication for latent tuberculosis. He required ongoing monitoring in accordance with state policy.

### **Detention incidents**

Incident Reports recorded that Mr X was allegedly involved in several behavioural incidents of a minor nature.

### **Other matters**

5 May 2016	Mr X lodged a complaint with the Commonwealth Ombudsman's office. After investigation the complaint was closed on 19 August 2016.
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### **Case status**

Mr X was detained on 20 September 2012 after arriving in Australia by sea and was held in restricted detention for a cumulative period of over two years.

Mr X was granted a SHEV on 16 September 2016 and released from immigration detention.