

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the first s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than two years.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1974
<b>Ombudsman ID</b>	1002821-O
<b>Date of department's report</b>	28 December 2017
<b>Total days in detention</b>	733 (at date of department's report)

### Detention history

September 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. On the following day he was transferred to Facility B.
October 2012	Transferred to Facility C.
October 2012	Transferred to Facility D.
February 2013	Granted a bridging visa and released from immigration detention.
May 2016	Re-detained under s 189(1) following his release from criminal custody. He was transferred to Facility E.
December 2016	Transferred to Facility C.
March 2017	Transferred to Facility E.
October 2017	Transferred to Facility F.
October 2017	Transferred to Facility C.

### Visa applications/case progression

February 2013	The Minister intervened under s 195A to grant Mr X a bridging visa. On the same day Mr X was granted a Temporary Humanitarian Stay visa.
September 2013	Lodged a Protection visa application. In December 2013 Mr X was notified that the application was invalid.
September 2015	The Minister lifted the bars under ss 46A and 91L to allow Mr X to lodge a temporary visa application.
November 2015	Lodged a Safe Haven Enterprise visa (SHEV) application.
March 2016	Issued with a Notice of Intention to Consider Cancellation of his bridging visa under s 116 following criminal charges. On the same day his bridging visa was cancelled under s 116.

December 2017	<p>The Department of Home Affairs (the department) advised that it was considering the possible refusal of Mr X's SHEV application under s 501.</p> <p>The department further advised that Mr X was not being considered under s 195A for the grant of a bridging visa while his case was being considered under s 501.</p>
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**Criminal history**

September 2017	<p>Convicted of an offence and sentenced to nine months imprisonment with a non-parole period of four months. Mr X appealed his sentence and it was reduced to seven months imprisonment with a non-parole period of three months.</p>
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**Health and welfare**

<p>International Health and Medical Services (IHMS) advised that Mr X was prescribed with medication and attended specialist counselling for the management a mental health condition related to fears of returning to his home country. Mr X reported an improvement in his symptoms following treatment and he continued to engage with the mental health team.</p> <p>IHMS further advised that Mr X received treatment for a physical health concern.</p>
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**Case status**

<p>Mr X was detained in September 2012 after arriving in Australia by sea and was re-detained following criminal charges in May 2016. He has remained in an immigration detention facility for a cumulative period of more than two years.</p> <p>In September 2015 the Minister lifted the bars under s 46A and 91L to allow Mr X to apply for a temporary visa and in November 2015 Mr X lodged an application for a SHEV.</p> <p>In December 2017 the department advised that it was considering the possible refusal of Mr X's application under s 501.</p>
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