

## 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 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1981
<b>Ombudsman ID</b>	1002548-O
<b>Date of DIBP's reviews</b>	2 December 2016 and 2 June 2017
<b>Total days in detention</b>	912 (at date of DIBP's latest review)

### Detention history

22 April 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to Darwin Airport Lodge Alternative Place of Detention.
7 May 2013	Absconded from immigration detention.
19 December 2014	Re-detained under s 189(1) after living unlawfully in the community. He was transferred to Maribyrnong Immigration Detention Centre (IDC).
17 June 2015	Transferred to Perth IDC.
29 September 2015	Transferred to Yongah Hill IDC.
23 March 2017	Transferred to Facility B.

### Visa applications/case progression

18 April 2016	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
26 April 2016	Mr X accepted the offer to receive the Primary Application Information Service to assist him with lodging a temporary visa application.
9 August 2016	Lodged a Temporary Protection visa (TPV) application.
6 December 2016	TPV application refused.
12 December 2016	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.
16 January 2017	The IAA affirmed the decision to refuse Mr X's TPV application.
21 February 2017	Applied to the Federal Circuit Court for judicial review. A hearing was scheduled for 19 September 2017.
2 June 2017	The Department of Immigration and Border Protection (the department) advised that Mr X's case could not be referred to the Minister under s 195A for the grant of a bridging visa while his criminal matters remain outstanding.

### Other legal matters

6 August 2015	<p>Mr X was charged with affray and fighting offences relating to an incident at Maribyrnong IDC in March 2015. He was scheduled to appear before a magistrate's court on 28 August 2017.</p> <p>The department advised that administrative errors within the court system had caused a delay in the resolution of Mr X's legal matters.</p>
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### Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X was re-detained in December 2014 after he experienced a potentially drug-induced psychotic episode. He was provided with medication and improvements in his condition were noted.</p> <p>In August 2015 Mr X presented with anxiety and concerns about his immigration status and was diagnosed with stress and an adjustment reaction. On 23 October 2015 Mr X was admitted to hospital for psychiatric treatment after he reported auditory hallucinations and mood changes. In September 2016 he disclosed a history of torture and trauma, but declined a referral for further counselling. IHMS advised Mr X's mental state continued to fluctuate and he had declined mental health treatment and ongoing counselling.</p> <p>IHMS advised that Mr X was provided with treatment for multiple physical health concerns, including lower back pain and hepatitis B.</p>	
23 October 2015	Admitted to a psychiatric hospital.

### Detention incidents

Incident Reports recorded that Mr X was allegedly involved in a number of behavioural incidents, including displaying abusive behaviour towards detention centre staff.
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### Case status

<p>Mr X was detained on 22 April 2013 after arriving in Australia by sea and has been held in an immigration detention facility for a cumulative period of more than two and a half years.</p> <p>On 18 April 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 9 August 2016 Mr X lodged an application for a TPV.</p> <p>Mr X's TPV application was refused on 6 December 2016 and on 16 January 2017 the IAA affirmed the refusal.</p> <p>At the time of the department's latest review Mr X was awaiting the outcome of judicial review.</p>
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