

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who has remained in immigration detention for more than 54 months (four and a half years). The previous assessment 1001947-O was tabled in Parliament on 21 June 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1983
Ombudsman ID	1001947-O1
Date of department's reports	2 August 2017 and 1 February 2018
Total days in detention	1,640 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X continued to be placed in the community. ¹	
24 August 2017	Transferred to Facility B.

Recent visa applications/case progression

10 October 2016	The Department of Home Affairs (the department) issued Mr X with a warning letter after he breached his community placement conditions.
1 March 2017	The Federal Circuit Court adjourned Mr X's application for judicial review of the Immigration Assessment Authority's decision. A hearing was scheduled for 25 September 2018.
7 June 2017	The department issued Mr X with a second warning letter for breaching his community placement conditions and advised that further breaches may result in the Minister reconsidering his community placement.
14 August 2017	The Minister revoked Mr X's community placement under s 197AD of the <i>Migration Act 1958</i> following significant concerns related to his escalating behaviour and the inability of the department's service provider, case manager and treating general practitioner (GP) to manage his behaviour and ongoing needs.
22 December 2017	Mr X refused to depart Australia voluntarily.

¹ Mr X was granted a placement in the community under s 197AB and remained in immigration detention.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for an acquired brain injury, frontal lobe syndrome, severe headaches, insomnia and depression while placed in the community. A treating psychologist noted that Mr X appeared to be suffering from the ongoing emotional effects of prolonged detention, including low mood, and isolating and erratic behaviour. In March 2017 he was referred for diagnostic testing after a psychiatrist noted that he appeared to be suffering from a mental disorder. In April 2017 investigative testing identified extensive brain tissue damage and post-traumatic brain changes and in June 2017 he was referred to a hospital head injury unit and hospital neuroscience unit for further review.

Following his transfer to Facility B, Mr X was supported by the mental health team. IHMS reported that his medication was adjusted to remove addictive medication that had been prescribed while he was placed in the community. In November 2017 a psychiatrist noted that Mr X experiences volatile mood and frontal lobe disinhibition related to an acquired brain injury and has poor insight into his own behaviour. IHMS also reported that Mr X advised that he is sad about being returned to an immigration detention and is missing his wife who is pregnant.

Mr X also underwent investigative testing after presenting with recurring chest pain and palpitations.

Recent detention incidents

23 May 2017 – 5 July 2017	Incident Reports recorded that Mr X allegedly displayed abusive and aggressive behaviour towards his community caseworker on four occasions.
13 January 2018	An Incident Report recorded that Mr X was allegedly assaulted by two other detainees.

Other matters

Mr X's de facto partner is an Australian citizen and resides in State C.

Ombudsman assessment/recommendation

Mr X was detained on 6 August 2013 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for more than four and a half years. At the time of the department's latest report, Mr X was awaiting the outcome of judicial review.

The Ombudsman's previous assessment recommended that, should Mr X be in agreement, the department consider altering his community detention placement so that he can reside closer to his support network in Melbourne.

On 21 June 2017 the Minister advised that Mr X had indicated that he was satisfied with his community detention placement.

The Ombudsman notes that Mr X was returned to an immigration detention facility on 24 August 2017 following significant concerns related to his escalating behaviour and the inability of the department's service provider, case manager and treating GP to manage his behaviour and ongoing needs.

The Ombudsman also notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose. IHMS has advised that Mr X receives treatment for multiple complex conditions, including a volatile mood related to an acquired brain injury. A treating psychologist also noted that he appeared to be suffering from the ongoing emotional effects of prolonged immigration detention.

The Ombudsman recommends that the department consider alternative detention placement options that are more appropriate for Mr X than an immigration detention centre, taking into consideration his complex health and behavioural issues.