

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fourth s 486O assessment on Mr X who has remained in immigration detention for of more than 60 months (five years). The previous assessment 1001175-O was tabled in Parliament on 31 May 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1988
<b>Ombudsman ID</b>	1001175-O1
<b>Date of department's reports</b>	13 May 2017 and 13 November 2017
<b>Total days in detention</b>	1,824 (at date of department's latest report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Facility B.
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### Recent visa applications/case progression

12 May 2017	The authorities of Country A advised that Mr X was not issued with a travel document as they had failed to confirm his identity.
13 May 2017	The Department of Immigration and Border Protection (the department) advised that Mr X had two civil litigation matters dismissed by the Federal Court in February and April 2017 regarding whether the department had breached s 189 of the <i>Migration Act 1958</i> by not removing him within a reasonable time.
29 September 2017	Lodged an application for a Country A identity card. On 23 October 2017 the authorities of Country A requested further information.
13 November 2017	The department advised that as Mr X has no matters before the department, the courts or tribunals, he is on a voluntary removal pathway.  The department further advised that it continues to work with the authorities of Country A to obtain a travel document for Mr X to facilitate his removal from Australia.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X had previously refused to be monitored for hepatitis C, however he requested review of his condition in September 2017. Mr X was transferred to hospital to review a head and neck injury sustained during an alleged assault in December 2016, but refused to attend a computed tomography scan.  IHMS further advised that Mr X continued to be provided with access to opioid replacement therapy and engaged with the mental health team regarding anger management.
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September 2017	An Incident Report recorded that Mr X and a number of other detainees refused food and fluid as a form of protest in relation to a change in food policy when receiving visitors.
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#### Recent detention incidents

26 December 2016	An Incident Report recorded that Mr X was allegedly assaulted by another detainee.
February 2017	An Incident Report recorded that Mr X was allegedly involved in the assault of another detainee with a number of other detainees. The matter was referred to the police and on 23 March 2017 the matter was accepted for investigation.  On 13 November 2017 the department advised that the police had ceased its investigation and the matter was closed.

#### Other matters

1 May 2017	The Australian Human Rights Commission (AHRC) requested further information from the department regarding Mr X's complaint lodged on 24 May 2016. On 22 June 2017 the department provided a response.  On 23 October 2017 the AHRC notified the department that a new complaint had been lodged by Mr X. Both matters remained ongoing at the time of the department's latest report.
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#### Case status

<p>Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in an immigration detention facility for more than five years.</p> <p>The Ombudsman's previous assessment recommended that the department investigate alternatives to restricted detention for Mr X unless it is confident that he will be removed in the near future and that he be considered for placement in a single room if operational and other requirements permit this.</p> <p>On 31 May 2017, the Minister advised that Mr X's case had been reviewed and the department considered his current placement, including accommodation circumstances, appropriate.</p> <p>Mr X requested removal from Australia and the department has advised that it continues to work with the authorities of Country A to obtain a travel document for Mr X to facilitate his removal.</p>
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