

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 36 months (three years).

Name	Mr X
Citizenship	Country A
Year of birth	1988
Ombudsman ID	1002653-O
Date of DIBP's reports	16 April 2017 and 16 October 2017
Total days in detention	1,095 (at date of DIBP's latest report)

Detention history

8 April 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland ¹ by sea. He was transferred to Facility A.
1 May 2013	Transferred to Facility B.
2 July 2013	Transferred to Facility C.
10 December 2014	Granted a bridging visa and released from immigration detention.
19 June 2016	Re-detained under s 189(1) after remaining unlawfully in the community. He was transferred to Facility D.
20 June 2016	Transferred to a correctional facility. ²

Visa applications/case progression

13 June 2014	Lodged a Protection visa application.
5 December 2014	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a bridging visa.
10 December 2014	Granted a bridging visa which ceased on 8 September 2015.
19 December 2014	Protection visa application refused.
31 December 2014	Applied to the Refugee Review Tribunal (RRT) ³ for merits review.
31 July 2015	AAT affirmed original decision.

Other legal matters

June 2016	Arrested, charged and placed on remand pending the outcome of criminal charges relating to stealing and the production, possession and trafficking of dangerous drugs.
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¹ A maritime arrival to Australia's mainland who is seeking protection. Maritime arrivals who arrived as 'direct entry persons' after 13 August 2012 and before 20 May 2013 are not subject to the s 46A bar.

² On 16 October 2017 the department advised that Mr X continued to be detained under s 189(1) while he was placed in a correctional facility on remand pending the outcome of criminal charges.

³ On 1 July 2015 the Migration Review Tribunal and RRT were merged into the Administrative Appeals Tribunal (AAT).

6 February 2017	Mr X's drug related charges were adjourned by a magistrates court with a hearing listed for 25 January 2018.
8 June 2017	Mr X's stealing charges were adjourned.

Health and welfare

International Health and Medical Services advised that Mr X engaged with the mental health team and was prescribed with antidepressant medication for the management of a history of torture and trauma, an adjustment disorder and mixed depression and anxiety. Mr X reported symptoms of poor concentration, low mood, insomnia and loss of appetite.

Following his transfer to a correctional facility, the Department of Immigration and Border Protection (the department) advised that Mr X's health and welfare was being managed by Corrective Services.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in immigration detention, both in a detention facility and a correctional facility, for more than three years.

On 13 June 2014 Mr X lodged a Protection visa application and on 19 December 2014 his application was refused. On 31 July 2014 the AAT affirmed the refusal.

At the time of the department's latest report Mr X was placed in a correctional facility on remand pending the outcome of criminal charges.