

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the second s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than three and a half years. The previous assessment 1002470-O was tabled in Parliament on 13 September 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1993
<b>Ombudsman ID</b>	1002470-O1
<b>Date of department's reports</b>	11 August 2017 and 8 February 2018
<b>Total days in detention</b>	1,276 (at date of department's latest report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Facility B.	
June 2017	Transferred to Facility C.
January 2018	Transferred to Facility B.

### Recent visa applications/case progression

February 2017	Found to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa. However Mr X's case was not referred to the Minister due to his then unresolved identity issues.
July 2017	Referred for involuntary removal.
11 August 2017 and 8 February 2018	<p>The Department of Home Affairs (the department) advised that as Mr X has no matters before the department, the courts or tribunals, he is on a removal pathway.</p> <p>The department further advised that Mr X's identity issues have been resolved and Mr X has therefore been identified for referral to the Minister under s 195A for the grant of a bridging visa until his removal can be actioned. At the time of its latest report the department was finalising a ministerial submission.</p>

## Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for an injury sustained while playing sport. He underwent investigative testing which identified abnormalities and a specialist advised that surgery was not required. He was reviewed by a specialist clinic which advised that Mr X required intensive therapy for his condition. He was prescribed with pain relief medication and attended ongoing sessions with an occupational therapist and the IHMS primary health team.

IHMS further advised that Mr X continued to be monitored by a general practitioner and the mental health team for anger management, and a history of torture and trauma. He was reviewed by a psychiatrist and declined to be prescribed with medication.

November 2017	An Incident Report recorded that Mr X threatened self-harm.
November 2017	IHMS reported that Mr X was transported to hospital by ambulance for treatment of abdominal pain.

## Other matters

September 2017	<p>Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to a compensation claim for lost property during a major disturbance at Facility B.</p> <p>The department provided responses in October 2017 and November 2017. At the time of drafting this assessment the investigation remained ongoing.</p>
----------------	--

## Information provided by Mr X

Mr X was offered the opportunity to discuss his detention circumstances with Ombudsman staff but declined to do so.

## Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the *Migration Act 1958* and has remained in an immigration detention facility for a cumulative period of more than three and a half years. He has no matters before the department, the courts or tribunals and is on a removal pathway.

The Ombudsman notes that Mr X's removal is likely to be protracted as involuntary removal to Country A is not possible at present.

The Ombudsman's previous assessment recommended that in light of his mental health concerns, Mr X be considered under s 195A for the grant of a bridging visa.

On 13 September 2017 the Minister advised that Mr X was being assessed against the guidelines under s 195A for referral to him for a bridging visa.

The Ombudsman 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.

In light of the significant length of time Mr X has remained in detention and the considerable reduction in behavioural concerns, the Ombudsman recommends that the department expedite the referral of Mr X's case under s 195A.