

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 remained in immigration detention for a cumulative period more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1987
Ombudsman ID	1002685-O
Date of department's report	25 May 2017 and 23 November 2017
Total days in detention	912 (at date of department's latest report)

Detention history

16 December 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to an Alternative Place of Detention, Christmas Island.
21 December 2012 – 14 April 2013	Transferred three times between various immigration detention facilities.
22 May 2013	Granted a bridging visa and released from immigration detention.
30 October 2015	Re-detained under s 189(1) following his release from a correctional facility. He was transferred to Facility B.
13 January 2016	Transferred to Facility C.
18 March 2016	Transferred to Facility B.
12 April 2016	Transferred to Facility C.
27 May 2016	Transferred to Facility D.
28 May 2016	Transferred to Facility B.

Visa applications/case progression

22 May 2013 – 15 August 2015	Granted four bridging visas.
11 September 2015	Bridging visa cancelled under s 116 following criminal charges.
19 November 2015	The Migration Review Tribunal (MRT) affirmed the decision to cancel his bridging visa.
1 December 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
6 June 2016	Issued with a Criminal Justice Stay Certificate (CJSC).
28 June 2016	A delegate of the Minister refused to grant Mr X a criminal justice visa. He lodged a Safe Haven Enterprise visa (SHEV) application on the same day.
10 October 2016	SHEV application refused.

17 January 2017	The Immigration Assessment Authority (IAA) affirmed the decision to refuse Mr X's SHEV application.
8 February 2017	Applied to the Federal Circuit Court (FCC) for judicial review.
22 May 2017	Mr X filed a notice of discontinuance at the FCC.
23 November 2017	The Department of Home Affairs (the department) advised that Mr X has no matters before the department or tribunals, however he remains the subject of a CJSJ which prevents his removal from Australia while his criminal matters remain ongoing.

Other legal matters

26 August 2015	Charged with multiple offences, including theft and aggravated breaking and entering, and remanded in criminal custody. A trial was scheduled to commence in December 2017.
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Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma in January 2013.</p> <p>Following his re-detention in October 2015, Mr X presented with paranoia, auditory hallucinations, poor sleep and symptoms of depression and anxiety. Mr X also disclosed a history of substance abuse and was referred to an addiction specialist. In December 2016 he was commenced on opioid replacement therapy, however he declined to attend ongoing consultations with the addiction specialist. In January 2016 he was reviewed by a psychiatrist and diagnosed with a personality disorder with polysubstance abuse.</p> <p>IHMS advised that Mr X self-harmed on multiple occasions and has required hospitalisation for treatment. In July 2016 he underwent surgery to repair a wound following an incident of self-harm and in June 2017 he was closely monitored by Serco officers after he threatened self-harm. A treating psychiatrist noted that he is at chronic risk of self-harm due to his impulsivity and anger management issues.</p> <p>Mr X's mental health is monitored by the mental health team and his prescribed medication is managed by a psychiatrist and general practitioner. He also regularly engaged with a psychologist and specialist counsellor.</p> <p>IHMS further advised that Mr X received treatment for multiple physical health concerns, including asthma, hepatitis C and a fractured finger. A hepatologist reviewed Mr X's condition in July 2016 and April 2017 and provided treatment advice to IHMS. In October 2017 IHMS reported that it was awaiting approval to commence treatment.</p>	
13 December 2013 and 23 July 2016	Incident Reports recorded that Mr X threatened self-harm.
1 July 2015	An Incident Report recorded that Mr X self-harmed and received treatment at hospital.
13 January 2016 – 27 September 2017	Incident Reports recorded that Mr X refused food and fluid on three occasions.
27 April 2016 – 21 December 2016	Incident Reports recorded that Mr X self-harmed on three occasions.
4 July 2016 – 4 January 2017	Incident Reports recorded that Mr X self-harmed and was transferred to hospital by ambulance on three occasions.

22 February 2017	An Incident Report recorded that Mr X self-harmed and was placed on Supportive Monitoring and Engagement observations.
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Detention incidents

Incident Reports recorded that Mr X allegedly displayed abusive and aggressive behaviour towards detention centre staff and other detainees on multiple occasions.	
21 February 2012	Incident Reports recorded that Mr X was allegedly assaulted by another detainee.

Other matters

Mr X's brother, Mr Y, resides in the community on a bridging visa.
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Case status

<p>Mr X was detained on 16 December 2012 after arriving in Australia by sea and has remained in immigration detention, both in a detention facility and the community, for a cumulative period of more than two and a half years.</p> <p>On 1 December 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 28 June 2016 Mr X lodged an application for a SHEV.</p> <p>Mr X's SHEV application was refused on 10 October 2016 and on 17 January 2017 the IAA affirmed the refusal. On 8 February 2017 Mr X applied to the FCC for judicial review, however he filed a notice of discontinuance on 22 May 2017.</p> <p>Mr X has no matters before the department or tribunals, however he remains the subject of a CJSC which prevents his removal from Australia while his criminal matters remain ongoing.</p>
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