

## 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 more than five years. The previous assessment 1001593-O1 was tabled in Parliament on 29 November 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>	1977
<b>Ombudsman ID</b>	1001593-O2
<b>Date of department's report</b>	11 December 2017
<b>Total days in detention</b>	1,822 (at date of department's report)

### Recent detention history

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

### Recent visa applications/case progression

July 2017	The Federal Circuit Court (FCC) dismissed Mr X's application for judicial review of the Immigration Assessment Authority's (IAA) decision to affirm the refusal of his Safe Haven Enterprise visa (SHEV) application.
October 2017	Applied to the Federal Court for judicial review. The matter was adjourned in December 2017.
December 2017	The Department of Home Affairs (the department) advised that Mr X is not being considered for referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa while he is the subject of outstanding criminal matters.

### Other legal matters

October 2017	Mr X was allegedly involved in an incident of assault at Facility B. The matter was referred to the Australian Federal Police for investigation.
December 2017	The department advised that Mr X remained the subject of three outstanding criminal charges. A hearing was set for October 2017 but Mr X did not attend. The trial was set to commence in April 2018.

## Health and welfare

International Health and Medical Services (IHMS) advised that Mr X had a history of complex mental health concerns and during this assessment period engaged with the mental health team for concerns relating to his current legal matters and continued placement in a detention facility.

IHMS further advised that Mr X was reviewed for a medical conditions and provided with management advice.

November 2017

An Incident Report recorded that Mr X threatened self-harm.

## Recent detention incidents

October 2017

An Incident Report recorded that Mr X was allegedly involved in an incident of assault.

## Other matters

July 2017

The department provided a response in relation to Mr X's complaint with the Australian Human Rights Commission lodged in May 2017. The matter was closed in October 2017.

## Case status

Mr X has been found not to be owed protection under the *Migration Act 1958* and has remained in an immigration detention facility for more than five years.

In July 2017 the FCC dismissed Mr X's application for judicial review of the IAA's decision to affirm the refusal of his SHEV application.

The Ombudsman's previous assessment noted with serious concern Mr X's history of self-harm and the advice from an IHMS Medical Director that Mr X's mental health concerns were exacerbated by his detention environment. The Ombudsman recommended that in light of Mr X's safety concerns, he be transferred to a different compound within Facility B, and that the department consider transferring Mr X to a facility in City E so that he had greater access to his family support network.

On 29 November 2017 the Minister advised that the department had reviewed Mr X's placement and was progressing his transfer to Facility D. The Minister further advised that a transfer to a detention facility in City E was not possible due to capacity issues.

He was subsequently transferred to Facility C.

At the time of the department's report Mr X was awaiting the outcome of judicial review.