

## 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 42 months (three and a half years). The previous assessment 1002248-O was tabled in Parliament on 23 November 2016. 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>	1987
<b>Ombudsman ID</b>	1002248-O1
<b>Date of DIBP's reports</b>	1 December 2016 and 1 June 2017
<b>Total days in detention</b>	1,276 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous assessment (1002248-O), Mr X remained at Villawood Immigration Detention Centre (IDC).	
3 November 2016	Transferred to Facility B.

### Recent visa applications/case progression

27 June 2016	Mr X lodged a new Temporary Protection visa (TPV) application with the assistance of a Primary Application Information Service provider and his previous TPV application was withdrawn the following day.
12 July 2016	The Department of Immigration and Border Protection (the department) was notified Mr X had been issued with a qualified security assessment by an external agency.
5 August 2016	Mr X's case was referred on a ministerial submission for consideration under ss 195A and 197AB of the <i>Migration Act 1958</i> for the grant of a bridging visa or community detention placement. On 1 September 2016 the Minister declined to intervene.
20 April 2017	The department notified Mr X that his case was being assessed for consideration of visa refusal under s 501.
1 June 2017	The department advised that it continued to process Mr X's TPV application.

## Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was previously diagnosed with bipolar disorder and was reviewed by a psychiatrist in July 2016. The psychiatrist noted that his disorder was considered to be in remission as his mental state had remained stable for more than 12-months, however the psychiatrist recommended regular mental health support to prevent relapse. IHMS advised that Mr X declined an appointment with a psychologist in November 2016 and his condition continued to be monitored by the mental health team.

IHMS further advised that Mr X received treatment for multiple physical health concerns, including a nasal fracture and back and knee pain. He was reviewed by an ear nose and throat specialist in July 2016 and his condition continued to be monitored by a general practitioner.

## Other matters

Mid-2017	The United Nations Working Group on Arbitrary Detention rendered an opinion that Mr X's detention was arbitrary and recommended that the government take steps to bring his detention in conformity with international standards.
15 June 2017	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to delays in processing his visa application. The matter remained ongoing.

## 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 was detained on 15 November 2012 after arriving in Australia by sea and has been held in an immigration detention facility for a cumulative period of more than three and a half years.

The department advised that it continued to process Mr X's TPV application and that Mr X's case is being assessed for consideration of visa refusal under s 501.

The Ombudsman's previous assessment (1002248-O) recommended that priority was given to resolving Mr X's case as soon as possible.

On 23 November 2016 the Minister advised that Mr X had lodged a TPV application and the department was progressing the matter.

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 length of time Mr X has remained in detention and the absence of any recent behavioural or security concerns, the Ombudsman recommends that Mr X be considered under ss 195A and 197AB for the grant of a bridging visa or a community detention placement.