

## 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 more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1971
<b>Ombudsman ID</b>	1002581-O
<b>Date of DIBP's reports</b>	19 January 2017 and 20 July 2017
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

### Detention history

20 January 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> following the expiry of his visa. He was transferred to Facility B the following day.
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### Visa applications/case progression

19 October 2014	Arrived in Australia on an Electronic Travel Authority visa valid until 19 January 2015.
19 January 2015	Lodged a visitor visa application.  On the same day, an Interpol Red Notice was issued advising that Mr X had been convicted of murder and sentenced to death on 9 April 2009 in Country A.
21 January 2015	Visitor visa application refused as Mr X was found to be a non-genuine visitor with no intention of departing Australia.
29 April 2015	Lodged a Protection visa application with an associated bridging visa application.
4 May 2015	Associated bridging visa application refused.
19 January 2017	The Department of Immigration and Border Protection (the department) advised that Mr X was identified as a person of interest to the department in relation to offshore criminal matters.
25 May 2017	Applied to the Federal Court (FC) seeking an Order of Mandamus compelling the Minister to make a decision regarding his Protection visa application.
20 June 2017	The FC heard Mr X's application and adjourned. A hearing was scheduled for 28 August 2017.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was placed on Supportive Monitoring and Engagement observations on 25 February 2015 after presenting with fear and anxiety related to threats from other detainees. On 14 January 2016 Mr X reported an improvement in his mental health and his condition continued to be monitored by the mental health team.
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## Other matters

The department advised that Mr X's son, Master Y, arrived in Australia on an Electronic Travel Authority visa on 9 January 2015 and has lodged a Protection visa application. He was granted a bridging visa and resides in the community in state care.

## Information provided by Mr X

During an interview with Ombudsman staff at Facility B in September 2017 Mr X advised that his Protection visa application was refused last month and he has appealed to the Administrative Appeals Tribunal. He said that his visa was likely refused because of his criminal conviction in Country A, however he stressed that he was not present for the court proceedings and believes the conviction was unfair. He added that he is not a fugitive as he travelled to Australia on a valid passport and visa.

Mr X advised that his daughter resides in Country A and his son resides in the Australian community. He said that he is subject to special visit regulations because he has been assessed as a high risk detainee and this has prevented his daughter from being granted a visa to visit him. He advised that it is difficult being separated from his family and his son has to travel a long way to visit.

Mr X reported that he experiences chest pain when he is stressed, but IHMS examined him and no medical issues were identified. He said that his mental health is mostly okay and he participates in activities, including going to the gym and gardening.

Mr X raised concerns about misleading information that was published online stating that he was part of the Country A army. He advised that he was only part of the security escort and is worried that people think about him differently because of these allegations.

## Case status

Mr X was detained on 20 January 2015 following the expiry of his visa and has been held in an immigration detention facility for more than two and a half years.

On 29 April 2015 Mr X lodged a Protection visa application and on 25 May 2017 he applied to the FC seeking an Order of Mandamus compelling the Minister to make a decision regarding his Protection visa application.