

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who remained in immigration detention for more than 54 months (four and a half years). The previous assessment 1001289-O was tabled in Parliament on 15 February 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1982
Ombudsman ID	1001289-O1
Date of department's reports	22 March 2017 and 20 September 2017
Total days in detention	1,640 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Facility B.	
7 May 2016	Transferred to Facility C.
26 July 2016	Transferred to Facility B.
October 2017	Removed from Australia.

Recent visa applications/case progression

2 August 2016 and 20 December 2016	Lodged bridging visa applications, both of which were refused.
8 August 2016 and 28 December 2016	Applied to the Administrative Appeals Tribunal (AAT) for merits review of the decision to refuse his bridging visa applications. The AAT affirmed the original decision on both occasions.
1 February 2017	Applied to the Federal Circuit Court (FCC) for judicial review of the AAT's decision to affirm the refusal of his bridging visa application.
15 March 2017	Lodged a medical treatment visa application which was deemed invalid the following day.
23 March 2017	The FCC adjourned Mr X's application for interlocutory orders restraining his removal pending the finalisation of his request for judicial review.
24 May 2017	Found not 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.
19 July 2017	The FCC refused Mr X's application for interlocutory orders.
13 September 2017	Found not to meet the guidelines for referral to the Minister under s 417.
20 September 2017	The Department of Home Affairs (the department) advised that Mr X was on an involuntary removal pathway.
25 September 2017	The FCC dismissed Mr X's application for judicial review.

Other legal matters

December 2016	Mr X was scheduled to appear before a court in relation to outstanding charges of trespass and obstructing a public official, however he refused to participate. On 3 March 2017 the court adjourned the matter to March 2018.
6 March 2017	The department was notified that if Mr X is not in Australia, or does not have an application to return to Australia, the prosecution of these charges would be discontinued.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X displayed symptoms of a paranoid personality disorder and intermittently engaged with the mental health team (MHT). In April 2017 he was reviewed by a general practitioner and prescribed with medication after presenting with anxiety concerns.</p> <p>IHMS further advised that Mr X displayed behavioural concerns and reported that his aggressive behaviour was related to his irritation about his immigration pathway. In January 2017 he was reviewed by the MHT and assessed as a moderate risk to others.</p>

Recent detention incidents

Incident Reports recorded that Mr X allegedly displayed abusive and aggressive behaviour towards detention centre staff on multiple occasions.	
May 2017	An Incident Report recorded that Mr X alleged that he was sexually assaulted by a Serco officer and the incident was referred to the police. On 13 June 2017 the police advised that there was no evidence to support the charge and the investigation was closed.

Other matters

15 November 2016 – 23 October 2017	Mr X lodged numerous complaints with the Office of the Commonwealth Ombudsman (the Office) in relation to multiple concerns, including his ongoing detention. The Office declined to investigate these complaints as Mr X did not provide responses to requests for further information.
23 May 2017	The Australian Human Rights Commission requested further information in relation to Mr X's complaint, lodged in April 2015. The department provided a response on 7 August 2017.

Case status

<p>Mr X was found not to be owed protection under the Refugee Convention and the complementary protection criterion and remained in an immigration detention for more than four and a half years.</p> <p>Mr X was released from immigration detention when he was involuntarily removed from Australia in October 2017.</p>
