

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

Name	Mr X
Citizenship	Country A
Year of birth	1990
Ombudsman ID	1002544-O
Date of DIBP's reviews	9 November 2016 and 10 May 2017
Total days in detention	912 (at date of DIBP's latest review)

Detention history

24 March 2013	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 (APOD), Christmas Island and to Christmas Island Immigration Detention Centre (IDC) later that day.
29 March 2013	Transferred to an APOD, Christmas Island.
3 April 2013	Transferred to Christmas Island IDC.
18 April 2013	Transferred to Wickham Point IDC.
23 May 2013	Granted a bridging visa and released from detention.
9 January 2015	Re-detained under s 189(1) following criminal charges. He was transferred to Facility B.
14 August 2015 – 4 May 2016	Transferred seven times between various immigration detention facilities.
18 August 2016	Transferred to Facility C.

Visa applications/case progression

23 May 2013	Granted a bridging visa with an associated Temporary Humanitarian Stay visa valid until 23 November 2013.
9 January 2015	Mr X attended an interview with the Department of Immigration and Border Protection (the department) in relation to information provided by police and was re-detained under s 189(1).
13 August 2015	The Minister intervened under s 46A to allow Mr X to lodge a temporary protection visa application.
7 October 2015	Lodged a Safe Haven Enterprise visa (SHEV) application.
14 June 2016	SHEV application refused.
15 June 2015	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.
15 August 2016	The IAA affirmed the decision to refuse Mr X's SHEV application.
1 September 2016	Applied to the Federal Circuit Court (FCC) for judicial review.

20 April 2017	The FCC adjourned and a hearing was scheduled for 16 November 2017.
---------------	---

Criminal history

18 December 2014	Mr X was charged with indecent assault and an indecent act with a child under 16 years of age. On 27 January 2016 he appeared before a magistrate's court and was convicted of both charges. He was fined \$2500 and placed on the Sex Offenders Register for eight years.
14 April 2016	Mr X appealed and on 28 July 2016 a county court upheld his conviction.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X sustained a fractured jaw after he was assaulted by another detainee in July 2015. He underwent a surgical procedure to align his facial bones and attended follow up appointments at a maxillofacial surgical clinic until January 2016.</p> <p>In August 2015 Mr X was placed on Supportive Monitoring and Engagement observations after he presented with situational stress and was considered to be at risk of further harm. A treating psychiatrist advised that he had a vulnerable personality, with occasional aggressive, unreasonable and impulsive behaviour. IHMS reported that no further concerns were reported and Mr X declined to attend a further psychiatric review.</p>	
31 March 2015	An Incident Report recorded that Mr X self-harmed and threatened to hang himself.
12 June 2015 – 11 August 2015	Incident Reports recorded that Mr X threatened self-harm on multiple occasions and attempted self-harm on one occasion.
13 June 2015	An Incident Report recorded that Mr X refused food and fluid as a form of protest.
21 November 2016 and 14 February 2017	Incident Reports recorded that Mr X threatened self-harm.

Detention incidents

<p>Incident Reports recorded that Mr X has allegedly been involved in numerous behavioural incidents, including physical altercations with other detainees and displaying aggressive and abusive behaviour towards detention centre staff.</p>	
4 July 2015	An Incident Report recorded that Mr X was admitted to hospital after he was assaulted by another detainee.
24 February 2017	An Incident Report recorded that Mr X was allegedly assaulted by another detainee.

Other matters

7 July 2015	Mr X lodged a complaint with Office of the Commonwealth Ombudsman (the Office) in relation to his personal safety at Facility B. The department provided responses on 13 August 2015 and 19 August 2015 and on 14 September 2015 the complaint was finalised.
-------------	---

10 August 2016	Mr X lodged a complaint with the Office in relation to personal property that was affected by a major disturbance at Facility C. On 11 October 2016 the department advised that the matter was under review by its insurer and on 12 October 2016 the complaint was finalised.
The department advised that Mr X's brother resides in Melbourne.	

Case status

Mr X was detained on 24 March 2013 after arriving in Australia by sea and has been held in restricted detention for a cumulative period of more than two and a half years.

On 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 7 October 2015 Mr X lodged an application for a SHEV.

Mr X's SHEV application was refused on 14 June 2016 and on 15 August 2016 the IAA affirmed the refusal. At the time of the department's latest review Mr X was awaiting the outcome of judicial review.