

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 a cumulative period of more than 60 months (five years). The previous assessment 1001647-O was tabled in Parliament on 10 May 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	1987 ¹
Ombudsman ID	1001647-O1
Date of department's reports	10 May 2017 and 9 November 2017
Total days in detention	1,822 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Facility B.

Recent visa applications/case progression

12 December 2016	The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> to grant Mr X a bridging visa.
4 January 2017	Safe Haven Enterprise visa (SHEV) application refused. On 10 May 2017 the Department of Home Affairs (the department) advised that the data breach ² was considered at the time of assessing his claims.
1 February 2017	Applied to the Federal Circuit Court (FCC) for judicial review.
1 August 2017	The FCC adjourned the matter.
9 November 2017	The department advised that Mr X was not being considered against the s 195A guidelines due to his alleged offshore criminality.

¹ Mr X's year of birth was previously recorded as 1988, until the department's report of 9 November 2017, which recorded it as 1987.

² In a media release dated 19 February 2014 the Minister advised that an immigration detention statistics report was released on the department's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as the department became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by the department.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to be prescribed with medication for the management of urological concerns. Following an ultrasound in June 2017 he was referred to a kidney specialist and an appointment was pending at the time of IHMS's latest report.

IHMS further advised that Mr X engaged with the mental health team for the management of nightmares, sleeping difficulties and a history of torture and trauma. He was prescribed with medication and regularly attended specialist counselling with some improvement noted in his sleeping difficulties.

Ombudsman assessment

Mr X was detained on 13 November 2012 after arriving in Australia by sea and has remained in an immigration detention facility for a cumulative period of more than five years.

The Ombudsman's previous assessment noted that Mr X's case had been identified for assessment against the guidelines for referral to the Minister under s 195A and recommended that this matter be expedited given the length of time that Mr X had spent in an immigration detention facility.

On 10 May 2017 the Minister noted the recommendation and advised that Mr X had recently been considered under s 195A and he had declined to intervene.

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

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. IHMS has advised that Mr X experienced nightmares and sleeping difficulties and regularly attended specialist counselling.

The Ombudsman further notes that the department has advised that Mr X is not being considered for assessment under s 195A due to his alleged offshore criminality.