

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 a cumulative period of more than two and a half years.

Name	Mr X
Citizenship	Country A
Year of birth	1988
Ombudsman ID	1002736-O
Date of department's reports	14 August 2017 and 12 February 2018
Total days in detention	912 (at date of department's latest report)

Detention history

November 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to Facility B.
December 2012	Transferred to Facility C.
January 2013	Granted a bridging visa and released from immigration detention.
May 2015	Re-detained under s 189(1) following the cancellation of his visa under s 116. He was transferred to Facility D.
August 2015	Transferred to Facility B.
November 2015 – April 2016	Transferred three times between Facility B and Facility E.
September 2016	Granted a bridging visa and released from immigration detention.
February 2017	Re-detained under s 189(1) following the cancellation of his visa under s 116. He was transferred to Facility D.

Visa applications/case progression

January 2013	The Minister intervened under s 195A to grant Mr X a bridging visa.
May 2015	Issued with a Notice of Intention to Consider Cancellation of his bridging visa under s 116 following criminal charges. His bridging visa was cancelled on the same day.
September 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
October 2015	Mr X was notified that he was eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. He accepted the offer in November 2015 and was assigned a provider.
April 2016	Lodged a Temporary Protection visa (TPV) application.
September 2016	The Minister intervened under s 195A to grant Mr X a bridging visa.
February 2017	Bridging visa cancelled under s 116 following criminal charges.

March 2017	The Administrative Appeals Tribunal affirmed the cancellation decision.
October 2017	Following a recommendation from International Health and Medical Services (IHMS) that noted that Mr X's detention placement was not appropriate, Mr X was assessed against the guidelines for consideration of a bridging visa or community placement. He was found to meet the guidelines for referral to the Minister under s 195A and not to meet the guidelines for referral to the Minister under s 197AB.
February 2018	The Department of Home Affairs (the department) advised that it continued to prepare a ministerial submission for consideration under s 195A. The department further advised that finalisation of Mr X's TPV application has been delayed, pending the conclusion of his outstanding criminal matters.

Criminal history

March 2015 – December 2016	Convicted of multiple offences. He was fined on several occasions and placed on a good behaviour bond.
February 2017	Charged with three offences. The matter was adjourned and a hearing was scheduled for March 2018.

Health and welfare

<p>IHMS advised that Mr X received treatment for multiple complex mental health concerns. In April 2017 a psychiatrist advised that Mr X needed to be in an environment with frequent psychological intervention and medication to manage his condition. In August 2017 a psychiatrist noted that Mr X had a low tolerance for stress in a detention centre environment.</p> <p>Mr X was transported to hospital after presenting to IHMS with concerns about his safety. Mr X advised that he was feeling frustrated and sad and wished to be placed in a different environment than an immigration detention facility. He continued to be regularly supported by IHMS.</p> <p>IHMS further advised that Mr X received treatment for multiple physical health concerns. Mr X underwent corrective surgery for a pre-existing injury and attended post-operative specialist review and physiotherapy. Mr X was also transferred to hospital on multiple occasions for treatment of other medical concerns.</p>	
August 2013 – January 2017	Incident Reports recorded that Mr X threatened self-harm on a number of occasions.
October 2013 – November 2017	Incident Reports recorded that Mr X self-harmed on a number of occasions.
March 2014 – January 2017	Incident Reports recorded that Mr X required hospitalisation on a number of occasions.
November 2014 – January 2018	Incident Reports recorded that Mr X was transported to hospital by ambulance on a number of occasions.
August 2015 – January 2018	Incident Reports recorded that Mr X refused food and fluid on a number of occasions.

Detention incidents

May 2015 – December 2017	Incident Reports recorded that Mr X was allegedly involved in a number of disturbances.
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Ombudsman assessment/recommendation

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

In September 2015 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and in April 2016 Mr X lodged an application for a TPV.

The department has advised that finalisation of Mr X's TPV has been delayed, pending the conclusion of his ongoing legal matters.

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 April 2017 a psychiatrist advised that Mr X needed to be in an environment with frequent psychological intervention and medication to manage his condition.

The Ombudsman notes with serious concern Mr X's complex mental health concerns and history of self-harm and that while in the community on a bridging visa he required multiple psychiatric hospitalisations and was charged with multiple offences.

The Ombudsman recommends that the department consider transferring Mr X to an alternative place of detention in close proximity to a detention facility where he can continue to access appropriate support and medical services.