

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 has remained in immigration detention for more than 54 months (four and a half years). The previous assessment 1001593-O was tabled in Parliament on 23 November 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1977
Ombudsman ID	1001593-O1
Date of DIBP's reports	12 December 2016 and 12 June 2017
Total days in detention	1,640 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous assessment (1001593-O), Mr X has remained at Facility B.

Recent visa applications/case progression

21 June 2016	Mr X withdrew his existing Safe Haven Enterprise visa (SHEV) application and lodged a new SHEV application the following day.
14 February 2017	SHEV application refused.
22 February 2017	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review. On 23 March 2017 the IAA affirmed the original decision.
9 May 2017	Applied to the Federal Circuit Court for judicial review. A hearing was scheduled for July 2017.
12 June 2017	The Department of Immigration and Border Protection (the department) advised that Mr X remains a person of interest to the department in relation to alleged offshore criminal matters.

Other legal matters

October 2016 and December 2016	Mr X was charged with intentionally damaging Commonwealth property and assault offences relating to an incident at Facility B. The matters were scheduled for hearing in a magistrates court in July 2017.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X attended counselling and received psychological support for the management of suicidal ideation and a history of anxiety and depression.

In July 2016 Mr X reported anxiety and fear regarding his safety due to his detention placement with detainees who had significant criminal backgrounds.

In September 2016 Mr X self-harmed and disclosed further thoughts of self-harm and suicide due to frustration associated with his immigration status, the persons he was detained with and the lack of healthy food options. He was observed under a Psychological Support Program and was reviewed by a psychologist following multiple suicide attempts in September and November 2016. An IHMS Medical Director advised that Mr X's mental health issues and repeated attempts of self-harm were significantly exacerbated by his prolonged detention and accommodation with other detainees that made him fearful for his safety.

A psychiatric review in November 2016 concluded that Mr X did not have a treatable psychological condition and did not require ongoing psychological appointments. Mr X attended a mental health screening in February 2017 and was found to be at low risk of self-harm. He was encouraged to engage with Serco welfare staff and to attend cultural and religious activities for the benefit of his mental health.

IHMS further advised that Mr X received treatment for gastric issues and continued to be monitored by a general practitioner.

19 September 2016	An Incident Report recorded that Mr X self-harmed.
21 September 2016 – 25 November 2016	Incident Reports recorded that Mr X attempted suicide on three occasions.

Recent detention incidents

Incident Reports recorded Mr X's alleged involvement in multiple behavioural incidents in detention including assaults on other detainees, property damage and abusive and aggressive behaviour.

Other matters

12 May 2017	The department was notified that Mr X lodged a complaint with the Australian Human Rights Commission. The matter remained ongoing at the time of the department's latest report.
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Information provided by Mr X

During a telephone conversation with Ombudsman staff in August 2017 Mr X advised that he no longer engaged with his case manager and was unsure of the current status of his immigration case. He reported that he was self-represented during his legal proceedings but his family had now engaged a lawyer who was handling his immigration case. He expressed frustration about the length of time he had spent in detention and said he just wants a resolution to his case.

Mr X said that he had not found his time in detention easy and had been affected by trauma from Country A. He reported that many of his family members had been killed in his home country and he often worried about his brother who lived in a conflict-affected area in Country A.

He also advised that he was unhappy with the detention environment at Facility B where he perceived that he was discriminated against because of his religion and felt unsafe being accommodated with detainees who had significant criminal backgrounds. He said that he had been attacked by detainees before because he reported their actions to detention centre staff and an officer was assigned to watch over him for extended periods to ensure his safety. Mr X stated that he did not find the services of IHMS to be helpful in dealing with his stress but found support in his faith.

Mr X explained that he had siblings residing in the community who he spoke to on the phone every day, but he was only able to speak to his brother in Country A once a week. He said that all he wanted was to be able to see his siblings and would like to be transferred to a facility closer to his family.

Ombudsman assessment/recommendation

Mr X was detained on 15 December 2012 after arriving in Australia by sea and has been held in an immigration detention facility for more than four and a half years.

Mr X withdrew his existing SHEV application on 21 June 2016 and lodged a new application for a SHEV on 22 June 2016. On 14 February 2017 Mr X's SHEV application was refused and on 23 March 2017 the IAA affirmed the refusal.

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. The Ombudsman notes with serious concern information in Incident Reports recording Mr X attempted suicide on three occasions and the advice of the IHMS Medical Director in November 2016 that Mr X's mental health concerns were exacerbated by his detention environment.

1. In light of the safety concerns reported by Mr X, the Ombudsman recommends that the department consider moving him to a different compound within Facility B.
2. The Ombudsman further recommends that the department consider transferring Mr X to a facility closer to his siblings so that he has greater access to them as a support network.