

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fifth s 486O assessment on Mr X who has remained in immigration detention for more than 66 months (five years). The previous assessment 1000979-O1 was tabled in Parliament on 14 June 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	1969
Ombudsman ID	1000979-O2
Date of department's reports	17 May 2017 and 15 November 2017
Total days in detention	2,004 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Yongah Hill Immigration Detention Centre.

Recent visa applications/case progression

21 December 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
26 May 2017	SHEV application refused.
7 June 2017	Applied to the Administrative Appeals Tribunal (AAT) for merits review.
24 July 2017	Found not to meet the guidelines for a community placement under s 197AB of the <i>Migration Act 1958</i> .
15 November 2017	The Department of Home Affairs (the department) advised that Mr X was no longer considered to be a person of interest to an external agency. The department further advised that Mr X's case was being reviewed for a possible assessment against the guidelines under ss 195A or 197AB for the grant of a bridging visa or a community placement.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was transported to hospital on multiple occasions with chest pain. Investigative testing did not identify any cardiac issues and cardiologists advised that the episodes were stress induced. He was subsequently referred for cardiac testing and psychological review after a treating hospital emergency department doctor advised that the pain may be anxiety-related. He was reviewed at a cardiac clinic in July 2017 and the cardiac report advised that Mr X declined to undergo an exercise stress test. He was subsequently discharged from the clinic and continued to be monitored by clinicians and the mental health team.

IHMS further advised that Mr X had previously disclosed a history of torture and trauma and in October 2016 he presented with poor sleep, reduced appetite and motivation, and symptoms of detention fatigue. In February 2017 he advised that he experienced sharp chest pains when he thought about his circumstances. In September 2017 he experienced an acute stress episode triggered by a room check which reminded him of past torture and trauma. He was reviewed by a mental health nurse and referred for specialist counselling. A psychiatrist advised that the episode of distress and dissociation was related to his prolonged detention and past history of trauma. He was diagnosed with chronic post-traumatic stress disorder (PTSD) and prescribed with anxiety medication. He was awaiting an appointment for specialist counselling at the time of IHMS's latest report.

28 February 2017 –
19 June 2017

Incident Reports recorded that Mr X was transported to hospital by ambulance on three occasions with chest pain.

Information provided by Mr X

Mr X was offered the opportunity to discuss his detention circumstances with Ombudsman staff but declined to do so.

Ombudsman assessment/recommendation

Mr X was detained on 21 May 2012 after arriving in Australia by sea and has remained in an immigration detention facility for more than five years.

On 21 December 2016 Mr X lodged a SHEV application and on 26 May 2017 the application was refused. On 7 June 2017 Mr X applied to the AAT for merits 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 advised that Mr X presented with stress-related chest pain and symptoms of detention fatigue. In September 2017 he experienced an acute stress episode triggered by a room check that reminded him of past torture and trauma and required emergency mental health review. A treating psychiatrist advised that the episode was related to his prolonged detention and Mr X was diagnosed with chronic PTSD.

The Ombudsman further notes the department's advice that Mr X is no longer considered a person of interest to an external agency and that his case was being reviewed under ss 195A and 197AB for the grant of a bridging visa or a community placement.

In light of the significant length of time Mr X has remained in detention and the absence of any recent security concerns, the Ombudsman recommends that the department expedite the review of Mr X's case under ss 195A and 197AB.