

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than four years. The previous assessment 1002225-O was tabled in Parliament on 20 October 2016. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X
Citizenship	Country A
Year of birth	1972
Ombudsman ID	1002225-O1
Date of department's reports	12 September 2017 and 13 March 2018
Total days in detention	1,458 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Facility D.	
September 2016	Transferred to Facility B.
September 2016	Transferred to a correctional facility.
July 2017	Re-detained under s 189(1) of the <i>Migration Act 1958</i> and transferred to Facility B.

Recent visa applications/case progression

May 2017	The Department of Home Affairs (the department) referred Mr X's case to the Minister for consideration to exercise his public interest power under s 48B following the privacy breach. ¹
June 2017	Partner visa application refused.
July 2017	The Minister exercised his public interest power under s 48B to allow Mr X to lodge a further Protection visa application.
September 2017	Lodged a Protection visa application.
October 2017	Protection visa application refused.
December 2017	The Immigration Assessment Authority (IAA) affirmed the decision to refuse Mr X's Protection visa application.
January 2018	Referred for involuntary removal.

¹ 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.

March 2018	<p>The department advised that as Mr X has no matters before the department, the courts or tribunals, he is on a removal pathway.</p> <p>The department further advised that it is awaiting the issue of a travel document from the authorities of Country A in order to progress Mr X's removal.</p>
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Criminal history

July 2017	Mr X was convicted of a criminal offence and sentenced to 10 months imprisonment. His sentence commenced in September 2016 upon his transfer to a correctional facility and ceased in July 2017.
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Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X continued to be monitored for multiple physical health concerns.</p> <p>Mr X was transferred to hospital on several occasions and regularly reviewed by a specialist for the investigation and treatment of a medical condition. He underwent a series of investigative tests which identified no abnormalities. He was prescribed with medication and provided with dietary education. The specialist reported that Mr X's condition should resolve if he refrained from smoking. His condition continued to be monitored by a general practitioner and a specialist.</p> <p>IHMS further advised that Mr X previously received treatment for a number of mental health conditions. During this assessment period he was referred for specialist counselling after he reported experiencing flashbacks and nightmares in relation to being allegedly assaulted during a disturbance at Facility F.</p>	
August 2017 – January 2018	Incident Reports recorded that Mr X was transported to hospital by ambulance on multiple occasions.
September 2017 – October 2017 and January 2018	Incident Reports recorded that Mr X refused food and fluid on two occasions.

Other matters

The department advised that Mr X's wife and children are Australian citizens and reside in Australia.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in an immigration detention facility for a cumulative period of more than four years. He has no matters before the department, the courts or tribunals and is on a removal pathway.
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