

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the sixth s 486O assessment on Mr X who has remained in immigration detention for more than 72 months (six years). The previous assessment 1000846-O was tabled in Parliament on 1 March 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	1992
Ombudsman ID	1000846-O1
Date of DIBP's reports	1 December 2016 and 1 June 2017
Total days in detention	2,186 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous assessment (1000846-O), Mr X remained in community detention.	
4 August 2016	Mr X's community detention placement was revoked under s 197AD of the <i>Migration Act 1958</i> following criminal charges. He was transferred to Yongah Hill Immigration Detention Centre (IDC) the following day.
8 September 2016	Transferred to Christmas Island IDC.

Recent visa applications/case progression

1 December 2016	The Department of Immigration and Border Protection (the department) advised that it was exploring options to enable the resolution of Mr X's immigration status.
1 June 2017	The department advised that it would reassess Mr X's case when his criminal matters have been finalised.

Other legal matters

July 2016	Mr X was arrested and charged with drug and property offences following the execution of a search warrant on his community detention property. He was scheduled to attend court later in July.
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Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X presented with chest pain and shortness of breath in February 2017. A general practitioner (GP) advised that his symptoms were caused by asthmatic issues and compounded by stress and anxiety. IHMS further advised that Mr X was provided with treatment for gastric concerns and continued to be monitored by a GP.</p> <p>IHMS further advised that a treating counsellor recommended that Mr X undergo a psychiatric review after he presented with increased anxiety and deteriorating mental health upon his return to an immigration detention facility. Mr X was reviewed by a psychiatrist in October 2016 and January 2017 and improvements in his mental health were noted, however ongoing mental health support was recommended.</p>	
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Recent detention incidents

2 April 2017	An Incident Report recorded that Mr X was allegedly assaulted by another detainee.
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Information provided by Mr X

During a telephone conversation with Ombudsman staff in August 2017 Mr X advised that his immigration case was on hold pending the finalisation of his criminal matters. He said he was scheduled to appear in court in December 2017 and was receiving legal assistance through a legal aid service.

Mr X said that he felt his mental health was deteriorating in detention. He reported that he had lost 30 kilograms of weight from the stress of being in a detention facility and separated from his family. He also advised that he had previously spent two months in hospital receiving psychiatric care.

Mr X said that his current partner and six month old son lived in the community and being separated from them was very difficult. He said his partner was scared that he would be returned to Country A and this was affecting her mental health and ability to care for their son. He advised that he has not yet met his son and had requested a transfer to a detention facility closer to his family, but he had not received a response. He said his family was the only thing that was keeping him going after five years in detention and he just wanted to be with them.

Ombudsman assessment/recommendation

Mr X was detained on 7 June 2011 after arriving in Australia by sea and has been held in detention for more than six years.

On 26 February 2016 the Federal Circuit Court determined that Mr X's case was affected by legal error and referred it to the department for a new assessment of his protection claims. On 1 June 2017 the department advised that it would reassess his case once his criminal matters had been finalised.

The Ombudsman's previous assessment (1000846-O) recommended that priority be given to expediting the reassessment of Mr X's protection claims.

On 1 March 2017 the Minister advised that the department is progressing the reassessment of Mr X's case.

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 further notes the advice of Mr X that his son and partner live in the community and being separated has caused the family significant distress.

1. The Ombudsman recommends that Mr X be transferred to a detention facility closer to his family.