

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 three years. The previous assessment 1002463-O was tabled in Parliament on 15 February 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X
Citizenship	Stateless, born in Country A
Year of birth	1998
Ombudsman ID	1002463-O1
Date of department's report	14 November 2017
Total days in detention	1,094 (at date of department's report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X continued to be placed in the community. ¹	
May 2016	Transferred to a correctional facility. ²
May 2017	Transferred to Facility B.
June 2017	Transferred to Facility C.
June 2017	Transferred to a correctional facility.
August 2017	Transferred to Facility B.

Recent visa applications/case progression

May 2017	Lodged a Safe Haven Enterprise visa (SHEV) application.
September 2017	The Department of Home Affairs (the department) found that Mr X's request for a transfer to Facility C was not possible due to security concerns.
October 2017	Requested removal from Australia. He withdrew his application for voluntary removal on the following day.
November 2017	The department advised that consideration of Mr X's SHEV application remained ongoing pending the conclusion of a security assessment.

¹ Mr X and his family were granted a placement in the community under s 197AB of the *Migration Act 1958* in February 2015 and remained in immigration detention. Mr X was transferred to a youth justice centre following criminal charges in April 2016 and his community placement was revoked in May 2016.

² The department advised that an analysis of Mr X's records identified that his periods of detention do not match his accommodation records, particularly regarding whether he remained in immigration detention while placed in a correctional facility between May 2016 and May 2017. The department advised that an investigation has commenced and that if he was not detained for immigration purposes while placed at a correctional facility his number of days in detention would be reduced to 1,066.

Criminal history

Mr X attended a hearing at a children’s court in June 2016. Following the hearing he was convicted of several offences and sentenced to multiple terms of detention at a youth justice centre.	
December 2016 – June 2017	Convicted of multiple offences and ordered to be detained in a youth justice centre for periods of up to one year and eight months.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for the management of multiple complex mental health concerns and that he required emergency medical attention for issues related to these concerns. He was reviewed by a psychiatrist who noted that Mr X was remorseful for the events that led to his detention in a youth justice centre and that he remained compliant with his prescribed medication. At the time of IHMS’s report Mr X was attending counselling for his mental health concerns.	
June 2017 – November 2017	Incident Reports and IHMS recorded that Mr X required emergency medical attention for a medical condition on numerous occasions. He was transported to hospital by ambulance in June 2017 and August 2017.
August 2017	An Incident Report recorded that Mr X threatened self-harm.

Other matters

Mr X’s parents and siblings continue to reside in the community on bridging visas.
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Information provided by Mr X

<p>During an interview with Ombudsman staff in June 2017 Mr X advised that a lawyer had helped him lodge a temporary visa application and that he was an applicant on his family’s application. He said that he was informed that he would not be referred on a ministerial submission for a community placement or bridging visa because of his outstanding criminal charges.</p> <p>Mr X said that while placed in the community, he was young and found it difficult to adjust to the conditions of his placement. He explained that he was suffering from a history of torture and trauma and said that he was not given any support to help him adjust to the culture, language and other aspects of Australian society. He said that transitioning to Australian schooling was also difficult and that he had little support beyond his family. He also explained that it was difficult to see the different lives that his friends at school had in comparison to him due to the restrictions of his detention placement. He said that he tried to engage with mental health services while in the community, but he did not find them helpful.</p> <p>Mr X said that he had learned from his past mistakes. He explained some of the pressures and difficulties that he felt he and his family were experiencing at the time prior to the events leading to his criminal convictions. He said that he could not believe what he had done and that he was very remorseful for his actions.</p> <p>Mr X said that he was experiencing flashbacks of his time spent in juvenile detention. He said that he had requested to engage with the mental health team and that he would like to resume specialist counselling. He said that he was trying not to get too stressed as this brought on his seizures. He explained that he was taking prescribed medication to manage his condition and was trying to focus positively on his family.</p> <p>Mr X said that he engages in activities and was completing his Year 12 certificate. He said that he sees his family regularly and speaks with them every day over Skype.</p>
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Case status

Mr X was detained in December 2013 after arriving in Australia with his family by sea and has remained in immigration detention, both in a detention facility and a correctional facility, for a cumulative period of more than three years.

In May 2017 Mr X lodged a SHEV application and at the time of the department's report, consideration of Mr X's SHEV application remained ongoing.

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 has advised that Mr X received treatment for multiple complex mental health concerns and required emergency medical attention for seizures related to stress and anxiety.