

## 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 a cumulative period of more than 84 months (seven years). The previous assessment 1002454 was tabled in Parliament on 14 September 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1970
<b>Ombudsman ID</b>	1000399-O
<b>Date of DIBP's reports</b>	24 October 2016 and 24 April 2017
<b>Total days in detention</b>	2,550 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous assessment (1002454), Mr X remained at Christmas Island Immigration Detention Centre (IDC).	
6 May 2016	Transferred to Perth IDC.
30 June 2016	Transferred to a correctional facility.
24 July 2017	The department advised that Mr X had since been transferred to Christmas Island IDC.

### Recent visa applications/case progression

13 April 2016	The Minister lifted the bars under ss 46A and 48B of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
27 July 2016	The Minister appealed the FFC decision <sup>1</sup> regarding the International Treaties and Obligations Assessment process and the High Court found that the process was not procedurally unfair. <sup>2</sup>
21 September 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. He accepted the offer on 29 September 2016.
24 October 2016	The Department of Immigration and Border Protection (the department) advised that it had not yet invited Mr X to lodge a temporary visa application.
24 April 2017	The department advised that it had ceased providing case management services to Mr X for the duration of his placement at a correctional facility.

<sup>1</sup> *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

<sup>2</sup> *Minister for Immigration and Border Protection v SZSSJ* [2016] HCA 29.

**Criminal history**

June 2016	Mr X was sentenced to 12 months imprisonment for threatening to kill with June 2017 being the latest possible date of his release.
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**Health and welfare**

The department advised that Mr X's health and welfare was being managed by Corrective Services.	
20 May 2016 – 27 June 2016	Incident Reports recorded that Mr X threatened self-harm on three occasions.
21 May 2016	An Incident Report recorded that Mr X refused food and fluid.

**Recent detention incidents**

Incident Reports recorded that Mr X was allegedly involved in multiple behavioural incidents since the Ombudsman's previous assessment, including displaying abusive and aggressive behaviour and assaulting other detainees and detention centre staff.
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**Ombudsman assessment**

<p>Mr X was detained on 1 May 2010 after arriving in Australia by sea and has been held in detention for more than seven years.</p> <p>On 13 April 2016 the Minister lifted the bars under ss 46A and 48B to allow Mr X to lodge a temporary visa application. Mr X is awaiting an invitation to apply for a temporary visa.</p> <p>The Ombudsman notes with concern that in the absence of any health and welfare information provided by the department the Ombudsman is unable to assess the adequacy of health care provided to Mr X during this assessment period.</p>
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