

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than two years.

Name	Mr X
Citizenship	Stateless, born in Country A
Year of birth	1985
Ombudsman ID	1002808-O
Date of department's report	11 December 2017
Total days in detention	731 (at date of department's report)

Detention history

April 2010	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to Facility B.
March 2011	Transferred to Facility C.
April 2011	Granted a Protection visa and released from immigration detention.
December 2016	Re-detained under s 189(1) following his release from a correctional facility. He was transferred to Facility D.
April 2017	Transferred to Facility E.
April 2017	Transferred to Facility F.

Visa applications/case progression

December 2010	Found to be owed protection under the Refugee Convention.
April 2011	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
April 2011	Lodged a Protection visa application.
April 2011	Granted a Protection visa.
May 2015	Lodged applications for Conferral of Australian Citizenship.
December 2016	Protection visa mandatorily cancelled under s 501. In December 2016 Mr X lodged a request for revocation of the cancellation of his visa.
December 2016	Conferral of Australian Citizenship applications refused as Mr X did not meet the residency requirements.
May 2017	Issued with a natural justice letter.
August 2017	The Department of Home Affairs (the department) notified Mr X of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations. Mr X was invited to provide further information.

Criminal history

June 2013 – August 2016	Convicted of multiple criminal offences for which he was fined and sentenced to up to up to three months imprisonment.
November 2016	Convicted of multiple criminal offences and sentenced to a total term of imprisonment of one year and two months with a non-parole period of one year. Mr X appealed his sentence and his non-parole period was reduced to eight months.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment for complex mental health concerns with a history of hospitalisations. In October 2017 a treating psychiatrist noted that Mr X was at risk of violence towards and from others. The psychiatrist further advised that managing Mr X's health was an ongoing problem within the immigration detention centre, however the psychiatrist noted that Mr X would likely experience the same concerns in the community. Mr X continued to be prescribed with medication and IHMS noted that he would require hospitalisation if his mental health deteriorated.</p> <p>IHMS further advised that Mr X also received treatment for multiple physical health concerns.</p>	
June and December 2010	Incident Reports recorded that Mr X self-harmed.
December 2010 – June 2017	Incident Reports recorded that Mr X threatened self-harm on several occasions.
April 2017 and August 2017	Admitted to a psychiatric hospital.

Other matters

July 2010	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to his medical care at Facility B. In July 2010 the complaint was finalised.
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Ombudsman assessment

<p>Mr X was first detained in April 2010 after arriving in Australia by sea and was subsequently granted a Protection visa and released from detention. He was re-detained following his release from a correctional facility in December 2016 and has remained in an immigration detention facility for a cumulative period of more than two years.</p> <p>Mr X's Protection visa was mandatorily cancelled under s 501 in December 2016.</p> <p>He lodged a request for revocation of the cancellation of his visa in December 2016 and in August 2017 the department notified Mr X of an ITOA to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations. Both matters remained ongoing at the date of the department's report.</p> <p>IHMS has advised that Mr X continues to receive treatment for multiple serious mental health concerns. In October 2017 a treating psychiatrist reported that Mr X is at risk of violence towards and from others and that managing his health was an ongoing problem within the detention centre environment.</p> <p>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.</p>
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