

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 48 months (four years). The previous assessment 1001970-O was tabled in Parliament on 15 February 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	1988
Ombudsman ID	1001970-O1
Date of DIBP's reports	9 February 2017 and 10 August 2017
Total days in detention	1,458 days (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous assessment (1001970-O), Mr X remained at Christmas Island Immigration Detention Centre (IDC).	
24 March 2017	Transferred to Perth IDC.
28 April 2017	Transferred to Yongah Hill IDC.

Visa applications/case progression

9 February 2017	Found to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.
10 August 2017	The Department of Immigration and Border Protection (the department) advised that the referral of Mr X's case under s 195A and processing of his Safe Haven Enterprise visa (SHEV) application was delayed pending the conclusion of his criminal matters. Following the conclusion of his criminal matters, the department advised Mr X's SHEV application was under consideration and his case would be referred under s 195A if appropriate.

Criminal history

27 July 2017	Mr X was convicted of obstructing a commonwealth official. He received a six month good behaviour bond and was fined \$500.
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Health and welfare

International Health and Medical Services advised that Mr X has a history of self-harm and suicidal ideation and continued to engage with the mental health team for the management of headaches and insomnia. He was prescribed with medication and provided with education by a general practitioner.

Recent detention incidents

1 August 2017	An Incident Report recorded that Mr X was allegedly abusive and aggressive towards detention centre staff.
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Ombudsman assessment/recommendation

Mr X was detained on 13 August 2013 after arriving in Australia by sea and has been held in an immigration detention facility for more than four years.

Mr X lodged an application for a SHEV on 29 February 2016. The department advised that processing of his application recommenced following the conclusion of his criminal matters.

The Ombudsman's previous assessment (1001970-O) recommended that consideration be given to placing Mr X in community detention in light of his significant history of self-harm and suicidal ideation and the reported impact prolonged restricted detention was having on his mental and physical health.

On 15 February 2017 the Minister advised that Mr X was being assessed against the guidelines for referral for the grant of a bridging visa under s 195A.

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.

In light of the significant length of time Mr X has remained in detention and the absence of any recent security concerns, the Ombudsman recommends that the department expedite the consideration of Mr X's case under s 195A.