

## 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 more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1975
<b>Ombudsman ID</b>	1002504-O
<b>Date of DIBP's reviews</b>	16 September 2016 and 17 March 2017
<b>Total days in detention</b>	912 (at date of DIBP's latest review)

### Detention history

17 September 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> upon his release from a correctional facility. He was transferred to Facility B.
12 November 2014	Transferred to Facility C.

### Visa applications/case progression

16 July 1999	First arrived in Australia on a student visa which ceased on 5 August 1999. Subsequent student visa applications were refused as Mr X did not complete his studies.
8 October 2007	Departed Australia.
21 January 2008	Returned to Australia on a Provisional Partner visa, having married an Australian citizen in July 2007. He was granted a Permanent Partner visa on 3 March 2010.
24 October 2013	Issued with a Notice to Consider Cancellation (NOICC) of his Partner visa under s 501(2) after he was convicted of sexual assault.
31 October 2013	Provided a response to the NOICC. He subsequently provided a number of further responses.
16 September 2014	The Department of Immigration and Border Protection (the department) notified Mr X that the Minister had cancelled his visa under s 501(2).
26 November 2014	Lodged a Protection visa application.
17 March 2015	Protection visa application refused.
23 March 2015	Applied to the Refugee Review Tribunal (RRT) <sup>1</sup> for merits review.
25 June 2015	RRT affirmed original decision.
27 July 2015	Applied to the Federal Circuit Court (FCC) for judicial review.
5 August 2015	The FCC quashed the decision of the Administrative Appeals Tribunal (AAT) and remitted the matter to the AAT.
24 November 2016	The AAT affirmed the original decision.

<sup>1</sup> On 1 July 2015 the RRT was merged into the AAT.

20 December 2016	Applied to the FCC for judicial review.
17 March 2017	The department advised that the matter was listed for final hearing on 27 June 2017.

**Criminal history**

5 September 2013	Convicted in a district court of D and sentenced to 18 months imprisonment.
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**Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X engaged with the mental health team for situational issues.  
 IHMS further advised that Mr X received treatment for plantar fasciitis.

**Information provided by Mr X**

Mr X was offered the opportunity to discuss his detention circumstances with Ombudsman staff but declined to do so.

**Case status**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in an immigration detention for more than two and a half years. At the time of the department's latest review Mr X was awaiting the outcome of judicial review.