

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).

Name	Mr X
Citizenship	Country A, born in Country B
Year of birth	1960
Ombudsman ID	1002546-O
Date of DIBP's reviews	22 November 2016 and 23 May 2017
Total days in detention	912 (at date of DIBP's latest review)

Detention history

23 November 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> following the cancellation of his visa. He was transferred to Maribyrnong Immigration Detention Centre (IDC).
18 August 2016	Transferred to Facility C.

Visa applications/case progression

The Department of Immigration and Border Protection (the department) advised that Mr X arrived in Australia with his parents on 5 October 1965 on a permanent entry permit. Following legislative amendment on 1 September 1994, Mr X's entry permit was converted into a permanent visa.	
8 January 2014	Mr X was issued with a Notice of Intention to Consider Cancellation of his permanent visa under s 501. He provided responses to the notice on 21 March 2014 and 8 July 2014.
27 October 2014	Permanent visa cancelled under s 501.
30 October 2014	The Federal Court (FC) granted Mr X an injunction preventing the Minister from detaining him pending the determination of his Australian citizenship status, as Mr X believed he had applied for citizenship in 1981.
13 November 2014	Applied to the FC for judicial review of the Minister's decision to cancel his permanent visa.
21 November 2014	The FC discharged the injunction and Mr X was detained on 23 November 2014.
23 December 2014	Applied to the High Court (HC) for judicial review of the Minister's decision to cancel his permanent visa.
10 April 2015	The FC adjourned pending the outcome of Mr X's application to the HC. On 15 April 2015 he withdrew his application to the HC and filed a notice of discontinuance.
20 July 2015	Applied to the HC for his proceedings in the FC to be moved to HC.
10 August 2015	Found not to meet the guidelines for referral to the Minister under ss 195A and 197AB for the grant of a bridging visa or community detention placement.

13 November 2015	The HC refused his application and remitted the matter to the FC.
13 July 2016	FC dismissed Mr X's application for judicial review of the Minister's decision to cancel his permanent visa.
4 August 2016	Applied to the Full Federal Court (FFC) for judicial review of the FC's decision. On 14 December 2016 the FFC dismissed Mr X's application.
11 January 2017	Applied to the HC for special leave to appeal the FFC's decision. On 11 May 2017 the HC refused to grant special leave.
23 May 2017	The department advised that Mr X has been referred for removal consideration.

Criminal history

April 2004 – September 2006	Mr X was convicted of three firearm offences, with no penalty imposed, and received two fines related to receiving stolen property.
November 2011	Mr X appeared before a supreme court and was convicted of maintaining sexual relations with a person under 17 years of age. He was sentenced to four years imprisonment with a non-parole period of two and a half years and was released on parole on 7 May 2014.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X was prescribed with medication and attended counselling for the management of anxiety and associated symptoms of agitation and insomnia. In November 2014 he was referred to a psychologist after disclosing thoughts of self-harm related to situational stress and adjusting to immigration detention. He was reviewed by a psychiatrist and prescribed with sleeping medication on 27 September 2016. IHMS advised that Mr X was advised to self-refer to the mental health team as required and no further concerns were raised.</p> <p>IHMS further advised that Mr X required treatment for physical health concerns, including urinary concerns, asthma and joint inflammation.</p>	
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Other matters

9 August 2016	The department was notified that Mr X had lodged a complaint with the Australian Human Rights Commission (AHRC). The AHRC requested that the complaint be resolved by conciliation, but on 23 August 2016 the department declined to participate.
6 September 2016	The AHRC advised that Mr X's complaint was placed on hold pending the finalisation of the AHRC's inquiry into the detention and treatment of people following the cancellation of their visa on character grounds.
Mr X's de-facto partner, four biological children and four step-children reside in the community and are Australian citizens.	

Case status

Mr X has remained in an immigration detention facility for more than two and a half years following the cancellation of his permanent visa under s 501.

Mr X has no matters before the department, the courts or tribunals and has been referred for removal consideration.