

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 remained in immigration detention for more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1966
Ombudsman ID	2000002-O
Date of department's report	15 June 2017
Total days in detention	730 (at date of department's report)

Detention history

16 June 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> following the cancellation of his visa under s 501. He was transferred to a correctional facility.
October 2017	Voluntarily departed Australia.

Visa applications/case progression

Mr X first arrived in Australia on 1 December 1976 before briefly departing in December 1996. He returned to Australia on 28 December 1996 on a permanent visa.	
15 June 2015	Permanent visa cancelled under s 501 following criminal convictions.
17 July 2015	Applied to the Federal Court (FC) for judicial review of the Minister's decision not to revoke the cancellation of his visa and challenging the Department of Home Affairs' (the department) decision to detain him at a correctional facility.
13 August 2015	The Minister decided not to revoke the cancellation of Mr X's visa under s 501.
9 June 2016	The FC identified a jurisdictional error and quashed the Minister's decision to cancel Mr X's visa under s 501. After considering the jurisdictional error identified by the FC, the Minister made a new decision to cancel Mr X's visa under s 501 a second time.
15 July 2016	Applied to the High Court (HC) for judicial review of the Minister's second decision to cancel his visa under s 501.
6 September 2017	The HC determined that the cancellation of Mr X's visa was invalid as the Minister acted on a wrong construction of s 503A(2). The Minister made a new decision to cancel Mr X's visa a third time under s 501 on the same day.

Criminal history

The department advised that Mr X was a member of an outlaw motorcycle gang.	
1982 – 2008	Convicted of numerous offences, including 11 firearms and weapons offences, driving offences, theft, unlawful property damage and breaking and entering.
May 2009	Convicted of assault offences and sentenced to one year and three months imprisonment.

Health and welfare

Mr X's health and welfare was managed by Department of Corrective Services, State B.

Other matters

Mr X's wife, daughter and step daughter are Australian citizens.

Case status

Mr X was detained on 16 June 2015 following the cancellation of his visa and remained in immigration detention in a correctional facility for more than two years.

Mr X was released from immigration detention when he voluntarily departed Australia in October 2017.