

## 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>	1980
<b>Ombudsman ID</b>	1002582-O
<b>Date of DIBP's reports</b>	23 January 2017 and 24 July 2017
<b>Total days in detention</b>	913 (at date of DIBP's latest report)

### Detention history

22 January 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> following his release from a correctional facility. He was transferred to Maribyrnong Immigration Detention Centre (IDC).
11 June 2015	Transferred to Yongah Hill IDC.
1 October 2015 – 20 October 2016	Transferred four times between Yongah Hill IDC and Facility B.
16 November 2016	Transferred to Facility B.

### Visa applications/case progression

Mr X arrived in Australia with his family on 17 March 1988 and was granted a transitional permanent visa.	
20 April 2005	Transitional permanent visa cancelled under s 501 of the <i>Migration Act 1958</i> due to criminal convictions.  The Administrative Appeals Tribunal subsequently set aside the decision to cancel his visa and substituted the decision that Mr X's visa not be cancelled.
13 January 2015	Transitional permanent visa again cancelled under s 501 due to criminal convictions. On 19 February 2015 Mr X requested that the decision to cancel his visa be revoked.
18 March 2016	Request for revocation of the cancellation of his visa was refused.
20 April 2016	Applied to the Federal Circuit Court for judicial review. In May 2016 the matter was transferred to the Federal Court (FC).
August 2016	FC dismissed Mr X's application for judicial review.
September 2016	Applied to the Full Federal Court (FFC) for judicial review.
April 2017	FFC dismissed Mr X's application for judicial review.
10 May 2017	Requested removal from Australia.

24 July 2017	The Department of Immigration and Border Protection (the department) advised that it is working with Mr X to obtain a travel document to facilitate his removal to Country A.
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### **Criminal history**

1996 – 2004	Convicted of multiple offences, including drug trafficking, armed robbery, serious assault, intentionally or recklessly causing injury and theft. He was sentenced to four terms of imprisonment, each greater than one year, during this period.
September 2011	Convicted of recklessly causing serious injury and sentenced to three years and six months imprisonment.

### **Health and welfare**

<p>International Health and Medical Services (IHMS) advised that Mr X disclosed a history of substance abuse, violence, self-harm and depression and was prescribed with medication. He attended specialist counselling and was reviewed by the mental health team.</p> <p>Mr X reported that he had previously been diagnosed with hepatitis C and was monitored by a general practitioner. IHMS was awaiting approval from the department to commence specialist treatment at the time of its latest report.</p> <p>Mr X also attended specialist consultations and was provided with treatment for additional physical health concerns, including chronic back pain, hypertension and sinusitis. He was referred to an ear nose and throat specialist in April 2017 and was awaiting investigative testing for carpal tunnel syndrome at the time of IHMS's latest report.</p>	
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### **Other matters**

27 December 2016	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to property concerns. The department provided multiple responses and on 6 June 2017 the complaint was finalised.
Mr X's daughter is an Australian citizen and resides in Victoria. Mr X's parents, brother and sister also reside in the community.	

### **Case status**

<p>Mr X was detained on 22 January 2015 following his release from a correctional facility and has been held in an immigration detention facility for more than two and a half years.</p> <p>Mr X's transitional permanent visa was cancelled under s 501 on 13 January 2015 and both the FC and FFC dismissed his applications for judicial review.</p> <p>On 10 May 2017 Mr X requested voluntary removal from Australia and the department has advised that it is working with Mr X to obtain a travel document to facilitate his removal.</p>	
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