

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
Year of birth	1964
Ombudsman ID	2000007-O
Date of department's reports	16 June 2017 and 15 December 2017
Total days in detention	912 (at date of department's latest report)

Detention history

17 June 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> following his release from a correctional facility. He was transferred to Villawood Immigration Detention Centre.
23 September 2015	Transferred to Facility B.

Visa applications/case progression

Mr X arrived in Australia with his family on 29 July 1981 and was granted permanent residence status. Following legislative amendment in September 1994, Mr X held a Transitional (Permanent) visa.	
30 September 2009 and 12 December 2012	Issued with a Notice of Intention to Consider Cancellation of his Transitional (Permanent) visa under s 501.
11 June 2015	Transitional (Permanent) visa mandatorily cancelled under s 501.
16 May 2016	The Department of Home Affairs (the department) notified Mr X of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
22 November 2016	The department finalised the ITOA, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
22 February 2017	The Assistant Minister decided not to revoke the cancellation of his visa under s 501.
23 February 2017	Referred for involuntary removal.
16 June 2017	The department advised that it was engaging with the authorities of Vietnam to confirm Mr X's prior residency and citizenship.
1 September 2017	The Federal Circuit Court (FCC) set aside the Assistant Minister's decision and remitted the matter for reconsideration according to law.
13 September 2017 and 18 October 2017	Invited to comment on information related to the revocation of the cancellation of his visa. Mr X provided a response on 6 November 2017.

Criminal history

1986 – 2009	Convicted of numerous offences, including multiple drug offences, breaking and entering, contravening an Apprehended Domestic Violence Order, stalking offences and property damage. He was sentenced to multiple terms of imprisonment ranging from three months to three years in duration as well as two years hard labour.
March 2009	Convicted of assaulting his de-facto partner and sentenced to one year imprisonment.
October 2014 – December 2014	Convicted of multiple stalking offences and sentenced to seven months imprisonment.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment and engaged with the mental health team for schizophrenia, depression and a panic disorder. In March 2017 a psychologist advised that Mr X was assessed as being at low risk of harm, however his behaviour may escalate with perceived intimidating behaviour from others.

IHMS further advised that Mr X received treatment for physical health concerns, including chronic knee pain.

Detention incidents

July 2016	An Incident Report recorded that Mr X and several other detainees allegedly assaulted another detainee.
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Other matters

Mr X's son and sister reside in the Australian community.

Case status

Mr X was detained on 17 June 2015 following his release from a correctional facility and has remained in an immigration detention facility for more than two and a half years.

Mr X's Transitional (Permanent) visa was cancelled under s 501 on 11 June 2015 and on 22 February 2017 the Assistant Minister decided not to revoke the cancellation of his visa.

On 1 September 2017 the FCC set aside the Assistant Minister's decision and remitted the matter for reconsideration according to law.