

## 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/Country B (dual citizenship), born in Country A
<b>Year of birth</b>	1978
<b>Ombudsman ID</b>	1002635-O
<b>Date of DIBP's reports</b>	27 March 2017 and 25 September 2017
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

### Detention history

28 March 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> following his release from a correctional facility. He was transferred to Facility C.
23 March 2016	Transferred to Facility D.

### Visa applications/case progression

Mr X arrived in Australia with his family on 18 May 1991 on a child visa. The Department of Immigration and Border Protection (the department) advised that Mr X subsequently held a transitional permanent visa following legislative amendment.	
4 June 2009	Issued with a Notice of Intention to Consider Cancellation (NOICC) of his permanent visa under s 501 following criminal convictions. Mr X provided a response on 10 July 2009.
12 July 2010	A delegate of the Minister declined to cancel Mr X's permanent visa under s 501 and instead issued him with a warning letter advising that further criminal convictions could result in the cancellation of his visa.
30 December 2013	Issued with a NOICC of his permanent visa under s 501 following further criminal convictions. Mr X provided a response on 26 March 2014.
2 October 2014	Permanent visa cancelled under s 501.
17 June 2015	Requested removal, however on 15 July 2015 Mr X was deemed not fit to travel.
21 August 2015	Mr X was deemed fit for travel.
4 April 2016	Withdrew his application for removal.
8 June 2016	The department lodged an application for a travel document with the authorities of Country A on behalf of Mr X.
27 March 2017	The department advised that Mr X has no matters before the department, the courts or tribunals and is on a removal pathway.
25 September 2017	The department advised that Mr X is ineligible for the grant of a bridging visa by operation of s 501E.

### **Criminal history**

The department advised that Mr X has an extensive criminal history, with more than 150 offences recorded since 1995, including drug, weapons and driving offences.	
April 2013	Convicted of multiple offences, including aggravated burglary, theft and possession of a controlled weapon, and sentenced to an aggregate period of four years and six months imprisonment.

### **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X has a history of drug use and continued to receive opioid replacement therapy initially prescribed during his time in a correctional facility. He was regularly reviewed by a specialist and supported by IHMS to ensure compliance with medication.  IHMS further advised that Mr X presented with a dental abscess, but refused dental review or treatment and signed two refusal of treatment forms. IHMS noted that Mr X has continued to experience dental pain and his condition was monitored.	
30 December 2015	An Incident Report recorded that Mr X self-harmed.
16 June 2016	An Incident Report recorded that Mr X threatened self-harm in relation to the prospect of being removed from Australia.

### **Other matters**

22 March 2016	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to his medical treatment at Facility C. The department provided a response on 20 June 2016 and on 1 August 2016 the complaint was finalised.
Mr X's father and two brothers reside in City E.	

### **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 was detained on 28 March 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.  Mr X's permanent visa was cancelled under s 501 on 2 October 2014. He has no matters before the department, the courts or tribunals and is on a removal pathway.
--