

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	1981
Ombudsman ID	1002709-O
Date of department's reports	6 July 2017 and 4 January 2018
Total days in detention	912 (at date of department's latest report)

Detention history

7 July 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. He was transferred to Maribyrnong Immigration Detention Centre.
20 January 2016 – 9 March 2017	Transferred nine times between various immigration detention facilities.
4 April 2017	Transferred to a correctional facility. ¹

Visa applications/case progression

Mr X arrived in Australia with his spouse on 5 November 2008 on a Student (Dependent) visa.	
6 October 2009	Issued with a Notice of Intention to Consider Cancellation of his Student (Dependent) visa under s 116 as he was no longer in a spousal relationship.
9 April 2010	Student (Dependent) visa cancelled under s 116 after which he remained unlawfully in the community.
9 July 2012 – 20 August 2012	Lodged three Partner visa applications the last of which was refused on 5 March 2014. He was re-notified of the refusal on 1 March 2015.
20 August 2012	Granted a bridging visa that ceased on 29 April 2015.
8 July 2015	Requested removal from Australia.
15 July 2015	A Criminal Justice Stay Certificate was issued preventing Mr X's removal from Australia.
4 August 2015	Criminal Justice Stay visa application refused.

¹ On 6 July 2017 the department advised that Mr X continued to be detained under s 189(1) while he was placed in a correctional facility serving a custodial sentence.

Criminal history

June 2015	Charged with rape. He was granted bail and released into the community on the same day.
April 2017	Convicted of three counts of rape and one count of indecent assault. In May 2017 he was sentenced to a term of imprisonment of eight years and two months with a non-parole period of five years and eight months. His earliest estimated date of release is 5 December 2022.

Health and welfare

International Health and Medical Services (IHMS) advised that prior to his transfer to a correctional facility Mr X received treatment for dental concerns and neck pain.

IHMS further advised that Mr X presented to a general practitioner with symptoms of depression and low mood in February 2016 and was referred to a psychologist and prescribed with medication to assist with sleeping difficulties. Prior to his transfer he continued to engage with the mental health team for supportive counselling due to stress, anxiety and low mood associated with detention and court outcomes.

The Department of Home Affairs (the department) advised that Mr X's health and welfare continues to be managed by corrective services, State B.

Other matters

Mr X's partner resides in Melbourne.

Case status

Mr X was detained on 7 July 2015 after living unlawfully in the community and has remained in immigration detention, both in a detention facility and a correctional facility, for more than two and a half years.

Mr X continues to serve a custodial sentence and his earliest date of release is 5 December 2022.