

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	1963
Ombudsman ID	2000011-O
Date of department's reports	4 June 2017 and 4 December 2017
Total days in detention	913 (at date of department's latest report)

Detention history

5 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 Facility B.
28 August 2015	Transferred to Facility C.
11 January 2017	Transferred to Facility D.
20 January 2017	Transferred to Facility E.

Visa applications/case progression

<p>The Department of Home Affairs (the department) advised that Mr X arrived in Australia at nine years of age with his family on 6 February 1972 on a permanent entry permit.</p> <p>On 8 January 1992 Mr X was granted a Resident Return visa and following legislative amendment on 1 September 1994, Mr X held a Transitional (Permanent) visa.</p>	
13 September 2000	<p>Issued with a Notice of Intention to Consider Cancellation (NOICC) of his Transitional (Permanent) visa under s 501.</p> <p>However, on 5 February 2002 the department advised Mr X that following a decision of the High Court (HC) the department was unable to cancel Mr X's visa under s 501.</p>
9 July 2008	<p>The department notified Mr X to advise that the HC had departed from its previous decision.</p> <p>The department further advised that while no consideration was currently being given to cancelling Mr X's visa, any further criminal convictions may lead to cancellation under s 501.</p>
23 November 2011	Issued with a second NOICC of his Transitional (Permanent) visa under s 501 following criminal convictions.
2 June 2015	Transitional (Permanent) visa mandatorily cancelled under s 501.
9 June 2015	Mr X lodged a Request for Revocation of Cancellation. On 18 January 2017 the Assistant Minister decided not to revoke the decision to cancel Mr X's visa under s 501.

23 August 2017	The Federal Court (FC) quashed the decision of the Assistant Minister and remitted Mr X's case for reconsideration.
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Criminal history

1980 – 2008	Convicted of a number of offences including dishonesty, driving offences, public order offences and theft. He received several sentences of imprisonment over this period, the longest being for six months.
August 2011	Convicted of contravening a family violence safety notice, making a threat to kill and unlawful assault. He was sentenced to an aggregate period of six months imprisonment.
2012 – 2013	Convicted of driving and weapon offences.
October 2013	Convicted of intentionally causing injury, false imprisonment and theft. He was sentenced to one year and eight months imprisonment.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X was referred to a specialist in December 2015 and received treatment for hepatitis C for a period of 12 weeks with no complications. Mr X reported complex abdominal concerns, was reviewed by specialists and attended multiple colonoscopies. Mr X also received treatment for recurring infections, shoulder pain and gastrological concerns.</p> <p>IHMS further advised that Mr X has engaged with the mental health team during periods of heightened stress associated with concerns about his family and immigration pathway. He was prescribed with antipsychotic medication to assist with controlling his temper and reducing rumination.</p>	
10 January 2017	An Incident Report recorded that Mr X was transported to hospital by ambulance for complex abdominal concerns.

Other matters

16 March 2016	<p>The department was notified that Mr X lodged a complaint with the Australian Human Rights Commission (AHRC). On 7 April 2016 the department provided a response.</p> <p>On 4 July 2016 the AHRC notified the department of a further complaint from six individuals, including Mr X, whose visas were cancelled under s 501. On 21 September 2016, the department provided a response.</p> <p>The matter remained ongoing at the time of the department's latest report.</p>
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Case status

<p>Mr X was detained on 5 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.</p> <p>Mr X's Transitional (Permanent) visa was cancelled under s 501 on 2 June 2015. On 18 January 2017 the Assistant Minister decided not to revoke the decision to cancel Mr X's visa under s 501.</p> <p>On 23 August 2017 the FC quashed the decision of the Assistant Minister and remitted Mr X's case for reconsideration.</p>
