

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, born in Country B
Year of birth	1983
Ombudsman ID	2000017-O
Date of department's reports	9 June 2017 and 7 December 2017
Total days in detention	912 (at date of department's latest report)

Detention history

10 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 (IDC) on 16 June 2015.
23 September 2015	Transferred to Christmas Island IDC.

Visa applications/case progression

Mr X arrived in Australia with his mother on 3 April 2001 on a Refugee visa.	
20 March 2015	Refugee visa cancelled under s 501.
17 April 2015	Lodged a request with the Department of Home Affairs (the department) for revocation of his visa cancellation.
24 February 2016	A delegate of the Minister decided not to revoke the visa cancellation under s 501.
14 March 2016	Applied to the Administrative Appeals Tribunal (AAT) for merits review.
7 April 2017	AAT affirmed original decision.
4 May 2017	Refused to depart Australia voluntarily.
12 May 2017	Applied to the Federal Court for judicial review. On 5 September 2017 the FC reserved judgment.
1 June 2017	The department lodged an application for a travel document with the authorities of Country A on behalf of Mr X.

Criminal history

The department advised that Mr X has a substantial criminal history including drug, property and driving offences.	
3 November 2003 – 3 September 2014	Convicted of multiple offences, including theft, drug possession and breaking and entering property, and sentenced to an aggregate period of three years and seven months imprisonment.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma associated with experiences in his home country. He previously attended psychological counselling and was prescribed with medication for the management of depression and anxiety. In January 2017 he was reviewed by a psychiatrist who noted that his symptoms had largely resolved but recommended that he continue to engage with the mental health team and a psychiatrist as required.

Other matters

The department advised that Mr X's mother is an Australian citizen and resides in Queensland.

Information provided by Mr X

During an interview with Ombudsman staff on 23 November 2017 Mr X advised that his mother lives alone in Queensland and that he was worried about her. Mr X explained that his stepfather had died from cancer five months ago and that since then his mother has been alone and not been doing well. He stated that his sister also lives in Queensland but she is studying and too busy to support their mother on her own. Mr X advised that he speaks with his mother everyday over the phone and she often cries and does not understand why he is in detention. He stated that the family's separation is negatively affecting their mental health. Mr X stated that he needed to be with his family and that he had learnt from and regretted his past.

Mr X stated that he has been placed in a good behaviour compound at Christmas Island IDC along with 20 other detainees, because they have had no behavioural concerns or detention incidents. He had been given a single room and was able to go on excursions. Mr X advised that he reads and studies to keep his mind busy and that he has completed online courses in psychology and finance. He stated that he had also completed an alcohol and drugs program and a relationships program. Mr X stated that Christmas Island IDC is so far away from everything and there is more pressure to return to one's country of origin. He stated that all of his family is in Australia and there is nothing for him in Country A.

Mr X stated that being in detention for over two years has been very tough and that at times he feels frightened and frustrated. He advised that he used to see a psychiatrist and specialist counsellor whom he found very helpful. He also stated that his physical health was not bad but that he had a stomach infection that the doctor had told him was caused by the food at the facility.

Mr X further advised that his case manager was unable to tell him much about his immigration case because he had to wait for the outcome of his judicial review application. He advised that he has a lawyer from an advocacy organisation whom he finds helpful.

Ombudsman assessment/recommendation

Mr X was detained on 10 June 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 Refugee visa was cancelled under s 501 on 20 March 2015.

On 1 June 2017 the department lodged an application for a travel document with the authorities of Country A on behalf of Mr X.

At the time of the department's report Mr X was awaiting the outcome of judicial review.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose. IHMS reported that Mr X received treatment for depression, anxiety and a history of torture and trauma. During an interview with Ombudsman staff Mr X stated that he was concerned about his mother who lived alone in Queensland and that the family's separation was affecting their mental health.

The Ombudsman recommends that consideration be given to transferring Mr X to Brisbane Immigration Transit Accommodation to enable him to reside closer to his family and support network.