

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 remained in immigration detention for more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1976
Ombudsman ID	1002690-O
Date of department's report	2 June 2017
Total days in detention	730 (at date of department's report)

Detention history

3 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).
17 March 2016 – 15 December 2016	Transferred eight times between various immigration detention facilities.
August 2017	Removed from Australia.

Visa applications/case progression

Mr X arrived in Australia with his mother on 3 February 2003 on a refugee visa. He subsequently departed Australia on three occasions before returning to Australia on 26 August 2013 on a resident return visa.	
14 March 2008	Issued with a Notice of Intention to Consider Cancellation (NOICC) of his refugee visa under s 501 following criminal convictions. This action ceased on 23 August 2011.
30 July 2012	Issued with a NOICC of his resident return visa under s 501. Mr X provided a response on 30 November 2012 and 24 December 2012.
18 March 2013	The Department of Home Affairs (the department) finalised an International Treaties Obligations Assessment determining that Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
28 November 2013	Resident return visa cancelled under s 501.
30 December 2013	Applied to the Federal Court (FC) for judicial review of the cancellation decision.
23 April 2015 and 11 May 2015	Lodged Protection visa applications. The first application was deemed invalid the following day and the second application was refused on 2 November 2015. Associated bridging visa applications were deemed invalid under s 501 on 13 May 2015 and 10 June 2016 respectively.
8 July 2015	FC dismissed Mr X's application for judicial review of the cancellation of his resident return visa.

9 March 2016	The Administrative Appeals Tribunal (AAT) affirmed the refusal of Mr X's second Protection visa application.
7 November 2016	The FC dismissed Mr X's application for judicial review of the AAT decision.
2 June 2017	The department advised that Mr X was identified as a person of interest to the police in relation to his criminal convictions.

Criminal history

January 2005 – December 2006	Convicted of offences including wounding, stealing and breach of an intensive correction order. He was ordered to complete 40 hours of community service.
December 2007	Convicted of 10 sex offences and sentenced to one year and six months imprisonment on each count. His sentence was suspended for three years after he served six months imprisonment and he was released on bail on 8 July 2008.
June 2014	Sentenced to two years imprisonment for failing to comply with reporting obligations associated with his conviction for sex offences.

Health and welfare

International Health and Medical Services advised that Mr X engaged with the mental health team and specialist counselling for the management of severe anxiety, insomnia, irritability and a history of torture and trauma. Mr X also received treatment for back pain and a nose condition.	
10 October 2015	An Incident Report recorded that Mr X was allegedly assaulted by multiple detainees and was transferred to hospital.
3 September 2016 – 12 December 2016	Incident Reports recorded that Mr X threatened self-harm on three occasions.

Detention incidents

Mr X was allegedly involved in numerous incidents in detention including physical altercations with other detainees, threatening to assault detainees and detention centre staff, and displaying abusive and aggressive behaviour towards detainees and detention centre staff.

Other matters

17 December 2015	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman (the Office) in relation to his requests to attend a program for anger management, domestic violence and sex offenders while placed at Villawood IDC. The Office investigated the complaint and on 14 April 2016 the department advised that Mr X's request had been approved and a session had been scheduled for 11 February 2016. On 20 April 2016 the Office notified the department that the investigation had been finalised.
Mr X has three Australian children.	

Case status

Mr X was detained on 3 June 2015 following his release from a correctional facility and remained in an immigration detention facility for more than two years.

Mr X was released from immigration detention when he was involuntarily removed from Australia in August 2017.