

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TBLING 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 two and a half years.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1980
<b>Ombudsman ID</b>	1002745-O
<b>Date of department's reports</b>	24 August 2017 and 27 February 2018
<b>Total days in detention</b>	917 (at date of department's latest report)

### Detention history

August 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> following the cancellation of his visa under s 116. He was transferred to Facility B.
March 2016	Transferred to Facility C.
August 2016 – October 2016	Transferred four times between Facility C and Facility D.
November 2016	Transferred to a correctional facility. <sup>1</sup>
February 2018	Granted parole and released from a correctional facility. He was transferred to Facility B.
February 2018	Voluntarily departed Australia.

### Visa applications/case progression

Mr X arrived in Australia in October 2011 on an Electronic Travel Authority visa.	
March 2012	Lodged a Visitor visa application that was granted on the same day.
September 2012	Lodged a Vocational Education Sector (Student) visa application and granted an associated bridging visa.
October 2012	Vocational Education Sector (Student) visa application refused.
May 2013	The Migration Review Tribunal set aside the refusal decision and remitted it to the Department of Home Affairs (the department) for reconsideration.
July 2013	Vocational Education Sector (Student) visa application refused.
November 2013	Lodged a Combined Partner visa application and granted an associated bridging visa.
September 2014	Combined Partner visa application refused.
July 2015	The Administrative Appeals Tribunal affirmed the refusal decision.

<sup>1</sup> In August 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.

July 2015	Bridging visa cancelled under s 116.
November 2015	Issued a Criminal Justice Stay Certificate.
November 2015	Criminal Justice Stay visa application refused.
January 2018	Criminal Justice Stay Certificate cancelled.

**Criminal history**

June 2015	Convicted of an offence and issued a fine. He was charged with further offences.
November 2016	Sentenced to two years and six months imprisonment.

**Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X received treatment for an ankle injury and shoulder concerns. Mr X also received treatment following two alleged assaults. He was transferred to hospital by ambulance following the first alleged assault, and investigative testing determined that he had sustained fractures and other injuries. Following his discharge he was reviewed on multiple occasions and underwent restorative treatment. Surgical reconstruction was discussed, however, Mr X declined to proceed with surgery. Following a subsequent alleged assault, Mr X sustained further injuries and was monitored by IHMS.

IHMS further advised that Mr X was prescribed with medication for the management of insomnia, stress and a history of depression. He engaged with the mental health team as required.

The department advised that while placed in a correctional facility, Mr X's health and welfare was managed by Corrective Services, State E.

**Case status**

Mr X was detained in August 2015 following the cancellation of his visa under s 116 and remained in immigration detention, both in a detention facility and a correctional facility, for more than two and a half years.

Mr X was released from immigration detention when he voluntarily departed Australia in February 2018.