

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	1961
Ombudsman ID	1002750-O
Date of department's report	30 August 2017
Total days in detention	730 (at date of department's report)

Detention history

31 August 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.
29 September 2015	Transferred to Facility C.
1 October 2015	Transferred to Facility D.
September 2017	Voluntarily departed Australia.

Visa applications/case progression

<p>Mr X first arrived in Australia on 15 June 1974 and subsequently departed and re-entered Australia on two occasions. He last arrived in Australia on 27 October 1986 on a Transitional (Permanent) visa.</p> <p>Following legislative amendment on 1 September 1994, Mr X continued to hold a Transitional (Permanent) visa and permanent residence status.</p> <p>The Department of Home Affairs (the department) advised that Mr X's Conferral of Citizenship application was approved on 2 June 1994, however the approval was revoked on 26 April 1995 as his whereabouts were unknown. Further investigation identified that the revocation notice was invalid and Mr X's approval for Conferral of Citizenship remained valid.</p>	
19 August 2015	Transitional (Permanent) visa mandatorily cancelled under s 501.
24 August 2015	Mr X lodged a Request for Revocation of Cancellation. On 17 August 2016 the Minister decided not to revoke the decision to cancel Mr X's visa under s 501.
10 June 2016	Mr X was notified that his approval for Conferral of Citizenship had been cancelled under s 25(2) of the <i>Australian Citizenship Act 2007</i> .
22 August 2016	Applied to the Administrative Appeals Tribunal for merits review of the decision to cancel his approval for Conferral of Citizenship.
23 September 2016	Applied to the Federal Court for judicial review of the Minister's decision not to revoke the cancellation of his visa. A hearing was scheduled for 31 August 2017.
31 May 2017	Requested removal from Australia.

Criminal history

The department advised that Mr X had a significant criminal history in Australia.	
September 1982 – May 1987	Convicted of multiple offences, including manslaughter, driving offences and assault. He was sentenced to five terms of imprisonment up to 12 months in duration.
April 1995	Convicted of four offences, including indecent assault and sexual assault. He was sentenced to 10 years and six months imprisonment.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X disclosed a history of attention deficit hyperactivity disorder and depression and received support from the mental health team during periods of stress. In October 2016 he was reviewed by a psychiatrist and diagnosed with a personality disorder.</p> <p>IHMS further advised that Mr X was diagnosed with hepatitis C in September 2015 and was referred to a hospital hepatitis clinic for treatment. In July 2016 he was reviewed by a gastroenterology specialist and commenced on treatment which was completed in September 2016.</p>	
13 January 2016	An Incident Report recorded that Mr X refused food and fluid.

Other matters

7 November 2015	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman (the Office) in relation to the cancellation of his visa under s 501 and his transfer to Facility D. The complaint was investigated and on 19 February 2016 the Office notified the department that the investigation had been finalised.
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Case status

<p>Mr X was detained on 31 August 2015 following his release from a correctional facility and remained in an immigration detention facility for more than two years.</p> <p>Mr X was released from immigration detention when he voluntarily departed Australia in September 2017.</p>
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