

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 than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1987
Ombudsman ID	1002774-O
Date of department's report	30 September 2017
Total days in detention	730 (at date of department's report)

Detention history

1 October 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> following his release from criminal custody. He was transferred to Facility B.
22 October 2015 – 8 March 2017	Transferred five times between Facility B and Facility C.
2 April 2017	Transferred to Facility B.

Visa applications/case progression

Mr X arrived in Australia on 28 February 2015 on a Higher Education Sector visa (HESV).	
28 May 2015	HESV cancelled under s 116.
29 October 2015	Issued with a Criminal Justice Stay Certificate (CJSC) preventing his removal from Australia.
10 November 2015	A delegate of the Minister refused to grant Mr X a Criminal Justice Stay visa.
28 June 2016	The Administrative Appeals Tribunal (AAT) affirmed the decision to cancel Mr X's HESV.

Other legal matters

May 2015	Charged with multiple offences. Mr X was remanded in criminal custody and a trial was scheduled to commence in late 2017.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple physical health concerns including an eye condition, a bacterial stomach infection and shoulder pain. He attended physiotherapy for his shoulder concerns and in January 2016 he was diagnosed with an eye condition and advised to use eye drops as required.

IHMS further advised that Mr X presented with chest pain, anxiety and sleeping difficulties related to his prolonged detention and ongoing court case during a psychiatric review in May 2017. In a follow-up review in June 2017 it was noted that Mr X was not displaying symptoms of ongoing mental health concerns and he was aware of the self-referral process for further counselling if required.

Detention incidents

26 April 2016 – 11 June 2017	Incident Reports recorded that Mr X was allegedly assaulted on multiple occasions. IHMS advised that he was reviewed on three occasions and provided with treatment.
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Other matters

7 November 2015	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to the loss of property during his transfer to Facility C. On 31 December 2015 the Department of Home Affairs (the department) provided a response and on 8 April 2016 the complaint was finalised.
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Case status

Mr X was detained on 1 October 2015 following his release from criminal custody and has remained in an immigration detention facility for more than two years.

Mr X's HESV was cancelled under s 116 on 28 May 2015 and on 28 June 2016 the AAT affirmed the decision.

On 29 October 2015 a CJSC was issued preventing Mr X's removal from Australia. At the time of the department's report he was awaiting the commencement of criminal proceedings.