

## 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 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A, born in Country B
<b>Year of birth</b>	1986
<b>Ombudsman ID</b>	1002790-O
<b>Date of department's report</b>	23 October 2017
<b>Total days in detention</b>	730 (at date of department's report)

### Detention history

23 October 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 C.
16 February 2016	Transferred to Facility D.

### Visa applications/case progression

Mr X arrived in Australia with his family on 22 October 2003 on a refugee visa.	
9 August 2011 and 25 September 2013	Issued with a Notice of Intention to Consider Cancellation of his refugee visa under s 501 following criminal convictions.
28 April 2014	The Department of Home Affairs (the department) finalised an International Treaties Obligations Assessment (ITOA), determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations. A supplementary ITOA, finalised on 23 June 2014, also found that Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
23 October 2014	Refugee visa cancelled under s 501.
6 July 2015	The Federal Circuit Court (FCC) dismissed Mr X's application for judicial review of the cancellation of his visa.
17 August 2016	The Full Federal Court (FFC) dismissed Mr X's application for judicial review of the FCC's decision.
7 September 2016	Lodged a Protection visa application.
9 October 2017	Protection visa application refused.
12 October 2017	Applied to the Administrative Appeals Tribunal for merits review.

### Criminal history

January 2006 – September 2009	Convicted of multiple offences, including assault, disorderly behaviour and failure to comply with bail requirements. He was issued with numerous fines and placed on multiple good behaviour bonds
July 2010	Convicted of five assault offences and sentenced to one year and 21 days imprisonment.

March 2012	Convicted of an aggravated offence of intentionally causing harm and found guilty of breaking a suspended sentence. He was sentenced to four years and four weeks imprisonment with a non-parole period of three years and three months.
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**Health and welfare**

International Health and Medical Services advised that Mr X received treatment for an eye condition and hepatitis B. He was advised to attend annual reviews to monitor a liver condition, however Mr X has declined to attend routine follow-up appointments.

**Detention incidents**

Incident Reports recorded that Mr X allegedly displayed abusive and aggressive behaviour towards Serco officers on multiple occasions.

19 February 2017	An Incident Report recorded that a detainee was allegedly sexually assaulted by Mr X and another detainee. The alleged victim was transferred to hospital and the police were notified.
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**Other matters**

Mr X’s mother and three of his siblings are Australia citizens.  
 Mr X’s brother, Mr Y, was also convicted of an assault offence on 9 March 2012 and sentenced to eight months imprisonment. Mr Y’s visa was cancelled under s 501 on 23 June 2015 and he is the subject of Ombudsman assessment 1002701-O.

**Case status**

Mr X was detained on 23 October 2015 following his release from a correctional facility and has remained in an immigration detention facility for more than two years.  
 Mr X’s refugee visa was cancelled under s 501 on 23 October 2014 and on 6 July 2015 and 17 August 2016 the FCC and FFC dismissed Mr X’s applications for judicial review.  
 Mr X’s Protection visa application was refused on 9 October 2017. At the time of the department’s report, Mr X was awaiting the outcome of merits review.