

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 a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1987
Ombudsman ID	1002660-O
Date of department's reports	5 May 2017 and 3 November 2017
Total days in detention	912 (at date of department's latest report)

Detention history

6 May 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> following the cancellation of his visa under s 501. He was remanded at a correctional facility.
9 May 2015	Transferred to Yongah Hill Immigration Detention Centre (IDC).
10 September 2015 – 6 October 2016	Transferred three times between Yongah Hill IDC and Christmas Island IDC.

Visa applications/case progression

28 November 2006	Arrived in Australia on a Global Special Humanitarian visa.
18 March 2014	Issued with a Notice of Intention to Consider Cancellation of his Global Special Humanitarian visa under s 501 following criminal convictions.
30 April 2015	Global Special Humanitarian visa cancelled under s 501.
20 May 2015	Mr X was notified of the visa cancellation.
16 June 2015	Mr X lodged a Request for Revocation of Cancellation.
14 April 2016	The Department of Immigration and Border Protection (the department) notified Mr X of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
27 July 2016	The department finalised the ITOA, determining Mr X's case did engage Australia's <i>non-refoulement</i> obligations.
9 October 2017	The Assistant Minister decided not to revoke the decision to cancel Mr X's visa under s 501.

Criminal history

January 2009 – April 2015	Convicted of multiple offences including disorderly behaviour, unlawful assault and committing public nuisance. Mr X was placed on multiple suspended sentences and in April 2015 he was sentenced to three months imprisonment.
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May 2017	The department advised that Mr X was charged with offences related to an incident at Christmas Island IDC in 2015. He was scheduled to attend a hearing at a magistrates court in November 2017
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X presented to a general practitioner in September 2015 with sleeping difficulties and depressed mood relating to the detention centre environment and being separated from his family. He was prescribed with antidepressant medication, however in September 2016 he ceased the medication after advising that he did not find it helpful.

IHMS also advised that Mr X was diagnosed with a torn meniscus following a sporting injury in May 2016. He was subsequently reviewed by an orthopaedic specialist and referred for a surgical procedure.

Detention incidents

16 May 2015 – 27 October 2017	Incident Reports recorded that Mr X allegedly displayed abusive and aggressive behaviour on multiple occasions.
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Other matters

The department advised that Mr X is in a relationship with an Australian citizen.

Ombudsman assessment/recommendation

Mr X was detained on 6 May 2015 following the cancellation of his Global Special Humanitarian visa under s 501 and has remained in an immigration detention facility for more than two and a half years.

On 16 June 2015 Mr X lodged a Request for Revocation of Cancellation and on 9 October 2017 the Assistant Minister decided not to revoke the decision to cancel Mr X's visa under s 501.

On 27 July 2016 the department finalised an ITOA and determined that Mr X's case engages Australia's *non-refoulement* obligations.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose. IHMS has advised that Mr X has received treatment for sleeping difficulties and depressed mood relating to the detention centre environment and being separated from his family.

The Ombudsman also notes that Mr X has been convicted of numerous criminal offences and has been involved in multiple behavioural incidents while he has remained in immigration detention.

In light of the protracted nature of Mr X's case and that he has been found to engage Australia's *non-refoulement* obligations, the Ombudsman recommends that priority be given to resolving Mr X's immigration pathway.