

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the sixth s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 78 months (six and a half years). The previous assessment 1000819-O was tabled in Parliament on 13 September 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1962
<b>Ombudsman ID</b>	1000819-O1
<b>Date of department's report</b>	29 September 2017
<b>Total days in detention</b>	2,368 (at date of department's report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Facility B.

### Recent visa applications/case progression

10 May 2017	The Administrative Appeals Tribunal (AAT) affirmed the decision to refuse Mr X's Country A entry visa application.
19 June 2017	Applied to the Federal Court (FC) for judicial review of the AAT's decision.
11 August 2017	The FC reserved judgment in relation to Mr X's claim for damages for personal injury, unlawful arrest and false imprisonment arising from his detention at Facility B.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for cardiac, respiratory and urological concerns. In January 2017 a computed tomography scan identified symptoms of emphysema and Mr X was referred to a cardiac specialist and respiratory clinic. Investigative testing indicated further cardiac concerns and Mr X was prescribed with medication and advised to cease smoking. An angiogram was scheduled for 11 August 2017 and Mr X continued to be monitored by IHMS with specialist appointments pending at the time of IHMS's report.

### **Information provided by Mr X**

During an interview with Ombudsman staff on 5 September 2017 Mr X advised that his case was currently before the FC. He stated that he did not have any legal representation and he had last spoken to his case manager more than one month ago. He reported that he had lodged a Freedom of Information request with his case manager in relation to his complaint with the Australian Human Rights Commission more than one year ago, but he had not received any response.

Mr X stated that his family lived in City C and that their relationship had deteriorated as a result of his lengthy separation. He advised that his detention and separation had caused a lot of confusion and that his wife and sons' health was not good. He stated that his family visited him occasionally but there had been some problems with the visits booking system, and it was a long trip for them to make.

Mr X stated that he had a problem with his heart and lungs and had recently undergone a heart operation. He stated that he was struggling to recuperate in a shared dormitory as it was not quiet and peaceful. He advised that he felt tired, weak and exhausted, lost energy very quickly and struggled to breathe when walking. He advised that his mental health varied and that his memory had deteriorated and he often felt confused. He stated that he had attended some counselling but did not find it particularly helpful.

Mr X reported that he had previously been unlawfully detained and the matter had been taken to the High Court. He stated that he had been detained five times and did not understand why the Department of Home Affairs (the department) kept detaining him and then releasing him. He stated that the department had informed him that s 501 of the *Migration Act 1958* was applicable to his case, but he did not understand why and he had made enquiries with a lawyer to clarify his situation.

### **Case status**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has remained in an immigration detention facility for a cumulative period of more than six and a half years. At the time of the department's report Mr X was awaiting the outcome of judicial review.