

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 30 months (two and a half years).

Name	Mr X
Citizenship	Country A, born in Country B
Year of birth	1967
Ombudsman ID	1002559-O
Date of DIBP's reports	27 December 2016 and 27 June 2017
Total days in detention	912 (at date of DIBP's latest report)

Detention history

28 December 2014	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.
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Visa applications/case progression

14 September 1970	Arrived in Australia as a dependent on his parents' permanent residence visa.
21 March 2005	Following a criminal conviction, Mr X was issued with a Notice of Intention to Cancel his permanent residence visa. However, the Department of Immigration and Border Protection (the department) decided not to cancel his visa and instead issued him with a warning letter on 30 August 2006 advising that a further criminal conviction would lead to the reconsideration of the cancellation of his visa.
2 December 2014	Mr X's permanent residency visa was cancelled under s 501 on character grounds following further criminal convictions.
28 December 2014	Released from a correctional facility and detained under s 189(1).
31 December 2014	Applied to the Administrative Appeals Tribunal (AAT) for merits review. The AAT dismissed his application on 8 January 2015 due to lack of jurisdiction.
2 March 2015	Mr X was scheduled for involuntary removal from Australia, however the removal was aborted because the authorities of Country A requested further information before they would issue Mr X a travel document.
5 August 2015	Applied to the Federal Court (FC) for judicial review. The FC dismissed his application on 22 April 2016.
19 May 2016	Requested voluntary removal from Australia. Mr X withdrew his request on 16 June 2016.
27 December 2016	The department advised that as Mr X has no ongoing matters before the department, courts or tribunals, he is on a removal pathway. The department advised that it was progressing Mr X's removal from Australia and the authorities of Country A have accepted his right to Country A citizenship.

27 June 2017	The department advised that Mr X has complex medical conditions, but has been found to be fit for travel with a medical escort.
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Criminal history

Mr X has a significant criminal history, including convictions of armed robbery and aggravated burglary offences for which he served custodial sentences.	
March 2005	Convicted of six counts of indecent dealings with a child under 16 years of age and two counts of threatening to cause harm. He was sentenced to five sentences of two years imprisonment, one sentence of one year imprisonment and two sentences of eight months imprisonment to be served concurrently.
June 2013	Convicted of two counts of manufacturing a prohibited drug and sentenced to two periods of 18 months imprisonment to be served concurrently.
November 2013	Convicted of a further count of manufacturing a prohibited drug and sentenced to seven months imprisonment.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X has a history of substance abuse and received specialist treatment, including opiate replacement therapy and counselling. Mr X also presented with symptoms of stress, anxiety, depression and insomnia related to the uncertainty of his immigration status and situational stress. He was prescribed with medication and monitored by a general practitioner (GP).</p> <p>Mr X was diagnosed with a chronic respiratory condition in March 2015 and provided with treatment as per a specialist treatment plan. He was admitted to hospital in June 2015 and April 2016 following an exacerbation of his condition, however in March 2017 a treating respiratory specialist noted that his condition was stable.</p> <p>In February 2016 Mr X underwent investigative testing after presenting with fluid retention in his abdomen and legs and an associated bacterial infection. He was diagnosed with peripheral vascular disease and a cardiologist further advised that the fluid retention was related to a heart condition. He was provided with antibiotics and his condition continued to be monitored by a GP and physiotherapist.</p> <p>Mr X has also been diagnosed with obesity and associated severe sleep apnoea. He previously used a breathing machine to prevent sleep disturbance, however he subsequently ceased using the machine as he felt it was ineffective.</p> <p>IHMS advised that Mr X was provided with treatment for additional physical health concerns, including migraines, asthma, hepatitis C, recurring infections and tail bone pain.</p>
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Case status

Mr X's permanent residency visa was cancelled under s 501 on 2 December 2014 following his release from a correctional facility. He has no matters before the department, the courts or tribunals and is on a removal pathway.
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