

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
Year of birth	1980
Ombudsman ID	1002574-O
Date of DIBP's reports	16 January 2017 and 15 July 2017
Total days in detention	912 (at date of DIBP's latest report)

Detention history

15 January 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 B.
14 May 2015	Transferred to Facility C.
28 October 2015	Transferred to Facility D.
7 December 2015	Transferred to Facility C.

Visa applications/case progression

Mr X arrived in Australia on 26 May 1993 on a refugee visa, granted on 29 April 1993.	
21 July 2000	Granted a resident return visa valid for five years.
14 September 2000	Application for Australian citizenship was approved but not conferred as Mr X did not attend the scheduled ceremony.
12 January 2015	Resident return visa cancelled under s 501 following criminal charges. Mr X was invited to make representations about the cancellation and on 4 March 2015 he provided a response.
21 June 2015	Assistant Minister decided not to revoke the decision to cancel Mr X's resident return visa.
24 July 2015	Applied to the Federal Circuit Court (FCC) for judicial review.
2 September 2015	FCC ordered that the application for judicial review be transferred to the Federal Court (FC).
15 June 2016	Lodged a bridging visa application, which was found to be invalid on 17 June 2016.
5 October 2016	FC dismissed Mr X's application for judicial review.
16 December 2016	The Department of Immigration and Border Protection (the department) advised that as Mr X had no matters before the department, the courts or tribunals, he was referred for removal action.
16 January 2017	The department lodged an application for a travel document with the authorities of Country A on behalf of Mr X.
6 March 2017	Lodged a Protection visa application.

22 May 2017	Protection visa application refused.
23 May 2017	Applied to the Administrative Appeals Tribunal for merits review.

Criminal history/other legal matters

December 1996	Charged with assault and held in custody. The matter was heard in a children's court and Mr X was acquitted.
October 2000	Convicted of murder and sentenced to 14 years imprisonment with a non-parole period of nine years.
June 2002	Convicted of murdering a second person and sentenced to 10 years imprisonment, commencing in January 2009, with a non-parole period of six years.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X presented with low mood, anxiety and stress related to his prolonged detention, separation from his family and possible return to Country A. He regularly attended psychological counselling from December 2016 to March 2017 and improvements in his condition were noted.</p> <p>IHMS advised that Mr X was identified as a tuberculosis contact in 2016 and is awaiting a follow-up chest scan.</p>
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Detention incidents

February 2017	An Incident Report recorded that Mr X allegedly sexually assaulted another detainee. The matter was referred to the police for investigation and in February 2017 the police advised that the matter was finalised as the alleged victim had made a statement of no complaint.
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Case status

<p>Mr X was detained on 15 January 2015 following his release from a correctional facility and has been held in an immigration detention facility for more than two and a half years.</p> <p>Mr X's resident return visa was cancelled under s 501 on 12 January 2015 and on 21 June 2015 the Assistant Minister decided not to revoke the decision to cancel Mr X's visa. On 5 October 2016 the FC dismissed Mr X's application for judicial review.</p> <p>On 6 March 2017 Mr X lodged a Protection visa application and on 22 May 2017 his Protection visa application was refused. At the time of the department's latest report Mr X was awaiting the outcome of merits review.</p>
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