

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	1950
Ombudsman ID	1002705-O
Date of department's reports	5 July 2017 and 3 January 2018
Total days in detention	912 (at date of department's latest report)

Detention history

6 July 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.
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Visa applications/case progression

The Department of Home Affairs advised that Mr X is believed to have first arrived in Australia in 1956 or 1957. Following legislative amendment on 1 September 1994, Mr X held a permanent visa.	
29 June 2015	Permanent visa cancelled under s 501 following criminal convictions.
27 July 2015	Lodged a Request for Revocation of Cancellation. On 22 July 2016 the Minister decided not to revoke the decision to cancel Mr X's visa under s 501.
22 August 2016	Applied to the Federal Court (FC) for judicial review.
27 February 2017	FC quashed the decision not to revoke the cancellation of his visa and referred the matter to the Minister for reconsideration.
16 August 2017	The Minister again decided not to revoke the decision to cancel Mr X's visa under s 501.
21 September 2017	Applied to the FC for judicial review.
13 October 2017 and 21 December 2017	FC adjourned. A hearing was scheduled for 2 February 2018.

Criminal history

June 2014	Convicted of child pornography offences and sentenced to two years and three months imprisonment with a non-parole period of one year and three months.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for post-traumatic stress disorder (PTSD), reactive depression and insomnia. In July 2015 Mr X disclosed that he had previously been admitted to hospital for psychiatric treatment for PTSD and alcohol dependence. He was also identified as having a history of torture and trauma but declined a referral for specialist counselling.

Mr X was reviewed by a psychiatrist in January 2016 and diagnosed with reactive depression. The psychiatrist also noted that he presented with cluster B personality traits and a history of anger management concerns and alcohol abuse. In August 2016 Mr X presented with symptoms of insomnia and advised that he felt anxious, agitated and lethargic. He presented with low mood and anxiety related to his ongoing legal matters in January 2017 and reported further sleep concerns in October 2017. His condition is monitored by a general practitioner (GP) and the mental health team and he regularly attends psychological counselling.

IHMS reported that Mr X recently requested inpatient treatment at a psychiatric hospital for symptoms of PTSD and his treating psychiatrist supported the request. The request was being considered by the IHMS Health Services Manager at the date of IHMS's latest report.

IHMS further advised that Mr X received treatment for multiple physical health concerns, however he declined to undergo investigative testing on multiple occasions as he is required to wear restraints to offsite appointments and he finds this stressful. He regularly attended physiotherapy for the management of back pain and improvements in his condition were noted. In February 2017 he was reviewed by a urology specialist and cardiologist and no significant concerns were identified, however he declined to attend a follow-up cardiology review as a form of protest. His condition is monitored by a GP and he is prescribed with pain relief medication as required.

21 June 2017 and 18 August 2017	An Incident Report recorded that Mr X threatened self-harm.
28 September 2017 – 3 October 2017	IHMS advised that Mr X refused food and fluid as a form of protest.

Other matters

10 December 2015	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman (the Office) in relation to his healthcare in detention and delays in being assigned a case manager. The matter was investigated and the complaint was closed on the same day.
9 June 2016	Mr X lodged a complaint with the Office in relation to his healthcare in detention and delays in the processing of his Request for Revocation of Cancellation of his visa. The matter was investigated and on 13 July 2016 the complaint was closed.
29 November 2017	Mr X lodged a complaint with the Office in relation to the requirement that he wear restraints for offsite medical appointments. The investigation of this matter remains ongoing.
Mr X's wife and two adult children are Australian citizens.	

Ombudsman assessment

Mr X was detained on 6 July 2015 following his release from a correctional facility and has remained in an immigration detention facility for more than two and a half years.

Mr X's permanent visa was cancelled under s 501 on 29 June 2015 and on 22 July 2016 the Minister decided not to revoke this decision. Mr X applied to the FC for judicial review and on 27 February 2017 the FC quashed the decision and referred the matter to the Minister for reconsideration.

On 16 August 2017 the Minister again decided not to revoke the decision to cancel Mr X's visa under s 501 and on 21 September 2017 Mr X applied for the FC for judicial review.

The Ombudsman notes with concern that Mr X is unwilling to wear restraints when he attends external medical appointments and that this is an issue that is delaying Mr X's diagnosis and treatment for a number of medical conditions.