

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 remained in immigration detention for more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1970
Ombudsman ID	1002771-O
Date of department's report	27 September 2017
Total days in detention	730 (at date of department's report)

Detention history

September 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.
September 2015	Transferred to Facility C.
October 2015	Transferred to Facility D.
March 2018	Voluntarily departed Australia.

Visa applications/case progression

Mr X arrived in Australia in December 1986 on a child visa.	
May 1993 and November 1994	Following criminal conduct Mr X was issued a warning by the Department of Home Affairs (the department) under former criminal deportation grounds.
April 1998	Issued a Deportation Order under s 200.
September 1999	The Administrative Appeals Tribunal (AAT) set aside the Deportation Order.
May 2000	Issued with a Notice of Intention to Consider Cancellation (NOICC) of his child visa under s 501 following criminal convictions.
October 2000	Child visa cancelled under s 501.
May 2001	The Federal Court dismissed Mr X's application for judicial review of the cancellation of his child visa.
April 2001	Lodged a Protection visa application.
June 2001	Protection visa application refused.
August 2001	The Refugee Review Tribunal remitted the refusal of Mr X's Protection visa to the department for reconsideration with the direction that Mr X is a person to whom Australia has protection obligations under the Refugee Convention.
March 2002	Granted a Protection visa.
May 2004	Lodged a conferral of citizenship application.

June 2004	Conferral of citizenship application refused.
September 2011	Issued with a NOICC of his Protection visa under s 501 following criminal convictions.
August 2015	Protection visa mandatorily cancelled under s 501.
August 2015	Mr X lodged a Request for Revocation of Cancellation.
December 2016	The department finalised an International Treaties Obligations Assessment, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
June 2017	A delegate of the Minister decided not to revoke the decision to cancel Mr X's visa under s 501.
September 2017	The AAT affirmed the decision not to revoke the visa cancellation.
September 2017	Requested removal from Australia.

Criminal history

The department advised that Mr X has an extensive criminal history which has resulted in several terms of imprisonment with the longest term exceeding six years and nine months.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X underwent extensive investigative testing to manage ongoing pain associated with a fall in 2015. Mr X commenced physiotherapy in January 2016 with gradual improvement. He was provided with a steroid injection and an orthopaedic specialist advised that if there was no sustained improvement he should be referred for the possibility of surgical intervention. An ultrasound identified severe inflammation and evidence of nerve impingement. Mr X was scheduled for further orthopaedic review and a magnetic resonance scan in August 2017.

IHMS further advised that Mr X disclosed a history of torture and trauma and depression. Mr X attended specialist counselling, was reviewed by a psychiatrist and was prescribed with medication following a diagnosis of recurrent depression in January 2016.

Other matters

November 2015	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman (the Office) in relation to his transfer from Facility C to Facility D and the associated impact on his partner and her children due to their separation. He also raised concerns regarding lost and damaged property during his transfer. The complaint was investigated and in February 2017 the Ombudsman finalised the investigation and provided comments regarding the use of property seals and processes for transferring property.
November 2015	Mr X lodged a complaint with the Office in relation to an injury sustained during a riot at Facility D and his concerns regarding the treatment being provided. The department advised that investigative testing had been completed for his condition. In December 2015 the Ombudsman notified the department that the investigation had been finalised.

January 2016	Mr X lodged a further complaint with the Office in relation to his injury and concerns about available treatment. The department provided a response in March 2016 clarifying the treatment that had been provided and advised that Mr X had been scheduled for orthopaedic review. In March 2016 the Ombudsman notified the department that the investigation had been finalised.
July 2016	The department was notified that Mr X lodged a complaint with the Australian Human Rights Commission. In July 2016 and January 2017 the department provided a response. The matter remained ongoing at the time of the department's latest report.
June 2017	Mr X lodged a complaint with the Office in relation to missing and damaged property following a room search. The complaint was investigated and in February 2017 the Ombudsman finalised the investigation and provided comments regarding the use of video footage for the purposes of recording a room search and documentation of property that is seized.
The department advised that Mr X has an Australian citizen partner.	

Case status

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

Mr X was released from immigration detention when he voluntarily departed Australia in March 2018.