

## 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 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A, born in Country B
<b>Year of birth</b>	1993
<b>Ombudsman ID</b>	1002788-O
<b>Date of department's report</b>	20 October 2017
<b>Total days in detention</b>	730 (at date of department's report)

### Detention history

21 October 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 C.
24 October 2015	Transferred to Facility D.
1 July 2017	Transferred to Facility E.
20 September 2017	Transferred to Facility D.

### Visa applications/case progression

Mr X arrived in Australia as part of an extended family unit on 12 April 2006 on a Refugee visa. The Department of Home Affairs (the department) advised that Mr X was granted a Refugee visa on the basis that he was a dependant of a family member.	
10 May 2013	Issued with a Notice of Intention to Consider Cancellation (NOICC) of his visa under s 501. On 7 June 2013 he was issued with a warning letter advising that further criminal convictions could result in the cancellation of his visa.
7 November 2014	Issued with a second NOICC of his visa under s 501. He responded on 30 December 2014.
9 September 2015	Refugee visa mandatorily cancelled under s 501.
6 October 2015	Mr X lodged a Request for Revocation of Cancellation. On 5 April 2016 a delegate of the Minister decided not to revoke the decision to cancel Mr X's visa under s 501.
7 October 2016	The Administrative Appeals Tribunal (AAT) affirmed the cancellation of his visa under s 501.
10 October 2016	Applied to the Federal Circuit Court for judicial review of the AAT's decision. On 9 December 2016 the application was transferred to the Federal Court (FC).
26 April 2017	FC adjourned.
2 August 2017	Lodged a Protection visa application.

### **Criminal history**

February 2012 – October 2014	Issued with multiple fines for a number of offences, including disorderly behaviour, stealing and possessing a prohibited drug.
October 2012	Convicted of assault, property damage and trespass and sentenced to eight months imprisonment.
Mid October 2014	Convicted of aggravated burglary and attempting to pervert justice and sentenced to one year and 10 months imprisonment with a non-parole period of 11 months.
Late October 2014	Convicted of four offences, including assault and burglary, and sentenced to one year imprisonment.

### **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and presented with concerns about being returned to Country B. He was reviewed by a psychologist and attended specialist counselling. He also has a history of drug and alcohol abuse and was referred to a specialist rehabilitation service for counselling.

IHMS further advised that Mr X was diagnosed with a skin condition in April 2016 and was prescribed with antibiotic medication. He was admitted to hospital in July 2017 for surgical treatment and attended a follow up appointment at a dermatology clinic in September 2017.

### **Other matters**

The department advised that a number of Mr X's family members reside in Australia, either as permanent residents or Australian citizens. Mr X's partner is also an Australian citizen.

### **Case status**

Mr X was detained on 21 October 2015 following his release from a correctional facility and has remained in an immigration detention facility for more than two years.

Mr X's Refugee visa was mandatorily cancelled under s 501 on 9 September 2016 and on 5 April 2016 a delegate of the Minister declined to revoke the cancellation of his visa.

Mr X lodged a Protection visa application on 2 August 2017.

At the time of the department's report, Mr X was awaiting the outcome of judicial review.