

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 two and a half years.

Name	Mr X
Citizenship	Country A
Year of birth	1989
Ombudsman ID	1002747-O
Date of department's reports	26 August 2017 and 24 February 2018
Total days in detention	912 (at date of department's latest report)

Detention history

27 August 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

Mr X arrived in Australia with his mother in October 1995 on a Partner visa as a dependant.	
August 2009, June 2012 and November 2014	Issued with a Notice of Intention to Consider Cancellation of his Partner visa under s 501.
October 2009 and September 2012	Issued with a warning letter regarding the possible cancellation of his Partner visa under s 501.
June 2015	Partner visa mandatorily cancelled under s 501.
July 2015	Mr X lodged a request for revocation of the cancellation of his Partner visa. In September 2016 the Minister decided not to revoke the decision to cancel Mr X's visa under s 501.
December 2016	Lodged a Protection visa application.
20 January 2017	Protection visa application refused.
April 2017	The Administrative Appeals Tribunal (AAT) remitted the refusal of Mr X's Protection visa application to the Department of Home Affairs (the department) with the direction that Mr X is a refugee.
September 2017	Issued with a Notice of Intention to Consider Refusal of his Protection visa application under s 501. Mr X provided a response in October 2017.
October 2017	Protection visa application refused under s 501.
January 2018	The AAT remitted the refusal of Mr X's Protection visa application to the department for reconsideration with the direction that the discretion under s 501(1) should be exercised in favour of granting Mr X a Protection visa.
February 2018	The department advised that it was considering the AAT's decision.

Criminal history

September 2008 – October 2013	Convicted of multiple offences and sentenced to several terms of imprisonment of up to three years and three months.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for physical health concerns and was referred to physiotherapy. IHMS further advised that Mr X was prescribed with medication for the management of mental health concerns.	
September 2017 – January 2018	Incident Reports recorded that Mr X refused food and fluid on two occasions.

Other matters

Mr X's mother and siblings are permanent residents of Australia.
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Case status

<p>Mr X was detained in August 2015 following his release from a correctional facility and has remained in an immigration detention facility for more than two and a half years.</p> <p>Mr X's Partner visa was mandatorily cancelled under s 501 in June 2015. Mr X lodged a request for revocation of the cancellation of his visa and in September 2016 the Minister decided not to revoke the cancellation decision.</p> <p>In January 2017 Mr X's Protection visa application was refused and in April 2017 the AAT remitted the refusal of Mr X's Protection visa application to the department with the direction that Mr X is a refugee.</p> <p>In October 2017 Mr X's Protection visa application was again refused and in January 2018 the AAT remitted the refusal of Mr X's Protection visa application to the department for reconsideration with the direction that the discretion under s 501(1) should be exercised in favour of granting Mr X a Protection visa.</p> <p>At the date of the department's latest report the department was considering the AAT's decision.</p>
