

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 a cumulative period of more than two years.

Name	Mr X
Citizenship	Country A
Year of birth	1989
Ombudsman ID	1002803-O
Date of department's report	23 November 2017
Total days in detention	732 (at date of department's report)

Detention history

May 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. He was transferred to Facility B.
January 2014	Transferred to a correctional facility.
July 2016	Re-detained under s 189(1) following his release from a correctional facility. He was transferred to Facility B.
August 2016	Transferred to Facility C.

Visa applications/case progression

The Department of Home Affairs (the department) advised that Mr X arrived in Australia in November 2007 on a Schools Sector visa. In December 2007 he was granted a further visa which expired in March 2010.	
July 2013	Lodged a Protection visa application. In September 2013 his application was refused.
December 2013	The Refugee Review Tribunal (RRT) affirmed the refusal decision.
January 2014	Applied to the Federal Circuit Court (FCC) for judicial review of the RRT's decision.
January 2014	Issued with a Criminal Justice Stay Certificate. In January 2016 he was refused a Criminal Justice Stay visa.
July 2014	The department notified Mr X of the unintentional release of personal information. ¹
January 2016	The FCC remitted Mr X's case to the Administrative Appeals Tribunal (AAT). ²

¹ In a media release dated 19 February 2014 the Minister advised that an immigration detention statistics report was released on the department's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as the department became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by the department.

² On 1 July 2015 the RRT was merged into the AAT.

April 2017	The AAT remitted Mr X's case to the department with the direction that he was a person to whom Australia owed protection obligations under the complementary protection criterion.
June 2017	Issued with a Notice of Intention to Consider Refusal of his Protection visa application under s 501. In August 2017 Mr X provided a response.
October 2017	Protection visa application refused under s 501.
October 2017	Applied to the AAT for review of the refusal of his Protection visa under s 501.

Criminal history

May 2014	Convicted of an offence and sentenced to three years and nine months imprisonment with a non-parole period of two years and six months.
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Health and welfare

International Health and Medical Services advised that Mr X did not receive treatment for any major physical or mental health issues during this assessment period.

Detention incidents

July – December 2013	Incident Reports recorded that Mr X had allegedly been involved in numerous behavioural incidents in detention including displaying abusive and aggressive behaviour towards detainees and detention centre staff.
September 2013	An Incident Report recorded that Mr X allegedly assaulted a Serco officer. The matter was referred to the police with no further action required.

Case status

<p>Mr X was detained in May 2013 after living unlawfully in the community and has remained in an immigration detention facility for a cumulative period of more than two years.</p> <p>In April 2017 the AAT remitted Mr X's case to the department with the direction that he was a person to whom Australia owed protection obligations and in October 2017 Mr X's Protection visa application was refused under s 501.</p> <p>At the time of the department's report Mr X was awaiting the outcome of merits review.</p>
