

## 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.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1972
<b>Ombudsman ID</b>	1002820-O
<b>Date of department's report</b>	28 December 2017
<b>Total days in detention</b>	734 (at date of department's report)

### Detention history

September 2007	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving in Australia as an unauthorised air arrival. He was transferred to Facility B.
October 2007	Granted a Temporary Protection visa (TPV) and released from immigration detention.
June 2009	Granted a permanent visa on the basis that he was found to be owed protection under the Refugee Convention.
January 2016	Re-detained under s 189(1) following the cancellation of his permanent visa under s 501. He was transferred to Facility B.

### Visa applications/case progression

<p>Mr X arrived in Australia and was subsequently detained in September 2007 as an unauthorised air arrival.</p> <p>He was granted a TPV in October 2007 and a permanent visa in June 2009.</p> <p>In August 2011 he lodged an application for conferral of Australian citizenship that was refused in September 2011.</p>	
December 2015	Permanent visa mandatorily cancelled under s 501 following a criminal conviction.
November 2016	The Assistant Minister decided not to revoke the cancellation decision.
December 2016	Applied to the Federal Court (FC) for judicial review.
November 2017	The FC remitted Mr X's case to the Department of Home Affairs (the department) for reconsideration.
November 2017	The Minister appealed the FC decision to the Full Federal Court (FFC).

**Criminal history**

November 2011	Convicted of a criminal offence and sentenced to six years and four months imprisonment.
June 2016	Convicted of a criminal offence and sentenced to a 12 month good behaviour bond.

**Health and welfare**

International Health and Medical Services advised that Mr X was monitored by the mental health team for mental health concerns related to his prolonged detention. He declined to be prescribed with medication and a general practitioner recommended that he continue to receive ongoing mental health support.

**Recent detention incidents**

June 2016	An Incident Report recorded an allegation of assault. Police were notified of the alleged incident.
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**Other matters**

July 2016	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to the allegation recorded in an Incident Report dated June 2016. Mr X raised concerns regarding the investigation of the allegation. In October 2016 the department provided a response and the complaint was finalised.
Mr X's de-facto partner and child are Australian citizens.	

**Case status**

Mr X was first detained in September 2007 after arriving in Australia as an unauthorised air arrival. He was granted a TPV in October 2007 and was released from immigration detention. He was re-detained in January 2016 following the cancellation of his visa under s 501 and has remained in an immigration detention facility for a cumulative period of more than two years.

Mr X's permanent visa was cancelled under s 501 in December 2015. Mr X lodged a request for revocation of the cancellation of his visa and in November 2016 the Assistant Minister decided not to revoke the cancellation decision.

In November 2017 the FC remitted Mr X's case to the department for reconsideration and in November 2017 the Minister appealed the FC decision to the FFC. At the time of the department's report the matter remained ongoing.