

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the first s 486O report on Mr X who remained in restricted immigration detention for more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1986
Ombudsman ID	1003411
Date of DIBP's reports	7 September 2015 and 7 March 2016
Total days in detention	914 (at date of DIBP's latest report)

Detention history

5 September 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.
14 April 2014	Transferred to Facility C.
20 June 2016	Granted a Bridging visa and released from detention.

Visa applications/case progression

12 January 2008	Mr X arrived in Australia on a Vocational Education and Training Sector visa valid until 19 May 2010.
18 May 2010	Lodged a Higher Education Sector (HES) visa application and was granted an associated Bridging visa.
15 June 2010	Granted HES visa.
16 July 2013	HES visa cancelled under s 116 as he had not complied with his visa conditions. Mr X became unlawful non-citizen until he was detained on 5 September 2013.
11 October 2013	Lodged a Protection visa application with an associated Bridging visa application.
15 October 2013	Associated Bridging visa application refused.
18 November 2013	Protection visa application refused.
26 November 2013	Appealed to the Refugee Review Tribunal (RRT).
20 January 2014	RRT affirmed original decision.
19 March 2014	Lodged an application with the Federal Circuit Court (FCC) for an injunction preventing his removal from Australia on the basis of the unintentional release of personal information through the Department of Immigration and Border Protection's (DIBP) website. ¹

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

27 June 2014	DIBP invited Mr X to comment on the privacy breach. He provided a response on 2 July 2014.
13 January 2015	DIBP notified Mr X that it had commenced an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
19 January 2015	Withdrew his application for an injunction.
5 February 2015	DIBP invited him to comment on country information relevant to the ITOA. He provided a response on 13 February 2015.
14 April 2015	DIBP finalised the ITOA, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
24 April 2015	Requested judicial review of the ITOA by the FCC.
19 October 2015	FCC hearing was adjourned pending the outcome of any appeals of the Full Federal Court's (FFC) decision of 2 September 2015 ² which found that the ITOA process was procedurally unfair.
21 March 2016	The Minister filed a notice in the HC to appeal the FFC's decision.
7 June 2016	The HC heard the Minister's appeals from the FFC decision. Judgment was reserved.
20 June 2016	Granted a Bridging visa.
27 July 2016	The HC found that the ITOA process was not procedurally unfair.

Criminal history

12 August 2011	Mr X was charged and fined for possessing prohibited drugs and suspected stolen goods.
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Health and welfare

International Health and Medical Services (IHMS) reported that Mr X was monitored by the general practitioner (GP) for hepatitis C which was diagnosed prior to his detention.

Mr X also disclosed a history of opiate dependency and was treated and supported by the GP and the mental health team.

Other matters

7 April 2016	Mr X lodged a complaint with the Ombudsman's office in relation to property which he claimed was lost when he was transferred from Facility B to Facility C in April 2014. The complaint was finalised on 14 July 2016.
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² SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 14 June 2016 Mr X advised his physical and mental health were good but there was only one welfare officer at Facility C which made it difficult to see them regularly.

He said he took part in sporting activities and went to the gym and also attended art classes. He said he was satisfied with the range of activities offered but no longer attended excursions as he had been to all the places included in the excursions.

Case status

Mr X was granted a Bridging visa on 20 June 2016 and released from immigration detention. He is awaiting the outcome of judicial review.