

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O report on Mr X who has remained in restricted immigration detention for more than 54 months (four and a half years).

The first report 1001153 was tabled in Parliament on 12 February 2014 and the second report 1001438 was tabled in Parliament on 4 March 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

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| Name | Mr X |
| Citizenship | Country A |
| Year of birth | 1985 |
| Ombudsman ID | 1002235 |
| Date of DIBP's reports | 10 February 2015, 12 August 2015 and 6 February 2016 |
| Total days in detention | 1,640 (at date of DIBP's latest report) |

Recent detention history

Since the Ombudsman's previous report (1001438), Mr X has remained at Facility B.

Recent visa applications/case progression

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| 5 March 2014 | The Department of Immigration and Border Protection (DIBP) issued Mr X with a letter notifying him of the unintentional release of personal information. ¹ |
| 7 April 2014 | Mr X was issued with a letter notifying him of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations. DIBP advised Mr X that it was assessing whether he had raised further protection related claims as a result of the privacy breach. |
| 11 September 2014 | DIBP finalised the ITOA, determining Mr X's case did not engage Australia's <i>non-refoulement</i> obligations following the assessment of updated country information. |
| 6 February 2015 | He was referred for removal action. |
| 19 May 2015 | Requested judicial review by the Federal Court (FC). |
| 12 August 2015 | DIBP advised that Mr X remains a person of interest to its National Security and Serious Crime Reporting Team following his criminal conviction. |
| 28 August 2015 | FC affirmed original decision. |
| 21 September 2015 | Requested judicial review by the Full Federal Court. |

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.

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| 2 October 2015 | Filed a notice of discontinuance. |
| 13 November 2015 | Requested special leave for judicial review by the High Court. |

Criminal history

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| 7 September 2013 | Mr X appeared before the Q Magistrates Court following an incident at Facility C on 22 October 2011. He was convicted of indecent assault and fined \$5,000. |
| 5 March 2013 | Mr X appealed his sentence at the Q Supreme Court and the fine was reduced to \$2,000. |

Health and welfare

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| International Health and Medical Services advised that Mr X has not required treatment for any major physical health issues. | |
| 1 December 2015 | Mr X was reviewed by a psychiatrist and no mental health concerns were identified. |

Information provided by Mr X

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| Mr X was offered the opportunity to discuss his detention circumstances with Ombudsman staff but declined to do so. |
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Case status

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| Mr X was initially found to be owed protection under the Refugee Convention on 26 April 2011. He was refused the grant of a Protection visa under s 501 on 29 August 2013. On 11 September 2014 an ITOA determined that Mr X's case no longer engaged Australia's <i>non-refoulement</i> obligations following the assessment of updated country information. He is awaiting the outcome of judicial review. |
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