

**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 48 months (four years).

The first report 1001558 was tabled in Parliament on 4 March 2015 and the second report 1002039 was tabled in Parliament on 9 September 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X
Citizenship	Country A
Year of birth	1969
Ombudsman ID	1000979-O
Date of DIBP's reports	18 November 2015 and 18 May 2016
Total days in detention	1451 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002039), Mr X remained at Yongah Hill Immigration Detention Centre (IDC).	
10 September 2015	Transferred to Christmas Island IDC.
1 October 2015	Transferred to Yongah Hill IDC.

Recent visa applications/case progression

9 June 2015	The Department of Immigration and Border Protection (DIBP) finalised an International Treaties Obligations Assessment (ITOA) with a finding that Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
25 June 2015	Requested judicial review by the Federal Circuit Court (FCC). DIBP advised that Mr X's case is affected by the judgment handed down by the Full Federal Court (FFC) ¹ which found that the ITOA process was procedurally unfair.
21 March 2016	The Minister filed a notice in the High Court (HC) to appeal the FFC's decision.
13 April 2016	The Minister lifted the bars under ss 46A and 48B to allow Mr X to lodge a temporary visa application. DIBP is yet to invite him to apply.
18 May 2016	DIBP advised that Mr X's judicial review by the FCC is adjourned until the Minister's appeal in the HC is determined.

¹ SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to be treated for asthma and dental issues and was referred to a specialist following an ankle injury in February 2016.

Mr X also attended psychological counselling until October 2015, when he advised IHMS that he did not find the counselling helpful. IHMS advised that he is aware of the self-referral process and has not presented with any chronic or major mental health concerns since.

Case status

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He is awaiting the outcome of judicial review.

Mr X's case is also affected by the FFC's judgment of 2 September 2015, which found that the ITOA process undertaken by DIBP was procedurally unfair. On 21 March 2016 the Minister filed a notice in the HC to appeal the FFC's decision.

On 13 April 2016 the Minister lifted the bars under ss 46A and 48B to allow Mr X to apply for a temporary visa. Mr X is awaiting an invitation to apply.