

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

*Under s 486O of the Migration Act 1958*

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

The first report 1001283 was tabled in Parliament on 18 June 2014, the second report 1001513 was tabled in Parliament on 22 October 2014 and the third report 1001964 was tabled in Parliament on 3 June 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1994
<b>Ombudsman ID</b>	1002467
<b>Date of DIBP's reports</b>	5 May 2015, 29 October 2015 and 28 April 2016
<b>Total days in detention</b>	1633 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1001964), Mr X remained at Facility B.	
29 October 2015	The Department of Immigration and Border Protection (DIBP) advised that he was located at Facility C.

**Recent visa applications/case progression**

13 January 2015	DIBP informed Mr X that his protection claims would be reassessed as part of a new International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
19 January 2015	Mr X filed a notice of discontinuance with the Federal Circuit Court withdrawing his application for an injunction preventing his removal from Australia
29 October 2015	DIBP advised that Mr X's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) <sup>1</sup> 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 bar under ss 46A and 48A to allow Mr X to lodge a temporary visa application.
22 April 2016	DIBP invited Mr X to lodge a temporary visa application.

<sup>1</sup> SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.

### Other legal matters

29 October 2014	Mr X was allegedly involved in an assault. The matter was referred to the police and on 16 April 2015 the police advised it would not be investigating further.
9 May 2015	Mr X allegedly indecently exposed himself during an interview. The matter was referred to the police for investigation and he was charged and summonsed to appear in court on 29 September 2015. The charges were withdrawn and the case was dismissed.

### Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X continued to receive treatment for depression, a personality disorder, insomnia and a history of alcohol and substance abuse. He is prescribed with medication for sleeping difficulties and a personality disorder.</p> <p>DIBP Incident Reports recorded that Mr X self-harmed on multiple occasions, refused food and fluid and threatened to kill himself. He was offered supportive counselling which he declined. He is monitored by the mental health team.</p>	
14 – 15 April 2015	Mr X injured his hand by punching a microwave oven. He was transferred to an emergency department and was provided with treatment.
19 – 30 December 2015	Refused food and fluid as a form of protest. IHMS advised that since this time he has declined all mental health support.

### Recent detention incidents

DIBP Incident Reports recorded that Mr X was allegedly involved in a number of minor behavioural incidents.
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### Other matters

16 January 2016	Mr X lodged a complaint with the Ombudsman's office alleging that some of his personal possessions had been lost during his transfer to Facility C and after his transfer there. He was advised to wait for a response from his complaint to Serco and DIBP about this matter and the investigation was finalised.
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### Case status

<p>Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion.</p> <p>Mr X's case is 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.</p> <p>On 13 April 2016 the Minister lifted the bars under ss 46A and 48A to allow Mr X to apply for a temporary visa and on 22 April 2016 DIBP invited Mr X to apply.</p>
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