

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 42 months (three and a half years).

The first report 1001693 was tabled in Parliament on 29 October 2014 and the second report 1002169 was tabled in Parliament on 3 February 2016. 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	1993
Ombudsman ID	1001040-O
Date of DIBP's report	31 December 2015
Total days in detention	1276 (at date of DIBP's report)

Recent detention history

Since the Ombudsman's previous report (1002169), Mr X remained at Yongah Hill Immigration Detention Centre.	
31 July 2015	Transferred to Wickham Point Alternative Place of Detention (APOD).

Recent visa applications/case progression

12 October 2015	The Federal Circuit Court placed the judicial review of Mr X's negative International Treaties Obligations Assessment (ITOA) on hold and requested that it be rescheduled pending the outcome of any appeals of the judgment handed down on 2 September 2015 by the Full Federal Court (FFC). ¹
31 December 2015	The Department of Immigration and Border Protection (DIBP) advised that Mr X's case is affected by the FFC judgment which found that the ITOA process conducted in relation to the privacy breach ² was procedurally unfair.
21 March 2016	The Minister filed a notice in the High Court (HC) to appeal the FFC's decision.

Health and welfare

International Health and Medical Services provided details of Mr X's health and welfare. No significant ongoing physical or mental health concerns were noted.
--

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

² 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.

Information provided by Mr X

During an interview with Ombudsman staff at Wickham Point APOD on 20 April 2016 Mr X advised he had recently seen his case manager but they had no update. He said he is still waiting for the outcome of his court case.

He said he considers his physical health to be good, his mental health to be normal and he did not come across any problems when he needed to access healthcare.

Mr X said he spends his time in detention watching movies and reading. He explained he has not participated in activities for the last few months because he has not felt motivated. He said that once or twice a month he is allowed to attend church.

Mr X indicated he did not have a strong support network. He advised he did not socialise with many of the detainees at Wickham Point APOD but shares a room with a friend who helps him with translation of letters and documents he receives in English.

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.