

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X who has remained in restricted immigration detention for more than 36 months (three years).

The first report 1002256 was tabled in Parliament on 17 June 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1989
Ombudsman ID	1003265
Date of DIBP's reports	17 August 2015 and 16 February 2016
Total days in detention	1,097 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002256), Mr X has remained at Yongah Hill Immigration Detention Centre.

Recent visa applications/case progression

19 March 2015	The Department of Immigration and Border Protection (DIBP) finalised the International Treaties Obligations Assessment (ITOA), finding that Mr X's case did not engage Australia's <i>non-refoulement</i> obligations.
24 March 2015	Requested judicial review by the Federal Circuit Court.
16 February 2016	DIBP advised that Mr X's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ¹ which found that the ITOA process was procedurally unfair. DIBP further advised that it has filed an application in the High Court (HC) for special leave to appeal the FFC's decision but is making the necessary administrative arrangements to recommence consideration of privacy breach-related claims prior to the matter being heard by the HC.

Health and welfare

3 April 2014	A DIBP Incident Report recorded that Mr X refused food and fluid as a form of protest.
2 June 2014	International Health and Medical Services (IHMS) advised that Mr X was identified as a hepatitis B contact and monitored as per state policy.
31 March 2015 – 3 August 2015	Declined to attend three routine mental health assessments.

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

11 September 2015	Mr X was diagnosed with hepatitis D and monitored as per state policy.
18 January 2016	No mental health concerns were identified during his routine mental health assessment. IHMS advised that Mr X presented with a positive outlook and self-refers as required.

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. DIBP has advised that it is making administrative arrangements to recommence consideration of privacy breach-related claims.