

**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 1002368 was tabled in Parliament on 11 November 2015 and the second report 1003449 was tabled in Parliament on 14 September 2016. 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>	1974
<b>Ombudsman ID</b>	1001285-O
<b>Date of DIBP's reports</b>	19 September 2016 and 20 March 2017
<b>Total days in detention</b>	1458 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1003449), Mr X remained at Wickham Point Alternative Place of Detention.	
16 June 2016	Transferred to Melbourne Immigration Transit Accommodation.

**Recent visa applications/case progression**

27 July 2016	The Minister appealed the Full Federal Court decision and the High Court (HC) found that the International Treaties Obligations Assessment process was not procedurally unfair. <sup>1</sup>  The Department of Immigration and Border Protection (the department) advised that it is considering the implications of this judgment.
29 July 2016	Mr X's case was referred on a first stage ministerial submission for consideration under s 195A of the <i>Migration Act 1958</i> for the grant of a Bridging visa.
9 September 2016	The Minister declined to intervene under s 195A.

**Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X attended counselling for management of anxiety and a history of torture and trauma. On 5 July 2016 he was reviewed by a psychologist after presenting with anxiety and grief related to his prolonged detention. His condition continued to be monitored by the IHMS mental health team.  IHMS further advised that Mr X continued to receive treatment for chronic back pain and hypertension.	
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<sup>1</sup> *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.

### **Ombudsman assessment/recommendation**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in restricted detention for more than four years. His case is affected by the HC judgment of 27 July 2016 and the department advised that it is considering the implications of this judgment.

The Ombudsman notes the Government's duty of care to detainees and the serious risk to mental and physical health prolonged restrictive detention may pose. The Ombudsman notes with concern that Mr X has remained in restricted detention for more than four years and has a history of mental health concerns related to prolonged detention.

In the Ombudsman's previous report (1003449), the Ombudsman recommended that Mr X be considered for a Bridging visa or community detention placement while he awaits the resolution of his case.

Given these ongoing concerns, the Ombudsman again recommends that Mr X be considered for a Bridging visa or community detention placement.