

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 1002027 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	1988
Ombudsman ID	1002536
Date of DIBP's reports	20 May 2015 and 16 November 2015
Total days in detention	1,096 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002027), Mr X has remained at Villawood Immigration Detention Centre.

Recent visa applications/case progression

14 January 2015	DIBP issued Mr X with a letter notifying him of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
25 March 2015	Mr X provided his response in relation to the ITOA.
17 August 2015	DIBP invited Mr X to comment on country and other information relevant to the ITOA. At the date of DIBP's latest review he had not provided a response.
29 September 2015	Mr X requested voluntary removal. However, DIBP advised that he had not requested withdrawal from the ITOA process.
16 November 2015	DIBP advised that Mr X is a person of interest following an alleged assault against another detainee.
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.
21 March 2016	The Minister filed an application in the High Court (HC) for special leave to appeal the FFC's decision.

Health and welfare

3 December 2014 – ongoing	International Health and Medical Services (IHMS) reported that there were no concerns or changes with Mr X's medical condition and monitoring continues.
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¹ SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.

5 January 2015	The general practitioner referred Mr X to a hospital emergency department after he injured his left shoulder. An ultrasound identified muscle bruising. He was prescribed with pain relief medication and attended physiotherapy on 29 January 2015.
3 February 2015 – 6 February 2015	Mr X was taken to a hospital emergency department after he was non-compliant with antibiotic treatment for an infection. He underwent surgery the following day. He was reportedly non-compliant with hospital treatment after declining to have his wound dressing changed. He was discharged on 6 February 2015 with a prescription for antibiotic medication. IHMS advised that he was compliant with his daily dressing changes and medication.
28 May 2015	IHMS advised that Mr X had not presented for a treatment program since 19 April 2015 but it continued to provide support and no concerns had been recorded.
25 October 2015	IHMS advised that records indicated that Mr X attended appointments for a treatment program during this reporting period.

Recent detention incidents

DIBP Incident Reports recorded that since the Ombudsman's previous report, Mr X allegedly continued to be abusive and aggressive towards Serco officers and other detainees. Use of force was used against Mr X on two occasions and he was the alleged victim of an assault on two occasions.	
10 October 2015	A DIBP Incident Report recorded that Mr X was one of several detainees who allegedly assaulted another detainee. DIBP advised that the matter has been referred to the Australian Federal Police.

Case status

<p>Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion.</p> <p>His 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 an application in the HC for special leave to appeal the FFC's decision.</p>
