

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

Under s 486O of the Migration Act 1958

This is the first s 486O report on Mr X who has remained in restricted immigration detention for more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1973
Ombudsman ID	1002300-O
Date of DIBP's report	27 January 2016

Detention history

23 January 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> after living unlawfully in the community. He was transferred to Villawood Immigration Detention Centre (IDC).
14 April 2014	Transferred to Yongah Hill IDC.

Visa applications/case progression

31 October 2010	Arrived in Australia on an Electronic Travel Authority (ETA) visa.
31 January 2011	Departed Australia.
19 March 2011	Arrived in Australia on an ETA visa valid until 19 June 2011.
19 June 2011	Mr X's visa ceased and he remained unlawfully in the community as a non-citizen.
23 January 2014	Located by authorities and detained under s 189(1).
4 February 2014	The Department of Immigration and Border Protection (DIBP) advised that Mr X requested removal from Australia and completed an application for travel documentation.
12 March 2014	Lodged a Protection visa application with an associated Bridging visa application.
13 March 2014	DIBP notified Mr X of the unintentional release of personal information. ¹ DIBP advised that Mr X subsequently withdrew his request for removal.
17 March 2014	Associated Bridging visa application deemed invalid.
11 April 2014	Attended an interview in relation to his Protection visa application.
22 May 2014	Protection visa application refused.
29 May 2014	Appealed to the Refugee Review Tribunal (RRT).
7 July 2014	RRT affirmed original decision.

¹ 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.

14 July 2014	Mr X's request for ministerial intervention under s 417 was not considered.
14 January 2015	DIBP notified Mr X that it had finalised an International Treaties Obligation Assessment (ITOA) and determined that his case did not engage Australia's <i>non-refoulement</i> obligations.
28 April 2015	Requested judicial review by the Federal Circuit Court (FCC).
27 October 2015	DIBP advised that Mr X's FCC hearing was relisted as his case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ² 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.

Health and welfare

International health and Medical Services advised that Mr X has not required treatment for any major mental health issues.	
3 April 2014	A DIBP Incident Report recorded that Mr X commenced food and fluid refusal.
21 April 2014 – ongoing	Mr X receives ongoing optometry care for vision concerns.
13 November 2015 – ongoing	Referred to a podiatrist to manage skin lesions after symptomatic treatment proved ineffective.

Detention incidents

DIBP Incident Reports recorded that Mr X was allegedly involved in multiple behavioural incidents including altercations and arguments with detainees.
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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. He is awaiting the outcome of judicial review.</p> <p>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.</p>
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² SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.