

ASSESSMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who has remained in restricted immigration detention for more than 48 months (four years).

The first assessment 1002431 was tabled in Parliament on 14 September 2015 and the second assessment 1003519 was tabled in Parliament on 14 September 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1973
Ombudsman ID	1001322-O
Date of DIBP's reviews	15 October 2016 and 18 April 2017
Total days in detention	1,458 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1003519), Mr X has remained at Facility B.

Recent visa applications/case progression

27 July 2016	The Minister appealed the Full Federal Court decision and the High Court found that the International Treaties Obligations Assessment (ITOA) process was not procedurally unfair. ¹ The Department of Immigration and Border Protection (the department) advised that it is considering the implications of this judgment.
5 January 2017	Mr X requested voluntary removal.
31 January 2017	Applied to the Federal Circuit Court for judicial review of his negative ITOA outcome.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was prescribed with medication and attended psychological counselling for the management of multiple mental health concerns including anxiety, depression and a personality disorder. IHMS further advised that Mr X attended physiotherapy for neck and back pain and underwent investigative testing after reporting ongoing epigastric pain.

Recent detention incidents

September 2016	An Incident Report recorded that Mr X was allegedly sexually harassed by another detainee. The matter was referred to the Australian Federal Police (AFP).
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¹ *Minister for Immigration and Border Protection v SZSSJ* [2016] HCA 29.

March 2017	An Incident Report recorded that Mr X allegedly sexually harassed another detainee. The matter was referred to the AFP.
April 2017	An Incident Report recorded that Mr X allegedly indecently assaulted another detainee. The matter was referred to the AFP.

Other matters

12 August 2016	Mr X lodged a complaint with the Office of the Commonwealth Ombudsman (the Office) after property was not returned to him following his transfer to Facility B. The complaint was investigated and on 15 February 2017 the department advised that Mr X's property would be returned to him. On 25 May 2017 Mr X lodged a further complaint with the Office following up on the matter.
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Case status

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. At the time of the department's latest review Mr X was awaiting the outcome of judicial review.
