

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 immigration detention for more than 36 months (three years).

The first report 1001886 was tabled in Parliament on 4 March 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	1984
Ombudsman ID	1002355
Date of DIBP's reports	20 March 2015 and 15 September 2015
Total days in detention	1,094 (at date of DIBP's latest report)

Recent detention history

9 January 2015	Mr X was transferred from the Wickham Point Immigration Detention Centre to Wickham Point Alternative Place of Detention (APOD). ¹
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Recent visa applications/case progression

17 November 2014	The Federal Circuit Court (FCC) dismissed Mr X's appeal against the Refugee Review Tribunal's decision of 1 October 2013 to affirm the refusal of his application for a Protection visa.
26 November 2014	Lodged an appeal to the Federal Court (FC).
8 January 2015	Lodged an application for a Bridging visa.
13 January 2015	The Department of Immigration and Border Protection (DIBP) notified Mr X that it had commenced an International Treaties Obligations Assessment (ITOA).
23 February 2015	Bridging visa was found to be invalid.
23 March 2015	FC dismissed Mr X's appeal.
9 April 2015	DIBP finalised the ITOA and concluded that Mr X's case does not engage Australia's <i>non-refoulement</i> obligations.
24 April 2015	Sought judicial review of the ITOA decision to the FCC.
16 June 2015	Filed a notice of discontinuance to withdraw his appeal.
18 June 2015	Applied for special leave to the High Court to appeal the ITOA decision. DIBP advised that this matter is still ongoing.

¹ DIBP's Australian Immigration Detention Network and Infrastructure report (September 2015) states that Wickham Point is a designated APOD comprising three compounds. One of these compounds is used to house single adult males and is considered a higher security compound than the compounds used to house families and children. Mr X is accommodated in the single adult male compound at Wickham Point APOD.

15 September 2015	DIBP advised that Mr X's case is affected by a recent FC judgment concerning the ITOA's undertaken as a result of the data breach. DIBP states that it is in the process of considering Mr X's case in light of this judgment.
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Health and welfare

March 2014	International Health and Medical Services (IHMS) advised that Mr X was diagnosed with an adjustment disorder and was anxious and depressed. He attended counselling sessions with the mental health team.
January 2015	Mr X advised IHMS that he did not require any further counselling.
June 2015	A mental health review noted that his mood was low due to the delay in resolving his immigration status. IHMS advised that he had nightmares and flashbacks in relation to past torture and trauma and a referral to a specialist counselling service was arranged.
29 August 2015	IHMS noted that it appeared Mr X had not attended any counselling appointments and that his mental health would improve if he was in a less restrictive environment.

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.
