

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 1002431 was tabled in Parliament on 14 September 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	1973
Ombudsman ID	1003519
Date of DIBP's reports	17 October 2015 and 8 April 2016
Total days in detention	1096 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002431), Mr X remained at Christmas Island Immigration Detention Centre (IDC).	
16 October 2015	Transferred to Yongah Hill IDC.
27 January 2016	Transferred to Christmas Island IDC.

Recent visa applications/case progression

30 April 2015	The Department of Immigration and Border Protection (DIBP) advised that Mr X lodged a second Protection visa application.
6 May 2015	Requested judicial review by the Federal Circuit Court (FCC) of the negative International Treaties Obligations Assessment (ITOA) in relation to the privacy breach. ¹
21 May 2015	Found not to meet the guidelines for referral to the Minister under s 48B of the <i>Migration Act 1958</i> .
27 May 2015	Mr X's case was referred on a ministerial submission for consideration under s 417.
5 June 2015	The former Assistant Minister declined to intervene under s 417.
10 August 2015	Found not to meet the guidelines for referral to the Minister under s 195A.

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.

23 October 2015	The FCC adjourned Mr X's judicial review pending the outcome of any appeals of the judgment handed down on 2 September 2015 by the Full Federal Court (FFC). ²
21 March 2016	The Minister filed a notice in the High Court (HC) to appeal the FFC's decision.
12 April 2016	Mr X requested voluntary removal. DIBP advised it is yet to assess his request.

Health and welfare

International Health and Medical Services (IHMS) reported that Mr X has been treated for a range of physical health issues including ongoing neck and lower back pain. Specialist review of his back identified a bulging disc in his spine and IHMS advised that Mr X's condition is managed with medication and physiotherapy.

IHMS advised that Mr X reported a history of mental health issues prior to his arrival in Australia. IHMS reported that he has had regular psychiatric reviews since being detained and was diagnosed with an adjustment disorder with depression and anxiety and a personality disorder. He was prescribed with medication and is monitored by the mental health team (MHT).

IHMS advised that Mr X's contact with the MHT has been sporadic and he has reported anger and frustration with his situation and isolation from his family in Sydney. He declined the offer of grief counselling after the death of his mother in February 2016 but he is aware of the self-referral process.

1 February 2016 – ongoing	He disclosed a history of torture and trauma and attends specialist counselling.
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Other matters

12 June 2015	The Australian Human Rights Commission advised DIBP that Mr X's complaint of 9 January 2015 was finalised as resolution was achieved through a conciliation process.
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Case status

Mr X has been found not to be owed protection under the Refugee Convention and complementary protection criterion. He is awaiting the outcome of judicial review.

Mr X's 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 a notice in the HC to appeal the FFC's decision.

² *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.