

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fifth s 486O report on Mr X who has remained in immigration detention for more than 72 months (six years).

The first report 1659/13 was tabled in Parliament on 4 December 2013, the second report 1001388 was tabled in Parliament on 24 September 2014, the third report 1002121 was tabled in Parliament on 3 June 2015 and the fourth report 1002814 was tabled in Parliament on 24 February 2016. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X
Citizenship	Country A
Year of birth	1976
Ombudsman ID	1000519-O
Date of DIBP's reports	17 December 2015 and 16 June 2016
Total days in detention	2186 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002814), Mr X has remained in Yongah Hill Immigration Detention Centre.	
25 May 2016	Transferred to community detention.

Recent visa applications/case progression

11 May 2015	Requested judicial review by the Federal Circuit Court (FCC) of the International Treaties Obligations Assessment (ITOA) conducted by the Department of Immigration and Border Protection (DIBP) in relation to the privacy breach. ¹
17 December 2015	DIBP advised that Mr X's case was 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. The FCC adjourned the review of Mr X's ITOA pending the outcome of any appeal against the FFC's decision.
13 April 2016	The Minister lifted the bar under s 46A of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
21 April 2016	DIBP invited Mr X to lodge an application for a temporary visa application.

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.

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

5 May 2016	The Minister intervened under s 197AB to allow Mr X to reside in community detention.
18 May 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. He declined the offer on 23 May 2016.
27 July 2016	The Minister appealed the FFC decision and the High Court found that the ITOA process was not procedurally unfair. ³

Health and welfare

International Health and Medical Services advised that Mr X has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

Other matters

1 March 2016	The Ombudsman's office opened an investigation to determine why Mr X was assessed as not meeting the guidelines for a Bridging visa. On 14 April 2016 and 26 May 2016 DIBP provided its response and on 31 May 2016 the complaint was finalised.
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Case status

Mr X was detained on 18 June 2010 after arriving in Australia aboard Suspected Illegal Entry Vessel *Dunmore* and has been held in detention for over six years.

On 13 April 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 21 April 2016 DIBP invited Mr X to apply.

³ *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.