

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O report on Mr X who has remained in immigration detention for a cumulative period of more than 48 months (four years).

The first report 1001656 was tabled in Parliament on 1 October 2014 and the second report 1002128 was tabled in Parliament on 29 April 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	1995
Ombudsman ID	1001023-O
Date of DIBP's reports	23 May 2016 and 10 November 2016
Total days in detention	1458 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002128), Mr X has remained at Villawood Immigration Detention Centre.

Recent visa applications/case progression

13 July 2015	Lodged appeal in the Federal Court (FC) against the Federal Circuit Court decision dismissing his application for judicial review of the decision of the Refugee Review Tribunal.
19 November 2015	The FC dismissed the appeal.
5 December 2015	Requested ministerial intervention under s 417 of the <i>Migration Act 1958</i> .
9 February 2016	Mr X's case was referred for the Minister's consideration under s 417.
24 February 2016	The Minister declined to intervene.
14 March 2016	Mr X's involuntary removal to Country A which was scheduled for 29 March 2016 was aborted, as the Department of Immigration and Border Protection (the department) had commenced an International Treaties Obligations Assessment (ITOA) in relation to the data breach ¹ which was affected by the Full Federal Court's (FFC) decision of 2 September 2015. ²

¹ In a media release dated 19 February 2014 the Minister advised that an immigration detention statistics report was released on the department's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as the department became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by the department.

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

13 April 2016	The Minister intervened, lifting the s 46A and 46B bars, allowing maritime arrivals who arrived in Australia prior to 13 August 2012 and who were affected by the data breach to apply for a temporary visa.
27 July 2016	The Minister appealed the FFC decision and the High Court found that the ITOA process was not procedurally unfair. ³ The department advised that it is considering the implications of this judgment.
2 August 2016	Mr X's case was referred on a ministerial intervention submission under s 195A for possible grant of a bridging visa. On 9 September 2016 the Minister declined to intervene.
1 September 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. He accepted the offer on 6 September 2016. The department advised on 10 November 2016 that he had yet to be invited to lodge a temporary visa application.

Health and welfare

International Health and Medical Services advised that Mr X did not require treatment for any major physical or mental health issues in the periods being reported on.

Case status

Mr X was detained on 20 June 2012 after arriving in Australia by sea and has been held in restricted detention for more than four years.

On 13 April 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa. Mr X is awaiting an invitation to apply for a temporary visa.

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