

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O report on Mr X who remained in restricted immigration detention for more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1954
Ombudsman ID	1003437
Date of DIBP's report	21 September 2015
Total days in detention	734 (at date of DIBP's report)

Detention history

17 September 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> following release from criminal custody. He was transferred to Villawood Immigration Detention Centre (IDC).
14 April 2014	Transferred to Yongah Hill IDC.
February 2016	Mr X was released from detention when he voluntarily departed Australia and returned to Country A.

Visa applications/case progression

13 June 2006	Arrived in Australia as the holder of a Business visa valid until 13 September 2006.
25 July 2006	Lodged a Protection visa application with an associated Bridging visa application. On the same day he was granted an associated Bridging visa valid until 8 March 2007.
6 September 2006	Protection visa application refused.
29 September 2006	Appealed to the Refugee Review Tribunal (RRT).
30 January 2007	RRT affirmed original decision.
15 May 2007 and 24 July 2007	Found not to meet the guidelines for referral to the former Minister under s 417.
15 January 2011	Mr X remained in the community as an unlawful non-citizen until he was located by the Australian Federal Police and charged with a drug offence. He was taken into custody.
21 February 2011	Issued with a Criminal Justice Stay Certificate followed by a Criminal Justice Stay Visa (CJSV).
17 September 2013	Mr X was released from prison. His CJSV was cancelled and he was detained under s 189(1).
24 September 2013	Lodged a Bridging visa application.
25 September 2013	Bridging visa application refused.
11 October 2013	Lodged a Protection visa application.

29 October 2013	Lodged an associated Bridging visa application.
23 January 2014	Associated Bridging visa refused under s 501.
12 March 2014	The Department of Immigration and Border Protection (DIBP) notified Mr X of the unintentional release of personal information. ¹
11 December 2014	Protection visa application refused.
17 December 2014	Appealed to the RRT.
23 March 2015	RRT affirmed original decision.
13 April 2015	Requested judicial review of the RRT decision by the Federal Circuit Court (FCC).
17 July 2015	Lodged a Bridging visa application.
21 July 2015	Bridging visa application refused.
5 August 2015	FCC hearing adjourned. A new hearing was scheduled for 24 February 2016.
13 August 2015	The High Commission of Country A issued Mr X with an Emergency Travel Certificate after he requested voluntary removal from Australia. He subsequently requested to be removed to a country other than Country A.
21 September 2015	DIBP advised that Mr X was a person of interest.
15 October 2015	Requested removal from Australia to Country A.
February 2016	DIBP advised that Mr X's case is affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ² which found that the International Treaties Obligations Assessment process was procedurally unfair. DIBP further advised that it has filed an application in the High Court (HC) for special leave to appeal the FFC's decision but is making the necessary administrative arrangements to recommence consideration of privacy breach-related claims prior to the matter being heard by the HC.
February 2016	Mr X voluntarily departed Australia.

Criminal history

2 February 2012	Mr X was convicted of a drug offence and sentenced to five years imprisonment with a non-parole period of three years. A subsequent appeal reduced his sentence to four years imprisonment with a non-parole period of two years and six months.
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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.

Health and welfare

International Health and Medical Services advised that Mr X did not require treatment for any major physical or mental health issues.

Case status

Mr X voluntarily departed Australia in February 2016 and returned to Country A.