

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 Miss X who has remained in immigration detention for more than 24 months (two years).

Name	Miss X
Citizenship	Country A (born to parents ¹ in immigration detention)
Year of birth	2013
Ombudsman ID	1002295-O
Date of DIBP's report	18 January 2016
Total days in detention	732 (at date of DIBP's latest report)

Detention history

16 January 2014	Following her birth to parents in community detention Miss X was detained under s 189(1) of the <i>Migration Act 1958</i> .
-----------------	---

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Miss X's case is affected by the case progression of her parents who have both been found not to be owed protection.	
13 March 2014	The family was notified of the unintentional release of personal information. ²
10 November 2014	DIBP notified the family of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of their case engage Australia's <i>non-refoulement</i> obligations as their case was affected by the Full Federal Court's (FFC) decision of 20 March 2013. ³
14 July 2015	DIBP invited the family to comment on information relevant to the ITOA. The family provided a response on 5 August 2015.
18 January 2016	DIBP advised that the family's case is affected by the judgment handed down on 2 September 2015 by the FFC ⁴ which found that the ITOA process was procedurally unfair.
21 March 2016	The Minister filed a notice in the High Court (HC) to appeal the FFC's decision.

¹ Miss X's parents, Mr Y and Ms Z, are the subject of Ombudsman report 1003499.

² 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.

³ *Minister for Immigration and Citizenship v SZQRB* [2013] FCAFC 33.

⁴ *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

Health and welfare

International Health and Medical Services advised that due to ongoing dental issues and concern about her vision Miss X was referred for specialist review and treatment. Appointments were pending.

Case status

Miss X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion.

Miss X and her family'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.