

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 a cumulative period of more than 42 months (three and a half years).

The first report 1002366 was tabled in Parliament on 11 November 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	1981
Ombudsman ID	1003429
Date of DIBP's reports	16 September 2015 and 16 March 2016
Total days in detention	1276 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002366), Mr X remained at Facility E.	
1 May 2015	Transferred to Facility F.

Recent visa applications/case progression

12 March 2014	The Department of Immigration and Border Protection (DIBP) notified Mr X of the unintentional release of personal information. ¹
5 September 2014	DIBP invited Mr X to comment on the privacy breach.
18 September 2014	He provided a response in relation to the privacy breach.
16 September 2015	DIBP advised that a judicial review hearing of Mr X's negative Independent Protection Assessment by the Federal Circuit Court (FCC) was scheduled for 14 December 2015.
16 March 2016	DIBP advised that Mr X's judicial review case remains ongoing and the next FCC hearing date is scheduled for 22 June 2016. DIBP also 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 (ITOA) process was procedurally unfair.
21 March 2016	The Minister filed an application in the High Court (HC) for special leave to appeal the FFC's decision.

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

17 April 2015 – 28 August 2015	<p>International Health and Medical Services (IHMS) reported that Mr X has not required treatment for any significant physical health concerns during this reporting period.</p> <p>IHMS advised that he continued to be treated for schizophrenia and that the psychiatrist noted that Mr X's mental health had deteriorated following his transfer to Facility F. IHMS reported that Mr X had little insight into his condition and was at risk of non-compliance with his medication. In July 2015 he ceased his medication and a further deterioration in his mental health was noted. He required Supportive Monitoring and Engagement observations during this reporting period (dates not provided).</p>
28 August 2015	IHMS reiterated the psychiatrist's recommendation of 11 June 2014 which stated that Mr X should be transferred to community detention as his mental health was likely to be adversely affected by restricted detention.
10 September 2015	During a psychiatric review he agreed to recommence antipsychotic medication.
1 October 2015 – 2 October 2015	Mr X reported that he had been hit in the face during an altercation with another detainee. He had symptoms of concussion and was taken to a hospital emergency department. He was admitted for observations and discharged the following day with a prescription for pain relief medication.
9 October 2015	At a psychiatric review Mr X reported that he was happy with his new medication as he felt his mental health had improved.
16 October 2015	Mr X's mental health review noted he reported that he still experienced hallucinations which keep him awake but were not causing him concern.
21 November 2015	He was referred for specialist counselling following his physical assault and because he was grieving the death of a friend. IHMS advised that an appointment was outstanding at the time of its latest report dated 9 February 2016.
9 February 2016	IHMS advised that Mr X self-refers to the mental health team and a psychiatric review was scheduled for March 2016.

Case status

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

Mr X's case is also 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 an application in the HC for special leave to appeal the FFC's decision.