

**REPORT BY THE COMMONWEALTH AND  
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

*Under s 486O of the Migration Act 1958*

This is the fourth s 486O report on Mr X who has remained in restricted immigration detention for more than 54 months (four and a half years).

The first report 1001559 was tabled in Parliament on 1 October 2014, the second report 1002043 was tabled in Parliament on 3 June 2015 and the third report 1002539 was tabled in Parliament on 6 May 2016. This report updates the material in those reports and should be read in conjunction with the previous reports.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1976
<b>Ombudsman ID</b>	1000980-O
<b>Date of DIBP's reports</b>	23 May 2016 and 20 November 2016
<b>Total days in detention</b>	1640 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1002539), Mr X has remained at Yongah Hill Immigration Detention Centre (IDC).
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**Recent visa applications/case progression**

22 January 2016	Found not to meet the guidelines for referral to the Minister under s 48B.
15 February 2016	Mr X's case was referred on a ministerial submission under s 417, which the Minister declined to consider on 24 February 2016.
9 March 2016	Referred on a ministerial submission under s 195A for consideration to grant a Bridging visa. The Minister declined to intervene on 27 March 2016.
23 May 2016	The Department of Immigration and Border Protection (the department) advised that Mr X remains a person of interest.
23 June 2016	Lodged a Bridging visa application which was deemed invalid the following day.
27 July 2016	The Minister appealed the Full Federal Court decision <sup>1</sup> relating to the International Treaties Obligations Assessment process and the High Court found that the process was not procedurally unfair. <sup>2</sup> The department advised that it is considering the implications of this judgment.
20 November 2016	The department advised it is preparing a ministerial submission with options for consideration to resolve Mr X's immigration status.

<sup>1</sup> SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125.

<sup>2</sup> Minister for Immigration and Border Protection & Anor v SZSSJ & Anor [2016] HCA 29.

## Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was prescribed with pain relief medication and referred for physiotherapy in March 2016 after reporting back pain. He attended physiotherapy in May 2016 with no further concerns raised.

IHMS further advised that Mr X continued to be managed by the mental health team for depression and detention fatigue. He declined further mental health support and is aware of the self-referral process.

## Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in restricted detention for more than four and a half years.

The Ombudsman's previous report 1002539, tabled in Parliament on 6 May 2016, recommended that consideration be given to transferring Mr X to Adelaide Immigration Transit Accommodation (ITA) or Melbourne ITA so he could be closer to his family support network while he awaited the resolution of his immigration status, noting improvement in his mental health.

The Minister noted the Ombudsman's recommendation and advised that the department was considering alternative placement options for Mr X that were closer to his family.

The Ombudsman further notes that the department has advised that it is preparing a ministerial submission with options for consideration for the resolution of Mr X's immigration status.

Given that Mr X has remained at Yongah Hill IDC, the Ombudsman recommends that he again be considered for placement at a facility that is closer to his family while he awaits the resolution of his immigration status.