

## **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 more than 36 months (three years).

The first report 1001693 was tabled in Parliament on 29 October 2014. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1993
<b>Ombudsman ID</b>	1002169
<b>Date of DIBP's reports</b>	7 January 2015 and 3 July 2015
<b>Total days in detention</b>	1,095 (at date of DIBP's latest report)

### **Recent detention history**

Since the Ombudsman's previous report (1001693), Mr X has remained at Yongah Hill Immigration Detention Centre.

### **Recent visa applications/case progression**

The Ombudsman's previous report incorrectly recorded several case progression details. The amended details follow.

26 October 2011	Mr X lodged a Protection Obligations Evaluation (POE).
7 December 2011	The POE was refused and referred to the Independent Protection Assessment (IPA) Office for review.
25 May 2012	The IPA recommended that Mr X (and his brother) not be recognised as persons to whom Australia had protection obligations. The Independent Protection Assessor proceeded on the basis that Mr X was a minor.
2 August 2012	Mr X applied to the Federal Magistrates Court (FMC) for judicial review of the IPA.
1 March 2013	The FMC found the IPA report and recommendation were not made according to law and the Department of Immigration and Citizenship (DIAC) agreed to undertake a fresh assessment.
10 October 2013	A second POE found Mr X was not owed protection.

15 May 2014	Mr X was one of a group of detainees who lodged proceedings in the Federal Circuit Court (FCC) following the unintentional release of personal information through DIBP's website data breach <sup>1</sup> seeking an injunction and declarations concerning their removal pending an assessment of protection claims arising from the data breach. The proceedings were considered together and the applications were dismissed.
4 September 2014	Mr X was issued with a letter inviting him to comment on the data breach.
17 September 2014	Mr X provided his response to DIBP.
7 January 2015	DIBP advised it was assessing whether he had raised further protection claims as a result of the data breach.
13 February 2015	DIBP invited Mr X to comment on information relevant to an ongoing International Treaties Obligations Assessment (ITOA).
17 February 2015	Mr X provided his response to DIBP.
7 April 2015	DIBP finalised Mr X's ITOA with a finding that <i>non-refoulement</i> obligations did not apply in his case.
24 April 2015	Mr X lodged an application for judicial review of the ITOA decision with the Melbourne registry of the FCC.
28 April 2015	Mr X lodged an application for judicial review of the ITOA decision with the Perth registry of the FCC. A hearing was scheduled for 29 October 2015.
10 June 2015	Mr X withdrew the application for judicial review which he had lodged with the Melbourne registry of the FCC.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

### 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.

<sup>1</sup> 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.