

**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 has remained in restricted immigration detention for a cumulative period of more than 36 months (two and half years).

Name	Mr X
Citizenship	Country A
Year of birth	1984
Ombudsman ID	1002387-O
Date of DIBP's reports	11 May 2016 and 31 October 2016
Total days in detention	914 (at date of DIBP's latest report)

Detention history

1 May 2014	Detained under s 189(1) of the <i>Migration Act 1958</i> after release from prison. He was transferred to Villawood Immigration Detention Centre (IDC).
30 March 2015	Transferred to Christmas island IDC.
5 November 2015	Transferred to Yongah Hill IDC.

Visa applications/case progression

Mr X arrived in Australia on 10 October 2003 at the age of 19 with his mother, one sister and three brothers, on a Global Special Humanitarian visa.	
On 8 November 2012 a delegate of the Minister cancelled Mr X's visa on character grounds. An application to review that decision was made to the Administrative Appeals Tribunal (AAT) but the application was out of time.	
22 January 2014	Lodged a Protection visa application.
31 May 2014	Protection visa application refused.
4 July 2014	Appealed to the Refugee Review Tribunal (RRT).
1 October 2014	The RRT found Mr X was a person in respect of whom Australia had protection obligations under the Refugee Convention and remitted his application to the Department of Immigration and Border Protection (DIBP) with the direction that he satisfied s 36(2)(a).
5 August 2016	Protection visa application refused on character grounds.
15 August 2016	Appealed to the AAT.
31 October 2016	AAT affirmed original decision.

Criminal history

28 November 2006	Convicted of assault occasioning actual bodily harm and assaulting police and other offences. Sentenced to 12 months imprisonment.
30 April 2009 and 25 May 2009	Convicted of assault and assault occasioning actual bodily harm. Sentenced to 12 months imprisonment on each matter.
2 October 2009	Convicted of assault and sentenced to 10 months imprisonment with a two year apprehended violence order.
2 September 2010	Convicted of assault occasioning actual bodily harm and sentenced to 13 months imprisonment.
Apart from offences relating to assault, Mr X's criminal history also includes several instances of contravening apprehended domestic violence orders, some public order offences and several offences involving drugs and/or alcohol including some driving offences.	

Health and welfare

International Health and Medical Services advised that Mr X was treated for alcohol dependency and prescribed with medication and counselling for anxiety and depression. He disclosed a history of torture and trauma and attended specialist counselling. He has been referred for further specialist counselling and is awaiting notification of an appointment date.

Other matters

Mr X has an Australian citizen daughter.

Ombudsman assessment

The RRT found Mr X to be owed protection under the Refugee Convention but following remittal DIBP refused his application for a protection visa on character grounds. The AAT has affirmed this decision. The Ombudsman notes that at the date of DIBP's latest review, Mr X was still within the timeframe to apply for judicial review of the AAT's decision.

Mr X has been held in restricted detention for more than two and a half years.

The Ombudsman notes the Government's duty of care to detainees and the serious risk to mental and physical health that prolonged and indefinite restricted immigration detention may pose. Given the length of time Mr X has been in restricted detention the Ombudsman is concerned about the ongoing effect of detention on his physical and mental health. The Ombudsman makes no recommendation in this report.