

**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 48 months (four years).

The first report 1002266 was tabled in Parliament on 15 April 2016. 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>	1978
<b>Ombudsman ID</b>	1001253-O
<b>Date of DIBP's reports</b>	20 June 2016 and 20 December 2016
<b>Total days in detention</b>	1459 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1002266), Mr X has remained at Yongah Hill Immigration Detention Centre.

**Previous case progression**

9 February 2015	The Administrative Appeals Tribunal (AAT) set aside the decision to refuse Mr X's Protection visa application and remitted the application to the Department of Immigration and Border Protection (the department). In remitting the decision, the AAT issued a direction that there were not serious reasons for suspecting that Mr X had committed a serious non-political crime outside Australia.
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**Recent visa applications/case progression**

25 July 2016	Mr X's case was referred on a ministerial submission for consideration under s 195A of the <i>Migration Act 1958</i> for the grant of a Bridging visa and under s 197AB for a possible community detention placement.
8 September 2016	Temporary Protection visa (TPV) application refused.
13 September 2016	Appealed to the AAT.
13 October 2016	The Minister declined to intervene under s 195A or s 197AB.

## **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X received treatment and counselling for mental health conditions including a history of torture and trauma, post-traumatic stress disorder, an adjustment disorder, and a reactive depressive disorder. In April 2016 Mr X was assessed to be suffering from detention fatigue and severe distress.

IHMS further advised that Mr X received ongoing treatment for type 2 diabetes, rheumatic fever, and high cholesterol. He was reviewed by a cardiologist following atypical chest pain, but investigations identified no cardiac abnormalities.

## **Ombudsman assessment/recommendation**

Mr X was detained on 18 May 2012 after arriving in Australia by sea and has been held in restricted detention for more than four years.

Mr X's TPV application was refused on 8 September 2016 and at the time of the department's latest review he was awaiting the outcome of merits review by the AAT.

The Ombudsman notes that in the AAT's decision of 9 February 2015 it issued a direction that Mr X was not a person for whom there were serious reasons for considering that he had committed a serious non-political crime outside Australia. The Ombudsman further notes that during his time in detention Mr X does not appear to have been involved in any alleged behavioural incidents.

Given the length of time that Mr X has remained in restricted detention and his ongoing mental health concerns, the Ombudsman recommends that he be again considered for a Bridging visa or a community detention placement.