

**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 60 months (five years).

The first report 1002284-O was tabled in Parliament on 14 September 2015. 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>	1964
<b>Ombudsman ID</b>	1002284-O1
<b>Date of DIBP's report</b>	28 July 2016 <sup>1</sup>
<b>Total days in detention</b>	1818 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1002284-O), Mr X remained at Wickham Point Alternative Place of Detention.	
4 May 2016	Transferred to Melbourne Immigration Transit Accommodation.

**Recent visa applications/case progression**

7 March 2016	The Administrative Appeals Tribunal affirmed the decision not to grant Mr X a Protection visa.
24 March 2016	Requested judicial review by the Federal Circuit Court. The matter was listed for final hearing on 20 July 2016.

**Health and welfare**

International Health and Medical Services advised that on 16 December 2015 Mr X disclosed a history of torture and trauma but declined an offer of referral for specialist counselling.
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<sup>1</sup> DIBP's first report dated 11 January 2016, written as a 24 month report, referred to a period of detention between 30 October 2002 and 5 April 2005 which the report did not include in calculating the time Mr X had spent in detention under s 486N of the *Migration Act 1958*. The report stated that because the period of detention was prior to the *Migration Amendment (Detention Arrangements) Act 2005*, DIBP's Statutory Reporting on Detention (SRD) section was seeking a legal opinion to establish whether this period of detention should in fact be taken into account. DIBP's second report dated 28 July 2016 advised that the SRD section had now received a legal opinion confirming that this period of detention should be counted. As a result the second report was written as a 60-month report.

### **Ombudsman assessment**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. At the time of the Department of Immigration and Border Protection's (DIBP) latest review Mr X was awaiting the outcome of judicial review.

The Ombudsman notes DIBP's advice that following legal advice it has now included Mr X's previous period of detention between 30 October 2002 and 5 April 2005 in the calculation of the length of his detention under s 486N. This has resulted in DIBP's second report on Mr X's detention being written as a 60-month report.