

**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 1003430 was tabled in Parliament on 31 August 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>	1980
<b>Ombudsman ID</b>	1002157-O
<b>Date of DIBP's reports</b>	23 March 2016 and 10 September 2016
<b>Total days in detention</b>	1094 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1003430), Mr X remained at Christmas Island Immigration Detention Centre (IDC).	
23 May 2016	Transferred to a correctional facility on a holding order. He remained in immigration detention.
5 July 2016	Transferred to Facility B.
11 August 2016	Transferred to Facility C.

**Recent visa applications/case progression**

20 July 2016	The Federal Circuit Court heard Mr X's application for judicial review of the Refugee Review Tribunal's decision and judgement was reserved.
--------------	----------------------------------------------------------------------------------------------------------------------------------------------

**Other legal matters**

March 2016	Mr X appeared before the City D Magistrates Court in relation to three separate charges of assault for incidents that occurred on 1 January 2015, 21 January 2015 and 6 May 2015. The matter was adjourned and Mr X was scheduled to appear before the City E Magistrates Court in relation to these charges in April 2016.  The Department of Immigration and Border Protection's (DIBP) most recent review advised that Mr X was due to appear before the City E Magistrates Court in relation to these charges in December 2016.
23 March 2016	DIBP advised that Mr X was the subject of an outstanding arrest warrant for criminal charges in Western Australia.

## Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment for epigastric pain and was referred for physiotherapy to manage ongoing wrist and knee pain.</p> <p>IHMS further advised that Mr X presented with symptoms of anxiety and stress-induced headaches in April 2016 and was referred to the mental health team. He attended one group counselling session before being transferred to another facility.</p>	
22 March 2016	Mr X presented with a lacerated lip after an alleged assault. His wound was treated and he was provided with pain-relief medication.

## Recent detention incidents

<p>DIBP Incident Reports recorded that Mr X allegedly behaved in an abusive, aggressive and threatening manner towards Serco officers and other detainees on numerous occasions.</p>	
22 March 2016	A DIBP Incident Report recorded that Mr X was the alleged victim in an altercation with another detainee.
18 May 2016	A DIBP Incident Report recorded that Mr X assaulted a detention centre staff member by spitting in his face. Spontaneous force was used to restrain Mr X and he was placed in mechanical restraints and a body belt before being placed in the behavioural management unit. The matter was referred to the Australian Federal Police (AFP) for investigation on 26 May 2016 and on 1 August 2016 the AFP accepted the referral.

## Other matters

12 October 2015	The Australian Human Rights Commission (AHRC) notified DIBP of a complaint concerning Mr X. DIBP provided a response to the AHRC on 22 January 2016 and the complaint was closed on 24 June 2016.
30 June 2016	Mr X's complaint to the Ombudsman's office alleging he had been assaulted and injured by Serco officers was finalised, with comments provided to DIBP about the importance of maintaining appropriate audio visual records.
14 November 2016	Mr X's complaint to the Ombudsman's office regarding the loss of his personal possessions during the riots at Christmas Island IDC was finalised. Mr X's property was unable to be located by Serco and he was advised that the Australian Border Force and Serco were currently considering the issue of compensation for property damage during the riots.

## Case status

<p>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 three years. At the time of DIBP's latest review Mr X was awaiting the outcome of judicial review.</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------