

**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 42 months (three and a half years).

The first report 1002557 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.

Name	Mr X
Citizenship	Country A
Year of birth	1981
Ombudsman ID	1001386-O
Date of DIBP's reports	17 May 2016 and 15 November 2016
Total days in detention	1276 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002557), Mr X has remained at Christmas Island Immigration Detention Centre.

Recent visa applications/case progression

4 May 2016	The Federal Circuit Court (FCC) dismissed Mr X's application for judicial review of the Refugee Review Tribunal's (RRT) decision to affirm the refusal of his Temporary Protection visa (TPV) application ¹ as he did not appear at the hearing.
17 May 2016	The Department of Immigration and Border Protection (the department) advised that Mr X was previously of interest in relation to alleged onshore criminal matters.
18 July 2016	By consent the Federal Court (FC) set aside the decision of the FCC and quashed the RRT's decision to refuse Mr X's TPV application. The matter was remitted to the Administrative Appeals Tribunal (AAT) ² for reconsideration. On 15 November 2016 the department advised the matter remained ongoing.
15 August 2016	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa. On 9 September 2016 the Minister declined to intervene.

¹ Following legislative amendment, Mr X's original Protection visa application was taken to be a valid application for a TPV.

² On 1 July 2015 the Migration Review Tribunal and the RRT were merged into the AAT.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X declined to interact further with the mental health team after being reviewed for insomnia and depressed mood in November 2015. Mr X was also reported to have informed a specialist counselling service in November 2015 that he no longer wished to see them.

IHMS further advised that Mr X had a previous history of eczema and dermatitis but the matter was now considered to be resolved.

Ombudsman assessment/recommendation

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 and a half years. The FC allowed Mr X's appeal against the decision of the FCC, quashing the decision of the RRT dated 1 April 2015 which had affirmed the decision to refuse his TPV application. The FC remitted the application to the AAT for reconsideration.

The Ombudsman notes that on 29 September 2013 Mr X escaped from detention and was located on the same day within four hours of his escape. The Ombudsman also notes that since then Mr X has allegedly been involved in two incidents of a minor nature involving contraband (in December 2015 and April 2016). Given that more than three years have passed since his escape and given the ongoing court proceedings, the Ombudsman recommends that Mr X be further considered for a Bridging visa.