

**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 36 months (three years).

The first report 1002822 was tabled in Parliament on 10 February 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	1978
Ombudsman ID	1001611-O
Date of DIBP's reports	16 December 2015 and 15 June 2016
Total days in detention	1094 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002822), Mr X has remained at Villawood Immigration Detention Centre (IDC).

Recent visa applications/case progression

23 July 2015	The Department of Immigration and Border Protection (DIBP) advised that following legislative amendment, Mr X's original Protection visa application is now taken to be a valid application for a Temporary Protection visa (TPV).
14 December 2015	The New South Wales Director of Public Prosecutions issued Mr X with a Criminal Justice Stay Certificate.
22 December 2015	DIBP declined to grant Mr X a Criminal Justice Stay visa.
15 June 2016	DIBP advised it is reassessing Mr X's TPV application following its remittal from the Refugee Review Tribunal (RRT).

Other legal matters

4 April 2016	Mr X appeared before District Court in relation to his criminal charges and the matter was adjourned. He was scheduled to reappear on 26 August 2016.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X attended specialist counselling for management of stress and anxiety related to his protracted immigration case and ongoing legal matters. On 5 December 2015 the counsellor advised that Mr X's mental health continues to be significantly impacted by his immigration status.

IHMS further advised that Mr X received treatment for a previous shoulder injury and attended physiotherapy. He was reviewed by an orthopaedic surgeon and continues to be monitored by the general practitioner.

Recent detention incidents

DIBP Incident Reports recorded that Mr X was allegedly involved in a small number of minor behavioural incidents at Villawood IDC.

Other matters

Mr X's brother, Mr Y, was granted a Bridging visa and resides in the community.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was re-detained on 9 October 2013 following criminal charges and has been held in restricted detention for a cumulative period of more than three years.

Mr X was found not to be owed protection under the Refugee Convention and the complementary protection criterion. In July 2014 the RRT remitted Mr X's case to DIBP for reconsideration and, at the time of DIBP's latest report, it was reassessing his TPV application.

The Ombudsman notes that on 19 June 2015 DIBP advised that Mr X's case progression will commence once his criminal matters are finalised.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental health prolonged detention may pose. The Ombudsman further notes advice from IHMS that Mr X's mental health is significantly impacted by his immigration status.

The Ombudsman recommends that consideration be given to placing Mr X in a less restrictive detention facility or community detention while he awaits the resolution of his immigration status.