

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 1002198-O 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	1978
Ombudsman ID	1002198-O1
Date of DIBP's reports	12 July 2016 ¹ , 16 August 2016 and 19 October 2016
Total days in detention	1094 (at date of DIBP's latest report)

Recent detention history

11 November 2015	The Department of Immigration and Border Protection (the department) advised that as a result of Mr X's involvement in a major disturbance at Christmas Island Immigration Detention Centre (IDC), the department issued a request under s 5 of the <i>Migration Act 1958</i> to the relevant officer at Prison A to lawfully hold Mr X in immigration detention. The department advised that, following the request, Mr X was held in Prison A under s 189 for the purpose of maintaining the safety and good order of detention facilities.
21 December 2015	Transferred to Prison B.
18 June 2016	Transferred to Prison A.

Recent visa applications/case progression

10 October 2016	The department advised that the Federal Circuit Court's review of the Refugee Review Tribunal's decision of 29 June 2015 remained ongoing.
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Criminal history

Mr X was identified as a person of interest to the department and the Australian Federal Police in relation to his involvement in a disturbance at Christmas Island IDC on 8 November 2015.	
14 October 2016	Mr X was sentenced to six months imprisonment for burglary and six months imprisonment for damage, both sentences to be served concurrently. The sentences were backdated to 29 July 2016, with a release date of 28 January 2017. Mr X was also placed on a \$1000 good behaviour bond for six months for a trespass offence.

¹ The department's 30-month review on Mr X was due by May 2016. The department advised that the delay in provision of this review was due to an administrative error.

Health and welfare

The department advised that Mr X's health and welfare needs were being provided for by the Department of Corrective Services in the state in which he was located.

Recent detention incidents

27 October 2015	An Incident Report recorded that Mr X was among many detainees who allegedly caused a major disturbance at Christmas Island IDC.
28 October 2015	Incident Reports recorded that Mr X was one of several detainees who allegedly caused damage when they removed fire extinguishers from fire safety boxes to allegedly use as weapons.

Other matters

7 November 2015	Mr X lodged a complaint with the Commonwealth Ombudsman's office in relation to the dental treatment he had received and other matters. After investigation the complaint was finalised on 11 April 2016.
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Case status

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 the department's latest review Mr X was awaiting the outcome of judicial review.