

## 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 1002555 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>	1001384-O
<b>Date of DIBP's reports</b>	17 May 2016 and 15 November 2016
<b>Total days in detention</b>	1276 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous report (1002555), Mr X remained at Christmas Island Immigration Detention Centre.	
19 April 2016	Transferred to Facility B.
26 May 2016	Transferred to Facility C.

### Recent visa applications/case progression

18 July 2016	By consent the Federal Circuit Court (FCC) quashed the Refugee Review Tribunal's (RRT) decision to refuse Mr X's Temporary Protection (TPV) application. <sup>1</sup> The matter was remitted to the Administrative Appeals Tribunal (AAT) <sup>2</sup> for reconsideration. On 15 November 2016 the Department of Immigration and Border Protection (the department) advised that the matter remained ongoing.
22 September 2016	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a Bridging visa. On 15 November 2016 the department advised that the matter remained ongoing.

### Other legal matters

11 May 2016	Mr X pleaded guilty to a charge relating to his involvement in a riot. He was sentenced to a conditional release order to be of good behaviour for six months. He applied for, and was granted, a spent conviction.
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<sup>1</sup> Following legislative amendment, Mr X's original Protection visa application was taken to be a valid application for a TPV.

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

## **Health and welfare**

International Health and Medical Services (IHMS) advised that Mr X received counselling from the IHMS psychologist for symptoms of post-traumatic stress disorder. The matter was now considered to be resolved.

IHMS further advised that Mr X received treatment for arthritis. The condition was to be monitored by the IHMS general practitioner and a physiotherapist.

## **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 FCC has quashed the decision of the RRT to affirm the decision to refuse his TPV application and remitted the matter to the AAT for reconsideration.

The Ombudsman notes that in May 2016 Mr X pleaded guilty to a charge relating to his involvement in a riot, was sentenced to a conditional release order to be of good behaviour for six months and was granted a spent conviction in relation to the matter. The Ombudsman further notes that Mr X has not subsequently been involved in any criminal matters or significant behavioural incidents. The Ombudsman recommends that Mr X be further considered for a Bridging visa.