

**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 1002559 was tabled in Parliament on 6 May 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>	1991
<b>Ombudsman ID</b>	1001388-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 (1002559), Mr X remained at Christmas Island Immigration Detention Centre (IDC).	
28 January 2016	Transferred to Yongah Hill IDC.

**Recent visa applications/case progression**

19 February 2016	The Federal Circuit Court (FCC) quashed the decision of the Refugee Review Tribunal (RRT) of 16 June 2016 to refuse Mr X's Temporary Protection visa (TPV) application and the matter was remitted to the Administrative Appeals Tribunal (AAT) <sup>1</sup> for reconsideration.
9 May 2016	The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> to grant Mr X a Bridging visa.
28 July 2016	The AAT set aside the decision to refuse to grant Mr X a Protection visa and substituted a decision to refuse to grant him a TPV. The AAT stated that although the delegate had refused Mr X's visa application as an application for a Protection visa, due to legislative changes the application the AAT had to consider was one for a TPV.
29 August 2016	Requested judicial review by the FCC. On 15 November 2016 the department advised that the matter remained ongoing.

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<sup>1</sup> On 1 July 2015 the RRT was merged into the AAT.

### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X had not been diagnosed with mental illness but saw the mental health team for ongoing anxiety arising from situational issues, visa status and chronic back pain

IHMS further advised that Mr X received treatment for physical health concerns including spondylolysis/chronic back pain.

### Other matters

8 December 2015

The Australian Human Rights Commission closed its investigation into a complaint which Mr X had previously lodged.

### 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 quashed the decision of the RRT to refuse Mr X's application for a TPV and remitted the matter to the AAT for reconsideration. The AAT refused to grant Mr X a TPV and he has again requested judicial review by the FCC.

The Ombudsman notes that on 29 September 2013 Mr X allegedly escaped from detention and was re-detained on the same day. The Ombudsman notes that on 20 July 2015 Mr X was acquitted of charges in relation to this matter. The Ombudsman also notes that in the period being reported on Mr X not been involved in any incidents of concern. Given that more than three years have passed since the alleged escape and given the ongoing court proceedings, the Ombudsman recommends that Mr X again be considered for a Bridging visa.