

**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 1003448 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>	1985
<b>Ombudsman ID</b>	1002168-O
<b>Date of DIBP's reports</b>	25 March 2016 and 23 September 2016
<b>Total days in detention</b>	1094 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1003448), Mr X remained at Wickham Point Alternative Place of Detention.	
7 July 2016	Transferred to Yongah Hill Immigration Detention Centre (IDC).
26 August 2016	Transferred to Christmas Island IDC.

**Recent visa applications/case progression**

Mr X arrived in Australia by sea between 13 August 2012 and 19 July 2013. He was transferred to a regional processing centre and subsequently returned to immigration detention in Australia. Prior to being classified as a 'fast track' applicant, Mr X was part of a cohort who were unable to have their protection claims assessed as they were subject to bars under ss 46A and 46B of the of the <i>Migration Act 1958</i> .	
17 November 2015	Found not to meet the guidelines for referral to the Minister under s 195A.
18 April 2016	The Minister lifted the bars under ss 46A and 46B to allow Mr X to lodge a temporary visa application.
21 April 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service (PAIS) to assist him with lodging a temporary visa application. He accepted the offer on 5 May 2016 and was assigned a provider.
24 June 2016	Found not to meet the guidelines for referral to the Minister under s 197AB for a community detention placement.
23 September 2016	The Department of Immigration and Border Protection (the department) advised that Mr X remains a person of interest to an external agency.

## Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continues to engage with the mental health team for the management of persistent anxiety, insomnia and situational frustration. On 1 March 2016 an Individual Management Plan Review Meeting report supported a request for Mr X's transfer to Villawood IDC where he would be closer to his partner who lives in the community, as he continued to have a poor response to treatment. Mr X's antidepressant medication was ceased when he reported little improvement, and upon review on 5 April 2016 a general practitioner suggested that he would benefit from cognitive behavioural therapy rather than medication.

13 February 2016

An Incident Report recorded that Mr X threatened self-harm.

## Information provided by Mr X

During a telephone conversation with Ombudsman staff on 22 February 2016 Mr X advised that his transfer to Christmas Island IDC had made it very difficult for his partner to visit him and this had put a strain on the relationship. Mr X expressed further concern about his placement at Christmas Island IDC, stating that he did not feel safe living alongside ex-prisoners with serious criminal backgrounds. He stated he had requested a transfer to Villawood IDC to be closer to his partner but this had not been approved.

Mr X advised that his case managers had told him that his status as a person of interest with an external agency was triggered by an allegation concerning national security. He further stated that the department had advised that he had never ceased to be of interest since the allegation was made. He stated that this was inconsistent with the information the department provided to the Ombudsman's office on 24 February 2016 which was relayed in the Ombudsman's previous report, 1003448.

Mr X stated that coping with his detention circumstances was getting harder the longer he remained in detention. He stated that he did not have much outside contact with anyone apart from his partner who he talked to every second day or daily. He advised that he did not think that his mental health needs were being met at Christmas Island IDC and that he believed his condition was deteriorating. Mr X stated that the lack of certainty regarding his case made his life difficult and advised that he experienced sleeping issues and depression.

## Ombudsman assessment/recommendation

Mr X was detained on 20 December 2012 after arriving in Australia by sea and has been held in restricted detention for more than three years.

On 18 April 2016 the Minister lifted the bars under ss 46A and 46B to allow Mr X to apply for a temporary visa. On 5 May 2016 Mr X accepted the PAIS assistance and was assigned a provider to assist with lodging his application.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. The Ombudsman notes that Mr X has requested a transfer to Villawood IDC so that he can be closer to his partner, and that this request was supported by IHMS as Mr X continues to have a poor response to treatment.

The Ombudsman recommends that further consideration be given to Mr X's request for transfer to Villawood IDC.