

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 X¹ (previously referred to as Mr Y) who has remained in restricted immigration detention for more than 36 months (three years).

The first report 1002260 was tabled in Parliament on 12 August 2015. 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	1985
Ombudsman ID	1003269
Date of DIBP's reports	24 August 2015 and 15 February 2016
Total days in detention	1094 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002260), Mr X has remained at Yongah Hill Immigration Detention Centre (IDC).

Recent visa applications/case progression

14 May 2015	The Department of Immigration and Border Protection (DIBP) advised Mr X of the commencement of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
6 October 2015	DIBP determined that Mr X's case engaged Australia's <i>non-refoulement</i> obligations. On the same day his case was found to meet the guidelines for referral to the Minister under s 48B of the <i>Migration Act 1958</i> .
11 December 2015	Mr X's case was referred on a ministerial submission for consideration under s 48B to lift the bar to allow him to lodge a new application for a Protection visa.

Health and welfare

International Health and Medical Services advised that Mr X has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

¹ On 17 February 2015 the Western Australian Identity Team established that Mr X's previous identity of Mr Y was false and his identity was confirmed as Mr X.

Ombudsman assessment/recommendation

Mr X's case has been found to engage Australia's *non-refoulement* obligations. At the time of DIBP's latest review he was awaiting the outcome of a ministerial submission to consider lifting the bar under s 48B to allow him to lodge a new application for a Protection visa.

The Ombudsman recommended in its previous report (1002260) that consideration be given to transferring Mr X to Villawood IDC to enable him to receive support from his family and friends while his immigration case is progressed.

In the Minister's Statement to Parliament dated 12 August 2015 the Minister noted the Ombudsman's recommendation and advised that DIBP was unable to transfer Mr X at that time due to capacity limits at Villawood IDC, but would consider transferring him in future if there was capacity.

The Ombudsman again recommends that Mr X be considered for transfer to Villawood IDC to enable him to receive support while his immigration case is progressed.