

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the first s 486O report on Mr X who has remained in restricted immigration detention for a cumulative period of more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1978
Ombudsman ID	1002408-O
Date of DIBP's reports	18 May 2016 and 16 November 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

17 January 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 298 <i>Scully</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
18 January 2012	Transferred to Christmas Island Immigration Detention Centre (IDC).
8 March 2012	Transferred to Curtin IDC.
19 July 2012	Granted a Bridging visa and released from detention.
19 November 2014	Re-detained under s 189(1) and transferred to Yongah Hill IDC.
31 July 2015	Transferred to Wickham Point APOD.
30 June 2016	Transferred to Yongah Hill IDC.
26 August 2016	Transferred to Christmas Island IDC.

Visa applications/case progression

25 May 2012	The Minister lifted the bar under s 46A to allow Mr X to lodge a Protection visa application.
25 May 2012	Lodged a Protection visa application.
16 July 2012	Protection visa application refused.
19 July 2012	Granted a Bridging visa which ceased on 7 December 2012.
2 August 2012	Appealed to the Refugee Review Tribunal (RRT).
9 November 2012	RRT affirmed original decision.
19 November 2012	Found not to meet the guidelines for referral to the Minister under s 417.
13 December 2012 – 7 October 2014	Granted a further five Bridging visas with gaps of varying length between the visa ceasing and the grant of the next visa. The last Bridging visa ceased on 18 November 2014.

19 November 2014	Re-detained under s 189(1).
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Health and welfare

An Incident Report recorded that Mr X expressed suicidal thoughts in November 2013.

International Health and Medical Services advised that on 20 April 2015 Mr X was transferred to a hospital emergency department with chest pains. He was subsequently discharged after it appeared from examination that the pain was musculoskeletal in origin. An Incident Report also recorded that Mr X complained of severe chest pain in January 2014.

Detention incidents

Incident reports recorded that between January and December 2015 Mr X was allegedly involved in a number of behavioural incidents of a minor nature which involved creating a disturbance, abusive or aggressive behaviour or minor property damage.

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 two and a half years. He has no matters before the Department of Immigration and Border Protection (the department), the courts or tribunals and is on a removal pathway. Mr X has informed the department that he will not voluntarily return to Country A and the department has advised that his removal is likely to be protracted as involuntary removal to Country A is currently not viable.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged and apparently indefinite detention may pose. The Ombudsman notes that it appears Mr X was last allegedly involved in an incident of behavioural concern in December 2015.

The Ombudsman recommends that Mr X be considered for a Bridging visa.