

**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	1986
Ombudsman ID	1002312-O
Date of DIBP's reports	11 February 2016 and 10 August 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

25 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 810 <i>Megargel</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
1 August 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
6 August 2013	Transferred to an APOD, Christmas Island.
12 August 2013	Transferred to Christmas Island IDC.
20 December 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
7 July 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Villawood IDC.
26 March 2015	Transferred to Wickham Point APOD.
11 May 2016	Transferred to Melbourne Immigration Transit Accommodation.

Visa applications/case progression

7 July 2014	Mr X was transferred from Manus Island RPC to Australia for medical treatment.
14 July 2014	Mr X requested voluntary removal from Australia. On 29 July 2014 he withdrew his request.
16 March 2016	The Department of Immigration and Border Protection (DIBP) confirmed that detainees who arrived in Australia after 19 July 2013 who were transferred to an RPC but returned to immigration detention in Australia for medical reasons remain liable for transfer back to an RPC on completion of their treatment.

¹ Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

24 June 2016	Found not to meet the guidelines for referral to the Minister under s 197AB for a community detention placement.
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Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X received specialist counselling and treatment for multiple complex mental health concerns, including post-traumatic stress disorder, depression and a history of torture and trauma and self-harm. Mr X was placed on Supportive Monitoring and Engagement observations on multiple occasions following incidents of self-harm and continues to be closely monitored by the IHMS mental health team.</p> <p>In November 2014 the psychiatrist recommended that Mr X be transferred to community detention to improve his mental health and in July 2016 the counsellor reported that Mr X continues to be at risk of suicide due to his unresolved immigration status.</p> <p>IHMS further advised that Mr X received treatment for multiple physical health concerns, including a head injury, after being assaulted during the riots at Manus Island RPC. He was subsequently reviewed by a cardiologist, neurologist and epilepsy specialist after presenting with recurring migraines and was diagnosed with post-concussion syndrome with psychiatric components. He was monitored by IHMS and prescribed with pain relief medication as required.</p>	
18 April 2015 – 20 April 2015	IHMS advised that Mr X self-harmed after experiencing a situational crisis related to his potential return to Manus Island RPC. He was admitted to hospital for treatment and the psychiatrist recommended he be admitted to a mental health facility.
15 December 2015 – 17 December 2015	IHMS advised that Mr X was admitted to hospital after refusing food and fluid and an incident of self-harm.

Other matters

Mr X married Ms Y in April 2016. Ms Y is the subject of Ombudsman report 1002519-O.

Ombudsman assessment/recommendation

<p>The Ombudsman notes that Mr X was detained on 25 July 2013 after arriving in Australia aboard SIEV <i>Megargel</i> and has been held in restricted detention for a cumulative period of over two and a half years with no processing of his protection claims.</p> <p>The Ombudsman notes DIBP's advice that because Mr X was transferred to an RPC but returned to immigration detention in Australia for medical reasons he remains liable for transfer back to an RPC on completion of his treatment.</p> <p>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. Without an assessment of Mr X's claims to determine if he is found to engage Australia's protection obligations, it appears likely that he will remain in restricted detention for an indefinite period.</p> <p>The Ombudsman further notes with concern the reported impact restricted detention is having on Mr X's mental health and the recommendation that his mental health would improve if he was transferred to community detention.</p> <p>In light of this advice, the Ombudsman recommends that consideration be given to placing Mr X in community detention and that priority is given to exploring options to enable the resolution of his immigration status.</p>
