

**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 immigration detention for a cumulative period of more than 36 months (three years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1986
<b>Ombudsman ID</b>	1002560
<b>Date of DIBP's reports</b>	1 June 2015, 19 November 2015 and 1 June 2016
<b>Total days in detention</b>	1094 (at date of DIBP's latest report)

**Detention history**

2 December 2010	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 217 <i>Farnell</i> . He was transferred to Christmas Island Immigration Detention Centre (IDC).
20 December 2010	Transferred to Northern IDC.
12 April 2012	Granted Bridging visa and released from detention.
30 September 2014	Re-detained under s 189(1) and transferred to Villawood IDC.
4 October 2014	Transferred to Wickham Point Alternative Place of Detention (APOD).

**Visa applications/case progression**

5 May 2011	Protection Obligations Evaluation (POE) found he was not owed protection.
20 January 2012	Independent Protection Assessment (IPA) found he was not owed protection.
16 February 2012	Requested judicial review by the Federal Magistrates Court (FMC).
23 July 2012	The FMC made orders by consent declaring that the IPA was affected by legal error.
23 October 2012	Second IPA found that he was not owed protection.
12 April 2012 – 29 September 2014	Granted four Bridging visas.
17 April 2013	Granted Bridging visa to allow him to obtain travel documents to leave Australia.
18 August 2014	Granted further Bridging visa as he had not yet obtained travel documents as required by visa conditions.
30 September 2014	Re-detained under s 189(1) after not complying with visa conditions by not obtaining travel documents to leave Australia.

1 June 2016	DIBP advised that Mr X has no outstanding matters before it or the courts and is on a removal pathway. It stated he had been provided with information from the International Organization for Migration on voluntary return to Country A.
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### Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to attend sessions at a specialised counselling service but did not attend a scheduled psychiatric review on 6 March 2016. IHMS further advised that he continued to be monitored for latent tuberculosis in accordance with state policy.	
May 2011	The IHMS mental health team referred Mr X for review by a doctor after he presented with symptoms of depressive illness. He was prescribed with antidepressant medication and received ongoing psychological support.
19 January 2015 – 20 February 2015	Engaged in voluntary starvation to protest his ongoing detention.

### Detention incidents

3 October 2014	A DIBP Incident Report recorded that Mr X attempted to escape whilst being escorted into an airport.
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### Information provided by Mr X

<p>During an interview with Ombudsman staff at Wickham Point APOD on 18 April 2016 Mr X advised that he was being told to return to Country A on a voluntary basis. However, he said if he had wanted to go back he would have done so by now. He said he had always complied with the law when he was in the community.</p> <p>When asked if he had any concerns about the detention facilities, Mr X said he understood the question but the facilities were not important to him. It was like asking a person in a cage whether they would like to change the colour of the cage.</p> <p>He rarely took part in activities. If it was not crowded he might take part for an hour or so. There was nothing that particularly interested him.</p> <p>He advised that he used to go to a specialist counselling service once a week but the service was ended. He did not know what had happened.</p> <p>He normally stayed up at night because it was quiet. He slept during the day and talked with other people. He was used to this routine.</p> <p>Mr X advised that he had a fiancée in Country A with whom he had lived together for 2 ½ years. He had been in touch with her occasionally after coming to Australia but he had been forced to let her get on with her own life.</p>
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**Ombudsman assessment/recommendation**

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. He has no matters before DIBP, the courts or tribunals and is on a removal pathway.

The Ombudsman notes that Mr X's removal is likely to be protracted as involuntary removal to Country A is not possible at present.

The Ombudsman notes the Government's duty of care to immigration detainees and the serious risk to mental and physical health that prolonged indefinite restrictive immigration detention may pose. The Ombudsman recommends that Mr X be considered for a Bridging visa or a community detention placement until removal action can be progressed.