

**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 more than 30 months (two and a half years).

Name	Mr X
Citizenship	Stateless (claimed), born in Country A
Year of birth	1975
Ombudsman ID	1002260-O
Date of DIBP's reports	14 December 2015 and 14 June 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

5 December 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 867 <i>Yakutat</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
7 December 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
9 December 2013	Transferred to Nauru Regional Processing Centre (RPC). ¹
19 December 2013	Returned to Australia and re-detained under s 189(1). He was transferred to Christmas Island IDC.
29 April 2015	Transferred to Wickham Point APOD.
11 May 2016	Transferred to Yongah Hill IDC.

Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X is part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted the bar under s 46A.	
12 March 2014	DIBP notified Mr X of the unintentional release of personal information. ²
10 March 2016	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.

² In a media release dated 19 February 2014 the former Minister advised that an immigration detention statistics report was released on DIBP's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as DIBP became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by DIBP.

14 June 2016	DIBP advised that Mr X remains in detention receiving medical treatment. He remains subject to return to an RPC on completion of his treatment.
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Health and welfare

<p>International Health and Medical Services (IHMS) reported that the blood tests taken at Mr X’s health induction returned positive results for hepatitis C. He was provided with education and referred for regular monitoring and treatment. He attended reviews with an infectious disease specialist in February and March 2016 with no abnormal findings or concerns reported.</p> <p>Mr X disclosed a history of torture and trauma and attended psychological counselling. IHMS advised he was provided with ongoing mental health support to manage his frustrations with being in prolonged detention and is aware of self-referral to the mental health team. He attended a routine mental health assessment in February 2016 with no acute mental health concerns noted.</p>	
7 April 2015	A DIBP Incident Report recorded that Mr X threatened self-harm to his case manager.

Information provided by Mr X

<p>During an interview with Ombudsman staff at Wickham Point APOD on 21 April 2016 Mr X said he felt he had been detained for a very long time and his health is getting worse. He explained he has been diagnosed with hepatitis C but does not know how or where he contracted it and is waiting to commence treatment. He said he spends a lot of time thinking and has recently asked to see IHMS because his chest is ‘feeling heavier’.</p> <p>Mr X said he is very concerned for his family who are in a refugee camp in Country B. He does not have much contact with his family because the situation they are all in creates more stress for him.</p>	
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Ombudsman assessment/recommendation

<p>The Ombudsman notes that Mr X was detained on 5 December 2013 after arriving in Australia aboard SIEV <i>Yakutat</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 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 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 recommends that priority is given to exploring options to enable the resolution of Mr X's immigration status.</p>	
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