

**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	1985
Ombudsman ID	1002218-O
Date of DIBP's reports	5 November 2015 and 5 May 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

17 October 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 859 <i>Quinhagak</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
21 October 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
9 November 2013	Returned to Australia and re-detained under s 189(1). He was transferred to Christmas Island Immigration Detention Centre (IDC).
24 September 2014	Transferred to Wickham Point APOD.
4 November 2014	Transferred to Yongah Hill IDC.
24 March 2015	Transferred to Wickham Point APOD.
Date not provided by DIBP	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 and advised that the privacy breach would be taken into account when considering his protection claims.

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.

16 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.
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Health and welfare

International Health and Medical Services (IHMS) advised that Mr X had been treated and monitored for multiple physical health conditions, of which recurrent ear infections and face pain, urinary issues and gastritis are ongoing and require specialist review. Following consultation with specialists Mr X was referred to an oral surgeon in November 2015 and is awaiting surgery to address his recurrent ear infections and facial pain.

IHMS further advised that Mr X has a history of torture and trauma with associated depression and insomnia. IHMS reported that it continues to manage Mr X's situational stress and anxiety in conjunction with specialist counselling.

Information provided by Mr X

During an interview with Ombudsman staff at Wickham Point on 20 April 2016 Mr X advised that he had been at Manus Island RPC where he was housed with about 120 people in one room which was like a barracks. He said there was limited medical treatment and when he was unwell the doctors only gave him Panadol to treat his symptoms.

Mr X said that while at Manus Island RPC he became very sick and was placed in isolation after he collapsed in pain. He said he was then transferred to Christmas Island.

Mr X said he considered Wickham Point APOD to be a much better detention facility and he has received much better medical treatment than when he was at Manus Island RPC, so he has no concerns about his current conditions.

He expressed concern about his future and said that he is depressed. He said he used to take part in activities but no longer did so because of the length of time he had been in detention. He stated that the activities were always the same and the medication he takes makes him feel lethargic.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 17 October 2013 after arriving in Australia aboard SIEV *Quinhagak* 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.

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.

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.

The Ombudsman recommends that priority is given to exploring options to enable the resolution of Mr X's immigration status.