

**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	1988
Ombudsman ID	1002324-O
Date of DIBP's reports	24 February 2016 ¹ and 26 August 2016
Total days in detention	985 (at date of DIBP's latest report)

Detention history

6 December 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 868 <i>Zionsville</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
8 December 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
10 December 2013	Transferred to Nauru Regional Processing Centre (RPC). ²
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

19 December 2013	Mr X was transferred from Nauru RPC to Australia for medical treatment.
24 February 2016	The Department of Immigration and Border Protection (DIBP) advised that Mr X was in detention on 31 January 2014 and as a result may be affected by the unintentional release of personal information. ³

¹ DIBP advised that it did not meet its statutory obligations in relation to providing Mr X's 24-month review under s 486N and this issue was under investigation.

² Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

³ 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

<p>International Health and Medical Services (IHMS) advised that Mr X was diagnosed with hepatitis B in December 2013 and attended an ultrasound and specialist review. He continues to be monitored by his general practitioner to determine whether he requires treatment.</p> <p>IHMS further advised that Mr X attended counselling and received treatment for an adjustment disorder, anxiety, depression and incidents of self-harm related to detention fatigue and concerns about his treatment for hepatitis B. On 3 June 2016 he was assessed as a high suicide risk and placed on Supportive Monitoring and Engagement (SME) observations. On 17 June 2016 the IHMS psychiatrist noted that Mr X's high suicide risk was directly related to his restricted detention circumstances.</p>	
27 March 2015	A DIBP Incident Report recorded that Mr X threatened self-harm.
2 April 2015	Mr X was admitted to hospital and placed on SME observations following an attempted suicide related to his perceived lack of treatment for hepatitis B.
16 June 2016 and 18 June 2016	DIBP Incident Reports recorded that Mr X threatened self-harm.

Ombudsman assessment/recommendation

<p>Mr X was detained on 6 December 2013 after arriving in Australia aboard SIEV <i>Zionsville</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 notes advice provided by IHMS that Mr X's mental health is negatively impacted by his concerns regarding his hepatitis B treatment. The Ombudsman recommends that Mr X be provided with further advice relating to the ongoing management of his hepatitis B condition.</p> <p>The Ombudsman notes that on 17 June 2016 the IHMS psychiatrist noted that Mr X's high suicide risk is directly related to his placement in restricted detention. In light of this advice, the Ombudsman recommends that consideration be given to placing Mr X in community detention.</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 further recommends that priority is given to exploring options to enable the resolution of Mr X's immigration status.</p>
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