

**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	1990
Ombudsman ID	1002222-O
Date of DIBP's reports	12 November 2015 and 11 May 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

11 November 2013	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving on the Australian mainland ¹ aboard Suspected Illegal Entry Vessel (SIEV) 862 <i>Tuscalossa</i> . He was transferred to Northern Alternative Place of Detention (APOD).
15 November 2013	Transferred to Manus Island Regional Processing Centre (RPC). ²
15 April 2015	Returned to Australia and re-detained under s 189(1). He was transferred to Facility A.
16 June 2015	Transferred to Facility B.
10 August 2015	Transferred to Facility A.

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.	
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.

¹ Following legislative amendment on 20 May 2013, all unauthorised maritime arrivals, including those who arrived on the Australian mainland or an 'excised offshore location' were barred from lodging a Protection visa application under s 46A.

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.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X required many consultations and investigations for recurrent symptoms of urinary tract infections and abdominal pain. He also underwent investigation and was being managed and prescribed medication for chronic gastritis/epigastric pain. Additionally, he was treated for hand fracture(s) which healed.

IHMS also advised that Mr X received treatment for post-traumatic stress disorder, chronic schizophrenia with major depression and psychotic depression/catatonia and had required numerous hospitalisations for mental health issues. IHMS reported that Mr X required transfer from Manus Island to Australia for medical treatment after he entered an acute psychotic state with poor oral intake. It was reported the deterioration in his mental health was likely triggered by grief at the death of his mother.

In September 2015 the hospital psychiatrist noted that Mr X had a severe form of psychotic depression and recommended that he needed to be able to access a psychiatrist and be treated with electroconvulsive therapy (ECT) for further acute episodes of catatonia. The IHMS psychiatrist reiterated this when Mr X was reviewed following his discharge and advised that while Mr X was in partial remission it was highly likely he would relapse.

IHMS advised that Mr X continued to be monitored and treated by the mental health team and attended specialist counselling.

10 August 2015 –
6 October 2015

Admitted to a private psychiatric hospital.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 22 July 2016 Mr X advised that being in detention for such a long time had affected his physical and mental health. He said that his future in Australia is unclear and he cannot return to Country A because the situation he left has not changed. Mr X said that this uncertainty affected his sleep, and that sleeping medication did not work as it had side effects such as causing him nightmares.

Mr X also explained that he received the news about his mother's death at the same time that the rioting occurred on Manus Island. He said that this period was particularly traumatic for him, as following the riot he had been incarcerated for 21 days, initially by a special police unit and then by the Papua New Guinea police who he alleged had been violent towards him and other detainees.

Mr X stated that he appreciated the mental health services and treatment that had been made available to him but it was not medication that he needed. He said he needed to get out of detention and to start his life.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 11 November 2013 after arriving in Australia aboard SIEV *Tuscalossa* and has been held in restricted detention for a cumulative period of over two 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.