

**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).

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| Name | Mr X |
| Citizenship | Stateless (claimed), born in Country A |
| Year of birth | 1988 |
| Ombudsman ID | 1002268-O |
| Date of DIBP's reports | 21 December 2015 and 18 June 2016 |
| Total days in detention | 912 (at date of DIBP's report) |

Detention history

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| 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). |
| 10 December 2013 | Transferred to Manus Island Regional Processing Centre (RPC). ¹ |
| 24 December 2013 | Returned to Australia and re-detained under s 189(1). He was transferred to Northern IDC. |
| 3 January 2014 | 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

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| 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.

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| 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

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| <p>International Health and Medical Services (IHMS) advised that Mr X was diagnosed with hepatitis C following routine pathology testing. He has been monitored by a general practitioner and undergone regular reviews which have not identified any abnormalities. He is on a waiting list to attend a specialist clinic for further assessment.</p> <p>IHMS also advised that a plastic surgeon has provided ongoing treatment and management of scarring and associated pain from injuries he sustained during his boat journey to Australia.</p> <p>IHMS reported that Mr X has not required treatment for any major mental health issues.</p> | |
| 24 December 2014 | DIBP advised that Mr X was transferred to Australia from Manus Island RPC for medical treatment. |

Other matters

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| 17 March 2014 | <p>Mr X lodged a complaint with the Ombudsman’s office in relation to the provision of healthcare at Christmas Island IDC.</p> <p>Following an investigation by the Ombudsman’s office, DIBP advised that Mr X was receiving healthcare in accordance with community standards. The complaint was finalised on 11 June 2014.</p> |
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Ombudsman assessment/recommendation

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| <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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