

**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 immigration detention for a cumulative period of more than 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1983
<b>Ombudsman ID</b>	1002366-O
<b>Date of DIBP's report</b>	12 April 2016
<b>Total days in detention</b>	731 (at date of DIBP's report)

**Detention history**

30 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 803 <i>Dotelle</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
5 August 2013	Transferred to Christmas Island Immigration Detention Centre.
21 August 2013	Transferred to Manus Island Regional Processing Centre (RPC). <sup>1</sup>
4 May 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Wickham Point APOD.
6 March 2015	Transferred to Brisbane Immigration Transit Accommodation.
7 May 2015	Transferred to Wickham Point APOD.
13 January 2016	Transferred to community detention.

**Visa applications/case progression**

4 May 2014	Mr X was transferred from Manus Island RPC to Australia for medical treatment.
29 December 2015	The Minister intervened under s 197AB to allow Mr X to reside in community detention.
16 March 2016	The Department of Immigration and Border Protection (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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<sup>1</sup> 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 sustained injuries during riots at Manus Island RPC on 17 February 2014. He was transferred to Port Moresby for specialist treatment before being returned to Australia for further treatment on 4 May 2014. He has also received specialist treatment for shortness of breath and kidney stones.

IHMS further advised that Mr X has been diagnosed with anxiety, depression and post-traumatic stress disorder. He received regular supportive counselling from the mental health team and attended regular specialist counselling sessions after disclosing a history of torture and trauma. In March 2015 IHMS noted that Mr X had declined into a depressive state and he was admitted to a psychiatric hospital for treatment. He was prescribed with medication to alleviate his symptoms, but he declined to continue due to unwanted side-effects. Since being transferred to community detention Mr X has continued to receive mental health support from a general practitioner and psychiatrist.

21 January 2015	A DIBP Incident Report recorded Mr X refused food and fluid.
1 March 2015	A DIBP Incident Report recorded Mr X threatened self-harm.
6 March 2015	Admitted to a psychiatric hospital for five weeks.

## Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 30 July 2013 after arriving in Australia aboard SIEV *Dotelle* and has been held in 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 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.