

**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	Stateless (claimed), born in Country A
Year of birth	1987
Ombudsman ID	1002303-O
Date of DIBP's reports	3 February 2016 and 3 August 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

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 Nauru Regional Processing Centre (RPC). ¹
8 February 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Northern IDC.
14 February 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

8 February 2014	Mr X was transferred from Nauru RPC to Australia for medical treatment.
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.

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.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received psychological treatment after presenting with symptoms of depression, insomnia and situational anxiety related to detention fatigue and physical health concerns. He was placed on Supportive Monitoring and Engagement observations on multiple occasions and continues to be closely monitored by the mental health team.

IHMS further advised that Mr X was diagnosed with chronic hepatitis C and a previous hepatitis B infection and reviewed at a specialist clinic. He was placed on a treatment plan and continues to be closely monitored by IHMS.

20 March 2015

A DIBP Incident Report recorded that Mr X threatened self-harm.

Information provided by Mr X

During interviews with Ombudsman staff on 19 April 2016 and 7 July 2016 Mr X advised that it is difficult to arrange appointments with his case manager as she does not reside in Darwin. He said he had last seen his case manager over a month ago and she told him he would be returned to Nauru RPC once his medical treatment is completed.

Mr X advised that he had been diagnosed with hepatitis C and was concerned about the severity of his condition. He said he was referred for treatment over three months ago but this has not yet commenced.

Mr X said that he experiences insomnia and does not participate in activities because he is concerned about the welfare of his wife and children who remain in Country A. He said the Red Cross were currently attempting to locate his family.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 5 December 2013 after arriving in Australia aboard SIEV *Yakutat* 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.