

**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 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1991
Ombudsman ID	1002304-O
Date of DIBP's reports	5 February 2016 and 4 August 2016
Total days in detention	912 (at date of DIBP's report)

Detention history

7 September 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 843 <i>Anniston</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
8 September 2013	Transferred to Christmas Island Immigration Detention Centre.
18 September 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
15 February 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Brisbane Immigration Transit Accommodation.
3 June 2015	Transferred to community detention.

Visa applications/case progression

15 February 2014	Mr X was transferred from Manus Island RPC to Australia for medical treatment.
4 June 2014	Mr X signed a Request for Removal from Australia, however on 12 June 2014 he was admitted as an involuntary patient under the <i>Mental Health Act 2000 (Qld)</i> .
18 May 2015	The Minister intervened under s 197AB of the Act to allow Mr X to reside in community detention. The Minister noted that this determination would be reassessed in six months' time to facilitate Mr X's voluntary removal.
12 January 2016	The Minister declined to revoke Mr X's community detention due to medical reasons and noted that the Department of Immigration and Border Protection (DIBP) will provide another brief regarding his health and wellbeing in six months.

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.

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.
---------------	---

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and receives ongoing psychological counselling for the management of adjustment disorder and schizophrenia. Mr X reported episodes of auditory hallucinations and paranoia and has required hospitalisation as an involuntary patient on three occasions.</p> <p>IHMS advised that Mr X requires extensive community support and is being closely managed by his general practitioner (GP) and the IHMS mental health team. The IHMS psychiatrist advised that his symptoms are partially medication resistant and he remains at a high risk of relapse if removed from community detention.</p> <p>IHMS has further advised that Mr X has required treatment for multiple physical health conditions including hepatitis B, gastro-oesophageal reflux and cardiac abnormalities. He continues to be monitored by the GP.</p>	
27 February 2014 – 16 April 2014	Admitted involuntarily to a psychiatric hospital.
12 June 2014 – 6 August 2014	Admitted involuntarily as a psychiatric patient to a hospital.
13 September 2014 – 9 October 2014	Admitted involuntarily as a psychiatric patient to a hospital.

Other matters

Mr X arrived in Australia aboard SIEV <i>Anniston</i> with his four brothers. Mr Y, Mr Z and Mr P were granted Bridging visas on 11 March 2015 and released from detention. Mr Q remains at an RPC.

Ombudsman assessment/recommendation

<p>The Ombudsman notes that Mr X was detained on 7 September 2013 after arriving in Australia aboard SIEV <i>Anniston</i> and has been held in 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 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>
