

**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	1978
Ombudsman ID	1002314-O
Date of DIBP's reports	15 February 2016 and 15 August 2016
Total days in detention	912 (at date of DIBP's latest report)

Detention history

12 October 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 857 <i>Orrville</i> . He was transferred to an Alternative Place of Detention, Christmas Island.
15 October 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
18 February 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Brisbane Immigration Transit Accommodation.
14 March 2014	Transferred to Villawood Immigration Detention Centre.
5 December 2014	Transferred to community detention.

Visa applications/case progression

18 February 2014	Mr X was transferred from Manus Island RPC to Australia for medical treatment.
18 November 2014	The former Minister intervened under s 197AB to grant Mr X a community detention placement.
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 sustained severe injuries in February 2014 at Manus Island RPC. As a result of the injuries he has been treated for chronic headaches and neuropathic pain. In February 2016 Mr X underwent surgery and was scheduled for further surgery in August 2016.

IHMS advised that Mr X has presented with complex mental health issues following his severe physical injuries, including symptoms of insomnia, nightmares, flashbacks and social withdrawal. Mr X was diagnosed with adjustment disorder with mixed depressive and anxiety symptoms and post-traumatic stress disorder and has been prescribed with antidepressant medication. He has received psychological counselling and treatment following a suicide attempt and continues to be monitored by a general practitioner.

August 2014	IHMS advised that Mr X was assessed by the mental health team following an incident of self-harm.
21 August 2014	A DIBP Incident Report recorded that Mr X threatened self-harm to IHMS staff.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X was detained on 12 October 2013 after arriving in Australia aboard *SIEV Orrville* and has been held in 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 detention for an indefinite period.

The Ombudsman notes with concern advice from IHMS that while detained at Manus Island RPC Mr X sustained severe physical injuries and continues to experience associated mental health concerns. 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.