

## 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 more than 24 months (two years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1973
<b>Ombudsman ID</b>	1002787
<b>Date of DIBP's report</b>	23 June 2015
<b>Total days in detention</b>	736 (at date of DIBP's report)

### Detention history

17 June 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 753 <i>Normal</i> .
The Department of Immigration and Border Protection (DIBP) advised that Mr X is currently located at Yongah Hill Immigration Detention Centre.	

### Visa applications/case progression

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.	
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### Health and welfare

9 July 2013	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma but declined specialist counselling. He attended a follow-up mental health review in December 2014 with no mental health concerns identified.
31 July 2014	Presented to his general practitioner (GP) with pain related to an ongoing medical condition. He was prescribed with antibiotic medication and referred for surgical review.
18 August 2014	Reviewed by a surgeon who noted that his condition had improved and deferred his surgical procedure.
18 August 2014 – 27 August 2014	Mr X refused food and fluids for five days as a form of protest. He was reviewed by a psychologist and placed on Psychological Support Program (PSP) observations.  On 27 August 2014 Mr X was transferred to another detention facility which resulted in improvements in his mental health and the PSP observations were ceased.  IHMS reported that Mr X declined further counselling and was advised to self-refer to the mental health team as required.

4 October 2014	Presented to his GP with complications related to his medical condition. He was advised that a further surgical review may be required.
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### **Other matters**

DIBP advised that Mr X remains a 'person of interest' to its National Security and Serious Crimes Reporting Team in relation to foreign criminal convictions.

### **Ombudsman assessment/recommendation**

The Ombudsman notes that Mr X was detained on 17 June 2013 after arriving in Australia aboard SIEV *Normal* and has been held in restricted detention for 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 restricted detention for an indefinite period.

The Ombudsman notes the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a Temporary Protection visa application.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of Mr X's protection claims commence as soon as possible.