

**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).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1987
<b>Ombudsman ID</b>	1002389-O
<b>Date of DIBP's reports</b>	29 April 2016 and 1 November 2016
<b>Total days in detention</b>	912 (at date of DIBP's latest report)

**Detention history**

3 June 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 341 <i>Tabilk</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
5 June 2012 – 17 July 2012	Transferred three times between various immigration detention facilities.
27 September 2012	Granted a Bridging visa and released from detention.
28 August 2014	Re-detained at the Melbourne State Office of the Department of Immigration and Border Protection (the department) and transferred to Maribyrnong Immigration Detention Centre (IDC).
1 December 2014 – 26 July 2016	Transferred three times between various immigration detention facilities.
22 September 2016	Transferred to Perth IDC.

**Visa applications/case progression**

26 June 2012	The Minister lifted the bar under s 46A to allow Mr X to lodge a Protection visa application.
11 September 2012	Lodged a Protection visa application.
27 September 2012 – 16 July 2014	Granted a series of Bridging visas with the last ceasing on 27 August 2014.
24 October 2012	Protection visa application refused.
26 October 2012	Appealed to the Refugee Review Tribunal (RRT).
24 January 2013	RRT affirmed original decision.
1 February 2013	Found not to meet the guidelines for referral to the Minister under s 417.

19 April 2013, 9 December 2013 and 6 May 2015	Found not to meet the guidelines for referral to the Minister under s 48B.
28 August 2014	Re-detained under s 189(1).
13 July 2015	Mr X informed the department that he would not voluntarily return to Country A. The department advised on 1 November 2016 that his removal was likely to be protracted as involuntary removal to Country A was not possible at present.
1 November 2016	The department advised that Mr X had been identified for assessment against the guidelines under s 195A for referral to the Minister for possible grant of a Bridging visa and the matter remained ongoing.

### **Criminal history and other legal matters**

7 April 2014	Mr X was allegedly involved in an incident in which a Serco officer was physically assaulted. The matter was referred to the Northern Territory Police who advised they would not investigate.
19 November 2014	Mr X was convicted and fined \$500 on a charge of driving whilst his licence was suspended.

### **Health and welfare**

<p>International Health and Medical Services (IHMS) advised that Mr X had a history of suicidal thoughts with multiple episodes of self-harming behaviour. In January 2015 he was diagnosed with a personality disorder. The IHMS psychiatrist reviewed him in September 2015 and Mr X stated he was working on improving his behaviour and wanted to become a better version of himself. The psychiatrist documented that Mr X had not self-harmed since early 2016. The psychiatrist also reported that Mr X was refusing to take his medication which the psychiatrist said he was legally competent to do. The psychiatrist further advised that there was no immediate risk to Mr X's welfare and he denied any current thoughts of suicide or self-harm. IHMS stated the mental health team would continue to monitor Mr X and he had a further appointment with the psychiatrist in October 2016.</p> <p>IHMS further advised that Mr X received treatment and was monitored for physical health concerns including chronic lower back pain and sciatica requiring ongoing pain management and a heart condition. In August 2015 he was admitted to hospital for a time as an inpatient following a fall which exacerbated his back pain. IHMS advised in September 2016 that Mr X was continuing with reviews, physiotherapy, exercises and medication for management of chronic pain.</p>	
2 September 2014	An Incident Report recorded that an ambulance was requested when Mr X presented with chest pains.
18 January 2015	An Incident Report recorded that Mr X advised he was protesting and was not going to eat.
16 February 2015 – 16 February 2016	Incident Reports recorded that Mr X was involved in numerous incidents of actual or threatened self-harm.

### **Detention incidents**

2 September 2014 – 25 February 2016	Incident Reports recorded that Mr X was involved in several behavioural incidents of a minor nature.
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### Other matters

1 November 2016	The department advised that Mr X had informed it that he has a two-year-old daughter who resides with his de facto partner in the Australian community.
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### Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in restricted detention for a cumulative period of more than two and a half years. He has no matters before the department, the courts or tribunals and is on a removal pathway. However, the department has advised his removal is likely to be protracted as involuntary removal to Country A is not possible at present.

The Ombudsman notes Mr X's advice to the department that he has a two-year-old daughter who resides with his de facto partner in the Australian community.

The Ombudsman also notes that Mr X does not appear to have been involved in any behavioural incidents since February 2016 and that the IHMS psychiatrist has reported that Mr X has not self-harmed since early 2016.

The Ombudsman further notes the department's advice that Mr X has been identified for assessment against the guidelines under s 195A for referral to the Minister for possible grant of a Bridging visa.

The Ombudsman recommends that the assessment against the s 195A guidelines and any subsequent consideration be expedited if this matter has not yet been finalised.