

**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	1002443-O
Date of DIBP's reports	6 July 2016 and 4 January 2017
Total days in detention	912 (at date of DIBP's latest report)

Detention history

24 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel 805 <i>Fruitdale</i> . He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
25 July 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
27 August 2013	Transferred to Manus Island Regional Processing Centre (RPC). ¹
10 August 2014	Returned to Australia and re-detained under s 189(1). He was transferred to Brisbane Immigration Transit Accommodation.
28 August 2014	Transferred to Wickham Point APOD.
14 December 2015	Transferred to community detention.

Visa applications/case progression

<p>Mr X arrived in Australia by sea after 19 July 2013 and was transferred to an RPC. The Department of Immigration and Border Protection (the department) has advised that Mr X is barred under ss 46A and 46B from lodging a valid protection visa application as a result of his method of arrival and transfer to an RPC.</p> <p>Mr X was returned to Australia for medical treatment on 10 August 2014.</p> <p>The department has advised that under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and remains liable for transfer back to an RPC on completion of his treatment.</p>	
1 December 2015	The Minister intervened under s 197AB to allow Mr X to reside in community detention.

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

<p>International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and has engaged with specialist and psychological counselling for the management of depression and post-traumatic stress disorder. He self-harmed in July 2014 while at Manus Island RPC and required emergency hospital treatment. He was reviewed by a psychiatrist and was returned to Australia on 10 August 2014 for a psychiatric inpatient admission. Mr X self-harmed three times while in hospital and was discharged on 28 August 2014. Following his transfer to community detention a treating psychologist has advised that Mr X's mental health would further deteriorate if he were returned to an RPC or restricted detention.</p> <p>IHMS further advised that Mr X has been treated for malaria, a bacterial infection, ingrown nails and an inherited blood disorder. He was physically assaulted in the riot at Manus Island RPC and sustained a fractured jaw and eye trauma. He received dental treatment for his jaw injury in February 2016 and was reviewed by an optometrist and prescribed glasses.</p>	
4 August 2013	An Incident Report recorded that Mr X threatened self-harm.
10 – 28 August 2014	Admitted to a psychiatric hospital. Incident Reports recorded that Mr X self-harmed on three occasions.
3 June 2015	An Incident Report recorded that Mr X was transferred to hospital for treatment.
17 – 20 October 2015	Admitted to hospital to treat a bacterial infection in his foot.

Ombudsman assessment/recommendation

<p>Mr X was detained on 24 July 2013 after arriving in Australia by sea and has been held in detention for a cumulative period of more than two and a half years with no processing of his protection claims.</p> <p>Mr X was transferred to an RPC and returned to Australia for medical treatment. The department advised that because Mr X arrived after 13 July 2013 he remains liable for transfer back to an RPC on completion of his treatment.</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 and apparently indefinite detention may pose.</p> <p>The Ombudsman further notes that a treating psychologist has advised that Mr X's mental health would deteriorate if he were returned to an RPC or restricted detention.</p> <p>The Ombudsman notes that under current policy settings Mr X is not eligible to have his protection claims assessed in Australia and that without an assessment of Mr X's claims it appears likely he will remain in detention indefinitely.</p> <p>The Ombudsman recommends that priority is given to resolving Mr X's immigration status.</p>
