

**REPORT BY THE COMMONWEALTH AND  
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

*Under s 486O of the Migration Act 1958*

This is the third s 486O report on Mr X and his family who have remained in immigration detention for more than 48 months (four years).

The first report 1001538 was tabled in Parliament on 25 February 2015 and the second report 1002010 was tabled in Parliament on 24 February 2016. This report updates the material in those reports and should be read in conjunction with the previous reports.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1971

**Family details**

<b>Family members</b>	Ms Y	Ms Z (adult daughter)	Ms F (adult daughter)
<b>Citizenship</b>	Country B	Country A, born in Country B	Country A, born in Country C
<b>Year of birth</b>	1976	1995	1997

<b>Family members</b>	Ms G (adult daughter)	Miss H (daughter)	Master J (son)
<b>Citizenship</b>	Country A, born in Country C	Country A, born in Country C	Country A, born in Country D
<b>Year of birth</b>	1998	2000	2003

<b>Family member</b>	Master K (son)
<b>Citizenship</b>	Country A, born in Country E
<b>Year of birth</b>	2010

<b>Ombudsman ID</b>	1000967-O
<b>Date of DIBP's reports</b>	18 November 2015 and 9 May 2016
<b>Total days in detention</b>	1459 (at date of DIBP's latest report)

**Recent detention history**

Since the Ombudsman's previous report (1002010), Mr X has remained in restricted detention at Facility L. Ms Y and their six children remained in restricted detention at Facility M until 1 April 2016 when the Minister made a residence determination that Facility M be classified as community detention.
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## Recent visa applications/case progression

12 June 2015	Mr X and his family lodged Temporary Protection visa (TPV) applications.
11 August 2015	Ms Y and the children were referred to the Minister under s 197AB for consideration of a community detention placement.
31 August 2015	The Minister intervened under s 197AB to allow Ms Y and the children to reside in community detention.
2 November 2015	Ms Y and the children were referred to the Minister for consideration under s 197AD to revoke their proposed community detention placement as they had declined to be placed in community detention without Mr X. On 26 November 2015 the Minister declined to intervene.
9 February 2016	The Department of Immigration and Border Protection (DIBP) invited Mr X and his family to attend an interview in relation to their TPV applications
23- 24 February 2016 and 17-18 March 2016	Mr X attended interviews in relation to his and his family's TPV applications.
18 April 2016	DIBP invited Mr X, Ms Y, Ms Z and Ms F to raise any claim they might have in relation to the unintentional release of personal information. <sup>1</sup> On 9 May 2016 DIBP advised that this matter remained ongoing.
9 May 2016	DIBP advised that processing of the TPV applications remained ongoing and that security and character assessments had not yet been requested.

## Other legal matters

18 November 2015	DIBP advised that Mr X remained the subject of an adverse security assessment and Interpol Red Notice for alleged criminal offences while offshore. Consequently he remained of interest to it.
9 May 2016	DIBP confirmed that Mr X remained a person of interest.

## Health and welfare

### Mr X

<p>International Health and Medical Services (IHMS) referred to Mr X's previous diagnosis of Crohn's disease and stated that he was prescribed with medication for management of symptoms. He was reviewed by a specialist and underwent a colonoscopy on 12 October 2015. Some inflammation of his colon was found and biopsied with normal results. It was recommended that he have a regular diet and undergo further testing. He was due to see the specialist in November 2015 but refused to attend as he was to be handcuffed. On 31 March 2016 he presented to the IHMS clinic with further symptoms and was prescribed with medication for symptomatic relief and provided with advice.</p> <p>IHMS advised that Mr X did not require treatment for any major or acute mental health issues during the reporting period.</p>
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<sup>1</sup> In a media release dated 19 February 2014 the former Minister advised that an immigration detention statistics report was released on DIBP's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as DIBP became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by DIBP.

*Ms Y*

Ms Y attended an IHMS mental health review on 20 October 2015 where she presented as angry about her continuing detention. On 10 February 2016 she declined an offer of further mental health support for herself or her children.

IHMS advised that Ms Y continued to be prescribed with medication for better management of her gastro-oesophageal reflux disease. She was also recently diagnosed with helicobacter pylori and treated for this.

On 15 February 2016 she presented with vomiting fevers and lethargy and required transfer by ambulance to a hospital emergency department for further assessment and treatment. She was diagnosed with viral gastroenteritis and secondary dehydration that was treated with intravenous fluids and appropriate medication. She was discharged on the same day after some improvement in her symptoms was noted. An IHMS general practitioner (GP) monitored her as clinically indicated.

*Ms Z*

IHMS advised that Ms Z did not require treatment for any major physical or mental health issues during the periods under review.

*Ms F*

IHMS advised that Ms F was diagnosed with a Schistosoma infection on 28 August 2015 and prescribed with medication for treatment of this. She was reviewed by an infectious diseases clinic at a hospital and a follow up appointment was scheduled for 7 July 2016.

*Ms G*

IHMS referred to Ms G's previous diagnosis of scoliosis and advised that she did not currently require medical intervention aside from pain relief medication as required for management of pain.

A DIBP Incident Report recorded that on 16 July 2015 an ambulance was called after Ms G experienced breathing difficulties. She was treated by paramedics and then seen by a GP at Sydney IRH.

IHMS advised that an allergy and immunology clinic investigated Ms G's respiratory symptoms and confirmed on 26 November 2015 that she did not have asthma. She was diagnosed with allergic rhinitis and prescribed with an ongoing nasal spray with the intention that she would eventually not require an allergy tablet.

On 9 January 2016 Ms G's mother, Ms Y, requested information from the IHMS GP about the new guidelines for latent tuberculosis in children in immigration. The GP received consent from Ms Y and referred Ms G to a chest clinic. Ms G attended appointments in February 2016 and was being followed up in accordance with state policy.

*Miss H*

IHMS reported that Miss H underwent a tonsillectomy on 23 July 2015 with no complications following recurrent tonsillitis. She attended post-operation reviews and declined to attend a further review on 22 January 2016. IHMS advised the condition was now resolved.

IHMS referred to Miss H's history of coeliac disease and stated no issues had come to its attention during the reporting periods.

*Master J*

IHMS reported that an x-ray of Master J's spine on 17 August 2015 revealed thoracic scoliosis and advised that no medical intervention was required. IHMS stated he could access his community GP if he required treatment in the future.

On 9 January 2016 Master J's mother, Ms Y, requested information from the IHMS GP about the new guidelines for latent tuberculosis in children in immigration. The GP received consent from Ms Y and referred Master J to a chest clinic. Master J attended appointments in January 2016. A blood test was performed on 8 February 2016 and he was being followed up in accordance with state policy.

*Master K*

IHMS advised that Master K did not require treatment for any major physical or mental health issues during the periods under review.

**Recent detention incidents**

1 April 2016	A DIBP Incident Report recorded that Ms Z allegedly made an apparent threat to Serco staff. This was classified as a minor disturbance.
17 April 2016	A DIBP Incident Report recorded that Mr X was allegedly abusive and aggressive when he was denied access to the visits area because his visitors had not yet arrived.

**Other matters**

30 October 2015	The Australian Human Rights Commission (AHRC) informed DIBP that it had decided to cease investigation of a complaint from Mr X.
16 November 2015	The AHRC informed DIBP of a new complaint lodged by Mr X. The matter remained ongoing at the date of DIBP's latest report.

### **Ombudsman assessment/recommendation**

Mr X and his family were detained on 11 May 2012 after arriving in Australia aboard suspected illegal entry vessel 329 *Hagley*. Mr X has been held in restricted detention for over four years.

Ms Y and the other members of the family were held in restricted immigration detention until 1 April 2016 when the Minister made a residence determination under s 197AB that the immigration detention facility they were residing in, Facility M, be classified as community detention.

DIBP has advised that Mr X remains the subject of an adverse security assessment and Interpol Red Notice for alleged terrorism-related offences.

On 18 May 2015 the Minister lifted the bar under s 46A to allow Mr X and his family to apply for a Temporary Protection visa and on 12 June 2015 Mr X and his family lodged TPV application(s). DIBP has advised that processing of the application(s) remains ongoing.

The Ombudsman's previous report 1002010, tabled in Parliament on 24 February 2016, recommended that priority be given to progressing and finalising Mr X and his family's TPV application.

The Minister noted the Ombudsman's recommendation and advised that a Temporary visa application had been lodged and that DIBP had confirmed that priority was being given to processing the application.

Given the length of time Mr X and his family have remained in detention and given that the family remain separated, the Ombudsman recommends that processing of the family's TPV application(s) be expedited.