

**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 and his family who have remained in immigration detention for more than 30 months (two and a half years).

<b>Name</b>	Mr X (and family)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1981

**Family details**

<b>Family members</b>	Ms Y (wife)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1981

<b>Family members</b>	Miss Z (daughter)	Miss Q (daughter)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	2006	2007

<b>Family members</b>	Miss R (daughter)	Miss S (daughter)
<b>Citizenship</b>	Country A	Country A
<b>Year of birth</b>	2011	2012

<b>Ombudsman ID</b>	1002263-O
<b>Date of DIBP's reports</b>	14 December 2015 and 14 June 2016
<b>Total days in detention</b>	913 (at date of DIBP's latest report)

**Detention history**

14 December 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 871 <i>Catherine</i> . The family was transferred to an Alternative Place of Detention (APOD), Christmas Island.
4 June 2014	Transferred to Wickham Point APOD.
6 June 2014	Transferred to Inverbrackie APOD.
3 December 2014	Transferred to Bladin APOD.
26 February 2015	Transferred to Wickham Point APOD.
15 June 2015	Transferred to community detention.

## Visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that prior to ministerial intervention, Mr X and his family was part of a cohort who had not had their protection claims assessed as they arrived in Australia after 13 August 2012 and were subject to the bar under s 46A.	
12 March 2014	DIBP notified Mr X of the unintentional release of personal information <sup>1</sup> and advised that the privacy breach would be taken into account when considering the family's protection claims.
15 April 2014	The Attorney-General's Department (AGD) issued Mr X and Ms Y with Criminal Justice Stay Certificate's (CJSC) to prevent their removal from Australia while they give evidence as witnesses in relation to people smuggling activities.
29 April 2014	DIBP refused to grant Mr X and Ms Y with Criminal Justice Stay Visas.
5 February 2015	AGD cancelled Ms Y's CJSC.
19 February 2015	DIBP advised that Mr X has been identified as a person of interest in relation to his role as a witness to people smuggling activities. The Australian Federal Police confirmed that he is not the subject of a people smuggling investigation.
12 March 2015	Mr X and his family's case was referred on a first stage ministerial submission for consideration under ss 195A and 197AB.
25 March 2015	The Minister declined to intervene under s 195A.
29 May 2015	The Minister intervened under s 197AB to allow the family to reside in community detention.
29 September 2015	The Minister lifted the bar under s 46A to allow the family to lodge a temporary visa application.
12 November 2015	DIBP invited Mr X and his family to lodge a temporary visa application.
24 March 2016	Mr X and his family were notified that they are eligible to receive the Primary Application Information Service (PAIS) to assist them with lodging a temporary visa application. Mr X accepted the offer on 4 April 2016 and was assigned a PAIS provider.

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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.

## Health and welfare

### Mr X

International Health and Medical Services (IHMS) advised that Mr X experiences recurring headaches and seizures related to a previous head injury. He was prescribed with medication and referred to a neurologist, however he was unable to attend the appointment following his transfer to Wickham Point APOD.

While held in restricted detention, Mr X attended psychological counselling for management of anger, stress and threats of self-harm related to his prolonged detention. He disclosed a history of torture and trauma and was diagnosed with post-traumatic stress disorder, anxiety and depression and prescribed with antidepressant medication.

IHMS further advised that Mr X attended family counselling with his wife as they were experiencing difficulties parenting their daughters due to symptoms of detention fatigue. No further mental health concerns were reported following the family's transfer to community detention.

Mr X continues to be monitored by a general practitioner (GP) for knee, elbow and ankle pain and attended physiotherapy.

### Ms Y

IHMS advised that while held in restricted detention, Ms Y attended regular psychological counselling for symptoms of depression, irrationality and abnormal perceptual phenomena related to situational stress. In December 2014 she was placed on Supportive Monitoring and Engagement observations and prescribed with antidepressant medication following a deterioration in her mental health and threats of self-harm. No further mental health concerns were reported following the family's transfer to community detention.

IHMS further advised that Ms Y received ongoing treatment for multiple physical health concerns including ear infections, knee pain, obesity, thyroid concerns and gynaecological abnormalities. She was referred for a pelvic ultrasound and audiological testing.

### Miss Z

IHMS advised that while held in restricted detention, Miss Z attended regular psychological counselling after presenting with symptoms of post-traumatic stress disorder, depression and anxiety. The psychologist reported that she was withdrawn and anxious and she was prescribed with antidepressant medication. No further mental health concerns were reported following the family's transfer to community detention.

### Miss Q

IHMS advised that Miss Q was reviewed by the IHMS mental health team and a psychologist following ongoing bed wetting. On 5 February 2015 Ms Y reported improvements in Miss Q's condition and no further concerns were raised.

IHMS further advised that Miss Q was diagnosed with chronic eye abnormalities and was reviewed by an ophthalmologist. She continues to be monitored by a GP and prescribed with medication as required.

*Miss R*

IHMS advised that Miss R did not require treatment for any major mental or physical health concerns.

*Miss S*

IHMS advised that Miss S was reviewed by an orthopaedic specialist following walking issues. She was referred for physiotherapy and continues to be monitored by a GP.

**Detention incidents**

3 April 2014	DIBP Incident Reports recorded that Miss Z was assaulted by another detainee at Construction Camp APOD, Christmas Island. DIBP advised that the offender was convicted of assault on 10 September 2014.
16 December 2014	DIBP Incident Reports recorded that Mr X was reported to the Northern Territory Police and Ms Y was charged with assault following an incident at Bladin APOD. DIBP advised that no action was taken against Mr X and the charges against Ms Y were withdrawn at the request of the Northern Territory Director of Public Prosecutions.

**Other matters**

12 September 2014	<p>DIBP was notified that Mr X had lodged a complaint with the Australian Human Rights Commission (AHRC). DIBP provided its response on 28 November 2014. On 20 January 2015 the AHRC advised DIBP that the complaint would be resolved if Mr X and his family were released from restricted detention. DIBP declined this proposal on 27 January 2015.</p> <p>DIBP advised that the complaint was finalised on 23 June 2015 following the family's transfer to community detention.</p>
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**Case status**

Mr X and his family were detained on 14 December 2013 after arriving in Australia aboard SIEV *Catherine* and have been held in detention for over two and a half years.

On 29 September 2015 the Minister lifted the bar under s 46A to allow Mr X and his family to apply for a temporary visa. On 24 March 2016 Mr X and his family accepted the PAIS assistance and were assigned a provider to assist with lodging their application.