

## **ASSESSMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

*Under s 486O of the Migration Act 1958*

This is the second s 486O assessment on Mr X and his family who have remained in immigration detention for a cumulative period of more than 36 months (three years).

The first assessment 1002380-O was tabled in Parliament on 15 February 2017. This assessment provides an update and should be read in conjunction with the previous assessment.

<b>Name</b>	Mr X (and family)
<b>Citizenship</b>	Country A/Country B (dual citizenship)
<b>Year of birth</b>	1977
<b>Total days in detention</b>	1,094 (at date of DIBP's latest review)

### **Family details**

<b>Family members</b>	Ms Y (wife)	Mr Z (son)	Master P (son)
<b>Citizenship</b>	Country A/Country B (dual citizenship)		
<b>Year of birth</b>	1980	1998	2004
<b>Total days in detention</b>	1,094 (at date of DIBP's latest review)	1,028 (at date of DIBP's latest review)	1,094 (at date of DIBP's latest review)

<b>Ombudsman ID</b>	1002380-O1
<b>Date of DIBP's reviews</b>	23 October 2016 and 24 April 2017

### **Recent detention history**

Since the Ombudsman's previous assessment (1002380-O), Mr X and his family<sup>1</sup> have remained in community detention.

### **Recent visa applications/case progression**

The Department of Immigration and Border Protection (the department) has advised that under current policy settings Mr X and his family are not eligible to have their protection claims assessed in Australia and remain liable for transfer back to a Regional Processing Centre (RPC) on completion of their treatment.

### **Other legal matters**

Mr Z was charged with sexually assaulting a minor and held at a juvenile detention centre from 24 April 2015 to 3 July 2015. The department advised that his trial was scheduled to commence on 3 July 2017.

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<sup>1</sup> Mr X and Ms Y's third child, Miss Q, was born in Australia in July 2015 and detained on 17 August 2015. She has been in detention for less than two years and is not subject to review under s 486N.

## **Health and welfare**

### *Mr X*

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple physical health concerns, including type 2 diabetes, heel spurs and associated pain, a cardiac abnormality and headaches. His condition was monitored by a general practitioner (GP) and podiatrist and he was awaiting a neurology review at the time of IHMS's latest report.

### *Ms Y*

IHMS advised that Ms Y has a history of torture and trauma and attended psychological counselling for management of an adjustment disorder and depression. She was provided with antidepressant medication and her mental health continued to be monitored by a GP.

IHMS further advised that Ms Y received treatment for gynaecological concerns and was awaiting gynaecology and physiotherapy appointments at the time of IHMS's latest report.

### *Mr Z*

IHMS advised that Mr Z attended psychological counselling for ongoing management of anxiety, depression and an adjustment disorder related to situational stress and uncertainty about his immigration status. His mental health continued to be monitored by a GP and a psychologist.

IHMS further advised that Mr Z received treatment for enuresis related to nightmares. He was prescribed with sleeping medication and referred to a urologist.

### *Master P*

IHMS advised that Master P has a history of torture and trauma and continued to be monitored by the mental health team and a paediatrician for management of anxiety, depression, post-traumatic stress disorder and an adjustment disorder. On 27 July 2016 he commenced a specialist program to manage symptoms of enuresis related to nightmares and improvements in his condition were reported. In January 2017 he presented with low mood and decreased motivation related to his family's prolonged immigration detention and fear of being returned to an RPC.

### **Ombudsman assessment/recommendation**

Mr X and his family were detained on 25 July 2013 after arriving in Australia by sea and have been held in detention for a cumulative period of more than three years with no processing of their protection claims.

Mr X and his family were transferred to an RPC and returned to Australia for medical treatment. The department advised that because the family arrived after 19 July 2013 they remain liable for transfer back to an RPC on completion of their treatment.

The Ombudsman notes the advice from IHMS that Mr X has a medical condition that requires ongoing treatment.

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.

The Ombudsman notes that under current policy settings the family are not eligible to have their protection claims assessed in Australia and that without an assessment of the family's claims it appears likely they will remain in detention indefinitely.

The Ombudsman again recommends that priority is given to resolving the family's immigration status.