

**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 a cumulative period of more than 24 months (two years).

Name	Mr X (and family)
Citizenship	Country A
Year of Birth	1980

Family details

Family members	Ms Y (wife)	Miss Z (daughter)
Citizenship	Country A	Country A
Year of Birth	1976	1998

Family members	Miss P (daughter)	Master Q (son)
Citizenship	Country A	Country A
Year of Birth	2000	2012

Ombudsman ID	1002343-O
Date of DIBP's report	18 March 2016
Total days in detention	730 (at date of DIBP's report)

Detention history

23 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 801 <i>Blossburg</i> . The family were transferred to an Alternative Place of Detention (APOD), Christmas Island.
25 July 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
15 August 2013	Transferred to Christmas Island APOD.
8 November 2013	Transferred to Christmas Island IDC.
25 March 2014	Transferred to Christmas Island APOD.
31 May 2014	Transferred to Nauru Regional Processing Centre (RPC). ¹
24 January 2015	Returned to Australia and re-detained under s 189(1). The family was transferred to Bladin APOD.
26 February 2015	Transferred to Wickham Point APOD.

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.

27 March 2015	Transferred to Brisbane Immigration Transit Accommodation.
9 July 2015	Transferred to community detention.

Visa applications/case progression

12 March 2014	The Department of Immigration and Border Protection (DIBP) notified Mr X and his family of the unintentional release of personal information. ²
24 January 2015	Mr X and his family were transferred from Nauru RPC to Australia for medical treatment.
26 June 2015	The Minister intervened under s 197AB to allow the family to reside in community detention.
16 March 2016	DIBP confirmed that detainees who arrived in Australia after 19 July 2013 who were transferred to an RPC but returned to immigration detention in Australia for medical reasons remain liable for transfer back to an RPC on completion of their treatment.

Health and welfare

Mr X

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment for reflux symptoms as well as recurrent shoulder pain and chronic knee pain. Mr X also had a severe allergic reaction after being given immunizations and had to be transferred to hospital for treatment.</p> <p>IHMS advised that Mr X disclosed a history of torture and trauma and attended multiple specialist counselling sessions. In May 2015 Mr X presented with anxiety symptoms and was prescribed with medication. Since his transfer to community detention Mr X has been diagnosed with post-traumatic stress disorder, depression and anxiety. He has been advised to see a mental health professional for management of these conditions.</p>	
15 January 2014	A DIBP Incident Report recorded that Mr X refused food and fluids.
2 March 2014	A DIBP Incident Report recorded that Mr X self-harmed.

² 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

<p>IHMS advised that Ms Y was provided with treatment for a range of physical health issues and was prescribed with pain-relief medication for shoulder pain, carpal tunnel syndrome and back pain. On 9 April 2015 Ms Y was confirmed to be pregnant.</p> <p>IHMS reported that Ms Y disclosed a history of torture and trauma and has been diagnosed with depression, anxiety and post-traumatic stress disorder. In January 2015 she presented with anxiety and thoughts of self-harm and was encouraged to attend counselling. In April 2015 Ms Y saw a psychiatrist for stress in relation to her pregnancy and her eldest daughter's suicide attempt. After being transferred to community detention she was referred for further specialist counselling.</p>	
November 2015	Ms Y gave birth to her daughter ³ without complication.

Miss Z

<p>IHMS advised that Miss Z presented to the general practitioner (GP) with a lump on her chest and was referred to the hospital for further investigation and was prescribed pain medication. The general surgeon at the hospital recommended treatment, but Miss Z refused and continues to be monitored by the GP. Miss Z was also transferred to hospital after intentionally jumping off a balcony and injuring her back resulting in spinal fractures. Miss Z undergoes physical therapy and manages her back pain with pain-relief medication as needed.</p> <p>IHMS advised that Miss Z suffers from significant mental health concerns. In February 2015 she was diagnosed with mixed anxiety/depression disorder, which the psychiatrist noted was due to the stresses of her placement at Nauru RPC and an alleged sexual assault that occurred there. Miss Z has required involuntary psychiatric admissions to hospital on two occasions following suicide attempts. In March 2015 she was diagnosed with an adjustment disorder, post-traumatic stress disorder and depression with psychotic features, with the prospect of being returned to detention being noted as a stressor. Since being placed in community detention, Miss Z continued to be managed by her GP with antidepressant therapy and has been referred to a psychologist.</p>	
20 February – 11 March 2015	<p>A DIBP Incident Report recorded that Miss Z attempted suicide by jumping from a first floor balcony. She was transferred to hospital for physical treatment and admitted as an involuntary psychiatric patient.</p> <p>A further DIBP Incident Report recorded that Miss Z self-harmed by ingesting shampoo on 8 March while still admitted to hospital.</p>
19 – 27 July 2015	Admitted involuntarily to a psychiatric hospital.
25 September – 15 October 2015	A DIBP Incident Report recorded that Miss Z attempted suicide by overdosing on prescribed medication. She was subsequently admitted to hospital as an involuntary psychiatric patient.

³ Miss R was born in Australia in November 2015 and detained on 6 February 2016. She has been in detention for less than two years and is not subject to reporting under s 486N.

Miss P

IHMS advised that Miss P reported a history of childhood asthma but did not present with any current symptoms. Miss P also reported chronic back pain and was provided with education and exercises to strengthen her upper body. Additionally, Miss P was diagnosed with an inherited blood disorder, and her parents were counselled about the condition and the possibility of future genetic complications.

IHMS advised that Miss P has been diagnosed with anxiety, depression and an adjustment disorder. She was referred for specialist counselling due to multiple traumatic experiences while at Nauru RPC including her father sewing his lips together and her older sister self-harming. In March 2015 Miss P reported that she had thoughts of self-harm and presented with sleeping difficulties, constant worry and detention fatigue. She was placed on Supportive Monitoring and Engagement observations. After being transferred to community detention Miss P commenced a mental health treatment plan and the GP recommended she attend psychotherapy sessions.

Master Q

IHMS advised that Master Q presented with an itchy rash and low fever and was diagnosed with coxsackie virus which was treated until resolved.

Master Q was also reported to be behaving in an agitated and aggressive manner. His parents were provided with psycho-education skills to address this behaviour.

Other matters

14 March 2014	Mr X lodged a complaint with the Ombudsman's office about the standard of medical care available at Christmas Island IDC. The Ombudsman's office investigated the matter and the complaint was finalised on 11 July 2014.
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Ombudsman assessment/recommendation

The Ombudsman notes that Mr X and his family were detained on 23 July 2013 after arriving in Australia aboard *SIEV Blossburg* and have been held in detention for a cumulative period of over two years with no processing of their protection claims.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged detention may pose. Without an assessment of Mr X and his family's claims to determine if they are found to engage Australia's protection obligations, it appears likely that they will remain in detention for an indefinite period.

The Ombudsman notes that Mr X and his family suffer from numerous significant mental health conditions and in the case of his teenage daughters Miss Z and Miss P, these conditions have been noted by a psychiatrist to have been caused by their experiences on Nauru RPC. The Ombudsman further notes DIBP's advice that because Mr X and his family were transferred to an RPC but returned to immigration detention in Australia for medical reasons they remain liable for transfer back to an RPC on completion of their treatment.

The Ombudsman recommends that priority is given to exploring options to enable the resolution of Mr X and his family's immigration status.