

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O assessment on Mr X, Ms Y and their sons who have remained in immigration detention for more than 60 months (five years). The previous assessment 1001037-O was tabled in Parliament on 1 March 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X (and family)	Ms Y (wife)
Citizenship	Country A	Country A
Year of birth	1972	1973

Family details

Family members	Mr Z (son)	Master P (son)
Citizenship	Country A	Country A
Year of birth	1998	2001

Ombudsman ID	1001037-O1
Date of DIBP's reports	24 December 2016 and 24 June 2017
Total days in detention	1,822 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous assessment, the family continued to be placed in the community. ¹	
17 November 2017	The Department of Immigration and Border Protection (the department) advised that on 9 September 2016 Mr Z was charged with child sex offences and was remanded in a correctional facility following the refusal of bail. ²

Recent visa applications/case progression

26 September 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
10 April 2017	SHEV application refused.
13 April 2017	Applied to the Administrative Appeals Tribunal (AAT) for merits review.

Other legal matters

17 November 2017	The department advised that on 9 September 2016 Mr Z was arrested and charged with nine counts of indecent and sexual assault against a child. He was remanded in criminal custody following the refusal of bail and is scheduled to attend trial on 12 March 2018.
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¹ Mr X, Ms Y and their sons were granted a placement in the community under s 197AB of the *Migration Act 1958* and remain in immigration detention.

² On 24 June 2017 the department advised that while he is remanded in a correctional facility, Mr Z remains in immigration detention for the purposes of reporting under s 486N.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X attended psychological counselling for the management of symptoms of depression, anxiety and situational stress. In March 2017 a treating psychologist reported that he presented with feelings of sadness, shock and confusion regarding his elder son's incarceration and younger son's recent hospitalisation. He was referred to a psychiatrist for review and advised to attend ongoing psychological counselling.

IHMS further advised that Mr X was monitored by a general practitioner (GP) for hand numbness and elbow pain.

Ms Y

IHMS advised that Ms Y was prescribed with antidepressant medication and attended psychological counselling for anxiety, depression and an adjustment disorder related to situational stress. In April 2017 a treating psychiatrist reported that Ms Y's mental health conditions were caused by her prolonged detention, uncertain immigration status and son's ongoing legal matters. She remained psychologically vulnerable and was referred to a psychiatrist for review.

Mr Z

IHMS advised that Mr Z attended psychological counselling for symptoms of anxiety until he was remanded in criminal custody in September 2016.

Following his transfer to a correctional facility, Mr Z's health and welfare is managed by a Department of Corrective Services.

Master P

IHMS advised that Master P received psychiatric treatment for adjustment and conversion disorders related to situational stress. In October 2016 Master P was transported to hospital via ambulance after collapsing at school. He underwent investigative testing which identified no abnormalities and was subsequently admitted to a psychiatric hospital for psychological evaluation. He was diagnosed with adjustment and conversion disorders due to multiple psychosocial stressors involving his family's immigration status, his brother's incarceration, and trauma experienced during his journey to Australia, in his home country and while in immigration detention. A treating psychiatrist strongly recommended that Master P and his family be granted permanent residency visas as this was essential to his recovery. The psychiatrist further advised that if Master P's prolonged detention continues, his treatment is likely to fail and his mental health is likely to deteriorate. His condition continued to be monitored by a GP and psychiatrist.

Recent detention incidents

6 October 2016	Incident Reports recorded that Mr X and Ms Y received threats to harm their younger son if their elder son did not plead guilty to the charges against him. The police and child protection authorities were notified and advised Mr X to lodge a Violence Restraining Order (VRO). He declined to lodge a VRO and no further action was taken.
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Other matters

Ms Y's cousin, Mr Q, resides in the community with the family and is the subject of Ombudsman assessment 1001032-O1.

Ms Y's brother, Mr R, resides in the community on a Protection visa.

Case status

Mr X, Ms Y and their sons were detained on 28 June 2012 after arriving in Australia by sea and have been held in detention, both in a detention facility and the community, for more than five years.

Mr Z is currently remanded in criminal custody awaiting trial scheduled for 12 March 2018 and remains in immigration detention.

On 26 September 2016 the family lodged a SHEV application and on 10 April 2017 their application was refused.

At the time of the department's latest report, the family was awaiting the outcome of merits review.