

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, Ms Y and their three oldest children, Master Z, Master A and Miss B. This is the second s 486O report on their youngest child, Master C.

Mr X has remained in restricted immigration detention for more than 48 months (four years). Ms Y, Master Z, Master A and Miss B remained in immigration detention for more than 42 months (three and a half years). Master C remained in immigration detention for more than 30 months (two and a half years).

The first report 1001531 on Mr X, Ms Y and the three oldest children was tabled in Parliament on 11 February 2015 and the second report 1001988 was tabled in Parliament on 14 October 2015. The first report 1002549 on Master C was tabled in Parliament on 14 October 2015.

This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X (and family)
Citizenship	Country D
Year of birth	1976
Total days in detention	1471 (at date of DIBP's latest report)

Family details

Family members	Ms Y (wife)
Citizenship	Country D
Year of birth	1984
Total days in detention	1276 (at date of DIBP's report of 4 November 2015)

Family members	Master Z (son)	Master A (son)
Citizenship	Country D	Country D, born in Country E
Year of birth	2001	2004
Total days in detention	1276 (at date of DIBP's report of 4 November 2015)	1276 (at date of DIBP's report of 4 November 2015)

Family members	Miss B (daughter)	Master C (son)
Citizenship	Country D, born in Country E	Country D, born in Australia
Year of birth	2008	2013
Total days in detention	1276 (at date of DIBP's report of 4 November 2015)	901 (at date of DIBP's report of 4 November 2015)

Ombudsman ID	1000966-O
Date of DIBP's reports	4 November 2015 and 17 May 2016

Recent detention history

Since the Ombudsman's previous report (1001988), Mr X remained at Facility E and Ms Y and their children remained at Facility F.	
11 August 2015	Ms Y and the children were transferred to community detention in New South Wales.
11 September 2015	Ms Y and the children were transferred to community detention in Victoria.
25 February 2016	Ms Y and the children were granted Bridging visas and released from detention.
2 March 2016	Mr X was transferred to Facility G.

Recent visa applications/case progression

17 March 2015	The Department of Immigration and Border Protection (DIBP) invited Mr X to comment on information regarding his past criminal conviction and any claims that he or his family might have regarding the unintentional release of personal information. ¹
30 April 2015	DIBP notified the family that following legislative amendment, they were only eligible for temporary visas.
9 June 2015	The family's case was referred on a ministerial submission for consideration under s 195A of the <i>Migration Act 1958</i> for the grant of a Bridging visa or under s 197AB for a community detention placement.
26 June 2015	The Minister declined to intervene under s 195A for the family, declined to intervene under s 197AB for Mr X and agreed to intervene under s 197AB to allow Ms Y and the children to reside in community detention.
11 September 2015	DIBP approved Ms Y's temporary stay request for her and the children to reside in community detention in Victoria pending consideration by the Minister under s 197AD of a variation in their residential address.
25 February 2016	Ms Y and the four children were granted Bridging visas and released from detention. DIBP advised they were living lawfully in the community.

¹ 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.

7 April 2016	Following assessment of Mr X and Ms Y's Temporary Protection visa (TPV) application, DIBP invited Mr X to comment on information it was considering to refuse their application. On 14 April 2016 the couple's migration agent provided a response. On 17 May 2016 DIBP advised that the matter remained ongoing.
17 May 2016	DIBP advised that Mr X's case was identified for assessment against the s 195A guidelines for referral to the Minister for grant of a Bridging visa and the matter remained ongoing.

Criminal history

4 November 2015	DIBP advised that Mr X was previously of interest in relation to criminal matters onshore.
-----------------	--

Health and welfare

Mr X, Ms Y, Master A and Miss B

International Health and Medical Services (IHMS) advised that Mr X, Ms Y, Master A and Miss B have not required treatment for any major physical or mental health issues since the Ombudsman's previous report.

Master Z

IHMS advised that Master Z was reviewed in relation to a skin condition and a motor tic disorder.

Master C

IHMS advised that Master C sustained an accidental burn to his right forearm. He received first aid and he was transferred to hospital where he received further treatment. At review by a general practitioner on 30 September 2015 it was noted that the area had healed.

Recent detention incidents

DIBP Incident Reports recorded that Mr X was allegedly involved in behavioural incidents of a minor nature.

22 April 2014	A DIBP Incident Report recorded that Mr X allegedly assaulted another detainee in what was classified as a major incident.
---------------	--

Other matters

DIBP advised that Ms Y's sister, Ms H, lives lawfully in the Australian community.

Case status

Mr X and his family lodged a Protection visa application on 5 February 2013. On 30 April 2015 DIBP notified the family that following legislative amendment, they were only eligible for temporary visas.

DIBP has invited Mr X to comment on information that DIBP is considering relying on to refuse to grant Mr X and his family a TPV.

DIBP has advised Mr X's case was identified for assessment against the s 195A guidelines for referral to the Minister for grant of a Bridging visa and the matter remains ongoing.