

**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).

<b>Name</b>	Mr X (and family)
<b>Citizenship</b>	Country A / Country B (dual citizenship)
<b>Year of birth</b>	1977

**Family details**

<b>Family members</b>	Ms Y (wife)	Master Z (son)	Master P (son)
<b>Citizenship</b>	Country A / Country B (dual citizenship)		
<b>Year of birth</b>	1980	1998	2004

<b>Ombudsman ID</b>	1002380-O
<b>Date of DIBP's report</b>	26 April 2016
<b>Total days in detention</b>	732 (at date of DIBP's report)

**Detention history**

25 July 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 809 <i>Lineville</i> . The family was transferred to an Alternative Place of Detention (APOD), Christmas Island.
29 July 2013	Transferred to Christmas Island Immigration Detention Centre.
10 January 2014	Transferred to Nauru Regional Processing Centre (RPC). <sup>1</sup>
11 October 2014	Returned to Australia and re-detained under s 189(1). The family was transferred to Facility C.
6 January 2015	Transferred to Facility D.
26 February 2015	Transferred to Facility C.
14 October 2015	Transferred to Facility E.
4 November 2015	Transferred to Facility C.
10 November 2015	Transferred to Facility E.
1 April 2016	Transferred to community detention.

**Visa applications/case progression**

11 October 2014	Mr X and his family were transferred from Nauru RPC to Australia for medical treatment.
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<sup>1</sup> Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

16 March 2016	The Department of Immigration and Border Protection (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.
24 March 2016	The Minister intervened under s 197AB to allow the family to reside in community detention.

### Other legal matters

26 February 2015 – 15 April 2015	Master Z has been charged with sexual assault of a minor. He is next due to appear in Supreme Court F in relation to the charges on 22 June 2016. The matter remains ongoing.
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### Health and welfare

#### *Mr X*

International Health and Medical Services (IHMS) advised that Mr X receives treatment for multiple physical health concerns including high cholesterol and high blood pressure, type 2 diabetes, a cardiac abnormality, and heel pain.

IHMS further advised that Mr X disclosed a history of torture and trauma and receives psychological counselling for management of low mood and insomnia.

#### *Ms Y*

IHMS advised that Ms Y received treatment for multiple physical health concerns which required investigation and specialist treatment.

IHMS further advised that Ms Y disclosed a history of torture and trauma and receives psychological counselling for management of anxiety, depression, adjustment disorder and postnatal depression. Ms Y has been prescribed with antidepressant medication and continues to be closely monitored by IHMS.

July 2015	Ms Y gave birth to her daughter <sup>2</sup> without complication.
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#### *Master Z*

IHMS advised that Master Z disclosed a history of torture and trauma and receives psychological counselling for management of anxiety, depression and adjustment disorder. In March 2015 Master Z's psychiatrist advised that he would benefit from being transferred to community detention due to the stress associated with his pending court hearing and long term restricted detention. Master Z continues to be provided with specialist support.

<sup>2</sup> Miss Q was born in Australia in July 2015 and has been in detention for less than two years. She is not subject to reporting under s 486N.

*Master P*

IHMS advised that Master P has a history of torture and trauma and receives psychological counselling for management of adjustment disorder, anxiety and depression. Master P's symptoms were reported to be exacerbated by the mental health issues of his family members and the stressors associated with long term detention. It was advised by a treating psychiatrist that Master P's symptoms were unlikely to improve if he and his family remained in restricted detention.

**Ombudsman assessment/recommendation**

The Ombudsman notes that Mr X and his family were detained on 25 July 2013 after arriving in Australia aboard SIEV *Lineville* 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 the 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 further notes DIBP's advice that because the family was 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.