

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O report on Mr X and his family who have remained in immigration detention for more than 78 months (six and a half years).

The first report 1393/13 was tabled in Parliament on 4 December 2013, the second report 1001257 was tabled in Parliament on 29 October 2014 and the third report 1001930 was tabled in Parliament on 12 August 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 A
Year of birth	1986
Total days in detention	2368 (at date of DIBP's latest report)

Family details

Family members	Ms Y (wife)	Master Z (son)	Miss P (daughter)
Citizenship	Country A	Country A, born in Australia	Country A, born in Australia
Year of birth	1989	2011	2013
Total days in detention	2368 (at date of DIBP's latest report)	2088 (at date of DIBP's latest report)	997 (at date of DIBP's latest report)

Ombudsman ID	1003499
Date of DIBP's reports	7 October 2015, 10 April 2016 and 9 October 2016

Recent detention history

Since the Ombudsman's previous report (1001930), Mr X and his family have remained in community detention.

Recent visa applications/case progression

13 March 2014	The Department of Immigration and Border Protection (DIBP) notified Mr X and his family of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering the family's protection claims.
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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.

10 April 2016	DIBP advised that Mr X and his family's case was affected by the judgment handed down on 2 September 2015 by the Full Federal Court (FFC) ² which found that the International Treaties Obligations Assessment (ITOA) process was procedurally unfair.
27 July 2016	The Minister appealed the FFC decision and the High Court (HC) found that the ITOA process was not procedurally unfair. ³ DIBP advised that it is considering the implications of this judgment.

Health and welfare

Mr X, Ms Y, Master Z and Miss P

International Health and Medical Services advised that the family has not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

Case status

Mr X and his family have been found not to be owed protection under the Refugee Convention and the complementary protection criterion. The family's case is affected by the HC judgment of 27 July 2016 and DIBP advised that it is considering the implications of this judgment.

² *SZSSJ v Minister for Immigration and Border Protection* [2015] FCAFC 125.

³ *Minister for Immigration and Border Protection & Anor v SZSSJ & Anor* [2016] HCA 29.