

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 daughter who have remained in immigration detention for more than 24 months (two years).

Name	Mr X (and daughter)
Citizenship	Country A
Year of birth	1979

Family details

Family members	Miss Y (daughter)
Citizenship	Country A
Year of birth	2009

Ombudsman ID	1003182
Date of DIBP's report	28 July 2015
Total days in detention	733 (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) 811 <i>Opelika</i> .
The Department of Immigration and Border Protection (DIBP) advised that Mr X and his daughter are currently residing in community detention.	

Visa applications/case progression

DIBP advised that Mr X and his daughter are part of a cohort who have not had their protection claims assessed as they arrived in Australia after 13 August 2012 and the Minister has not lifted the bar under s 46A(2).	
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Health and welfare

Mr X

5 August 2013	International Health and Medical Services (IHMS) advised that Mr X disclosed a history of torture and trauma and was experiencing grief and situational stress. He attended specialist counselling and his mental health continues to be monitored by his general practitioner (GP).
16 September 2013	Abnormalities were identified during routine pathology testing and he was referred for further investigations. In October 2013 he was diagnosed with parasitic infections and prescribed with medication. IHMS advised that no further concerns have been raised.

7 August 2014	IHMS advised that he presented to his GP with depression and anxiety related to his separation from his wife and two other children. He was referred to a psychologist for opinion and management.
8 September 2014 - 19 November 2014	Attended five appointments with a psychologist.
17 July 2015	A DIBP Incident Report recorded that Mr X presented to a hospital emergency department with a fever. No further information was provided.

Miss Y

<p>IHMS advised that Miss Y has multiple and complex medical conditions and she requires assistance in all aspects of her daily living activities.</p> <p>IHMS reported that during her induction health assessment, Mr X advised that Miss Y was born with cerebral palsy and experiences associated developmental delay. She presented with reduced muscle tone, minimal communication skills and limited mobility related to her condition. IHMS advised that she regularly experiences febrile seizures and was identified as underweight.</p> <p>Miss Y is considered at high risk of developing a progressive hip dislocation related to her condition and requires ongoing treatment from a physiotherapist.</p> <p>IHMS advised that her condition continues to be monitored through regular contact with the Cerebral Palsy Health Service and a multidisciplinary team, including a paediatric neurologist, speech pathologist and occupational therapist.</p>	
September 2013	Reviewed by a speech pathologist and occupational therapist who recommended that Miss Y receive treatment and education to improve her swallowing and communication skills.
October 2013	Assessed by a paediatric neurologist and physiotherapist.
11 November 2013	Reviewed by a dietician following concerns related to her nutrition and hydration. No further information was provided.
December 2013	Following her paediatric assessment she was provided with communication aids, footwear and a splint to help manage her condition.
26 September 2014	A DIBP Incident Report recorded that Miss Y was admitted to hospital for dental surgery and was discharged the following day.
January 2015	IHMS advised that she was fitted for and provided with a wheelchair to improve her mobility and independence.
March 2015	IHMS advised that Miss Y attends regular sessions with an occupational therapist to develop her fine motor skills. She has been provided with a hand splint to assist her with writing and receives support to improve her self-care and independence.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X and his daughter were detained on 25 July 2013 after arriving in Australia aboard SIEV *Opelika* and have been held in detention for over two years with no processing of their protection claims.

The Ombudsman notes with concern that without an assessment of Mr X and his daughter'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 the Minister's recent Statements to Parliament, in which he advises that DIBP is progressing the substantial caseload of maritime arrivals, and will provide him with advice to assist his consideration of whether to lift the bar to allow these people to lodge a Temporary Protection visa application.

The Ombudsman recommends that the Minister lift the bar under s 46A and processing of Mr X and his daughter's protection claims commence as soon as possible.