

**REPORT BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the second s 486O report on Mr X and Ms Y who have remained in immigration detention for more than 36 months (three years).

The first report 1002527 was tabled in Parliament on 14 September 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X (and wife)
Citizenship	Country A
Year of birth	1985

Family details

Family members	Ms Y (wife)
Citizenship	Country A
Year of birth	1991

Ombudsman ID	1001373-O
Date of DIBP's reports	9 November 2015 and 16 May 2016
Total days in detention	1102 (at date of DIBP's latest report)

Detention history

10 May 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 700 <i>Denton</i> . They were transferred to an Alternative Place of Detention (APOD), Christmas Island.
14 May 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
20 June 2013	Transferred to Christmas Island APOD.
29 June 2013	Transferred to Wickham Point APOD.
25 August 2013	Transferred to Inverbrackie APOD.
11 September 2013	Transferred to Port Augusta Immigration Residential Housing.
18 January 2014	Transferred to Inverbrackie APOD.
3 December 2014	Transferred to Bladin APOD.
18 February 2015	Transferred to community detention.

Recent visa applications/case progression

The Department of Immigration and Border Protection (DIBP) advised that Mr X and Ms Y 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.

13 March 2014	DIBP notified Mr X and Ms Y of the unintentional release of personal information ¹ and advised that the privacy breach would be taken into account when considering their protection claims.
5 February 2015	The Minister intervened under s 197AB to allow Mr X and Ms Y to reside in community detention.
16 May 2016	Mr X and Ms Y's case has been identified for referral on a ministerial submission for consideration under s 195A for the grant of a Bridging visa.

Criminal history

12 June 2013	Mr X appeared before a Magistrates Court after being charged with assault following an incident of domestic violence. He was released on a Conditional Release Order and attended court ordered counselling.
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Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X received treatment for back pain and a stomach bacterial infection.

Ms Y

IHMS advised that Ms Y receives mental health support from her general practitioner for the management of adjustment disorder and depression. Her condition improved following being prescribed with antidepressant medication.

IHMS further advised that Ms Y has been referred to a gynaecologist and awaits an appointment.

Other Matters

Mr X and Ms Y's son, Master Z was born in Australia in April 2014 and is subject to an individual report under s486N. He is the subject of Ombudsman report 1002379-O.

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.

Ombudsman assessment/recommendation

The Ombudsman notes that Mr X and Ms Y were detained on 10 May 2013 after arriving in Australia aboard SIEV *Denton* and have been held in detention for over three years with no processing of their protection claims.

The Ombudsman notes with concern that without an assessment of Mr X and Ms Y'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 visa application.

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