

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 1001671 was tabled in Parliament on 29 October 2014. 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	1984

Family details

Family members	Ms Y (wife)
Citizenship	Country A
Year of birth	1978

Ombudsman ID	1002161
Date of DIBP's reports	30 December 2014 and 8 July 2015
Total days in detention	1,105 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001671), Mr X and Ms Y have remained in community detention. Their daughter, Miss Z,¹ lives with them.

Recent visa applications/case progression

11 July 2014	Mr X and Ms Y were issued with a letter inviting them to comment on the unintentional release of personal information through the Department of Immigration and Border Protection's (DIBP) website. ²
29 July 2014	Mr X and Ms Y provided their response and DIBP advised that it was assessing whether they had raised further protection related claims as a result of the privacy breach.
13 January 2015	DIBP notified Mr X and Ms Y that their protection claims would be reassessed as part of an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of their case engaged Australia's <i>non-refoulement</i> obligations.

¹ Mr X and Ms Y's daughter, Miss Z, was born in Australia in June 2013 and is the subject of Ombudsman report 1002999.

² 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.

27 January 2015	Mr X and Ms Y provided information to DIBP in relation to the ITOA.
1 April 2015	Mr X and Ms Y were invited to comment further in relation to the ITOA.
29 April 2015	Mr X and Ms Y provided further information to DIBP in relation to the ITOA.
8 July 2015	DIBP advised that Mr X and Ms Y were awaiting the outcome of the ITOA.

Health and welfare

Mr X

8 July 2014 and 3 September 2014	International Health and Medical Services (IHMS) reported that Mr X had attended two counselling sessions where he reported stress in relation to his immigration pathway, and relationship issues.
17 December 2014	Mr X had not reported any concerns about his chronic back pain and continued to await a neurological specialist appointment date.
20 April 2015	Referred to a specialist counselling service following ongoing depression and anxiety. IHMS advised it was unaware if Mr X had attended the appointment.

Ms Y

14 October 2014	A GP confirmed that she was pregnant. She was referred for antenatal care.
November 2014	Attended her first antenatal appointment.
16 December 2014	IHMS reported that Ms Y had attended psychology sessions since 2 July 2014 and had been provided with cognitive behaviour therapy to help manage her mental health.
June 2015	Gave birth to a daughter. ³
26 June 2015	IHMS reported that it had no record of Ms Y giving birth but records indicated she had been monitored by her GP.

³ Mr X and Ms Y's second daughter was born in Australia in June 2013 and has been in detention for less than two years. She is not subject to reporting under s 486N.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 22 September 2015 Mr X advised that his family were happy with their accommodation and their health was good.

He advised that the family were attending English classes when they arrived, but now they cannot find any childcare places and have also become depressed about their immigration status and pathway.

In relation to the family's protection claims, he said that he had used a lawyer to send further information to DIBP. To do this he had to borrow money from friends and organise a payment plan with the law firm to pay legal costs of around \$5,000.

Case status

Mr X and Ms Y have been found not to be owed protection under the Refugee Convention and the complementary protection criterion. They are awaiting the outcome of an ITOA.