

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fourth s 486O assessment on Mr X, Ms Y and their children who have remained in immigration detention for more than 60 months (five years). The previous assessment 1000967-O was tabled in Parliament on 23 November 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X (and family)	Ms Y (wife)
Citizenship	Country A	Country B
Year of birth	1971	1976

Family details

Family members	Ms Z (adult daughter)	Ms P (adult daughter)	Ms Q (adult daughter)
Citizenship	Country A, born in Country B	Country A, born in Country C	Country A, born in Country C
Year of birth	1995	1997	1998

Family members	Miss R (daughter)	Master S (son)	Master T (son)
Citizenship	Country A, born in Country C	Country A, born in Country D	Country A, born in Country E
Year of birth	2000	2003	2010

Ombudsman ID	1000967-O1
Date of DIBP's reports	6 November 2016 and 7 May 2017
Total days in detention	1,822 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous assessment (1000967-O), Mr X has remained at Facility F and Ms Y and their six children continued to be placed in the community.¹

Recent visa applications/case progression

30 May 2016	The Department of Immigration and Border Protection (the department) requested clarification from Ms P in relation to her Temporary Protection visa (TPV) application.
8 March 2017	The department notified Mr X that an external agency had commenced review of his adverse security assessment.
7 May 2017	The department advised that Mr X remained the subject of an adverse security assessment. The department further advised that the family continues to await the outcome of their TPV application.

¹ Ms Y and her children were granted a placement in the community under s 197AB and remain in immigration detention.

Health and welfare

Mr X

International Health and Medical Services (IHMS) advised that Mr X continued to be monitored by a general practitioner and specialists for the management of his condition that was previously diagnosed as Crohn's disease, but upon further testing had been identified as ulcerative colitis.

Ms P

IHMS advised that Ms P continued to receive treatment for a Schistosoma infection and upon further pathology testing was identified as cleared of the infection.

Ms Q

IHMS advised that Ms Q continued to be monitored for scoliosis and latent tuberculosis (TB).

Master S

IHMS advised that Master S was monitored for TB as per state policy with no further review required. IHMS further indicated that Master S's scoliosis condition was monitored but does not require medical intervention.

Ms Y, Ms Z, Miss R, Master T

IHMS advised that Ms Y, Ms Z, Miss R and Master T did not receive treatment for any major physical or mental health issues during this assessment period.

Other matters

21 September 2017	The Australian Human Rights Commission requested further information from the department regarding a complaint lodged by Mr X. On 21 March 2017 the department provided a response. The matter remained ongoing at the time of the department's latest report.
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Information provided by Mr X

During an interview with Ombudsman staff in September 2017 Mr X advised that his family continued to wait for a decision to be made in relation to their TPV application, lodged in June 2015. He stated that he felt like he had wasted five years of his life in detention.

Mr X reported that he had not been provided with any explanation about why he was subject to an adverse security assessment and continues to be separated from his family. He said that his requests to obtain further information had been ignored and he believed he was unable to seek review of the assessment because he was not a refugee.

Mr X advised that his health was getting worse the longer he remained in detention. He stated that he was attending specialist counselling, but did not engage with IHMS because he did not feel like he could trust them.

Mr X advised that being separated from his family is very hard and the whole family has been adversely impacted. He explained that his wife and children are only able to visit him twice a week due to the expense associated with transportation.

Ombudsman assessment/recommendation

Mr X and his family were detained on 11 May 2012 and have remained in detention for more than five years. Mr X is the subject of an adverse security assessment and remains at Villawood IDC while his family continues to be placed in the community.

The Ombudsman's previous assessment (1000967-O) recommended that the processing of the family's TPV application be expedited given the length of time the family has remained separated and in detention.

On 23 November 2016 the Minister noted the recommendation and advised that the family's TPV application was being progressed by the department.

On 7 May 2017 the department advised that the processing of the family's TPV application remains ongoing and that on 8 March 2017 an external agency had commenced review of Mr X's adverse security assessment. The Ombudsman notes with concern that without changes to current policy and practice relating to individuals who are the subject of adverse security assessments, Mr X will remain in an immigration detention facility for an indefinite period.

The Ombudsman remains seriously concerned about the risk that an indeterminate period of detention poses to Mr X's mental and physical health. The Ombudsman is also particularly concerned about the reported impact that the family's separation is having on the wellbeing of Mr X, Ms Y and their children.

1. The Ombudsman strongly recommends that the government prioritise finding a durable solution for individuals with adverse security assessments as soon as possible.
2. The Ombudsman further notes that the family continues to await a decision regarding their TPV application and again recommends that the resolution of their application be expedited.