

REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

Under s 486O of the Migration Act 1958

Personal identifier: 085/06

Principal facts

Personal details

1. Ms X is a female aged 24 from the People's Republic of China (PRC). Her parents, and a brother and sister are believed to be living in the PRC and she claims to have a sister living in the USA. Ms X claims to have qualifications and experience in nursing. Ms X was married in Sydney on 1 July 2006 to an Australian permanent resident.

Detention history

2. Ms X left the PRC on a false PRC passport and arrived in Australia in February 2004 on a Visitor Visa, using a fraudulent Portuguese passport she obtained en route to Malaysia. She was refused immigration clearance and her Visitor Visa was cancelled under s 116(1)(d) of the *Migration Act 1958*. She was subsequently detained under s 189(2) and placed at Villawood Immigration Detention Centre (IDC). Ms X has remained at Villawood IDC since she was detained.

Visa applications

3. Ms X lodged an application for a Protection Visa (PV), refused (March 2004); the RRT affirmed (June 2004); application to the Federal Magistrates Court (FMC) (June 2004) and the matter was remitted to the RRT for reconsideration; the RRT affirmed the original decision (January 2005); applied to the FMC and remitted to the RRT; original decision affirmed (December 2005); application to the FMC (December 2005) dismissed (April 2006); application for a Bridging Visa (BV) deemed invalid on three occasions (March 2004; October 2004 and August 2005); appeal to the Full Federal Court (18 May 2006); notice of discontinuance filed by Ms X withdrawing from proceedings (18 July 2006).
4. Submission for possible consideration by the Minister to exercise her detention intervention powers forwarded to Minister on 2 May 2006. Ms X's solicitor wrote to the Minister on 19 May 2006 requesting intervention. On 12 July 2006, a request under s 417 was initiated on Ms X's behalf seeking favourable exercise of the Minister's humanitarian discretion based, in part, on her marriage to an Australian permanent resident. The request is under initial consideration by DIMA.

Current immigration status

5. Ms X remains detained at Villawood IDC.

Removal details

6. DIMA advised that future removal of Ms X has been stayed pending the outcome of the submission to the Minister and continuing efforts to positively identify Ms X.

Ombudsman consideration

7. DIMA reports to the Ombudsman under s 486N dated 9 March 2006 and 29 August 2006.
8. Ombudsman staff interviewed Ms X on 27 April 2006 with the assistance of an interpreter and in the presence of an advocate.
9. Ombudsman staff examined a psychological assessment report by Ms A (dated 9 December 2005); Professional Support Services (PSS) psychologist's reports (dated 6