

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 Ms X who remained in immigration detention for more than 42 months (three and a half years).

The first report 1001752 was tabled in Parliament on 11 February 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Ms X
Citizenship	Country A
Year of birth	1978
Ombudsman ID	1002255
Date of DIBP's reports	17 February 2015, 24 July 2015 and 22 January 2016
Total days in detention	1277 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1001752), Ms X remained in community detention.	
7 January 2015	Ms X's community detention placement was revoked and she was transferred to Perth Immigration Residential Housing.
2 July 2015	Transferred to community detention.
31 May 2016	Granted a Temporary Protection visa (TPV) and released from detention.

Recent visa applications/case progression

5 September 2014	Ms X signed a request for voluntary removal from Australia.
20 November 2014	An International Treaties Obligations Assessment (ITOA) found Ms X's case engaged Australia's <i>non-refoulement</i> obligations.
7 January 2015	The Minister intervened under s 197AB of the <i>Migration Act 1958</i> to revoke Ms X's community detention placement following concerns about management of her significant mental health issues.
2 July 2015	The Minister intervened under s 197AB to grant Ms X a community detention placement.
24 July 2015	Ms X withdrew her request for removal from Australia. The Department of Immigration and Border Protection (DIBP) advised that Ms X's case progression was subject to ascertaining her son's ¹ eligibility for Australian citizenship.
8 September 2015 and 9 October 2015	Ms X's case was referred on ministerial submissions for consideration under s 417 for the grant of a Temporary Protection visa (TPV). The Minister agreed to consider intervening.

¹ Master Y was born in Australia in October 2014 and has been in detention for less than two years. He is not subject to reporting under s 486N.

22 January 2016	DIBP advised that Ms X's significant mental health issues were better supported in community detention than they would be if residing in the community on a Bridging visa.
31 May 2016	Granted a TPV.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Ms X has an extensive history of torture and trauma and has been diagnosed with schizoaffective disorder and bipolar disorder. She required involuntary psychiatric admission prior to and immediately following the birth of her son and was placed on a Community Treatment Order for psychotropic medication, which ceased in June 2015 prior to her transfer to community detention.</p> <p>Ms X's son was placed in foster care in December 2014 after she was deemed unable to care for him based on recommendations by IHMS and the WA Department of Child Protection and Family Support. In May 2015 child welfare services recommended a supervised plan to reunite Ms X with her son and she was supported by a number of community service providers to transition to full-time parenting. IHMS advised that in November 2015 Ms X was declared to have the capacity to care for her son full-time.</p> <p>Ms X's psychiatrist noted that she was more settled following her transfer to community detention. She continued to attend regular psychiatric consultations and take her prescribed medication.</p>	
28 July 2014 – 26 October 2014	Admitted involuntarily to a psychiatric hospital under the <i>Mental Health Act 2014</i> (Western Australia).
30 October 2014	Ms X gave birth to her son Master Y without complication.
2 November 2014 – 24 December 2014	Admitted to a psychiatric unit at a maternity hospital.

Recent detention incidents

1 February 2014	A DIBP Incident Report recorded that Ms X alleged that she had been raped, resulting in her pregnancy. No further information was provided.
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Other matters

6 February 2015	The Minister intervened under s 197AB to place Ms X's son Master Y in community detention under foster care.
24 February 2015	<p>Ms X lodged a complaint with the Ombudsman's office about her son being placed into foster care.</p> <p>Following an investigation by the Ombudsman, DIBP advised that Ms X's son was placed in foster care based on an assessment by the Department of Child Protection and Family Support and arrangements would be reviewed once IHMS reported her mental health had improved.</p> <p>The Ombudsman provided Ms X with an explanation and the complaint was closed on 18 June 2015.</p>
24 July 2015	<p>DIBP advised that Master Y is a claimed stateless person, born in Australia, and that it was assessing his eligibility for Australian citizenship.</p> <p>On 31 May 2016 Master Y was granted a TPV and released from detention along with Ms X.</p>

Case status

Ms X was detained on 23 July 2012 after arriving in Australia aboard Suspected Illegal Entry Vessel *Nattai* and was held in detention for over three and a half years.

On 20 November 2014 Ms X was found to engage Australia's *non-refoulement* obligations and on 31 May 2016 she was granted a TPV on 31 May 2016 and released from immigration detention.