

REPORT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the first s 486O report on Ms X who has remained in immigration detention for more than 24 months (two years).

Name	Ms X
Citizenship	Country A
Year of birth	1988
Ombudsman ID	1002690
Date of DIBP's report	10 June 2015
Total days in detention	733 (at date of DIBP's report)

Detention history

7 June 2013	Detained under s 189 of the <i>Migration Act 1958</i> and transferred to Villawood Immigration Detention Centre.
11 April 2014	Transferred to Wickham Point Alternative Place of Detention.

Visa applications/case progression

18 December 2008	Arrived in Australia on a Vocational Education and Training Sector visa which expired on 15 March 2011.
16 March 2011 – 20 April 2011	Granted two Bridging visas on departure grounds. The latter visa expired on 20 April 2011 and she became unlawful in the community.
21 April 2011	The Department of Public Prosecutions issued a Criminal Justice Stay Certificate in relation to a criminal investigation.
29 April 2011	Granted a Criminal Justice Stay visa (CJSV).
13 May 2013	Lodged an application for a Protection visa with an associated Bridging visa.
24 May 2013	Withdrew her application for a Bridging visa.
4 June 2013	CJSV was cancelled.
13 June 2013	Lodged an application for a Bridging visa.
17 July 2013	Protection visa refused.
20 July 2013	Appealed to the Refugee Review Tribunal (RRT).
14 August 2013	Bridging visa refused under s 501.
20 August 2013	RRT affirmed original decision.
29 August 2013	Appealed Bridging visa refusal to the Administrative Appeals Tribunal (AAT).
21 October 2013	Requested ministerial intervention under s 48B.
25 October 2013	AAT affirmed the Bridging visa refusal.

13 November 2013	Ministerial intervention request not referred to the Minister.
11 December 2013	Requested ministerial intervention under s 417.
8 February 2014	Ministerial intervention request not referred to the Minister.
25 February 2014	Lodged an application for a Bridging visa.
26 February 2014	Bridging visa application was found to be invalid.
12 March 2014	The Department of Immigration and Border Protection (DIBP) notified Ms X of a privacy breach caused by the unintentional release of personal information through DIBP's website. ¹
14 July 2014	She was invited to provide information in relation to the privacy breach and responded to DIBP on 20 August 2014.
15 January 2015	DIBP notified Ms X that it had commenced an International Treaties Obligations Assessment (ITOA) to assess whether the circumstances of his case engage Australia's <i>non-refoulement</i> obligations.
28 January 2015	She provided further information to DIBP in relation to the ITOA.
13 February 2015	DIBP invited Ms X to comment on country information.
15 May 2015	DIBP finalised the ITOA and concluded that Ms X's circumstances do not engage Australia's <i>non-refoulement</i> obligations.
10 June 2015	DIBP advised that Ms X has no outstanding matters before DIBP, the courts or tribunals and is on a removal pathway.

Criminal history

26 October 2012	Ms X was convicted of 'entering a building with intent to commit an indictable offence' and 'making a false accusation with intent to subject another to investigation.' She was sentenced to three months imprisonment for the first offence, and two years imprisonment with a non-parole period of one year for the latter offence. She was released from criminal custody on 5 June 2013.
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Health and welfare

18 August 2014 – 5 January 2015	Attended 12 obstetric appointments.
12 September 2013 – 25 November 2013	Attended several specialist counselling sessions.
6 October 2014	Diagnosed with gestational diabetes. Post-partum blood tests confirmed that this condition has been resolved.
December 2014	Ms X gave birth to her son. ²

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.

² Ms X's son was born in Australia in December 2014. He has been in detention for less than two years and is not subject to reporting under s 486N.

27 January 2015 – 19 May 2015	Attended nine specialist counselling sessions.
20 June 2015	International Health and Medical Services (IHMS) advised that Ms X has a history of depression and has decided not to take any medication at this time. IHMS also indicated that she is experiencing stress due to her prolonged detention, and from being separated from her husband who lives overseas. It was noted that she would benefit from being placed in a less restrictive environment.

Other matters

27 December 2013	<p>Ms X (formerly Ms Y) married Mr Z, who is the subject of Ombudsman report 1001815. Mr Z was involuntarily removed from Australia to Country B on 18 September 2014.</p> <p>DIBP advised that Ms X is attempting to obtain a visa for herself and her son to enter Country B to be with Mr Z.</p>
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Case status

<p>Ms X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion. She has no matters before DIBP, the courts or tribunals and has been referred for removal action.</p> <p>DIBP advised that Ms X is attempting to obtain a visa for herself and her son to enter Country B.</p>
