

**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 has remained in immigration detention for a cumulative period of more than 36 months (three years).

The first report 1002255-O was tabled in Parliament on 14 September 2016. 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	1988
Ombudsman ID	1002255-O1
Date of DIBP's reports	9 June 2016 and 7 December 2016
Total days in detention	1094 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous report (1002255-O), Ms X remained at Melbourne Immigration Transit Accommodation (ITA).	
18 August 2016	Transferred to Maribyrnong Immigration Detention Centre (IDC).
16 September 2016	Transferred to Melbourne ITA.
23 September 2016	Transferred to Perth IDC.
30 September 2016	Transferred to Perth Immigration Residential Housing.
The Department of Immigration and Border Protection (the department) advised in a report to the Ombudsman in March 2017 that Ms X had been transferred to community detention.	

Recent visa applications/case progression

The department has advised that under current policy settings Ms X remains liable for transfer back to a Regional Processing Centre (RPC) on completion of her treatment.	
12 October 2016	Ms X's case was referred on a ministerial submission for consideration under s 197AB of the <i>Migration Act 1958</i> for a community detention placement. Her husband, Mr Y ¹ was referred on the same ministerial submission.

¹ Ms X married Mr Y in June 2016. Mr Y is the subject of Ombudsman report 1002413-O.

Health and welfare

International Health and Medical Services (IHMS) advised that Ms X has received treatment and has attended counselling sessions for the management of borderline personality disorder, episodes of psychosis and an incident of self-harm. Ms X required Supportive Monitoring and Engagement observations following threats of self-harm related to the possibility of being separated from her husband. An IHMS psychiatrist advised that Ms X is heavily reliant on her husband and that separation from him could lead to significant deterioration in her mental state.

IHMS further advised that Ms X received treatment for gynaecological and kidney concerns and was closely monitored during her pregnancy with expected delivery in January 2017.

12 June, 29 September and 13 November 2016	Incident Reports recorded that Ms X was transferred to hospital for pregnancy concerns on three occasions.
23 June 2016	An Incident Report recorded that Ms X self-harmed.
17 August and 28 September 2016	Incident Reports recorded that Ms X threatened harm to herself and her unborn baby on two occasions.

Recent detention incidents

Ms X was allegedly involved in a number of minor behavioural incidents in detention which included physical altercations and abusive and aggressive behaviour towards staff.

Other matters

7 December 2016	The department advised that the complaint lodged by Ms X with the Australian Human Rights Commission remains ongoing.
-----------------	---

Ombudsman assessment/recommendation

Ms X was detained on 7 August 2013 after arriving in Australia by sea and has been held in detention for a cumulative period of more than three years with no processing of her protection claims.

Ms X was transferred to an RPC and returned to Australia for medical treatment. The department advised that because Ms X arrived after 13 July 2013 she remains liable for transfer back to an RPC on completion of her treatment.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to mental and physical health prolonged and apparently indefinite detention may pose.

The Ombudsman notes with concern that Ms X has significant mental health concerns and that IHMS has advised that her condition is likely to deteriorate if separated from her husband.

The Ombudsman notes that under current policy settings Ms X is not eligible to have her protection claims assessed in Australia and that without an assessment of Ms X's claims it appears likely she will remain in detention indefinitely.

The Ombudsman again recommends that priority is given to resolving Ms X's immigration status.