

## 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 and her daughter who have remained in immigration detention for more than 24 months (two years).

<b>Name</b>	Ms X (and daughter)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1986

### Family details

<b>Family members</b>	Miss Y (daughter)
<b>Citizenship</b>	Country A
<b>Year of birth</b>	2011

<b>Ombudsman ID</b>	1003216
<b>Date of DIBP's report</b>	14 August 2015
<b>Total days in detention</b>	733 (at date of DIBP's report)

### Detention history

11 August 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia aboard Suspected Illegal Entry Vessel (SIEV) 829 <i>Marbury</i> . They were transferred to Facility B.
26 August 2013	Transferred to Facility C.
24 February 2014	Transferred to Facility D.
4 December 2014	Transferred to Facility E.
26 January 2015	Transferred to Facility F.
2 February 2015	Transferred to Facility E.
25 February 2015	Transferred to community detention.
The Department of Immigration and Border Protection (DIBP) advised that Ms X's estranged fiancé, Mr Z arrived in Australia aboard SIEV <i>Oneonta</i> . Mr Z was granted a Bridging visa on 18 March 2015.	

### Visa applications/case progression

12 March 2014	Ms X was issued with a letter inviting her to comment on the unintentional release of personal information through DIBP's website. <sup>1</sup>
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<sup>1</sup> 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.

18 June 2015	Ms X was notified by DIBP that her behaviour was in breach of her community detention conditions.
13 August 2015	The Minister lifted the bar under s 46A to allow Ms X and her daughter to lodge a temporary visa application. DIBP advised that Ms X and her daughter have not yet been invited to make an application.

### **Criminal matters**

22 August 2014	DIBP advised that Ms X was charged with aggravated assault and placed on a six-month good behaviour bond. No further information was provided.
31 July 2015	DIBP advised that Ms X appeared before the G Magistrates Court after being charged with theft. She was issued with a diversion notice that she donate \$100 to local community groups and write a letter of apology.

### **Health and welfare**

*Ms X*

17 September 2013	International Health and Medical Services (IHMS) advised that Ms X was admitted to hospital for a medical procedure. She received post-operative care and attended a follow-up appointment with a specialist.
7 November 2013	Disclosed a history of torture and trauma and attended specialist counselling.
11 November 2013	IHMS advised that Ms X required ongoing supportive treatment from a psychiatrist and psychologist following mental health issues and concerns relating to inadequate parenting. She was diagnosed with a personality disorder and depression and was placed on Supportive Monitoring and Engagement observations following safety concerns.  IHMS advised that Ms X was prescribed with antidepressant medication and continues to attend counselling to manage her symptoms.
13 January 2014 – 11 July 2014	Attended 13 specialist counselling sessions.
14 January 2014 – 7 October 2014	DIBP Incident Reports recorded that Ms X threatened self-harm on four occasions during this period. No further information was provided.
4 May 2014	Ms X was reviewed by a psychiatrist who recommended that she and her daughter remain on the Australian mainland and not be transferred to a Regional Processing Centre (RPC). The psychiatrist noted potential safety concerns and advised that the family was psychologically unfit to return to Facility B or an RPC.
11 October 2014	A DIBP Incident Report recorded that Ms X allegedly self-harmed by cutting her wrist with a razor blade. No further information was provided.

18 November 2014	A DIBP Incident Report recorded that Ms X commenced voluntary starvation during an assessment with the mental health team (MHT).
21 November 2014	A DIBP Incident Report recorded that an ambulance was required following a suspected seizure. No further information was required.
15 December 2014 – 23 February 2015	Attended four external family counselling sessions.
January 2015	IHMS advised that Ms X attended parenting skills classes with the MHT in preparation for her transfer into community detention.
28 January 2015	Attended an appointment with her psychiatrist who noted improvements in her relationship with her daughter.
20 May 2015	IHMS advised that Ms X presented with symptoms of depression during an appointment with her general practitioner (GP). Her GP noted that these symptoms were related to her separation from her daughter.

*Miss Y*

18 September 2013	IHMS advised that Miss Y was admitted to hospital after experiencing symptoms related to asthma. A chest x-ray was conducted with no abnormalities identified. She was diagnosed with asthma and prescribed with medication. Ms X received education and was provided with a management plan. Her condition is monitored by her GP.
23 December 2013	IHMS advised that Miss Y was closely monitored by child care services and was regularly reviewed by a psychiatrist following ongoing parenting and domestic violence concerns. During these consultations she was diagnosed with an attachment disorder.
23 December 2014	Attended a review with her psychiatrist who noted improvements in her mental health and in her relationship with her mother. The psychiatrist reported that Miss Y was behaving appropriately for her age and was comfortable with her mother.  IHMS advised that no further concerns regarding Ms X's parenting or Miss Y's mental health have been raised.

**Detention incidents**

Ms X has allegedly been involved in numerous incidents in detention, including physical altercations with other detainees and aggressive and abusive behaviour towards detainees and staff.	
6 November 2013 – 7 April 2014	DIBP Incident Reports recorded that Ms X allegedly assaulted her daughter, Miss Y on four occasions during this period. No further information was provided.
27 January 2014	A DIBP Incident Report recorded that Ms X allegedly assaulted Miss Y by slapping her across the face. No further information was provided.

1 May 2015	A DIBP Incident Report recorded that a child protection visit between Ms X and Miss Y was ceased after Miss Y became distressed and angry. No further information was provided.
18 June 2015	A DIBP Incident Report recorded that Miss Y stated to her foster carers that she had been assaulted by her mother. DIBP advised that welfare authorities were notified.

### Other matters

11 March 2015	<p>DIBP advised that Ms X was allegedly sexually assaulted by Mr Z. Following an assessment by the Department of Human Services (DHS) it was advised that both Ms X and Miss Y be temporarily accommodated at a refuge. DIBP advised that Ms X refused this request and Child Protective Services were notified.</p> <p>DHS and Child Protective Services accessed the G Children's Court and requested that Miss Y be placed in temporary care until safety concerns could be effectively managed.</p>
17 March 2015	<p>Ms X was issued with an Interim Accommodation Order after appearing before the G Children's Court and Miss Y was placed into foster care. The order included conditions regarding Ms X's future capacity to care for Miss Y and requested that she connect with mental health professionals to ensure that she is able to maintain a stable environment for Miss Y.</p> <p>DIBP advised that Ms X has since met the conditions of the order and has been reunited with Miss Y. DIBP further advised that DHS continues to provide support for Ms X and the matter remains ongoing.</p> <p>DIBP further advised that Ms X ceased her relationship with Mr Z following this incident.</p>

### Ombudsman assessment

Ms X and her daughter were detained on 11 August 2013 after arriving in Australia SIEV *Marbury* and have been held in detention for over two years with no processing of their protection claims.

The Ombudsman notes with concern the number of alleged incidents and behavioural issues involving Ms X. The Ombudsman further notes advice from DIBP that the Department of Human Services has been involved in addressing these concerns.

On 13 August 2015 the Minister lifted the bar under s 46A to allow Mr X and her daughter to lodge a temporary visa application and they are awaiting an invitation to apply. The Ombudsman makes no recommendations in this report.