

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fifth s 486O assessment on Ms X who has remained in immigration detention for more than 66 months (five and a half years). The previous assessment 1002468 was tabled in Parliament on 23 November 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Ms X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1960
<b>Ombudsman ID</b>	1000894-O
<b>Date of DIBP's reports</b>	26 December 2016 and 26 June 2017
<b>Total days in detention</b>	2,004 (at date of DIBP's latest report)

### Recent detention history

Since the Ombudsman's previous assessment (1002468), Ms X remained at Facility B.	
5 April 2017	Transferred to Facility C.

### Recent visa applications/case progression

13 September 2016	The Minister declined to intervene under s 197AB of the <i>Migration Act 1958</i> to grant a community detention placement and indicated that he was not inclined to consider Ms X's case under s 195A for the grant of a bridging visa.
16 November 2016	Ms X was notified that she is eligible to receive the Primary Application Information Service to assist her with lodging a new temporary visa application or providing supporting information for her existing application. She accepted the offer on the same day and was assigned a provider.
1 March 2017	Temporary Protection visa (TPV) application refused.
8 March 2017	Applied to the Administrative Appeals Tribunal (AAT) for merits review.
6 June 2017	Ms X's case was referred on a ministerial submission for consideration under ss 195A and 197AB.

### Health and welfare

<p>International Health and Medical Services (IHMS) advised that Ms X continued to attend counselling for the management of obsessive compulsive disorder (OCD) and symptoms of anxiety and depression. In June 2016 Ms X presented with frustration related to being transferred to a new detention facility. On 12 May 2017 a treating psychiatrist noted that Ms X's OCD had worsened in the context of her ongoing detention and was causing her to come into conflict with detainees and detention centre staff. The psychiatrist recommended that Ms X be placed in community detention for better symptom management and to prevent the further deterioration of her condition.</p> <p>IHMS further advised that Ms X received treatment for multiple physical health concerns including type 2 diabetes, hypertension, oral abnormalities and shoulder and back pain. She was referred to an oral health specialist and continued to be monitored by a general practitioner.</p>
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### Recent detention incidents

Incident Reports recorded that Ms X was allegedly involved in multiple behavioural incidents during this assessment period, including displaying abusive and aggressive behaviour towards other detainees and detention centre staff.	
29 March 2017	An Incident Report recorded that Ms X allegedly assaulted another detainee. On 31 March 2017 the matter was referred to the police.

### Other matters

11 May 2017	Ms X lodged a complaint with the Office of the Commonwealth Ombudsman in relation to property concerns during her transfer to Perth IDC. On 29 June 2017 the Department of Immigration and Border Protection (the department) provided a response and on 12 July 2017 the complaint was finalised.
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### Information provided by Ms X

<p>During a telephone conversation with Ombudsman staff on 28 September 2017 Ms X advised that the AAT considered her appeal and remitted her case to the department for reconsideration. However, she reported that the department subsequently refused her visa application a second time.</p> <p>Ms X said that she did not understand why she had not been granted a bridging visa or placed in community detention, but believes it is related to criminal convictions she has in Country D. She explained that she is waiting for information from the Country D police and hopes this information will help the Minister reach a decision about her immigration case.</p> <p>Ms X said that she feels like a broken person and is no longer the energetic person she was when she arrived in Australia seven years ago. She stated that she feels lonely, frustrated and upset in detention and requires multiple types of medication. She said that she has attended psychological counselling, but it has not been helpful.</p> <p>Ms X stated that the detention conditions at Facility C were terrible and Serco officers treat her poorly. She said that the rules implemented by Serco were unnecessarily strict and punished all detainees for the behaviour of a few.</p> <p>Ms X advised that her son resides in Country D and she speaks with him often, however she does not want him to see her in the detention centre environment.</p>
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## Ombudsman assessment

Ms X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in an immigration detention facility for more than five and a half years.

On 1 March 2017 Ms X's TPV application was refused and on 8 March 2017 she applied to the AAT for merits review. At the time of the department's latest report Ms X was awaiting the outcome of merits review.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose. The Ombudsman further notes that Ms X received treatment for OCD, depression and anxiety and on 12 May 2017 a psychiatrist recommended that she be placed in community detention for better symptom management and to prevent the further deterioration of her condition.

The Ombudsman notes that Ms X was convicted of assault on 27 July 2015 following an incident in immigration detention and has disclosed that she was previously convicted of criminal offences in Country D.

The Ombudsman further notes that Ms X's case was referred on a ministerial submission for consideration under ss 195A and 197AB on 6 June 2017 for the grant of a bridging visa or community detention placement.