

# REPORT (ABRIDGED) 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 Mr X who has remained in immigration detention<sup>1</sup> for more than 36 months (three years).

The first report 1002369 was tabled in Parliament on 9 September 2015. This report updates the material in that report and should be read in conjunction with the previous report.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1992
<b>Ombudsman ID</b>	1003426
<b>Date of DIBP's reports</b>	23 September 2015 and 15 March 2016 <sup>2</sup>

## Recent detention history

Since the Ombudsman's previous report (1002369), Mr X has been transferred from Hakea Prison to Wooroloo Prison Farm, Western Australia (WA).

## Recent visa applications/case progression

Mr X continues to serve a sentence of eight years with a non-parole period of five years for his involvement in people-smuggling offences.

## Health and welfare

The Department of Immigration and Border Protection (DIBP) advised that Mr X's health and welfare is managed by the Department of Corrective Services, WA.

## Ombudsman assessment

Mr X will be removed at the conclusion of his custodial sentence. His earliest release date is 24 March 2018.

The Ombudsman notes that s 486N(1)(b) records the Secretary of DIBP's obligation to report to the Commonwealth Ombudsman within 21 days after the detention reporting time.

In the case of DIBP's 36-month review on Mr X, the Ombudsman notes that DIBP advised that it did not meet its statutory reporting timeframes due to a system-related error which precluded normal reporting procedures from being followed.

The Ombudsman further notes that DIBP advised that it is working with DIBP's information technology systems to correct this issue and makes no recommendations in this report.

<sup>1</sup> Section 250 of the *Migration Act 1958* provides that a person serving a sentence for an offence related to being on board a vessel involved in the commission of an offence may be kept in immigration detention while serving a sentence. Mr X is therefore deemed to be in concurrent detention and will continue to be subject to reporting under s 486O even though he is not actively case-managed by DIBP.

<sup>2</sup> In response to an inquiry from the Ombudsman's office about an apparent breach of reporting timeframes DIBP advised that it did not meet its statutory obligations in relation to providing Mr X's 36-month review under s 486N. DIBP further advised that this was due to a system-related error which precluded normal reporting procedures from being followed, and that it is working with DIBP's information technology systems to correct this issue.