

**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 detention¹ for a cumulative period of more than 48 months (four years).²

The first report 1002194 was tabled in Parliament on 27 May 2015. This report updates the material in that report and should be read in conjunction with the previous report.

Name	Mr X
Citizenship	Country A
Year of birth	1988
Ombudsman ID	1003143
Date of DIBP's reports	27 July 2015, 18 March 2016 ³ and 13 July 2016

Recent detention history

Since the Ombudsman's previous report (1002194), Mr X has remained at Cessnock Correctional Centre, New South Wales (NSW).

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

International Health and Medical Services (IHMS) advised that Mr X was diagnosed with syphilis on 12 February 2013 and prescribed with antibiotics. IHMS further advised that he was identified as a non-infectious hepatitis B carrier and no treatment was required.

The Department of Immigration and Border Protection (DIBP) advised that following his transfer to Cessnock Correctional Centre, Mr X's health and welfare is managed by Corrective Services, NSW.

¹ 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.

² In DIBP's 48-month review, dated 18 March 2016, it advised that it had not included Mr X's previous period of immigration detention. He first arrived in Australia on 1 November 2011 on Suspected Illegal Entry Vessel (SIEV) 273 *Pearl* and was removed on 20 December 2012 before arriving in Australia again on 6 February 2013 on SIEV 577 *Delahay*.

³ 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 48-month review under s 486N. It further advised that this was due to a system-related administrative error which precluded normal reporting procedures from being followed and that it is working with DIBP's information technology systems to correct this issue.

Ombudsman assessment

Mr X will be removed at the conclusion of his custodial sentence. His earliest release date is 21 January 2018.

The Ombudsman notes that s486N(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 48-month review on Mr X, the Ombudsman notes with concern that DIBP advised that it did not meet its statutory reporting timeframes due to systems-related administrative errors.

The Ombudsman further notes that DIBP advised that it is working with DIBP's information technology systems to correct this issue and enhance its standard operating procedures.