

**REPORT (ABRIDGED) BY THE COMMONWEALTH AND
IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT**

Under s 486O of the Migration Act 1958

This is the fourth s 486O report on Mr X who has remained in immigration detention¹ for more than 60 months (five years).

The first report 1001113 was tabled in Parliament on 5 March 2014, the second report 1001409 was tabled in Parliament on 1 October 2014 and the third report 1002175 was tabled in Parliament on 17 June 2015. This report updates the material in those reports and should be read in conjunction with the previous reports.

Name	Mr X
Citizenship	Country A
Year of birth	1969
Ombudsman ID	1002865
Date of DIBP's reports	6 July 2015, 18 March 2016 ² and 5 July 2016

Recent detention history

Since the Ombudsman's previous report (1002175), Mr X has remained at Tamworth 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. His earliest release date was 6 July 2016.

2 June 2016	Mr X requested removal from Australia.
30 June 2016	A delegate of the Attorney-General of Australia declined to release Mr X on parole and advised that he will be reconsidered for parole in July 2017.

Health and welfare

The Department of Immigration and Border Protection (DIBP) advised that 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 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 54-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 was 7 July 2016 but he was not granted parole. He will be reconsidered for parole in July 2017.

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 54-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 administrative 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.