RESPONSE TO OMBUDSMAN'S STATEMENTS MADE
UNDER SECTION 4860 OF THE MIGRATION ACT 1958

- STATEMENT TO PARLIAMENT -

General Comments

It is just over twelve months since the Government introduced arrangements for reporting to the Commonwealth Ombudsman and to Parliament on people who have been in immigration detention for more than two years.

Up to 14 August 2006, my department has provided the Ombudsman with reports on 272 people. Supplementary reports have been provided on 77 people who have remained in detention for a further six months.

The Ombudsman has provided me with 71 assessments covering 76 people. I have tabled 66 of these reports and I am tabling another three, covering eight people, today. I have received another two reports which will be tabled in mid-September.

Thirty five of the people reported on are no longer in immigration detention. Of these, I have granted:

- Permanent Visas to 12 people;
- Temporary Protection Visas to five people;
- A Temporary Humanitarian Visa to one person; and
- Removal Pending Bridging Visas to five people.

Eight people have been removed from Australia and one returned home voluntarily after being granted a Removal Pending Bridging Visa. Two people have been released into the community following the Full Federal Court decision on Nystrom. Another person, who was subject to a deportation order, has been released pending reconsideration of his case.

At 14 August 2006, 41 of the people reported on by the Ombudsman remained in immigration detention. Eight were in the community in Residence Determination arrangements, one was receiving treatment in a hospital, another three were in alternative detention in the community and 29 were in immigration detention facilities.
These are invariably complex cases. Some involve significant character and security concerns. Others have been found not to be owed protection by Australia and it is time for them to accept that decision and to rebuild their lives elsewhere. For a small number of people from the People's Republic of China, I have decided to allow further Protection Visa applications following concerns raised about the conduct of interviews by consulate representatives last year.

I have invited seven people to make new Protection Visa applications under my section 48B power of the Migration Act 1958. Another person has had their Protection Visa application remitted from the Refugee Review Tribunal.

Of the 41 people still in detention, four are seeking merits or judicial review and five are waiting completion of health and character checks prior to the grant of a visa. Three people, whose visas were cancelled on character grounds under section 501 of the Migration Act 1958, are to have their cases reviewed in line with the Ombudsman's recommendations about the use of section 501.

I have decided not to intervene in seven cases and have sought further advice on three cases. I have three submissions before me and I will make a decision on these shortly. There are seven people for whom there are other non immigration processes being resolved without which, removal is on hold as indicated under 067/06 below.

I will now turn to those reports by the Commonwealth Ombudsman which I am tabling today.

**Statement 067/06**

The Commonwealth Ombudsman has recommended that removal plans for this family be delayed until paternity issues surrounding a child are conclusively determined and any claims arising are considered.

I can advise that the parents consented to tests to determine the paternity of the child. It has now been established that the Australian citizen identified on the birth certificate is not the biological father of the child. Arrangements are now being made to have the formal records changed to show the correct parents and name of the child. New medical issues, for which the mother is receiving treatment, will be resolved before the family is removed from Australia. The husband has also been receiving appropriate medical treatment, including psychiatric and psychological treatment, and monitoring of his mental health continues.

**Statement 068/06**

The Commonwealth Ombudsman has recommended that this person not be removed from Australia while he is receiving medical treatment and that the department facilitate the provision of necessary medical assistance to aid in his treatment and recovery. He has also recommended that given the nature of this person's condition, the department examine the options for alternative accommodation or detention and report on its consideration in the next report to the Ombudsman.

I can advise that this person has been referred to a specialist for further consultation and is currently undergoing a course of treatment as an outpatient and is currently accommodated in private accommodation. The department has taken all medical advice into account and the treatment arrangements are similar to those someone in the community would experience. The most appropriate detention location will be
further considered following the conclusion of the treatment. I have considered this case and agreed to place this person under residence determination.

**Statement 069/06**

The Commonwealth Ombudsman has recommended that the same decisions be made for this person in order that she can continue her role as partner and carer for the person reported on in Statement 068/06.

The department will ensure that this person and her partner are considered together to ensure she can continue to provide support and care to her partner. I have considered this case and agreed to place this person under residence determination.

[Signature]

AMANDA VANSTONE

Minister for Immigration and Multicultural Affairs