

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

**- STATEMENT TO PARLIAMENT -**

General Comments

I refer to the Commonwealth Ombudsman's statements tabled in Parliament today. The seven reports tabled today bring the total number presented to the Parliament to 55 reports. I am advised that at this stage, there will be another 6 reports for tabling in mid June 2006 subject to any further reports being received within the relevant period.

Before I respond to the current reports, I wish to make a correction to an error in my response to an earlier report tabled on 29 March 2006. Case 023/06 contained a factual error in describing the circumstances of the case. The sentence "The decision to cancel the visa has been tested with the Refugee Review Tribunal through judicial review processes" should have read "The decision to cancel the visa has been tested through judicial review processes and the decision to refuse a protection visa has been tested with the Refugee Review Tribunal."

The error was in summarising details of the case history – not in the handling of the case. I apologise for this error. The Department has also apologised to me for this error and assured me that steps have been taken to improve quality control on reporting in this area.

Statement 049/06 - substantive recommendation

The Commonwealth Ombudsman recommended that I make a decision on the submissions on the s417 request and the grant of a Removal Pending Bridging Visa before me as soon as possible and in any event, within the time set out in the legislation for me to table a version of this report in Parliament. I note that the Ombudsman is of the view that further delays in the resolution of his status will serve to strengthen the case for the grant of a RPBV.

I note the concerns for this person's mental health. I currently have submissions before me to consider whether to intervene in this case. I will make this decision shortly.

Statement 050/06 – substantive recommendation

The Commonwealth Ombudsman recommended that I reach a decision on the s417 and s48B requests as soon as possible and in any case, not later than the time set out in the legislation for me to table a version of this report in Parliament. He further recommends that this person be granted a Removal Pending Bridging Visa to enable this person's immediate release. I note also that the Ombudsman has encouraged the Department to give careful consideration to the decision on whether to proceed with charges relating to escaping from detention.

I am considering whether to intervene in this case.

A decision on whether to prosecute this person in relation to this escape from detention will also be made and the views of the Ombudsman on this matter have been noted and will be taken into consideration.

Statement 051/06 - substantive recommendation

The Commonwealth Ombudsman recommended that I expedite my decision on this person's s501J request. He has also recommended that, given a number of issues impact on this person's detention, I explore alternative detention arrangements either by a residence determination or on the grant of a Removal Pending Bridging Visa until his immigration status is resolved or his removal arrangements are finalised.

The request submitted has taken some time to work through given the complex issues in this case. There are serious character concerns involved and a further international treaty obligations assessment needed to be completed. I have recently received a submission which provides me with options for dealing with this case. I am considering the matter but will not be rushed into a decision given the serious issues involved.

Statement 052/06 - substantive recommendation

The Commonwealth Ombudsman recommended that the Department conduct further discussions with this person to determine how his removal might best be undertaken.

Departmental officers have discussed the removal of this person with him as per the Ombudsman's recommendation. The Department understands that this person wishes to pay off debts and to go home voluntarily after working for two years or so. This person entered Australia on false documents and has not cooperated with the Department in his removal arrangements normally

Statement 053/06 - substantive recommendation

The Commonwealth Ombudsman recommended that I consider granting an appropriate visa to this person, such as a Removal Pending Bridging Visa, while the issues concerning his immigration status and removal are resolved.

This person has outstanding litigation before the courts and I note that his time in detention has been primarily due to the pursuit of review of negative decisions.

Statement 054/06 - substantive recommendation

The Commonwealth Ombudsman recommended that when conducting this person's fitness to travel assessment, the issues raised with the Ombudsman be considered as part of that assessment. Secondly, prior to their removal from Australia, the Department make enquiries so that his relatives in his home country can be contacted, notified of their impending arrival and be given time to make what arrangement they can for his resettlement on arrival.

This person was removed from Australia on 14 March 2006. I can advise that the Ombudsman's assessment was brought to the attention of the medical practitioner and this person was assessed as fit to travel. An assessment was also made by the detention centre psychologist who raised no particular psychological or mental health issues. This person also declined assistance in locating family members. This person was also provided with a small amount of financial assistance as part of the removal arrangements.

Statement 055/06 substantive recommendation

The Commonwealth Ombudsman recommended that this person be released from detention on an appropriate visa if there is a continuing delay in this person's immigration status being resolved or removal action being taken. He has also recommended that I consider whether this person should be granted a humanitarian visa given his medical condition. Lastly, the Ombudsman has recommended that the Department listen to a recording of an interview this person had with Chinese officials to satisfy itself that this person has not exposed himself to a risk of persecution during the interview. More broadly, the Department should discuss any fear of persecution to clarify or allay any concern that this person may have on that issue.

I have a submission before me to consider detention intervention options for this person and I will make a decision on this matter shortly. I am advised that the Department is investigating this person's concerns regarding the interview undertaken by the Chinese delegation to ensure that no additional risk has occurred as a result of the process, consistent with the Ombudsman's recommendation.

I do not consider that an RPBV is appropriate in this instance, but DIMA is pursuing the Ombudsman's recommendation in respect of his interview claims, as outlined in the previous paragraph.



AMANDA VANSTONE

Minister for Immigration and Multicultural Affairs

Dated: 9/5/2006