

# REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

*Under s 486O of the Migration Act 1958*

*Personal identifier: 293/07*

This is the second s 486O report by the Ombudsman on Mr X as he has remained in immigration detention following the Ombudsman's first report (21/06). The Ombudsman's first report was sent to the Minister on 5 January 2006 and tabled in Parliament on 29 March 2006. This report updates the material in that report and should be read in conjunction with it.

## Case overview

1. Mr X's Resident Return Visa (RRV) was cancelled when he was granted a border visa on his return to Australia in April 1995. The Department (DIAC) advises that before granting the border visa, which had the effect of superseding the substantial visa at the time, a more robust interrogation of the DIAC systems would have identified that a valid RRV was in existence. DIAC set aside the border visa grant and on 3 February 2006 Mr X's RRV was reinstated and he was released from detention.
2. The Ombudsman investigated Mr X's case as part of the referred immigration detention cases and determined that his detention was the result of an administrative error by DIAC. His case is referred to in *Report Number 10/2007, Department of Immigration and Citizenship – Report into Referred Immigration Cases: Other Legal Issues*, at pages 4 to 5.

## Ombudsman consideration

3. DIAC's report to the Ombudsman under s 486N of the *Migration Act 1958* is dated 9 January 2006.

## Ombudsman assessment/recommendation

4. The Ombudsman notes that Mr X is now the holder of a RRV and makes no recommendations in this report.

  
.....  
Prof. John McMillan  
Commonwealth and Immigration Ombudsman

*19 November 2007*  
.....  
Date