

# Report on people detained and later released because they were not unlawful non-citizens, 1 July 2022 to 30 June 2023

Today the Commonwealth Ombudsman, Iain Anderson, published the second in a new series of reports about his ongoing investigation into people who were detained in immigration detention and later released on the basis they were not unlawful non-citizens.

Under the own motion investigation, the Commonwealth Ombudsman receives reports from the Department of Home Affairs about individuals detained on suspicion of being unlawful non-citizens who were subsequently found to be not unlawful and released.

The Ombudsman commenced this investigation in 2007 following the high-profile cases of Cornelia Rau, an Australian citizen who was unlawfully detained for 10 months in 2004–2005, and Vivian Alvarez, an Australian citizen who was unlawfully removed from Australia in 2001.

“Depriving people of their liberty in error is serious”, Mr Anderson said. “My report identifies improvements that can be made to ensure more accurate and timely assessments of an individual’s immigration status”.

The Ombudsman’s report covers the period 1 July 2022 to 30 June 2023, in which time the Department reported five instances of inappropriate detention.

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The Ombudsman was satisfied with the Department's proposed approach to remedy an error that arose from communication with the Administrative Appeals Tribunal (Tribunal).

However, the report raised concerns and made a recommendation about improvements the Department could make to resolve visa status issues for non-citizens who are being released from criminal custody.

"The Department has agreed in principle to my recommendation for timely quality assurance checks for non-citizens prior to their release from criminal custody. My Office will continue to monitor these measures to ensure they address the issues that led to my recommendation".

The Report and the Department and Tribunal response can be found on the Commonwealth Ombudsman website: <https://bit.ly/3VAIGoe>

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