

20 years on, mistakes are still causing people to be wrongfully detained

Today the Commonwealth Ombudsman published a report into 11 cases of people who were wrongfully detained in immigration detention by the Department of Home Affairs (Home Affairs) between 1 July 2023 and 30 June 2024.

These 11 cases included an Australian citizen and a person who was detained for eighteen months due to an administrative error. In another case, a border force officer planned and carried out a detention operation without conducting a basic electronic search of Home Affairs' records beforehand, which would have shown that the person held a valid visa.

'Wrongfully depriving a person of their liberty is serious. Home Affairs needs to do more to take accountability and acknowledge the human impact of their actions. Since we began monitoring the issue in 2005, we have observed similar types of errors causing people to be wrongfully detained.'

'Home Affairs had also not improved the way it addresses its mistakes with the individuals it has wrongfully detained, not offering any form of redress, formal apology, or financial compensation,' said Mr Iain Anderson, Commonwealth Ombudsman.

Most wrongful detention cases were a result of errors previously known to Home Affairs and could have been avoided if existing policies and procedures were properly followed.

The Commonwealth Ombudsman made 3 recommendations to improve Home Affairs' policies and procedures to mitigate the risk of wrongful detention and provide clear pathways for redress to the people it has wrongfully detained.

OFFICIAL

Home Affairs accepted all 3 recommendations, which included requiring additional checks to be completed before planned detention operations, as well as formally apologising to people it has wrongfully detained and providing them written information about their rights to seek compensation through the Compensation for Detriment due to Defective Administration Scheme.

'The intent of these recommendations is that Home Affairs reflects on a mindset that places undue trust in historical decisions and prioritises swift action over careful deliberation' added Mr Anderson.

Wrongful detention can occur due to communication breakdowns; data integrity and administrative errors; reliance on erroneous assumptions and failure to take personal responsibility for decision making; failure to give proper notice of visa decisions; and misinterpretation or misapplication of the law.

The full report is available on the [Commonwealth Ombudsman website](#).

For more information visit ombudsman.gov.au or for media enquiries email media@ombudsman.gov.au.