OmbudsmanSA

STATEMENT FORMAL RESOLUTION

Published under section 26 of *Ombudsman Act 1972*

26 October 2026

An agency's clerical errors lead to unlawful imprisonment

Essential Insights

When agencies fail to follow policies and procedures, the impact on individual members of the public can be serious. When mistakes are made, agencies should acknowledge the mistakes and implement remedies that are fair, proportionate and timely. This is particularly the case when individuals' rights are infringed.

ASSESSMENT OF THE COMPLAINT

Ombudsman SA received a complaint alleging that a prisoner was detained in prison for 13 days after they should have been released.

The prisoner was being held in custody under a warrant of remand. The prisoner attended court by Audio Visual Link from prison and the matter was dismissed, meaning that he should have been released from prison that day. However, 13 days later the prisoner remained in prison.

Enquiries by Ombudsman SA identified that:

- the Department for Correctional Services (**DCS**) had not been advised that the prisoner was to be released and had not received the paperwork from the Courts Administration Authority (**CAA**) that would have triggered the release.
- DCS identified the issue when it received another court outcome relating to the prisoner and then arranged for the prisoner's release.
- failures had occurred within CAA which, combined, resulted in the lack of notification to DCS of the withdrawal of charges, being:
    - a clerical error, and

    - a failure to follow verification procedures that would have picked up the error.
- on becoming aware of the matter, CAA took immediate steps to facilitate the release of the prisoner and commenced an investigation to determine how the error had occurred.

The CAA's review identified that the relevant processes were appropriate but that the incident occurred due to failures to follow them correctly. The CAA took steps to reinforce the importance of complying with its court and registry procedures, and to prevent the error from occurring again.

KEY OUTCOMES FOLLOWING THE OMBUDSMAN'S ASSESSMENT

In addition to the steps the CAA had already taken, CAA agreed to write to the prisoner to:

- explain what occurred to lead to their unlawful imprisonment
- formally apologise.