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Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
Parliament House
Canberra ACT 2600

Dear Committee Secretary

Parliamentary Joint Committee on Intelligence and Security's inquiry into the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014

Thank you for the opportunity to make a submission to the Parliamentary Joint Committee on Intelligence and Security regarding its inquiry into the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 (the Bill). The Bill proposes a number of amendments that could be subject to the Commonwealth Ombudsman's different oversight mechanisms.

The proposal to amend the *Crimes Act 1914* to introduce Part 1AAA – Delayed notification search warrants includes an oversight role for the Ombudsman. The proposed inspection role is similar to the roles already performed by the Ombudsman under Part 1AB of the *Crimes Act 1914* and the *Surveillance Devices Act 2004*. It provides for:

- the Ombudsman to assess the extent of each eligible agency's compliance with Part 1AAA
- clearly defined inspection powers for the Ombudsman
- a six-monthly reporting mechanism for the Ombudsman to report to the Minister on the results of the inspections, which is then tabled in Parliament.

Additionally, the Bill imposes a number of record keeping and reporting requirements on agencies under Part 1AAA that will assist my office in performing the oversight role.

These features are important in overseeing any covert power. The proposed inspection role set out in the Bill will enable the Ombudsman to provide assurance as to how the delayed notification search warrant regime is applied.

The Bill also proposes amendments to a number of Acts that are administered by agencies that are subject to oversight by the Ombudsman under the *Ombudsman Act 1976*. However, some of these amendments relate to decisions made by Ministers, who are not subject to Ombudsman oversight.

In addition, the Bill proposes to extend the preventative detention orders regime under the *Criminal Code Act 1995* for a further 10 years and amend the thresholds for applying the powers. The oversight arrangements for these powers include a requirement for the AFP to notify our office of any preventative detention orders and certain related actions, and for

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a detained person to be able to make a complaint to the Ombudsman about his or her treatment while in detention.

I am confident that my office has the relevant expertise and experience to perform the inspection role under Part 1AAA of the *Crimes Act 1914* and related oversight activities as a result of other proposed amendments. However, the creation of a new statutory role for the Ombudsman will have resource implications for my office. I look forward to working with the Attorney-General's Department to seek to address these issues.

Yours sincerely,

Richard Glenn
Acting Commonwealth Ombudsman

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