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3 March 2015

Ms Sophie Dunstone  
Committee Secretary  
Legal and Constitutional Affairs Legislation Committee  
Parliament House, ACT 2600

Dear Ms Dunstone

**Inquiry into the Migration Amendment (Maintaining Good Order of Immigration  
Detention Centres) Bill 2015**

Thank you for your letter of 10 March 2015 inviting my office to provide a submission to the Committee's inquiry into the Migration Amendment (Maintaining Good Order of Immigration Detention Centres) Bill 2015.

My office has had discussions with the department about these amendments and I am broadly comfortable that the measures included in the Bill are appropriate.

There is one issue in the Bill and one concern about the Explanatory Memorandum that I would like to draw the Committee's attention.

The issue in the Bill is that the proposed provisions only provide for authorised officers to exercise use of force in an immigration detention facility. We suggest that these provisions should also apply in situations where detainees are in transit between facilities and in other locations that are not considered to be alternative places of detention such as medical facilities. It is often the case that use of force, particularly in relations to restraints, is necessary in these circumstances. In our view, all situations in which the detention service provider may use force should be subject to the same legislative requirements.

The wording of paragraph 74 of the explanatory memorandum is a concern to the extent that the last two sentences could be construed as suggesting the Ombudsman's office is one of the bodies or agencies that is able to advocate on a detainee's behalf. My office investigates matters impartially and does not advocate for either party to a complaint.

Should you wish to discuss this matter further, please contact Ms Doris Gibb, Senior Assistant Ombudsman, Immigration and Overseas Students on

I would be happy to expand on these matters further by appearing before the Committee should that be required.

Yours sincerely

Colin Neave  
Commonwealth and Immigration Ombudsman