



[REDACTED]

Dr Rebecca Denning  
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Crime and Corruption Commission  
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Dear Dr Denning

**Queensland Crime and Corruption Commission review of *Terrorism (Preventative Detention) Act 2005 (Qld)***

Thank you for your letter of 5 March 2018 to the Secretary, Chris Moraitis PSM, inviting a submission to the Crime and Corruption Commission's (CCC) review of the *Terrorism (Preventative Detention) Act 2005 (Qld)* (TPDA). I apologise for the delay in responding.

The department places a high level of importance on reviews of Australia's national security laws, such as the one the CCC is currently undertaking.

I note First Ministers recommitted to a nationally consistent approach to counter-terrorism at the special meeting of the Council of Australian Governments (COAG) on 5 October 2017.

The TPDA powers complement similar Commonwealth powers in Division 105 of the *Criminal Code* (Cth), and other state and territory legislation. The grounds for obtaining a preventative detention order (PDO) under both the Commonwealth and Queensland regimes are largely the same, and orders are only available against a person who is at least 16 years of age. While there are some slight differences—for example that the maximum permitted duration of a PDO under the TPDA is 14 days, while its Commonwealth equivalent is 48 hours for constitutional reasons—these do not affect the interoperability of the two regimes.

There has been an increase in the threat of smaller-scale, opportunistic attacks by lone actors in recent years. Law enforcement agencies have had less time to respond to these kinds of attacks than other terrorist plots. In these circumstances, PDOs are a proportionate and necessary tool enabling police to disrupt terrorist activity at an early stage. Their availability ensures that law enforcement agencies have a clear legal basis on which to take action to prevent a terrorist threat from eventuating, even where there may be insufficient information available to arrest potential perpetrators.

To date, I understand that there has been extremely limited use of national PDO regimes. No PDOs have been issued under the Queensland or the Commonwealth regimes, and only three interim

PDOs have been issued in New South Wales. The limited use of PDOs reflects the policy intent that these orders should be invoked only in limited circumstances. Accordingly, the department does not support the proposition that the limited use of these orders is evidence that they are no longer necessary.

The Parliamentary Joint Committee on Intelligence and Security and Independent National Security Legislation Monitor recently reviewed the Commonwealth PDO regime. Both recommended that it should remain in operation, subject to regular review. The department supports this view. I note also that COAG supported the retention of Commonwealth, state and territory PDO regimes, in response to the 2012 COAG Review of Counter-Terrorism Legislation's recommendation that they be repealed.

If changes to the TPDA are considered necessary following the CCC's review, the department would welcome the opportunity to discuss the proposals with the Queensland Government, including through the Legal Issues Working Group of the Australia-New Zealand Counter Terrorism Committee.

I hope this information is of assistance to you, and thank you again for the opportunity to provide the CCC with a submission for its review.

The action officer for this matter is [REDACTED], Acting Principal Legal Officer, who can be contacted on [REDACTED].

Yours sincerely

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Sarah Chidgey  
23 April 2018