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Ms Carly Nyst
Head of International Advocacy
Privacy International
62 Britton Street
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Dear Ms Nyst

I refer to your letter dated 2 December 2013 in which you made a complaint about the activities of the Australian Signals Directorate (ASD). You have referred to a range of documents including academic and media articles in your complaint. You allege that 'ASD is thus collecting, sharing and receiving massive amounts of private data in an environment where little transparency and accountability is brought to bear'. You suggest that this raises concerns of impropriety. You have also asserted that ASD shares information in a way that contravenes ASD's *Rules to Protect the Privacy of Australians* and circumvents the ministerial authorisation requirements in the *Intelligence Services Act 2001*.

You have requested that I investigate the acts or practices of ASD to verify whether they are in compliance with the laws and rules that regulate the agency and otherwise meet the requisite standards of propriety.

I cannot comment on your specific allegations or the veracity of the documents you cite, but I would like to explain in broad terms my oversight of the ASD. I hope that this description will explain why, in my view, the current oversight regime is appropriate and sufficient to provide the assurance that you seek.

My staff have visibility of all of ASD's activities. I am briefed on sensitive operations and receive intelligence product. My staff have access to ASD's systems and records. My particular focus is on how ASD protects the privacy of Australians but I also have regard to the legality and propriety of other ASD activities and whether the activities are consistent with human rights.

As you note in your letter, the *Intelligence Services Act 2001* sets out ASD's functions. ASD is required to obtain intelligence about the capabilities, intentions or activities of people or organisations outside Australia for the purpose of meeting the requirement of the government for such intelligence. The limits of ASD's functions are also set out. Broadly speaking, the functions are to be performed only in the interests of Australia's national security, Australia's foreign relations or Australia's national economic well-being. Certain activities, including any activity to produce intelligence on an Australian person, require the prior authorisation of the Minister.

The legality of any particular operation would depend on whether the purpose was consistent with a function of ASD, whether it was within the limits, and whether the activity had an appropriate level of approval. If I identify any breaches of the legislation including any directions or authorisations given by the Minister under legislation, I describe these in general terms in my annual report (available at www.igis.gov.au). National security considerations usually prevent me from giving specific details in a public report. If I had concerns about my level of access to ASD information or their internal compliance arrangements these would also be noted in my annual report.

ASD can only cooperate with an authority of another country to the extent authorised by the Minister for Defence. I review the exchange of information with foreign authorities to ensure that it is within the limits of this authorisation. As you have noted, there are particular rules regulating the communication and retention by ASD of intelligence information concerning Australian persons. My staff review ASD's application of these rules.

You have also asked me to obtain and provide you with various records relating to international agreements. I note the advice that you have received from the Department of Defence that these documents are not subject to the FOI Act. In any event, I would not be able to provide you with these documents as that would be inconsistent with the secrecy provisions of the IGIS Act.
functions.

Yours sincerely



Vivienne Thom
Inspector-General

9 December 2013