



Premier of Queensland



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Senator Trish Crossin
Chair
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Dear Senator Crossin

Thank you for your letter of 17 May 2011 concerning the inquiry into the Migration Amendment (Strengthening the Character Test and Other Provisions) Bill 2011.

I understand the purpose of the Bill is to strengthen the consequences of criminal behaviour by persons in immigration detention.

I note that the Bill provides for an increase in the maximum penalty in section 197B for the manufacture, possession, use or distribution of weapons by immigration detainees from three to five years.

In Queensland, the equivalent offence (under section 123 of the *Corrective Services Act*) provides for a maximum penalty of two years imprisonment. I understand that other jurisdictions have similar maximum penalties in relation to these types of offences. For example, in New South Wales, unlawful possession of offensive weapons or instruments while in detention (under section 27D of the *Summary Offences Act 1988*) provides for a maximum penalty of two years imprisonment or 50 penalty units.

While it is important that the Bill sends a clear and strong message that violence in immigration detention centres is unacceptable, I believe that due consideration needs to be given to the reasons why such conduct should effectively attract a significantly higher penalty simply because it has occurred in an immigration detention facility.

In this context, I note that where a person engages in such conduct in a corrective services facility, that person would have been convicted of a criminal offence in the relevant jurisdiction and sentenced to a term of imprisonment. This is not necessarily the case in an immigration detention centre, where persons are generally detained pending processing of a visa.

Thank you for providing the Premier with an opportunity to comment on the Bill.

Yours sincerely

PAUL LUCAS MP
Acting Premier