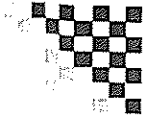




## QUEENSLAND POLICE SERVICE

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Our Ref:

Your Ref:

26 May 2011

Ms Julie Dennett  
Committee Secretary  
Senate Standing Committee on Legal and Constitutional Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Ms Dennett

I refer to your email correspondence of 29 March 2011, inviting the Queensland Police Service (QPS) to make a submission to the Senate Standing Committee on Legal and Constitutional Affairs about the proposed Migration Amendment (Detention Reform and Procedural Fairness) Bill 2010 (the Bill).

The QPS welcomes the opportunity to make a submission and raises the following points for the consideration by the Standing Committee.

Generally, police interactions with unlawful non-citizens take place in circumstances where a power or arrest is being exercised, and consequently the reliance by QPS officers on powers in the *Migration Act 1958* (Cwlth) (the Act) is limited. However, situations have arisen in which Queensland police officers have used the Act's powers, particularly those contained in section 189 of the Act, to detain suspected unlawful non-citizens until Immigration Officers arrive.

Currently, the exercise of power in accordance with section 189 of the Act requires that if an officer reasonably suspects that a person is unlawfully in the country, the person must be detained. The proposed amendments seek to modify mandatory to discretionary detention and expands the decision making process to the extent that a police officer not only needs to be satisfied that the person is unlawfully in the country but also that there are justifiable reasons for detaining the person, even though QPS officers are simply detaining a person temporarily until the arrival of an Immigration Officer.

Currently the legislation does not adequately define 'justifiable', and in the absence of clear guidelines, police officers may be faced with a difficult decision to make between detention and fear of future litigation arising from unlawful detention. It is

suggested that if this matter is to be further progressed a clarified definition be provided to assist State and Territory jurisdictional officers to operationalise the proposed amendments to section 189 of the Act.

My contact officer for this matter is Senior Sergeant George Marchesini, Senior Policy Officer, Office of the Commissioner. The Senior Sergeant may be contacted on telephone

Yours sincerely

**R ATKINSON**  
**COMMISSIONER**