

Senate Standing Committee on Legal and Constitutional Affairs
Parliament House
CANBERRA ACT 2600

Dear Chair

Civil Liberties Australia supports the *Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012*. We do so on these principles and for reasons:

- A parliament cannot be well enough informed to be able to specify a precise minimum appropriate sentence for a future crime.
- A parliament is not able to anticipate every circumstance surrounding offending, including the possibility that a proven offence could have significant mitigating aspects.
- Only a judge (or similar) – who has heard/read the full evidence and is aware of the circumstances of a particular offence and offender – is appropriately informed to pass sentence.
- The concept of mandatory sentencing is counter to traditional Australian civil liberties and human rights principles, and traditional rule of law in our nation.
- The Australian Constitution does not give the Parliament a clear power to constrain the Judiciary over judicial decision-making, including judicial sentencing.
- Mandatory sentencing has not been shown anywhere in the world to reduce crime.
- In particular, mandatory sentencing is inappropriate whereby those to whom it is targeted (refugees/crew) are unlikely to be aware of its existence.
- The introduction by a parliament of mandatory sentencing appears designed to quieten redneck elements in the community: sentencing should respond to the offender and the offence, not to the size of newspaper headlines or the stridency of electronic reporting.

Yours sincerely,

Bill Rowlings
CEO

29 February 2012

Note: CLA would be happy to appear at a Committee hearing.