

Flawed mandatory sentencing element undermining important firearm measures

The Law Council of Australia is warning that the unnecessary inclusion of mandatory sentencing will undermine the credibility of the Federal Government's new firearms trafficking bill.

Law Council of Australia President, Stuart Clark AM, said mandatory sentencing was counterproductive and could lead to unintended consequences and unjust punishments.

"It is an important and worthy objective to take a tough stance on firearm trafficking, and the Government should be commended for making this a priority," Mr Clark said.

"The Law Council supports the doubling of the maximum penalties for firearms trafficking as an appropriate measure. The proposed mandatory minimum penalty of five years imprisonment for firearm trafficking, however, is too blunt an instrument to be effective or fair.

"A minimum five year penalty is unlikely to deter hardened criminals with a propensity towards violence.

"Mandatory sentencing is likely to lead to unjust punishment by forcing courts to apply a rigid standard without regard to the particular circumstances of a case.

"There have been recent examples of individuals who have a legitimate use for firearms inadvertently travelling with guns or ammunition. These individuals could now be in prison if these proposed reforms were in force.

"Consider the 2010 example of Victoria Police Chief Commissioner Simon Overland, who inadvertently carried a magazine containing live rounds of ammunition on a flight from Melbourne to Canberra.

"Prior to travelling, Mr Overland had removed a firearm from his bag, but forgot to take out the magazine. Under the proposed laws he could be facing a mandatory five year jail term.

"Judicial discretion is a core principle of our justice system for a very good reason.

"The world is complex and judges need to be able to adapt their sentence to the circumstances of an individual case," Mr Clark said.

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