



Police Federation of Australia

The National Voice of Policing

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Committee Secretary
Joint Standing Committee on Migration
PO Box 6021
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Inquiry into the review processes associated with visa cancellations made on criminal grounds

This submission is made on behalf of the Police Federation of Australia (PFA) which represents in excess of 62,000 police officers across every jurisdiction.

The Committee will be aware that the PFA has previously made submissions to this and other Committees in relation to matters concerning immigration visas. This includes the PFA's previous submission to this Committee in 2017, which supported the government's initiatives in relation to the cancellation of visas that pertain to non-citizens who do not meet the character test as outlined in section 501 of the Migration Act 1958.

The submission raised the issue of the number of deportees to New Zealand, who had reoffended since returning to New Zealand. The PFA argues that those statistics support the government's stance on this issue.

The PFA's submission also raised concerns that the intent of the Act and section 501 could be averted by the judiciary, simply by imposing sentences of less than 12 months, thus ensuring that the non-citizen before the court does not become exposed to the mandatory cancellation provisions of s501(7)(c) and (d) of the Act.

In both the submission and in evidence to the inquiry, the PFA were clear in their view that anyone convicted of a crime of violence and who is a non-citizen of this country, should have their status to remain in Australia immediately reviewed. It was also said by the PFA that that closer alignment of communication between state authorities such as corrections and police with the Department of Immigration and Border Protection and the Administrative Appeals Tribunal is needed.

One way of ensuring that relevant information is shared between authorities would be through the proposed National Criminal Intelligence System (NCIS).

The necessity of such a system was first raised by the PFA in 2007, during hearings of the then Parliamentary Joint Committee on the Australian Crime Commission and again with the Parliamentary Joint Committee on Law Enforcement in 2010.

In the PJC on Law Enforcement's 2012 Inquiry into the gathering and use of criminal intelligence the PFA stated –

Intelligence sharing between law enforcement agencies and other agencies with relevant intelligence holdings is an integral part of the fight against crime.

The PFA went on to say that–

The PFA believes that the future of Australian law enforcement is the free flow of criminal intelligence, utilising modern intelligence-sharing technical capability. Intelligence sharing capabilities should cover a large variety of data types, and require mandatory contribution by all Australian law enforcement agencies, and other agencies with relevant intelligence holdings

The obstacles to this intelligence sharing system are: outdated technology which hampers the capability to facilitate intelligence sharing, and a lack of mandatory intelligence sharing requirements.

The PFA therefore calls for the development of the technical capacity to facilitate the free flow of criminal intelligence between law enforcement and relevant agencies, and for legislative obligations for agencies to share all their criminal intelligence.

In previous submissions on immigration matters, the PFA raised the 2009 AAT review of the visa cancellation of Motekiai Taufahema, who had been convicted of the killing of a police officer. On that occasion the AAT overturned the Department's decision to cancel Taufahema's visa. Fortunately, the then Immigration Minister, Senator Chris Evans, intervened using his discretionary powers to set aside the decision of the AAT and Taufahema has been subsequently deported.

It appears that the Taufahema case may not be an isolated incident. Recent media reports allege that the AAT has overturned 5,276 of the visa decisions made by delegates of the Minister for Home Affairs and Immigration, the Hon Peter Dutton, with nearly 200 of these decisions pertaining to violent criminals convicted of the most heinous of crimes.

As pointed out in our earlier 2017 submission to the Committee's Inquiry into Migrant Settlement Outcomes, the AAT has significant inquisitorial powers. It is the PFA's concern that these powers may not be being used as effective as they could be. Perhaps the Committee could inquire whether relevant government agencies, particularly state agencies, had been advised when the appeals, recently listed in the

media, had been lodged, particular those where the appellant had been convicted of a crime of violence. Other agencies may have relevant material to place before the AAT, thus ensuring all the facts are considered before any decision of the tribunal is made.

If the community is to continue to have confidence in the AAT process, then ensuring that all the relevant facts are available to assist in the tribunal's decision-making process, would be a positive start.

Sincerely yours

A handwritten signature in black ink that reads "Mark Burgess". The letters are cursive and somewhat slanted to the right.

Mark Burgess
Chief Executive Officer

7 May 2018