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A review of processes and procedures around out of hours immigration compliance activity, and to identify and recommend potential changes to the process where required.

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The foundations of this review

1. For many Pacific families living in 1970s New Zealand, the dawn brought with it, not a beginning, but the end of a family unit.
2. Pacific peoples were the victims of a racist application of New Zealand's immigration law, a law that criminalised remaining in New Zealand after the expiry of a visa.¹
3. Making up one-third of people who overstayed their visas in the 1970s, Pacific people accounted for 86% of prosecutions. People from Great Britain and America, also accounting for one-third of such people, made up only 5% of prosecutions.
4. The law was applied discriminatorily. Like many laws and their execution, the targeted application of immigration laws reflected societal values. In the wake of an economic downturn, parts of society feared that migrants, in particular Pacific migrants, were jeopardising New Zealander's financial security and quality of life.
5. The law was implemented unfairly and unreasonably. Between 1974 and 1976, immigration officials and police officers entered homes of Pacific people, dragged them from their beds, often using dogs and in front of their children. They were brought before the Courts, often barefoot, or in their pyjamas, and ultimately deported.
6. In 1976, this activity stopped. In 1987, remaining in New Zealand without a visa was decriminalized. But the harm was done.
7. We have been told of children who were separated from their families to then suffer abuse at the hands of state officials.
8. We have heard accounts of grandparents with strange 'quirks' who have never been able to tell their children or grandchildren of their lifelong fear of being taken away.
9. We have been told of the distrust in authorities that the Dawn Raids created.
10. But we have also been told of hope, of forgiveness, of healing.

¹ A conviction was required before a person could be deported.

11. On 1 August 2021, then Prime Minister Jacinda Ardern, on behalf of the government took part in *ifoga* and apologised to Pacific people for the harm caused to them during the Dawn Raids period.
12. Before and after the apology, Immigration New Zealand (“INZ”) conducted what is called “out of hours compliance activity”, visiting the homes of unlawful persons in the early morning, usually around 6am, to deport them. The Immigration Act 2009 (the “Act”) allowed for such activity and no change was made to the law or INZ policy as a consequence of the apology.
13. On 19 April 2023, an Auckland-based compliance team visited the home of a Tongan national with the intention of executing a deportation order (the “incident case”).
14. News of the visit spread through the Pacific community, fuelled by media reports that the visit was another Dawn Raid. We are told that the goodwill achieved by the government’s apology was undone and this is supported by much of the feedback we have received.
15. The Ministry of Business, Innovation and Employment (“MBIE”) has commissioned this Review into INZ’s ongoing out of hours compliance activity.
16. At the outset we have found that the Minister of Immigration (the “Minister”), MBIE and INZ management did not undertake any work to align the ongoing out of hours compliance activity with that apology. The context at the time and following was understandably a distraction from doing so (the pandemic meant there was limited deportation activity) and much of the feedback that INZ received following the apology related to an amnesty.
17. The continuation of early morning visits by compliance officers (when publicised) has caused distress to many people and indeed entire communities and for some people completely undermined the impact and meaning of the apology.
18. We have also found that, for reasons elaborated on below, very few Pacific people are subject to out of hours compliance activity; the majority of those deported pursuant to these activities are Chinese or Indian nationals.

Purpose and scope of this Review

19. The purpose of this Review is narrow: we are reviewing the current state of INZ's out of hours compliance activity and recommending changes to the process where required.²
20. We have been asked to review the adequacy of INZ's current immigration settings, including legislative settings and Standard Operating Procedures, to determine if they need to change:
 - 20.1.1. With regard to their cultural appropriateness in light of the government's apology, the Minister's "clearly stated" position on the practice and the Minister's letter to MBIE dated 2 May 2023 (a copy of the government's apology and the Minister's letter are set out in full at **schedule 2**).
 - 20.1.2. To ensure any decision to undertake out of hours compliance activity is reasonable, proportionate, and justifiable in the circumstances, and takes into account relevant considerations such as the possible impact or harm on others (including children), the health and safety of the attending officers and whether other alternatives may be available.
 - 20.1.3. The level at which sign-off of out of hours visits occurs.
21. The terms of reference, which are set out in full at **schedule 1**, allow us to make recommendations for legislative change.

Executive Summary

22. During the course of the review, we have spoken to a wide range of people including INZ compliance officers and managers, Senior Immigration and MBIE officials, leaders and members of Pasifika, Indian and Chinese communities, members of the Immigration Reference Group, immigration lawyers and representatives of Ministry for Pacific Peoples. We also received approximately 100 responses to our public survey questions.

² We consider the current state to be that which existed at the time the events occurred which gave rise to this review, as well as the "interim" changes which have been implemented while this review occurs. The SOPs and other procedures primarily examined are those as at 28 March 2023 and following.

23. A summary of our five recommendations is as follows:

- a) The government consider amending the Act to specify criteria for out of hours compliance visits by INZ compliance officers and consider whether those involving residential addresses be stopped entirely, or made subject to judicial search warrant, or otherwise limited to specific situations, such as those involving public safety or matters of national security.
- b) Standard Operating Procedures should also be updated to reinforce that out of hours compliance visits are a matter of last resort and reasonable alternatives have been considered beforehand. Standard Operating Procedures should also be updated to reflect policy about *when* and *how* these kinds of visits should occur. Given the lack of legislative time available, this could be given priority.
- c) Any assessment of out of hours visits should consider the impact on anyone else who may be present, in particular children, but also the elderly or other vulnerable individuals, as well as New Zealand citizens or residents. The way in which the operation is carried out should take into account relevant cultural factors.
- d) Any decision to undertake an out of hours compliance visit should also include an assessment of reasonableness, proportionality and public interest.
- e) Any out of hours compliance activity should be authorised by the relevant compliance manager and the national manager before it can occur (the status quo prior to this Review). We acknowledge there are arguments for elevating authorisation further.

Methodology

24. The Review has been conducted with the assistance of another barrister, Jane Barrow.
25. In the course of the Review, we have interviewed:
 - 25.1.1. Over 20 MBIE employees, including the relevant compliance team, members of the Pacific Staff Village and relevant members of INZ management.
 - 25.1.2. Immigration lawyers and advisors.
 - 25.1.3. Leaders and members of the Pacific, Indian and Chinese communities.
26. We had written responses from further MBIE staff who were unable to attend interviews.
27. We interviewed and sought advice from some members of the Immigration Reference Group,³ representatives of the Ministry for Pacific Peoples and the Ministry for Ethnic Communities and sought their advice on how to meet with representatives from relevant communities. Given the limited time available, and having taken that advice, we also conducted six online fono spread over two days and invited the wider Pacific, Indian, Chinese and Latin American communities. These fono were notified to over 30 leaders of those communities, nominated by MBIE, Ministry for Pacific Peoples and Ministry for Ethnic Communities, and we asked those leaders to circulate invitations to the wider community. They were not well-attended. Some people from non-Pasifika communities were unable to attend the fono and requested additional time for us to hear their views. We did not attempt public meetings given the limited time available and due to the advice we received as to the utility of the same.
28. We established an online survey so that members of public who were unable to attend the fono could also make contributions. That survey was distributed amongst MBIE staff, members and leaders of the community and also on the Britomart Chambers website. We asked leaders of the communities, again nominated by MBIE, Ministry for Pacific Peoples and Ministry for Ethnic Communities, to circulate the survey. We received about 100 responses. A copy of the questions posed can be

³ Deborah Pollard-Manning and Stewart Dalley.

found at **schedule 3**. These questions were made available in Samoan, Chinese, Fijian, Tongan and Hindi and we were provided translation services by MBIE.

29. Finally, we reviewed a significant number of documents, including decision documents, Standard Operating Procedures and statistics. We produced a draft report dated 12 June 2023 and received comments from MBIE, INZ and specific advisors. A final draft report was provided to MBIE on 23 June 2023.
30. We are grateful to all those who participated in the Review. Their time and experience proved invaluable. This is a difficult subject, involving difficult memories, and we are humbled by the candour and trust that has been bestowed in us. It has been a privilege to hear directly from a range of people, including children of the Dawn Raids period.
31. We are also grateful to INZ, in particular the compliance team who are at the centre of the incident case. They have been honest and forthright with us, including about the impact this Review and associated media attention has had on them.
32. Finally, we wish to extend our gratitude to Deborah Pollard-Manning, Chair of the Immigration Reference Group, Sandra Alofivae, nominated by Ministry for Pacific Peoples and Arthur Chin, Deputy Chief Executive, Ministry for Ethnic Communities, each of whom provided significant support and guidance.

A brief history of unlawful persons in New Zealand – then and now

33. In the 1970s, it was illegal to be in New Zealand without a permit. By 'illegal', we mean it was a criminal act to do so. Those persons who were detained were charged with the crime of overstaying and deported to their home country.
34. From 1974 to 1976, unlawful persons, mainly Pasifika, were the subject of what are now called the "Dawn Raids", a term which describes ongoing racist behaviour on the part of Police and Immigration officials targeting persons who were, at that time, referred to as "overstayers".
35. Often the Dawn Raids involved police and immigration officers visiting the homes of suspected illegal persons, often with dogs, waking them up and forcibly removing them from their beds. Those persons were then taken before the courts, often in their

pyjamas or borrowed clothes, or wrongfully detained. Random stops occurred and Pasifika presenting people (including Māori) were told to carry identity documents with them.

36. In 1987, “overstaying” was decriminalised.
37. The Immigration Act 1987 gave powers to Police, for the purpose of serving or executing, inter alia, any removal order to, by force if necessary, enter at any reasonable time by day or night any building or premises in which the member of the Police believed on reasonable grounds that the person named in the order or notice was present.⁴
38. Whilst under the Immigration Act 2009 it is no longer ‘illegal’ to be in New Zealand without a visa, it is still ‘unlawful’. By this, we mean that a non-New Zealand citizen is required to return home before the expiry of their visa but is not committing a crime by failing to do so.
39. The Immigration Act 2009 has the purpose of managing immigration in a way that balances the national interest, as determined by the Crown, and the rights of individuals.⁵
40. To achieve this purpose, the Act establishes an immigration system that, amongst other things:
 - 40.1. requires persons who are not New Zealand citizens to enter and be in New Zealand only if the person is the holder of a visa and they have been granted entry permission; and
 - 40.2. includes mechanisms to ensure that those who engage with the immigration system comply with its requirements, including mechanisms that “prescribe the system for the deportation of people who are not New Zealand citizens and who fail to comply with immigration requirements, commit criminal offences, or are considered to be a threat or risk to security”.⁶

⁴ Immigration Act 1987, s 137(1).

⁵ Section 3(1).

⁶ Section 3(2)(e)(ii).

41. The immigration framework generally requires individual compliance with the scheme. Accordingly, as an incentive, the Act provides greater rights to persons who are lawfully, as opposed to unlawfully, in New Zealand. Further details of the legal framework can be found in the 2018 Heron Deportation and Detention Review.⁷
42. There are some people who do not leave New Zealand when they are required to do so. INZ advises that the vast majority of people who come to visit, work and study in New Zealand leave before the expiry of their visa. We are told there are currently approximately 14,000 people in New Zealand unlawfully.⁸ INZ notifies all temporary entry class visa holders when their visa is close to expiry that they should either apply for a further visa or make arrangements to depart New Zealand. INZ attempts to communicate with all former temporary entry class visa holders when their visa has expired and advises them of the implications of remaining unlawfully in New Zealand. It proactively contacts people through text, email and letter to remind them of their obligations.
43. The highest priority for deportation rests in those who have been convicted of criminal offending or who are a threat to national security. The majority of those unlawfully in New Zealand are not criminals or a threat to national security. INZ attempts to engage with those individuals (referred to as “clients”) and actively case manage them towards a voluntary departure. This may involve sending their client a letter, an email or texting them. In rare circumstances, they may visit the home of an unlawful person ‘out of hours’.
44. By virtue of s 286 of the Act, INZ officers have lawful authority to enter any building or premises at any reasonable time by day or night for specific purposes, such as serving a deportation order.⁹

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⁷ <https://britomartchambers.nz/immigration-new-zealand-deportation-and-detention-review/>

⁸ Some INZ officials we spoke to told us that this is a conservative estimate but we are also told that work is being done to solidify these numbers.

⁹ There are similar powers to allow access to employers, education providers and accommodation providers. In this report we focus on the service of deportation orders as in the incident case but there are similar considerations for a deportation liability notice (a difference being that a person served with a DLN has more time to engage in appeal or review processes). We note that people who are unlawfully in New Zealand do not receive a DLN; they go straight to a deportation order stage.

For the purpose of serving any deportation liability notice, deportation order, or removal order, or executing a deportation order or removal order, an immigration officer may, without further authority than this section, and by force if necessary,—

- (a) enter and search at any reasonable time by day or night any building or premises in which the officer believes on reasonable grounds that the person named in the notice or order is present; and
- (b) serve the notice or order, or execute the deportation order or removal order

45. Since late 2000, INZ compliance officers are required to seek approval to undertake site visits and out of hours compliance activity (and the method of gaining this approval is set out below).

Current out of hours compliance activity

What is out of hours compliance activity?

46. Until the events leading to this Review, out of hours compliance activity referred to immigration work undertaken outside the hours of 7am to 9pm.¹⁰ We were advised this timeframe was established in the early 2000s to give guidance to compliance officers as to what was considered a reasonable time (although we have not seen the documentation behind this). Following the incident case, this time period was altered to outside of 8am to 6pm, i.e. out of hours compliance activity is work that occurs between 6pm and 8am.
47. This activity takes place under the Compliance Operations Standard Operating Procedures (“SOPs”)¹¹ and the TIKA Standard Operations Guide – Verification and Compliance (“TIKA”).¹²

¹⁰ After the incident case, interim changes were made to the framework. The Deputy Secretary raised approval level to the General Manager (Verification and Compliance). Then, at the request of the Minister, further changes were made. An officer seeking to conduct an out of hours visit is currently required to seek approval from the Deputy Secretary Immigration. Shortly after the Review commenced, Compliance Officers were provided with a “Compliance and Client Engagement Scenarios” document which set out requirements for engagement with clients in different scenarios, such as a during business hours visit to a residential address or a visit to an employer.

¹¹ Version as at 28 March 2023

¹² Version last updated 20 April 2023

48. The SOPs describe INZ's deportation activities. They start with receipt of information about a client, through investigation and determining whether deportation is to continue, then to deportation and finalising the deportation case.
49. The end-to-end processes involve investigating the client and determining if deportation is appropriate. If it is appropriate, the SOPs detail the management of that deportation and finalisation of the case.
50. Compliance activity prioritisation is intended to be guided by the National Prioritisation Process (the "NPP") which resulted from the 2018 Heron Review.¹³
51. Where an allegation is raised that an individual has breached the conditions of their visa or the temporary entry visa has expired, the case is triaged by a team in INZ for priority.¹⁴ This team sits separately from the compliance teams.
52. The analyst undertakes an assessment of the case with regard to specific criteria, such as the person's area of work, whether there are allegations that the person has committed a crime, the length of time they have been in New Zealand and what kind of visa they held, to allocate *risk* and *priority*. Risk is assessed as risk to the system, rather than risk to the community or public safety. Priority focuses on INZ's strategic goals.
53. The person is then allocated a score (referred to as the NPI rating) – either high, medium, low – and the file is uploaded to INZ's internal system, TIKA, and sent to the compliance manager for the relevant region where the individual is located.
54. Each compliance manager allocates the cases to their compliance officers using their discretion and dependent on workloads and availability of resources. Compliance officers are required to investigate the client and determine whether deportation is appropriate. The SOPs detail the steps to be taken and emphasise that it is preferable for the person to voluntarily depart New Zealand.

¹³ <https://britomartchambers.nz/immigration-new-zealand-deportation-and-detention-review/>

¹⁴ Any and all allegations that INZ receives go through the NPP process. This can include, but is not limited to, allegations relating to those who are unlawfully in New Zealand, breached their visa or committed a crime, persons who may be exploiting workers or who are subject to exploitation. Any allegation submitted to Crimestoppers also goes through the NPP system. The NPP is not limited to those who are liable for deportation.

55. Where a case is pursued, the manager will usually allocate it to a team member, i.e. a compliance officer. Following the SOPs, the compliance officer is required to review the information received and identify the client, create a file and case (in TIKa), determine if it is appropriate to deport the client and consider the priority in terms of resourcing. As part of that process, the compliance officer must consider possible alternative actions, such as advising the client of options, warning the client and encouraging voluntary departure.
56. The SOPs require the compliance officer to consider whether deportation is appropriate, and suggests questions such as:
 - 56.1.1. "Which option will produce the most good and do the least harm?";
 - 56.1.2. "Which option treats people fairly and without bias?"
 - 56.1.3. "Would you feel okay about [it] if it was reported in the media – the 'Front Page' test?"
57. Those factors are to be assessed throughout the process, according to the SOPs.
58. Where a "site visit" is to be undertaken, a site visit plan and risk assessment needs to be prepared by the compliance officer and approved by the relevant manager. That document contains details of the client, their NPI rating, photos of the relevant address, the purpose of the visit, the investigation history and risk indicators, a COVID risk assessment, timings, personnel and other safety details.
59. Out of hours compliance activity is intended to be an area of last resort and *must* be signed off by the National Manager Compliance. The National Manager reports to us that he requires some convincing before he will do so and that he would need to be satisfied that there were no other available options.
60. Officers undertake out of hours compliance activity for a number of reasons, which we discuss in more detail below.

61. The current Standard Operating Procedures in TIKA provide:

Out of hours Site visits

Out of Hours site visits must be signed off by the National Compliance Manager using the following process:

- 1) Used for Residential addresses only.
- 2) Create a *Case Note from Template* and Complete the *Out of Hours Site Visit & Approval Template*.
- 3) Email the completed form to the National Manager for approval.
- 4) Once approval is received save the completed and approved form in TIKA
- 5) Complete the **Out of Hours Site Visit Checklist**. See the [Checklist](#) section for further information on creating a **Checklist**
- 6) Conduct the site visit

62. Essentially, we understand that the process is:

- 62.1.1. A compliance officer makes attempts to get hold of their client. The goal is for the client to voluntarily deport, i.e. leave the country themselves.
- 62.1.2. In some cases, however, a person does not deport themselves. The officers we spoke to told us that sometimes a person will deliberately evade INZ. For example, they will move address quite frequently or tell the officer they are in one place when, in actuality, they are in another. Where a compliance officer is unable to contact their client or the client does not voluntarily leave New Zealand, the compliance officer will carry out "due diligence". This may include "static observation" work – sitting outside an address, taking notes of vehicles coming and going, people coming and going, building a picture of the property itself - and it is often at this stage that the officer decides that an out of hours visit may be necessary.¹⁵
- 62.1.3. Once the person is in custody, they may simply wish to go home. If they do not wish to go home, the officer will conduct a deportation interview.¹⁶ In some cases, a lawyer or immigration advisor is present but there are instances where this does not occur including, for example, where it is early morning. It is at this stage that the officer must consider New Zealand's international obligations against the information provided.

¹⁵ Static observation, we were told, is considered to be different from surveillance. Static observation involves stationery observation of a person as opposed to following the person.

¹⁶ The detaining officer has duties under s 327 of the Act to inform the person of their right to speak to a lawyer.

63. The officers we spoke to were very clear that, in their view, this is not like the Dawn Raids of the 1970s because these out of hours visits are intelligence and surveillance led. The officers work hard to build rapport with their clients and treat them with respect and dignity and in line with their code of conduct.
64. Compliance, in particular the team that dealt with the incident case, have taken the media attention around the case, and this Review, very hard. They feel hurt and let down by their managers for two primary reasons. First, they feel that this particular operation did not have the hallmarks of a “Dawn Raid”. It was, in their view, carried out lawfully, reasonably and respectfully. In their view the facts of this out of hours visit were not properly communicated to the media and the community by management (we discuss the facts further below). Second, there was no direction or change to the guidance in TIKA or the SOPs following the Dawn Raids apology nor any direction that this kind of activity (in rare circumstances) should not occur.

Current statistics about out of hours compliance activity

65. We have been provided with statistics about out of hours compliance activity for the period FY15/16 to FY22/23. The following tables provide an overall picture.¹⁷

	Total deportations	After-hours (visits)	After-hours (deportations)	In-hours	Visa-required arrivals	Visa-waiver arrivals
2015/16	1,891	7	6		902,815	1,521,550
2016/17	2,162	30	22		967,878	1,758,618
2017/18	2,938	10	11		1,084,185	1,813,637
2018/19	1,142	7	5		1,117,874	1,861,983
2019/20	1,507	6	8	65 ¹⁸	769,703	1,428,516
2020/21	904	9	15	272	28,567	28,701
2021/22	517	6	12	185	79,664	85,535
2022/23 (4 May 2023)	654	20	22	318	621,309	1,093,090

¹⁷ The in-hours data contains site visits that relate to not only deportation activity but other compliance activity undertaken.

¹⁸ The date for the FY19/20 starts from 1 January 2020.

Combined deportation numbers for 2015-2023

Deportation	3,841	29%
Self deportation	4,878	36%
Voluntary departure	4,756	35%
Total	13,475	

66. It can be seen from the above that deportations are rare in comparison to the number of visitors. Most visa holders leave New Zealand as required. For those who stay beyond the term of their visa, most leave voluntarily or agree to “self-deport”. Only a minority (29% over the 8 years shown) require regulatory action.
67. In the financial year 1 July 2022 to 4 May 2023, out of hours visits made up just 3.36% of deportations. Since 2015, there have been 95 out of hours visits, which have located 117 people for deportation. 101 people were deported as a result. Just eight of those persons were Pacific Islanders. The largest group on a nationality basis deported through out of hours visits were Chinese nationals (47). Refer the table at **schedule 4** for a more detailed breakdown of those numbers and the nationalities involved, together with some notes around the data. The data has been compiled from a number of sources and we are grateful for the work of INZ to assist us.
68. We were given a few reasons for these statistics:
- 68.1. A proportion of Chinese nationals have come to New Zealand to work in construction or hospitality.¹⁹ These jobs, by their very nature, begin early in the morning and often, at least in the case of hospitality, end very late in the evening. It would not be possible to meet these people at their homes during

¹⁹ Note that cases that relate to the hospitality and construction sectors are given specific priority due to INZ Sector Strategy and are given a priority of P4 in the priorities for deportation. We understand this is due to the risk of exploitation inherent in those industries. This is based on existing intelligence on reported exploitation, including from MBIE Intelligence Unit and Referrals Inspector, and the nature of migrant workers in these workforces.

INZ's normal operating hours but their jobs would make it difficult and potentially dangerous for officers to visit them at their places of work.

- 68.2. In FY20/21, INZ was granted an additional budget to focus on construction as a priority sector and a large proportion of Chinese nationals were identified through this activity.
- 68.3. During COVID, and even now, the Kingdom of Tonga has refused to accept deportees other than in small numbers. During COVID, it was not possible to deport people to certain countries (in particular in the Pacific).
- 68.4. Some officers told us that they were mindful of the apology and purposefully did not conduct out of hours compliance visits on Pacific clients due to the history surrounding the Dawn Raids.

69. A few further things to note:

- 69.1. First, fewer deportations occurred during 2020 to 2022 due to the COVID pandemic.
- 69.2. Second, the statistics seem to imply that, now that COVID restrictions have, for the most part, been lifted, deportations are increasing, as are out of hours visits. It is, therefore, of the utmost importance that INZ gets this right.

The incident case

- 70. On 1 November 2019 a Tongan national (the "person") arrived in New Zealand on a Limited Visa for RSE work at a South Island orchard.
- 71. Recognised seasonal employer ("RSE") visas are limited visas allowing workers to come to New Zealand for short periods to work in the horticulture and viticulture industries. Usually, workers come from eligible Pacific nations.

72. Employees cannot apply for any other kind of visa while they hold a limited visa.²⁰ Limited visa holders must leave before their visa expires and they are not permitted to appeal to the Immigration and Protection Tribunal to stay in New Zealand.²¹
73. The person returned for another period of work in August 2020, this time working in horticulture in Auckland on an RSE visa.
74. On 13 February 2021, the person returned to the same South Island orchard again on an RSE visa. On 9 April 2021 the employer advised INZ that the person had absconded and it had been given information that the person went to Auckland to get married to a person he met while working there. On 15 April 2021 the employer confirmed he remained missing and detailed the enquiries made to find him.
75. In May 2022, the person was stopped by Police on at least one occasion for driving without a licence and forbidden from driving.
76. On 19 October 2022 an anonymous notification was received by Crime Stoppers relating to the person.
77. On 31 October 2022 the person was given a National Prioritisation Process (NPI) rating of "high" by INZ. This rating was derived from a range of factors, including his absconding on an RSE visa, the details of a Crime Stoppers notification and an allegation the person was working illegally. He was a construction worker which is currently given a higher priority by INZ as noted above. The Crime Stopper report detailed allegations of threats and violence against his partner. No Police report was made. The informant provided an address for the person.
78. Enquiries were made on 21 and 23 March 2023, which established the person appeared to be living at the address provided and leaving between 0615hrs and 0645hrs for work at an industrial site near Auckland Airport.
79. On 27 March 2023 the site visit was approved by the Compliance Manager and the Out of Hours Visit was approved by the National Compliance Manager (both in accordance with the SOPs).

²⁰ <https://www.immigration.govt.nz/new-zealand-visas/visas/visa/recognised-seasonal-employer-limited-visa>

²¹ See section 85.

80. On 18 April 2023, the Police were notified of the site visit and an event number was created.
81. At approximately 0555 on 19 April 2023 six compliance officers met nearby the person's address. The number of officers was orthodox in light of the person's flight risk and the allegations of violence. There were two police officers nearby who saw INZ officers and observed the operation (but did not participate). Two compliance officers were assigned to enter the premises and four were assigned to guard the perimeter.
82. At 0600 one of the two compliance officers knocked on the door. The officers saw the person looking out an upstairs window and called to him to come downstairs. The door was answered by the wife of the person and she eventually pointed upstairs and allowed the two officers to enter. Four children were in the house, with three sleeping downstairs and at least one woken up by the activity. At 0601 the person was detained under s 312 of the Act without the use of force. He was then taken to the Manukau Police Station and arrested under s 313 of the Act at 0625.
83. The INZ officers spoken to stressed that the operation was calm, respectful and did not require any use of force. Each stated that it was the least difficult out of hours operation they had experienced and that none of the children were observed to be visually upset (crying or the like).
84. The person was given access to a Tongan interpreter and served with a deportation order at 0644.
85. The next day, the usual process of a deportation interview was conducted (with an interpreter available) where the person provided information about his personal circumstances:²²
- 85.1.1. He married a NZ permanent resident recently.
 - 85.1.2. He knew he had no visa and had to return to his home country but was in love with his wife.
 - 85.1.3. He was working unlawfully.

²² We have minimised the specific details to avoid risk of identification of the person.

- 85.1.4. His now-wife has other children, for whom he assists providing.
86. The compliance officer considered whether to cancel the deportation order under s 177 of the Act, having considered the personal circumstances and the relevant international obligations (United Nations Convention on the Rights of the Child; International Covenant on Economic, Social and Cultural Rights).
87. Initially the person was assisted by an immigration advisor, then later on 20 April Mr Foliaki from Community Law South Auckland advised he was acting. The flight booked for the person to return to Tonga was delayed to allow a request to be made to the Minister for the grant of a visa under s 61 of the Act.²³
88. On 21 April, the Resolutions branch of INZ prepared the s 61 request and a Delegated Decision Maker (with authority to decide s 61 requests) declined the request.
89. On 22 April the Associate Minister of Immigration advised that she wished to be involved in the case and the person was released from custody at about midday. Ultimately, the Associate Minister granted the person a six-month visa to explore a pathway to residence.

The cultural appropriateness of out of hours compliance activity

90. The Terms of Reference ask us to consider the cultural appropriateness of out of hours compliance activity, with regard to the Dawn Raids apology, the government's "clearly stated" position on the practice and the Minister's 2 May 2023 letter to the Secretary for MBIE.
91. We have sought guidance from leaders and members of the Pacific, Chinese, Indian and Latin American communities to understand the cultural impact of out of hours

²³ A person who is subject to a deportation order cannot legally be granted a visa until the deportation order/deportation liability has been cancelled.

compliance activity.²⁴ We are grateful for the assistance we have received for this part of the Review.

92. We have received many comments about the cultural appropriateness of this kind of activity, including from INZ, the community and from respondents to the survey.
93. Some people told us that the rule of law requires justice to be blind. They have told us that cultural considerations have no place in the application of the law and that unlawful persons should be deported, using out of hours compliance visits if necessary, regardless of race.
94. Other people have told us that taking race into consideration, especially in the context of the Dawn Raids, will inherently favour one race, or some races, over others. This has been posed to us as both a negative and a positive thing: some people believe that actions that benefit part of the community will benefit the whole community; others told us that favouring one ethnicity or nationality will necessarily disadvantage another.
95. Finally, we have also been told that the Dawn Raids were such a dark period in New Zealand's young history that special consideration needs to be given to Pasifika people to take into consideration the trauma that was inflicted upon them by Immigration and the Police in the 1970s.
96. We consider that the rule of law is very important: all people should be treated equally before the law. However, cultural appropriateness is relevant to how the law is operationally enforced and carried out.
97. We now consider how these points relate to the three specific points set out below.

The Government's apology

98. On 1 August 2021, the Prime Minister, on behalf of the New Zealand government, formally apologised to New Zealand's Pacific community for the dawn raids.
99. The apology focussed in large part on the discriminatory application of immigration laws. The Prime Minister apologised for the harm caused to individuals, families and

²⁴ Although we note that we had limited input from the Latin American community.

communities, and she apologised for New Zealand's failure to treat individuals with dignity, respect and in accordance with their rights.

100. She affirmed that the current government is committed to eliminating racism in Aotearoa and affording everyone equal rights. She offered financial reparation to the community.
101. For the Pasifika community, we are told, this was bittersweet. We heard from one member of the community that his father had been taken away during the Dawn Raids and was no longer alive to hear and accept the apology. Another member told us that they did not trust the apology, while others told us that they were grateful that the apology had been made.
102. We also heard that the apology, its ceremony and the provision for financial reparation represented *ifoga*, a Samoan ceremonial apology, and that the current out of hours compliance activity represented a breach of that *ifoga*, which was of particular cultural offence.
103. We asked this question of the online survey: Do you think the out of hours compliance activity is consistent with the Government's "Dawn Raids" apology of 1 August 2021?
104. The response we received varied.
105. Some respondents said it was not consistent with the apology. One person described the apology, in light of the recent out of hours activity, as "worthless".
106. One respondent commented that the government's agreed upon reparations did not include a cessation of out of hours compliance activity and another queried why this kind of behaviour was still happening.
107. Other respondents told us that the Dawn Raids of the past were so heinous that it was offensive to equate current INZ activity with them.
108. On the flipside, we were told that the apology was irrelevant to future activities of INZ and that compliance is an important part of INZ's work to enforce the visa system.
109. For their part, INZ told us that no consideration was given to out of hours operating procedures in the wake of the government's apology.
110. However, they also told us that they did not believe that the current activity could be called a "Dawn Raid". Although these kinds of visits usually occur at or before dawn,

are invasive in the sense that the officers enter a private space and may be disturbing because the participants may be awoken by a knock on the door, that was where the similarities ended.

111. In current times, the NPP ensures that the law is executed agnostically and visits only occur when the “intelligence” suggests they should. By this, those officers we spoke to meant that INZ was only undertaking out of hours compliance activities when faced with no other alternative, based on the due diligence they had carried out. Where they did occur, the interactions were considered, by officers, to be polite and as unintrusive as possible.
112. When presented with evidence that Chinese and Indian persons made up the majority of deportees, the Pasifika community told us that this was still racist – the racism had turned to other parties. We were also told that, regardless of how ‘unintrusive’ these visits were, they were causing significant social and psychological stress.
113. In our view, the government’s apology created a reasonable expectation within the Pasifika community that “dawn” intrusions into houses would cease (or at least would be a very last resort). Whilst out of hours visits appear to have been a matter of last resort and require managerial and national manager approval, there does not appear to have been an attempt to implement the principles of the government's apology or alter out of hours visits in light of it.
114. Indeed, neither legislation nor policies were updated to reflect the apology or the principles underlying it. It does not appear to have been raised or considered as a consequence of the apology (it may be some sectors took it for granted while others did not consider it relevant to current operations).
115. Instead, some individual compliance officers and their managers told us that they, on their own accord, steered away from using out of hours powers on Pasifika families.
116. This is partially supported by the statistics we have seen, which show that Pasifika people have been the subject of very few out of hours visits.²⁵

²⁵ Noting that we are not able to discern the precise reasons behind this.

Our view

117. A considerable degree of disquiet from the incident case results both from misdescription of the actual circumstances combined with the legitimate concern of early morning intrusion into the home with children present.
118. We agree with the Pasifika community that an apology for behaviour, aspects of which continue after the apology, does appear to ring hollow. Whilst the apology did not make any mention of ongoing immigration activity, we think it is reasonable for the Pasifika community to expect that early morning intrusions into households would cease (or at least be exceptional).
119. It seems to us that there were options available to the government, or to INZ officials, to amend the legislation or policies in light of the government's apology. We were told that officials from Immigration New Zealand attended the apology in person; it is perhaps unusual that no thought seems to have been given to out of hours activity by the relevant Minister or senior officials (particularly as it was understood to relate to early morning intrusion into peoples' homes). We are told that requests from the community following the apology were about an amnesty and did not refer to cessation of out of hours compliance activity. It is important to also consider the context at the time and following the apology which included COVID (and consequential limited deportation activity) and other immigration related issues which were not deportation related.
120. There seems to be a mismatch between the relevant Minister, INZ officials and the community. One interviewee described it to us as a loss of social license. Essentially, they said, the apology removed INZ's social license to carry on these kinds of activities; their legality is irrelevant.
121. We have received varied feedback about this. An Indian community representative, for example, told us that the community is very concerned with maintaining its "citizen" identity in New Zealand. They think it is important that unlawful persons are removed from the community lest they cause a stain on the reputation of other, lawful citizens.
122. We received similar feedback from some members of the Pasifika community, who told us that they would support deportation of unlawful persons, especially those who had committed crimes.

123. Other members of the Pasifika community were adamant that out of hours compliance activities were reprehensible, in breach of the government's apology and reminiscent of the Dawn Raids era.
124. A representative of the Chinese community also told us that out of hours activities should not occur.
125. If that is what the government intended when making the apology, we think it should say that through clear legislative change and/or amendments to the relevant policies and SOPs. Without that, the law and practice remain the same as those just prior to the apology (and it is unfair to expect compliance officers to anticipate a different intention).
126. Currently, INZ compliance officers have the lawful power to undertake out of hours compliance activities. Their SOPs provide them with relatively little guidance as to when these powers should be exercised, although they are seen as unusual or a last resort. There are no clear criteria or guidelines – the decision is left to the officer's discretion (subject to approval from the Manager (site visit) and National Manager Compliance for the out of hours aspect).
127. We also note that the government's apology captured behaviour that had occurred in the past; no reference was made to future compliance activity from INZ. With no clear signal from the government or their manager, it is, in our view, reasonable for those officers to think that they could and should continue to undertake out of hours compliance activities, as a last resort, to enforce New Zealand's immigration laws.
128. These are important decisions and it is clear from the apology and the responses we have received from the community that out of hours activities have lasting impacts on individuals, families and communities. If this is something that is of concern to the government, they should act accordingly and not leave the decision up to individual managers.
129. Ultimately, if the government intended, through the apology, that out of hours compliance activity to be discontinued, or only occur in specific circumstances, it should change the law to make this clear.

The Government's clearly stated position on out of hours activities

130. In the course of the Review, we have not seen a clearly stated position from the government about out of hours compliance activity (before the Minister's letter referred to below).
131. This is emblematic of a larger problem. The (former) Minister seems to be, at least retrospectively, of the view that this kind of activity should not occur other than in specific circumstances. That view is shared by MBIE management but has not been passed on to compliance officers, who understand they are still expected to deport people as and when required and within their lawful bounds.
132. Essentially, there is a mismatch in expectations.
133. Again, if the government wanted those compliance officers to do something different, it needs to state that clearly, whether through amendments to legislation or policy changes.

The Minister of Immigration's 2 May 2023 letter

134. Following the test case, the Minister sent a letter to the Chief Executive of MBIE on 2 May 2023 (the "Minister's letter").
135. The key parts of the letter were:
 - 135.1.1. The Minister was "highly concerned about Immigration New Zealand undertaking out of hours operations that are reminiscent of practices employed during the Dawn Raids."
 - 135.1.2. Out of hours operations should only occur when "absolutely necessary, such as when there is a clear threat to public safety".
 - 135.1.3. Operational guidance should be updated to reflect this.
 - 135.1.4. INZ had a responsibility to uphold the principles of the government's apology.
136. Essentially, the Minister expects that out of hours compliance activity should only occur in exceptional cases, such as those involving public safety.

137. We asked survey respondents the following question: In what circumstances would out of hours compliance activity be appropriate?
138. We had varied responses. We heard that these kinds of activities would be justifiable in cases of national security or where the person was a danger to themselves or their family. Some people said that they were justifiable when someone had continually or intentionally evaded INZ officers or where the person was not able to be located during business hours.
139. Lawyers we spoke to told us that these kinds of activities were very rarely justifiable. The sanctity of the home and the expectation of privacy in the home were too important.
140. This was reiterated to us by the leaders of the Pasifika community with whom we spoke. They told us that these types of visits were a "violation". Often one house will be home to multiple families or multiple generations so the shame brought upon the household by the visit is compounded.
141. For INZ, we have reviewed a number of decision documents for out of hours compliance activity, including memoranda of requests to enter a residential premises outside normal operation hours.
142. These memoranda are sent to the National Manager Compliance for formal approval of the out of hours visit. They require the officer to set out the following information so that the National Manager has an understanding of the situation when he is considering whether not to approve the visit:
- 142.1.1. Purpose of the memorandum
 - 142.1.2. Background (which usually sets out a small explanation of the individual's immigration status, criminal offending and surveillance efforts).
 - 142.1.3. Proposed action (the way in which the visit will occur).
 - 142.1.4. Risks (sets out various risks associated with the visit, including, for example, operational risks or media risks).
 - 142.1.5. Reason for requesting out of hours approval.
 - 142.1.6. Recommendation (a recommendation to the National Manager Compliance that he agrees to allow an out of hours visit to occur).

143. The memoranda we have seen are populated with varying levels of detail. Often, the primary reason for conducting an out of hours visit appears to us to be that the person is seen leaving their residential premises before 7am.
144. It is also clear from other documentation that we have seen that the main consideration for out of hours compliance activity is risk to the integrity of the *immigration system*.²⁶ The assessment does not reflect a risk to the community or to the public in general beyond that. Although it is sometimes the case that out of hours visits occur where a person has committed criminal offending, this is not true of every case.
145. Instead, these types of visits occur when the compliance officer has formed the view that this is the only way to contact and deport the person.

Our view

146. The Act is clear: INZ officers may enter any premises at any reasonable time if they reasonably believe the subject of a relevant order or notice is at that location.
147. Whilst the legislation requires out of hours activities to be “reasonable”, there is limited judicial fetter on this discretion. The SOPs do not impose any conditions or criteria on when or how this should occur, other than that they are required to seek the approval of the National Manager Compliance before doing so.
148. The SOPs do not say, for example, out of hours compliance activity should only be used when there are matters of public safety.
149. If the Minister is of the view that this is the case, the Act or at least the SOPs should be amended to reflect that. Various amendments could have been considered and made – for example excepting the home or requiring judicial authorisation (a search warrant) or specifying the criteria when it was acceptable (national security or imminent danger, for example).

²⁶ This is set out in s 3(1) of the Act.

Decisions to undertake the activity

150. The second part of the Review considers the decision-making process. It asks whether the process takes into account, sufficiently or at all, factors such as the impact of out of hours activity on children and health and safety of the officers undertaking this type of activity. We were also asked to consider whether the decisions are reasonable, justifiable and proportionate.

Proportionality and reasonable alternatives

151. Essentially, the question asks us to consider whether INZ has a compelling reason to undertake an out of hours compliance visit.
152. INZ told us that these were always undertaken as a matter of last resort. Officers used other methods, such as trying to contact their clients by text or phone first.
153. There are strong practical reasons for undertaking visits at these times. It may be the only 'realistic' option. One respondent to the survey told us that out of hours activity was warranted when it was the *only* option available due to the "significant risk" posed by the person or their circumstances. Often the subjects of such visits deliberately avoid INZ (as seems to have been the situation in the incident case). They may, for example, tell INZ that they will report in but fail to do so. They might flit from job to job (or premises to premises) so that INZ is unable to contact their employer or reliably locate them.
154. Additionally many of these individuals work at jobs that begin in the early hours of the morning and end in the late evening. INZ has told us that they consider this is sometimes done deliberately to avoid INZ. One officer told us of a client who began work before 6am and finished work after 10pm. Another officer described the period between 9pm and 7am as an 'amnesty'; the clients would only return home when they knew they were 'safe' from INZ.
155. Often, these clients' jobs present difficulties to INZ. They may work in construction or viticulture, industries that work with the sun, or hospitality, which requires long or sporadic hours. Attempting to contact a client at such a workplace has a lower risk of success: there may be multiple exits, members of the public or colleagues (who may carry their own grievances towards INZ) and, in particular, the possibility of job-specific tools being weaponised against INZ officers.

156. Generally, people are more cooperative in the morning, having just woken up, and the chance that they have been affected by substances or that they have visitors is lower. Sometimes there may be multiple unlawful individuals at one house. Some officers told us an at home morning visit allows the client to retain their mana. They are aware that their work may be seen as shameful to their 'client' and they would rather carry this out in a private place, where their colleagues and peers don't see it.
157. Finally, we are told, there is a practical element to this. An individual may be detained for up to 96 hours (before a Judge must be involved) and are required to put the person on the "first available craft". Detaining someone in the early morning means they still have the rest of the day to find flights, undertake risk assessments and carry out a deportation interview.²⁷ In Auckland (and perhaps other cities), operating in the early hours of the day is sensible just to avoid traffic and related difficulties. This has been reported by compliance officers as a significant impediment to productivity.
158. There is an added pressure to the compliance teams in INZ: they have an expectation in the budget appropriation of deporting 1500 people a year (including voluntary deportations).²⁸ Some officers told us that this had little impact on the way they perform their jobs but others told us that this was a background pressure on their activity.
159. Deportations are an important part of compliance work. INZ officers are required to deport high risk people but the hours in which they are practically able to perform their functions without the approval of their National Manager are constrained. This work is justifiable, in the minds of INZ, because it is upholding the law, fairly and reasonably, but as a last resort.
160. The decision documents do not expressly require INZ officers, their managers or the National Manager Compliance to consider proportionality. The SOPs and the underlying approval documentation do not always explicitly articulate that other options have been exhausted, nor do they expressly consider matters such as children in the household or cultural considerations.

²⁷ Section 177 interviews to consider cancellation of a deportation order in light of the personal circumstances of the client and New Zealand's international obligations.

²⁸ Some officers told us it was 1500-2000. However, going forward, and for FY23/24, the estimates measure has been reduced to 1500.

161. Legal advisors told us that very few, if any, cases they have seen reach the threshold of requiring out of hours activity (essentially exceptional or last resort situations). We were given an example of an out of hours visit that occurred on a young woman who was known to INZ to leave the house at 8.30am, within standard operating hours. INZ was, in particular, concerned to reach her boyfriend. When they completed a door knock in the early hours of the morning, the boyfriend was not home but was able to be contacted by a call from an INZ officer inside the home.
162. There is a practical concern as well. These people are not criminals and are not being tried in the criminal system. This means they do not have access to the duty lawyer list that is available for people who enter the police system outside of standard business hours. Often, they cannot get hold of a lawyer for several hours after they have been removed from their home (and there is no judicial oversight). This may result in delays or unfair interview processes.²⁹
163. This is also an access to justice issue. Many people who are in New Zealand without a visa are inherently vulnerable people, living in the shadows. Some people who come to New Zealand and who stay beyond their visa have had difficult dealings with the governments of their home countries. They are fearful and suspicious of interactions with New Zealand's government. Their work is often itinerant and they do not have access to phones or money to pay for credit on a phone or they move around a lot. It is not clear from what we have seen if enough is being done to support those people and to ensure that they are truly aware of their legal rights and their 'pathways' to residency in New Zealand, should they wish to stay here.
164. We have had differing views from the community. Many people we spoke to from the Pasifika community told us that these kinds of activities are *never* justifiable or only justifiable in very limited circumstances. They cause significant social stress and are very triggering for a community that is still recovering from the Dawn Raids era. A representative of the Chinese community agreed with this, although a representative of the Indian community held little sympathy for persons without a visa.
165. In our survey we asked: Is the out of hours compliance activity reasonable, proportionate and justifiable in the circumstances? Why or why not?

²⁹ Conversely, INZ told us that having a full day (from 0600 onwards) allows them time to speak to the client and make arrangements to deport the person on the first available flight.

166. Some respondents told us that out of hours compliance activity was justifiable only when the individual had committed a crime that required them to be deported. Others told us that out of hours work was important because it ensures that unlawful persons are deported. It was suggested to us that there was a difference between what is carried out now and the Dawn Raids of the past and INZ needed to provide education to the communities to show those distinctions.

Our views

167. We think it is important that decisions to carry out these activities are made with thorough care, particularly to ensure that intrusion into the home in the early hours (where children may be present) is a last resort and occurs only when alternative approaches have been exhausted or dismissed following clear reasoning. There is little judicial oversight of these decisions and many of the people who are subject to out of hours compliance activity are vulnerable. These decisions are rarely, if ever, subject to judicial challenge and their reasonableness is not subject to independent assessment. The result is that, these kinds of activities, which can have serious, long-term consequences on a range of people, including the individuals, families, children and communities, have limited judicial fetter.

168. The decision documents do not, in our view, go far enough to ensure that a proportionality assessment is completed, which would ensure that these decisions are only made in cases where it is appropriate. Without limiting the considerations, factors that could be taken into consideration include risk of harm to others, criminal activities committed by the client and whether INZ have exercised all reasonable alternatives including, for example, trying to contact other people who may be able to guide the person to leave the country (employers, community leaders, family members who remain in the person's home country).³⁰ There ought to be express consideration of the less intrusive options of ensuring compliance and clear caution about the presence of children in a domestic setting. We suggest that the National Manager and Compliance Managers may be well placed to play a 'devil's advocate' and second guess requests for out of hours compliance by focusing on reasonable alternatives and relevant cultural and social factors.

³⁰ We understand that this already happens in some situations and, if it does occur, privacy requirements (if any) will need to be taken into consideration.

169. This will mirror to some extent the analysis undertaken at the NPP level, when a rating of high, medium or low risk is assigned. The NPP rating could be part of this proportionality assessment.
170. This process will likely need to be reviewed and updated to ensure that it reflects the relevant social, economic, political and cultural climate.
171. Whilst we have received feedback from various persons about changing INZ's ordinary operational hours (in favour of extending them and shortening them), we do not profess to have the relevant expertise to make this kind of recommendation. Further thought needs to be given to the hours as they currently stand, taking into account access to legal advice and practical considerations such as traffic patterns or likely working behaviours.³¹

Impact on others, including children

172. A very clear theme has emerged from every group we have spoken to: the interests of children are highly significant in these circumstances.
173. We are told by INZ compliance officers that children are always a consideration. For example, if both the mother and father are of interest to INZ, they will always leave one parent behind to look after the child and they will have notified Oranga Tamariki or the Police if necessary. The officers try and avoid children when they enter a house or, if they are asleep, try not to wake them up.
174. They told us, in some cases, it is difficult to confirm all who are living at an address, although they rarely interact with children.
175. The Pacific community told us that these types of activities are very traumatizing for children, especially given that they occur in the morning. It might be, for example, that a child may wake up with a beloved parent missing and little understanding of why they have gone. This was echoed by representatives of the Chinese and Indian communities. We were told that in some Indian cultures, for example, children are

³¹ By this, we mean that it may be difficult to create a one-size-fits-all approach. Some of the feedback we received was very centre-specific; for example, people in Auckland told us that current traffic patterns mean that their clients are leaving earlier but this is not necessarily true for other centres like Nelson or Hawkes Bay.

raised to see things in very black and white terms and it would be particularly traumatising for them to see their parents doing something 'bad'.

176. We received similar feedback from the survey. One respondent told us that a home should be a safe space for family and for children and that no child should go to bed and wake up with their parent gone. Another person we interviewed told us that they felt that officers were too cavalier about the impact on children; whilst the officer may not see an upset child, the removal of their parent was likely to "haunt" that child.
177. We have been fortunate to hear from children of the Dawn Raids both through the online survey and through interviews. One respondent told us that the Dawn Raid period made them fearful and "terrified" that they would become parentless. Another told us they remembered Immigration and Police officers coming into their family home several times to search for individuals without visas. This caused "deep embarrassment and fear".
178. There are arguments that compliance officers would be assisted by more training cultural competence and ensuring that the sensitivities of the relevant cultures are matters they are well versed in. We note that INZ compliance officers appear to be from many cultures and appear to be alive to the wishes of the communities they work in. Whilst such training would undoubtedly be beneficial, we cannot go further and say that it is required from our review. Compliance officers were clear to us that they were alive to cultural issues and in particular were sensitive to the history of Dawn Raids.

Our view

179. Whilst we believe the presence of children is a factor that INZ officers take into consideration, it does not appear to be a sufficiently clear concern.
180. For example, the forms that the officers are required to fill out do not ask the officer to consider whether there are children present or involved in the case.
181. In the incident case, the compliance officers who attended the scene told us that they were not aware that there were children in the house. One officer told us that they

were not even aware that there were children present until it was reported in the media.³²

182. Children are vulnerable people. We have heard of the long-lasting trauma that the Dawn Raids have had on people, to this day. The needs of children must be considered and early morning intrusions into a home where children are present should be a very last resort. We appreciate that this may add to “surveillance” undertakings but it is important that the social stress caused by such visits is minimised.
183. This also has a health and safety advantage by ensuring that officers are more aware of the number of people present in the home and so can make better decisions to protect the health and safety of their officers and the people present.
184. Finally, the presence of children in the home may indicate a potential pathway to residency through the s 61 discretion, in which case an out of hours visit may be a wasted expense.³³ We know that the potential pathways are considered by compliance officers but in our view the consideration should be more specific when weighing up whether to undertake an out of hours visit to a home where children may be present (and other vulnerable individuals).

Health and safety of compliance officers

185. Part of the reason, we were told, that these activities take place out of hours and, in particular, in the morning, is because it is the safest time to do so.
186. It is easier to guarantee that people are at home, that they haven't been drinking or abusing other substances or have visitors, they are usually more docile when they wake up and entries and exits can be easily managed by other INZ officers. The chance of weapons, or tools that could be used as weapons, is lower and the risk to the public, other than the house's inhabitants, are slim.
187. The documents we have reviewed generally show consideration of health and safety risks involved in the visits. There is some variance in approach to health and safety

³² We acknowledge that this differs from the account the person's lawyer has given – we have not undertaken an investigation into the veracity of either statement.

³³ We note that in the incident case, the children were not the biological children of the person concerned but he stated he was contributing to their care.

risks (there were two versions of the Critical High Risk – Offsite Activity and Assessment Protocol form, for example, one offering specific “environmental risks” prompts, such as “dogs” and “chemical or biological hazards” and another excluding those prompts altogether).

188. There is also variation in the answers given in the “Operational Risk” section of the approval memoranda. For example, one memorandum we saw said:

“Operational Risk: Limited. Timeframe requested is in line with the time when the identified person of interest is expected to depart the premises.”

189. Another said:

“Operational Risk: Unknown exact number of occupants in the house, and whether the downstairs is a separate unit to upstairs. Police checks on both clients and on the property itself have come back with no concerns. Lots of cars generally parked outside. No indication of dogs on property.”

190. It is not clear to us how important the health and safety risks are to the decision to make a particular out of hours visit. The variation in details, and in the forms themselves, makes it difficult to tell when, how and in what detail officers are reviewing health and safety risks to their colleagues, and whether this plays any part in the decision to request, approve or conduct an out of hours visit.

191. The National Manager Compliance often approves these visits without giving reasons and again it is not clear from that documentation how much of a factor the health and safety of compliance officers is when determining whether to undertake an out of hours visit (we acknowledge it is always a consideration).

Our view

192. Early morning visits into a home where there are children or other vulnerable individuals should be a last resort for compliance officers. We accept there are strong operational and safety reasons in favour of their use, but we suggest that more is done to ensure they are genuinely a last resort.

193. During the course of the review, we were sent media reports of an INZ client who allegedly broke his wrist during an out of hours visit. Whilst we have not investigated or analysed the facts of that case in detail, we note that careful planning and

consideration may prevent events like this from happening, or relieve the officers and their managers of the scrutiny that follows events like this.

Appropriate level of approval

194. Since the initiation of this review, decisions to undertake out of hours compliance activity have required approval from the Deputy Secretary. Prior to that, they required approval from the National Manager Compliance.
195. Having reviewed the documents and based on the interviews and our above comments, we do not consider this sensible or practical. In our view, it is overly prescriptive and introduces a decision maker who (with respect) is far removed from the operational expertise required to assess whether this is truly a last resort for the client concerned. It is administratively cumbersome and ultimately unhelpful for compliance to require such a level of authorisation.
196. It is however important that the person who signs off on these activities is sufficiently removed from the operation to objectively review alternatives, advantages, disadvantages and risks before signing off on a visit. We acknowledge that there are arguments in favour of elevating the decision-making to a more senior level to ensure there is such objectivity and to perhaps consider the broader context when approving such activity.
197. It is our view that the inputs into the approval process and the threshold for such an approval ought to be the focus, rather than necessarily the decision-maker. In our view the decision-making powers should remain with the Compliance Managers and the National Manager Compliance. They have the operational expertise to weigh the various considerations and have the statutory powers that are being exercised. Further guidance from management (in the form recommended) is preferable in our view than centralising decision-making.

Conclusions and discussion

198. If the government wished to change the relatively rare practice of early morning compliance visits to residential premises, it had the opportunity to do so either by changing the relevant law and/or the INZ practice. We acknowledge there were other priorities at the time and after the apology and that the pandemic meant that deportation activity would not have been top of mind for the government.
199. We do not wish to prescribe how it may wish to modify the law other than to express a preference that if it has a “clearly stated position”, then it ought to amend the law to demonstrate that. Alternatively, or in addition, it could amend the SOPs and accompanying guidance to ensure that such activity is a last resort. It would seem difficult and perhaps risky for compliance officers to attempt to intuit their own interpretation of the effect of the Dawn Raids apology on future compliance activity (including on non-Pasifika people).
200. The most emphatic statement of intention would be for the government to amend s 286 of the Act (and any other sections allowing for entry into residential premises after hours – for example s 281A) to provide clarity around limitations applicable to residential premises and in particular after hours activity. This could involve amendments to introduce limitations on the exercise of the entry power (such as restrictions on the time of entry to residential premises, save when it is clearly in the public interest). Factors to indicate when that public interest would be met could be included in the section to assist in decision making.
201. Alternatively, the power of entry to residential premises could be completely limited by cross-reference to the need for a search warrant and amendment to s293A of the Act to articulate on the circumstances in which a warrant needed to be sought.
202. Irrespective, we recommend that the SOPs and other relevant TIKA guidance clearly reflect government policy (as clarified).³⁴ The *how* and the *when* of such out-of-hours activities should be reflected in operational guidance. For example, the guidance could say that out of hours activity is a concept of last resort that requires a proportionality assessment, cleared by both the relevant compliance manager and the

³⁴ A concern has been raised with us that this will create avenues for judicial review. Respectfully, judicial review is already available for these kinds of decisions, but, we are told, rarely occurs due to access to justice issues, reticence from the Courts to supervise these kinds of activities and the rapid timeframe for deportation.

national manager, before it can occur. With the compliance officer preparing material for this assessment, this will ensure a three-pronged assessment of whether the activity is truly necessary.

203. The factors that the compliance team would consider when undertaking this assessment include:
- 203.1. Whether all reasonable alternatives have been considered and undertaken, with an explanation of if not, why not;
 - 203.2. Whether there are any available pathways to residency for the person, including factors that may be relevant to the s 61 discretion;
 - 203.3. Whether the visit was to residential premises and, if so, whether there are other people likely to be in the home or, whether for cultural reasons, it is *likely* that other people may be in the home. This should include an assessment of the likelihood of interaction with NZ citizens or residents and any children, elderly or other vulnerable individuals.
 - 203.4. Whether the risk to public safety or national security or the likelihood of obtaining lawful compliance is such that it necessitates intrusion into a residential premises outside of ordinary daylight hours. Essentially, we envisage that these questions would align with any amendments to legislation that clearly reflect government policy.
204. We understand that this will likely require additional surveillance efforts, which may in turn require further resourcing and training of officers.
205. Decisions to undertake out of hours activity need to be made at an operational level, taking into account the human factors that will differ in every situation (guided by the overall philosophy of the Act, any SOPs and other guidance).
206. Finally, it is likely that there will be cases that are not caught by these suggested changes. For example, where, despite using all available methods, it is not possible to get in contact with a person but there are no public risk factors in evidence (as opposed to risk to the system generally – which we do not wish to understate).
207. In those cases, judicial oversight through a search warrant process may be the most appropriate option. INZ would need to be able to show that all reasonable alternatives have been investigated and, where appropriate, undertaken and that

there is minimal risk to the public (including children and others present in a household) for an out of hours visit.

208. That safeguard could be built into s 286 or s 293A of the Act and/or into the SOPs/TIKA.

209. We note that the broader consequences of these changes need also to be considered and weighed (for example, what, if any, impact will this have on the safety of compliance officers because of a change in the nature of premises they undertake activities in).

Schedule 1 - Terms of Reference



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI



TERMS OF REFERENCE

DATE	16 May 2023
TO	Michael Heron, KC
FROM	Carolyn Tremain, Secretary MBIE
PREPARED BY	Alison McDonald, Deputy Secretary (Immigration) Richard Owen, GM Verification and Compliance Fraser Richards, Special Counsel (Immigration)
SUBJECT	Terms of Reference – External Review of processes and procedures - out of hours immigration compliance activity

PURPOSE

1. The purpose of this document is to set out the Terms of Reference for an independent external review of processes and procedures around out of hours immigration compliance activity, and to identify and recommend potential changes to the process where required. This may include recommendations for legislative change.
2. The review should consider the adequacy of the current immigration settings (including legislative settings), standard operating procedures (SOPs), and any other internal guidance for out of hours immigration compliance activity to serve deportation liability notices or execute deportation orders and how they may need to change to have regard to:
 - a. the cultural appropriateness of the proposed activity, with specific consideration given to:
 - i. the Government’s “dawn raids” apology of 1 August 2021;
 - ii. the Government’s clearly stated position on the practice; and
 - iii. the Minister of Immigration’s letter of 2 May 2023 to the Secretary for MBIE about the Government, and in particular Immigration New Zealand, having “a responsibility to uphold the principles of “Dawn Raids apology, ensure any actions reflect our ongoing commitment to right the wrongs of the past, and avoid reinflicting the trauma that many still live with today”; and
 - b. to ensure any decision to undertake such activity:
 - i. Is reasonable, proportionate, and justifiable in the circumstances; and
 - ii. takes into account relevant considerations including, but not limited to:
 1. the possible impact and harm on other individuals (including any children) that may be present;

IN-CONFIDENCE

1



2. the health and safety of compliance officers;
 3. whether there are reasonable alternatives to out of hours activity;
- c. is approved at an appropriate managerial level.

OBJECTIVES

3. The objectives of this review are to:
- a. Review the current immigration settings, SOPs, and guidance for out of hours immigration compliance activity to serve deportation liability notices or execute deportation orders; and
 - b. Provide recommendations as to whether potential changes are required to ensure that such decision-making:
 - i. is reasonable, proportionate, and justifiable in the circumstances; and
 - ii. is carried out in the interests of public safety; and
 - iii. takes into account relevant considerations including, but not limited to:
 1. the cultural appropriateness of the proposed activity with specific consideration given to:
 - a. the Government's "Dawn Raids" apology of 1 August 2021;
 - b. the Government's clearly stated position on the practice; and
 - c. the Minister of Immigration's letter of 2 May 2023 to the Secretary for MBIE about the Government, and in particular INZ, having a responsibility to uphold the principles of the "Dawn Raids" apology;
 2. the possible impact and harm on other individuals (including any children) that may be present;
 3. the health and safety of compliance officers;
 4. whether there are reasonable alternatives to out of hours activity; and
 - iv. is approved at an appropriate managerial level.

SCOPE

4. The review will examine processes and procedures for out of hours compliance activities to serve deportation liability notices or execute deportation orders. Excluded from scope are compliance activities conducted within normal business hours, and compliance activities not associated with deportation.

APPROACH

5. The following approach will be taken in conducting this review:
- a. The Reviewer will review existing immigration settings, SOPs, and guidance for out of hours immigration compliance activity; and
 - b. The Reviewer will review any decision documents for out of hours immigration compliance activity undertaken since 1 August 2021 to provide context for any



-
- recommendations for change that could be made to existing immigration settings, SOPs, and guidance for out of hours immigration compliance activity; and
- c. The Reviewer will interview MBIE staff (names and contact details to be provided); as necessary, to gather information and expertise to assist the review; and
 - d. The Reviewer will interview and seek comment from members of the Immigration Reference Group (names and contact details to be provided); and
 - e. The Reviewer will seek support from the Ministry for Pacific Peoples and the Ministry for Ethnic Communities (names and contact details to be provided) to meet with representatives from the Pasifika community and representatives of the Migrant community.
6. The principles of natural justice are to be observed through the review.

MBIE ROLES AND RESPONSIBILITIES

7. The sponsor of the review will be the Secretary for MBIE.
8. MBIE will provide a senior person to provide secretariat support with the day-to-day work of the review.

DELIVERABLES

9. An interim report will be provided to the Secretary for MBIE for comment by 9 June 2023. The final report will be prepared containing the results of the review, summarising the findings, and providing recommendations for any improvement opportunities to the Secretary for MBIE by 30 June 2023.

PUBLICATION

10. It is expected that the final report will be publicly released when it has been finalised.

Schedule 2 - Government's Apology and Minister of Immigration's Letter

Hon Michael Wood

MP for Mt Roskill
Minister of Immigration
Minister of Transport
Minister for Auckland
Minister for Workplace Relations and Safety
Associate Minister of Finance



2 May 2023

Carolyn Tremain
Chief Executive
Ministry of Business, Innovation and Employment
Carolyn.Tremain@mbie.govt.nz

Dear Carolyn,

Recently I discussed with Immigration New Zealand the case of the Tongan national who was the subject of an Immigration New Zealand enforcement operation on 19 April 2023.

I remain highly concerned about Immigration New Zealand undertaking out of hours operations that are reminiscent of practises employed during the Dawn Raids.

I welcome the steps taken by Immigration New Zealand so far since I raised this issue with Immigration New Zealand, including escalating approval from a national to a general manager for out of hours operations, as well as the change in approach that was undertaken following the apology for the Dawn Raids. However I do not believe these steps go far enough.

I acknowledge that such operations make up 3% of enforcement activity over the previous financial year. However, it is my strong view that you as Chief Executive ensure that out of hours operations only occur in situations where they are absolutely necessary, such as when there is a clear threat to public safety, and that operational guidance is updated to reflect this. I also expect that the Deputy Secretary, Immigration will personally sign off on out of hours operations going forward.

The Government in 2021 made a formal, unreserved apology for the Dawn Raids, and acknowledged the distress and hurt caused by them. It noted the impact these raids had on Pacific communities, both at the time and across subsequent generations.

It is my strong expectation that the entire Government, but especially Immigration New Zealand, has a responsibility to uphold the principles of the Dawn Raids apology, ensure any actions reflect our ongoing commitment to right the wrongs of the past, and avoid reinflicting the trauma that many still live with today.

I look forward to discussing this matter with you further.

Yours sincerely,

A handwritten signature in blue ink that reads "M. Wood".

Hon Michael Wood
Minister of Immigration

cc. Alison McDonald, Deputy Secretary, Immigration

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand
+64 4 817 8731 | m.wood@ministers.govt.nz | beehive.govt.nz

1 AUGUST 2021

Government offers formal apology for Dawn Raids

- A formal and unreserved apology for the Dawn Raids
- The Government will offer education scholarships as part of the apology
- Manaaki New Zealand Short Term Scholarship Training courses
- Support Pacific artists and historians to develop a comprehensive written and oral account of the Dawn Raids

Prime Minister Jacinda Ardern has today formally apologised to Pacific communities impacted by the Dawn Raids in the 1970s.

Between 1974 and 1976, a series of rigorous immigration policies were carried out that resulted in targeted raids on the homes of Pacific families. The raids to find, convict, and deport overstayers often took place very early in the morning or late at night. We understand that the raids were severe with harsh verbal and physical treatment, which gave rise to the term the “Dawn Raids”.

“Today I offered, on behalf of the Government, a formal and unreserved apology to Pacific communities for the discriminatory implementation of immigration laws that led to the Dawn Raids,” Jacinda Ardern said.

“The Dawn Raids period cast a shadow over our shared history. Upholding immigration laws is one thing, but the Dawn Raids went well beyond that.

Whole communities felt targeted and terrorised. The raids were absolutely discriminatory.

“Expressing our sorrow, regret and remorse for past actions is the right thing to do and provides an opportunity for closure and reconciliation,” Jacinda Ardern said.

The Minister for Pacific Peoples, Aupito William Sio says looking back it’s clear that the immigration laws were discriminatory.

“Pacific peoples, Māori and other ethnic communities were specifically targeted and racially profiled, which was wrong and should have never happened,” Aupito William Sio said.

“In 1986 the Race Relations Conciliator found that between 1985 and 1986, while Pacific peoples comprised roughly a third overstayers, they represented 86 per cent of all prosecutions for overstaying. Racially targeting Pacific communities created a decades long false impression of the status of Pacific New Zealanders.

“During the same period overstayers from the United States and Great Britain who also comprised roughly a third of overstayers made up only five per cent of prosecutions,” Aupito William Sio said.

The Government has as part of the formal apology, committed to honour Pacific ways of seeking reconciliation. It will be providing:

- \$2.1 million in academic and vocational scholarships to be available to Pacific communities.
- \$1 million in Manaaki New Zealand Short Term Scholarship Training Courses for delegates from Samoa, Tonga, Tuvalu, and Fiji.
- It will also be providing resources that are available to schools and kura who choose to teach the history of the Dawn Raids, which would include histories of those directly affected.
- The Ministry for Culture and Heritage and Ministry for Pacific Peoples will provide support to enable Pacific artists and/or historians to work with communities to develop a comprehensive historical record of account of the Dawn Raids period as an additional goodwill gesture of reconciliation.

<https://www.beehive.govt.nz/speech/speech-dawn-raids-apology>

1 AUGUST 2021

Speech to Dawn Raids Apology

Tēnā koutou katoa,

Kia orana kotou katoatoa,

Fakaalofa lahi atu ki mutolu oti,

Tālofa nī, Mālō nī koutou,

Ni sa bula vinaka,

Fakatalofa atu,

Noa'ia 'e mauri,

Kam na mauri,

Malo e lelei, Sioto'ofa,

Mālō lava le lagi e mamā ma le soifua maua,

Oue tulou, tulou atu, tulouna lava

Māori address

Tēnei te mihi māhana ki a koutou katoa – ngā uri o te Moana Nui a Kiwa,

kua rauika nei i raro i te kaupapa whakahirahira o te wā.

(Translation - Warm greetings to you all – the descendants of the Pacific, who have assembled here at this time for this very important occasion.)

Tongan address

Tapu mo e Ta'ehāmai

Mo e ngaahi tu'unga 'oku fa'a fakatapua.

Kau kole ke mou tali 'a e kole fakamolemole teu fai.

(Translation: In obeisance to the Unseen (God) and in respect of all the positions/strata/hierarchical ranks that are normally acknowledged. I ask that you accept the apology that I will give).

Samoan address

Ou te tula'i atu fua o a'u o 'Ae.

E ui la ua masa'a le ipu vai, ma ua agasala ma agaleaga le Malo i tagata Pasefika

Ma e lē mafai foi e timuga ona faamagalo le o'ona o le sami.

Ae aveia ia lo tatou gafa fa'aleagaga e māgalo ai se leo fa'atauva'a.

(Translation: I stand before you as a representative of those who did you harm. Although spilt water cannot be gathered again. And while no amount of rain can remove the bitter salt from the ocean waters, I ask you to let our spiritual connectedness soften your pain, and allow forgiveness to flow on this day).

Welcome to you all who have come here today for this important occasion.

I stand before you as a symbol of the Crown that wronged you nearly 50 years ago.

Today is a day of solemn reflection and over the past weeks, I have particularly reflected on the story of Pacific peoples in New Zealand.

This is a lengthy story that continues to evolve. One part of this bigger story is the migration from the Pacific to Aotearoa in the 1950s and how this has shaped who we are today as a nation made up of many rich and diverse cultures.

We have experienced the Pacific Aotearoa journey shift from one of new settlement to the present-day Pacific diaspora in New Zealand, where Pacific peoples are an integral part of Aotearoa's cultural and social fabric and are active contributors to our economic success.

However, in the multiple chapters of Pacific peoples' story in New Zealand, the chapter of the Dawn Raids stands out as one that continues to cast a long shadow.

Discriminatory application of immigration law in 1970s

During the economic boom of the 1950s, New Zealand encouraged significant migration from the Pacific region to fill labour shortages in the manufacturing and primary production sector.

It was a time of economic prosperity and many migrated from the Pacific to New Zealand as a result.

However, at the downturn of the economy in the early 1970s, parts of our society began to see migrants as jeopardising their financial security and quality of life.

The migrants who became the focal point and scapegoat for these fears were largely Pacific peoples, and when Police and Immigration enforced immigration laws around overstaying, not everyone was targeted.

Instead, Police and Immigration officials overwhelmingly conducted raids on the homes of Pacific families.

Officials, often accompanied by dogs, undertook late night and early morning (dawn) raids of homes.

Residents in those homes were woken abruptly, physically removed from their beds and forced into Police vans to be taken for questioning.

Some were hauled to the police station to appear in court the next day barefoot, in pyjamas or in clothes loaned to them in the holding cells; others were wrongfully detained.

During what became known as the Dawn Raids period, Police also conducted random stops and checks which required any person, on request, to produce their passport or permit if there was good cause to suspect an immigration-related offence, like overstaying a permit.

This lawful provision was exploited to racially profile those who were suspected as being overstayers, with Pacific peoples, Māori, and other people of colour randomly stopped in the street, at churches and schools, and other public places.

I understand that, at the time, public statements were made that a passport should be carried by those who looked like and spoke like they were not born in New Zealand.

Many groups, such as the Citizens Association for Racial Equality, Ngā Tamatoa, Amnesty Aroha, and the Federation of Labour, took to the streets in protest of these actions.

A prominent youth group was the Polynesian Panthers, a social justice movement that was founded in inner-city Auckland in June 1971. This movement operated to bring awareness to the treatment of Pacific peoples and to protest Crown actions and immigration policies.

These protests, coupled with the increasingly negative public reaction, led to the end of the Dawn Raids in 1976.

When we look back, it is now very clear that the immigration laws of the time were enforced in a discriminatory manner and that Pacific peoples were specifically targeted and racially profiled when these activities were carried out.

The statistics are undeniable.

There were no reported raids on any homes of people who were not Pacific; no raids or random stops were exacted towards European people.

Following an inquiry report of the then Race Relations Conciliator, Walter Hirsh, in 1986, it was found that while Pacific peoples comprised roughly a third of overstayers, they represented 86 percent of all prosecutions.

During the same period, overstayers from the United States and Great Britain, who, together, also comprised roughly a third of overstayers, made up only 5 percent of prosecutions.

Apology statement

While these events took place almost 50 years ago, the legacy of the Dawn Raids era lives on today in Pacific communities.

It remains vividly etched in the memory of those who were directly impacted; it lives on in the disruption of trust and faith in authorities, and it lives on in the unresolved grievances of Pacific communities that these events happened and that to this day they have gone unaddressed.

Today, I stand on behalf of the New Zealand Government to offer a formal and unreserved apology to Pacific communities for the discriminatory implementation of the immigration laws of the 1970s that led to the events of the Dawn Raids.

The Government expresses its sorrow, remorse, and regret that the Dawn Raids and random police checks occurred and that these actions were ever considered appropriate.

Our Government conveys to the future generations of Aotearoa that the past actions of the Crown were wrong, and that the treatment of your ancestors was wrong. We convey to you our deepest and sincerest apology.

We also apologise for the impact that these events have had on other peoples, such as Māori and other ethnic communities, who were unfairly targeted and impacted by the random Police checks of the time.

We acknowledge the distress and hurt that these experiences would have caused.

New Zealand's human rights commitments

As a nation, we expect everyone in New Zealand to be treated with dignity and respect and we expect that all individuals are guaranteed their rights without distinction of any kind.

Unfortunately, these expectations were not met in this case and inequities that stem from direct and indirect discrimination continue to exist.

The Government is committed to eliminating racism in all its forms in Aotearoa New Zealand and affording everyone the right to be treated humanely and with respect for their dignity.

I want to emphasise that under our current immigration compliance regime, the Government no longer prioritises compliance activity and deportation on the basis of ethnicity or nationality, but instead seeks to address potential risks to the New Zealand community and the integrity of the immigration system.

Pacific context – reconciliation

As a government we want to honour Pacific ways of seeking reconciliation. We understand that Pacific practices and protocols vary, but the common thread that underpins these practices is the expectation of reconciliation that is meaningful, genuine and that restores the balance from past wrongs.

We want our apology to be in a manner that has meaning to Pacific peoples.

I also hope that our presence and apology here today helps weave together our connections as p

Gestures to accompany the apology

But I understand that in many cultures, including in Pacific cultures, words alone are not sufficient to convey an apology and it is appropriate to include tangible gestures of goodwill and reconciliation.

We acknowledge the enduring hurt that has been caused to those who were directly affected by the Dawn Raids, as well as the lasting impact these events have had on subsequent generations.

I have heard that, for many people, the hurt was so deep that nearly 50 years later it's a struggle to talk about.

We recognise that no gestures can mend this hurt.

However, we hope that the gestures I am about to outline are accepted as a way of expressing our deepest sorrow whilst recognising the wrongs of the past, to pave a new dawn, and a new beginning for the Pacific peoples of New Zealand.

As a government, we commit to the following gestures of goodwill and reconciliation for our Pacific communities:

We will support the development of an historical account of the Dawn Raids which can be used for education purposes.

As part of this, the community will have the opportunity to come forward and share their experiences.

May the process of gathering an official historic account from written records and oral history provide an opportunity for Pacific peoples to begin a new journey of reconciliation and healing that will help restore mana.

We will ensure resources are available to schools and kura who choose to teach the history of the Dawn Raids, which would include histories of those directly affected.

May this opportunity help future generations gain knowledge and understanding that will help them ensure the mistakes of the past are not ever repeated again.

We will provide \$2.1 million in education scholarships and fellowships to Pacific communities in New Zealand.

May this gesture provide opportunities for the pursuit of tertiary education on subjects that will build confidence and pride in Pacific peoples of Aotearoa New Zealand.

And we will provide \$1 million in Manaaki New Zealand Short Term Training Scholarships for young leaders from Samoa, Tonga, Tuvalu and Fiji.

May these opportunities grow Pacific leadership that is confident and proud.

Closing comments

Almost 50 years on from the Dawn Raids, the Pacific story continues to shift.

This chapter sees a Pacific Aotearoa that is self-assured, thriving, prosperous and resilient.

We hope that today has brought some much-needed closure and healing for our Pacific communities and that it will enable us to keep growing together as a community and as a nation.

Once again my deepest acknowledgements and respects to all those who were directly affected by the harms caused during the Dawn Raids, including those who continue to suffer and carry the scars.

My acknowledgements and gratitude to the many individuals and organisations who stood up for justice, called out the Dawn Raids for what they were, supported Pacific peoples throughout, and championed the need for an apology.

It is my sincere hope that this apology will go some way in helping the Pacific youth of today know, with certainty, that they have every right to hold their head up high, and feel confident and proud of their Pacific heritage, and in particular the sacrifices their parents and grandparents have made for Aotearoa New Zealand.

May my words today be received in the Spirit of Humility that I convey them.

Ofa atu. Alofa atu.

No reira, Tena Koutou. Tena Koutou. Tena Koutou Katoa.

Kia kaha. Fa'afetai. Malo 'aupito. Metaki maata. Fakaue!

Schedule 3 - Website Survey

Survey on Immigration New Zealand's out of hours compliance activities for review conducted by Michael Heron KC

This is a review about the activities that Immigration New Zealand undertakes to detain people in the early morning or late at night "out of hours compliance activities". We would be grateful for your comments on any of the questions below. This is confidential. No personal details will be published or retained. Any submission will be destroyed once the review is complete. Please make any submissions by 5pm on 9 June 2023. Any submissions received after that date may not be considered.

SAMOAN

O le iloiloga lenei o galuega fa'atino ma nisi o auunaga a le Ofisa O Femalaga'iga a Niu Sila mo i latou e taofia i taimi i fafo atu o taimi fa'atulagaina masani o galuega – i le vaveao ma le tuneva o le po. E momoli atu le agaga fa'afetai ona o fa'amatalaga o le a tuuina ai e tusa ai ma fesili o lo o auiliili atu i lalo. Mo le silafia o nei fa'amatalaga o le a taoto i se tulaga e fa'alilolilo ma o le a le taofia e le Ofisa fa'amaumauga uma o le a tu'uina mai. O le fa'amoemoe, o le a fa'atama'ia uma fa'amatalaga tu'uina mai, pe a mae'a le iloiloga. E talosagaina ia tu'uina mai uma fa'amatalaga a o le i o'o atu i le itula e 5 i le afiafi o le aso 9 Iuni 2023. O fa'amatalaga uma o le a maua i tua atu o le taimi ma le aso lea, o le a le fa'aaogaina.

CHINESE

本次咨询主题：新西兰移民局在清晨或深夜等“非工作时间采取合规行动”、拘留人员。

如您能就以下任何问题提出意见，我们将不胜感激。本调查内容保密，不会发布或保留任何个人信息。调查完成后，任何提交内容都将被销毁。请在 2023 年 6 月 9 日下午 5 点之前提交反馈信息，该日期之后收到的任何材料将不予考虑。

FIJIAN

Oqo e dua na kena railesuvi na itavi qaravi e dau vakayacora na Tabana ni Curuvania (Immigration NZ) ena kena dau vesuki na tamata era sega na nodra vola ni tiko vaka lawa e Niusiladi ena mataka caca se ena bogi "ena taudaku ni gauna ni cakacaka". Sa vakavinavinakataki na nomuni vakaitavi ena sauni taro oqo. A nomuni sauni taro ena maroroi. Ena sega ni tabaki e dua na ka me baleti kemuni. Ena vakarusai kece na sauni taro ena kena vakacavari na railesuvi. Sa kerei mo ni vakauta na nomuni sauna taro ni bera na 5pm enai ka 9 ni June 2023. Na sauna taro kece e vakau mai ni oti nai ka 9 ni June 2023 ena sega ni ciqomi.

TONGAN

Ko hono toe vakai'i 'eni 'o e ngaahi ngaue 'oku fakahoko 'ehe Potungae Fefolau'aki 'a Nu'u Sila (Immigration New Zealand) fekau'aki mo hono puke 'a e kakai 'i he ngaahi houa hengihengi pe fuoloa e po'uli, "" tu'a mei he ngaahi houa kuo nau talagofua ke fakahoko ai 'enau ngaahi ngaue". Te mau matu'aki hounga'ia 'aupito 'i ha'o fakamatala ki ha taha pe 'o e ngaahi fehu'i 'oku ha 'i lalo.

'Oku fakapulipuli 'eni. 'E 'ikai ke pulusi pe tauhi ha ngaahi fakamatala fakaikiiki fakatautaha. 'E faka'auha ha fa'ahinga fakahu pe, hili koia e kakato hono toe vakai'i. Kataki fai ho'o fakahu 'i he 5 efiafi

'I he 'aho 9 'o Sune 2023. Ko e ngaahi fakahu 'e ma'u he hili 'a e 'aho ko eni 'e 'ikai kau ia 'I hono fakakaukau'i.

HINDI

यह उन गतिविधियों के बारे में एक समीक्षा है जो आब्रजन न्यूजीलैंड लोगों को सुबह या देर रात “घंटों अनुपालन गतिविधियों से बाहर” “निर्धारित घंटे से बाहर अनुपालन गतिविधियों” हिरासत में लेने के लिए करता है। हम नीचे दिए गए किसी भी प्रश्न पर आपकी टिप्पणियों के लिए आभारी होंगे। यह गोपनीय है। कोई व्यक्तिगत विवरण प्रकाशित या बनाए नहीं रखा जाएगा। समीक्षा पूरी होने के बाद कोई भी सबमिशन नष्ट हो जाएगा। कृपया 9 जून 2023 को शाम 5 बजे तक कोई भी सबमिशन करें। उस तारीख के बाद प्राप्त किसी भी प्रस्तुतियों पर विचार नहीं किया जा सकता है।

1. Can you tell us about your experiences with and/or views on INZ's out of hours compliance activity?

E mafai ona e fa'amatala mai tulaga uma na feagai ma oe I galuega fa'atino ma auaunaga a le INZ I taimi fafo atu o taimi fa'atulagaina masani o galuega, ae o le a foi sou manatu I galuega faatino nei ma auanaga a ale INZ?

对新西兰移民局非工作时间采取合规行动, 您有什么经历和/或看法吗?

O ni rawa beka ni tukuna vei keitou na veika eso o ni sa sotava /se na nomuni rai me baleta na kena dau vesuki e so na tamata era sega na nodra vola ni tiko vaka lawa e Niusiladi ena mataka caca se bogi "ena taudaku ni gauna ni cakacaka" mai na tabana ni Immigration NZ?

Te ke lava 'o fakamatala mai fekau'aki mo ha ngaahi me'a na'ake a'usia mo e/pe ngaahi fakakaukau ki he ngaahi houa ngaue 'a e Potungaue Ngaue Fefoloau'aki 'a Nu'u Sila 'i tu'a mei he ngaahi houa kuo nau talangofua ke fakahoko ai 'enau ngaahi ngaue?

क्या आप हमें INZ के घंटों के बाहर अनुपालन गतिविधि के साथ अपने अनुभवों और/या विचारों के बारे में बता सकते हैं?

2. What impact has recent out of hours compliance activity, or hearing about it, had on you and your family? What about your community?

O a ni aafiaga na e o'o i ai, fa'apea lou aiga, a o ni vaega foi na e fa'alogo na a'afia ai oe ma lou aiga, ona o galuega fa'atino ma auaunaga nei I fafo atu o taimi fa'atulagaina masani o galuega? Ae a nisi o lou nu'u?

您是否最近经历或听说上述行动, 我们的行动对您本人和家庭, 乃至社区有何影响?

Na cava e so nai revurevu ni kena vakayacori na kena vesuki edua ka sega na nodra vola ni tiko vaka lawa e Niusiladi ena mataka caca ena taudaku ni gauna ni cakacaka? Se ena gauna o ni rogoca kina, kerei mo ni vakamacalataka na kena revurevu vei kemuni kei na nomuni matavuvale? Vaka kina vei ira na leweni soqosoqo ni vanua o ni vaka i tikotiko kina?

Ko e ha e ola 'o e ngaahi houa kimui ni mai pe fanongo fekau'aki moia, kiate ko e mo ho famili? Fefe homou kolo?

हाल ही में घंटों की अनुपालन गतिविधि निर्धारित घंटे से बाहर अनुपालन गतिविधियों, या इसके बारे में सुनने से आप और आपके परिवार पर क्या प्रभाव पड़ा है? आपके समुदाय के बारे में क्या? इसने आपके समुदाय को कैसे प्रभावित किया?

3. Is the out of hours compliance activity reasonable, proportionate and justifiable in the circumstances? Why or why not?

Fa'amata o talafeagai, le fa'ataotoga o galuega fa'atino nei? Ioe/Leai – Aisea?

您认为此类行动是否合理、适度 and 正当？请说明原因

E kilikili se dodonu beka na kena dau vesuki na tamata era sega na nodra vola ni tiko vaka lawa e Niusiladi ena mataka caca se bogi "ena taudaku ni gauna ni cakacaka"? Na cava na vu ni nomuni nanuma vaka oqo?

'Oku 'uhinga lelei nai 'a e ngaahi houa oku 'ikai ke fai ai ha ngaue, potupotutatau mo fakatonuhia'i, 'i he ngaahi tukunga koia? Ko e ha 'uhinga pea ko e ha e 'uhinga 'oku 'ikai ai?

क्या परिस्थितियों में घंटों से अनुपालन निर्धारित घंटे से बाहर अनुपालन गतिविधि उचित, आनुपातिक और न्यायसंगत है? क्यों या क्यों नहीं?

4. In what circumstances would out of hours compliance activity be appropriate?

O a ni tulaga e ono talafeagai ai galuega fa'atino ma auaunaga I fafo atu o taimi masani fa'atulagaina o galuega?

在什么情况下，非工作时间采取合规行动合适？

Ena gauna cava beka e kilikili kina na kena dau vesuki na tamata era sega na nodra vola ni tiko vaka lawa e Niusiladi ena mataka caca se bogi "ena taudaku ni gauna ni cakacaka"?

Ko e ha 'a e ngaahi tu'unga 'e kaunga lelei ai 'a e ngaahi houa ngaue fakalao koeni?

किन परिस्थितियों में घंटों में निर्धारित घंटे से बाहर अनुपालन गतिविधि उचित होगी?

5. How does out of hours compliance activity take into account your culture?

E tusa ai ma galuega fa'atino ma auaunaga nei, fa'amata o aofia tulaga aloa'ia o lau aganu'u I nei gaioioiaiga?

如何在合规行动中考虑到您的文化？

E dau okata nomuni itovo vakavanua na kena vakayacori na i tavi ni vesuki ka vakalesui e dua na tamata e sega na nona vola ni tiko vaka lawa e NZ ena taudaku ni gauna ni cakacaka?

'Oku fakahoko fefe 'ehe 'ofisi 'a 'ene ngaue 'o kau kiai mo hono fakakaukau'i ho 'ulungaanga fakafonua?

ऑफिस से बाहर की अनुपालन गतिविधि आपकी संस्कृति को कैसे ध्यान में रखती है?

6. Do you think the out of hours compliance activity is consistent with the Government's "Dawn Raids" apology of 1 August 2021?

Fa'amata e ogatusa galuega fa'atino ma auaunaga nei ma le agaga o le faatoesega a le Malo "Dawn Raids" o le aso 1 Aokuso 2021?

您认为非工作时间的合规活动是否与政府2021年8月1日的对黎明突袭道歉一致？

O nanuma beka ni veiriti na qaravi tavi ni Immigration NZ ena kedra vesuki na tamata era sega na nodra vola ni tiko e NZ ena taudaku ni gauna ni cakacaka kei na "Morning Raids Apology – Na Bulubulu ni Matanitu o Niusiladi ena nodra vesuki na kai Pasefika me ra vakalesui ki na nodra dui vanua (1973 – 1979). Na bulubulu oqo e a vakayacori ena matai ni Okosita 2021?

'Oku ke pehe 'oku fenapasi 'a e ngaue 'oku fakahoko 'i tu'a mei he taimi ngaue 'a e 'ofisi mo e kolekole fakamolemole 'a e Pule'anga fekau'aki mo e "'Ohofi he Ata e 'Aho" ("Dawn Raid") 'i he 'aho 1 'o 'Aokosi 2021?

क्या आपको लगता है कि कार्यालय से बाहर अनुपालन गतिविधि 1 अगस्त 2021 की सरकार की "डॉन रेड्स" माफी के अनुरूप है?

Contact phone number and/or email address:

Numera o le telefoni faafesootai ma/po o le tuatusi imeli (e filifili ai):

您的联系电话和/或电子邮箱地址：

Naba ni talevoni ni veitaratara se na nomuni kato ni imeli:

Fika telefoni fetu'utaki mo e/pe tu'asila 'imeili (fili pe):

फोन नंबर और / या ईमेल पते से संपर्क करें (वैकल्पिक):

Schedule 4 – Statistics

FY	Number of out of hours visits conducted	Number of people located from out of hour visits conducted (And Nationality)	Number of people deported from out of hour visits conducted (And Nationality)	Number of Deportations per annum (FY)	Percentage of people deported as a result of an out of hours visit
FY15/16	7	1 Brazilian	1 Brazilian	1,891	0.32%
		5 Indian	4 Indian		
		1 Samoan	1 Samoan		
		-7	-6		
FY16/17	30	2 Bangladeshi	2 Bangladeshi	2,162	1.02%
		2 Fijian	2 Fijian		
		1 Great Britain	1 Great Britain		
		10 Indian	9 Indian		
		2 Malaysian	2 Malaysian		
		7 Samoan	2 Samoan		
		1 Tongan	4 Vietnamese		
		4 Vietnamese	-22		
		-29			
FY17/18	10	1 Chinese	1 Chinese	2,938	0.37%
		4 Indian	4 Indian		
		6 Malaysian	6 Malaysian		
		-11	-11		
FY18/19	7	2 Bangladeshi	2 Bangladeshi	1,778	0.28%
		1 Indian	1 Indian		
		1 Malaysian	1 Malaysian		
		1 South African	1 South African		
		-5	-5		
FY19/20	6	5 Chinese	5 Chinese	1,507	0.53%
		3 Indian	2 Indian		
		1 Tongan	1 Tongan		
		-9	-8		
FY20/21	9	13 Chinese	13 Chinese	906	1.66%

		2 Fijian	1 Malaysian		
		1 Malaysian	1 USA		
		1 USA		-15	
				-17	
FY21/22	6	12 Chinese	11 Chinese	517	2.32%
		1 Malaysian	1 Malaysian		
				-13	-12
FY22/23	20	20 Chinese	17 Chinese	654	3.36%
		1 Fijian	1 Fijian		
		1 Malaysian	1 Malaysian		
		2 Indian	2 Indian		
		2 Tongan	1 Tongan		
				-26	-22

This information has been manually collated from two case management systems and is accurate to the best of INZ's knowledge.

Notes

- Visit numbers fluctuate depending on INZ's priorities at any given time
- The percentage of people deported because of an out of hours over the last eight years ranges from 0.28% to 3.36% of the total number of people deported in that time. The average for the eight years is less than 1% (0.82%).
- Alongside other compliance activities, INZ has also focussed on compliance activity in the Construction sector (an outcome of additional funding in the 2019 Budget) which resulted in a small increase in approved out of hours visits in the last three years
- For the period 2020 to 2022, INZ's ability to undertake enforcement action against migrants who were breaching their visa conditions, including removing people from New Zealand who were liable for deportation, was severely impacted by COVID-19.
- As New Zealand reconnects with the world, COVID-19 impediments have reduced, and the number of deportations and voluntary departures are increasing.
- A greater focus on the construction industry than the horticulture industry has likely resulted in the higher proportion of Asian (Chinese and Indian) out of hours deportees compared to Pasifika.