

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S PORTFOLIO

**Group: 3**

**Program: 1.2**

**Question No. SBE15/042**

**Senator McKenzie asked the following question at the hearing on 20 October 2015:**

Senator McKENZIE: When are we going to COAG?

Ms K Jones: At this stage it would be our expectation that it will be the first COAG meeting in 2016 for consideration of recommendations around any amendments to the national firearms agreement.

Senator McKENZIE: So, for any recommendations put forward to COAG, is that a unanimous position or is it a majority position of COAG before they are implemented or the NFA is changed?

Ms K Jones: I will have to take that on notice. I think COAG generally operates by agreement, and the Law, Crime and Community Safety Council, I think, generally does as well. But I would need to specifically take that on notice.

Senator McKENZIE: Yes, if you could. For the final decision on recommendations coming out of that group and that group heading off to COAG, could you take on notice whether it is by consensus or there is a deliberative sort of process. I would appreciate that. I would also like, on notice, how many staff you have working on this particular review and what level and fraction of appointment they are.

Import permits for firearms and firearm parts for Australian police and military, on my advice, are taking an average of two to three months to process. Given the increased national security footing, does the department foresee shortening these processing times to better support our law enforcement and defence forces?

Ms Smith: Certainly. We get quite a lot of applications for permits, not just from law enforcement and the Defence Force, and there is quite a long process involved in considering them. It is not a matter of a rubber stamp or anything like that; we have to seek advice.

Senator McKENZIE: Hardly, on my advice.

Ms Smith: As a result of the resources taken, it does take time, but certainly I have put priorities in my branch to move those through a lot quicker. I am actually being a decision maker on a number of them to assist the other decision maker that we have in the branch to try to move those quicker.

Senator McKENZIE: What are your aims, Ms Smith? What do you want to get it down to?

Ms Smith: I do not have a particular aim. I would like to get rid of any backlog we have, and I would like to be satisfied that consideration of anything is done in appropriate time to allow proper consideration.

Senator McKENZIE: What is the backlog at the moment?

Ms Smith: I would have to take that on notice.

Senator McKENZIE: If you could take on notice the backlog and what your goal is over what time frame, that would be great.

One of the issues we heard about in the Senate inquiry into illicit firearms was how different jurisdictions had incredibly unique and sometimes uncoordinated ways of talking with each other. So, if I wanted to go duck shooting in New South Wales, for instance, or drive over the Nullarbor with my gun in the back to go shooting in WA, I could not actually be assured that I would be a law-abiding citizen all the way. We have some jurisdictions that are using paper

based systems, that are losing pieces of paper. We can have absolutely no confidence in the data we are collecting. That was one of the main recommendations out of the inquiry. Ms Jones, you are nodding your head to that. I was astonished and astounded. That NFA has been around for a while and we still do not have a system where jurisdictions are talking to each other and where we can have any confidence about firearms

ownership and transfer and the integrity of the system. Do you have any comment to make about that and about some changes you might be looking at as part of the process to fix that?

Ms K Jones: I have participated in several of the meetings of the working group that Ms Smith has referenced. That is certainly one of the issues that has been raised by firearms association stakeholders that have attended those meetings. Certainly, in the course of ongoing discussion in the working group, we have raised that. We have raised issues around mutual recognition of permits and licences. I would say there are no easy solutions to that. It is one of the challenges of the Federation that each jurisdiction will commit different levels of resources in particular areas. It has certainly been a subject that we have looked at quite closely.

Senator McKENZIE: Is there a willingness by some jurisdictions to even admit that there might be an issue, that they need to move into the 21st century with record keeping?

Ms Smith: It might be worth noting that there are two other recommendations relevant to this very subject.

Senator McKENZIE: But this is the one I am interested in.

Ms Smith: Yes, and that is the prioritisation of the introduction of the National Firearms Interface and also conducting an urgent audit of firearms data holding. So there is no doubt that all of the states and territories have committed to those recommendations and are working towards how—you are quite correct that they all have very different holdings and they all talk about the need to have systems that talk to each other. So it has certainly been identified by all jurisdictions as a priority, and we are working together on those two recommendations.

Senator McKENZIE: Do we have a time line for an outcome?

Ms Smith: There is a time line, and I would prefer to take that on notice to make sure I do not get it wrong, especially as other agencies are involved.

**The answer to the honourable senator's question is as follows:**

Decision-making in standing councils, including the Law, Crime and Community Safety Council, occurs on the basis of consensus wherever possible. Where consensus cannot be reached, the council will make decisions on the basis of a majority of members. In these circumstances, jurisdictions in the minority are not bound to implement the decisions that have been made. This is consistent with the COAG decision-making process.

The firearms team consists of five officers at the following levels: EL2, EL1, APS6 (x2), APS4. All members of the team have made some contribution to the National Firearms Agreement review. Departmental SES officers were also involved in managing the NFA review.

Under the Customs (Prohibited Imports) Regulations 1956 (the Regulations), the Attorney-General's Department (AGD) receives import applications for firearms and firearm-related articles. Importation of these articles is requested for a range of purposes, including for supply to law enforcement and military agencies, by dealers for on-sale to certified buyers and for use in the culling of vertebrate pest animals.

Once received, an application is assessed against the criteria relevant for its particular import test. If there is additional information required to support the application, the applicant is contacted and requested to provide that information within two weeks. Applicants are advised

that if information is not received during this period, their application will be withdrawn. The secondary assessment which follows includes a range of steps, including the receipt of additional information from third parties. These third parties include, for example, State and Territory firearm registries, which must confirm whether an applicant is appropriately licensed or authorised to possess the article/s they are seeking to import.

The time taken to collect all information relevant to the application depends on the quality of the original application. Once an application has been assessed as containing all relevant information, it is forwarded to the decision-maker to determine whether to grant import permission under the Regulations.

In 2014, AGD made decisions relating to 402 import applications. Of these, 397 were approved. Between 1 January and 13 November 2015, AGD made decisions relating to 335 applications. Of these, 327 were approved. As at 13 November 2015, AGD had 93 applications on hand. The largest group of these were applications awaiting further information from the applicant and/or third parties.

The National Firearms Interface (NFI) is due to be delivered by CrimTrac in mid-2016.