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Rapist attacks 25 women, teen ... and allowed to retain his visa

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A remorseless serial rapist who attacked 25 women and a child kept his visa as a result of [Andrew Giles's catastrophic push](#) to give more leniency to foreign-born criminals with ties to Australia, as it was revealed the embattled [Immigration Minister](#) was warned his policy would lead to a huge rise in offenders successfully beating deportation.

The Australian can reveal a man who had “some of the worst child abuse material in the world”, a rapist who molested four children and a criminal who laundered more than \$5m also kept their visas as a by-product of Mr Giles’s Direction 99.

As Labor was consumed on Tuesday by revelations of offenders who kept their visas as a result of Mr Giles’s direction, the minister declared he would prioritise a possible appeal of cancelled criminal deportations months after they were first overturned and days after the cases were uncovered by The Australian.

But Senate estimates late on Tuesday night uncovered a study by Mr Giles’s own department that estimated 25 per cent of foreign-born criminals could overturn their visa cancellations under Direction 99.

The study considered 10 cases that had been determined under the previous Direction 90, eight of which had ended in the visa cancellations being affirmed and two in which the cancellation was revoked.

Under the exercise, Home Affairs found that two of the eight cancellations would be revoked under Direction 99.

“The two changed decisions both had relatively low sentence length (12 months and 18 months), (the offender) had lived in Australia since they were children and did not involve family violence,” the ministerial briefing said. “The two favourable decisions remained unchanged, but it was noted that they became a relatively more straightforward decision to revoke the cancellation.”

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In a new case uncovered by The Australian, British-born masseur and rapist Charles William Davidson in February had the cancellation of his visa revoked despite having been convicted of eight counts of rape, 48 counts of sexual assault, and three counts of indecent treatment of children under 16.

The sentencing judge said the serial rapist had demonstrated “absolutely no remorse whatsoever”.

“In fact, during your evidence, you took every opportunity to gratuitously attack the character of some of the complainant women,” the judge said during sentencing. “Your evidence was quite obviously rejected by the jury, and understandably so. It was rife with inherent implausibility, inconsistency, and appeared frequently to be – to consist of recent fabrication.”

In an earlier unsuccessful appeal by Davidson against his conviction and sentence, Queensland’s Supreme Court noted that the trial judge had factored the likelihood that Davidson would be deported upon his release from prison into his decision to grant him an earlier parole date. That deportation however was cancelled after the AAT ruled that a “very heavy level of weight” should be given to the strength of Davidson’s ties to Australia. Although Davidson was born in Scotland, he had moved to Australia at the age of five.

“I am of the view that the applicant’s ties with ... his immediate family members in Australia are very strong and that those ties militate in favour of the allocation of a very heavy level of weight in favour of the Applicant pursuant to this Primary Consideration 3,” the tribunal wrote.

Late on Tuesday, Emergency Services Minister Murray Watt told Senate estimates that Mr Giles had asked his department to add Davidson to the list of criminals whose visas would be cancelled for a second time.

Department of Home Affairs secretary Stephanie Foster told the Senate her department had “failed to meet its obligations” over the crisis caused by Mr Giles’s direction and claimed that her officials had not told Mr Giles that the visa cancellations had been reversed.

Ms Foster said she “regrets very much” what occurred and claimed she was “ultimately” responsible, not just as the head of the department but in her capacity as associate secretary of immigration at the time of the Administrative Appeals Tribunal decisions.

She told senators that a two-part process had been put in place to advise the minister about cancellations in the future.

The Australian understands Mr Giles has used his powers in recent days to overrule the AAT on at least one case – alleged killer and domestic violence perpetrator Emmanuel Saki – and is preparing to overturn dozens of other cancelled deportations. But Mr Giles is refusing to rescind his controversial visa policy despite his urgent review of failed deportations, as he blamed the AAT and his department for the growing number of criminals successfully challenging their visa cancellations off the back of Direction 99.

Multiple AAT members, including former Labor speaker of the House of Representatives, Anna Burke, have said Direction 99 influenced their decisions to overturn visa cancellations, and in particular Mr Giles’s instruction that the tribunal make the strength, nature and duration of a criminal’s ties to Australia a primary consideration

Criminals can still appeal Mr Giles’s overruling of AAT decisions in the Federal Court, potentially keeping them in the country for months.

Anthony Albanese was sticking by his floundering minister on Tuesday amid the Direction 99 debacle and the ongoing border crisis caused by the High Court’s decision to free hundreds of criminals from immigration detention.

Peter Dutton and the Coalition used the first day of the sitting week to ramp up pressure on the Prime Minister and call for Mr Giles's sacking.

Mr Giles used a chaotic question time performance to blame his department and the AAT for criminals who kept their visas under his ministerial direction.

"I advise the House (of Representatives) ... that I have prioritised a number of cases for urgent cancellation consideration," Mr Giles told parliament on Tuesday. "A number of cases were not raised with me by my department, and I've asked my department for an explanation why. My department is now looking at all these cases as a priority, and they are all under cancellation consideration."

The Australian has identified another rapist who were allowed to remain in Australia after the tribunal cited Mr Giles's Direction 99 guidance, as well as a case involving a man who was convicted over his possession of an enormous cache of child pornography including multiple copies of "the most notorious child abuse video ever produced".

The deportation of a Chilean citizen who had sexually molested three of his wife's nieces and the child of a friend was stopped after the AAT again cited the strength of the man's ties to Australia. The pedophile had moved to Australia in 1987 at the age of 29. While noting community outrage towards sexual violence against children, AAT member Paul Fairall noted that the man's two adult children had given "powerful evidence" in support of their father.

The tribunal described the material held by one Chinese man as being at the "most extreme end of child abuse material".

"There were many more heinous indescribable sexual acts," the tribunal said.

But the tribunal found that Direction 99's primary consideration of the strength of ties to Australia weighed heavily in favour of setting aside the visa cancellation.

"The applicant's ties to the Australian community must be found to be very strong especially in circumstances where he has spent his formative years here," the AAT decision said. "This finding is augmented by the reality that (1) he has made contributions to the Australian community via his active involvement in the cultural

and community life the tertiary institution he attends; and (2) that he otherwise has no other criminal history in this country.”

Mr Giles had initially argued that the decision by AAT member Stephen Boyle, when he cited Direction 99 in his decision to overturn the cancellation of Sudan-born Emmanuel Saki, was “inconsistent” with his ministerial direction. But The Australian has since unearthed dozens of other decisions in which the AAT cited Direction 99 and in particular Primary Consideration 3 – the strength, nature and duration of an individual’s ties to Australia provision introduced under the direction – when deciding to revoke the cancellation of visas held by criminals.

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