Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity
Inquiry into the integrity of Australia's border arrangements
ANSWERS TO QUESTIONS ON NOTICE
Infrastructure and Regional Development

Program: n/a

Division/Agency: Office of Transport Security

Topic: Compliance activities - Transport Security Inspectors

Proof Hansard Page: 38

Question:

How many transport security inspectors are there?

What is the schedule that they run by?

Answer:

As at 20 April 2017, there were 67 Transport Security Inspectors.

Under the National Compliance Plan (NCP), OTS has scheduled approximately 1,400 compliance activities for the 2017/18 year across all industry sectors.

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Topic: Compliance

Proof Hansard Page: 38 - 39

Question:

Have you, in the past, discovered secure areas at airports or ports that were not operating as you'd expect? How many?

Past instances where access to secure areas was not properly monitored by the private owners? And I also want to know what action you took as a result of each of those? Limited to the past 5 years.

Answer:

Yes.

Changes to the way data is categorised precludes information being provided for other than the last two financial years. For the years 2015/16 and 2016/17, 18 and 12 non-compliance notices (NCNs) were issued, respectively. These NCNs relate to security measures that are in place to prevent unauthorised access to security controlled zones of airports.

Where OTS identifies a matter that is a potential breach of legislation, an NCN is issued to the industry participant. At the time an NCN is issued, the industry participant will be notified as to whether or not they are required to submit a corrective action plan (CAP). The CAP sets out the action the industry participant will take to rectify the non-compliance and the timeframe within which the action should be implemented. Upon receipt of a CAP, OTS assesses the proposed actions and associated evidence to determine whether or not they are an acceptable rectification. OTS' regulatory response is proportionate to the risk posed by the non-compliance identified.

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Topic: ASIC/MSIC background check – national security assessment (intelligence)

Proof Hansard Page: 39

Question:

Senator McKenzie asked several questions regarding intelligence sharing as part of the background checking process, particularly regarding what is disclosed to the applicant. Senator Makenzie asked that OTS, on notice review what current protections we can afford intelligence as part of the assessment.

Answer:

Background checks, conducted pursuant to the *AusCheck Act 2007,* include a security assessment by the Australian Security Intelligence Organisation.

Should an applicant receive an adverse or qualified security assessment, AusCheck will notify the applicant of the outcome, provide a copy of the assessment, and inform them of their available appeal rights. In the case of an adverse security assessment, AusCheck will also notify the applicant that they are ineligible for an ASIC or MSIC.

AusCheck will provide a copy of any qualified security assessment to the Secretary of the Department of Infrastructure and Regional Development to assist their determination about whether an individual constitutes a threat to the aviation, maritime, or offshore oil and gas sectors.

Any classified information, including intelligence, will be withheld from the applicant and protected by virtue of the Attorney-General's certificates.

If an individual seeks a review of the decision through the security division of the Administrative Appeals Tribunal (AAT), the AAT will be provided a copy of the security assessment for the purpose of the review or appeal.

All classified information will continue to be withheld from the ASIC or MSIC applicant during the review and appeals processes, and the AAT hearing will be held in private.

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Division/Agency: Office of Transport Security

Topic: Compliance notices

Proof Hansard Page: 40

Question:

Could you provide us with how many compliance notices you've issued

Answer:

The total number of non-compliance notices (NCNs) recorded for the FY2016-17 period by transport mode include:

- Aviation – 162 NCNs;
- Maritime – 44 NCNs;
- Air Cargo – 10 NCNs; and
- Issuing Bodies - 5 NCNs.

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Topic: Clarification/correction – ASIC and MSIC issuing body programs/plans.

Proof Hansard Page: 41

The Department wishes to clarify information given regarding the requirement for all issuing bodies to have an approved ASIC program or MSIC plan, and correct the statement that ASIC programs and MSIC plans are required to be updated every five years.

Clarification:

To become an authorised issuing body an application must be made to the Secretary of the Department of Infrastructure and Regional Development in writing accompanied by a proposed ASIC program or MSIC plan.

The ASIC program or MSIC plan sets out procedures that will be followed for that organisation to perform its functions as an issuing body.

Issuing body programs/plans do not have an expiry date; however, issuing bodies will be required to update their program/plan if any of the following occurs:

- The issuing body changes its procedures and the new procedures are not consistent with the current program/plan.
- The legislation changes and, in order to comply with the legislation, the issuing body's procedures must change.
- The Secretary of the Department issues an issuing body a direction to vary its program/plan.

On 27 October 2016, amendments were made to the Aviation Transport Security Regulations 2005 and the Maritime Transport and Offshore Facilities Security Regulations 2003. To address these amendments, all issuing bodies were required to vary their ASIC program or MSIC plan. The Department approved the revised programs and plans between 1 November 2016 and 1 February 2017.

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Topic: Current ASICs and MSICs on issue - In relation to the findings of the ANAO Audit Report No.39 2010 -11 – *Management of the Aviation and Maritime Security Identification Card Schemes.*

Proof Hansard Page: 42

Question:

Senator McKenzie noted the ANAO's report identified that it is difficult to obtain a reliable count of the total number of current cards (ASICs and MSICs), or establish the currency of all cards on the AusCheck database. Senator McKenzie asked what has OTS done to address this issue? Has the situation improved?

Answer:

The situation described in the ANAO's report has significantly improved since 2011. Since 2010 AusCheck has developed a system-to-system interface that allows issuing bodies to report real-time updates to the AusCheck card register.

The AusCheck system remains reliant on the issuing body to ensure the status of all cards is accurately updated. There have been significant advances in the procedures employed by the issuing bodies to ensure their records match the information in AusCheck's system.

AusCheck holdings show that in FY2016-17, 0.24% of eligible decisions resulted in a card that was cancelled within 14 days of the decision and not immediately replaced. This number could be considered an approximation for the number of cards that were inaccurately marked as "Issued" but were never issued.

AusCheck provides quarterly reports to the OTS regarding ASIC and MSIC statistics, which includes current card numbers.

Separate to the information held on the AusCheck database, the Aviation Transport Security Regulations 2005 and the Maritime Transport and Offshore Facilities Security Regulations 2003 require issuing bodies to maintain an ASIC/MSIC register, and report to the Secretary of the Department of Infrastructure and Regional Development on the previous year's card statistics annually.

The ASIC/MSIC register must contain details of every card issued. Issuing bodies must allow a Transport Security Inspector to access this register on request. The annual reporting requirements must include the total number of current cards, and the number of cards that have expired or been cancelled but have not been returned to the issuing body. OTS compliance activities on issuing bodies include comparing annual reporting data to ASIC/MSIC registers.