

**JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT (JCPAA)  
REVIEW OF AVIATION SECURITY IN AUSTRALIA:**

**DEPARTMENT OF IMMIGRATION AND MULTICULTURAL AND  
INDIGENOUS AFFAIRS**

**RESPONSE TO ADDITIONAL JCPAA QUESTIONS- DECEMBER 2003**

**1. How many people in each of the past three years has DIMIA transported as PICs?**

The current definition of Person in Custody (PIC) covers persons who have been in immigration detention immediately prior to being transported from Australia, including in some cases persons who have been imprisoned for criminal offences immediately prior to being placed into immigration detention. DIMIA notes that there are substantial differences between administrative detention for immigration purposes and criminal detention. Administrative detention is not punitive and is simply designed to regularise visa status.

The current definition of PIC also covers a person detained in one place within Australia but who for various reasons needs to be transported by air to another place of detention in Australia.

In the case of some PIC it is deemed necessary by the department or the carrier to have escorts travel with the removee or deportee either for security purposes or, more commonly for DIMIA PIC, to ensure that the person reaches their destination.

The numbers of persons who have departed Australia from detention in the past three years are as follows:

2000/1- 3050  
2001/2- 4358  
2002/3- 5357  
2003-4 YTD 1988

**2. Do you always advise the carrier that a PIC will be travelling on its aircraft? If not, why not?**

It is the normal practice to notify a carrier when a PIC from a place of detention is to be conveyed on an aircraft. This is in part reflected in the current policy guidelines for the removal and/or deportation of persons from Australia, Migration Series Instruction (MSI) 376 "Implementation of Enforced Departures" (Attachment C) which states that the air carriers should be advised when persons are deported or removed. The same practice is generally followed for supervised departures.

**3. What information about the PIC is provided to the airline?**

Attachment 6 of Migration Series Instruction (MSI) 376 is entitled "Background Information on Removee/Deportee" and provides a standard format of information to be provided to DIMIA overseas posts and to airlines where a PIC is to be carried out of Australia. Many of DIMIA's regional offices have used this attachment to form the basis of local variations that in fact provide additional information to that required in Attachment 6.

**4. Has a carrier ever refused to carry a PIC or questioned the level of security provided to assist carriage? If yes, would you provide details?**

DIMIA Regional Offices have all reported isolated instances where carriers have refused to carry a PIC or where carriers have questioned the level of security necessary for carriage.

Officers of the department liaise with any airline that is able to cost-effectively transport a person to another country where he or she may enter. During this liaison period, the airline is informed of the person's background and is consulted as to the level of security considered necessary. In some instances the airline will suggest that its own security staff be used in addition to or instead of those provided by DIMIA.

In the event that an airline refuses to carry a person, the department will generally consult with other carriers. S217 and s218 of the Migration Act could be used to require that a particular airline transport a person from Australia.

In cases where a carrier brings a person to Australia but that person is not able to enter Australia, the onus rests with the carrier to remove that person and to meet expenses for detention until this occurs.

In September 2003, a major regional carrier refused to uplift two criminal deportees from Australia due to an internal misunderstanding within the airline. This caused significant inconvenience to the Department. The carrier has since clarified this matter and apologised in writing to DIMIA.

Recently, following the release of the draft Aviation Transport Security Regulations to the airline industry by DOTARS, a charter company has insisted on an unnecessary number of escorts for a group of Indonesian fishermen. Indonesian fishermen comprise a category of persons for which an Instrument has been issued by the Secretary of DOTARS, allowing them to be carried without an escort. This Instrument, No. S 5/94, also allows for the carriage of persons who arrived in Australia with legitimate travel documentation.

**5. Does the Department provide any advice to its officials on procedures concerning PICs? If yes, would you provide a copy of this advice to the Committee?**

The Migration Series Instruction (MSI) 376 contains advice relevant to DIMIA officers on the carriage of PICs. As mentioned above a copy of this MSI is attached for the reference of the Committee.

Where a carrier has requested that an escort be provided for security purposes and/or where the department has determined that an escort is necessary to ensure that the person arrives in the destination country, appropriate personnel are sourced from external agencies. These might include the Detention Service Provider, a State or Territory Police Force or Correctional Service, or a private security company. When an escort is engaged, instructions are provided to ensure the safe and effective conveyance of the client.

**6. If relevant to DIMIA's operations, would you respond to Mr Bennet's specific comments in the transcript?**

DIMIA is familiar with the concerns raised by Mr Bennet of BARA and by Qantas concerning the carriage of PIC. Repeated requests have been made by DIMIA for substantiated cases but little has ever been provided.

The BARA examples voiced by Mr Bennet have previously been brought to the attention of DIMIA through DOTARS. Although Mr Bennet's inference is that the cases he cites involve DIMIA clients, no specific information about the matters he has raised has been provided to DIMIA. Indeed the examples he cites would appear to relate to criminal law enforcement issues and not to the removal of immigration detainees who have been in administrative detention. Without concrete information upon which to base any further inquiries, DIMIA is not in a position to comment further on Mr Bennet's evidence.