

April 2004

Mr John Carter
Inquiry Secretary
Joint Committee of Public Accounts and Audit
(Review of Aviation Security in Australia)
Parliament House
CANBERRA ACT 2600

Dear Mr Carter

I refer to your e-mail of 5 April 2004 on behalf of the Committee seeking clarification from the Australian Federal Police on issues regarding the Air Security Officer (ASO) program. The AFP's responses to the questions you raised are set out below.

1. *The Committee has received evidence from Qantas Airways that the costs of tickets for ASOs is borne by the carrier, but that it was seeking relief from the Government. Would you provide an update on how the ticket costs of the ASO program are being met?*

The Australian Government deploys air security officers (ASOs) on select domestic and international flights operated by Australian carriers.

Each carrier, including Qantas, provides the seats for ASO deployments on domestic flights free of charge. This is on the basis that the carriers have agreed to share with the Australian Government the cost burden of improving Australia's aviation security capability. The Australian Government bears the cost of maintaining an operational ASO program, including the training of ASOs.

The Government has struck an interim arrangement with Qantas for the funding of seats on international flights. Negotiations with Qantas for a permanent funding arrangement are continuing.

2. *Mr Clive Williams commented during evidence that aircraft captains could refuse to carry ASOs.*

(a) Would you confirm that this is the case, and the legal basis for the captain's power?

There is no domestic legislation compelling an aircraft commander (i.e. pilot) to allow ASOs to board aircraft.

The placement of Australian ASOs on board Qantas aircraft currently occurs on the basis of mutual consent between the Australian Government and Qantas.

The legal relationship between pilots and ASOs is dealt with under international law – for example, in several Annexes to the *Chicago Convention 1944* as well as in the *Tokyo Convention 1963*. The basic principle is that while the aircraft is in flight the pilot has the ultimate authority and responsibility for the operation and safety of the aircraft. The role of Australia's ASOs does not override the ultimate responsibility vesting in the pilot.

(b) Has this power ever been exercised by an aircraft captain? If yes, would you provide brief details.

At the beginning of the program, there were a small number of refusals by aircraft captains to carry ASOs. However, since the finalisation 18 months ago of an agreement between the Australian Government and the airlines to carry ASOs, no refusals have been reported.

(c) Have there been occasions when an aircraft captain has asked for ASOs to be on a flight? If yes, would you provide brief details.

The AFP and the airlines enjoy excellent working relationships, which includes regular discussion of security threats and deployment of ASOs. As the nature of these deployments cannot be discussed in the interest of national security, the AFP is not in a position to provide further details.

I trust the Committee will find this information useful.

Yours sincerely

J A Lawler
Performing the Duties of
Deputy Commissioner