



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

**Reference: Further inquiry into aviation security in Australia**

THURSDAY, 18 AUGUST 2005

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**JOINT STATUTORY COMMITTEE ON  
PUBLIC ACCOUNTS AND AUDIT**

**Thursday, 18 August 2005**

**Members:** Mr Baldwin (*Chair*), Ms Grierson (*Deputy Chair*), Senators Hogg, Humphries, Moore, Murray, Nash and Watson and Mr Broadbent, Ms Burke, Miss Jackie Kelly, Ms King, Mr Laming, Mr Somlyay, Mr Tanner and Mr Ticehurst

**Members in attendance:** Senators Hogg, Watson and Moore and Ms Burke, Ms Grierson, Mr Laming and Mr Ticehurst

**Terms of reference for the inquiry:**

To inquire into and report on:

The Joint Committee of Public Accounts and Audit will inquire into and report on developments in aviation security since its June 2004 *Report 400: Review of Aviation Security in Australia*, with particular reference to:

- a) regulation of aviation security by the Commonwealth Department of Transport and Regional Services, and the Department's response to aviation security incidents since June 2004;
- b) compliance with Commonwealth security requirements by airport operators at major and regional airports;
- c) compliance with Commonwealth security requirements by airlines;
- d) the impact of overseas security requirements on Australian aviation security;
- e) cost imposts of security upgrades, particularly for regional airports;
- f) privacy implications of greater security measures;
- g) opportunities to enhance security measures presented by current and emerging technologies, including measures to combat identity fraud; and
- h) procedures for, and security of, baggage handling operations at international, domestic and regional airports, by both airlines and airports.

**WITNESSES**

**BENNETT, Mr Peter, Federal President, Customs Officers Association of Australia..... 1**



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**Committee met at 10.49 am****BENNETT, Mr Peter, Federal President, Customs Officers Association of Australia**

**ACTING CHAIR (Ms Grierson)**—Welcome. The Joint Committee of Public Accounts and Audit will now commence taking evidence, as provided for by the Public Accounts and Audit Committee Act 1951, for its inquiry into aviation security in Australia. I welcome everybody here this morning to the committee's second public hearing for the committee's review of developments in aviation security since the tabling of its *Report 400: Review of aviation security in Australia*. Today we will hear from the Customs Officers Association of Australia, which has made two sets of very serious allegations regarding the management of the Australian Customs Service. The first relates to a lack of ability of the management of the Customs Service to resolve failures in the airport system—and this is a most disturbing allegation, in that Customs is a key front-line organisation, responsible for border security.

The second set of allegations refers to the management of the Customs Service dissuading its staff from providing evidence of operational failures to this inquiry. We take that specific allegation that Customs staff are being discouraged from providing information relevant to this inquiry very seriously, and we will be seeking a response from the Customs Service. Without commenting on whether the fears of retribution against Customs staff for providing information to the association are well founded, it might be prudent for you to not mention the names of individual Customs staff in your evidence to this committee. If individual Customs staff still have reservations about forwarding information to the inquiry, they may wish to do so directly to the committee rather than through the association to remove any doubt about them being afforded the full protection of parliamentary privilege.

I advise you that the hearings today are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege. I refer any members of the press who are present to a committee statement about the broadcasting of proceedings. In particular, I draw the media's attention to the need to report proceedings of the committee fairly and accurately. Copies of the committee statement are available from our secretariat staff. Do you have any comments to make on the capacity in which you appear?

**Mr Bennett**—The Customs Officers Association of Australia is an association registered under the Workplace Relations Act and entitled to represent Customs officers, except before an industrial tribunal.

**ACTING CHAIR**—Do you wish to make an opening statement to the committee before we proceed to questions?

**Mr Bennett**—This issue is just one small part of the border protection issue facing Australia and the world at the moment. In the context of this being part of that overall assessment of border protection, let me make this observation: if we were to disband the current border arrangements that we have in Australia and to reconstitute them in the best fashion we could, the last model we would pick would be the arrangements that we currently have in place. They are the least efficient, most costly, duplicated, overlapping, complex and partially ineffective

organisational arrangements that we could possibly have. If anything comes out of this inquiry, it should be an understanding that piecemeal approaches and putting a bandaid over what is wrong with the airport when we leave the seaports open and the places between the airports and the seaports open are not going to work. Law enforcement requires a holistic approach. If you do not address all the issues at the one time, then all you are doing is funnelling criminal activities into the places you have not addressed.

**ACTING CHAIR**—We will want to explore some of the things that you have said. Before we ask you questions on your statement and submission, can you tell us how many members you have? I think you said that you have 400 members?

**Mr Bennett**—No, not in the recent statement. We have about 135 financial members in the organisation. We have about 1,000 members who are not financial and who have never resigned. They were members who were paying subscriptions to the Customs Officers Association and then Customs management cancelled their subscriptions. We did not get any advice and we did not know anything about it. The first time we knew about it was when we were looking at our payslips. We were no longer paying subscriptions. Customs just cancelled their subscriptions and then forced them to actually write and ask to have their subscriptions reinitiated before they could be put back onto the books as financial members. What immediately comes to mind is: why have they done this? I had advice from piles of people who said: ‘This is clearly an advice to us that Customs is going to dump on the Customs Officers Association. Under those circumstances we think it’s probably wise if we don’t remain financial members—at least they won’t see it on the books.’

**ACTING CHAIR**—When did that occur?

**Mr Bennett**—Several years ago now. It has been a practice that has been developing. It has changed slightly now. Each year we get a notice that membership will be cancelled on a certain date if you do not press the ‘Yes’ button to say that you want to remain a member. So you actually have to do something positive and let the administration know. The fact is that this is a breach of the Trade Practices Act. Effectively this is a trade practice. It is an employer interfering in an arrangement between an organisation and clients—that is, members—who want to remain members of the association. The organisation is simply deciding to shove itself right in the middle and say, ‘We will interrupt this process if we like.’

**ACTING CHAIR**—So that has obviously affected your membership. Of those 135 financial members, how many are employed at airports, do you know?

**Mr Bennett**—I cannot break it down. Just as an aside, the parliament introduced a new section of the Public Service Act called section 25. It allows for the reassignment of employees. That now is the new disciplinary procedure for the Public Service. They do not do anything else in the Public Service now—they simply shift you to a hole using section 25 of the act. You can be redeployed at management’s desire at any single time. There is no recourse and no way you can challenge it. If they do not like you, they just put you in a hole. For example, I was reassigned to a position and they left the position vacant for me for two years. You are only supposed to move people if there is an operational need. If there was an operational need, why was it left vacant for two years before they put me into it? Why didn’t they put somebody else in? Clearly section 25 is being used for disciplinary purposes. People get moved around. If they



shove their hand up and say, 'I've got a problem with management,' the next thing they are going to be licking stamps somewhere.

**ACTING CHAIR**—So you were obviously offering a very specialised association to Customs employees and now many of them have moved to perhaps a more general union?

**Mr Bennett**—Yes.

**Senator WATSON**—How many problems are there? An outline was given by our deputy chair. You are aware of lists of problem occurrences. How many of these occurrences are you aware of and in what particular areas were they? What were the principal centres for those incidents?

**Mr Bennett**—I have not read the 54-page report that was disclosed by a Customs officer at Sydney (Kingsford Smith) Airport, but presumably he is regurgitating the same sort of information we provided to the JCPA in 2002, the royal commission of inquiry into Customs, the Williams royal commission back in the early eighties and the review of Customs administration and procedures that was done by Mr Mahony at an earlier time. Every single one of those is addressing exactly the same issues that you are addressing again. Every single time Customs says, 'We will fix that; we will address it,' within a fortnight of those undertakings being given to parliament, usually by the minister, those undertakings are unwound. At all of those previous inquiries decisions were made for the surveillance of baggage areas and baggage-loading areas, the security of baggage handling, the movement between domestic and international airports, the access to the areas and the space between the floors. I thought the issue of locks was really cute—I will come back to that in a minute.

All of these issues were dealt with by those successive reviews of the Australian Customs Service procedures not only at airports but, in this case, specifically at airports. Customs say, 'We will put people on the exit doors and they will be manned on a regular basis. We will make sure that anybody entering the baggage hall is handled in a particular fashion.' In recent days, that has started again but only because of this review. As soon as this has gone it will go back to the way it was before. We will drop people off or we will employ people from outside who really have no idea of what is required by Customs in the collection of intelligence and other things in relation to movements of people to and from the airport, or of the actual control people have under the Customs Act that they do not have when they are acting as private security people. All of these things have been addressed before. All of them are put in place for a short period of time and then all of them are wound back as soon as you people go away.

**Senator HOGG**—You are saying security is inquiry driven, in effect. If there is a parliamentary inquiry or another inquiry by Sir John Wheeler then for that time there is a stiffening of the processes and procedures. Immediately the pressure is taken off, things go away. Is that for financial reasons or is it just sloppy practice?

**Mr Bennett**—There is no accountability. No-one is held to account for failures to maintain the system—actually, there is one recent example of the CEO of the immigration department moving to a new position. I am not sure whether that falls into the area of accountability but nobody is actually held to critical account for the conduct in relation to it.

**Senator HOGG**—I will be quite specific: who should be held accountable? That is what I want to know. Are you saying it should be the heads of departments? Which departments? The heads of agencies? Which agencies? Who should be holding them accountable and where is the process falling down?

**Mr Bennett**—There is the 54-page document that has been released by an officer at the airport. Apparently the minister did not have the document in his possession or, if he did, no work was done in relation to it. That was put into the system. Customs says that it is put into the system and Customs will deal with it. That is the appropriate way to handle it but Customs did not handle it. It went into the system and it was fed up. Where did it get fed up to? At some point somebody made a decision that it was bad news and not to tell the minister about it. They stopped it. That is the person who should be held to account. That is timely information that should be going to the minister, and the Public Service Act says that it is a breach of the code of conduct.

Take some disciplinary action. Hit one of them just once, please, and we might stop all this. There is somebody who has made a decision. I do not know whether it was the regional manager, the deputy controller, the deputy CEO of Customs or the head of Customs. At some stage somebody thought the minister should not hear about this. Clearly, it was a matter of public interest. We now have somebody imported from the UK to review the entire procedure based on nothing more than a 54-page disclosed document that was in the public interest.

Bear with me for one second: why is this person now being chased by Customs? Why are they doing internal affairs, why are they going after him with AFP phone traces and why are the newspaper people who were involved in it being interrogated by very senior people to find out where the information was leaked from? It was a public service; the bloke ought to be given a medal. He did no real harm to anybody.

**ACTING CHAIR**—Can you give us more details about that 54-page report?

**Mr Bennett**—I have not seen it but I have been told extensively about it.

**ACTING CHAIR**—This is the one that came to our attention through media reports, is it?

**Mr Bennett**—Yes.

**ACTING CHAIR**—It was the subject of our questioning to Customs when we had a private briefing. It was prepared during the time our previous aviation security inquiry was under way and yet we had never been given any notification of it or information about it. We have expressed those concerns to Customs and we will be asking more questions. That was prepared by a person in the employ of Customs and you are making allegations today that that person is being pursued in some way by Customs, suggesting that that person leaked the report to the media.

**Mr Bennett**—Yes. There are two parts to that. I have spoken to one of the reporters to whom the information was leaked, which probably means my phone will be traced. By the way, I had 100 days of traces done on my phone by Customs at one stage for a matter that they described as being of ‘no consequence’.

**ACTING CHAIR**—Are you suggesting that Customs do initiate phone traces when they have concerns?

**Mr Bennett**—Yes. Through FOI, I have managed to identify four lots of phone traces that have been done on my phone. In one set of hearings, it was for 100 days. That was in 1997. There were 12 days of traces between the time I went to the High Court and the Federal Court about the inappropriateness of charges that had been laid against me and that have since been withdrawn. There was one other time that it is beyond any shadow of a doubt had nothing to do with any genuine media release.

**ACTING CHAIR**—Have you had discussions with the person involved in the preparation of that 54-page report?

**Mr Bennett**—No.

**ACTING CHAIR**—Not directly, but indirectly.

**Mr Bennett**—Not directly.

**ACTING CHAIR**—Customs officers who are employed at the moment may feel that there may be anecdotal discussions of possible payback for being involved in that sort of activity.

**Mr Bennett**—It is not a possibility—that is, this is not just discussion; this is a dead certainty. There are people simply saying, ‘There is no way in the world I am going to put my hand up and provide information to the parliament, to this committee or to anybody else or even complain to management.’ This is the sort of thing that they do not want to hear. This is a ‘no bad news’ organisation. It is not the only one. I do not believe this is just in Customs; I think it is across the board, but I can give specific examples. You put your hand up and you say: ‘Things aren’t really good here. I would like to see a change,’ and you get dumped on.

The bottom line is that I went to this government in 1996, writing in a number of letters that it would be a really good idea to split Customs and that there were a number of places where you could split Customs. One of them was that the excise part could be carved off out of Customs and put somewhere else. The CEO of Customs wrote a note that he sent to national management and to everybody saying, ‘I’m really disappointed that Mr Bennett wants to split Customs.’ But it was an excellent idea because, 18 months later, Customs was split and the excise part was shoved out of Customs and sent to another agency. It was a good idea. It needed to be aired. It was entitled to be aired but, for my trouble, Customs issued me with a direction to shut my mouth and make no public comment to anybody in any capacity, including my position as federal president of the association, or I would be charged.

I then made some public comments about the very issue that we are talking about now—that is, port security and airport security and how ineffective that was. That was in 1998. For my trouble, I was charged with and found guilty of an offence and I was told that I was going to be penalised \$26,000 a year. The only way to get it stopped was to go to the High Court and force them to understand that it would become a High Court matter and that they were acting unconstitutionally.

**ACTING CHAIR**—Mr Bennett, you have obviously had some long-term concerns about the culture of Customs, but I have to ask you: have you had a specific complaint from the person involved in the report or from any other officers associated with that report to the association about the after-effects of that report being disclosed?

**Mr Bennett**—From the journalist, but not from a member.

**ACTING CHAIR**—You have had discussions with the journalist responsible?

**Mr Bennett**—Yes. It was with Michael Churlov. I got the impression that he had been told that there would be phone traces done on his phone. He says—

**ACTING CHAIR**—I caution you against making hearsay allegations.

**Ms BURKE**—It is probably better that we do not go down that path, for your sake more than ours.

**ACTING CHAIR**—Have you received any specific complaints from any staff at the Australian Customs Service that they have been deterred from providing you with information that you have requested to put to us in this inquiry?

**Mr Bennett**—They have not said, ‘Gee, I’m annoyed that they’ve done this.’ What they have said is: ‘Isn’t this typical of management? It isn’t worth coming forward. I don’t want to discuss any matters with you. They’re just having another slice at us.’

**Senator HOGG**—I really want to go back to the question I asked you.

**Mr Bennett**—I am sorry.

**Senator HOGG**—I think it is quite essential to this. I think the question of who is accountable to whom is terribly important. Are you saying that there is no accountability to this parliamentary committee, no accountability to the minister, no accountability to the head of Customs? I am trying to establish where the accountability breakdown in the process is.

**Mr Bennett**—Under the CEO it breaks down. At the CEO level, it breaks down between the minister and the parliament. That is, if the minister put his hands in his pockets and looks the other way while things are going wrong with the organisation then the CEO is accountable. If he is not doing the job that he should be doing—

**Senator HOGG**—So what you are saying to us is that those situations that might be difficult are not being reported through to the minister’s office. Is that fair?

**Mr Bennett**—Yes.

**Senator HOGG**—And those issues that might be difficult are not being reported through to committees of this parliament. Is that true?

**Mr Bennett**—This is the example of it, yes. A further example is the current CMR process, the cargo management re-engineering process. What you hear that people in the industry are being told by Customs, what the minister appears to be told by virtue of the public statements, and what I know is happening in Customs because I am working in one of the areas involved, just do not gel. We are already over time for what the legislation says and we have whacked a bandaid over it to try and get it past the next three months. But, if it does not get up and running in the next three months, the minister has been fed another crock of misinformation.

**Ms BURKE**—Based on this, do you think the security of the travelling public in Australia is at risk?

**Mr Bennett**—Yes.

**Ms BURKE**—Through what sorts of circumstances? Could you give a couple of examples, over all the year, of where they are just not doing what they should be doing?

**Mr Bennett**—There needs to be consistency of practices that are efficient, policies that actually maintain a standard, reviewable processes that work and a structure and staffing commensurate with the obligations. They are broad statements but the bottom line is that it is a two-way street. Those practices go up to the policies, the policies go through the structure and the organisation, and then go to the culture of the organisation. We have a problem going up the process and then we have a problem with exactly the same coming down through the process. The culture does not allow for the review. The review does not allow for policies to be tested. The policies lead to practices and the practices are not good, so we cannot fix the problems. It does not matter which way you go: through that process, we are not getting to what we need to do. The fact is we are being stopped from saying, ‘Listen, I’ve got a question.’ Questions are not allowed—they are really not allowed.

I am sure you have been provided by the secretary with the all-staff notice that was sent out. I said I was coming here and asked whether anybody had any information they would like to give me. I got three emails from within the organisation and then, all of a sudden, I did not get any more. I could not understand why. They just stopped. I also used that same address to send myself emails from work to home. So, I sent myself a few emails. They did not get through. I thought that there must be something wrong. I was not told. Nobody said, ‘We’re going to cut this off.’ Then I tried to send emails from home to work using the same address. I was not told. It stopped again.

**ACTING CHAIR**—Just for the record, the email you are referring to came from Graeme Barnes, a director of IT security.

**Mr Bennett**—For the privacy of the people involved, I would prefer not to use names but, yes, there was a person in IT security. I made an inquiry to the IT people because they are the ones who manage emails. The answer was that they had been told to stop it. So then I went to the national manager of IT and said, ‘Can you confirm that this has in fact been stopped?’ He confirmed that emails from Customs to that email address were being blocked. I went back again and said, ‘Can you confirm that emails from my address to people in Customs are being blocked?’ and the answer was yes.

**Senator HOGG**—On whose authority?

**Mr Bennett**—DCO Jeffery of Customs—the deputy controller.

**Mr TICEHURST**—Because they thought those emails were of a private nature?

**Mr Bennett**—No. I am not sure whether you have been provided with this, but this is the document that I sent out. It is a two-page document to COA members, supporters and others, and it is an invitation to provide information to security review. It is as clear as crystal. We were saying that if you had anything you thought should be raised then come forward. The person who released the 54-page document did not believe the internal processes worked efficiency. Is there anybody else who has information like this that they would like to come forward with? I made the point of saying that this is not a review of S(KS)A. I was inviting people in other places to come forward with the same sort of information.

**ACTING CHAIR**—It is certainly a concern of the committee. We would like to seek information from people working on the ground in aviation security. Many of the times we tour and have briefings they are certainly from a level far above that. Access to individuals is more difficult.

**Senator WATSON**—When I started my questioning I asked about the number of problems. I was a little concerned that the raw number of problems seemed to be the same number that occurred not in the last six or nine months but in the fairly distant past and the very distant past. You kept referring back to other reports and other incidents. Given the increased nature of security, I am really interested in the number of problems you are aware of in, and I will be specific this time, the last nine months.

**Mr Bennett**—I am not sure how you describe ‘problems’.

**Senator WATSON**—Reportable incidents.

**Mr Bennett**—I am sorry; I cannot give you the specific instances of problems. It is a practice. It is not the instances we have to worry about because instances are only hallmarks of the practices we have problems with. If you have a practice that has led to a problem then it is the practice we need to be considering and not the individual instance.

**Senator WATSON**—There has to be an incident that can lead to a situation where there is a systemic change.

**Senator HOGG**—Could you help us out, because Senator Watson’s question is critical. If we were to go to an airport or seaport what would we need to look at? Is that what you are getting at, Senator Watson?

**Senator WATSON**—I am coming to that; it is my next question. Mr Bennett, you went on and said that, while there is a focus on some very significant areas, there are gaps in what you call ‘other vulnerable areas’. What were the other vulnerable areas? It is getting the goods to the airport, I presume, but can you be specific there?

**Mr Bennett**—There are three real areas that are clearly identifiable. Until a few years ago all Australian national borders fell under the Customs Act and were effectively controlled under the Customs Act. Then they brought in the search and seizure legislation, which made it much more difficult for Customs to do anything outside prescribed areas. We have two major prescribed areas, and they are airports and seaports.

Those places outside of the prescribed areas, such as all the rest of the coast of Australia, can only be effectively managed by Customs if the goods concerned meet certain criteria, such as if we have prior knowledge that they are specially prohibited goods. If we have prior knowledge, we have intelligence on it and we can do something about it. But, if we do not have prior knowledge and it is simply a routine matter of wanting to go and have a look at that vessel, our powers get extremely limited. It just made no sense to remove the powers of Customs officers around the border. That is what we have effectively done.

We have narrowed the powers down. Take the rare occasion when somebody might be sent out from anywhere other than the prescribed port and is patrolling the coastline at Coffs Harbour or some place north of Coffs Harbour, for example, and they see a vessel pull in at two o'clock in the morning. I have no information that there is any misconduct on board that vessel; it is just a vessel pulling in at two o'clock in the morning. It may be perfectly routine. On the other hand, my experience in 35 years in Customs says that it is not a really good place to pull a vessel into at two o'clock in the morning. There is a chance of running aground. What I would do if I was a sensible person is pull in off the port, wait until the morning and come in, so this bloke who has come in here is either dumb, does not understand the process or has an emergency, and I want to walk down and ask him why he is there. I have no powers at all. If he walks off with a big sack over his back and I say, 'I think you have something in there,' he says: 'Unless you have a reasonable belief that this is a particular product that falls within your powers, you can't do anything. I'm telling you it's my washing.' And I have no reason to believe that it is anything other than his washing. The only thing I can do is call a state copper.

**Senator HOGG**—Coming to Senator Watson's point and the question that I asked, if this committee were to go out and look at either a port or an airport, what specifically would we need to look at where there is a deficiency in the current system? In other words, where is a weakness or the weaknesses?

**Mr Bennett**—Anywhere outside the baggage hall; anywhere where vehicles and cargo are moved, stored or examined; and anywhere where people have current access to the goods the second they are checked in, from that point on. I am talking about the Corby matter, but I am not suggesting in any way, shape or form that this happened. The second that stuff is booked in for an international flight, it falls under Customs' control. Customs have a responsibility from that point onwards, identifying it as being international cargo. What we are going to do with it falls within our jurisdiction, responsibility and accountability, yet, that stuff has to be moved on a domestic aircraft with nobody taking any notice of the fact that it is already taken to a place for exportation—that is, Brisbane airport—and no Customs officer has any involvement with it at all. That is really a hole in the system, because it is a concern not only if there were drugs leaving the country but also if there were, say, \$3 million worth of pharmaceutical medical goods or cultural or heritage items or Australian currency being smuggled out of the country. There are a million things we do not want leaving the country, such as endangered species.

**Senator HOGG**—I accept all of that, but we need a specific instance of where there is a problem. I cannot speak on behalf of the other members of the committee—I am not an expert in this field—but I think I have done the same tour that a number of the members of this committee have done and I am curious as to where the specific weakness is. In accordance with Senator Watson’s question, which is a fair question, I want to know whether you have instances in the last nine months where there have been breaches. Are these perceptions on your part and on the part of your organisation? If they are perceptions, that is fine. It might well be that you cannot give us a specific instance in this forum. We might need to go in camera so that you can tell us a specific case in question that we can look at. I am just trying to work it out. We can surmise where the strengths and weaknesses are. As part of our scrutiny as a committee we can look at how effectively the accountability of Customs and other organisations working airside is being handled. I want some direction from you.

**Mr Bennett**—Mr Spanswick, who is sitting behind me at the moment, walked around holding the hand of Royal Commissioner Williams in the Williams royal commission into drug trafficking and also of Frank Mahoney, who did the review of customs administration and procedure. He walked around with both of them. Every single facet of Australian customs service control has at least minor problems—just administrative or practical problems; every single one. There is not one that works perfectly. All of them can be attacked, but some of them have got major problems: the fact that we do not have anybody on tarmac patrol; the fact that we do not do random searches of anybody at the airport. You asked if I could give you an example. The short answer is: every day we are not doing random examinations of parts of the airport. We are not stopping trucks going between point A and point B. These are just examples of what we need to do if we are going to make it difficult for the people who want to abuse the process—

**Senator HOGG**—But surely that is part of the risk assessment that is made? You cannot stop everything.

**ACTING CHAIR**—Where to put resources.

**Senator HOGG**—Yes. Isn’t that part of the issue?

**Mr Bennett**—A classic example is that, at an earlier time, Senator Ellison gave evidence that cameras cannot be put anywhere that is not approved by legislation. That is a nonsense! The bottom line is that, under section 193 of the Customs Act, Customs can patrol—although it cannot do a lot other than just patrol—all the waterfronts in Australia. Patrolling includes whatever facilities we need to be able do that, and that includes cameras. Therefore, in our view, cameras could be set up quite easily in all the places where we need them.

However, if I can just come back to resources: I agree wholeheartedly that you have to use them very sparingly, but we could have three or five officers who are available to do random examinations of various places around places like airports and seaports. There used to be people in every waterfront area in Australia—Newcastle had 50-odd staff.

**ACTING CHAIR**—Yes, Mr Bennett, I can validate that the number of our Customs staff has been reduced dramatically.



**Mr Bennett**—Yes. So all of those physical hands-on approaches that used to be a preventative measure to minimise the risk to Australia have evaporated. They have all gone. What we have to do is at least put a bit of a risk back into it. You do not speed down a road if you know that there is going to be a speed camera there on a regular basis. That is one street that you do not speed down. We currently do not have people in appropriate places who are a threat to people who want to breach the law. I am not suggesting that we put full-time staff anywhere, but our problem is that we have not organised the structure that we need to have to do the job. Frankly, if we get the structure right, we get the organisation right and we get the legislation and the policies right then we probably have plenty of staff to do the job—we do not need any more.

**Senator HOGG**—If we go to an airport for an inspection, just as an example—whether it be Sydney, Melbourne or wherever—to whom should we be talking?

**Mr Bennett**—Ask to speak to level 3 or level 2 officers. Ask for a cross-section, particularly in relation to sierra teams and the cargo examination teams. Ask for a cross-section of them and pick a couple yourself, and then insist that nobody above those level 2s goes with you, because the bottom line is that, if there are people there above level 2 or level 3, nobody is going to talk. That is the threat that is there constantly.

**ACTING CHAIR**—I would like to take up the point about that threat. You have made available to us an all-staff message that went out to Customs staff, circulated on behalf of Planning and International, covering their rights or restrictions on disclosing information to this committee. The message says that if Customs officers have any concerns about particular agency policies, procedures or management they should raise them through the appropriate channels, such as through management or by seeking a review of action or by following procedures outlined in the fraud control plan. Do you have any information for us about how often Customs officers use those processes to bring problems to the attention of management?

**Mr Bennett**—Very seldom. Simply, they do not work. There is no reward for bringing up problems. Of the few people who have raised whistleblowing issues in the Australian Customs Service, none have been successful.

**ACTING CHAIR**—We will be able to take that up with Customs, so we are pleased that you have given this information to us. Have you ever seen this sort of all-staff message about disclosure and comments before, regarding any parliamentary inquiries or investigations?

**Mr Bennett**—There was the JCPA inquiry on quarantine, which I attended in 2002. I have a document here which contains my questions at the top. Down at the bottom of the page is part of the email that went out to Customs, coincidentally at the same time as I was attending the JCPA quarantine review.

**ACTING CHAIR**—So, Mr Bennett, you think that there has been this sort of reminder or caution to staff before that it may not be in their interests to disclose and that it may be against the Public Service Act?

**Mr Bennett**—It is the systemic policy of Customs.

**Senator WATSON**—I want to talk about vulnerable areas. You indicated that one of the vulnerable areas is once the baggage has been checked in. What the Brits have done in relation to their tubes is to have lots of surveillance cameras. Perhaps we should have surveillance cameras effectively tracing a bag or container from the time it is checked in. Taking on board a few of the allegations in the Corby case, maybe there should be a few more surveillance cameras to follow the baggage on all the potential routes that it might take. How do you view that?

**Mr Bennett**—That would be wonderful. That is a great idea, as long as it is done on all the potential routes. Mr Spanswick, in relation to the earlier inquiry, put a chalk number on a number of bags and followed them from when they were checked in to when they were despatched to aircraft. He put them on in sequential numbers and loaded them on to the top part of the inwards baggage handling area. When they came out at the other end they should have been in sequential number again. But they did not come out in sequential number again. When they came out at the other end, some of the bags had been moved. Mr Mahony, from the review of Customs administration procedures, asked how that could happen. Mr Spanswick and the commissioner got up into the space in the baggage handling areas between where it arrives and where it goes out, and they found a whole pile of locks cut in that area. The locks were just lying around, loose. Clearly, somebody had been in the area that was not available to anybody to see and had been opening bags and moving bags around that area. That was 22 years ago.

In recent days—and this comes to the point that you were just making—I understand that some people have gone through and found locks in the space between the ceiling and the baggage handling areas. It is exactly the same area that Mr Spanswick was addressing 22 years ago. We still do not have any cameras there. We do not have any random examinations of the area. We do not have anybody being frisked coming in and out of the area. So it is more than anecdotal evidence. The locks were found there. They did not have 22 years worth of dust on them. This is current stuff.

As Mr Spanswick has reminded me, we have another inquiry. I am just giving you the symptoms of the problem, not the details. We can walk you around and do what we did 22 years ago, and a number of times since, and show you the problems. I am not at the airport anymore, but I am sure that I could rake up half-a-dozen people who would be only too happy to walk you around the airport and show you the problems that they have there—the people who were stopped from sending me emails.

**ACTING CHAIR**—Were you receiving emails before that notice went around?

**Mr Bennett**—Yes.

**ACTING CHAIR**—And you have not received any from Customs officers since?

**Mr Bennett**—Not using that mailbox. I have suggested to a couple of people to send me other stuff; but the short answer is, as I have said to you: why bother? The bottom line is: why bother? We have done it so many times in the past but nothing gets fixed. The problem is with Customs. The problem is that there is no review mechanism in Customs and there is no accountability for failure to go through that review, so we are just going through the process again.

**ACTING CHAIR**—This committee was very concerned when that confidential Customs report was released, and yet we had not had any knowledge of that. Do you have any knowledge of any other reports being undertaken by Customs currently to do with aviation security? Is it regular practice that officers are preparing confidential reports on practice?

**Mr Bennett**—Conscientious officers do prepare regular reports. There are questions about whether the firearms or side-arms should or should not be used, who should and who should not be getting them, whether or not the excellent search team that we sent overseas to get retrained is effective, and whether we have enough people in particular areas. One of the things that you are going to be told is that Customs is going to have a 24-hour trial period at the airport starting very soon. We understand a few people have had an opportunity to put information into that, but not everybody has been consulted about it. They are likely to get batons, sprays and handcuffs—that is going to be something new. In December we are going to do a waterfront trial of the same thing, and in that they are likely to be issuing side-arms. Have we actually figured out whether people are competent to be—

**ACTING CHAIR**—So are you telling us that there will be a trial in airports that will involve new—

**Mr Bennett**—Security.

**ACTING CHAIR**—operations by Customs officers?

**Mr Bennett**—Yes.

**ACTING CHAIR**—Do you know about preliminary training or negotiations with officers on that?

**Mr Bennett**—Nobody knows anything about it. Apparently the trial is now imminent, if it has not already started. Very few staff know about it, other than those who are actually involved in it. The same thing is being set up for the waterfront.

**ACTING CHAIR**—And of course those trials may be confidential because sometimes you do not want your adversaries, or the people who may cause risks, to know of your activities.

**Mr Bennett**—They are going to know soon enough that Customs is patrolling the area. How we do it—the form, the randomness of it and the other issues—will be an entirely different matter. Whether, in fact, there will be Customs people doing plain-clothes stuff is an issue. I would really like to think somebody had enough competence to say, ‘We will throw a couple of people out there who look like cleaners or airport staff’—that would be great. It does not take too long. One of the things is banning mobile phones in the airport; we talked about some of the advantages. Banning the use of mobile phones by workers would be a great move in the right direction. Even monitoring any form of radio communications would be handy.

**ACTING CHAIR**—Are you suggesting that that was proposed?

**Mr Bennett**—No, I do not think it has been proposed yet.

**ACTING CHAIR**—You are suggesting it is a measure that you would propose.

**Mr Bennett**—Yes. It is essential that people do not know where Customs officers are patrolling and doing other things.

**ACTING CHAIR**—Do Customs officers in your association have any presence on any aviation security committees?

**Mr Bennett**—No. It would be nice if they did.

**ACTING CHAIR**—Do you think there are any staff representatives on aviation security committees at airports?

**Mr Bennett**—No. Although the Public Service Act says that there will be consultation and cooperation and that they will be involved in these things, it just does not happen.

**Mr TICEHURST**—How long have you been the president of the association?

**Mr Bennett**—I have held an office in the association for 30 years.

**Mr TICEHURST**—Have you worked on Sydney airport for a lot of that period?

**Mr Bennett**—Yes, for a lot of that time.

**Mr TICEHURST**—It sounds like you would know a bit about it. I am concerned that staff do not really have an opportunity to put ideas forward to management. That seems a very negative way of running an operation. The people on the ground are the ones who really know where the issues are and how they can be solved. Are you saying that does not happen?

**Mr Bennett**—I am not saying that there is no opportunity. There is if it falls within the parameters of the structure they envisage and if it will enhance that. However, if it is anything outside that and it is particularly critical of that structure that they have created and says, ‘You’ve left a hole here, folks; you really do need to do something about it,’ then that is not an issue that gets discussed. That is the sort of thing that really will bring down the wrath of God on you.

**Mr TICEHURST**—From an operational point of view, are you saying that it is only senior ranks from an area—say, a supervisor of an area—that would be involved in an operational meeting?

**Mr Bennett**—There are about two levels—the level 5 and level 4 areas, perhaps—that get involved in some of the matters. Customs has been constricting its role in the airport to nothing more than getting the passengers through. That is its primary function. It says, ‘We’ve got a deadline to get people past the primary line, and we’ve got a deadline to get people out of the baggage hall.’ Whenever control becomes an issue—that is, that does not facilitate the movement of passengers—control loses. So if we do not have enough staff to get them through in that deadline then we give up on control and facilitate getting the passengers through.

**Mr TICEHURST**—So are you essentially talking about people coming into the country?

**Mr Bennett**—Yes.

**Mr TICEHURST**—So, from a security point of view, that probably does not have a lot of bearing. The security risk is probably with people getting on the aircraft and taking something on the aircraft that could cause a problem.

**Mr Bennett**—Being able to get around the system—that is, being able to get out of the aircraft and move into unsecured areas—is a security problem. Customs really should have responsibility for that to make sure their needs are met. We have done a bit of sideways jiggling and said: ‘That is AFP, Protective Services, private security, department of transport or airport security stuff. We’ll put it over there.’ The problem with that is that it becomes a mind-set, and Customs then says: ‘We do not have any responsibility for security. It’s somebody else’s job. All we have to do is get the passengers through.’ That has flowed down into the culture of the organisation so that the mind-set is: ‘We’ve got to get containers off the wharf and we’ve got to get passengers through the airport. Everything else is somebody else’s job.’ And it is not because, constitutionally, Customs has the border control function—that is, movement of the things that are likely to cause problems to the country. That just is not being maintained.

**Mr TICEHURST**—What about the Federal Police presence? When people are getting off an aircraft and coming into that baggage hall are there any Federal Police around at that time?

**Mr Bennett**—Yes. There are Federal Police. Now there is talk of bringing in New South Wales state police and paying them a squillion dollars as well. Why aren’t they Customs officers? The bottom line is it is a Customs control area. The police officers, and even the ones we hire from the state police, will all have to work under the Customs Act. This is what I was talking about before. This is the duplication and overlapping of responsibilities. While everything is going well everybody puts their hands up and says, ‘What a great job I am doing,’ but the second there is a problem, there are five agencies you can point your finger at and nobody is accountable.

**Mr TICEHURST**—That is certainly an issue. Earlier you said ‘when things are checked in’. Did you mean baggage or cargo? Once they are checked in at an airport, does Customs become responsible for that item?

**Mr Bennett**—Yes. Whenever goods are taken to a place for the purpose of exportation, including baggage, those goods fall within the responsibility of Customs. Customs may try to use weasel words and say, ‘It really isn’t until it is put on an international aircraft that we are responsible,’ but the bottom line is that the passenger has an intention to export the goods. The mind-set should be—and if the legislation is not perfectly clear, then it should be—that the second those goods leave that person’s possession and are put into some other place for the purpose of exportation, it is clearly a Customs control matter.

**Mr TICEHURST**—What we saw at the airport was that, once the baggage goes through, it is fairly automated until it gets to a stage where, if baggage goes into two or three hours before an aircraft is departing, it can be either held on a ramp or held on a belt somewhere—

**Mr Bennett**—Or put into containers.

**Mr TICEHURST**—There was a time when there was a move against having cameras located in those areas. Does that still exist?

**Mr Bennett**—That was the quote I just gave. Senator Ellison was talking about that. He was saying that we cannot do that. Of course we can do it. It is a patrol area of Customs. Customs is entitled to patrol that entire area. A facility we use to patrol if we cannot put a person there is a camera. So that is just wrong. The bottom line is that section 193 of the Customs Act says we can patrol however we decide to do it, and that is one of our patrol functions. So we should have cameras over the entire area from the time—

**ACTING CHAIR**—But we would see in the baggage handling area that, if it was Qantas, it is just Qantas taking responsibility for all of that process. We would not have seen any presence of Customs officers in that area. You are suggesting that they have the legal right to be there. But the way the system is divided up is that, until a thing or a person is actually going on an aircraft, you do not actually see a Customs officer involved.

**Mr Bennett**—Frankly, for most exports of anything from Australia you do not have any Customs involvement.

**Mr TICEHURST**—The other issue with the screening that we saw in the airport was that it was only aimed at looking for explosive material. Customs responsibility is obviously a lot broader than that. You mentioned a few examples of currency or contraband or whatever. That becomes your responsibility as well. We are actually not screening for that.

**Mr Bennett**—No. The biggest problem obviously is importations into the country. That harms us internally. It can affect anybody. What leaves the country is our loss. It does not directly harm individuals; it is just a collective loss. Obviously, you have to put your priorities wherever you possibly can. There is an idea that random specialist groups could hit places like the export areas. There are big Pharmaceutical Benefits Scheme issues with regard to Thailand, Vietnam, Laos and China and what-have-you, also Lebanon and some of the Middle East countries. That should be hit on a regular basis. It is a big issue and it should be done on a regular basis. Customs has said: ‘That’s a TGA issue—we don’t want to play with that. Unless we get specific information, we’re not going to do it. Cultural heritage items are for the Attorney-General’s Department. Unless we get specific information, we’re not going to do anything about that. Endangered species is for Environment Australia. We’re not going to do anything like that.’

When I joined Customs I was a cultural heritage person, an immigration person and a TGA person. It did not take a lot of skills just to simply say, ‘That good that falls within that act, I’m entitled to act on it and I have my database on all of these things that are likely to be imported.’ The bloke who imports or exports valuable hides today might see that TGA is better tomorrow. But that information is not available to Customs anymore. We only record information dealing with Customs matters. The other information dealing with the TGA, the environment stuff, cultural heritage and prescription drugs et cetera is all held in somebody else’s database. It is not held on ours.

So we have this enormous duplication and inefficiency—and this has been bucketed in the United States after September 11—in the way each agency has its own bit of information and manages its own database. There is no interaction between them, no resolution of disputes between them and patch protection going on on a constant basis between these organisations. If the organisation is not seen to be effective, it does not get any money next year.

If you had a border protection agency where the operational functions of all of these departments was located and it came under the same umbrella, all of that information could be held in the one space. It can be allocated out of the system to appropriate levels of officers—it does not have to go to everybody—then at least there would be an interchange of information. You could increase the efficiency of border protection tenfold by just rejigging what we already have. The only reason we do not do it is because currently it protects senior people in the Public Service, and it helps the crooks. It does not help anybody else. It does not help Customs, it does not help the community and it does not help officers trying to do their jobs.

**ACTING CHAIR**—We are looking at coordination, and it is an issue that keeps coming up in our inquiry. I want to take you back to that 54-page report leaked to the media and released by the media. In the response from Customs to that leaked report, it was suggested that report had been prepared at a very low authority level by a staff member of a very low level. Do you have any information about the level of seniority or authority of that person who prepared that 54-page report?

**Mr Bennett**—I would need to say something not in a public session.

**ACTING CHAIR**—We would like that information. Do we need to go in camera now to do that?

**Mr TICEHURST**—We are getting down to the nitty-gritty.

Resolved (on motion by **Mr Ticehurst**):

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

*Evidence was then taken in camera—*

**Committee adjourned at 11.57 am**