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JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Reference: Further inquiry into aviation security in Australia

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JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Wednesday, 30 November 2005

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

Senators and members in attendance: Senators Hogg and Nash and Mr Baldwin, Mrs Bronwyn Bishop, Ms Grierson, Ms Jackie Kelly, Ms King, Mr Laming and Mr Ticehurst

Terms of reference for the inquiry:

To 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

**GORDON, Mr Lee Robert, Executive Officer to the Executive Director, Protective Security
Coordination Centre, Attorney-General's Department 1**

**HOLLAND, Mr Keith, First Assistant Secretary, Security and Critical Infrastructure Division,
Attorney-General's Department 1**

**ROTHERY, Mr Michael, Assistant Secretary, Critical Infrastructure Branch, Attorney-
General's Department 1**

**TYRIE, Mr Ed, Executive Director, Protective Security Coordination Centre, Attorney-
General's Department 1**

Committee met at 11.51 am

GORDON, Mr Lee Robert, Executive Officer to the Executive Director, Protective Security Coordination Centre, Attorney-General's Department

HOLLAND, Mr Keith, First Assistant Secretary, Security and Critical Infrastructure Division, Attorney-General's Department

ROTHERY, Mr Michael, Assistant Secretary, Critical Infrastructure Branch, Attorney-General's Department

TYRIE, Mr Ed, Executive Director, Protective Security Coordination Centre, Attorney-General's Department

CHAIR (Mr Baldwin)—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, on its inquiry into aviation security in Australia. I welcome everybody here to this public hearing for the committee's review of developments in aviation security since the tabling of its report No. 400, *Review of aviation security in Australia*. Today we will hear from representatives of the Commonwealth Attorney-General's Department.

Before we begin, I advise witnesses that the hearings today are legal proceedings of the parliament and warrant the same respect as the 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. Finally, 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 fairly and accurately the proceedings of the committee.

I welcome representatives from the Attorney-General's Department to today's hearings. Does anyone wish to make a brief opening statement before we proceed to presentations or questions?

Mr Holland—No.

CHAIR—Would you like to proceed with your presentation?

Mr Tyrie—I have three presentations on the basis of intelligence. One is on the Protective Security Coordination Centre. I understand that the committee wants to know about the workings of the PSCC. If you are of a mind, I can also provide an overview of the workings of the National Counter-Terrorism Committee.

CHAIR—That would be good.

Mr Tyrie—I understand that you may have some interest in the security for the Commonwealth Games. All I would add in relation to the Commonwealth Games is that, while the presentation does not afford me any concerns with regard to the sensitivities, any questions you might ask about the security would cause me a little concern if I am to be frank and full with the answer.

CHAIR—When we get to that stage, if there are questions that you are uncomfortable answering in a public hearing, you may at any time put to the committee that your answers be heard in camera. The committee will then consider your request and make a directional statement in that respect.

Mr Tyrie—Thank you. Can I just add that a planning exercise is going on now for security at the Commonwealth Games which is primarily the responsibility of the government of Victoria. The Commonwealth government provides support, so I am a little sensitive about the—

CHAIR—Your comments should be restricted to aviation security, not to the broader security surrounding the Commonwealth Games. The inquiry is on aviation security.

Mr Tyrie—Okay. I think you need to see it in the context of the Commonwealth Games, if I can add that.

CHAIR—If you would like to proceed with your presentation.

A PowerPoint presentation was then given—

Mr Tyrie—The PSCC is a division of the Attorney-General's Department. Just to provide an overview of the department, it sits within the national security criminal justice group, headed by a deputy secretary. The PSCC—and this is a brief snapshot, because at present it is a division of six branches all related to protective security—coordinates and manages Australia's protective security counter-terrorism crisis management arrangements. It was established in 1976. It has over 200 staff at the present time and a budget of about \$26.7 million. The next slide shows you the structure. The four branches on the left-hand side are permanent. The 'Melbourne 2006' and the 'APEC 2007' security are temporary or non-ongoing branches and have specific focus on special events—the Commonwealth Games and the delivery of security for APEC here in 2007.

On that basis, the Security Programs Branch provides the effective management and coordination of the security arrangements for Australian high office holders. That includes the Prime Minister, members of cabinet, any member of the parliament against whom there may be a threat and the Governor-General. It also has responsibility for the official establishments: the Prime Minister's residence, the Governor-General's residence, the Commonwealth parliamentary offices. It is responsible for the coordination of the protection of visiting dignitaries. Coordination arrangements for the delivery—remembering that with our federation the state and territory police have responsibility for the delivery of community policing in the jurisdictions—means there is the interface between the states and territories and the Commonwealth, and that applies particularly in relation to the diplomatic consulate personnel and premises around the country and special events such as the Commonwealth Games and Gallipoli and, in the past, the Olympics and APEC. So there is a broad area of responsibility there.

There is also the Policy and Services Branch, which is primarily responsible for development, implementation and coordination on the delivery of protective security, with particular regard to the federal government and federal government departments. It does that primarily through the promulgation of the Protective Security Manual, which covers elements such as personnel security, physical security and risk management with regards to security. In support of that, it

runs the PSCC training centre, which is a user-pays facility; the Australian Security Vetting Service, which is also a user-pays facility, which provides vetting services on behalf of the Australian government—

CHAIR—Is the vetting service the department that would undertake the ASIC checks?

Mr Tyrie—No, it is not. It also runs the departmental security unit, which is responsible for the internal management of security issues for the department primarily, but also for the portfolio where their advice is sought.

The Counter-Terrorism Branch generally exists to support the National Counter-Terrorism Committee. It provides that operational coordination support to the NCTC and its subcommittees. It maintains the *National counter-terrorism handbook* and plan. I have copies of the plan here if the committee wants hard copies. It is available on the national security web site. It is a public document, whereas the handbook—the document that advises commanders, controllers, coordinators how to go about their task—is a restricted document.

CHAIR—The committee will accept the tabling of the document entitled *National counter-terrorism plan* presented by the Attorney-General's Department as evidence in the sectional committee inquiring into aviation security in Australia and will include it in the committee's records as an exhibit.

Ms GRIERSON—Can I ask: this is post Wheeler, so it has been—

Mr Tyrie—It has been updated in relation to the COAG meeting. It has not been updated, and neither has been the handbook, on the outcomes of Wheeler. That is an exercise we will have to go through.

The counter-terrorism capability for Australia nationally is built on a foundation of interoperability. By that I mean that each police force in the country is trained and equipped to the level that the National Counter-Terrorism Committee trains and equips them in certain skills. So a commissioner of police can call on any other commissioner of police for assistance. That is done in relation to a range of operations outside counter-terrorism, but that is principally the basis of our counter-terrorism.

Of course, we conduct a range of counter-terrorism exercises. The big one has just passed—that was Mercury 05, the one that was oriented towards the Commonwealth Games. I will not go too much into the next two. I will just talk about the plan in the handbook, which I have already done. Also, there is the Information Coordination Branch, which houses the 24/7 Watch Office and hotline. The watch office is a dedicated counter-terrorism protective security coordination facility that provides a whole-of-government coordination point with the hotline. It is now melded together as one whole unit which is a single point of contact for members of the public to report suspicious activity.

The slide I am now showing just gives you a feeling of the whole-of-government coordination. The agencies that are involved are the agencies that have primarily counter-terrorism responsibilities. That family or community has grown, of course, exponentially in the last five years, but there are agencies outside that in the states and territories that reach in

depending on what we need coopted to the various committees as the need arises. The next slide just shows that in relation to the hub, with the states and territories primarily by function.

There is a relationship with each of the police forces. If there is a counter-terrorism incident, it will be a criminal act and it will be an incident that requires a police response together with other emergency services. As a general rule, it is the police commissioner in each state and territory that has responsibility for the first response to any incident of terrorism. So there is very much a nexus between the PSCC and the state and territory police forces and not only with them but also with the Premier's department and any other agency that is required.

Melbourne 2006 was set up three years ago to coordinate security planning for the Melbourne games. I can go into that further if you wish. Then there is the APEC 2007 Security Branch, which is charged with coordinating the security across the country for the Asia-Pacific Economic Cooperation meetings in 2007. That branch is located within PM&C as part of the APEC task force and is chaired by Ruth Pearce as head of the task force. That is a very short snapshot of the work of the PSCC.

CHAIR—Do you have a hard copy of your presentation to submit as an exhibit to the committee?

Mr Tyrie—I am quite happy for you to have my copy.

CHAIR—Is it the wish of the committee that the submission from the Attorney-General's Department, dated today, be accepted as evidence in the Further Inquiry into Aviation Security in Australia and authorised for publication?

Senator HOGG—That is so moved.

CHAIR—There being no objection, it is so resolved. Mr Holland, do any other members of your division wish to make a statement at this point in time?

Mr Holland—We will do an update at the end of the presentation on some of the recommendations of Wheeler and where we are at if that is the committee's wish.

Mr Tyrie—This slide is just a brief overview of the work of the National Counter-Terrorism Committee and where it is at. The focal point of the coordination at the high-level strategic level for the national counter-terrorism arrangement is the National Security Committee of Cabinet. That is chaired, of course, by the Prime Minister and supported by the Secretaries Committee on National Security. So that is the supreme body, as far as we are concerned, that the whole arrangements work to on a national basis.

The next slide is to give you some idea of where it fits in. The National Counter-Terrorism committee reports annually to the Council of Australian Governments. It is a written report annually. It is a restricted document. The National Counter-Terrorism Committee meets twice a year in plenary session in May and December. The committee is chaired by Duncan Lewis, the Deputy Secretary of Prime Minister and Cabinet. It moves each meeting to one of the jurisdictions, so the jurisdiction co-chairs the meeting. The executive committee is the

workhorse for the actual full committee. It meets more times a year and addresses the policy and capability issues throughout the year.

That committee sits and works in parallel with the Australian Emergency Management Committee and the Transport Security Working Group, the other committees on that side, and the committee which Michael Rothery has a lot to do with—the National Coordination Committee of CIP. There are very good and very strong coordination links between those committees. In actual fact, the members of the NCTC, in many cases, are members of the other parallel committees. As I said, it is chaired by PM&C, key Australian government agencies and state and territory first ministers and departments. Their key functions are strategic policy advice to COAG—

Mrs BRONWYN BISHOP—What is a ‘first minister’?

Mr Tyrie—First ministers are the premiers or chief ministers.

Mrs BRONWYN BISHOP—Then why don’t we say so? I do not think the premiers would like to be called ‘first minister’.

Mr Tyrie—That is not an issue that has been raised before.

Mrs BRONWYN BISHOP—I think they would be highly incensed.

CHAIR—Let us continue.

Mr Tyrie—The committee’s key functions are as you see there on the slide. I do not think there is any need to go into who COAG is, but some of the specific issues they have addressed are the national guidelines for protecting critical infrastructure from terrorism and the review of hazardous materials. That has been conducted on their behalf over the last few years.

The work of the National Counter-Terrorism Committee is very much about a whole-of-government response—so that, whichever agency brings its skills and responsibilities to the work of the committee, whether it be in a one-off situation or a continuous situation with the police, it is about the development of that national capability. That is why we are very conscious that there is this basis of interoperability—which I was not going to go into, but it is to separate the work of the police force from the work of the ADF. Where you might call on the ADF to use an armed response, there are specific rules in relation to that. So this is to make sure that the police forces can support each other in the event and issue—

Mrs BRONWYN BISHOP—Who makes the request to the Governor-General for the call-out?

Mr Tyrie—Generally, the Commonwealth can exercise that right itself, through the federal government. The rule is that the police will relay their request to the Premier’s department, which will relay the request through my organisation to the Attorney General’s office, with the follow-up legal paperwork that has to be completed in relation to—

Mrs BRONWYN BISHOP—But surely the only person who can ask the Governor-General is the Prime Minister.

Mr Tyrie—From memory, under the legislation, it is the Prime Minister, but he is supported by the Minister for Defence and the Attorney General's Department. That is the formal issue.

Ms GRIERSON—Is that the National Security Committee?

Mr Tyrie—No.

Ms GRIERSON—So different ministers are on that?

Mr Tyrie—Specifically under the legislation.

Mr Holland—The Prime Minister and the Attorney are both on the National Security Committee.

CHAIR—It includes the Deputy Prime Minister and others as well.

Mr Tyrie—Yes.

Mrs BRONWYN BISHOP—Presumably, if you have a call-out you must be at a flashpoint. How long does all that bureaucracy take?

Mr Tyrie—I think you are quite right that it can slow the process down, but I think that, in a true incident situation, an agreement would be reached between the two governments immediately and the paperwork on the legal requirements would follow. But there is a legal regime set down in the Defence Act as to how the call-out must proceed.

Mrs BRONWYN BISHOP—That is on the advice of the Governor-General.

Mr Tyrie—Yes, in the end, it is on the Governor-General's advice. That is right. But that legislation is being reviewed at the present time.

Mrs BRONWYN BISHOP—Presumably, there is some sort of Bat Phone or red button or whatever from the relevant Premier to the Prime Minister. Is there some instant means of communication?

Mr Tyrie—I do not know whether there is a Bat Phone, but I do not recall anyone ever having any trouble with the Prime Minister talking to a premier about these issues. It is practised through the exercise regime.

Mrs BRONWYN BISHOP—Practised?

Mr Tyrie—Yes, during the last two major multinational exercises we have held, the Prime Minister and every Chief Minister and Premier in the relevant jurisdiction that we were

exercising in has played a part in the exercise, as has the National Security Committee of cabinet. The Attorney-General plays a particular role. They have involved themselves personally.

Mrs BRONWYN BISHOP—He probably has to do terms of engagement, does he, or a variety thereof?

Mr Tyrie—That is right.

CHAIR—Can we finish the presentations and then come back to questioning.

Mr Tyrie—That slide there was just to give you an idea of how the national response structure works. I guess for me I can say to you that it works fairly simply. When there is an incident, a police forward-command post is set up. That is backed up by joint intelligence criminal investigation processes. The police operations centre is where the senior police commander—usually the Deputy Commissioner of Police—takes over the operations. There is contact between him and me through the protective security coordination mechanism. The national intelligence group there is ASIO. That brings together the AFP and the other intelligence agencies they need. The line across there shows that there is a forward joint intelligence group which is part of the national counter-terrorism arrangements and also includes the police service and agencies.

But at the top there you see the relationship between the ‘jurisdiction–parliamentary’, supported by the crisis centre to the National Security Committee of Cabinet. Regarding the National Crisis Committee, on a daily basis I chair the Special Incident Task Force, when it is called to handle incidents that do not require national coordination. There can be a range of those—and there have been over the years—where we stand up the national counter-terrorism arrangements quickly, because you escalate first: rather than starting low and having to ramp up, you start at the top and wind it back. So, in a situation where you had a national terrorism situation where the Prime Minister and the NSC were taking over the whole control of the situation, it would be escalated to Duncan Lewis—and the National Crisis Committee, which is at deputy secretary and secretary level, would take over.

Miss JACKIE KELLY—What communications are you relying on for all that to happen? If, say, a terrorist has hit a Telstra exchange and everyone has panicked and they are all sitting there on their mobile telephones at once, what is your communications strategy?

Mr Tyrie—We would be affected by any situation like that, but we do have a high-level secret network around the country which is run through the defence network and which enables us to talk with every jurisdiction, plus the agencies.

Miss JACKIE KELLY—Are the state and territory crisis centres linked into the defence—

Mr Tyrie—And to the state police operations rooms. That is both a voice-over and an electronic system. It is in use on a daily basis, used by the watch office to manage its relationships with the state and territory operations.

Miss JACKIE KELLY—What if there were something like the bombings in London? What happened with the Canberra fires, if you followed that, is that, when the communications went

down, mobile phones were pretty useless because everyone was on them and the Canberra radios for the firemen were not compatible with the New South Wales ones. So as all these emergency crews came together, communications were pretty poor. Have we fixed that since then? A lot of good stuff came out of that Gary Nairn inquiry—

Mr Tyrie—I cannot tell you what happened in Canberra. I can tell you that the NCTC at the moment is discussing and has a committee looking at a range of communications issues.

Miss JACKIE KELLY—I know the Australian Protective Services were looking at renewing their radio systems, which could become a national platform.

Mr Tyrie—A range of committees are urgently looking at a range of communication issues at the moment, because there are communication issues that need to be managed—and managed better—but they require a technical solution, and the states and territories jurisdictions have already put some things in place. This requires a complete revamp of our communications systems. We have to choose the right one.

Miss JACKIE KELLY—So you can haul in emergency stuff?

Mr Tyrie—A range of National Counter-Terrorism Committee work going at the moment is addressing the issue you are talking about.

Mrs BRONWYN BISHOP—Do you use Raven at all?

Mr Tyrie—Not to my knowledge, no. That has a specific defence capability, I think. That is just a quick overview of the work of the National Counter-Terrorism Committee. I have one more specifically aimed at the Commonwealth Games.

CHAIR—Are you asking that that be held in camera?

Mr Tyrie—I will give the presentation but, without wishing to appear uncooperative, I would be reluctant to answer specific questions in a public hearing if a question addresses anything sensitive.

CHAIR—Okay.

Mr Tyrie—I think we know that the Commonwealth Games will be held between 15 March and 26 March next year. This is a Commonwealth view. Remember that this is a Victorian managed event so the Commonwealth is entirely in a support situation. The special events security model which we use for special events—we used it for the Olympics and every other special event—has three tiers.

Tier 1 is focused on each of the venues—that is, Vodafone, the MCG and the like. There is specific secure management of the venues. That is carried out by the organiser—the Office of Commonwealth Games Coordination, which is a Victorian government agency—and provided with a state overlay by the Victorian police with the support of other agencies.

That is not to say that the Commonwealth does not support that. The Commonwealth, in this particular case, will supply a large number of defence personnel to support that situation but the national overlay, which is our responsibility and which we coordinate on behalf of the Commonwealth government, ranges out to the overseas intelligence and back through border control, the use of the defence forces et cetera. Those are the three tiers.

This slide is about the national overlay basis. That is to give you an idea of the issues I have mentioned: border management, transport security, aviation and maritime issues and security intelligence. It provides that response where the Australian government has constitutional, legal or policy responsibility. Dignitary protection, counter-terrorism and emergency management coordination are all functions that the states have agreed the Australian government will provide in the national coordination role.

The structure for the Australian government is the M2006 task force established in the Department of Communications, Information Technology and the Arts—DOCITA—which is responsible to Senator Kemp, the Minister for Arts and Sport, for all aspects of the delivery. The security element is provided by agreement between the secretaries of DOCITA, Attorney-General's Department and PM&C and by the PSCC. The arrangement is working well. It ensures that those links underpin our relationship with the states and territories, because it does not just involve Victoria; it involves the management of the national coordination arrangements. Because the security around the Commonwealth games will be intense, that leaves vulnerabilities in other areas.

Ms GRIERSON—Why does DOCITA have carriage of the M2006 task force?

Mr Tyrrie—It is the sports portfolio. I have a team attached to that task force. As I said, it uses one of those temporary task forces which will dissolve after the games. In general terms, the existing arrangements are being used for national security, with ultimate responsibility in an incident, as I said, resting with the Prime Minister.

I will move to the NSC. There is a strategic plan in place which defines that framework. It is a framework document which identifies key result areas as part of the planning process that we must achieve to be ready for the Commonwealth Games. There are key work groups and work plans which underpin the key result areas. The plan was recently reviewed, updated and agreed to by the minister.

A strategic assessment based on risk and formal and informal threat processes is the basis of our planning and there is one done in relation to each key result area. I will give you a quick overview of what they are. This is a slide which identifies that and we have broken it down into the key result areas. There is a group that manages that but it will generally make sure that we are well integrated with the Victorian government and the state and territory areas.

This slide is about the security and planning areas. Unless you want me to do so I will not go through every plan. That is entirely up to you.

CHAIR—Can you go back to the transport security slide?

Mr Tyrie—The transport security issue is basically about the responsibility for aviation. DOTARS is the lead agency with regard to that, with the AFP having a particular role, of course, at particular airports. There is the integration of the airports, facilitation of arrivals and departures and other security arrangements. The airspace restrictions that are proposed are mainly facilitated by the Department of Defence in support of the national counter-terrorism arrangements. We have to manage the proposed airspace restrictions around Tullamarine and Essendon airports. So that has to be done. It only really keeps out those aircraft that do not have a need to be there. That is a general overview of the arrangements.

Miss JACKIE KELLY—Is it going to be pretty grim if you wander off your flight path?

Mr Tyrie—We have in place arrangements to manage the wanderers, but it does require specific management of airspace. The strict airspace management will only apply during the opening and closing ceremonies.

Mrs BRONWYN BISHOP—Shoot to kill? Will someone shoot them down?

Mr Tyrie—I said that there would be questions that I would not answer!

CHAIR—Appropriate measures will be taken.

Mr Tyrie—Appropriate measures will be taken, yes.

CHAIR—Keep going.

Mr Tyrie—I do not know that I can take it further. On the funding issue, how much has been issued is on the public record.

CHAIR—Are you submitting those as an exhibit?

Mr Tyrie—Yes.

CHAIR—Is it the wish of the committee that the documents entitled *PowerPoint presentations* presented by Attorney-General's today be accepted as evidence to the further inquiry into aviation security in Australia and included in the committee's records as an exhibit? There being no objection, it is so ordered.

I will with start a couple of questions. I am not sure whether it comes under your immediate purview in relation to the role that you undertake at Attorney-General's, but one of the main issues that has been raised through our inquiry has been that of aviation security identification cards. Are you involved with ASICs at all?

Mr Tyrie—No.

Mr Holland—Not at this stage. Certainly in looking at the Wheeler review and the government's response to that there was consideration of how they could be dealt with, and we have been involved in those discussions.

CHAIR—The second point I want to raise, and I am not sure whether it comes under your area within Attorney-General's, concerns AFP policing numbers to be provided at airports. We have already heard from the AFP. Under the Wheeler review recommendations there is the policing commander. Was it considered whether that it might be better for the Federal Police to enlist more people and have AFP officers there rather than seconding and endorsing people as special constables to be operational at airports? Are you able to elaborate on that?

Mr Holland—No, I am not. While we administer the AFP legislation, which covers the AFP itself and how it operates, the operational details that might be worked out between the AFP and the state and territory police services would be done within the various police forces.

CHAIR—Do other members of the committee have questions?

Mr Holland—Would it help the committee in terms of some of those questions if I were to bring you up to date on where we are in responding the Wheeler review?

CHAIR—Yes. Give us an update on where you are on the Wheeler report. From there we can ask particular questions. I was not aware that, whilst the AFP is a separate unit, there were no command instructions coming from Attorney-General's through to the AFP and indeed other agencies under the Attorney-General's banner. That is why we had a series of questions that may be outside your immediate area of responsibility. Please proceed with an update on the Wheeler recommendations.

Mr Holland—The most significant recommendation in terms of the Attorney-General's Department was recommendation No. 1 about undertaking a comprehensive review of state, territory and federal laws as they impacted either adversely or otherwise on information sharing between agencies at the federal level, agencies at the state and territory level and the interaction between the private sector and the public sector. The government has endorsed the thrust of that recommendation and we have been working at setting up the process that would go about that.

You might recall that the communique at the end of the COAG meeting called for the NCTC to undertake a review of the processes of intelligence and information sharing between agencies, between governments and between the public and private sectors. As a result of that, those two have merged to some extent. The Wheeler one was much more limited. It was restricted primarily to legislation and aviation security. The COAG one also related to aviation security but went to the processes. So we are in the process of setting up the terms of reference for that and the person who might undertake that with support from within the Attorney-General's Department and from within the NCTC.

CHAIR—Have you had reasonable cooperation from state agencies as you have made approaches to them?

Mr Holland—Within the NCTC a legal issues subgroup has recently been established, which I chair. On that committee are representatives of the law departments of all of the states and territories. I have to say that the work that they have been involved in to date and continuing has been in terms of the counter-terrorism legislation currently before the parliament. Certainly in that context the cooperation that we have received has been quite substantial and impressive. It gives me hope that when we go back, which is what we would do, we can say, 'All right, you are

best placed to look at the legislation within your jurisdictions and identify for us the legislation that you might have that would prevent the exchange of information between agencies, between departments, between governments and between the public and the private sectors.' We have had some dealings in a different milieu, namely, critical infrastructure protection, where there has been a lot of work done with the government-business partnership as to information sharing there. So we are hoping to build on that as well as upon the legal issues subgroup within the NCTC, but I think we can expect good cooperation.

Mrs BRONWYN BISHOP—This document that you have given us today is really out of date in the sense that it has not responded at all to the Wheeler recommendations with regard to—

Mr Holland—One of the reasons for that is that at this stage a number of the government responses have to be hardened. Once that has happened we will be in a position to do that.

Ms GRIERSON—I notice in your submission that you say that you have been given funding to do some scenarios as to emergencies, with one of them being the hijacking of an aircraft.

Mr Tyrie—So this is about the scenarios for our exercises?

Ms GRIERSON—Yes. You say:

The ... Government recently approved funding to expand the counter-terrorism capability development exercise program by funding exercises ...

Are you coordinating those?

Mr Tyrie—I am.

Ms GRIERSON—For my information, can you tell me if the hijacking of an aircraft exercise has begun yet?

Mr Tyrie—The hijacking of an aircraft has been one of our scenarios for a long time. There have been exercises at various times. We have exercises that exercise the national response and exercises that then exercise each jurisdiction. That has been built in since.

Ms GRIERSON—For my information, would you take the hijacking of an aircraft, put it into one of these incident management plans and talk me through what would happen?

Mr Tyrie—Yes. You have different situations, don't you?

Ms GRIERSON—I want to know why this is here and whether it works.

Mr Tyrie—Yes, but there are different situations that would be managed by different jurisdictions. If you have an aircraft that has been hijacked and it is overseas and enters Australian airspace, the jurisdiction is firmly with the Commonwealth. But if the aircraft is brought down in New South Wales the jurisdictional responses will be in New South Wales, and that is the same.

Ms GRIERSON—Yes, but if it is terrorism and it concerns national security then the national security people can take over—can't they?—and coordinate with the local jurisdiction. So if it is a terrorist incident, doesn't the Commonwealth jurisdiction then override it all?

Mr Tyrie—Yes and no.

CHAIR—Would you classify every hijacking that would occur as a terrorist incident?

Mr Tyrie—Not necessarily—not as a terrorist incident.

Ms GRIERSON—What if it was? What if the intel came through that, yes, it was absolutely a terrorist incident?

Mr Tyrie—What would be the response?

Ms GRIERSON—Yes.

Mr Tyrie—Depending on where it was—if it was on the ground at Sydney airport, the New South Wales police would respond to it. The Commonwealth would be engaged, depending on the severity of it. It might be declared a national terrorist situation, in which case the Commonwealth would have management of the broad policy and strategy with regard to the response, but you would depend upon the state police force to respond to that situation.

Ms GRIERSON—I will tell you why I am asking. We had an incident in the Port of Newcastle involving Greenpeace. It was basically a stunt with the *Rainbow Warrior*; it was not a terrorist incident and it was not a security threat at all; it was very well managed. But in the debrief with the police and port authorities et cetera, they said that, had it been a terrorist or security incident, then they would have lost control. Another group would have come in and taken over that incident.

Mr Tyrie—Was it the local police who responded to the situation in that case?

Ms GRIERSON—Yes, it was.

Mr Tyrie—There is a mechanism in every—

Ms GRIERSON—So, in their area commander's debrief, that was her advice to me: had it been a risk to national security then the carriage of it would have been taken out of their hands.

Mr Tyrie—If it had been a terrorist situation then the state machinery as part of the national counter-terrorism arrangements would have assumed control of that incident. I mentioned to you that in the plan there was a forward command post. That could well be left with the local area command, but there would be a mechanism superimposed across it. If it required the national arrangements then that is what I would manage on behalf of the Commonwealth government.

Ms GRIERSON—Let us say it required national arrangements. How would that feed into these? What would happen with these plans?

Mr Tyrie—Can I ask which one you are looking at there? What is the heading?

Ms GRIERSON—This is your *National Counter-Terrorism Plan*. One is the counter-terrorism management arrangements, but the other one particularly is the structure for a situation with multiple jurisdiction incidents.

Mr Tyrie—Basically, with the one we have up there, it does not matter whether that is an aviation incident or a maritime incident. No matter what the type of incident, the structure is the same if it is a terrorist incident—that is, the person responsible for responding to a terrorist incident is the police commissioner in the jurisdiction in which the incident happens.

Ms GRIERSON—Do you think that, if we have those sorts of incidents, the coordination of those will be very smooth? Do you think it has been tested in these scenarios?

Mr Tyrie—I think that Australia has one of the best coordination arrangements that I have seen anywhere in the world. This has been in place—

Ms GRIERSON—I will challenge you on that and say that one of the Wheeler areas of concern was coordination across agencies. So I think that, because many of these things are untested, it is very hard to say that those coordination—

Mr Tyrie—I would disagree with you. These have been tested, fundamentally tested, for something like 26 or 27 years. Yes, there have been refinements, as we have learned. We learn out of every exercise we conduct. There were major lessons learned out of the last exercise with respect to some communication issues. But I would very much disagree with you that this is not a very smooth operation. I have seen it in exercises, and I have managed incidents both nationally and internationally using these mechanisms. For Australia, they are very well-oiled machinery, and they work well.

Ms GRIERSON—I still find that difficult. I cannot test that in any practical way, can I? There is no incident I can—

Mr Tyrie—Except by relying on the fact that I have been in this position for about six years, and I have managed it prior to and since September 11, and I can give you an assurance that they work well. You can question state and territory officials as well as other government officials. I think they will agree with me.

CHAIR—Let us just hope it never has to be put into effect.

Miss JACKIE KELLY—You have actually even had the Premier of New South Wales and the Prime Minister participating in the exercises, which is something that never happened before September 11.

Ms GRIERSON—I am probably not worried about the Premier of New South Wales and the Prime Minister; I am probably worried about cross-agency interactions.

Mr Holland—I think that one of the issues is that, when Wheeler was talking about the lack of coordination, it was very much in the context of crime management at airports, because he said—

Ms GRIERSON—Yes, police in particular.

Mr Holland—that the reality is that there is no community policing going on at the airports, and we know that that is factored into how they operate. So his argument was that he did not see at airports and within the agencies that flow of information that would really give him—as you will recall, in one of the early sections, he said it concerned him that he was unable to identify the true extent of criminal activity at airports because of that lack of information flow and information that was available.

Ms GRIERSON—But he recommended that AGD conduct a thorough investigation of legislation and regulations on the sharing of information, both among government agencies and between government and the private sector.

Mr Holland—That it is true, and that is what I said earlier on. I was saying that is what we are involved in now, and that is to identify not the process that Ed is talking about but rather to identify legislation which inhibits that flow of information. For example, there are provisions in all sorts of legislation, like secrecy provisions—you cannot hand that information over. There are provisions in the ASIO Act as to how that information can be handed over. That can be critical, as you can appreciate.

Ms GRIERSON—And that has very much built up a silo mentality, and that is something that cannot happen. These responses and these proactive approaches require a lot of cooperation.

Mr Holland—I agree with you, and I can say that, in this last exercise, Exercise Mercury 05, which only finished a few weeks ago, I was one of the players in that in the sense that we advised the Attorney during the course of it and we sat in on all of development meetings. What struck me was what Ed had referred to as the degree of smoothness with which the information—there were some technical information problems—got out to people and came in to us, and in terms of how agencies nationally responded to that, I would have to say that that was fairly impressive. I have sat in on a couple of these, going back 16 and 17 years, and I can see that difference.

Ms GRIERSON—I think even over the time we have been doing aviation security inquiries, we have seen change too, but we saw resistance initially and very compartmentalised decision making. We are seeing cultural change, which has been very much necessary. The other thing I wanted to ask about is this: you have the carriage of protection of critical infrastructure, and that includes airports. Sometimes there are defence assets attached to those as well, so co-location. How do you work that one? For example, Newcastle airport, where I am from, is not a counter-terrorist first response airport, yet it is co-located with a strategically important Air Force base. What happens there in terms of risk?

Mr Rothery—The notification of Australian government owned assets rests with the responsible agencies, so it is up to the Defence Organisation to identify their assets. The approach that—

Ms GRIERSON—If they decided that their asset could be compromised if the security measures at the regional airport were not sufficient, what would happen then?

Mr Rothery—They have a number of options, as any organisation would. They can try and make the particular asset less critical by having a redundant asset, having another one off-site or adding a particular layer of protective security to minimise the risk. However, if they thought that that was not possible, one option would be to have a discussion with the airport operator about some change in the arrangements at the airports.

Ms GRIERSON—I know that that is what happens, yes.

Mr Rothery—And hypothetically, when we talk to any owner of infrastructure, there are a number of possible legitimate treatments that they might choose. They might go for additional redundancy or business continuity. They might look at physical security. They might look at changing their business processes to make it less vital to the organisation or, if it is in the private sector, they might just go and buy insurance. And our approach with critical infrastructure is that all of those four are legitimate ways that businesses manage risk.

Ms GRIERSON—The Wheeler review also recommended that criteria be established to determine under what conditions an airport should become or cease to be a CTFR airport. Is that your responsibility? Are you responsible for establishing the criteria, or is DOTARS? If that recommendation is fully taken up, the criteria have been determined at this stage. But if he is recommending that criteria be established, who will do that? Does anyone know?

Mr Holland—I would assume that it will be DOTARS, because they have responsibility for the airports.

Ms GRIERSON—Yes, but wouldn't you advise them, knowing that you are more central to counter-terrorist risk management, risk threats and threat awareness?

Mr Tyrie—I do not think DOTARS would do it in isolation. They would work with the other agencies—state, territory and federal—but DOTARS would have carriage of the recommendation.

Ms GRIERSON—Is the Protective Security Coordination Centre—the watch office—something that kicks in or is it something that is maintained all the time?

Mr Tyrie—It is 24 hours a day, seven days a week.

Ms GRIERSON—So it is maintained all the time?

Mr Tyrie—Absolutely.

Ms GRIERSON—Is it manned all of the time or do you bring in staff when you need them?

Mr Tyrie—No, it is manned all of the time—24 hours a day, seven days a week.

Ms GRIERSON—What happens if there is a crisis? Does that have to escalate or does some other group take over?

Mr Tyrie—No, the watch office supports the national arrangements which are there. You can see on the diagram where it says ‘Protective Security Coordination Centre’ in purple on the response structure. That is in fact the watch office, which is responsible to me for the 24/7 management of national counter-terrorism. This goes on 24 hours a day and it is the primary counter-terrorism protective security coordination centre.

Ms GRIERSON—When DFAT have an incident, they set up their call centre and all of those things. Is yours like that?

Mr Tyrie—International incidents are managed by DFAT and what they call the IDETF—the Interdepartmental Emergency Task Force—which is called to manage an overseas incident.

Ms GRIERSON—And you and EMA work very closely with them?

Mr Tyrie—Yes, we work with them. It is a reverse situation domestically. I coordinate the arrangements and Foreign Affairs join us if necessary. They are standing members of the Australian government counter-terrorism arrangements. In the reverse, if it is overseas, I support them in their efforts and use my skills, ability and knowledge in the same way as EMA would join in the process.

Ms GRIERSON—If you had those exercises—you said you had been having those risk scenarios for a long time—when you get the report on it and you say, ‘All of these things need to be responded to,’ how do you do that? How do you get other departments—

Mr Tyrie—The coordination mechanisms?

Ms GRIERSON—No—you must want to change practice and make recommendations for better responses.

Mr Tyrie—The coordination mechanism is through the national—

Ms GRIERSON—How do you tell ASIO they were hopeless and they did not get the intel right and all of those things?

Mr Tyrie—We go through that process. During exercise we have umpires and evaluators that give us reports. The PSCC coordinates that on behalf of the National Counter-Terrorism Committee. There is a full report prepared for the committee and that is the building block for changing the plan or the handbook and for refining better practice in relation to agencies’ responses. We take it very seriously.

Mr Holland—At the end of the last exercise, because we were online to the relevant states and territories who were involved, they were asked to come back to that meeting at the end of the exercise with key lessons they thought they had learned. They gave us their lessons and we gave them ours. Then they went offline and all of the Commonwealth agencies around the table then frankly discussed things that we thought had gone wrong, what could have gone better and

what we would do. That all fed into this process Ed was talking about with the evaluators and the umpires.

Mr Tyrie—We have a specific lessons project which is aimed at making our response and arrangements much better than they are.

Ms GRIERSON—How is Defence involvement triggered?

Mr Tyrie—In exactly the same way.

Ms GRIERSON—Who actually decides when Defence needs to come in on an incident?

Mr Tyrie—Defence are members of the response arrangements where you would call a committee together. Whether Defence need to use their assets is another matter. That is a decision made in response to a particular incident.

Ms GRIERSON—But who authorises that? You said the Melbourne airport—

Mr Tyrie—There are two avenues. There is what is called the Defence aid to the civil community, which is that response that Defence does every day of the week for bushfires and floods, where they provide support. There is another element which is the armed response. That is under the Defence Act. That is managed very carefully between Defence, the Commonwealth and the state. There is a specific measure. Mrs Bishop asked me a question about who authorises call-out. It is generally at the instigation of the state—the police and the premiers—and goes through to federal government for an armed response. We take it very seriously if you are going to put soldiers with guns on the street.

CHAIR—Earlier you said that in relation to the Commonwealth Games there will be a no-fly zone or a restricted flying zone at the opening and closing ceremonies.

Mr Tyrie—A restricted flying zone, yes.

CHAIR—Given the experience at the Olympic Games with crowds, where it was pretty much a capacity crowd at every event, why would it be restricted only to opening and closing ceremonies?

Mr Tyrie—It is a decision taken by those that are managing the situation. It is specifically in place for the opening and closing ceremonies; it will have immediacy available for the rest of the period. In other words, it will not actually be in the air.

CHAIR—In that situation, and I am thinking back to September 11, will you have military assets up in the air in surveillance, or will they be ground based and waiting for a call for take-off? I am worried about response times, given the close proximity of areas like Tullamarine and Avalon.

Mr Tyrie—It is why we have airspace management in place, which DOTARS are organising. I do not want to go into the detail, but the answer to your question is yes, there will be airspace management issues and there will be a response arrangement put in place.

CHAIR—Are there any legislative impediments that affect your ability to conduct the taking of appropriate measures in such instances? In other words: is there legislation that needs to be implemented to enable you to carry out your job fully?

Mr Tyrie—Yes, there are legislation requirements, and the Defence Act is under review at the moment with regard to this particular aspect. My understanding is that the government will take that forward and change it in time for the Commonwealth Games next year. But I cannot go into any detail because I do not have the detail.

CHAIR—As there are no other questions, I thank you very much for coming along today and providing the evidence that you have given and the submissions that you have provided to the committee.

Resolved (on motion by **Ms Grierson**):

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.

Committee adjourned at 12.47 pm