



Australian Government

Attorney-General's Department

Submission No:63.....

**JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT:
INQUIRY INTO DEVELOPMENTS IN AVIATION SECURITY SINCE 2004**

SUBMISSION BY THE ATTORNEY-GENERAL'S DEPARTMENT

Introduction

1. The Attorney-General has central responsibility for national security. Australia's national security arrangements are supported by a range of security initiatives, counter-terrorism legislation and ongoing work with the international community. Many of these functions are administered by the Attorney-General's Department (AGD).
2. AGD is an active participant in the national counter-terrorism arrangements, under the Inter-Governmental Agreement on Australia's National Counter-Terrorism Arrangements, signed on 24 October 2002. Terrorism is considered a source of 'unlawful interference' against the aviation security industry and as such, aviation security issues are an integral part of Australia's national counter-terrorism arrangements.
3. This submission outlines the role of AGD in aviation security, addressing the terms of reference (TOR) of this inquiry as appropriate.

Wheeler Review

4. Aviation security is currently in a rapid phase of re-adjustment, following the announcement by the Australian Government on 7 June 2005 that an immediate review of security at Australia's airports will be conducted by Sir John Wheeler. AGD will assist as necessary during the review process.
5. The Security Law Branch of AGD proposes to prepare a submission providing background to legislative issues relating to the aviation industry. This will include, for example, legislation that is in force at Australia's airports, the legislative basis for the coercive powers and duties of Commonwealth law enforcement agencies at airports and the operational agencies that are authorised to exercise those powers, and the collection, storage and disclosure of information, including criminal records, in the aviation context. In addition, Security Law Branch will assist operational agencies including the Australian Federal Police (AFP) and the Australian Security Intelligence Organisation (ASIO) in the preparation of their submissions, as required.

Protective Security Coordination Centre

6. AGD, through the Protective Security Coordination Centre (PSCC), is responsible for the coordination of protective security and counter-terrorism arrangements within the Australian Government and between it and State and Territory governments.

7. Through its involvement with the National Counter-Terrorism Committee (NCTC), the PSCC maintains the National Counter-Terrorism Plan and National Counter-Terrorism Handbook and administers the national counter-terrorism exercise, training and equipment programs.

National Counter-Terrorism Plan and Handbook

8. The National Counter-Terrorism Plan (the Plan) clearly sets out the roles and responsibilities of government agencies and details the authorities and mechanisms in place to prevent or manage a terrorist incident in Australia.

9. The Plan broadly outlines arrangements in transport security, including aviation security. The Plan is currently under review and is expected to be finalised in late 2005.

10. The Plan is supported by the National Counter-Terrorism Handbook (the Handbook), which outlines for commanders, controllers and other senior coordinating officials, the broad coordinating arrangements for the prevention, response, investigation and consequence management of a terrorist incident, in conjunction with State/Territory specific plans. The Handbook includes specific information about Australia's aviation security arrangements, in particular the *Aviation Transport Security Act 2004* and its regulations.

11. The Handbook is a classified document. The first revision of the Handbook was approved by the NCTC in December 2004.

12. Should significant administrative or legislative changes to Australia's aviation security arrangements be identified, both the Handbook and Plan will be updated, in accordance with NCTC processes.

National counter-terrorism exercise and training programs

13. Australia has strengthened its capacity to deal with terrorist situations under the NCTC capability development exercise program. The PSCC is responsible for coordinating the NCTC national capability development exercise program that tests, maintains and strengthens counter-terrorism crisis and consequence management capabilities.

14. The Australian Government recently approved funding to expand the counter-terrorism capability development exercise program by funding exercises involving, but not limited to, six different terrorist attack scenarios:

- the hijacking of an aircraft
- an attack on an electricity grid
- an attack on a significant point in the food chain
- an attack on a ferry in Sydney Harbour
- a bio-terrorist attack, and
- an attack on an offshore oil rig.

Security incident management

15. Under the Plan, the PSCC Watch Office performs a critical role in national crisis management arrangements which operate in the event of a threat or incident of terrorism. The PSCC Watch Office is the dedicated whole-of-government 24/7 counter-terrorism information coordination centre.

16. The PSCC Watch Office also forms the nexus of an established and effective national coordination and information-sharing network incorporating all relevant Australian State and Territory Government departments and agencies, police and other security-related agencies, including aviation security.

17. The Australian Government Counter-Terrorism Policy Committee (AGCTPC) recently endorsed an Australian Government Protocol acknowledging the whole-of-government coordination tasks that the PSCC Watch Office undertakes. This protocol ensures that other Australian Government agency watch office/incident rooms report to the PSCC on threats or incidents relating to national security (including aviation security incidents) or acts of terrorism.

18. The PSCC Watch Office has Standard Operating Procedures (SOPs) for dealing with aviation incidents. These SOPs provide a process for the sharing of information relating to an aviation incident which includes the AFP, ASIO, the Department of Transport and Regional Services (DOTARS), Emergency Management Australia (EMA), the Australian Defence Force (ADF), AGD Public Affairs and State and Territory police.

19. In cases where the loss of civil control is suspected, the arrangements are strengthened to include teleconferencing between the PSCC Watch Office. The DOTARS Office of Transport Security and Airservices Australia.

20. The collocation of the PSCC Watch Office and the National Security Hotline provides for the immediate dissemination of information relating to an aviation incident that is received from a member of the public through the National Security Hotline.

Relevant committee involvement

21. AGD is involved in a number of committees that relate to aviation security, including:

- *National Counter-Terrorism Committee*
AGD (including the PSCC and EMA) is a member of the NCTC and is an active participant in Australia's national counter-terrorism arrangements. The NCTC receives regular reports from DOTARS on high-level aviation security issues.
- *High Level Group on Aviation Security*
AGD is a member of the High Level Group on Aviation Security, which provides a forum for consultation and exchange of ideas on aviation security issues between DOTARS, the aviation industry and other key government agencies.
- *Australian Government Counter-Terrorism Committee (AGCTC)*
The AGCTC, chaired by the PSCC, meets every month to consider intelligence reports and other operational security related information from member agencies in order to review the national counter-terrorism alert level. DOTARS is a member of the AGCTC and regularly reports on aviation security issues at the operational level.
- *Australian Government Counter-Terrorism Policy Committee*
AGD (including the PSCC and EMA) is a member of the AGCTPC, which ensures that the development of counter-terrorism policy is coordinated at the Australian Government level. DOTARS is a member of the AGCTPC and regularly reports on aviation security issues at the policy and strategic level.
- *Australian Government Transport Security Policy Committee (AGTSPC)*
AGD is a member of the AGTSPC which is a forum in which DOTARS keeps all relevant agencies and their regional offices up to date on transport security issues.

Critical Infrastructure Protection

22. Critical infrastructure is defined as those physical facilities, supply chains, information technologies and communication networks which if destroyed, degraded or rendered unavailable for an extended period, would significantly impact on the social or economic well-being of the nation, or affect Australia's ability to conduct national defence and ensure national security. In the aviation context, critical infrastructure largely denotes the networks, technologies, buildings and other physical assets associated with airports.

23. AGD provides national leadership and coordination of critical infrastructure protection (CIP). The Australian Government also provides intelligence, ensures protection arrangements are in place for offshore critical infrastructure assets and multi-jurisdictional critical infrastructure, and assists owners and operators in the Australian Government regulated sectors.

24. The NCTC has played a central role in engagement with business, particularly through the development of the *Guidelines for the Protection of Critical Infrastructure from Terrorism*. These guidelines set out the roles and responsibilities of the Australian, State, Territory and local governments, police, and owners and operators in protecting critical infrastructure from terrorism.

25. DOTARS, with assistance from AGD CIP Branch, maintains the transport segment of the Trusted Information Sharing Network (TISN) for Critical Infrastructure Protection, a forum where owners and operators of critical infrastructure can share information and best practice on topics such as security, business continuity, consequence management, information system attacks and vulnerabilities.

26. The transport segment of the TISN includes a specific aviation group, with representation from major airports and airlines, and jurisdictions with an interest in aviation CIP. Activities within the Aviation TISN group focus on minimising the risks to aviation's critical assets, and on business continuity and consequence management in the event of an incident.

27. The Critical Infrastructure Advisory Council (CIAC) oversees the activities of the TISN industry groups – including transport – and advises the Attorney-General on the national approach to CIP. CIAC comprises representatives from each of the industry groups, each of the States and Territories, relevant Australian Government agencies and the NCTC. The CIAC is chaired by AGD, which also provides secretariat support. The Chair of the Aviation Group, Mr Geoff Askew, from QANTAS, is the transport sector representative on the CIAC.

Office of International Law

28. The Office of International Law within AGD provides legal advice to ministers, as well as other Australian Government departments and agencies, on international legal issues that arise in relation to aviation security. Advice may be given in the course of negotiations, or in implementing international legal agreements into Australian domestic law. International law advice may also be required in the course of responding to a specific aviation security incident.

Air Security Officers

29. AGD has policy responsibility for the Air Security Officer (ASO) program. AGD attends an Inter-Departmental Committee (IDC) on ASOs and also provides legal support to negotiations for ASO arrangements.

30. The AFP has operational responsibility for the ASO program. The Australian Customs Service, Department of Foreign Affairs and Trade, DOTARS and Department of the Prime Minister and Cabinet provide policy input to the Department through the IDC process.

31. The Government has provided \$15.7million over four years to the AFP to allow expansion of the ASO program (2004-5 Portfolio Budget Statements).

Terms of Reference (c) – compliance with Commonwealth security requirements by airlines

32. The ASO program provides an additional layer of in-flight security for Australian-registered aircraft by deploying government employed security officers to travel discreetly on aircraft from airports that are the origin for flights into Australia. Deployments are planned in conjunction with the airlines and are both random and threat based. A cooperative working relationship has been established between the Australian Government and the airlines to coordinate the program.

33. International deployments occur on a regular basis between the United States and Australia and to Singapore. For both routes agreements have been reached with countries to provide assistance should an Australian registered aircraft need to divert from its intended destination. Negotiations are also underway with countries in South-East Asia assessed as priority countries from a threat perspective.

Terms of Reference (d) – the impact of overseas security requirements on Australian aviation security

34. ASO negotiations are underway with countries in South-East Asia assessed as priority countries from a threat perspective. Preliminary responses from these countries have been positive, although there are significant legal and operational issues that will need to be resolved before ASO deployments can commence.

35. Australia will host the fifth annual Air Marshal conference in Canberra in November 2005, to which a number of regional countries will be invited. This may provide a platform for further regional activity by Australia on ASO issues, including best practice training and capacity-building.

Terms of Reference (e) – cost imposts of security upgrades, particularly regional airports

36. The Australian Government has a funding arrangement in place with airlines.

Identity Security

Terms of Reference (g) – opportunities to enhance security measures presented by current and emerging technologies, including measures to combat identity fraud

37. On 14 April 2005, the Government announced the development of a comprehensive strategy to strengthen national identity security. Identity security is a key concern for national security and law enforcement. False identities underpin terrorist and criminal activity and undermine border and citizenship controls and efforts to combat terrorist financing and financial crime.

38. AGD is developing whole-of-government and cross-jurisdictional processes to explore:

- the identification of a common set of key proof-of-identity (POI) documents to be used exclusively by all Commonwealth and State and Territory agencies when enrolling clients

- the identification of common advanced security features for inclusion on all key POI documents
- a secure national electronic document verification system for use by all key Australian Government and State and Territory agencies
- development of a system to improve the accuracy of personal information held on government databases and to detect false identities and inaccurate records
- development of national authentication standards for physical and on-line transactions, and
- a supporting or enabling legislative regime, taking into account the need for privacy oversight and protection.

39. The Government has committed \$5.9 million over two years in the 2005-06 Budget to support the development of the national identity security strategy, including the implementation of two pilot projects. These include:

- a pilot of an online document verification service (DVS) to check identification documents presented to key agencies with national security, border protection and enforcement responsibilities, and
- a pilot to examine the accuracy of personal information on an existing Commonwealth database to detect false identities and inaccurate records.

40. An important part of the work program will be the establishment of a dialogue with the private sector on identity security to better understand business interests and concerns.

41. The introduction of the proposed identity security measures, in particular the development of a DVS will assist in the reduction of identity related fraud, and assist in the identification of attempts by fraudsters, organised crime and potentially terrorists to gain illegal access to government systems and programs.

42. The development of a DVS is a key requirement to increase the rigour of government identity checks at enrolment, registration, or where a major high value initiative is introduced. The use of improved document validation services is particularly important in circumstances where PIO documentation is intended to be issued, and where that identification documentation allows access to high risk programs or sensitive sites.

Surveillance on Aircraft and at Airports

43. The Government has committed to introduce legislation to allow for lawful video surveillance by employers in any security regulated airport or aircraft, with appropriate signage.

44. Appropriate arrangements will be made to address privacy concerns and ensure the safeguarding and proper collection and use of any video footage. As the agency with policy responsibility for the *Privacy Act 1988*, AGD will work to ensure viable solutions to ensure adequate privacy protections for personal information garnered from any surveillance undertaken.