

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Additional Budget Estimates February 2014
Infrastructure and Regional Development

Question no.: 191

Program: n/a

Division/Agency: (ATSB) Australian Transport Safety Bureau

Topic: ATSB Investigation – 13 December

Proof Hansard Page: 64 (24/02/2014)

Chair asked:

CHAIR: A passenger was found to have carried fireworks in his carry-on luggage on a flight from Bali, according to a 13 December ATSB incident report. The incident will not be investigated and an aviation expert has commented that it was unusual, because an incident of this nature should be investigated to uncover how the breach occurred. Why does the ATSB believe no further investigation is required into the incident given the possible catastrophic outcomes, if they were up to mischief, should such a breach occur?

Mr Dolan: Our assessment was on two points: the origin of the aircraft and therefore where the point of control was for the loading of the fireworks. Secondly, the issue as we saw it was essentially a security rather than a safety issue.

CHAIR: Whose plane was it?

Mr Dolan: We will have to take that one on notice. I apologise.

Answer:

The flight from Denpasar, Indonesia to Brisbane, Queensland was operated by Virgin Australia.

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Division/Agency: (ATSB) Australian Transport Safety Bureau

Topic: Pel-Air Incident

Proof Hansard Page: 66 (24/02/2014)

Senator Xenophon asked:

Senator XENOPHON: Mr Mrdak, you may want to take on notice whether other parties involved in the Pel-Air incident, particularly those that gave evidence to the Senate inquiry, have been contacted by the TSB. Or will it be apparent from their report as to whom the TSB actually contacted?

Mr Mrdak: I would presume the TSB will set out in their report, as they would with any other investigator's report, who they have spoken to and the circumstances of the review, but I am happy to take that on notice. I would imagine they would set out in detail who they are contacting in relation to the review.

Answer:

As outlined in response to Question No. ATSB 4, the Transportation Safety Board of Canada (TSB) is undertaking a review of ATSB investigation methodologies and processes. The TSB is not reinvestigating the events that took place near Norfolk Island on 18 November 2009 nor does the ATSB expect the TSB will find it necessary to contact individuals or organisations that gave evidence before the Senate References Committee Inquiry.

The TSB is due to publish its report by the end of May 2014.

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Question no.: 193

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Division/Agency: (ATSB) Australian Transport Safety Bureau

Topic: Canadian Transportation Safety Board Report

Proof Hansard Pages: 70-71 (24/02/2014)

Senator Xenophon asked:

Senator XENOPHON: Insofar as the ATSB, quite appropriately, will be able to comment on that draft report, will other interested stakeholders have an opportunity to comment on that draft report?

Mr Mrdak: I am not familiar with the process. I think Mr Dolan has indicated that the ATSB will make matters of fact comments, but essentially the report is a matter for the Canadian Transport Safety Board.

Senator XENOPHON: I can understand completely that it is entirely appropriate for the ATSB to comment on any draft, but would it not also be appropriate for interested parties, the pilot, the co-pilot and some of the witnesses who gave evidence in relation to their views, and indeed the Senate committee itself that spent an enormous amount of time dealing with the evidence and considering the evidence, that they would be part of that? Presumably if the TSB is going to be making comment on the Senate committee's report and its processes would we not have an interest as a stakeholder to comment on any draft?

Mr Mrdak: I can certainly see an interest. I think I would need to come back to you in terms of the process of whether that is best done after the TSB has lodged a report.

Senator XENOPHON: That does not seem to address the issue. If the ATSB will have an opportunity to comment on a draft report, which I acknowledge is entirely proper and appropriate, is it not also entirely proper and appropriate for other interested parties such as this committee itself and the other parties directly involved in the ditching of the Pel-Air aircraft to also have an opportunity to comment on it?

Mr Mrdak: That is something that I would have to take on notice in terms of the next steps once the ATSB has had an opportunity to provide any factual comment as to whether the TSB would then be looking for a further comment. It may be the case; I think the intention of the ATSB was always that the TSB report would be publicly released.

Senator XENOPHON: I am sorry. That is not addressing the issue. The issue is one of fairness of process. The issue is one of due process. It is clearly due process for the ATSB to comment on the TSB draft. It is entirely appropriate, but do you not think it is also appropriate for other interested stakeholders, particularly as it seems to me that the trigger for the TSB's inquiry or report into the Pel-Air incident and the ATSB's report was highly critical comments by this references committee that looked into it? I would have thought that in terms of procedural fairness a Senate committee ought to have an opportunity to comment to the TSB if the very basis of the inquiry by the Canadian TSB, the trigger for it, was this committee's report.

Mr Mrdak: I can see the point you are making. I will need to take that on notice and discuss that with the Canadian TSB about what their handling approach is.

Senator XENOPHON: Could you get back to this committee as a matter of urgency in respect of that?

Mr Mrdak: Certainly.

Answer:

The Canadian TSB has advised that the purpose of the review is to provide the ATSB with an independent and objective peer review of its investigation process/methodology, and of the application of these to selected occurrences.

The TSB is not reinvestigating the Pel-Air accident. Nor is the TSB reviewing or commenting on the Senate Committee report and recommendations.

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The ATSB will be given an opportunity to review and comment on the draft TSB report for the purpose of the purpose of ensuring factual accuracy. The TSB will then finalize its report and release it publicly on its web site.

There are no plans to circulate the draft report to other parties for review and comment as this is strictly a peer review of the ATSB process/methodology.

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Topic: Canadian Transportation Safety Board Report

Proof Hansard Page: 69 (24/02/2014)

Senator Xenophon asked:

Senator XENOPHON: Further to Senator Fawcett's line of questioning, is the review by the Canadian TSB one on the documents or are they actually seeking to interview people involved in that incident and in the investigation?

Mr Mrdak: I do not know the full circumstances of what they are reviewing. I will take that on notice and come back to you.

Answer:

The Transportation Safety Board of Canada (TSB) has agreed to review the ATSB's investigation methodologies and processes. Specifically, the review is examining the ATSB's:

- Investigation methodology and its application
- Management and governance in relation to investigations
- Process for compiling an investigation report
- Approach to communicating with persons and organisations external to the ATSB in relation to an investigation.

As part of the review, the TSB has undertaken to examine the application of the ATSB methodologies to the Norfolk Island investigation and two others.

The review was instigated in response to Senate References Committee criticisms that the ATSB investigation of the Norfolk Island accident did not comply with the requirements of ICAO Annex 13 or the ATSB's written standards. The review is also intended as part of the ATSB response to Inquiry recommendations concerning the adequacy of the ATSB's investigation policies, procedures and training.

The exercise is not a reinvestigation of the occurrence, and hence the TSB has not sought to reinterview involved parties. However, as part of reviewing the ATSB's investigations, the statements and other evidence of involved parties have been available to the review team.