



Australian Government
Australian Customs and
Border Protection Service

CHIEF EXECUTIVE OFFICER

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Senator Steve Hutchins
Chair
Parliamentary Joint Committee on Law Enforcement
PO BOX 6100 Parliament House
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Dear Senator Hutchins

Thank you for your recent correspondence requesting further evidence regarding the inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime.

In response to your questions I offer the following advice:

What are Customs' intelligence sources other than Australian agencies?

Customs and Border Protection has a range of intelligence sources. In addition to Australian government, law enforcement and national security agencies, we source intelligence from the:

- World Customs Organisation and its various entities
- United States Department of Homeland Security, including component agencies
- United Kingdom (UK) Border Agency
- Canada Border Services Agency
- Other Customs administrations
- Community Participation Programs – Frontline and Hotline
- InterPOL
- EUROPOL
- US Drug Enforcement Agency
- US Department of Justice
- New York Police Department
- New York Metropolitan Transportation Authority Police Department
- US Joint Agencies Task Force West (JAITF-W)
- New Zealand National Drug Intelligence Bureau
- Royal Canadian Mounted Police
- Serious Organised Crime Agency (UK)
- Belgian Federal Police

What specific intelligence sharing measures do Customs participate in with other federal, state and territory law enforcement agencies?

Intelligence is shared on a number of different levels using different mechanisms. Customs and Border Protection works closely with domestic federal and state/territory law enforcement agencies. Intelligence sharing takes place under the umbrella of various Memoranda of Understanding (MOUs) and as permitted by the *Customs Administration Act 1985*.

Where appropriate, intelligence is shared through National Intelligence Community secure information sharing networks or through FedLink to intelligence agencies and some law enforcement agencies. A network of liaison officers based in Central office and regions facilitate the flow of intelligence, primarily between Customs and Border Protection and law enforcement agencies.

Customs and Border Protection is a member of various joint agency forums and task forces. The forums deal with issues such as joint operations, analytical activity to support joint operations and joint target development activities. Task forces are set up to deal with specific issues/operations. Intelligence sharing occurs in all of these joint agency interactions.

What risk does the transportation of empty containers pose, and what screening measures are currently in place?

All empty containers arriving in Australia are required to be reported to Customs and Border Protection through the integrated cargo system 48 hours prior to vessel arrival and again at the time of discharge. Reporting requirements include details of the port of loading, intended discharge destination, and responsible party for the container. Reported containers are assessed against available information holdings to determine potential risk. Where a risk is identified, containers are referred for inspection or examination at a Customs and Border Protection container examination facility. Where required, Customs and Border Protection also has the capacity to attend licensed industry premises to examine the interior of selected containers.

For export containers, reporting is limited to the number of empty containers to be loaded on the vessel.

In addition to targeted intervention, campaign activity is undertaken periodically to select a representative number of empty containers for inspection and/or examination to monitor for unknown risk and/or any changes in risk levels. Customs and Border Protection also has arrangements with major container handling firms through its industry engagement Frontline program to ensure that any instances of breaches involving empty containers identified at container handling firms are reported promptly.

Although few contemporary examples exist, there have been instances where empty containers have been identified with undeclared contents. Of note is that discovery has most often been associated with an additional occurrence such as rail accident or crane failure, and not through intelligence or anomalies in reported information. The only significant find in an empty container was 640 kilograms of cannabis in June 2004. All other operations involving empty containers since 2004 have resulted in no significant finds.

What are the practical issues in developing a confidential mechanism for examining a suspect container?

During the conduct of targeted operations Customs and Border Protection often has a requirement to conduct confidential (covert) examinations of shipping containers. Many of these operations are conducted as a joint activity with Australian Federal Police, State and Territory Police, the Australian Crime Commission and various State Crime Commissions.

The vast majority of container examinations occur in the Container Examination Facilities (CEF) located in major ports however it is often difficult to ensure that these searches remain covert.

There are a range of threats to the successful undertaking of covert activity however they can be summarised under two types:

- The presence of internal conspiracies within the waterfront environment (ships crew, wharf labour, shipping brokers, transport operators etc); and
- A general awareness of the location of CEF facilities, an understanding of the Customs processes for placing 'holds' on containers and the processes for moving them for examination.

If more detailed information regarding the practical issues associated with covert examinations is required, Customs and Border Protection can provide verbal evidence in-camera to the Committee.

Analysis of information obtained during recent Joint Agency Task Force in various localities has indicated that the greatest threat to the development of mechanisms to ensure covert examinations is the ability of organised criminal networks to gather intelligence about detection methodologies and to develop new modus operandi to defeat them. Newly introduced mechanisms may only have a short to medium term effect before criminal networks develop an awareness of the procedures. Disclosure of information for prosecution cases is a major source of information about enforcement processes.

Customs and Border Protection attempts to ensure there are a range of options available to operation commanders and investigators to enable successful covert examinations, commencing with offshore examinations through to CEF examinations when no other option remains.

Due to occupational health and safety risks or environmental factors some of these examinations only allow for cursory examination however they provide important indicators for further activity.

What monitoring and/or enforcement measures are in place to prevent the use of light aircraft in drug importation?

Customs and Border Protection undertakes target development and selection to focus intervention strategies on threats that pose the greatest border risk. The use of light aircraft in the facilitation of illicit drug and precursor importations is considered to be

only one of a number of transportation methods that may be utilised by criminal entities and networks.

Specific targeting of criminal entities and networks identifies the level of access individuals or networks have to both aircraft and pilots. This helps to determine the likelihood of them using light aircraft as a mode of transport in conducting their illicit activity. Targeting of criminal entities and networks is often conducted co-operatively with other Commonwealth and State law enforcement agencies including the Australian Federal Police, Australian Crime Commission and State Police Services.

Light aircraft can be classified as either 'reported flights' or 'unreported / black flights'. Reported flights are known to be arriving at a designated location at a designated time and can be risk assessed prior to arrival. The level of Customs and Border Protection intervention on reported flights is determined by the identified level of risk. Black flights are non reporting flights that may arrive at any airstrip and their arrival is unreported to authorities.

To help identify light aircraft that are likely to pose a risk to the border, primarily black flights, Customs and Border Protection places considerable resources into its Community Participation Program (CPP). Through this program the organisation has established a network of contacts in coastal and remote areas that are able to provide information in relation to suspect or unusual activity. In relation to light aircraft, Customs and Border Protection has focused its CPP activity on the following areas:

- regional airport operators and owners; and
- businesses associated with aviation including
 - engineering
 - refuelling
 - charter operators
 - avionics maintenance
 - remote area property owners
 - aircraft leasing companies.

Customs and Border Protection also relies on information provided by external agencies that are responsible for monitoring Australian airspace. This includes Air Services Australia which is responsible for monitoring regulated air space, and Defence that has the primary responsibility for identifying unauthorised aircraft movements.

I trust that this information is of assistance to the Committee. Should you require additional information my contact officer for this matter is Ben Evans, National Manager Border Strategies and Priorities Branch

Yours sincerely

Michael Pezzullo
Acting Chief Executive Officer

24 May 2011