

The Senate

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Rural and Regional Affairs  
and Transport  
References Committee

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Airport and aviation security

March 2017

© Commonwealth of Australia 2017

ISBN 978-1-76010-540-2

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## Abbreviations

AAA	Australian Airports Association
ABF	Australian Border Force
ACS	Australian Customs Service
Act	<i>Aviation Transport Security Act 2004</i>
AFP	Australian Federal Police
AGD	Attorney-General's Department
AIP	Aviation Industry Participant
AIPA	Australian and International Pilots Association
ANAO	Australian National Audit Office
ASIAL	Australian Security Industry Association
ASIC	Aviation Security Identification Card
ASIO	Australian Security Intelligence Organisation
ASRR	Aviation Safety Regulation Review 2014
ATSB	Australian Transport Safety Bureau
BARA	Board of Airline Representatives of Australia
Beale Review	Mr Roger Beale AO, <i>New Realities: National Policing in the 21<sup>st</sup> Century: Federal Audit of Policing Capabilities</i> , The Allen Consulting Group, June 2009
CASA	Civil Aviation Safety Authority
Chicago Convention	Convention on International Civil Aviation
COAG	Council of Australian Governments
Committee	Senate Rural and Regional Affairs and Transport References Committee
CTU	Counter-Terrorism Unit
Department	Department of Infrastructure and Regional Development

FOI	Freedom of Information
IBPP	Immigration and Border Protection Portfolio
ICAO	International Civil Aviation Organisation
Legislation Committee	Senate Rural and Regional Affairs and Transport Legislation Committee (44 <sup>th</sup> Parliament)
Melbourne Airport	Australia Pacific Airports (Australia) Pty Ltd
MSIC	Maritime Security Identification Card
OITS	Office of the Inspector of Transport Security
OTS	Office of Transport Security
PDE	Personal Defence Equipment
PIR	Post Implementation Review
PJCAA	Parliamentary Joint Committee of Public Accounts and Audit
PJCLE	Parliamentary Joint Committee on Law Enforcement
RAAA	Regional Aviation Association of Australia
Regulations	Aviation Transport Security Regulations 2005
SARPs	Standards and Recommended Practices
SNP	Sydney Night Patrol
SRA	Security Restricted Area
TAC	Temporary Aircrew Card
TSP	Transport Security Program
TTF	Tourism and Transport Forum
UPM	Unified Policing Model
VIC	Visitor Identification Card
Wheeler Review	Right Honourable Sir John Wheeler, <i>An Independent Review of Airport Security and Policing for the Government of Australia</i> , Australian Government, September 2005

# **List of recommendations**

## **Recommendation 1**

**2.62** The committee recommends that any future reviews of and amendments to aviation security regulation be risk-based and fit for purpose, with consideration given to the unique challenges faced by regional and rural airports and the overall diversity of Australian airports.

## **Recommendation 2**

**3.74** The committee recommends that the Inspector of Transport Security complete and publish its review into aviation security training and education as soon as practicable.

## **Recommendation 3**

**3.75** The committee recommends that the Department of Infrastructure and Regional Development develop a framework to ensure that subcontracted screening bodies have appropriate employment standards and provide security training and services consistent with those provided by screening authorities under the Aviation Transport Security Regulations 2005. The framework should take into account any inconsistencies in the training and education as identified by the Inspector of Transport Security.

## **Recommendation 4**

**4.53** The committee recommends that the Australian Government amend the *Aviation Transport Security Act 2004* to make it compulsory for aviation industry participants to report information currently captured under the voluntary reporting scheme.

## **Recommendation 5**

**5.80** The committee recommends that the Australian Government review the feasibility of establishing a centralised issuing authority for Aviation Security Identification Cards.

## **Recommendation 6**

**5.83** The committee recommends that the Australian Government consider the development of a national automatic notification system for aviation-security-relevant offence convictions of Aviation Security Identification Cards holders.

## **Recommendation 7**

**5.88** The committee recommends that the Department of Infrastructure and Regional Development update the committee early in 2018, on progress and outcomes, following implementation of Stage Two of the Visitor Identification Card enhancements.

## **Recommendation 8**

**5.89** The committee recommends the Australian Government consider mechanisms, including legislative amendment, to strengthen the Visitor Identification Card process, incorporating appropriate background checking where appropriate.

## **Recommendation 9**

**6.19** The committee recommends that the Australian Government implement the regional aviation security awareness training package, in accordance with its 2015 commitment.

# Chapter 1

## Introduction and background to the inquiry

1.1 On 4 December 2014, the Senate referred the following matters to the Rural and Regional Affairs and Transport References Committee (committee) for inquiry and report by 26 April 2015:

- (a) recent media reports on apparent breaches in airport and aviation security at Australian airports;
- (b) consideration of the responses to those reports from the Government, regulators, airports and other key stakeholders, and the adequacy of those responses;
- (c) whether there are further measures that ought to be taken to enhance airport security and the safety of the travelling public;
- (d) the findings of, and responses to, reports undertaken into airport security issues since 2000; and
- (e) any related matters.<sup>1</sup>

1.2 Over the course of the 44<sup>th</sup> Parliament, the Senate granted a number of extensions to the final reporting date for the inquiry.

1.3 On 9 May 2016, the inquiry lapsed with the dissolution of the Parliament for a general election. On 15 September 2016, the Senate agreed to re-refer the inquiry to the committee with a reporting date of 1 December 2016.<sup>2</sup> On 10 November 2016 the Senate granted an extension of time for reporting until 7 February 2017.<sup>3</sup> On 1 December 2016, a further extension of time was granted until 30 March 2017.<sup>4</sup>

### Conduct of inquiry

1.4 The inquiry was publicly advertised online, including on the committee's website. The committee also directly invited submissions from a number of organisations and individuals with interests and expertise in airport and aviation security.

1.5 The committee received 21 public submissions. A list of individuals and organisations that made public submissions to the inquiry, together with other information authorised for publication, is at Appendix 1.

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1 *Journals of the Senate*, No. 74, 4 December 2014, p. 1989.

2 *Journals of the Senate*, No. 7, 15 September 2016, p. 225.

3 *Journals of the Senate*, No. 15, 10 November 2016, p. 451.

4 *Journals of the Senate*, No. 23, 1 December 2016, p. 753.

1.6 The committee held public hearings in Melbourne on 6 February 2015 and in Canberra on 24 November 2016, details of which are referred to in Appendix 2. All public submissions and the Hansard transcript of evidence from the hearings can be accessed through the committee's website.<sup>5</sup>

## **Acknowledgements**

1.7 The committee would like to thank the individuals and organisations who contributed to this inquiry by making submissions, as well as appearing before the committee to give evidence.

## **Background**

### ***Reliance on aviation transport in Australia***

1.8 Aviation is particularly significant to Australia and its people, given the size of the Australian continent, the distances between towns and major cities as well as the distances to overseas destinations. This significance is reflected in a focus on aviation matters by the media, frequent reviews into aviation security and policy, as well as a particular interest amongst the Australian public in aviation and the security of our airports.

1.9 The Right Honourable Sir John Wheeler, who conducted an independent review of airport security in 2005, noted that the Australian public has an 'exceptional sensitivity to aviation and airport security and a concern that criminality may lead to vulnerabilities that could be exploited by terrorists'.<sup>6</sup>

1.10 The 11 September 2001 attacks were a major point of departure for current concerns regarding the safety of air travel in Australia. Since then, Commonwealth and state governments, and private sector stakeholders have invested significantly in the security of Australia's air transport networks and strengthened the relevant legal frameworks.<sup>7</sup>

## **Aviation security framework**

### ***International legal context***

1.11 Australia has been a signatory to the Convention on International Civil Aviation since 1947, following its signing in Chicago on 7 December 1944 (the Chicago Convention). The Chicago Convention provides the foundations for safe and

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5 See [www.aph.gov.au/Parliamentary Business/Committees/Senate/Rural and Regional Affairs and Transport](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport).

6 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. ix.

7 Most notably through the *Aviation Transport Security Act 2004* and *Aviation Transport Security Regulations 2005*.

orderly international air travel. The regulation of Australian aviation safety is based on international standards and recommended practices and procedures adopted by the International Civil Aviation Organisation (ICAO).<sup>8</sup>

1.12 The Chicago Convention contains 19 technical annexures, detailing the Standards and Recommended Practices (SARPs) for international civil aviation. Of particular importance to this inquiry, Annex 17 provides for the management of security issues at airports. It requires all signatories to, among other things:

- control access to the airside areas of airports to prevent unauthorised entry;
- create appropriate Security Restricted Areas (SRAs) at relevant airports based on security risk assessments;
- ensure identification systems are established to prevent unauthorised access to airside areas and SRAs, with identification verification needed at designated checkpoints before access is allowed to airside areas and SRAs; and
- ensure background checks are conducted on persons granted unescorted access to an SRA.<sup>9</sup>

### *Australian legal context*

1.13 The current Australian aviation security framework came into effect in March 2005 following the commencement of the *Aviation Transport Security Act 2004* (the Act)<sup>10</sup> and Aviation Transport Security Regulations 2005 (the Regulations).<sup>11</sup> The Act provides a regulatory framework to safeguard against unlawful interference with civil aviation and to maintain aviation security. It also 'obliges certain aviation participants to develop, and comply with, aviation security programs'.<sup>12</sup>

1.14 The Chicago Convention requirements were given force in Australia through the Act. The Act reflects the requirement of Annex 17 of the Convention by detailing a range of requirements to safeguard passengers, crew, airport ground personnel and the general public in matters relating to unlawful interference with civil aviation.

1.15 Key measures of the Act and associated regulations include the designation of secure areas within airports including all major metropolitan airports (divided

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8 Department of Infrastructure and Regional Development, *International Civil Aviation Organisation*, <https://infrastructure.gov.au/aviation/international/icao/> (accessed 13 December 2016).

9 Australian Government, *Aviation Safety Regulation Review*, May 2014, p. 117.

10 *Aviation Transport Security Act 2004*, <https://www.legislation.gov.au/Details/C2016C01100>

11 Aviation Transport Security Regulations 2005, <https://www.legislation.gov.au/Details/F2016C01035>

12 *Aviation Transport Security Act 2004*, division 2, s. 3(2).

generally into airside and landside zones, including 'sterile' landside zones). Following the events of 11 September 2001, aviation security assumed a high priority for the Australian government. It is an area that has been subject to ongoing assessment and review. As part of this ongoing process, the Act has been amended several times to improve its operation.

1.16 The Department of Infrastructure and Regional Development (department) is responsible for administration of both the Act and the Regulations, while airport and aircraft operators are responsible for delivery of security on a day-to-day basis. As part of its duties, the department is required to undertake compliance activities to ensure that industry participants comply with legislated requirements as outlined in the Act and Regulations. In December 2004, the Office of Transport Security (OTS) was created to enhance the administration of the Act.

1.17 Under the Regulations, all security controlled airports are required to complete and provide to the department for approval a Transport Security Program (TSP). The TSP details the measures and procedures undertaken by the airport to reduce terrorist threats and other unlawful interference, and how the airport will meet the requirements of the Act and Regulations. The department can test the effectiveness of TSPs through its National Quality Control Programme. This programme involves inspections and audits, which can identify non-compliance with regulation.<sup>13</sup>

### *The Australian aviation sector*

1.18 Most aviation passenger movement in Australia occurs via the ten major airports across the country, being Sydney, Melbourne, Brisbane, Perth, Adelaide, Gold Coast, Cairns, Canberra, Hobart and Darwin.<sup>14</sup>

1.19 Regional and remote airports are also of vital importance to Australia's aviation sector. There are approximately 250 regional airports offering passenger services and a further 2000 smaller airfields and landing strips across the country.<sup>15</sup> The impact of aviation security regulation on these smaller operators is considered throughout the report.

1.20 For the year ending 30 June 2016, there were 60.94 million passengers carried on domestic commercial flights (a 1.8 per cent increase on the previous year).<sup>16</sup> An

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13 Department of Infrastructure and Regional Development, *Submission 3*, pp. 5-6; Australian Airports Association, *Submission 17*, p. 4. See also Aviation Transport Security Regulations 2005, division 2.3.

14 Bureau of Infrastructure, Transport and Regional Economics, *Airport Traffic Data 1986-2016*, [https://bitre.gov.au/publications/ongoing/airport\\_traffic\\_data.aspx](https://bitre.gov.au/publications/ongoing/airport_traffic_data.aspx) (accessed 7 March 2017).

15 ACIL Allen Consulting, *Regional Airport Infrastructure Study: Economic Contribution and Challenges of Regional Airports in Australia*, September 2016, p. 3.

16 Bureau of Infrastructure, Transport and Regional Economics, *Statistic Report: Domestic aviation activity 2015-16*, 2016, p. 1.



additional 36.229 million international passengers travelled to and from Australia during the year, an increase of 7 per cent from 33.865 million in 2014-15.<sup>17</sup>

1.21 Recently all capacity restrictions were removed from Australia-China air service arrangements, allowing for open aviation between the two countries. The outbound Chinese tourist market is expected to double to 200 million by 2020.<sup>18</sup>

1.22 With nearly 100 million airline passengers travelling in Australia each year and utilising various airport facilities, the importance of aviation security becomes clear. Marked increases in the volume of airport patrons will require commensurate security responses.

1.23 While a number of global aviation security breaches since the 1970's have led to new security screening measures at airports, the terrorist attacks of 11 September 2001 had the most profound effect on Australia's aviation security policy and air transport infrastructure. Attacks against airports and airlines have the potential to cause massive damage and disruption through mass casualties, significant detrimental economic impacts and the creation of a climate of fear and anxiety amongst the travelling public. Owing to this, the aviation sector can expect continued attempts to subvert security measures as terrorists evolve their capabilities.<sup>19</sup>

1.24 It is clear from evidence received by the committee that there are areas of airport and aviation security that require significant improvement to guard against any possible breaches of Australia's air transport infrastructure, by individuals or organised groups.

1.25 The committee has considered the current security practices in operation at Australian airports to ascertain what measures should to be implemented by the Australian government to enhance the safety and security of the travelling public. It is in that context that this inquiry was undertaken, and these matters will be considered throughout the report.

### ***Current security environment***

1.26 In its submission to the committee, the Australian Security Intelligence Organisation (ASIO) noted that 'civilian aviation will remain a high-value terrorist target for the foreseeable future', with terrorists adapting to security measures already in place and subsequently changing and refining their methods.<sup>20</sup>

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17 Bureau of Infrastructure, Transport and Regional Economics, *Statistic Report: International airline activity 2015-16*, 2016, p. 8.

18 Minister for Infrastructure and Transport, the Hon Darren Chester MP, 'Australia and China agree open aviation market', *Media Release DC209/2016*, 4 December 2016.

19 Department of Infrastructure and Regional Development, *Submission 3*, p. 11.

20 Australian Security Intelligence Organisation, *Submission 10*, p. 2.

1.27 While a major aviation security event is yet to occur in Australia, there continues to be ongoing concerns about airport security and safety, as reflected by a number of media reports and in comments and analysis by industry experts.

1.28 In December 2016, the Australian Federal Police (AFP) released details of 2355 weapons seized in 2016 from bags and on people across Australia's nine major airports. This was an increase from the 2260 weapons found in 2015. The weapons included a BB air sport handgun, a hunting knife, pepper spray and knuckle dusters. The AFP considered that the high number of weapon seizures was evidence of effective airport security screening processes.<sup>21</sup>

1.29 More than 7000 prohibited weapons were seized by police across 10 airports over the past four financial years, with more than 500 offenders facing charges.<sup>22</sup>

1.30 During 2015-16, the AFP charged 10 people for making false or threatening statements, 8 people for failing to comply with directions from airport or airline staff, and 76 people with offensive behaviour, including violent behaviour.<sup>23</sup>

1.31 In a positive development, the AFP noted a marked decrease in the number of threatening or false statements being made at airport security points, such as bomb threats. In 2016 only 88 such incidents were reported across the nine major airports, in contrast to 1087 in 2015.<sup>24</sup>

#### *Investigations by the Seven Network into airport security breaches*

1.32 Four news reports on security breaches at Australian airports were broadcast on the Seven Network between July and October 2014. These stories were based on documents obtained through Freedom of Information (FOI) requests made by Seven Network journalist, Mr Bryan Seymour, to the department.

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21 Chris Johnston, 'The weapons Australians tried to smuggle through domestic airports this year', *Sydney Morning Herald*, 13 December 2016, <http://www.smh.com.au/national/the-weapons-australians-tried-to-smuggle-through-domestic-airports-this-year-20161212-gt9lo0.html> (accessed 16 December 2016).

22 Renee Viellaris, 'Organised crime, terrorism seek to infiltrate Australian airports', *The Courier-Mail*, 12 December 2016, <http://www.heraldsun.com.au/travel/news/organised-crime-terrorism-seek-to-infiltrate-australian-airports/news-story/b1bada45a9048508bc14dc47273e7752> (accessed 13 December 2016).

23 Emily Baker, 'Australian Federal Police seize 168 weapons from Canberra Airport', *Canberra Times*, 19 December 2016, <http://www.canberratimes.com.au/act-news/australian-federal-police-seize-168-weapons-from-canberra-airport-20161212-gt9c84.html> (accessed 19 December 2016).

24 Chris Johnston, 'The weapons Australians tried to smuggle through domestic airports this year', *Sydney Morning Herald*, 13 December 2016, <http://www.smh.com.au/national/the-weapons-australians-tried-to-smuggle-through-domestic-airports-this-year-20161212-gt9lo0.html> (accessed 16 December 2016).

1.33 A number of documents obtained by Mr Seymour detailed occasions between January 2012 and April 2014 when unauthorised individuals accessed secure areas of airports. Other documents outlined instances where passenger screening failed to detect prohibited objects, which were then discovered after the passenger had boarded a plane. Prohibited objects found in this way included knives, tools (such as screwdrivers and pliers), scissors and box cutters. Moreover, these breaches also included weapons, such as pepper spray, tasers and bullets.<sup>25</sup>

1.34 On 25 October 2016, Mr Seymour reported for the Seven Network on continuing security breaches at Australian airports, particularly on the regular discovery of 'credit card' knives being undetected by screening programs.<sup>26</sup>

1.35 The committee examined a number of issues with the passenger screening process, including the use of subcontracted security staff, inadequate staff training and the costs associated with security screening. These issues are discussed further in the report.

#### *Notable reviews of Australian aviation security*

1.36 The committee was particularly interested in prior reviews of Australian aviation security, including two reports by the Australian Customs Service (ACS) in 2002 and 2003, the airport security and policing review undertaken by the Rt. Hon Sir John Wheeler in 2005, and the 2016 Australian National Audit Office (ANAO) review of passenger security screening at airports.<sup>27</sup>

1.37 The two ACS reports, 'Threat Assessment of Sydney Airport Screening Personnel' (2002) and 'Sydney Airport Air Border Security: Risk Analysis 2003', highlighted a number of serious security vulnerabilities in Sydney Airport, particularly regarding access to sterile areas and passenger screening undertaken by contract staff.<sup>28</sup>

1.38 In the year following the introduction of the aviation security legislation, on 31 May and 1 June 2005 respectively, *The Australian* newspaper published two articles containing confidential material emanating from the two ACS reports. The confidential material had been leaked to the newspaper, and highlighted the security and criminal vulnerabilities of Sydney Airport.

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25 Mr Bryan Seymour, *Submission 1* (Attachment 1), pp. 18-58.

26 This issue is discussed further at chapter 4 of this report. See 'Credit card knives' found at our airports' <http://au.news.yahoo.com/video/watch/32995538/credit-card-knives-found-at-our-airports/> (accessed 26 October 2016).

27 Australian National Audit Office, *Passenger Security Screening at Domestic Airports*, Report No. 5 2016-17, 31 August 2016, <https://www.anao.gov.au/work/performance-audit/passenger-security-screening-domestic-airports>.

28 Mr Allan Kessing, private capacity, *Committee Hansard*, 24 November 2016, pp. 2-4.

1.39 Soon after this unauthorised leak occurred, the Australian government announced an independent review of the air transport sector by the Rt. Hon Sir John Wheeler. The report, *An Independent Review of Airport Security and Policing for the Government of Australia* (Wheeler Review), was released in 2005 and confirmed many of the vulnerabilities noted in the ACS reports.

1.40 Following the Wheeler Review, a number of further reviews and reforms to aviation security have been progressed, including an audit of policing capabilities at airports,<sup>29</sup> 2009 Aviation and 2010 White Papers, several Parliamentary Joint Committee reports considering, in part, aviation security,<sup>30</sup> and ANAO performance audits.

### **Structure of this report**

1.41 Chapter 2 examines the numerous reports and inquiries undertaken since 2002 investigating airport security issues, and the responses and actions that have been implemented following these reports. Of particular interest to the committee is the progress and implementation of the 2005 Wheeler Review recommendations.<sup>31</sup>

1.42 Chapter 3 examines a number of serious issues around passenger security screening at airports that emerged from evidence received as part of the inquiry, including the use of subcontractors for screening services at airports. It also considers reports regarding security systems in place at Sydney Airport, including potential vulnerabilities in Australia's aviation security framework.

1.43 Chapter 4 examines matters arising from the Seven Network television report on aviation security that led to the referral of this inquiry. In particular the chapter considers whether the FOI process that informed part of the media reports led to a decrease in the voluntary reporting of security incidents to the department by industry stakeholders.

1.44 Chapter 5 considers the Aviation Security Identification Card (ASIC), the numerous reviews and reforms undertaken of the scheme, and potential shortcomings of the card, with impacts on airport security. This chapter also examines the related Visitor Identification Card (VIC) and issues with this program.

1.45 Drawing on the evidence received by stakeholders and obtained by the committee as part of its inquiries, Chapter 6 considers the current programs underway to secure Australia's airports, and possible future areas for improved security measures. It evaluates whether, in light of incidents reported in the media and through

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29 The 2009 Beale Review.

30 2011 Parliamentary Joint Committee on Law Enforcement report into aviation and maritime security measures.

31 Rt. Hon Sir John Wheeler, Australian Government, *An Independent Review of Airport Security and Policing for the Government of Australia*, September 2005, pp. xvii-xx.

various reviews of airport security, the current security framework is adequate. It also considers the costs that may be involved in amendments to that framework.



## Chapter 2

### Overview of reports and reforms in aviation security

2.1 Australian aviation security has been the subject of numerous reports and reviews over many years, particularly since the events of 11 September 2001. The triggers for such reports have varied. Media reports of security breaches and vulnerabilities at airports have led to government reviews aimed at restoring public confidence. Reviews have also been triggered by the emergence of new threat sources and events which have exposed systemic weaknesses in procedures at airports. Others have taken place within the formal risk assessment process. This chapter provides an overview of some of these reviews and their recommendations.

#### Reviews from 2002

2.2 In 2002 and 2003, Mr Allan Kessing, a member of an ACS covert unit, contributed to a number of reviews of security at Sydney Airport for ACS. The first report considered the risks associated with private security staff employed by a privatised airport corporation, who undertake passenger screening.

2.3 The second report detailed security vulnerabilities of 'sterile areas' of the airport and reviewed security and staff with airport security identification cards. The ASIC provides a card holder access to the airport's sterile areas.<sup>1</sup>

2.4 Both reports were subsequently leaked to *The Australian* newspaper, which published articles on 31 May and 1 June 2005 bringing these airport security vulnerabilities to the attention of the public.

2.5 The newspaper articles paraphrased key elements of the two intelligence reports:

Concerns over drug syndicates operating within Sydney Airport which used passenger luggage to transport illegal substances; security camera black spots known and utilised by airport employees; occurrences of lower level criminality, including smuggling stolen property and theft from passengers; and the failure of airport authorities to identify at-risk employees with criminal records, with several employees having known connections to established criminal gangs.<sup>2</sup>

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1 Mr Allan Kessing, private capacity, *Committee Hansard*, 24 November 2016, p. 2. The ASIC scheme is discussed further in chapter 5.

2 Tim Prenzler, Candice Lowden and Rick Sarre, 'Aviation Security Issues in Australia Post-9/11', *Journal of Policing, Intelligence and Counter Terrorism*, Volume 5, Number 2, 2010, p. 12.

2.6 Alongside the two classified ACS reports on aviation security and following the 11 September 2001 attacks, there were a range of other reviews conducted including an Attorney-General's Department (AGD) review of national security which considered the aviation sector. In late 2002, Mr Rex Stevenson AO conducted a classified review of the effectiveness of aviation security measures already adopted in Australia. In 2003 the Australian National Audit Office (ANAO) conducted a performance audit on the response of the Department of Transport and Regional Services to the increased threat to aviation security since 11 September.<sup>3</sup>

2.7 Airports and airlines often contract to other parties to deliver aviation services, for example, catering, cleaning, and screening of passengers and baggage. Under the regulatory model, the department is required to hold airports and airlines to account for the actions of their contractors and their employees. However, in its 2003 report, the ANAO found that repeat aviation security breaches occurred, many of which were due to the actions of those contractors and their employees. The ANAO concluded that the department should 'properly hold airports and airlines accountable for their actions' and, in turn 'aim to ensure that airports and airlines hold their contractors who breach the security requirements to account for their breaches'.<sup>4</sup>

2.8 In mid-2003, in response to an ASIO Threat Assessment on the risks to the aviation sector, the Secretaries' Committee on National Security initiated a further review of measures and reforms needed. The Parliamentary Joint Committee on Public Accounts and Audit (PJCAA) conducted an inquiry into aviation security in 2004. Following the Madrid bombing the same year, Mr Ken Matthews, the Secretary of the Department of Transport and Regional Services, led an overseas mission on transport security and reported back to the government on the findings.<sup>5</sup>

### **Wheeler Review 2005**

2.9 On 7 June 2005, in response to growing community concerns about reported instances of criminality and security weaknesses at major Australian airports, then Minister for Transport and Regional Services, the Hon John Anderson MP, announced a review of airport security and policing. The Australian government invited the Rt. Hon Sir John Wheeler to head the review.<sup>6</sup>

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3 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 26.

4 Australian National Audit Office, *Aviation Security in Australia*: Department of Transport and Regional Services, 2003, p. 12.

5 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 26. Other reviews and research are detailed in the Wheeler Review as well as the ongoing work of the Australian Crime Commission into criminality and policing at Australian airports.

6 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 1.



2.10 The resulting report, *An Independent Review of Airport Security and Policing for the Government of Australia* (Wheeler Review) was published on 21 September 2005. Wheeler affirmed that terrorism, organised crime and opportunistic crime constitute the major security threats to Australian airports.

2.11 In his review, Wheeler noted intelligence material, particularly from Customs, confirming significant threats and vulnerabilities at major airports consistent with the reports in *The Australian* following the unauthorised release of contents from the two classified ACS reports.<sup>7</sup>

2.12 Wheeler recognised a range of initiatives already underway or to be introduced at the time of his review, including:

- tightening up of the ASIC system for employees at airports;
- an extension and improvement of passenger, luggage and freight screening;
- increasing the number of officials with security-related responsibilities; and
- improved coordination amongst airport officials.<sup>8</sup>

2.13 While noting that there is no such thing as 100 per cent security, Wheeler did, however, identify a series of weaknesses that required immediate and longer term address. He found that the airport security and policing culture at most major airports was not conducive to information sharing.<sup>9</sup>

2.14 The Wheeler Review noted that the Act and Regulations provided solid foundations for airport security regulation, but both would benefit from a review to clarify and simplify the provisions. Wheeler advised of a 'danger that airport security could become focused on compliance with regulations rather than on the crucial preventative role' of risk and threat assessment. The legislation should instead support good systems, processes and improved behaviour.<sup>10</sup>

### ***Balancing commercial interests and security concerns***

2.15 The tension between commercial and security interests at Australian airports was noted by Wheeler. With an estimated 150,000 people then directly employed in connection with airports in Australian capital cities, Wheeler recognised that airports

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7 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. xi.

8 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 27.

9 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 33.

10 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. xv.

are considerably more than just transportation modes as they serve as critical infrastructure and work sites.<sup>11</sup>

2.16 Wheeler found there was a perception that government decisions imposed additional security-related obligations on industry without absorbing more of the associated costs. Cost issues connected to security appeared to be the most vexatious, with government guided often by the principle of 'capacity to pay' rather than a clear idea of how responsibility for security and ownership of risk were shared. Wheeler suggested that, in the absence of an agreed and documented statement of policy principles for allocating costs amongst federal, state and territory governments and private sector owners/operators, the irreconcilable debates about who should pay would continue.<sup>12</sup>

### ***Agency cooperation***

2.17 The Wheeler Review focused on three elements which underpin security at airports. The three 'main security pillars of airports' include the TSP which sets out an airport's goals for maintaining security in the face of its risks, as well as the responsibilities of the Airport Security Committee's members towards meeting those goals. The second pillar is the Airport Security Committee, which comprises representatives of bodies at airports with interest in and responsibility for security. The ASIC system comprises the third pillar.<sup>13</sup>

2.18 Wheeler made a series of recommendations, particularly with regard to information sharing, agency cooperation and airport policing models. He found the relationship between Customs, state and federal police and private airport security highly dysfunctional.<sup>14</sup>

2.19 The Wheeler Review identified three key areas of concern relating to airport security and policing culture at major airports. These were:

- a marked inhibition about sharing information with those who need it to make evidence-based decisions;
- a lack of clarity, consistency and alignment between authority and responsibility in decision-making; and

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11 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 5.

12 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 35.

13 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, pp. 20-21.

14 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. xi.

- an undue reliance on 'after the event' compliance auditing, rather than 'pre-event planning' as the basis for accountability.<sup>15</sup>

### ***Protecting security screening and training***

2.20 The screening of personnel, baggage and cargo at Australia's airports is the responsibility of the airline or of the terminal operator and is conducted by private security officers, usually contractors. The Wheeler Review noted that for this job to be performed correctly, and the system to be safe, these officers must be background-checked, trained to an appropriate level, and tested frequently to ensure that their skills and attention to detail do not erode. Wheeler noted that these initiatives were consistent with requirements stipulated in the ICAO Annex 17 Standards 3.4.2 and 3.4.3 regarding training, certification and the setting of performance standards for those implementing security controls.<sup>16</sup>

2.21 Wheeler concluded that:

Because of the importance of these screening personnel, and of the private security guards employed at larger airports, it is necessary that realistic but rigorous standards be set for employment in this field. And because of the national interconnections in the airline industry, where screening done in one airport can have serious implications for an airport a great distance away, those standards should be uniform across Australia, and should apply to sub-contractors and part-time guards as well. Some States and Territories (NSW, the ACT and most recently Victoria) have already instituted licensing standards; the work done in preparing those could help in establishing a national licensing regime and be encouraged by COAG.<sup>17</sup>

### **Parliamentary Joint Committee on Public Accounts and Audit 2005**

2.22 On 25 May 2005, the PJCAA resolved to review the developments in aviation security since its earlier report on the subject, tabled in June 2004. The PJCAA was concerned by public reports of security breaches at Australian airports, including allegations that baggage handlers had been involved in a syndicate smuggling drugs through Sydney Airport.

2.23 The PJCAA tabled an interim report in November 2005 identifying two areas of aviation security that were the subject of recommendations made by the Wheeler review and where, it believed, further specific requirements should be put forward.

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15 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 33.

16 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 77.

17 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 77.

These two areas were the proposed review of the Act and the Regulations, and proposed changes to background checking processes of applications for ASICs.<sup>18</sup>

2.24 While supporting Wheeler's recommendations, the PJCAA noted that its own inquiry had confirmed the need for a review of the arrangements for issuing and managing ASICs, a need to improve information-sharing across airports, and the need for a single policing authority for all category one and major airports.<sup>19</sup>

### **Commonwealth commitment to aviation security reform**

2.25 On 21 September 2005, the Prime Minister, the Hon John Howard MP announced the government's in principal acceptance of the Wheeler Review recommendations along with a commitment of \$200 million to further strengthen security at Australia's major airports. Under the plan, police commanders were appointed to the country's 11 major (or category one) airports while airport staff would be subjected to tougher screening, with the introduction of a streamlined process for the provision of security clearances.

2.26 As part of the expenditure, funds were committed to:

- five new joint airport investigation teams at Sydney, Melbourne, Brisbane, Adelaide, and Perth to fight organised crime;
- customs patrols of tarmac areas at seven airports; and
- boosting technology to detect explosives and upgrade the customs closed circuit television (CCTV) capabilities.<sup>20</sup>

2.27 In response to the Wheeler Review, a Unified Policing Model (UPM) was instituted with the Commonwealth, through the AFP, meeting the cost of policing. The UPM saw policing of airports undertaken by AFP Protective Service Officers dealing with Counter Terrorism First Responses, and state and territory police officers dealing with community policing.<sup>21</sup>

2.28 In 2006, as part of the government's commitment to implement the Wheeler Review recommendations, amendments were made to the Act.<sup>22</sup> These amendments provided for better management of domestic and international cargo handling, before cargo is taken onto aircraft. As part of the amendments, all commercial air cargo

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18 Parliamentary Joint Committee on Public Accounts and Audit, *Developments in aviation security since the Committee's June 2004 Report 400: an interim report*, November 2005.

19 Parliamentary Joint Committee on Public Accounts and Audit, *Developments in aviation security since the Committee's June 2004 Report 400: an interim report*, November 2005.

20 'PM Pledges \$200m airport security upgrade', *Sydney Morning Herald*, 21 September 2005.

21 Australian National Audit Office, *ANAO Audit Report No. 23 2013–14, Policing at Australian International Airports*, March 2014, pp. 14-15.

22 *Aviation Transport Security Amendment Act 2006*.

would be subject to appropriate secure handling and screening processes along the supply chain, from the initial packing to eventual loading on the relevant aircraft.<sup>23</sup>

2.29 The Immigration and Border Protection Portfolio (IBPP) advised the committee of programs implemented as a direct response to the Wheeler Review. These included:

- expanded powers of customs and border officers to 'stop, search, restrain, detain and remove people and vehicles, pending arrival of a law enforcement officer', effective 20 August 2007;
- the establishment of the Airports National Monitoring and Analysis Centre to provide complete, all day CCTV and increased staffing resources to monitor and support passenger processing operations, effective November 2007; and
- the mandatory screening of all air cargo transported on passenger aircraft, where passenger's checked baggage is screened, fully implemented in November 2008.<sup>24</sup>

2.30 Additionally, the OTS engaged ASIO's protective security advice unit, known as T4, to undertake 'a vulnerability analysis of all major Australian airports, and a selection of regional screened airports during 2008/09'. Some deficiencies were found in security measures aimed at mitigating terrorist attack methods. However, ASIO could not accept and implement any recommended security improvements, as the responsibility for this rests with the client who originally engaged the T4 unit (in this instance, the OTS).<sup>25</sup>

### **Beale Review 2009 and changes to policing arrangements at airports**

2.31 A federal audit of police capabilities (known as the Beale Review) commenced in 2009 to examine the capabilities of the AFP. As part of the audit, policing at Australia's airports was considered. The Independent Reviewer, Mr Roger Beale AO noted that policing of Australia's principal airports had been a subject of Commonwealth/State controversy since 1970. The Beale Review found that airport policing arrangements comprised a patchwork of federal, state and territory policing responses based on a history of different approaches and agreements.

2.32 The effectiveness of the UPM model at airports was called into question in March 2009 when a member of a criminal gang was bludgeoned to death in a brawl in a Sydney Airport terminal, following an in-flight incident between rival gang

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23 *Aviation Transport Security Amendment Act 2006*. See also, Parliamentary Library, Bills Digest No. 157, 2005–06 – Aviation Transport Security Amendment Bill 2006, [http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/bd/bd0506/06bd157](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd0506/06bd157).

24 Immigration and Border Protection Portfolio, *Submission 19*, pp. 6-9.

25 Australian Security Intelligence Organisation, *Submission 10*, pp. 4-5.

members. Airport security at Sydney became a highly publicised issue when it was revealed that the incident failed to capture the attention of surveillance monitoring staff, and security officers only responded when a bystander phoned emergency services.<sup>26</sup>

2.33 While recognising that the matter remained contentious, Mr Beale concluded that the best approach would be for the Commonwealth to provide an integrated airport policing capability. He found the UPM was flawed and recommended that all airport police officers be sworn employees of the AFP and capable of undertaking both counter terrorism and policing functions. Beale recommended an 'All In' model whereby the Commonwealth take responsibility for funding and staffing nationally coordinated airport security and policing services, noting this would likely take several years before being fully operational. Further, the Beale review recommended that the Australian Government take measures to ensure that the powers of AFP members policing airports were clear and adequate to the task.<sup>27</sup>

2.34 In December 2009, the Australian Government announced that it would implement the Beale Review recommendations regarding airport security at Australia's 11 major airports, through a nationally integrated system. As part of the reform, sworn AFP officers would fill the majority of airport policing roles at those airports. Furthermore, the Minister for Home Affairs, the Hon Brendan O'Connor MP noted that:

The existing Counter Terrorism First response function at airports will also be integrated into the new model of aviation security and policing. The joint airport investigation teams and joint airport intelligence groups will remain with a mix of state or territory and federal police officers as this remains the most effective structure. These changes are consistent with the Beale audit's finding that an all-in model of policing will improve the efficiency and effectiveness of airport policing and security services.<sup>28</sup>

2.35 The process of moving from the 'unified' model to an 'All In' model was complete in June 2013.<sup>29</sup> Under current arrangements, AFP sworn officers perform a range of functions at nine of Australia's major airports. The aviation policing function

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26 W. Fisher cited in Tim Prenzler, Candice Lowden and Rick Sarre, 'Aviation Security Issues in Australia Post-9/11', *Journal of Policing, Intelligence and Counter Terrorism*, Volume 5, Number 2, 2010, p. 14.

27 Mr Roger Beale AO, *New Realities: National Policing in the 21<sup>st</sup> Century. Federal Audit of Policing Capabilities*, The Allen Consulting Group, 30 June 2009, pp. 11-12 and pp. 30-31, <https://www.ag.gov.au/Publications/Documents/FederalAuditofPoliceCapabilities/Federal%20Audit%20of%20Police%20Capabilities.pdf> (accessed 1 December 2016).

28 AUSPOL, Australian Federal Police Association, Issue 2/2011, p. 8. <https://www.afpa.org.au/sites/default/files/publications/900.pdf> (accessed 1 February 2017).

29 Australian National Audit Office, *ANAO Audit Report No. 23 2013–14, Policing at Australian International Airports*, March 2014, p. 15.

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is led by an Airport Police Commander at each of the airports, responsible for the coordination, command and control of aviation security and policing activities.<sup>30</sup>

2.36 Under the model, which involves a mix of federal, state and territory police, the policing presence includes Joint Airport Investigation Teams (JAIT), Joint Airport Intelligence Groups (JAIG) and Air Security Officers (ASOs).<sup>31</sup>

2.37 In addition to the uniformed police and customs presence at major airports, private security arrangements remain a significant element of airport security. Private security staff are responsible for screening passengers entering 'sterile' secure areas as well as maintaining perimeter security in restricted areas.<sup>32</sup>

### **2009 Aviation and 2010 White Papers**

2.38 On 16 December 2009, the Australian Government released Australia's first Aviation White Paper, *Flight path to the future*. It stated that aviation security would continue to be driven by emerging technologies, intelligence, requirements of international bodies, and assessment of security vulnerabilities.<sup>33</sup>

2.39 The paper identified 15 areas where security would be improved, including through continuous review of standards, further restrictions on ASIC, and on flight deck access. The review was followed by the *Counter-Terrorism White Paper*, released in January 2010, which involved a \$200 million investment in aviation and border security over four years. As part of the measures introduced with the paper, the role of the National Intelligence Coordination Committee (established in 2009) was strengthened with the establishment of a Counter-Terrorism Control Centre to coordinate intelligence gathering and information sharing between law enforcement bodies and foreign intelligence services.<sup>34</sup>

### **Parliamentary Joint Committee on Law Enforcement inquiry 2011**

2.40 In June 2011, the Parliamentary Joint Committee on Law Enforcement (PJCLE) tabled a report on the adequacy of aviation and maritime security measures in combating serious and organised crime. In response to mounting evidence regarding the increasing risk of interactions between organised crime and terrorism,

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30 Australian Federal Police, *Submission 16*, p. 3.

31 Australian Federal Police, *Submission 16*, p. 3.

32 Security staff and airport security screening processes are discussed further in chapter 3.

33 Department of Infrastructure, Transport, Regional Development and Local Government, *National aviation policy white paper: flight path to the future*, Aviation White Paper, 2009, p. 138.

34 Department of Prime Minister and Cabinet, *Counter-Terrorism White Paper: Securing Australia. Protecting Our Community*, 2010, p. iii.

the PJCLE was informed that criminal and terrorist organisations were able to exploit vulnerabilities within the aviation and maritime sectors.<sup>35</sup>

2.41 During its inquiry, the PJCLE received evidence which raised concerns about the continued outsourcing of private security, seen as an area of security vulnerability. Concerns raised to the committee included that security firms were subcontracting twice or thrice, and experienced a high staff turnover which undermined any training regime and limited on-the-job experience. These factors, coupled with low wages and poor conditions, produced higher risks in terms of aviation security.<sup>36</sup>

2.42 A number of submissions made to the PJCLE strongly supported the creation of a government-run, centralised security force at airports. It was hoped such an approach would reduce issues such as high turnover and poor wages, while providing harmonised and improved training to security staff.<sup>37</sup> The government did not agree with this approach, noting it would instead continue to work with industry to provide improved training, technology and guidance.<sup>38</sup>

### **ANAO audit of policing at Australian International Airports 2014**

2.43 The ANAO tabled a performance audit in March 2014, which examined the AFP and its policing of Australian international airports. In its audit report, the ANAO found that the AFP was effectively managing the delivery of policing services at airports.<sup>39</sup> It recommended that, as a means to enable AFP officers to maintain appropriate knowledge of state and territory legislative requirements, the AFP and state and territory police review the content, duration and frequency of legislative training courses.<sup>40</sup>

2.44 In its submission to the inquiry, the AFP noted that it had agreed to the recommendation and was working with its state and territory counterparts to implement it.<sup>41</sup>

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35 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, June 2011, p. 24.

36 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, June 2011, p. 35.

37 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, June 2011, pp. 36-38.

38 Australian Government Response to the Report of the Parliamentary Joint Committee on Law Enforcement: *Inquiry into the Adequacy of Aviation and Maritime Security Measures to Combat Serious and Organised Crime*, September 2011, pp. 5-6.

39 Australian National Audit Office, *ANAO Audit Report No. 23 2013–14, Policing at Australian International Airports*, March 2014, pp. 16, 25.

40 Australian National Audit Office, *ANAO Audit Report No. 23 2013–14, Policing at Australian International Airports*, March 2014, p. 25.

41 Australian Federal Police, *Submission 16*, p. 8.



## Enhanced security screening measures 2016

2.45 On 1 December 2016, the Transport Security Legislation Amendment Bill 2016 was introduced with the objective of strengthening security at Australia's major airports by way of new and enhanced security screening.<sup>42</sup> The Minister for Infrastructure and Transport, the Hon Darren Chester MP, described the measures within the bill:

Specifically, airports will be able to randomly select people, together with their vehicles and belongings, for screening when they are working inside the secure airside area of an Australian airport to make sure they do not have prohibited weapons in their possession.<sup>43</sup>

2.46 In his second reading speech, the Minister highlighted that the bill was part of a range of measures designed to mitigate the 'insider threat'. He noted in this regard that:

Airport workers such as baggage handlers, caterers, cleaners and engineers have special access to passenger aircraft so they can carry out their important roles. However, there is potential for this access to be exploited, either willingly or through coercion, to facilitate an attack against a passenger aircraft.<sup>44</sup>

2.47 According to the Minister, the new measures comprise the first stage of government plans to strengthen airside security. In addition to screening airport workers, the government is set to introduce stronger access controls for airside areas and security awareness training for airport and airline staff.<sup>45</sup>

## Reactions to reforms

### *Arguments against less regulatory reform*

2.48 A number of submissions were made to this inquiry that did not support further reviews and constant changes to the aviation security framework. Mr Robin Darroch, airline training Captain, detailed a number of security inconsistencies between Australian airports, arguing:

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42 Explanatory Memorandum, Transport Security Legislation Amendment Bill 2016.

43 Minister for Infrastructure and Transport, the Hon Darren Chester MP, 'New measures to strengthen airport security', *Media release DC206/2016*, 1 December 2016, [http://minister.infrastructure.gov.au/chester/releases/2016/December/dc206\\_2016.aspx](http://minister.infrastructure.gov.au/chester/releases/2016/December/dc206_2016.aspx) (accessed 13 December 2016).

44 Minister for Infrastructure and Transport, the Hon Darren Chester MP, Second Reading Speech, *House of Representatives Hansard*, 1 December 2016, p. 51385, [http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansardr/b564519e-8c2b-4dbf-a1e8-8c9334a04537/toc\\_pdf/House%20of%20Representatives\\_2016\\_12\\_01\\_4632\\_Official.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansardr/b564519e-8c2b-4dbf-a1e8-8c9334a04537/toc_pdf/House%20of%20Representatives_2016_12_01_4632_Official.pdf;fileType=application%2Fpdf) (accessed 13 December 2016).

45 Minister for Infrastructure and Transport, the Hon Darren Chester MP, 'New measures to strengthen airport security', *Media release DC206/2016*, 1 December 2016.

...these inconsistencies happen as a direct result of the aviation security regulations we have at present, and ill-considered attempts to "strengthen" them over the past decade or so...those employed to security tasks obsess over things that are specific, measurable and therefore regulated, rather than being encouraged to exercise judgement and collect meaningful information which could be useful to intelligence operations or genuine security improvements.<sup>46</sup>

2.49 The Regional Aviation Association of Australia (RAAA) raised a similar concern, noting that 'any move away from outcomes based legislation to proscriptive legislation will result in diverting resources from actual and/or viable threats to areas where no threat exists'. Further, the organisation argued that:

Proscriptive legislation tends to create an inefficient one size fits all approach which has not only prevented rapid and flexible changes in response to the changing threat environment but also required extensive processes and equipment to be introduced into airports and for aircraft operators where the threat does not warrant such measures. This has resulted in a waste of limited resources for no additional security outcome thus creating an undue burden on the regional aviation industry, including operators and airports.<sup>47</sup>

2.50 Regional Express Holdings Ltd expressed similar critical views. It argued that proscriptive legislation led to a 'one size fits all' approach to aviation security, which, in its view, resulted in misused resources without additional security outcomes.<sup>48</sup>

2.51 The Australian Airports Association (AAA) submitted that the industry and government should continue to approach aviation security in a way that is 'intelligence driven, risk based' and 'outcomes focussed', as a 'one size fits all' approach is not appropriate. The AAA argued for a considered approach to aviation regulation, noting that:

...all airports are unique and taking a more tailored approach to the implementation of security measures is prudent, effective and efficient. The consideration of security regulatory or policy change on any other basis would be counterintuitive to the important progress that both Government and industry has made in improving the aviation security regulatory environment.<sup>49</sup>

2.52 However, the Board of Airline Representatives of Australia (BARA) considered that the OTS has conducted satisfactory consultation with the aviation industry 'in developing risk-based and intelligence driven aviation security requirements'. BARA noted that:

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46 Mr Robin Darroch, *Submission 2*, p. 2.

47 Regional Aviation Association of Australia, *Submission 9*, p. 3.

48 Regional Express Holdings Ltd, *Submission 11*, p. 2.

49 Australian Airports Association, *Submission 17*, pp. 1, 5.

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It is important the Australian Government continues to support OTS, and ensures it has the flexibility to review and recommend changes to existing security requirements that are consistent with changes to assessed security threats.<sup>50</sup>

2.53 These concerns were subject of the 2014 Aviation Safety Regulation Review (ASRR), which considered the industry reception to various aviation security reforms. The Review Panel noted that communication around aviation security was a concern. It observed that as communication is often delivered from a government perspective it emphasises the security benefits to tighter regulatory controls. The ASRR stated that:

...the [security] 'enhancements' referred to by the OTS are largely increases in regulation, which, from an industry perspective, is not an enhancement, but a step backward.

The Panel recommends that as part of any changes made...the Department needs to ensure that it better communicates the intent and purpose of the scheme, and ensures that the message reaches industry participants 'on the ground' at smaller airports, not just those who attend established aviation security consultation meetings.<sup>51</sup>

2.54 Noting concerns with 'reform fatigue' in the aviation industry, the ASRR advised that regulatory maintenance should only occur when change is required to improve safety, or align with international best practice.<sup>52</sup>

## **Committee view and recommendations**

### ***Ongoing reviews and reforms***

2.55 There have been a number of important and timely reviews of aviation security over the past 15 years, addressing serious risks and making valuable contributions to enhance traveller safety. This is reflected in the fact that Australia has not experienced a major security breach at any airport.

2.56 However, the committee was concerned that the volume and regularity of these reviews, many of which have not been canvassed by this inquiry, has resulted in a constant state of change and amendment to aviation security regulation.

2.57 The committee has some sympathy for airport operators striving to provide secure and safe aviation environments, in a context in which the Act and Regulations

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50 Board of Airline Representatives of Australia, *Submission 5*, pp. 1-2.

51 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, p. 120, [https://infrastructure.gov.au/aviation/asrr/files/ASRR\\_Report\\_May\\_2014.pdf](https://infrastructure.gov.au/aviation/asrr/files/ASRR_Report_May_2014.pdf).

52 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, pp. 1-2, [https://infrastructure.gov.au/aviation/asrr/files/ASRR\\_Report\\_May\\_2014.pdf](https://infrastructure.gov.au/aviation/asrr/files/ASRR_Report_May_2014.pdf).

are subject to regular amendment, and numerous reviews make calls for further considerable changes to aviation safety frameworks.

2.58 The committee supports the government in its efforts to address serious threats to safety in the aviation sector in a way that is receptive to changes in the threat level. However, the committee encourages further reviews to be evidence-based and to respond to a specific need. Such reviews should also carefully consider the regulatory burden on airports, particularly in regional areas, with a view to minimising the burden.

### ***Regulatory environment***

2.59 It is clear to the committee that a reasonable balance must be struck between regulation of the aviation industry to ensure worker and passenger safety, and being overly proscriptive in setting security parameters for airports.

2.60 The committee acknowledges that the 'one size fits all' approach is not an appropriate way to address the complexities of aviation security. The committee supports changes to the regulatory framework that are commensurate with the assessed threat level, and agrees that this will vary depending on the size and location of an airport.

2.61 Security arrangements for large, international airports will not be appropriate for small and isolated regional and rural operators. Smaller airports in regional areas will suffer the impacts of large, sweeping security reforms due to limited resources, prohibitive costs, and disproportionate responses to the threat level. While it may broaden the regulatory environment, aviation security measures should include degrees of adaptability, thereby providing airports some scope to address their individual level of risk.

### **Recommendation 1**

**2.62 The committee recommends that any future reviews of and amendments to aviation security regulation be risk-based and fit for purpose, with consideration given to the unique challenges faced by regional and rural airports and the overall diversity of Australian airports.**

## Chapter 3

### Passenger security screening at airports and airport staff security vulnerabilities

3.1 In this chapter, the committee examines key issues that emerged from evidence to the inquiry regarding passenger security screening. A variety of stakeholders raised issues regarding security screening, including the use of contractors and subcontractors to deliver security services at some airports, and the efficacy of some screening processes.

3.2 The committee also examined the 2016 ANAO report on Passenger Security Screening at Domestic Airports, its recommendations and the response from the department.

3.3 This chapter considers the vulnerabilities that some airport ground staff present to airport safety and security. To this end, evidence from Mr Allan Kessing, concerning reports on security at Sydney Airport produced by the ACS in 2002 and 2003 is considered. These reports highlighted potential vulnerabilities in Australia's aviation security framework, through the employment of various airport staff.

#### Contracting of airport security

3.4 Airports are commercial operations with considerable operating costs. Airports facilitate the movement of passengers, but must also balance safety and security concerns of travellers and aviation staff. As noted by the ANAO:

The Department is responsible for ensuring industry participants meet legislated requirements and aviation security is maintained in a way that is cost effective to the Australian Government, industry and the travelling public.<sup>1</sup>

3.5 A key issue considered by the committee was the use of contract and subcontract workers by 'screening authorities' in the provision of airport security. A screening authority is a body corporate, most usually an airport or aircraft operator, authorised to conduct screening by the department.<sup>2</sup> The department uses audits, testing and other compliance activities to ensure that screening authorities deliver screening services in accordance with the Act and Regulations.<sup>3</sup>

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1 Australian National Audit Office, ANAO Report No. 5. 2016–17, *Passenger Screening at Domestic Airports*, August 2016, p. 16.

2 *Aviation Transport Security Act 2004*, division 2.

3 Department of Infrastructure and Regional Development, *Submission 3*, p. 7.

3.6 The Act provides that a person authorised to conduct screenings is a 'screening officer', and the regulations must prescribe the training and qualification requirements of screening officers, and the form, issue and use of their identity cards.<sup>4</sup>

3.7 The airport operator, as a screening authority, will generally outsource security roles to private, specialised security screening companies.<sup>5</sup> It was submitted that airport operators often outsource to private companies, which are then able to employ subcontracted workers as security agents.<sup>6</sup>

### ***Screening authorities at airports***

3.8 The department told the committee that it is possible for different terminals within the same airport to have separate nominated screening authorities, and that in Australia, there are 64 screening authorities authorised to conduct screening for 81 security-controlled airports.<sup>7</sup>

3.9 United Voice raised concerns with this system, detailing as an example how security services at Perth Airport are delivered by two different authorities. Perth Airports Pty Ltd operates Terminal 1 (international services), Terminal 2 (regional services), and Terminal 3 (domestic and interstate services). Simultaneously, the Qantas Group operates Terminal 4 (Qantas domestic terminal).<sup>8</sup>

3.10 Under this framework, different private security firms are contracted to deliver security services in different parts of the airport. ISS Security Pty Ltd is contracted to provide security services for Terminals 1, 2 and 3, and MSS Security Pty Ltd is contracted to provide security services to Terminal 4. Within these arrangements, MSS Security Pty Ltd then employs subcontractors to carry out some security duties.<sup>9</sup>

3.11 United Voice claimed that MSS Security Pty Ltd utilises similar subcontracting arrangements in providing security services for the domestic Qantas division of Melbourne Tullamarine Airport.<sup>10</sup>

3.12 Evidence provided by Qantas appeared to corroborate the United Voice position. Qantas stated that it employed approximately 800 contractors dedicated to the provision of security services, and noted:

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4 *Aviation Transport Security Act 2004*, s. 94.

5 United Voice, *Submission 18*, p. 5.

6 United Voice, *Submission 18*, p. 5.

7 Department of Infrastructure and Regional Development, answers to questions taken on notice on 6 February 2015, pp. 1-4.

8 United Voice, *Submission 18*, pp. 5-6.

9 United Voice, *Submission 18*, pp. 5-6.

10 United Voice, *Submission 18*, pp. 5-6.

Qantas outsources the task of passenger and baggage screening as well as cargo examination obligations to third party screening contractors. The Contracted Security Services Unit (CSSU), which forms part of the Qantas Airlines security team, has prime responsibility for ensuring contracted services are provided in accordance with contractual arrangements, both from a performance and compliance perspective...

CSSU also manages the security screening equipment owned and deployed at...airports where Qantas is the Screening Authority.

The CSSU follows a governance process for both security suppliers and equipment that includes the utilisation of quality performance reports, annual performance reviews, service delivery monitoring and issue resolution processes.<sup>11</sup>

3.13 There is no legislative requirement that airport security workers must be direct employees of an airport operator, or the government. On this matter, the department stated that:

...industry is responsible for ensuring that their staff and contractors are appropriately trained to undertake any specific security roles and responsibilities as needed under the aviation security legislation.<sup>12</sup>

3.14 United Voice argued the decentralised approach to airport security has led to reduced levels of accountability that negatively impact not only the quality of the aviation security workforce, but also the level of service provided. To support this, United Voice noted different and less stringent security standards imposed on subcontracted employees than those covering directly contracted employees.<sup>13</sup>

3.15 United Voice detailed specific instances of where it felt subcontracted employees did not meet adequate security standards. It argued that subcontractors were provided with inferior security training in comparison to staff directly contracted by a screening authority. Anecdotal evidence suggested that subcontractors were unable to meet the minimum target requirements for detecting prohibited items, via x-ray screening. It was also suggested that contracting companies had a 'somewhat relaxed attitude' towards the competency and quality of subcontractors.<sup>14</sup>

3.16 Concerns were also raised about the different working conditions of subcontractors, resulting in unacceptably long work hours. A number of United Voice members indicated that in some cases, subcontractors worked beyond normal shifts, without adequate breaks between them, or worked other security jobs before their shift

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11 Qantas Airways Limited, *Submission 14*, pp. 6-7.

12 Department of Infrastructure and Regional Development, *Submission 3*, p. 5.

13 United Voice, *Submission 18*, pp. 7-10.

14 United Voice, *Submission 18*, p. 7.

at an airport. It was claimed that subcontractors were working extensive hours, leading to fatigue, and thus putting co-workers at risk.<sup>15</sup>

3.17 United Voice argued that when combined, these issues increased risk levels and compromised security and safety outcomes, both for airport employees and the travelling public.<sup>16</sup> It argued that:

Achieving the highest standards of aviation safety requires consistency. The decentralised model of security control and the increasing use of sub-contractors in this field has led to inconsistent security practices. This inconsistency exists between contractors and sub-contractors at the same airport as well as between airports across Australia.<sup>17</sup>

3.18 In addition, United Voice recommended:

...that if outsourcing, and particularly sub-contracting, continues to be permitted in Australian aviation security, contractors and sub-contractors must be held to the same high quality and high standards of training, qualifications, working conditions and security clearance requirements.<sup>18</sup>

3.19 However, Australia Pacific Airports (Melbourne) Pty Ltd (the Melbourne Airport) argued that some unwarranted concerns had been raised regarding contracted security service providers. It urged the committee to look at the evidence carefully as contracted providers are 'occasionally the subject of misinformed and misleading commentary by some parties'.<sup>19</sup>

### ***Screening processes***

3.20 AIPA argued that the 'repetitive screening of flight crew and the repetitive mini-power-plays by screeners' did not serve any security purpose and merely provided a visual image to the travelling public that security was taken seriously. It called for the complete halt of flight crew screening processes for these reasons.<sup>20</sup>

3.21 AIPA further noted that its members 'observe little or at best desultory security checking' of those airport staff who have airside access and who do not enter the airport via the airport terminal. It called for urgent action to address this inadequacy and the corresponding risk of unlawful entry. AIPA argued that the approach to airside access staff was in contrast to flight crew, who went through extensive security screening within the terminal. AIPA continued:

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15 United Voice, *Submission 18*, p. 8.

16 United Voice, *Submission 18*, pp. 7-10.

17 United Voice, *Submission 18*, p. 9.

18 United Voice, *Submission 18*, p. 10.

19 Australia Pacific Airports (Melbourne) Pty Ltd, *Submission 8*, pp. 5-6.

20 Australian and International Pilots Association, *Submission 6*, pp. 5, 6.



Until such time as Australia completes the establishment of uniform screening, we must presume that a serious threat to the safety of aircraft exists and that our security dollars are not being allocated on the basis of properly determined risks.<sup>21</sup>

3.22 In this regard, United Voice argued that any employees who have access to secure airport areas should be subject to metal detector screening and baggage examination. Additionally, all checked baggage should be subject to the same standards of security screening, including x-ray.<sup>22</sup>

3.23 Addressing some of these concerns, on 1 December 2016 the Minister for Infrastructure and Transport, the Hon Darren Chester MP, introduced amendments to the Act that would allow airports to randomly select people, vehicles and belongings for screening, while in an SRA, to search for prohibited weapons. The Minister continued:

The changes are the first stage of the Government's plans to strengthen airside security by mitigating the insider threat. In addition to screening of airport workers, the Government will also introduce stronger access controls for airside areas and security awareness training for airport and airline staff.<sup>23</sup>

### ***Passenger delays***

3.24 AIPA submitted that security screening processes resulted in queues or 'largely stagnant masses of people', who were kept at the front of passenger terminals with limited freedom of movement. While noting that appropriate risk assessments had likely been undertaken by the relevant agencies, AIPA considered this a security concern and encouraged procedural changes that would improve the movement of people through screening.<sup>24</sup>

3.25 This concern was also raised by Mr Kessing, who highlighted the security impact of disruptions to people movement:

Delays in the filtering process can be exponentially expensive as even small disruptions to the free flow of people can bring chaos which then ripples out to other areas, especially domestic and international connections.<sup>25</sup>

3.26 A similar point was raised by ASIAL, which argued that the security screening of passengers could cause delays in airports. It suggested improvements to ameliorate these situations:

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21 Australian and International Pilots Association, *Submission 6*, pp. 4, 6.

22 United Voice, *Submission 18*, p. 3.

23 Minister for Infrastructure and Transport, the Hon Darren Chester MP, 'New measures to strengthen airport security', *Media Release DC206/2016*, 1 December 2016.

24 Australian and International Pilots Association, *Submission 6*, pp. 5, 6.

25 Mr Allan Kessing, *Submission 21*, p. 4.

The International Air Transport Association (IATA) has indicated that on average security checkpoint passenger processing per hour has decreased 50% since [the] 9/11 terrorist attack in 2001. Strategies to increase checkpoint throughput rates are required to enhance operational efficiencies without degrading security measures.

...Strategies including more appropriate passenger targeting, passenger behavioural risk management and passenger education coupled with a more customer service screening officer approach could increase passenger throughput rates without diminishing security.<sup>26</sup>

### ***Screening training***

3.27 ASIAL noted a reduction in security certificate training courses available for screening staff, and the risks associated with limiting training providers. ASIAL argued that several training providers recognised that screening with a customer focus improves the passenger experience and assists with the flow of passengers through security checkpoints. ASIAL called for an 'open training environment for security screening to enhance options, resource management and system transparency'.<sup>27</sup>

3.28 In an example of issues in training screening staff, the National LGBTI Health Alliance (the Alliance) raised concerns with the committee about the inappropriate behaviour and attitudes of some airport screening and security staff towards LGBTI people. The Alliance had received numerous complaints from its members about discrimination and mistreatment in airport security contexts, and argued that airport security should operate within the sex discrimination laws, to safeguard the LGBTI community from discrimination and unwarranted attention.<sup>28</sup>

3.29 The Office of the Inspector of Transport Security (OITS) advised the committee that it had been instructed in 2013 by the then Minister for Infrastructure and Regional Development to 'inquire into aviation and maritime transport security education and training in Australia'.<sup>29</sup>

3.30 Under the terms of reference, OITS was required to examine, among other things, current industry and other in-house security training programs; review the standards of security training in the industry, and 'identify areas of inconsistency in education and training in the aviation and maritime industries in security related positions and tasks'.<sup>30</sup>

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26 Australian Security Industry Association Limited, *Submission 13*, pp. 2-3.

27 Australian Security Industry Association Limited, *Submission 13*, p. 5.

28 National LGBTI Health Alliance, *Submission 20*.

29 Office of the Inspector of Transport Security, *Submission 15*, p. 2.

30 Office of the Inspector of Transport Security, *Submission 15*, p. 3.

3.31 Despite a scheduled reporting date in the first half of 2015, it appears the inquiry is yet to be finalised. In March 2016, the department indicated the inquiry's report would be finalised by mid-2016 but this does not appear the case.<sup>31</sup>

3.32 The OITS was also due to cease as of 30 June 2015 following the rationalisation of Commonwealth agencies, with the Inspector instead appointed on a retainer basis. A new Inspector of Transport Security was appointed in late 2015.<sup>32</sup>

3.33 The committee is concerned that the OITS review does not appear to have been completed, under the new Inspector of Transport Security. Given the wide consultation undertaken during the OITS review, including over 150 meetings across Australia, consultation with international peak bodies and input from key industry stakeholders,<sup>33</sup> it would be advantageous for the review's findings and recommendations to be released.

### **Screening costs**

3.34 A number of contributors to the inquiry raised concerns about the cost of security screening and associated processes, particularly the disproportionate cost of security measures on rural and regional airports.

3.35 The RAAA noted that while it was a strong supporter of security screening, the matter had been reviewed a number of times in recent years with further reviews likely. Due to the high cost of screening, the RAAA encouraged its use only 'in airports where the threat assessment warrants such a process', and that screening should be avoided:

...where the threat assessment does not justify the introduction and where the cost will be prohibitive to the continued provision of regular air services, for example, small regional and rural airports with low passenger numbers served by small aircraft and where the treat assessment does not recommend the introduction of screening.<sup>34</sup>

3.36 Regional Express Holdings Ltd presented similar arguments as the RAAA about screening. While it was supportive of the process, it maintained that screening should only be introduced where the threat level warrants it and the costs are not prohibitive to the main function of air services. Regional Express argued that for

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31 Department of Infrastructure and Regional Development, *Inquiry into Aviation and Maritime Transport Security Education and Training in Australia*, 29 March 2016, <https://infrastructure.gov.au/security/its/inquiry.aspx> (accessed 30 January 2017).

32 Office of the Inspector of Transport Security, *Submission 15*, p. 3; Department of Infrastructure and Regional Development, *Inquiry into Aviation and Maritime Transport Security Education and Training in Australia*, 29 March 2016.

33 Department of Infrastructure and Regional Development, *Inquiry into Aviation and Maritime Transport Security Education and Training in Australia*, 29 March 2016, <https://infrastructure.gov.au/security/its/inquiry.aspx> (accessed 30 January 2017).

34 Regional Aviation Association of Australia, *Submission 9*, pp. 3-4.

smaller rural and regional airports, with limited passenger traffic, 'the screening cost would certainly mean that the community would lose its air services'.<sup>35</sup>

3.37 This position was also advanced by ASIAL, who noted that the requirement for regional airports to undertake security screening has increased costs to those airports. Any increased cost as a result of security technology 'may impact on the viability of many regional airports although regional areas need to maintain the benefits provided by the offered air services'.<sup>36</sup>

3.38 ASIAL called for a review of regional airport security classifications, noting that:

Regional airports with a lower classification should not be permitted to disembark passengers and/or cargo at higher classified airports without the passengers/baggage/cargo being subject to inbound security clearance before entering the higher classified airports secure area.<sup>37</sup>

3.39 The department acknowledged in its submission that the varying risk profiles and operating circumstances between Australia's varied airports would see different screening methods and technologies used at different categories of airport.<sup>38</sup>

### **ANAO audit of passenger screening 2016**

3.40 In this report, the ANAO was very critical of the department's oversight of passenger screening systems:

The Department has implemented a regulatory framework that establishes minimum standards for passenger screening and a program of compliance activities at security controlled airports. However, the Department is unable to provide assurance that passenger screening is effective, or to what extent screening authorities comply with the Regulations, due to poor data and inadequate records. The Department does not have meaningful passenger screening performance targets or enforcement strategies and does not direct resources to areas with a higher risk of non-compliance.<sup>39</sup>

3.41 The ANAO found that over 100 recommendations had been made regarding passenger screening, including the need for the department to develop performance measures, analyse compliance data, implement an enforcement policy and provide effective and adequate training. However, solutions had yet to be delivered, despite

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35 Regional Express Holding Ltd, *Submission 11*, p. 2.

36 Australian Security Industry Association Limited, *Submission 13*, p. 2.

37 Australian Security Industry Association Limited, *Submission 13*, p. 3.

38 Department of Infrastructure and Regional Development, *Submission 3*, p. 9.

39 Australian National Audit Office, ANAO Report No. 5. 2016–17, *Passenger Screening at Domestic Airports*, August 2016, p. 7.

the identification of these gaps in the department's regulatory capability by successive reviews since 2009.<sup>40</sup>

3.42 In its response to the ANAO report, the department noted that it 'agrees with all the recommendations'. As part of its response, the department provided an outline of the three key elements of future departmental reforms already underway, including:

- broad reform of departmental transport security regulatory operations to ensure the OTS is 'well positioned to respond to changing threats and risks, future industry growth and diversification, and that its approvals and compliance operations are efficient';
- improving the department's collection and analysis of data pertaining to passenger screening. This includes 'revising its compliance approach to better incorporate non-compliance risk into its planning'; and
- establishing a Working Group to 'develop a framework to measure the effectiveness and extent that screening authorities are complying with passenger screening regulations'. This framework will incorporate 'regular inspections and audits that are undertaken to monitor an airport's compliance with passenger security screening requirements' including testing the effectiveness of their ability to 'detect and control the entry of prohibited items and weapons into the sterile area'.<sup>41</sup>

3.43 During a Senate Estimates hearing on 22 November 2016, the department provided an update on its implementation of the ANAO's recommendations. While noting the difficulties in measuring security, the department explained that it was working with industry on its performance data to support the development of key performance indicators, to measure the performance of passenger screening.<sup>42</sup>

3.44 The committee notes that the recommendations made by the ANAO support evidence considered over the course of this inquiry.

### **Airport staff security vulnerabilities**

3.45 The committee spoke with Mr Allan Kessing, a former ACS who contributed to two confidential reviews of security at Sydney Airport. Mr Kessing's team prepared a first report on security screeners, which was completed in late 2002. A second report examined a number of airport staff and activities and their relevance to airport security. This report was completed in mid-2003.<sup>43</sup>

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40 Australian National Audit Office, ANAO Report No. 5. 2016–17, *Passenger Screening at Domestic Airports*, August 2016, p. 19.

41 Australian National Audit Office, ANAO Report No. 5. 2016–17, *Passenger Screening at Domestic Airports*, August 2016, pp. 10-11.

42 Department of Infrastructure and Regional Development, *Estimates Hansard*, 22 November 2016, pp. 26-29.

43 Mr Allan Kessing, *Submission 21*, p. 1.

3.46 The reports were heavily critical of the security arrangements then applicable in Sydney Airport.<sup>44</sup>

### **2002 report**

3.47 The 2002 report, 'Threat Assessment of Sydney Airport Screening Personnel', noted that security breaches at Sydney Airport included:

unauthorised access, the unlawful purchase of duty free products, the facilitation of passengers in bypassing the screening points and the alleged involvement within an internal conspiracy to import narcotics.<sup>45</sup>

3.48 According to Mr Kessing, the first report compiled by the unit provided comprehensive evidence of:

...accumulated abuses of Customs regulations, theft, smuggling and systemic criminality. Long time failures had been set in concrete during the run-up to the Olympics and many new rorts and abuses had been accreted on since then.<sup>46</sup>

3.49 The report provided evidence of staff with a criminal history who were employed in a security role, including one individual who had a conviction and eight-year sentence for the possession of a prohibited import (narcotics). Other offences included 'violence, aggravated assaults, motor vehicle thefts, car re-birthing, escape from custody, and numerous firearm offences'.<sup>47</sup>

3.50 The report also examined the provision of screening services at Sydney Airport, then undertaken by Sydney Night Patrol (SNP). SNP operated autonomously and had commenced employing casual staff, through subcontracting arrangements. The report noted:

Increased security scrutiny has forced many guards to undergo additional security training in relation to the operation of x-ray imaging equipment and the use of metal detecting hand scanners. Not all security personnel, including the casually employed, underwent this training, or were capable of completing the training.<sup>48</sup>

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44 Heavily redacted versions of these reports were published in 2013 by the Department of Immigration and Border Protection, subsequent to a Freedom of Information request.

45 Australian Customs Service, *Threat Assessment of Sydney Airport Screening Personnel*, 2002, p. 4.

46 Allan Kessing, 'My side of the story', Crikey Online available at [www.crikey.com.au/2009/09/14/allan-kessing-my-side-of-the-story/](http://www.crikey.com.au/2009/09/14/allan-kessing-my-side-of-the-story/) (accessed 24 October 2016).

47 Australian Customs Service, *Threat Assessment of Sydney Airport Screening Personnel*, 2002, p. 11.

48 Australian Customs Service, *Threat Assessment of Sydney Airport Screening Personnel*, 2002, p. 7.

3.51 The report recommended adopting an approach similar to the US, where security screeners become federal employees. It was hoped that this would 'result in better dedication, allegiance, job satisfaction and a greater sense of job permanency'.<sup>49</sup>

3.52 However, recent media reports indicate that airport security in Australia is more robust than in other countries, including in the US. As reported in *The West Australian*:

The US failure rate for detecting weapons is alarming. Last year [2015] it was revealed the failure rate was 95 per cent for dummy weapons carried out at screening points at locations across the US. Transport Security Administration staff, did not detect weapons in 67 of 70 tests. In one test, an undercover agent was stopped when he set off the checkpoint alarm but staff failed to find a fake explosive taped to his body when they patted him down.<sup>50</sup>

### **2003 report**

3.53 The 2003 report, 'Sydney Airport Air Border Security: Risk Analysis 2003', supported the findings of the 2002 report, with investigators finding that 'a high number of personnel [were] selected on recommendations by existing staff members, with limited checking of criminal histories'. Incidences of theft from aircraft stores, cargo and passenger baggage were also discovered.<sup>51</sup>

3.54 The investigations that formed the basis of the report focused on staff across a variety of airport services. This included staff from the blanket bay, baggage handling, aircraft and airport cleaning, air crew, aircraft engineering, ramp operations, toilet truck and water truck driving, refuelling, catering, security screening, supporting services and retail outlets.<sup>52</sup>

3.55 Air crew were found to be particularly high risk to border security, given their interactions with passengers and all other working groups that approach arriving aircraft. The report's risk assessment found 'baggage handlers, ramp handlers and aircraft cleaners as having the greater potential to become involved in organised crime or an internal conspiracy'.<sup>53</sup>

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49 Australian Customs Service, *Threat Assessment of Sydney Airport Screening Personnel*, 2002, pp. 14-15.

50 Geoffrey Thomas, 'Airport weapon seizures soar', *The West Australian*, 25 October 2016, <https://au.news.yahoo.com/video/watch/32995538/credit-card-knives-found-at-our-airports/?cmp=st> (accessed 6 December 2016).

51 Australian Customs Service, *Sydney Airport Air Border Security: Risk Analysis*, 2003, pp. 1-2.

52 Australian Customs Service, *Sydney Airport Air Border Security: Risk Analysis*, 2003, pp. 12-61.

53 Australian Customs Service, *Sydney Airport Air Border Security: Risk Analysis*, 2003, pp. 29, 62.

3.56 Research indicated to the investigators that both NSW Police and the AFP had major concerns about high levels of criminal behaviour occurring in the basement areas of Sydney Airport, involving a number of persons of interest and crime syndicates. Police were at the time continuing their investigations.<sup>54</sup>

3.57 The 2003 ACS report also found that there was a lack of co-ordinated law enforcement activities in airports. It argued that:

The risks posed by terrorism should not be underestimated at any international airport as personnel arrive for duty each day by entering through staff gates unscreened into restricted areas, with access to aircraft and airport facilities.<sup>55</sup>

3.58 The report acknowledged the unique opportunities for criminality in an airport environment. It made a number of important conclusions, including that:

There is a need to convince the airport community that turning its attention towards the problem of internal conspiracy or criminal networks is as equally important as the attention to other issues – which fall under the umbrella of aviation security. There is a general tendency among airline management to refuse to acknowledge the possibility of internal conspiracies being applicable to their staff...there is a current need to fully identify persons working in organisations which could pose a risk in terms of overall aviation security.<sup>56</sup>

3.59 In 2005, soon after some excerpts of both reports were published in *The Australian* newspaper, the Australian Government announced a review of Australian aviation security to address the serious issues raised (the Wheeler Review).

3.60 The Wheeler Review drew on the findings of the ACS 2002 and 2003 reports to recommend that the AGD work with state and territory governments to require that private security officers in the aviation industry, including those responsible for screening at airports, be background-checked, licenced and trained to more adequate minimum national standards. Wheeler also recommended that the involved department require a more comprehensive training program for all security related airport staff.<sup>57</sup>

### ***Current situation***

3.61 Mr Kessing claimed that no action had been taken to address the security issues raised within the 2002 and 2003 reports. Mr Kessing argued that:

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54 Australian Customs Service, *Sydney Airport Air Border Security: Risk Analysis*, 2003, p. 18.

55 Australian Customs Service, *Sydney Airport Air Border Security: Risk Analysis*, 2003, pp. 8, 10.

56 Australian Customs Service, *Sydney Airport Air Border Security: Risk Analysis*, 2003, p. 63.

57 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 78.



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The Wheeler Report endorsed my second report and proposed changes which the government promised \$200 million to implement. I suggest that the recommendations of the Wheeler Report...have not been effectively implemented.<sup>58</sup>

3.62 Despite his absence from Australian Customs for some time, Mr Kessing argued that 'the similarities of [current] reported offences, breaches and arrests of officers suggest that there has been little improvement in the [security] situation despite the many reports and recommendations, both commercial and official'.<sup>59</sup>

3.63 Mr Kessing maintained that the 'greatest vulnerability in an airport is ground staff', given these employees are often low skilled, engaged casually or part-time, and yet have access to restricted and secure areas. With a focus on passengers, ground staff are often neglected. He concluded that the 'currently highly disruptive and expensive screening undergone by innocent travellers is out of all proportion to the threat they pose'.<sup>60</sup>

3.64 Mr Kessing suggested that, while proper background checking could delay employment processes, it would prevent the unemployment of unsuitable staff especially as subcontractors. Mr Kessing reiterated the Wheeler Review position that the 'use by subcontractors of external staff is an example of the commercial imperative being inimical to security'.<sup>61</sup>

3.65 Mr Kessing proposed that security resources and financing would be better directed to 'intelligence targeting which would be more effective in identifying potential threats'.<sup>62</sup> Mr Kessing continued:

screening, however ineffective, must remain purely as a very visible deterrent. However, I would advocate that the real resources be put into intelligence gathering, proper analysis and proper targeting to stop potential threats before they have breakfast and leave home.<sup>63</sup>

## **Committee view and recommendations**

### ***Contracting of airport security***

3.66 Numerous aviation reviews have identified long-term and ongoing issues with the engagement, training and background checking of security screening and other

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58 Mr Allan Kessing, *Submission 21*, p. 1.

59 Mr Allan Kessing, *Submission 21*, p. 1.

60 Mr Allan Kessing, *Submission 21*, pp. 2-3.

61 Mr Allan Kessing, *Submission 21*, p. 4.

62 Mr Allan Kessing, *Submission 21*, p. 3.

63 Mr Allan Kessing, private capacity, *Committee Hansard*, 24 November 2016, p. 6.

airport staff. Despite these reviews and recommendations, some airport staffing practices continue to present ongoing and significant security risks.

3.67 In 2011, the PJCLE raised serious concerns about the potential for security lapses as a result of high staff turnover, particularly of security guards. To address this concern, it recommended that security at major airports be undertaken by a suitably trained government security force.<sup>64</sup>

3.68 However, this recommendation was not accepted by the government on the basis that the industry-led and government-regulated model provided an 'effective, efficient and sustainable security service, notwithstanding evolving threats, increased security requirements, and increase in domestic and international aviation traffic'.<sup>65</sup> Its September 2011 response further noted that:

[a] more centralised model was not supported on the grounds that a government agency screening model would be overly prescriptive, more expensive and less efficient than current arrangements.<sup>66</sup>

3.69 The committee encourages the government to rethink this position. Evidence considered by the committee suggests that the issues raised by the PJCLE still exist and, if not properly regulated, the use of subcontracted workers could continue to create vulnerabilities in Australia's aviation security framework.

3.70 Likewise, it appears to the committee that the concerns and recommendations of Wheeler in relation to screening have not been addressed or implemented. Evidence to the committee suggests that there does not appear to be an adequate framework for the department to work with screening authorities. Such work would ensure third-party screening providers implement practices supporting appropriate minimum standards in staff training, security clearance requirements, working conditions and performance levels.

3.71 The department stressed its regulatory relationship was with the nominated screening authority (the airport operators), rather than the screening providers themselves.<sup>67</sup> This arrangement has created a disconnect between regulations and the quality of security services being provided on the ground at airports, by third parties.

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64 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, Recommendation 2, June 2011, p. 38.

65 Australian Government Response to the Report of the Parliamentary Joint Committee on Law Enforcement, September 2011, p. 5.

66 Australian Government Response to the Report of the Parliamentary Joint Committee on Law Enforcement, September 2011, p. 6.

67 Ms Pauline Sullivan, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, p. 66.

3.72 It is clear that security screening standards should remain consistent across the sector, irrespective of whether staff are directly employed by screening providers, or contracted or subcontracted by security companies.

3.73 Additionally, given the evidence before the committee regarding aviation security training and outsourcing, and the serious consequences that may result from inadequate security training and education, the committee encourages the government to finalise its inquiry into aviation security training, and address any security issues that may arise from the inquiry's findings.

### **Recommendation 2**

**3.74 The committee recommends that the Inspector of Transport Security complete and publish its review into aviation security training and education as soon as practicable.**

### **Recommendation 3**

**3.75 The committee recommends that the Department of Infrastructure and Regional Development develop a framework to ensure that subcontracted screening bodies have appropriate employment standards and provide security training and services consistent with those provided by screening authorities under the Aviation Transport Security Regulations 2005. The framework should take into account any inconsistencies in the training and education as identified by the Inspector of Transport Security.**



# Chapter 4

## Mandatory and voluntary reporting

4.1 This chapter examines matters arising from the 2014 Seven Network reports on aviation security, including:

- the substance of these reports, including implications for the integrity of Australia's air security framework;
- the material obtained by Mr Bryan Seymour of the Seven Network through FOI requests made to the department;
- the reaction of aviation industry stakeholders to these reports; and
- any changes in the rates of voluntary reporting of security incidents to the department since these reports first aired.

### Seven Network reports into Australian aviation and airport security

4.2 In July and November 2014, the Seven Network ran four reports by senior network journalist Mr Bryan Seymour, on security breaches at Australian airports. These reports were based on documents obtained from the department through an FOI process begun in May 2014.<sup>1</sup>

4.3 The documents released by the department outlined 282 security breaches that were recorded between January 2012 and April 2014, at the Perth, Adelaide, Melbourne, Sydney, Brisbane and Gold Coast airports. The majority of the incidents recorded in these documents were of two types:

- occasions when unauthorised individuals breached the 'sterile area' of an airport;<sup>2</sup> and
- occasions when prohibited items or weapons missed during routine passenger screening were subsequently detected or surrendered in sterile areas or on board aircraft. Examples of prohibited items detected in sterile areas over this period included knives and tools, such as screwdrivers, pliers, scissors and box cutters. Examples of weapons detected included pepper spray, tasers and bullets.<sup>3</sup>

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1 These documents were provided to the committee as an attachment to the submission by Mr Bryan Seymour, *Submission 1*, p. 1.

2 The sterile area of an airport means any area beyond passenger screening. See Aviation Transport Security Regulations 2005, s. 3.20.

3 Mr Bryan Seymour, *Submission 1*, Attachment 1, pp. 4, 18-58.

4.4 The committee is aware that Mr Seymour has continued to investigate security breaches at Australian airports, most recently reporting on the regular discovery of 'credit card' knives being undetected by screening programs.<sup>4</sup>

4.5 Through additional FOI requests, Mr Seymour and the Seven Network obtained documents detailing 100 weapons confiscated from Australian airports. The committee notes with concern that these 100 confiscations occurred over a short period of time, between 18 March and 8 May 2016, and included fifteen handguns and a rifle.<sup>5</sup>

4.6 Additionally, the FOI documents revealed that 75 'credit card' knives were seized over this period. These are small, foldable knives that are designed to look like a credit card and fit inside a standard wallet. Although they are banned in Australia (with the exception of Western Australia<sup>6</sup>), they are easily obtained through internet sellers for very low costs. The Seven Network reported that 39 were found at Melbourne airport; 14 in Sydney; 11 in Adelaide; 11 in Brisbane and 3 in Canberra.<sup>7</sup>

4.7 It has since been reported elsewhere that the majority of prohibited items seized at the Canberra Airport from 2013-14 onwards have been credit card knives, followed by scissors and pocket knives. Only rarely were more serious weapons discovered, such as capsicum spray and knuckle dusters.<sup>8</sup>

### **Industry reactions to media reports**

4.8 Much of the evidence from industry stakeholders highlighted the need to resist reacting prematurely to media reports or commentary, and to exercise caution in developing policy and legislation for aviation security. A number of submitters also expressed concerns with the content of the media reports.

4.9 The AAA highlighted the importance of well-considered security policy development and implementation in the aviation sector:

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4 See 'Credit card knives' found at our airports', *Yahoo News*, 24 October 2016, <https://au.news.yahoo.com/video/watch/32995538/credit-card-knives-found-at-our-airports/?cmp=st> (accessed 26 October 2016).

5 Geoffrey Thomas, 'Airport weapon seizures soar', *The West Australian*, 25 October 2016, <https://thewest.com.au/news/wa/airport-weapon-seizures-soar-ng-ya-121528> (accessed 6 December 2016).

6 In Western Australia credit card knives do not meet the criteria of a disguised weapon; see 6PR Interview with Nicole Young, 'WA's hidden knife loophole', *6PR News Talk*, 8 November 2016, <http://www.6pr.com.au/news/was-hidden-knife-loophole-20161108-gsky0u.html> (accessed 6 December 2016).

7 See 'Credit card knives' found at our airports', *Yahoo News*, 24 October 2016.

8 Emily Baker, 'Australian Federal Police seize 168 weapons from Canberra Airport', *Canberra Times*, 19 December 2016, <http://www.canberratimes.com.au/act-news/australian-federal-police-seize-168-weapons-from-canberra-airport-20161212-gt9c84.html> (accessed 19 December 2016).

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The AAA believes that any changes to the regulation of aviation security, which may result in additional resources or procedures, must be driven by Government led intelligence and applied utilising a practical, efficient, risk-based approach. The AAA certainly does not recommend considering any changes to the aviation security regulatory framework on the basis of isolated media reports that failed to take into account the layered approach taken to aviation security in Australia, which has been highly successful in preventing unlawful interference.<sup>9</sup>

4.10 This position was supported by ASIAL, which stated that:

The recent security incidents raised should not cause knee-jerk reactions but a thoughtful approach in gaining advantage in improved equipment operation, staff training, national standards, recognition or commercial reality and public education.<sup>10</sup>

4.11 Mr Robin Darroch told the committee that any modification of current aviation security regulations should be based on evidence, rather than on the ability of media bodies to create a story out of it. Mr Darroch argued that:

...a considerable number of recent amendments to security regulations have been unnecessary and ill advised, resulting in greater inconvenience to the travelling public, in greater inconvenience to those employed in the air transport industry and/or in banning practices that pose no real threat to aviation security, without marked or significant improvements in the resultant security environment. Although various submissions and the terms of reference of this inquiry refer to hundreds of procedural breaches, there has been no evidence presented...that any of those breaches have resulted in genuine threats to the safety of Australian aviation operations.<sup>11</sup>

4.12 AIPA held a similar view, noting:

...the media coverage, whilst legitimately based, was perhaps a little overblown in certain areas. AIPA believes that any response must be balanced with a realistic approach of what is achievable and what is reasonable within costs, without excessive social impacts.<sup>12</sup>

4.13 AIPA also submitted to the committee that the media report detailed breaches of security that had been detected and recorded by the relevant agencies. AIPA was instead more concerned with the risk presented by those instances where security breaches were not detected.<sup>13</sup>

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9 Australian Airports Association, *Submission 17*, p. 5.

10 Australian Security Industry Association, *Submission 13*, p. 6.

11 Mr Robin Darroch, private capacity, *Committee Hansard*, 6 February 2015, p. 26.

12 Captain Dick MacKerras, Australian and International Pilots Association, *Committee Hansard*, 6 February 2015, p. 46.

13 Australian and International Pilots Association, *Submission 6*, p. 3.

4.14 Moreover, AIPA also noted that some perceived vulnerabilities in our domestic aviation security were actually common systemic problems globally:

...we deal publicly with inappropriately targeted security measures that are largely uncorrelated with the risk but are in plain sight; and we deal privately with unmitigated security risks and ineffective processes that the public rarely sees. We also believe that any public examination of aviation security measures such as this present inquiry needs to clearly distinguish which of the publicised shortcomings are specific to the Australian situation rather than symptomatic of the economics of aviation security measures worldwide.<sup>14</sup>

4.15 Melbourne Airport urged the committee not to base its inquiries on media reports, considering this a 'superficial basis on which to conduct an inquiry'. It argued that, in this instance, 'the media report in question was poorly informed and highly sensationalist in its approach'.<sup>15</sup>

4.16 Some evidence to the committee made the point that a large part of the current aviation security framework is not immediately visible to the media or travelling public. For example, AIPA highlighted the difficulties associated with discussing aviation security in a public forum in any nuanced and meaningful way. Most seriously, it put forward the view that engendering fear about aviation security in the public domain could arguably be more dangerous than inculcating a sense of complacency.<sup>16</sup>

4.17 The department advised the committee to consider the number of breaches against the total number of passengers that were screened over the period:

There were 282 breaches over a 27-month period. In the context of what is going on at airports, that is 56 million passengers travelling on Australian domestic flights in that period and over 29 million on international flights. So, even if we have not accounted for growth, we can estimate that in that period about 192 million passengers flew to, from and within Australia during the period of that FOI request. That equates to approximately one incident for every 685,999 passengers.<sup>17</sup>

4.18 Considering this broad perspective, the department argued that the number of breaches was not excessive, given that there would always been some lapses in a security framework that relied so heavily on human judgement:

In our view, given that we are talking about systems that have an element of human judgement and skill involved, while we agree it is not perfect, no

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14 Australian and International Pilots Association, *Submission 6*, p. 2.

15 Australian Pacific Airports (Melbourne) Pty Ltd, *Submission 8*, p. 7.

16 Australian and International Pilots Association, *Submission 6*, p. 2.

17 Ms Sachi Wimmer, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, p. 68.



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system can be infallible. Security and safety systems always have an element of failure because of human involvement and judgement.<sup>18</sup>

### ***Layered approach to aviation security***

4.19 When asked to comment on the media report, witnesses from across the aviation sector repeatedly emphasised to the committee the international 'layered approach' to aviation and airport security that characterises Australia's current security regulations.

4.20 The layered approach includes intelligence information sharing and policing, physical security measures (such as screening, perimeter fencing and CCTV monitoring), and identification card programs. The AAA argued that multiple layers of airport security have prevented any significant aviation security incidents at Australian airports.<sup>19</sup>

4.21 The department informed the committee about the ICAO framework that underpins aviation security regulations in Australia.<sup>20</sup> It submitted that the layered approach taken by the ICAO had international credence among its member states and that:

While no system is infallible, a layered approach means that should one security layer be ineffective, there is a strong likelihood that another layer may be effective. This approach is based on the principle of 'security in depth', that is, the more layers of security, the less chance an attack will occur or be successful.<sup>21</sup>

4.22 In addition, the AFP noted it worked in close partnership with state and federal agencies, as well as airport operators to provide a layered approach to security and law enforcement. According to the AFP, this approach delivers a robust aviation security system for Australia.<sup>22</sup>

4.23 Mr Simon Bourke, AAA, also highlighted the strengths of a layered approach to aviation security:

...no one particular layer is infallible, and that is completely acknowledged and accepted by the industry. The regulations and the security network at

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18 Ms Sachi Wimmer, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, p. 68.

19 Australian Airports Association, *Submission 17*, pp. 6-7.

20 Department of Infrastructure and Regional Development, *Submission 3*, p. 10.

21 Department of Infrastructure and Regional Development, *Submission 3*, p. 7.

22 Australian Federal Police, *Submission 16*, p. 7.

airports are designed to mitigate the errors that can occur at particular points with subsequent layers of security.<sup>23</sup>

4.24 The department also directly addressed claims made by the Seven Network reports that suggested passenger safety could be severely compromised by security breaches. The department argued in favour of the layered approach:

Often the perception is that the very obvious layers such as passenger screening are critical and that minor breaches indicate significant flaws in the aviation security system. However...these layers are part of a complex and integrated system of security underpinned by robust, well-informed risk analysis.<sup>24</sup>

### **Impact of media reports and FOI requests on voluntary reporting rates**

4.25 The committee was particularly interested in determining whether the 2014 FOI process undertaken by the Seven Network had any negative effect on the reporting of security incidents by aviation industry stakeholders, as claimed by Mr Seymour.<sup>25</sup>

4.26 To determine whether there has been a decline in the number of security incidents reported under mandatory and voluntary reporting schemes, the committee sought further information from industry stakeholders, about both the nature of the schemes and participation rates.

#### ***Mandatory reporting scheme***

4.27 Ms Sachi Wimmer, OTS, clarified for the committee that mandatory reporting did exist under the Act with certain aviation industry stakeholders formally required to report aviation security incidents to the department, namely:

...airport and aircraft operators; persons with incident reporting responsibilities, which include aviation security inspectors—they are our employees; airport security guards; screening officers; and certain other industry participants, including air cargo regulated agents, and also employees of aviation industry participants that we regulate.<sup>26</sup>

4.28 Under this requirement, all incidences of 'unlawful interference' must be reported, which the Act defines as any of the following done without lawful authority:

- (a) taking control of an aircraft by force, or threat of force, or any other form of intimidation or by any trick or false pretence;

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23 Mr Simon Bourke, Australian Airports Association, *Committee Hansard*, 6 February 2015, p. 18.

24 Department of Infrastructure and Regional Development, *Submission 3*, p. 10.

25 Mr Bryan Seymour, Seven Network, *Committee Hansard*, 6 February 2015, p. 2.

26 Ms Sachi Wimmer, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, p. 64.

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- (b) destroying an aircraft that is in service;
  - (c) causing damage to an aircraft that is in service that puts the safety of the aircraft, or any person on board or outside the aircraft, at risk;
  - (d) doing anything on board an aircraft that is in service that puts the safety of the aircraft, or any person on board or outside the aircraft, at risk;
  - (e) placing, or causing to be placed, on board an aircraft that is in service anything that puts the safety of the aircraft, or any person on board or outside the aircraft, at risk;
  - (f) putting the safety of aircraft at risk by interfering with, damaging or destroying air navigation facilities;
  - (g) putting the safety of an aircraft at risk by communicating false or misleading information;
  - (h) committing an act at an airport, or causing any interference or damage, that puts the safe operation of the airport, or the safety of any person at the airport, at risk.
- (2) However, *unlawful interference with aviation* does not include lawful advocacy, protest, dissent or industrial action that does not result in, or contribute to, an action of a kind mentioned in paragraphs (1)(a) to (h).<sup>27</sup>

### ***Voluntary reporting scheme***

4.29 The voluntary reporting scheme was created with the intention of allowing the reporting of incidents beyond those mandated under the Act.<sup>28</sup> The department noted:

Voluntary reports to the department can be made by people who are required to report incidents under the Act, if they are reporting a type of incident that is not covered by the Act, or people who are not required to report incidents under the Act. So, it actually just expands the mandatory reporting and makes it even broader.<sup>29</sup>

4.30 The department told the committee that the voluntary reporting scheme was 'originally established as a means of encouraging the reporting of security-related events' that were not required to be reported under the Act. This system was intended to augment legislative provisions to 'strengthen the link between security events and

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27 *Aviation Transport Security Act 2004* s. 10.

28 Department of Infrastructure and Regional Development, answers to questions taken on notice on 6 February 2015 (received 15 February 2015), p. 10.

29 Ms Sachi Wimmer, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, p. 64.

occurrences with intelligence analysis, targeted compliance activity, policy development and provision of information to industry'.<sup>30</sup>

4.31 Mr Gary Bowden, AAA, told the committee that the voluntary scheme is a joint effort between the aviation industry and the department to ensure a robust and strong security management system. He commented that it was premised on the view that:

...if [stakeholders] reported those incidents we could better analyse the data and the trends and investigate them properly. That would better inform our future focus on human factors or technology development.<sup>31</sup>

4.32 The department outlined the types of incidents that have been reported under the voluntary reporting scheme (in addition to those incidents captured under the mandatory reporting scheme set out in the Act), including:

- weapons or prohibited items in a sterile area or on board an aircraft;
- unauthorised access to a secure area;
- perimeter damage;
- suspicious activity (including outside perimeter areas); and
- failure of a person or persons to comply with identification requirements.<sup>32</sup>

4.33 It appears to the committee that many of the incidents outlined in the documents obtained by the Seven Network – such as those involving the detection of a prohibited item, for example scissors or box cutters, in a sterile area – would have been reported to the department under the voluntary scheme, rather than the mandatory scheme.

4.34 It was noted in submissions to the committee that there may be benefits of not legislating the reporting of all security incidents at airports. Mr Robin Darroch argued that some regulated security measures distract from more important tasks, stating '[t]he longer the list is, and the more work people are doing to spot things on that list, the less anyone is likely to notice that one critical case of something that just isn't right'.<sup>33</sup>

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30 Department of Infrastructure and Regional Development, answers to questions on notice 6 February 2015 (received 15 February 2015), p. 2.

31 Mr Gary Bowden, Australian Airports Association, *Committee Hansard*, 6 February 2015, pp. 13-14.

32 Department of Infrastructure and Regional Development answers to questions on notice 6 February 2015 (received 15 February 2015), p. 10.

33 Mr Robin Darroch, *Submission 2*, p. 3.

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***Impact of media reports on voluntary reporting rates***

4.35 Mr Seymour told the committee that his reports caused some stakeholders to withhold some reporting of security incidents to the department, due to concerns over potential FOI requests in the future. Mr Seymour also stated that:

the review of a FOI decision in favour of the Seven Network revealed that many airports now do not voluntarily report security incidents as a result of our FOI request, meaning the public is now less informed than before on what is really going on at our airports.<sup>34</sup>

4.36 This claim was substantiated by an internal review decision of the department. In this, Mr Andrew Wilson, Deputy Secretary of the department, stated:

...I note that some of the [Aviation Industry Participants] have already ceased voluntary reporting to the Department on aviation security incidents due to this FOI request, and therefore similar information may not be obtained in the future.<sup>35</sup>

4.37 The department did concede that some industry stakeholders were concerned about the implications of the Seven Network FOI decision review:

On voluntary reporting, when the FOI report came in we certainly had concerns from the industry sector we regulate that they did not want that to be exposed. And there were, for want of a better word, threats that they would stop reporting under the voluntary scheme. That does not mean that they can stop under the mandatory scheme, though.<sup>36</sup>

4.38 The department provided more detail of the types of concern put forward by these stakeholders, noting that:

...they were not happy with the fact that we had to release the information. We had deeds of confidentiality, which had been put in place before I was involved in the division, and unfortunately I think some promises had been made about their capacity to limit FOI disclosure, so there was some unhappiness.<sup>37</sup>

4.39 In support of the voluntary reporting scheme, the department provided the committee with information on its deeds of confidentiality with seven airports and one

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34 Mr Bryan Seymour, Seven Network, *Committee Hansard*, 6 February 2015, p. 1.

35 Mr Bryan Seymour provided this review decision to the committee as part of his submission. See *Submission 1, Attachment 1 (FOI 14-90 – internal review – signed decision - Redacted)*, p. 70.

36 Ms Sachi Wimmer, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, p. 64.

37 Ms Sachi Wimmer, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, p. 71.

airline.<sup>38</sup> According to these deeds, data captured by the voluntary reporting scheme was defined as 'confidential information', which placed a number of restrictions and requirements on its usage, storage and disclosure.<sup>39</sup>

4.40 The department advised that these deeds of confidentiality provided a framework for cooperation with industry in order to assess the effectiveness of the current aviation security regime. The deeds also assisted with the identification of security vulnerabilities and support continuous improvement of the system by producing benchmarking information.<sup>40</sup>

4.41 However, in February 2016, the department noted that no information had been provided under deeds of confidentiality since the release of FOI information to the Seven Network in July 2014.<sup>41</sup> The department also informed the committee that, even though existing deeds of confidentiality were still valid, it was reviewing the terms of the deeds and scoping out other potential mechanisms 'to ensure the relevant information is provided by industry, and that such information is appropriately protected'.<sup>42</sup>

4.42 Also in February 2016, the department provided correspondence to the committee, to update information it had provided the previous year. This correspondence clarified that:

A number of concerns have been expressed about the release of information provided to the Department by industry since February 2015...[including] that the public release of voluntary reporting information has security, reputation and legal consequences for them as it could be exploited to circumvent preventive security measures and measures for detecting breaches of security with clear implications for public confidence in their business. A number of industry participants have also verbally advised that this has led to them ceasing to provide voluntary reports to the Department, which they acknowledge is likely to prejudice the continuous improvement of aviation security in Australia.<sup>43</sup>

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38 Department of Infrastructure and Regional Development answers to questions on notice 6 February 2015 (received 15 February 2015), p. 10; see also Ms Sachi Wimmer, Office of Transport Security, correspondence responding to the committee's request for further information, received 15 February 2016, p. 1.

39 Department of Infrastructure and Regional Development, answers to questions on notice 6 February 2015 (received 15 February 2015), p. 10.

40 Department of Infrastructure and Regional Development, answers to questions on notice 6 February 2015 (received 15 February 2015), p. 10.

41 Correspondence from Ms Sachi Wimmer, Office of Transport Security responding to the committee's request for further information, received 15 February 2016, p. 1.

42 Correspondence from Ms Sachi Wimmer, Office of Transport Security responding to the committee's request for further information, received 15 February 2016, p. 2.

43 Ms Sachi Wimmer, Office of Transport Security, correspondence responding to the committee's request for further information, received 15 February 2016, p. 1.

4.43 Some industry stakeholders gave evidence regarding their voluntary reporting procedures. For example, Melbourne Airport told the committee that it:

has not changed its policy on the voluntary reporting of aviation security incidents to the Department of Infrastructure and Regional Development as a result of the FOI request. Melbourne Airport continues to voluntarily report all aviation security incidents to the Commonwealth.<sup>44</sup>

4.44 Additionally, Mr Stephen Prowse, AAA Board Director, noted during the hearing:

I can say with absolute certainty that there has been absolutely no change to our voluntary reporting regime and the approach that we take to that. I can also make a similar comment for quite a number of regional airports in New South Wales that I represent through the AAA, as the New South Wales chair. Those who I have spoken to directly about this – and there are a number of them – have said that there has been no change to [their reporting], either.<sup>45</sup>

4.45 However, following the hearing, the AAA conducted a survey of its members: It informed the committee that:

With regards to voluntary reporting, the AAA also surveyed its members on the question of whether or not the airport continues to participate in the voluntary reporting scheme of aviation security issues to the [Office of Transport Security].

Of the 26 airports that responded within the short timeframe, 23 stated that they continue to participate in the voluntary reporting scheme.

The three airports that indicated that they have ceased voluntary reporting have cited the primary reason being the successful Freedom of Information (FOI) request that was lodged with the Department.<sup>46</sup>

4.46 The AAA also set out its opposition to the public release of information collected by the department under the voluntary reporting framework:

The AAA does not support public accessibility to this sort of sensitive security information as it provides an opportunity for persons with ill intent to identify and better understand particular security measures at airports. Consequently, this may lead to those same people devising ways of exploiting potential vulnerabilities in those security measures. It is also worth noting that, given its informal nature, the structure and establishment of the voluntary reporting system is not well documented with a lack of

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44 Australia Pacific Airports (Melbourne) Pty Ltd, answers to questions on notice 6 February 2015, pp. 3-4.

45 Mr Stephen Prowse, Regional Airports Security Committee, AAA Board Director, *Committee Hansard*, 6 February 2015, p. 17.

46 Australian Airports Association, answers to questions on notice 6 February 2015 (received 20 February 2015), pp. 2-3.

specific guidance identified as an issue by industry. These concerns were provided to the Department in detail prior to the release of the FOI related information.<sup>47</sup>

4.47 Other witnesses also provided the committee with information about rates of reporting under the voluntary system. For example, the AFP noted that it was desirable to maintain a constant flow of useful information between stakeholders and the Commonwealth. It had reasonable confidence that such a flow would continue owing to its close liaison with the OTS. However, the AFP had no comment on whether the voluntary reporting scheme should be legislated.<sup>48</sup>

4.48 Captain MacKerras, AIPA, argued that the FOI information obtained by the Seven Network suggested Australia's security framework is working as intended, and did not reflect badly on any aviation industry stakeholders:

What [the release of FOI information] shows is that the system is detecting the sorts of things it was designed to detect...

The sort of stuff that we are really concerned about, of course, is done at a much deeper level and out of the public eye. That is the sort of stuff that really - you would not see in FOI anyway...So I would actually be looking at seeing why people are choosing not to voluntarily report something that should not really affect them. It is not detrimental to the airport.<sup>49</sup>

### **Committee view and recommendations**

4.49 In light of the evidence it has received, the committee is not convinced there has been a substantial decline in the voluntary reporting of aviation security incidents to the department, by industry stakeholders. In this, the committee is aware that the voluntary reporting scheme is intended to augment the mandatory reporting scheme required by the Act.

4.50 However, the committee is concerned by evidence that suggested some airports no longer undertake voluntary reporting of incidents as a direct result of the Seven Network's FOI process. Evidence received from the AAA suggested that at least three out of 26 airports have ceased voluntarily reporting security incidents because of concerns over potential FOI requests in future.

4.51 The committee believes that reduced or reluctant reporting has a direct and obvious negative effect on the flow of information between aviation industry

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47 Australian Airports Association, answers to questions on notice 6 February 2015 (received 20 February 2015), p. 3.

48 Commander Michael Chew, Australian Federal Police, *Committee Hansard*, 6 February 2015, p. 56.

49 Captain Dick MacKerras, Australian and International Pilots Association, *Committee Hansard*, 6 February 2015, p. 46.



participants and the government agencies responsible for regulating the sector and aviation security.

4.52 The committee is of the view that the information reported under the voluntary reporting scheme is essential to maintaining a comprehensive aviation security regulatory framework. Therefore, the committee recommends that the information currently obtained under the voluntary scheme be made a compulsory requirement under the Act.

#### **Recommendation 4**

**4.53 The committee recommends that the Australian Government amend the *Aviation Transport Security Act 2004* to make it compulsory for aviation industry participants to report information currently captured under the voluntary reporting scheme.**



## Chapter 5

### Aviation Security Identification Cards (ASIC) and Visitor Identification Cards (VIC)

5.1 ASICs provide access to secure areas of airports. They are issued to employees who have cleared required background checks and who require frequent access to these secure areas. A VIC must also be worn in secure airport areas, but are issued to temporary or non-frequent airport visitors for a maximum of 28 days in a year.

5.2 The committee recognises that there have been a number of reviews into the ASIC scheme over recent years, resulting in ongoing reforms and amendments to the program. These reviews are considered in this chapter. The chapter also discusses legislative changes currently before the Senate which seek to amend ASIC eligibility and address security risks.

5.3 During the inquiry, a number of concerns were raised about the misuse of ASICs and VICs and the impact of such activity on aviation and airport security. This chapter details these concerns and the security risks they present.

#### **Background**

##### *Aviation Security Identification Cards*

5.4 The ASIC scheme seeks to ensure that individuals employed in or regularly accessing secure or 'sterile areas' in the aviation sector are subject to a certain level of background checking. Since its inception, the scheme has been subject to a number of changes. While initially applicants were only subject to criminal record checks, following the September 11 terrorist attacks, the scheme was expanded to cover a greater number of airports and airport staff. It was also strengthened through the introduction of tighter criminal history checks and an Australian Security Intelligence Organisation (ASIO) security assessment.

5.5 The ASIC scheme is provided for in the Regulations and is administered by the department.

##### *ASIC processing*

5.6 ASICs identify a person who has undergone a background check. According to the department, it shows that the person has met the minimum security requirements to access secure areas of a security controlled airport. However, the

ASIC is not an access card, as the relevant authority at each airport controls access to its secure areas.<sup>1</sup>

5.7 In 2016, the department informed the Senate Rural and Regional Affairs and Transport Legislation Committee (legislation committee) that as of 31 March 2016, 138 825 valid ASICs were in use, with an average of 119 300 ASIC/MSIC applications annually processed since 2010 (when reapplication every two years was introduced).<sup>2</sup>

5.8 Applicants for an ASIC need to apply to an ASIC issuing body. ASICs are not issued by a government agency; this task instead lies with a number of private and public sector issuing bodies, appointed under the Act. They include airport operators, airlines, aviation organisations, and commercial ASIC service providers.<sup>3</sup> As of March 2017, there were 44 different issuing bodies.<sup>4</sup>

5.9 Under current arrangements, ASIC background checking is conducted by the Australian Background Checking Service (AusCheck) on behalf of an issuing body. AusCheck coordinates vetting arrangements that underpin the ASIC scheme. Vetting includes:

- a criminal record check by CrimTrac, used to determine if an applicant has an adverse criminal record;
- a security assessment by ASIO; and
- if required, a right to work check by the Department of Immigration and Border Protection.<sup>5</sup>

5.10 An ASIC may be refused if an applicant returns an adverse criminal history check, or, if already issued, may be cancelled due to an adverse criminal record. Applicants have legal rights for reconsideration or appeal if denied an ASIC. In certain circumstances, applicants with an adverse criminal record can apply for department consideration, based on their individual circumstances. If successful, they will receive a discretionary ASIC card. An adverse criminal record includes:

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1 Department of Infrastructure and Regional Development, *Aviation security identification*, October 2016, [https://infrastructure.gov.au/security/identity/aviation-security-information/index.aspx#anc\\_asic](https://infrastructure.gov.au/security/identity/aviation-security-information/index.aspx#anc_asic) (accessed 20 January 2017).

2 Senate Rural and Regional Affairs and Transport Legislation Committee, *Transport Security Amendment (Serious or Organised Crime) Bill 2016 [Provisions]*, April 2016, p. 2.

3 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, p. 118.

4 A list of issuing bodies is available at: <https://infrastructure.gov.au/security/identity/aviation-security-information/asic-issuing-bodies.aspx>.

5 Department of Infrastructure and Regional Development, *Applying for an aviation security identification card (ASIC)*, November 2016, <https://infrastructure.gov.au/security/identity/aviation-security-information/applying-for-an-asic.aspx> (accessed 23 January 2017).

- an aviation-security-relevant offence and sentenced imprisonment; or
- two or more aviation-security-relevant offences, with no imprisonment, one of which was received within 12 months of the criminal history check.<sup>6</sup>

5.11 The current regulations define an aviation-security-relevant offence as 'an offence of a kind mentioned in the following table against a law of the Commonwealth, or of a State or Territory, or of any other country or part of a country'.<sup>7</sup>

**Table 5.1: Aviation security-relevant offences**

Item	Kind of offence
1	An offence involving dishonesty
2	An offence involving violence or a threat of violence
3	An offence involving intentional damage to property or a threat of damage to property
4	An offence constituted by the production, possession, supply, import or export of a substance that is: <ul style="list-style-type: none"> <li>(a) a narcotic substance within the meaning of the Customs Act 1901; or</li> <li>(b) a drug, within the meaning of: <ul style="list-style-type: none"> <li>(i) regulation 10 of the Customs (Prohibited Exports) Regulations 1958; or</li> <li>(ii) regulation 5 of the Customs (Prohibited Imports) Regulations 1956</li> </ul> </li> </ul>
5	An offence, of a kind dealt with in Part II of the <i>Crimes Act 1914</i> , against the Government of: <ul style="list-style-type: none"> <li>(a) the Commonwealth or a State or Territory; or</li> <li>(b) a country or part of a country other than Australia</li> </ul>
6	An offence against Part 2 of the <i>Crimes (Aviation) Act 1991</i>
7	An offence against Part 5.3 of the <i>Criminal Code</i>
8	An offence constituted by the production, possession, supply, import or export of explosives or explosive devices

5.12 The Regulations specify three types of ASIC security passes which permit access to security zones:

- ASIC— issued for those who require access to 'secure areas';
- temporary ASIC—issued the ASIC holders when an ASIC is lost, stolen or destroyed; and

6 Department of Infrastructure and Regional Development, *Applying for an aviation security identification card (ASIC)*, 10 February 2017, <https://infrastructure.gov.au/security/identity/aviation-security-information/applying-for-an-asic.aspx> (accessed 2 March 2017) and *Discretionary aviation security identification cards (ASICS): Frequently asked questions*, 11 December 2015, <https://infrastructure.gov.au/security/identity/aviation-security-information/faq-asic.aspx> (accessed 2 March 2017)

7 Aviation Transport Security Regulations 2005, s. 6.01.

- visitor identification cards (VICs)—issued to people needing to visit a secure area who are supervised by the holder of a valid ASIC while in the area.<sup>8</sup>

## Reforms to ASIC

5.13 As with aviation security regulation more generally, the ASIC scheme has been subject to ongoing reviews and amendments. While this has led to improvements in the scheme's administration, the committee was directed by the evidence to numerous areas that could be enhanced to improve security outcomes.

### *Wheeler Review 2005*

5.14 The Wheeler Review found a number of weaknesses within the ASIC system as well as 'confusion as to what airport access an ASIC enables'. Wheeler found that the criminal checking regime relied on convictions in a database at a point in time from the issuance of a two-year card. As subsequent recorded convictions were not automatically registered after a background check was completed, applicants with a pattern of criminality or with major criminal associations could still potentially be given access. Furthermore, Wheeler found that:

- the checking process could take weeks to complete, causing 'unacceptable reliance on procedures for visitor cards which do not require background checks';
- there were 188 ASIC databases and authorising bodies around Australia that were neither consistent nor linked; and
- some casual or contract workers, such as security screeners or cleaners didn't initially hold ASICs and were not necessarily always accompanied on-the-job by an ASIC holder as required under the legislation.<sup>9</sup>

5.15 Wheeler recommended that the background checking process required in obtaining and holding an ASIC be further tightened and centralised in the Attorney-General's Department (AGD) and that this should be harmonised with maritime cards.<sup>10</sup> AusCheck, operating on a cost-recovery basis, now performs background security checks for ASIC applications in line with the Wheeler Review recommendations, thus 'improving consistency and robustness of checking'.<sup>11</sup>

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8 Aviation Transport Security Regulations 2005, part 6, ss. 6.03, 6.36 and 6.38.

9 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. xiii.

10 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, Recommendation X, p. xix.

11 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, p. 118.

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### ***Aviation White Paper 2009***

5.16 The National Aviation Policy White Paper was published in December 2009. It contained a series of measures directed at strengthening aviation security including the ASIC regime. These measures include:

- strengthening the cancellation provisions for ASIC governing bodies and increasing penalties for false declarations by applicants;
- allowing for subsequent background checks for ASIC holders where their eligibility may have changed; and
- tightening visitor management provisions at security controlled airports.<sup>12</sup>

5.17 The white paper advocated for administrative changes to streamline the ASIC scheme, including a reduction in the number of issuing bodies, and providing that ASIC cards display a specified expiry date, rather than a specified month.<sup>13</sup>

### ***ANAO audit 2011***

5.18 In May 2011, the ANAO tabled a performance audit of the ASIC and Maritime Security Identification Card (MSIC) schemes. The ANAO made three recommendations regarding governance arrangements, issuing processes, and information management. All three recommendations were directed towards the OTS.

5.19 The ANAO recommended that OTS:

- review the risks arising from the administrative practices of issuing bodies, particularly in the issuing and manufacture of cards, and evidence of the confirmation of an applicant's identity. The outcomes of this review were to assess whether arrangements provided an appropriate level of assurance that the scheme's requirements were being met;
- increase the use of information obtained from its audit, inspection and stakeholder program to focus further compliance activities on areas that represented the greatest security risk; and
- monitor the actual usage of VICs at security-controlled airports and use this information to inform ongoing development of the ASIC scheme.<sup>14</sup>

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12 Department of Infrastructure, Transport, Regional Development and Local Government, *National aviation policy white paper: flight path to the future*, Aviation White Paper, 2009, p. 22

13 Department of Infrastructure, Transport, Regional Development and Local Government, *National aviation policy white paper: flight path to the future*, Aviation White Paper, 2009, p. 143.

14 Australian National Audit Office, *Performance Audit Report No. 39 2010–11, Management of the Aviation and Maritime Security Identification Card Schemes*, pp. 24-25.

## **PJCLE 2011**

5.20 Under its terms of reference for its 2011 inquiry, the PJCLE examined the effectiveness of the ASIC and MSIC schemes. It considered how these cards were issued, monitored and stored, and how information was shared between appropriate law enforcement agencies.<sup>15</sup>

5.21 The PJCLE expressed its concern about the significant risk posed by criminal infiltration of the aviation workforce. As a means of preventing such infiltration, the PJCLE recommended that the AGD review the list of relevant security offences under the ASIC scheme. This review would assess whether any further offences were required to effectively extend those schemes to protect the aviation sector against the threat of infiltration by serious and organised criminal networks.<sup>16</sup>

5.22 The government agreed to this recommendation and undertook to 'review the lists of security-relevant to assess whether any further offences are required'.<sup>17</sup>

5.23 A further recommendation called for the harmonisation of the MSIC and ASIC eligibility criteria. The government agreed to review the ASIC and MSIC eligibility exclusion criteria to seek greater harmonisation, where appropriate.<sup>18</sup>

## **National Ice Taskforce 2015**

5.24 The 2015 final report of the National Ice Taskforce noted that ASIC and MSIC background checks did not consider criminal intelligence. It argued that 'the use of criminal intelligence in the background checking process for ASIC and MSICs could help identify links to organised crime among workers'.<sup>19</sup> The report recommended:

The Commonwealth Government should continue to protect the aviation and maritime environments against organised crime by strengthening the eligibility criteria for holders of Aviation Security Identification Cards and Maritime Security Identification Cards; and establishing a legal mechanism

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15 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, June 2011, pp. 1-2.

16 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, Recommendation 14, June 2011, p. 93.

17 Government Response to the Report of the Parliamentary Joint Committee on Law Enforcement: *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, September 2011, p. 11.

18 Government Response to the Report of the Parliamentary Joint Committee on Law Enforcement: *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, September 2011, p. 12.

19 Prime Minister and Cabinet, *Final Report of the National Ice Taskforce*, 2015, p. 139.



to enable compelling criminal intelligence to be used in determining suitability of workers to hold such a card.<sup>20</sup>

### *Other reforms*

5.25 According to the department, a range of improvements to the ASIC scheme are underway. Stage one commenced on 1 November 2016 and stage two will commence on 1 August 2017.<sup>21</sup>

5.26 A white, role-specific ASIC was introduced from 1 November 2016, and is issued to individuals who require a valid background check, but not access to airport secure areas (for example, an employee of an organisation that issues ASICs and VICs).<sup>22</sup>

5.27 In addition, from 1 November 2016, issuing bodies have been required to include greater procedural content in ASIC programs and MSIC plans, and a background check is required of all applicants under 18 years of age. From 1 August 2017, applicants will need to be verified via face-to-face meetings, and new categories of identification will be introduced.<sup>23</sup>

### **Transport Security Amendment (Serious or Organised Crime) Bill 2016**

5.28 The ASIC scheme was introduced through national security aviation legislation to protect the aviation workforce from infiltration by terrorist organisations. It was not designed to specifically target criminality and organised crime.<sup>24</sup> However, the various reviews into the ASIC scheme, as detailed above, have also argued for more stringent background and criminal checks.

5.29 Law enforcement agencies and others have argued that the purpose of the ASIC scheme could be broadened to provide general crime prevention measures.<sup>25</sup> For example, the IBPP was supportive of changes to the ASIC scheme to address a

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20 Prime Minister and Cabinet, *Final Report of the National Ice Taskforce*, 2015, p. 139.

21 Department of Infrastructure and Regional Development, *Identity security amendments*, October 2016, <https://infrastructure.gov.au/security/identity/Identity-security-regulatory-amendments.aspx>

22 Department of Infrastructure and Regional Development, *ASIC issuing body – Role-specific white ASIC*, Factsheet 2 – Identity Security Amendments, 1 November 2016, [https://infrastructure.gov.au/security/files/ASIC\\_issuing\\_body-Role-specific\\_white\\_ASIC.pdf](https://infrastructure.gov.au/security/files/ASIC_issuing_body-Role-specific_white_ASIC.pdf) (accessed 20 January 2017).

23 Department of Infrastructure and Regional Development, *Identity security amendments*, October 2016, <https://infrastructure.gov.au/security/identity/Identity-security-regulatory-amendments.aspx>

24 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the Adequacy of Aviation and Maritime Security Measures to Combat Serious and Organised Crime*, June 2011, p. 83.

25 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, p. 117.

range of criminal threats and vulnerabilities, and 'to enhance the ability of the schemes to support broader law enforcement purposes, including for national security purposes'.<sup>26</sup>

5.30 The Transport Security Amendment (Serious or Organised Crime) Bill 2016 (transport security bill) is currently before the Senate and seeks to address a number of security concerns, and in particular responds to ASIC recommendations made by the PJCLE in 2011. The Minister for Infrastructure and Transport, the Hon Darren Chester MP, noted that the bill addressed the current lack in the ASIC scheme of a check for criminal risk.<sup>27</sup>

5.31 The transport security bill seeks to harmonise the ASIC and MSIC eligibility criteria, to streamline the application process and reduce waiting times (thus addressing some concerns raised in the Wheeler Review). The bill introduces a new 'tier' approach to the eligibility criteria to better target serious or organised crime, such as:

- offences under anti-criminal organisation legislation;
- the illegal sale and possession of firearms and other weapons; and
- illegal importation of goods and interfering with goods under Border Force control.<sup>28</sup>

5.32 The eligibility criteria will be broken into 5 tiers. Tier 1 contains all 'disqualifying' offences, and anyone with such an offence will be disqualified from obtaining an ASIC. Examples include terrorism, hijacking or destroying an aircraft, and an offence related to involvement with a criminal organisation or gang. Tiers 2 to 5 are 'adverse' offenses that:

contain offences that would result in a person being found to have an adverse criminal record and unable to be issued with an ASIC/MSIC following the initial application. These persons will be eligible to apply for an ASIC/MSIC through the discretionary assessment.<sup>29</sup>

5.33 In effect, less serious offences will require 'a higher imprisonment threshold to become an aviation or maritime-security-relevant offence, while more serious offences will only require conviction'. Examples of offences in these tiers include

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26 Immigration and Border Protection Portfolio, *Submission 19*, p. 6.

27 The Hon Darren Chester MP, Airport security oped, 'Tougher border worker checks needed', *Daily Telegraph*, 1 March 2017, [http://minister.infrastructure.gov.au/chester/opinion/2017/dco\\_002\\_2017.aspx](http://minister.infrastructure.gov.au/chester/opinion/2017/dco_002_2017.aspx) (accessed 2 March 2017).

28 Department of Infrastructure and Regional Development, *Proposed new eligibility criteria for the ASIC and MSIC schemes*, 14 February 2017, <https://infrastructure.gov.au/security/news/20160211-asic-msic.aspx> (accessed 2 March 2017).

29 Department of Infrastructure and Regional Development, *Proposed new eligibility criteria for the ASIC and MSIC schemes*, 14 February 2017.

assault of a person on an aircraft, illegal import of goods, bribery, corruption, blackmail, dealing with proceeds of crime, and forgery or fraud.<sup>30</sup>

5.34 The committee noted the previous work of the legislation committee in the 44<sup>th</sup> Parliament which examined the transport security bill, and the concerns raised about the targeting of serious crime via transport security legislation:

Transport security is a vital mission for government – but it is a qualitatively different task from targeting organised crime in our transport system...There is potential risk that widening the purpose of transport security legislation will confuse the two missions of transport security and targeting serious or organised crime in the transport system. Both these tasks are important – the question is whether achievement of both is best done via the mechanisms [in this bill].<sup>31</sup>

5.35 In responding to the legislation committee's report, the government noted that the transport security bill does not affect the national security assessment component of ASIO background checks. It also argued against a new security regime, noting that:

extending the current ASIC and MSIC regimes is more efficient and effective than developing a new and separate scheme to counter serious or organised crime at our airports and ports.

The existing ASIC and MSIC schemes are well understood by industry. Introducing a new scheme would likely impose additional costs and lead to confusion and inadvertent non-compliance.<sup>32</sup>

5.36 Given the evidence before it, the legislation committee supported the introduction of a more rigorous background checking regime, and excluding potential security risks from accessing important aviation infrastructure. The legislation committee supported having harmonised eligibility criteria across both security card schemes.

5.37 The amendments reflect the position reached by a number of previous reviews into the ASIC scheme. A number of administrative concerns with the ASIC scheme were not within the scope of the transport security bill.

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30 Department of Infrastructure and Regional Development, *Proposed new eligibility criteria for the ASIC and MSIC schemes*, 14 February 2017.

31 Senate Rural and Regional Affairs and Transport Legislation Committee, *Transport Security Amendment (Serious or Organised Crime) Bill 2016 [Provisions]*, Additional comments, April 2016, p. 15.

32 Australian Government response to the Senate Rural and Regional Affairs and Transport Legislation Committee report: *The Transport Security Amendment (Serious or Organised Crime) Bill 2016*, p. 3.

### ***Self-reporting concerns***

5.38 Under the current Regulations, there are self-reporting obligations for ASIC card holders. An ASIC card holder, who is convicted of and sentenced for an aviation-security-relevant offence, must report this to the ASIC issuing body or the Secretary of the AGD, within seven days. It is an offence not to do so. The issuing body or AusCheck will then complete another background check. If the background check returns an adverse or disqualifying result, the ASIC is cancelled and the card must be returned.<sup>33</sup>

5.39 The transport security bill makes no changes to this self-reporting regime. Under the revised ASIC eligibility criteria it will continue to be an offence for a card holder to not report a conviction and sentence to an issuing body.<sup>34</sup>

5.40 ASIAL argued that the two-year validity of cards, in conjunction with the absence of an automatic notification system for convictions of relevant offences, could compromise airport and aviation security. ASIAL suggested the introduction of a constant monitoring program for criminal activity that would identify aviation workers no longer suitable for work in secure areas of airports.<sup>35</sup>

5.41 The PJCLE, in its 2011 report, recommended that AusCheck and CrimTrac work together to establish mechanisms for continual assessment of a card holder's criminal record. This would allow disqualification of an ASIC very soon after a conviction, rather than waiting for the conviction to become apparent during a two-year renewal background check.<sup>36</sup>

5.42 In its response to the PJCLE report, the government noted the recommendation and endeavoured to work with other agencies to 'explore options' in this area. It noted, however, that 'there are a number of technical, privacy, legislative and funding issues that need to be resolved to achieve this outcome'.<sup>37</sup>

5.43 The department stated that it was not feasible to implement a continuous background-checking system with automatic notifications, due to the limitations of current technology and data-sharing between a range of federal and state agencies. Ms Sachi Wimmer, OTS, explained:

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33 Aviation Transport Security Regulations 2005, s. 6.41.

34 Department of Infrastructure and Regional Development, *Proposed new eligibility criteria for the ASIC and MSIC schemes*, 14 February 2017, <https://infrastructure.gov.au/security/news/20160211-asic-msic.aspx> (accessed 2 March 2017).

35 Australian Security Industry Association Limited, *Submission 13*, p. 4.

36 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, June 2011, pp. 105-106.

37 Government Response to the Report of the Parliamentary Joint Committee on Law Enforcement: *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, September 2011, p. 13.

At the moment it is not possible to [create a continuous background checking system]. We are not responsible for it. It is actually the Attorney-General's Department that undertakes all the background checking for us for the ASIC scheme, through their centralised background-checking unit, AusCheck.

...there are significant challenges in developing a system, even in this age of technology, that is a continuous background-checking system, because it actually requires all of the police forces in Australia to come together with the same system, the same processes.<sup>38</sup>

5.44 ASIO declined to comment on whether the lack of an automated system could seriously compromise aviation security. However, it noted the organisation would welcome an automatic notification system, should it be possible:

...we would certainly welcome that. I have no idea about systems development and how easy that is to do, but obviously we rely on information flow coming through....Particularly for us, if it is of a national security concern—from the AFP and in criminal matters—I am sure that the sooner we can get that, the better.<sup>39</sup>

### *Shortcomings of the ASIC*

5.45 The committee received some evidence that the ASIC scheme, while strongly regulated in parts, was open to some abuse. For example, as part of the Seven Network's 2014 investigations, an ex-employee claimed that after their resignation, they were able to use their ASIC card to access secure airport areas '50 times'.<sup>40</sup>

5.46 In relation to ASIC holders, Mr Allan Kessing argued that airport ground staff issued with an ASIC were not subject to vigorous background checking. He further noted that the 2003 report into aviation security at Sydney Airport found that:

Twenty per cent of persons holding those identification cards enabling access to the sterile areas were found to have criminal convictions, and about half of those were serious convictions, including drug trafficking, assault and other misdemeanours.<sup>41</sup>

5.47 Much to the concern of the committee, Mr Kessing went on to state that:

What was most worrying was the degree of identity fraud in obtaining [ASIC] cards. There were a number of individuals who had cards in multiple names. There were at least eight people who were unidentifiable

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38 Ms Sachi Wimmer, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, p. 64.

39 Ms Kerri Hartland, Australian Security Intelligence Organisation, *Committee Hansard*, 6 February 2015, p. 59.

40 Mr Bryan Seymour, *Submission 1*, p. 11.

41 Mr Allan Kessing, *Submission 21*, p. 4; Mr Allan Kessing, private capacity, *Committee Hansard*, 24 November 2016, p. 3.

by any known database. They did not exist. They were not on the electoral roll. They did not have drivers licences. They did not own cars.<sup>42</sup>

5.48 The Wheeler Review identified that some workers who were yet to receive their initial ASIC card were not accompanied in airport secure areas by ASIC card holders, as required by law. Workers without a valid ASIC included cleaners and security screeners.<sup>43</sup>

5.49 Submissions to the 2014 ASRR argued that ASICs were a significant regulatory burden with issues surrounding expense, renewal frequency, and duplication with other forms of identification, particularly for pilots.<sup>44</sup>

5.50 Specifically, concerns were raised about ASICs in relation to:

- disproportionate expenses for smaller operators;
- the two-year renewal requirement being excessive and inflexible;
- scepticism about the actual benefits received by pilots, owners and operators; and
- duplication with other valid forms of identification, such as pilot licences.<sup>45</sup>

5.51 In its final report, the ASRR found that:

...submissions questioned the validity of the ASIC requirements, in particular for operators at regional and remote airports where it was noted that other security measures such as perimeter fencing and passenger screening are sometimes minimal and the ASIC regime is seen by industry as disproportionate to the level of localised risk. Submissions suggested that ASICs create a significant impost without delivering a commensurate security benefit.<sup>46</sup>

5.52 The ASRR made numerous recommendations, including amending the Regulations so that background checks and the requirement to hold an ASIC card

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42 Mr Allan Kessing, private capacity, *Committee Hansard*, 24 November 2016, p. 3.

43 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. xiii.

44 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, [https://infrastructure.gov.au/aviation/asrr/files/ASRR\\_Report\\_May\\_2014.pdf](https://infrastructure.gov.au/aviation/asrr/files/ASRR_Report_May_2014.pdf), p. 119.

45 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, p. 119. See also Mr Richard Rudd, *Submission 7*, p. 1.

46 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, p. 119.

would only be required for unescorted access to SRAs, not for general airside access.<sup>47</sup>

## Visitor Identification Cards

5.53 VICs are issued to individuals who are not required to have ASICs but have a lawful reason to temporarily or infrequently enter the secure zones of a security-controlled airport.<sup>48</sup> No background check is required to obtain a VIC.

5.54 Individuals issued with VICs are required to remain under the direct supervision of an ASIC holder while in a secure area. Should they become unsupervised for some reason, they must leave the secure area immediately.<sup>49</sup> To obtain a VIC, proof of identity is required, as is a declaration that the applicant has not been refused an ASIC, or had an ASIC cancelled or suspended due to criminal activity.<sup>50</sup>

5.55 An individual can be issued with a VIC in order to access a secure area across a particular security controlled airport for a maximum of 28 days within a 12 month period. This is known as the '28 Day Rule'.<sup>51</sup> However, there is a separate 28 day limit for each airport (the number of days a VIC has been issued at one airport does not count towards the number of days a VIC has been issued at a different airport). If the 28 days is reached, the person must apply for an ASIC or be denied access.<sup>52</sup>

5.56 The obligations of VIC issuers are set out in the Regulations. VIC issuers must ensure that VIC users are aware of their responsibilities, including returning the VIC card when finished with it, leaving a secure area if they are no longer supervised by an ASIC card holder, and complying with the 28 Day Rule.<sup>53</sup>

5.57 The committee understands that the VIC program underwent a number of changes in 2011. These changes were examined by the department in a Post

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47 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, [https://infrastructure.gov.au/aviation/asrr/files/ASRR\\_Report\\_May\\_2014.pdf](https://infrastructure.gov.au/aviation/asrr/files/ASRR_Report_May_2014.pdf), p. 119; Australian Government, *The Aviation Safety Regulation Review Report – Government Response*, December 2014, p. 44.

48 Aviation Transport Security Regulations 2005, Part 6, Division 6.5, s. 6.38 and 6.38D.

49 Aviation Transport Security Regulations 2005, Part 3, Division 3.1, s. 3.09.

50 Department of Infrastructure and Regional Development, *Information for visitors to secure areas of airports*, December 2015, <https://infrastructure.gov.au/security/identity/aviation-security-information/visitor-secure-area-airport.aspx> (accessed 2 February 2017).

51 Aviation Transport Security Regulations 2005, Part 6, Division 6.5, s. 6.38E.

52 'Information for visitors to secure areas of airports', Department of Infrastructure and Regional Development, December 2015, <https://infrastructure.gov.au/security/identity/aviation-security-information/visitor-secure-area-airport.aspx> (accessed 2 February 2017).

53 Aviation Transport Security Regulations 2005, Part 6, Division 6.5, s. 6.40.

Implementation Review (PIR) in 2014, which identified a number of administrative areas where the VIC scheme could be improved.<sup>54</sup>

### ***Background checking***

5.58 While VIC holders do not require any background checking, since 1 November 2016 employees involved in issuing VICs must hold at least a white ASIC card, to prove they have undertaken a background check. Additionally, VIC holders must always be accompanied on airport grounds by a valid ASIC card holder.

5.59 The OTS has argued that:

Visitor supervision requirements largely mitigates many of the risks associated with allowing non-background checked individuals into secure areas....However, it became evident over time that in some cases VICs were being used to avoid background checking requirements. In response, the Department in cooperation with industry, undertook a policy development process to identify and implement policies to significantly strengthen visitor management, culminating in the enhancements to the Regulations.<sup>55</sup>

5.60 The committee acknowledged the changes requiring an ASIC holder to hold a valid background check to issue VICs. However, the fact that an ASIC card holder had a background check and can issue a VIC, does not change the fact that the VIC holder may not be suitable to enter an airport secure area.

5.61 The committee considered that there is no realistic way in which to police whether VIC holders are being accompanied by ASIC holders in real time, across all of Australia's airports. Unless actively monitored at each airport, this appears to be an area of high security risk.

5.62 An acknowledgement of this issue was made in the PIR, which stated, in relation to smaller and more remote airports:

Some airports face the difficulties of adhering to VIC requirements when the airport is manned by a limited number of staff. Various airports have indicated that the current regulations make it difficult, if not impossible, to supervise visitors and also conduct their operational duties relating to incoming aircraft.

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54 'Visitor identification card (VIC) enhancements', Department of Infrastructure and Regional Development, [https://infrastructure.gov.au/security/files/Visitor\\_identification\\_card\\_VIC\\_enhancements.pdf](https://infrastructure.gov.au/security/files/Visitor_identification_card_VIC_enhancements.pdf) (accessed 23 January 2017).

55 Visitor Identification Card Enhancements Post Implementation Review, Maritime, Identity and Surface Security, Office of Transport Security, 2014, p. 4.



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...the requirement to supervise visitors away from a core area, has the potential to inadvertently decrease the security outcome at that airport.<sup>56</sup>

5.63 The PIR provided examples of where VICs were not issued at smaller, regional airports. Itinerant pilots arriving from non-security controlled airports, and not holding an ASIC, could refuel and leave without obtaining a VIC. Likewise, hobbyist pilots may bring guests to an airport without obtaining VICs and without regard to the security regulations. The PIR undertook to consider better options for visitor management at smaller and remote airports.<sup>57</sup>

### **28 Day Rule**

5.64 The 2011 changes limited the 28 Day Rule to a 12 month period, for any one airport. As noted in the PIR, this was to ensure that 'frequent or non-genuine visitors to secure areas of airports are background checked', and cannot avoid ASIC requirements.<sup>58</sup>

5.65 The PIR found no instances of anyone trying to, or succeeding in, obtaining a VIC for greater than the 28 day period. Industry stakeholders argued that 28 days was an appropriate time for a person to be engaged with an airport before having to apply for an ASIC. The PIR analysis also found that the introduction of the 28 Day Rule 'resulted in a reported reduction of non-background checked people working or accessing secure areas of airports'.<sup>59</sup>

5.66 The committee was concerned to hear that the 28 Day Rule could still be open to manipulation, either accidentally or intentionally. The PIR argued the greatest risk to breaches of the rule was from software data entry errors:

Such errors include incorrect names, spelling or use of different identification when applying, this potentially leads to a person being recorded in a VIC register as multiple individuals and the 28 day rule being inadvertently or even intentionally breached.<sup>60</sup>

5.67 The committee also noted that as the 28 Day Rule can apply at different airports, in theory a VIC applicant could indeed be a 'frequent' airport visitor. In this

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56 Visitor Identification Card Enhancements Post Implementation Review, Maritime, Identity and Surface Security, Office of Transport Security, 2014, p. 8.

57 Visitor Identification Card Enhancements Post Implementation Review, Maritime, Identity and Surface Security, Office of Transport Security, 2014, pp. 8-9.

58 Visitor Identification Card Enhancements Post Implementation Review, Maritime, Identity and Surface Security, Office of Transport Security, 2014, p. 4.

59 Visitor Identification Card Enhancements Post Implementation Review, Maritime, Identity and Surface Security, Office of Transport Security, 2014, p. 10.

60 Visitor Identification Card Enhancements Post Implementation Review, Maritime, Identity and Surface Security, Office of Transport Security, 2014, p. 12.

way, a VIC user with an adverse background could circumnavigate the requirement for an ASIC by exploiting the 28 Day Rule.

### ***VICs and contractors***

5.68 In relation to screening officers, the department confirmed to the committee that these officers were to hold and display a valid ASIC at all times. Screening officers in training, who had applied but were waiting for an ASIC, could use a VIC, provided they were 'not making independent screening decisions, and [were] constantly supervised by a qualified screening officer'.<sup>61</sup>

5.69 However, evidence received by United Voice indicated that in some cases subcontractors were being continuously issued with VICs in place of an ASIC, or using expired VICs. It argued that the use of VICs in place of ASICs could constitute a significant security risk, given that some companies appeared to rely on VICs for a significant proportion of their employees, and to avoid ASIC processing times.<sup>62</sup>

5.70 The PIR noted instances where a discretionary ASIC applicant was found to be working under a VIC, despite being refused an ASIC. The employer had no knowledge that the initial ASIC had been refused.<sup>63</sup>

5.71 Additionally, evidence to the PJCLE indicated that the high turnover of security guards meant that up to 25 per cent operated using the less-stringent VIC rather than a full background-checked ASIC.<sup>64</sup>

5.72 Amendments to the ASIC and VIC schemes since 2011 have gone some way to address these issues. Under questioning from the committee, the department noted that law enforcement, including police, AFP and Customs have authority to monitor VIC cards for compliance. The committee noted evidence it had received that expired VIC cards were in use, with the department responding:

The challenge is that, until we actually see that they are doing something wrong, we cannot act. We do not have officers at the airports all the time. So it is a matter of when we are there as to whether we are actually picking up those breaches that they may be committing.<sup>65</sup>

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61 Correspondence from Ms Sachi Wimmer, Office of Transport Security responding to the committee's request for further information, received 15 February 2016, p. 3.

62 United Voice, *Submission 18*, pp. 10-11.

63 Visitor Identification Card Enhancements Post Implementation Review, Maritime, Identity and Surface Security, Office of Transport Security, 2014, p. 13.

64 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, June 2011, p. 35.

65 Ms Sachi Wimmer, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, p. 65.

5.73 The department noted it was the responsibility of industry stakeholders to ensure that the relevant screening officers and other employees used VICs appropriately, and complied with the regulations.<sup>66</sup> However, the department undertook a compliance program, consisting of annual audits, inspections and system testing.<sup>67</sup>

5.74 Despite the 2011 enhancements and the PIR, the committee was concerned by evidence regarding the alleged improper use of VICs by airport security workers. The committee remains particularly concerned that VIC holders do not require any background checking, and that this still makes the VIC scheme open to exploitation.

5.75 In addition, amendments to the VIC scheme were noted to have a disproportionate effect on regional and rural airports. The PIR found that despite efforts to 'tailor' arrangements for smaller airports, the VIC changes increased regulatory requirements at regional airports, and restricted 'the management operations of the airport due to staffing levels'. The PIR went on to state that:

maintaining the current arrangements at smaller/regional airports would continue to restrict their ability to apply more appropriate, tailored security measures which can have a similar security benefit but reduce the cost burden on industry.<sup>68</sup>

## **Committee view and recommendations**

### ***Shortcomings of the Aviation Security Identification Card***

5.76 The committee notes that the ASIC scheme has undergone constant review and alteration, particular in recent years and within the heightened security environment. While the committee is supportive of strong and effective security screening and processes, it acknowledges concerns regarding the impact of constant review and change to the ASIC regime.

5.77 Ongoing change makes it difficult for regulators, issuers, card holders and airports to understand and apply the most current version of the regulations and the most stringent security parameters. Constant change also leads to confusion and therefore increases the scope for people to circumnavigate the ever-changing rules.

5.78 It appears to the committee that the number of ASIC issuing bodies has decreased from 188 at the time of the Wheeler Review to 44 currently. However, the Wheeler Review noted these bodies were not linked or consistent, and, despite

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66 Mr Steve Dreezer, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, p. 65.

67 Ms Pauline Sullivan, Office of Transport Security, Department of Infrastructure and Regional Development, *Committee Hansard*, 6 February 2015, pp. 66-67.

68 Visitor Identification Card Enhancements Post Implementation Review, Maritime, Identity and Surface Security, Office of Transport Security, 2014, pp. 7-8.

recommendations for a single, centralised, government-run issuing body, there are still various issuing bodies.<sup>69</sup>

5.79 Given the importance of the ASIC, and the increased requirements for background checking proposed under the transport security bill, the committee urges the Australian Government to consider the feasibility of establishing a centralised issuing authority. Such an approach would likely lead to improved security outcomes.

### **Recommendation 5**

**5.80 The committee recommends that the Australian Government review the feasibility of establishing a centralised issuing authority for Aviation Security Identification Cards.**

#### *Self-reporting*

5.81 The committee upholds the view that the current self-reporting arrangement for ASIC holders convicted of an offence is not satisfactory, and raises significant security risks. This self-reporting system is not amended by the transport security bill, despite providing an opportunity to start addressing this issue.

5.82 Given this, the committee recommends that the Australian Government work with federal bodies and state stakeholders to investigate the possibility of a national integrated notification system for the sector. This would go some way to closing potential vulnerabilities in the current ASIC provisions.

### **Recommendation 6**

**5.83 The committee recommends that the Australian Government consider the development of a national automatic notification system for aviation-security-relevant offence convictions of Aviation Security Identification Cards holders.**

#### *Alleged misuse of Visitor Identification Cards*

5.84 The committee was concerned by evidence regarding alleged incidences of inappropriate VIC usage. The committee heard allegations that the current system may allow some misuse of VICs by unscrupulous security service providers, and by users who wish to avoid background checks.

5.85 The committee sees the lack of a background check for VIC holders as a considerable risk to aviation security. The committee appreciates that in some instances, a VIC may only be required for a very short period of time, and a

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69 See for example Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, June 2011, Recommendation 22, pp. 111-114.

background check is not realistic. This short timeframe does not, however, reduce the risk should someone be inclined to nefarious activity.

5.86 The fact there is a separate 28 day VIC limit for each airport, and no background check required for a card holder, appears to the committee to be an area of substantial risk. Additionally, the heightened level of offences under the ASIC/MSIC scheme to address serious and organised crime, proposed under the transport security bill, will not apply to someone casually entering secure airport areas under a VIC.

5.87 The committee is also concerned by evidence which revealed that the legal requirement to ensure that all VIC users are accompanied by an ASIC card holder at all times was not being adhered to. This presents a clear security risk, particularly in light of the fact that VIC holders are not background checked.

### **Recommendation 7**

**5.88 The committee recommends that the Department of Infrastructure and Regional Development update the committee early in 2018, on progress and outcomes, following implementation of Stage Two of the Visitor Identification Card enhancements.**

### **Recommendation 8**

**5.89 The committee recommends the Australian Government consider mechanisms, including legislative amendment, to strengthen the Visitor Identification Card process, incorporating appropriate background checking where appropriate.**



# Chapter 6

## The future of aviation security

6.1 It is forecast that by 2030, passenger traffic through Australian airports will double and be concentrated through relatively few airports. Inbound arrivals, predominately from a variety of low cost carriers, will total 36.6 million people.<sup>1</sup>

6.2 It is important that Australia consider the future of aviation security to best ensure the continued safety of airline travellers and airport staff and crews. A number of steps have already been taken to ensure that Australia's aviation security environment proactively addresses risks and changing threat levels.

6.3 The future security environment should acknowledge the work of previous aviation security reviews and the key concerns of stakeholders, as raised in this inquiry. As noted earlier in this report, the committee supports regulatory changes that address serious threats to aviation safety, but encourages changes that are evidence based and proportionate to the risks presented.

### *Reforms to enhance security*

6.4 In its deliberations, the committee considered what measures should be taken to enhance Australia's aviation security environment and to better protect the travelling public. In this, the committee acknowledges that not all known vulnerabilities can be mitigated, as this would result in an unviable sector. This means that a risk-based approach is most appropriate in addressing security risks. To this end:

the Department is conducting comprehensive risk assessments in collaboration with other agencies and industry to determine where current aviation settings can be better tailored to high risks and resources can be redirected from areas of very low or negligible risk. This move to a risk-based, proportionate security approach will ensure that in the future, as the aviation sector grows and pressures on resources increase, effort is applied to areas of highest risk, rather than being misdirected to very low risk areas.<sup>2</sup>

6.5 The committee supports this approach and notes that it addresses the concerns of various submitters, who did not support a 'one size fits all' approach to aviation security regulation and action. It is also hoped that such an approach will reduce costs for regional and rural airport operators.

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1 Transport Security Outlook to 2025, Department of Infrastructure and Regional Development, August 2014, [https://infrastructure.gov.au/security/files/Transport\\_Security\\_Outlook\\_to\\_2025.pdf](https://infrastructure.gov.au/security/files/Transport_Security_Outlook_to_2025.pdf), (accessed 1 February 2017), p. 4.

2 Department of Infrastructure and Regional Development, *Submission 3*, pp. 4, 11.

6.6 The government announced, in February 2017, the creation of a new General Aviation Advisory Group. This group reports directly to the Minister for Infrastructure and Transport on concerns within the general aviation sector, to encourage 'safe skies, industry growth, and less red tape'.<sup>3</sup> The group is also tasked with highlighting the concerns of regional and rural airports, and the increased regulatory burden on small operators.<sup>4</sup> The committee recognises this initiative as an opportunity to inform discussion and awareness of security vulnerabilities for smaller airports.

### ***Security costs and implications for regional and rural airports***

6.7 The committee appreciates the significant costs associated with strong security measures required in airports across the country. However, it was concerned to hear evidence regarding the disproportionate impact on regional and rural airports of implementing expensive security systems, which may not reflect the threat levels at these airports.

6.8 As part of its submission, the AAA surveyed its members about security-related investment and received 20 responses. These responses showed the following:

- between 2010 and 2015, these 20 airports across Australia invested approximately \$28,740,000 into the purchase of screening equipment, such as x-ray machines, metal detectors and an explosive trace detection machine;
- building alterations to accommodate passenger and checked baggage screening cost 17 airports approximately \$19,775,000; and
- over the next ten years it was expected that 17 airports would need to invest in new security equipment at a combined investment cost of \$52,000,000.<sup>5</sup>

6.9 Despite the relatively small sample of airports in this survey, AAA argued that it showed significant investment was being made into airport security.<sup>6</sup>

6.10 For this reason, the costs of enhanced security to all airline and airport operators must be taken into consideration when developing security regulations. For

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3 The Hon Darren Chester MP, 'General Aviation Advisory Group takes flight', *Media Release DC030/2017*, 17 February 2017.

4 Paul Cleary, 'New advisory group to steer aviation sector: Chester', *The Australian*, 17 February 2017, <http://www.theaustralian.com.au/business/aviation/new-advisory-group-to-steer-aviation-sector-chester/news-story/d8e9403c347af433034dd88a0bfbb6b2> (accessed 20 February 2017).

5 Australian Airports Association, *Submission 17*, pp. 8, 9.

6 Australian Airports Association, *Submission 17*, p. 9.



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example, in 2013-14 alone, Qantas spent '\$260 million on its security operations and development initiatives'.<sup>7</sup>

6.11 The department acknowledged in its submission the diverse nature of the aviation sector, and the cost sensitive nature of aviation security on regional and remote airports, which in many instances have high passenger costs but low demand. The department stated that the viability of regional airports could be threatened by 'increases in operating costs and revenue reductions'.<sup>8</sup>

6.12 AIPA raised concerns about the costs and considerable difficulties involved in securing an airport perimeter and creating a 'land buffer' to prevent entry into an airfield space. AIPA argued that 'the total distance of the total airport land area boundary is staggering when translated into the dollar cost of the high security barriers'.<sup>9</sup>

6.13 As part of the Post Implementation Review (PIR) of VIC enhancements in 2014, the OTS considered the security risks to smaller, remote and regional airports. These are generally classified as 'category 6' airports, where smaller aircraft operate and there are no screening requirements. The PIR found that:

The current aviation risk context statement's risk weightings confirm that category 6 and general aviation airports do not make inherently attractive terrorist targets. The more likely risk events for these types of airports would be the unlawful interference with smaller aircraft by acutely disaffected persons.

The absence of screening at category 6 airports also represents their lower risk profile, and while personnel are required to hold ASICs, a passenger may take unscreened baggage onto any...aircraft.<sup>10</sup>

6.14 However, the PIR also noted that:

Despite the desire to comply, without adequate funding to support implementation in smaller or more remote locations (including for staffing or equipment) or the ability for more widespread auditing activities, it may be difficult for communities with little understanding of the complexities of identity security to carry out required duties.<sup>11</sup>

6.15 AIPA acknowledged statements by OTS about taking a risk-based approach to aviation security, which it was hopeful would see funding resources allocated to those

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7 Qantas Airways Limited, *Submission 14*, p. 3.

8 Department of Infrastructure and Regional Development, *Submission 3*, pp. 1, 2.

9 Australian and International Pilots Association, *Submission 6*, pp. 3-4.

10 Visitor Identification Card Enhancements Post Implementation Review, Maritime, Identity and Surface Security, Office of Transport Security, 2014, p. 7.

11 Visitor Identification Card Enhancements Post Implementation Review, Maritime, Identity and Surface Security, Office of Transport Security, 2014, p. 8.

areas of most vulnerability.<sup>12</sup> The committee supports the allocation of funding for improved security to those areas that most require it.

6.16 In 2015, the government announced a new training program to assist regional airports to better manage their security processes:

Slated to begin in 2016, the new regional aviation security awareness training package would be available to the 150-odd security controlled airports in small, lower risk categories as well as the 48 airports that have screened air services such as Bundaberg, Devonport, Geraldton and Tamworth...The package would assist airports to understand the current risk environment, assist them [sic] to plan responses to future threats and improve general security awareness.<sup>13</sup>

6.17 In announcing this program, the government also advised it was considering the removal of passenger screening at some major capital city airports, for passengers arriving from regional airports where they had already been processed through security checks.<sup>14</sup>

6.18 The committee supports the security training program, noting the benefits of security training specified to regional and rural areas in line with assessed levels of risk. However, it appeared to the committee that the program had not commenced. Given the benefits of a targeted and risk-based approach to aviation security, the committee encourages the government to implement the program as announced, as soon as possible.

## **Recommendation 9**

**6.19 The committee recommends that the Australian Government implement the regional aviation security awareness training package, in accordance with its 2015 commitment.**

### ***Funding allocation***

6.20 Melbourne Airport argued for adequate financial resourcing for various border agencies, especially in light of increased international passenger movements. Melbourne Airport argued that:

The Commonwealth Government collects significantly more revenue from the Passenger Movement Charge than it spends on airport security and

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12 Australian and International Pilots Association, *Submission 6*, p. 6.

13 'Government to develop new security training program for regional airports', *Australian Aviation*, October 26 2015, <http://australianaviation.com.au/2015/10/government-to-develop-new-security-training-program-for-regional-airports/> (accessed 1 March 2017).

14 'Government to develop new security training program for regional airports', *Australian Aviation*, October 26 2015.

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border agency functions so there is scope for more funding resources to be provided for border agency functions at airports.<sup>15</sup>

6.21 Media reports indicate that the Tourism and Transport Forum (TTF) has also called for more appropriate allocation of funding derived from the Passenger Movement Charge, to help improve border facilitation services. The TTF argues improvements can be made with more border security staff and better border management technology, to reduce large queues for outgoing and incoming passengers.<sup>16</sup>

### ***Passenger terminals***

6.22 Dr John Coyne, the head of the Australian Strategic Policy Institute's Border Security Program, argued that arrival and departure halls are now the most vulnerable areas for targeting of attacks on airports. Dr Coyne noted that passenger terminals have 'few if any security measures before check-in or in the crowds of family, friends...waiting in arrival halls'.<sup>17</sup>

6.23 Dr Coyne called for an independent review of Australia's airport security and consideration of 'revolutionary change' to the security of arrival and departure halls:

The aim of security responses need to focus on reducing the concentrations of people prior to security checks. Similarly, in arrival halls the aim must be reducing the concentrations of uncleared people and goods.<sup>18</sup>

6.24 ASIO argued that the open and accessible nature of some airport spaces make them attractive areas for low-capability attacks, with these areas attracting concentrations of large crowds. ASIO noted that the death of an outlaw motorcycle gang member outside Sydney Airport in 2009, while not related to terrorism, showed that security incidents can occur in relatively open airport areas.<sup>19</sup>

6.25 The department advised the committee that it was working with airport operators to invest in security measures at the front of terminals, which were easily accessible to the public. These measures are not in the Act or the Regulations, but have been introduced proactively to address risks and make the front terminal areas

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15 Australia Pacific Airports (Melbourne) Pty Ltd, *Submission 8*, p. 5.

16 Lisa Allen, 'Tourism chief Margy Osmond says airport queues hurt image', *The Australian*, 28 November 2016 at <http://www.theaustralian.com.au/business/tourism-chief-margy-osmond-says-airport-queues-hurt-image/news-story/b596a6e1f81d367e8ea4406c50c0e3ce> (accessed 30 November 2016).

17 Dr John Coyne, 'Weakest link in airport security exposed again', *Sydney Morning Herald*, 29 June 2016, <http://www.smh.com.au/comment/airport-security-will-need-to-be-tightened-after-ataturk-attack-20160629-gpubzo.html> (accessed 13 December 2016).

18 Dr John Coyne, 'Weakest link in airport security exposed again', *Sydney Morning Herald*, 29 June 2016.

19 Australian Security Intelligence Organisation, *Submission 10*, p. 3.

more secure. Measures include better infrastructure design, strengthened bollards at entrances and better vehicle traffic management.<sup>20</sup>

6.26 The committee notes that Dr Coyne called for 'another independent review of Australia's airport security'.<sup>21</sup> However, the evidence received during this inquiry indicated that numerous reviews have been completed since Wheeler in 2005, and repeated amendments subsequently made to the aviation security framework. The committee would encourage further examination of passenger terminals, in light of the issues raised, but does not see a need for an all-encompassing review of the whole sector.

6.27 The committee agrees that the front terminal areas or airports present a security risk, given the absence of security screening and clear passenger movement channels. The committee commends the department on its proactive work to address the security risks of passenger terminals, and supports the continuation of this initiative with the full engagement of key stakeholders.

### *Current security measures*

6.28 In an effort to prevent security breaches, the Australian Border Force (ABF) maintains a permanent presence at Australia's major international airports.<sup>22</sup> ABF engages in a number of security-related activities, including but not limited to:

- aircraft searches, baggage monitoring, intelligence collection and perimeter and airside patrols;
- analysis of flights, passengers and crew prior to their arrival in Australia;
- addressing risks related to the movement of persons or goods of national security concern; and
- assisting the AFP and other agencies in 'conducting airside inspection for criminality relating to people leaving secure areas of airports'.<sup>23</sup>

6.29 A Counter-Terrorism Unit (CTU) now operates at all major international Australian airports. These teams proactively intervene in suspicious circumstances or intercept suspicious persons of national security interest in areas controlled by Customs. Since implementation in August 2014, a number of people have been intercepted by the unit.<sup>24</sup>

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20 Department of Infrastructure and Regional Development, *Submission 3*, p. 9.

21 Dr John Coyne, 'Weakest link in airport security exposed again', *Sydney Morning Herald*, 29 June 2016.

22 Australian Border Force was known as Australian Customs and Border Protection Service at time of submission.

23 Immigration and Border Protection Portfolio, *Submission 19*, p. 2.

24 Immigration and Border Protection Portfolio, *Submission 19*, p. 4.

6.30 Additionally, the Last Port of Call (LPOC) inspection program examines in-bound passenger movements from international airports flying direct to Australia, to assess security risks and take any proactive remedial action that may be appropriate.<sup>25</sup>

6.31 The AFP has stated that the law enforcement focus has also shifted to develop new ways of exchanging intelligence on airport security. While the focus remains on counter terrorism and organised crime, the AFP is specifically targeting trusted insiders and corruption under its organised crime strategy.<sup>26</sup>

6.32 Following a meeting of the AFP in December 2016, it was agreed to increase intelligence gathering at international and domestic airports, due to concerns that organised crime groups were identifying or manipulating airport employees considered 'soft targets' in an effort to 'infiltrate airport workers in a bid to shift large amounts of illegally obtained cash, drugs and weapons'.<sup>27</sup>

6.33 Measures to address security risks will include real time monitoring of social media, and a trial of body cameras that could be linked in future to facial recognition software. The AFP is also reportedly examining the New York Police Department's Shield intelligence model, which accesses 'global industry, law enforcement, intelligence agency intelligence and publicly-available information to guide patrol modelling'.<sup>28</sup>

6.34 A matter for future consideration is that of the AFP's powers and improving its ability to address security risks at airports. For example, in certain circumstances AFP officers do not have authority to request or demand proof of identification documents from a person who uses false identity information to travel on a flight, as they are departing an airport. The AFP can only detect the offence after the event (or if another offence is committed). The AFP argued that 'an effective preventative measure would be to enable a form of identification to be produced with a boarding pass, prior to any person boarding a flight'.<sup>29</sup>

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25 Department of Infrastructure and Regional Development, *Submission 3*, p. 8.

26 Renee Viellaris, 'Organised crime, terrorism seek to infiltrate Australian airports', *The Courier-Mail*, 12 December 2016, <http://www.heraldsun.com.au/travel/news/organised-crime-terrorism-seek-to-infiltrate-australian-airports/news-story/b1bada45a9048508bc14dc47273e7752> (accessed 13 December 2016).

27 Renee Viellaris, 'Organised crime, terrorism seek to infiltrate Australian airports', *The Courier-Mail*, 12 December 2016.

28 Renee Viellaris, 'Organised crime, terrorism seek to infiltrate Australian airports', *The Courier-Mail*, 12 December 2016.

29 Australian Federal Police, *Submission 16*, pp. 6-7.

## **Biometrics**

6.35 Since 2015, new SmartGates have been installed in Australia's international airports, in an effort to provide improved security. SmartGates use biometric technology to confirm the identity of passengers and reduce manual intervention at arrival and departure gates. The SmartGates were implemented as part of counter-terrorism measures.<sup>30</sup>

6.36 In its submission to the committee, the IBPP highlighted that it was working towards a 'seamless, low-touch and high-tech' departures process at major international airports:

The eGate technology...operates with facial matching algorithms, producing a higher quality match decision than a manual face to passport check and reducing the opportunity for fraudulent documentation and/or imposters to successfully process.<sup>31</sup>

6.37 The government has since announced further updates to international passenger processing, with the introduction of the Seamless Traveller project. The new technology abolishes passenger cards, removes the need for manned desks and the requirement for passengers to show passports. The program would see the removal of SmartGates and progress to a 'contactless' system:

...passengers will be processed by biometric recognition of the face, iris and/or fingerprints, matched to existing data. By 2020 the government wants a system in place to process 90 per cent of travellers automatically, with no human involvement.<sup>32</sup>

6.38 Despite announcing these advancements, the government is yet to secure the tender to provide the required technology, and it is unclear how the technology will differ from SmartGates.<sup>33</sup> Some media commentary has raised concerns about the risks of collecting and storing such large volumes of biometric data obtained by this process, and the particular risks to personal information should data security breaches occur.<sup>34</sup>

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30 The Hon Peter Dutton MP, Minister for Immigration and Border Protection, 'New security measures at international airports', *Media Release*, 23 April 2015.

31 Immigration and Border Protection Portfolio, *Submission 19*, p. 5.

32 "World first: Government moves to radically overhaul Australia's international airports", Michael Koziol, *Sydney Morning Herald*, 22 January 2017, <http://www.smh.com.au/federal-politics/political-news/world-first-government-moves-to-radically-overhaul-australias-international-airports-20170116-gtss5w.html> (accessed 23 January 2017).

33 "World first: Government moves to radically overhaul Australia's international airports", Michael Koziol, *Sydney Morning Herald*, 22 January 2017.

34 'Stealing your eyeballs: Dutton's stealthy plan to track you', Bernard Keane and Josh Taylor, *Crikey*, 23 January 2017, <https://www.crikey.com.au/2017/01/23/duttons-brutopia-recognising-the-face-of-surveillance/> (accessed 23 January 2017).

6.39 Some submitters to the inquiry urged caution in taking this route, despite the benefits it may provide to travellers. In its submission to the committee, the Law Council of Australia highlighted its concerns with any further security reforms in the areas of biometric identification and the collection and storage of personal identifiers:

The collection and use of biometric material in airport and aviation security has the potential to impact on a large number of individuals, including those who pose no risk to Australia's national security. The collection and use of such material also has the potential to have significant and potentially serious privacy implications, including implications for the way sensitive personal information is stored, used and destroyed.<sup>35</sup>

6.40 The National LGBTI Health Alliance also raised concerns over biometric identification, noting that 'the use of gender in identification tests is likely to have a disproportionate adverse impact on LGBTI populations'. It made the point that any use of personal identifiers in biometrics should not discriminate against or disproportionately target members of the LGBTI community.<sup>36</sup>

6.41 The committee notes that any developments in the use of biometrics must be complemented by adequate safeguards around the storage of that biometric information. If this information should ever be accessed by those willing to do harm, and 'repurposed' for their needs, then it may prove to have its own security risks.

### **Committee view**

6.42 The committee acknowledges the work of regulatory, security forces and law enforcement agencies in keeping Australia free from a major security-related incident at its airports. The regulatory conditions have been subject to constant review and amendment, with changes that have no doubt strengthened Australia's aviation security framework.

6.43 However, the committee urges caution against an excess of constant reviews and reforms. The regulations should provide the best security outcomes, but should not be amended so much as to become confusing, costly and not fit for purpose. Reviews should be in response to changing risk and threat levels.

6.44 Over the course of this inquiry the committee was presented with serious allegations and evidence of security risks and breaches at Australian airports. Of particular concern was evidence, spanning a number of years, around weaknesses in passenger screening processes, and abuse of the ASIC and VIC schemes.

6.45 The committee commends the steps that have been taken to address the issues in these areas, but there remains significant scope for breaches of security. Stringent background checking and improvements to the current ASIC self-reporting regime

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35 Law Council of Australia, *Submission 12*, p. 1.

36 National LGBTI Health Alliance, *Submission 20*, p. 5.

would go some way to addressing these concerns, as would increased oversight and centralisation of ASIC issuing processes.

6.46 While the media has an important role to play in bringing aviation security concerns to the attention of the general public, submissions made clear to the committee that the complexity of security regulation was not always reflected in such reports. Comprehensive and timely industry reporting to regulatory bodies of security incidents and emerging security risks would allow for the development of intelligence-based and risk appropriate reforms to the security framework.

6.47 The aviation sector and relevant government bodies continue to implement new and improved ways of combating aviation security threats. While the cost of such improvements and amendments should always be considered, particularly for smaller operators, the committee supports endeavours that help better protect the travelling public and airport employees.

**Senator Glenn Sterle**

**Chair**



# **Additional comments by Senator Nick Xenophon**

## **On a Wing and a Prayer? Aviation Security in Australia**

1.1 The committee's comprehensive summary and analysis of the evidence provided on this very important issue is to be commended.

1.2 The genesis of this inquiry can be traced back to the invaluable work that former Custom's Officer Mr Allan Kessing did in preparing reports on risks he identified in airport security. Those reports were disgracefully suppressed and only saw the light of day when leaked to *The Australian* newspaper in May 2005. Mr Kessing has always denied he was responsible for the leaking of those reports to *The Australian*.

1.3 The public furore that arose following the release of the reports led to the Howard Government commissioning the Wheeler Review into Airport Security and upon its release in September 2005, the Howard Government announced a \$200 million security upgrade at Australia's major airports – a complete vindication of the matters raised by Mr Kessing several years earlier.

1.4 However, the revelations by the Seven Network's investigative reporter Mr Bryan Seymour in a series of reports broadcast in 2014 highlighted that, despite the 2002 and 2003 Kessing Reports, the 2005 Wheeler Review, the 2009 Beale Review and the 2014 ANAO Audit of Policing at Australian International Airports, there are still many deficiencies in security at Australian airports.

1.5 This is clearly unacceptable and poses avoidable risks to the Australian travelling public.

1.6 In addition to the work of Mr Seymour, stories by Fairfax journalists Mr Richard Baker and Mr Nick McKenzie also revealed glaring problems with the Aviation Security Identification Cards (ASIC) and Visitor Identification Cards (VIC).

1.7 The work of these and other journalists begs the question whether the concerns going all the way back to the Kessing Reports have been appropriately addressed.

### ***An overview of the problem***

1.8 The inquiry drew out a number of issues in relation to aviation security.

1.9 The first of these issues relates to security screening of passengers as they enter the airport. Evidence was presented to the committee that shows that current screening does detect contraband, but that there are holes. Examples were provided of prohibited objects discovered after passengers had boarded planes; objects including knives, tools (such as screwdrivers and pliers), scissors and box cutters, pepper spray, tasers and bullets. Problems identified by the committee in respect of screening

included screening processes, the use of subcontracted security staff and inadequate staff training. Mr Kessing indicated that screening also lacks appropriate intelligence analysis, which has served other countries well.

1.10 The second issue relates to mandatory and voluntary reporting of ‘unlawful interference’ with aviation safety. The committee was presented with evidence to show that some in industry had a reluctance to make voluntary reports.

1.11 The third issue relates to the issuing and use of ASICs and VICs. The evidence provided to the committee, particularly the evidence of Mr Kessing, showed significant problems in relation to the ASIC and VIC vetting process – with up to 20 per cent of all non-Customs staff (i.e. baggage handling, cleaners, screening staff, aircraft catering etc.) with access to the sterile areas having criminal convictions, and about half of those were serious convictions, including drug trafficking, assault and the other misdemeanours. The vetting process is decentralised and has no notification scheme for an ASIC holder who may have been subject to a conviction after the card has been issued.

### ***A solution to the problem***

1.12 There is no starker example of what can happen when aviation security fails than the horrific events that took place on the morning of 11 September 2001 when nearly 3,000 people were killed in a series of coordinated terrorist attacks. The 11 September 2001 attacks resulted in the creation of both the US Transportation Security Administration (TSA) and the Canadian Air Transport Security Authority (CATSA).

1.13 The TSA is a one-stop shop for aviation security with the following functional responsibilities:

- to receive, assess, and distribute intelligence information related to transportation security;
- to assess threats to transportation;
- to develop policies, strategies, and plans for dealing with threats to transportation security;
- to make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;
- to serve as the primary liaison for transportation security to the intelligence and law enforcement communities;
- to, on a day-to-day basis, manage and provide operational guidance to the field security resources of the Administration;
- to enforce security-related regulations and requirements;
- to identify and undertake research and development activities necessary to enhance transportation security;

- to inspect, maintain, and test security facilities, equipment, and systems;
- to ensure the adequacy of security measures for the transportation of cargo;
- to oversee the implementation, and ensure the adequacy, of security measures at airports and other transportation facilities;
- to require background checks for airport security screening personnel, individuals with access to secure areas of airports, and other transportation security personnel;
- to work in conjunction with the Administrator of the Federal Aviation Administration with respect to any actions or activities that may affect aviation safety or air carrier operations;
- to work with the International Civil Aviation Organization and appropriate aeronautic authorities of foreign governments to address security concerns on passenger flights by foreign air carriers in foreign air transportation; and
- to carry out such other duties, and exercise such other powers, relating to transportation security as the US Under Secretary considers appropriate, to the extent authorised by law.

1.14 The TSA also has explicit responsibilities in the event of a US national emergency.

1.15 The US (and Canadian) Government's response is instructive, and Australia would do well to proactively adopt a similar approach, rather than reactively after some future aviation incident. The US approach inherently addresses all the problems identified in this inquiry in an integrated and coherent manner, with clear lines of responsibility.

### **Recommendation 1**

**1.16 That the Australian Government adopts a US Transport Security Administration-like agency approach to airport and aviation security.**

1.17 Finally, I wish to particularly thank Mr Kessing's contribution to this inquiry. Given that his home was raided by the AFP after *The Australian* stories broke in 2005, and he was subsequently convicted (I believe wrongly) for leaking the report (which he has consistently denied), Mr Kessing should be acknowledged for the significance of the reports he prepared and for his integrity throughout.

1.18 Australians owe Mr Kessing a great deal of gratitude for the reports he prepared that have been a catalyst for improvements to aviation security in this country. Sadly, it seems that a number of Mr Kessing's warnings and recommendations of almost 15 years ago have continued to go on unheeded. That is completely unacceptable.

**Senator Nick Xenophon**  
**Independent Senator for South Australia**

# Appendix 1

## Submissions received

<b>Submission Number</b>	<b>Submitter</b>
1	Mr Bryan Seymour
2	Mr Robin Darroch
3	Department of Infrastructure and Regional Development
4	Homeland Security Asia/Pacific
5	Board of Airline Representatives of Australia
6	Australian & International Pilots Association
7	Mr Richard Rudd
8	Australia Pacific Airports (Melbourne) Pty Ltd
9	Regional Aviation Association of Australia
10	Australian Security Intelligence Organisation
11	Regional Express
12	Law Council of Australia
13	Australian Security Industry Association Ltd
14	Qantas Airways Limited
15	Office of the Inspector of Transport Security
16	Australian Federal Police
17	Australian Airports Association
18	United Voice
19	Immigration and Border Protection Portfolio
20	National LGBTI Health Alliance
21	Mr Allan Kessing

### **Additional information received**

- Received on 18 February 2015, from Ms Sachi Wimmer, Executive Director, Office of Transport Security. Correspondence to committee clarifying statements made at 6 February 2015 hearing.
- Received on 14 April 2015, from Mr Bryan Seymour. Additional information.
- Received on 15 February 2016, from Ms Sachi Wimmer, Executive Director, Office of Transport Security. Response to the committee's request of 10 December 2015 for further information.

### **Questions on notice**

- Received on 18 February 2015, from the Department of Infrastructure and Regional Development. Answers to questions taken on notice on 6 February 2015.
- Received on 20 February 2015, from Australia Pacific Airports (Melbourne) Pty Ltd. Answers to questions taken on notice on 6 February 2015.
- Received on 20 February 2015, from Australian Security Industry Association Ltd. Answer to a question taken on notice on 6 February 2015.
- Received on 20 February 2015, from Homeland Security Asia/Pacific. Answer to a question taken on notice on 6 February 2015.
- Received on 20 February 2015, from the Australian Federal Police. Answer to a question taken on notice on 6 February 2015.
- Received on 23 February 2015, from the Australian Security Intelligence Organisation. Answers to questions taken on notice on 6 February 2015.
- Received on 23 February 2015, from Australian Airports Association. Answers to questions taken on notice on 6 February 2015.

## Appendix 2

### Public hearings and witnesses

#### 6 February 2015, Melbourne, VIC

- BOURKE, Mr Simon, Policy Manager  
Australian Airports Association
- BOWDEN, Mr Gary, Deputy Chair, Major Airports Security Committee  
Australian Airports Association
- CHEW, Commander Michael, Acting National Manager Aviation  
Australian Federal Police
- DARROCH, Mr Robin  
Private capacity
- DREEZER, Mr Steve, General Manager, Aviation Security  
Office of Transport Security, Department of Infrastructure and Regional  
Development
- EAVES, Mr Stuart, General Manager Safety, Security and Quality Assurance  
Regional Aviation Association of Australia
- HARTLAND, Ms Kerri, Deputy Director-General  
Australian Security Intelligence Organisation
- HENNING, Mr Roger Weir, Chief Executive Officer  
Homeland Security Asia/Pacific Pty Ltd
- JOHNSON, Mr Peter, Compliance and Regulatory Affairs  
Australian Security Industry Association Ltd
- JONES, Mr Travis, Manager, Security and Compliance  
Melbourne Airport
- MACKERRAS, Captain Dick, Technical, Safety and Regulatory Affairs  
Adviser, Australian and International Pilots Association
- NYAKUENGAMA, Ms Sharon, Acting First Assistant Secretary  
Trade, Customs and Industry Policy Division, Australian Customs and Border  
Protection Service
- PRICE, Mr Terry, Acting Commander, Strategic Border Command  
Australian Customs and Border Protection Service
- PROWSE, Mr Stephen, Deputy Chair, Regional Airports Security Committee,  
AAA Board Director, Australian Airports Association
- ROACH, Mr Michael, Director, Strategic Alliances  
Homeland Security Asia/Pacific Pty Ltd
- SAFE, Mr Nathan, President  
Australian and International Pilots Association

- SEYMOUR, Mr Bryan William, Senior Journalist  
Seven Network
- SHEA, Mr Andrew, Chief Executive Officer, Complex Institute of Education:  
and Australian Security Industry Association Ltd
- SULLIVAN, Ms Pauline, General Manager Transport Security Operations  
Office of Transport Security, Department of Infrastructure and Regional  
Development
- THOMPSON, Mr Bryan, Executive Operations  
Melbourne Airport
- TYRRELL, Mr Paul, Chief Executive Officer  
Regional Aviation Association of Australia
- WIMMER, Ms Sachiko (Sachi), Executive Director  
Office of Transport Security, Department of Infrastructure and Regional  
Development
- ZALEWSKI, Dr Tony, Consultant  
Homeland Security Asia/Pacific Pty Ltd

**24 November 2016, Canberra, ACT**

- KESSING, Mr Allan,  
Private capacity