

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE

Question No. 110

Senator Humphries asked the following question at the hearing on 24 May 2012:

- a) On March 14th 2012 a report by the NSW Police on the investigation into weapon smuggling, undertaken by a criminal syndicate through the Sylvania Waters Post Office highlighted that 220 Glock pistols had been illegally imported into our country via airmail. Can you confirm at exactly what point the agency was informed of the Sylvania Waters case by the NSW Police?
- b) What was Customs involvement in the Sylvania Waters Post Office incident?
- c) How were weapon components able to be imported into Australia and evade the detection of Customs staff and why do you believe this was able to occur?
- d) What are the systems, resources and practices used within the agency to detect and prevent this from occurring and why did they not work sufficiently in the Sylvania Waters case?
- e) Do you have an implemented risk management strategy to assist in the detection of the importation of weapons and why has this failed on this occasion?
- f) How effective is this system and have you identified any weaknesses that need to be addressed?
- g) Has the reduction in air cargo screening resulted in more illegal contraband being smuggled undetected through Customs?
- h) Given the significant breach of our borders will Customs be conducting an internal investigation into how this happened and also into the allegations of corruption within the agency?
- i) If so, what were the findings of that investigation?
- j) Are the levels of corruption of great concern to the agency? How much funding/resources is allocated to deal with issues/allegations of corruption?
- k) Given the seriousness of the allegations of corruption what steps has the agency taken to prevent future corruption within the agency?

The answer to the honourable senator's question is as follows:

a)

Customs and Border Protection was informed of NSW Police Strike Force Maxworthy on 8 February 2012 and implemented immediate risk treatments in relation to the entities involved and the broader firearm importation threat.

b)

Customs and Border Protection entered into a joint investigation with NSW Police to investigate the possession and importation of firearms into the country. Customs and Border Protection supported the activities by deploying:

- ten Investigators and search officers;
- two Operation Commanders;
- four Detector Dog teams, comprising two Firearms and Explosives Detector dogs and two Narcotic Detector dogs;
- three computer forensic officers; and
- one Intelligence Analyst.

c)

Customs and Border Protection inspects 1.5 million air cargo consignments, 101500 sea cargo twenty foot equivalent units (TEU), 20 million international mail parcels and 20 million letters each year. All high risk cargo is examined.

Sophisticated concealment methods are often used in attempts to import illicit goods, including firearms and firearm parts and accessories. Firearms are often disassembled into parts and imported over a series of consignments, concealed within other metal objects and mis-described on cargo reports and declarations. In this case, the goods were mis-described and concealed amongst other items.

d)

Customs and Border Protection has an intelligence led risk based approach to managing threats at the border and works with partner agencies – both domestic and international – to identify, disrupt and dismantle organised criminal syndicates attempting to import prohibited goods. Customs and Border Protection's intelligence-led risk-based approach enables the agency to concentrate its collective efforts and resources on the highest priority threats to the Australian border. To achieve this the agency actively collects and integrates intelligence and other information from a wide variety of sources to form a real-time view on current, new and emerging threats. This enables the agency to adopt a proactive and responsive border targeting posture.

In relation to this case, Customs and Border Protection received information from the NSW Police on 8 February 2012 and implemented immediate risk treatments in relation to the entities involved.

e)

Customs and Border Protection treats the illicit firearm importation risk in line with its intelligence led risk based philosophy. Customs and Border Protection also has a well entrenched business process whereby missed detections are subject to review in order to effect business improvements to risk treatments, people, processes and technologies. This process also adds to the intelligence picture for Customs and Border Protection and its partners. This case reinforces the criticality of intelligence to making detections at the border as once Customs and Border Protection received the information, targeted examinations occurred which led to the detection of magazines.

f)

Under the intelligence-led risk-based approach the number and weight of detections has increased:

- in the last year 96% of all drug detections and 85% of firearm and firearm accessories detections came from intelligence-led targeting.

In response to recent operational activity, Customs and Border Protection has implemented an agency-wide, multi-agency, intervention strategy with a range of tangible measures designed to detect, disrupt and deter the importation of illicit firearms through the Australian border.

A specialised Firearm Intelligence Targeting Team has been established inside Customs and Border Protection to fuse together all available intelligence from law enforcement agencies and target criminal key groups at the border. This was announced by the Minister for Home Affairs on 12 April 2012.

Customs and Border Protection officers are also being embedded in relevant operational organised crime, gang or firearms squads in states and territories, to better integrate Commonwealth border intelligence capabilities with state and territory criminal intelligence capabilities.

g)

Customs and Border Protection's cargo targeting and intervention strategy requires all imported air cargo to be risk assessed prior to clearance and for all high risk consignments to be examined.

Since 2007-08, detections in air cargo have more than doubled from 870 in 2007/08 to 1,827 in 2011/12.

These results demonstrate that Customs and Border Protection's adoption of an intelligence-led risk-based approach to cargo targeting and intervention in 2009 has been successful.

h) and (i)

Customs and Border Protection Integrity and Professional Standards Branch conducted an investigation into this misdetection.

Customs and Border Protection implemented immediate risk treatments in relation to the entities involved and the broader firearm importation threat.

Where it is relevant, Customs and Border Protection works closely with other Law Enforcement Agencies including the Australian Commission for Law Enforcement Integrity (ACLEI) and the

Australian Federal Police (AFP) and state agencies to investigate allegations of corruption or misconduct by Customs and Border Protection officers.

j)

All allegations of corruption of officers are taken very seriously. The Integrity and Professional Standards (I&PS) Branch is responsible for the implementation of preventative and detection strategies to minimise the risk of corruption and fraud within Customs and Border Protection; which enables the organisation to foster an environment that is resistant to criminal infiltration and corruption and the protection and security of the integrity of our operations, personnel and information.

The extension of ACLEI’s jurisdiction to the law enforcement functions of Customs and Border Protection officers is an important element of the Australian Government’s anti-corruption framework. This relationship recognises the strategic role played by Customs and Border Protection officer’s in safeguarding Australia’s borders, and the corruption risks associated with that role.

Customs and Border Protection and ACLEI have already established a strong integrity partnership and will continue to work together to resolve those matters under investigation. Customs and Border Protection has developed a robust integrity framework to resist corruption and infiltration and works closely with law enforcement agencies to identify and manage all sources of corruption risk. This measure recognises the strategic role played by Customs and Border Protection officers in safeguarding Australia’s borders and the corruption risk associated with that role.

The Integrity and Professional Standards Branch within Customs and Border Protection manages the agency’s risks in relation to infiltration and corruption. The role of the Branch covers three key elements:

- Security, including pre-employment screening checks;
- Investigations Operations; and
- Integrity Risk, Fraud Control and Corruption Prevention.

The table below provides detail on the funding and resources that is allocated to the I&PS Branch.

Year	Forecast Year	Full Time Staffing Equivalent
2010 - 2011	\$4,551,485	32.8
2011 - 2012	\$5,627,486	38.1

k)

Since 1 January 2011, Customs and Border Protection has also come within the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI), and this partnership is focussing on improving our existing integrity regime.

In February 2012 the Minister for Home Affairs and Justice wrote to the Chief Executive Officer of Customs and Border Protection (along with the Commissioner of the Australian Federal Police and the Chief Executive Officer of the Australian Crime Commission) outlining his expectations in detecting, disrupting and preventing corruption, and asking their advice about further action that needs to be taken to strengthen the corruption resistance of Commonwealth enforcement agencies.

Customs and Border Protection has also conducted a review of their integrity framework. This was completed in June 2012. It recommended a range of reforms to strengthen Customs' anti-corruption culture, prevent corruption and weed it out. The key elements of this framework encompass preparedness, prevention, detection and resolution. Specific strategies include:

- further enhancement of the organisational suitability assessment process and better alignment of our selection and recruitment of staff for employment within Customs and Border Protection – advising perspective applicants that they will be subjected to drug and alcohol testing, that the organisation has a zero drug tolerance and that applicants will be subjected to pre-employment screening;
- management and support of our staff during their career with the agency including an induction handbook and a refined integrity education and training program complemented by online integrity training;
- strengthening our ability to investigate and respond to claims of misconduct and corruption through additional capability for the existing Integrity and Professional Standards Branch (I&PS), and the involvement of all Divisions in advocating the role of our I&PS Branch;
- developing and implementing a confidante network;
- strengthening our Performance Assessment Framework;
- mobility policy application- staff will be rotated throughout the agency on specific timeframes;
- key messaging of key integrity issues; and
- IT audit capability.

Customs and Border Protection has implemented a range of specific controls that have reinforced and strengthened the organisation's defences against more serious criminal-related integrity issues, including:

- implementing an integrity framework without unduly constraining staff flexibility;
- ensuring a professional standard of investigation and intelligence gathering to identify risks associated with criminal behaviour, corruption, infiltration and serious misconduct;
- communicating key strategies that reduce the overall risk of corruption and infiltration across the agency and establishment of appropriate reporting avenues for all staff and external parties;
- shaping the environment to achieve high levels of security awareness and maintaining the integrity of our staff, information and operations with a strong focus on anti-corruption and security education and training;

- implementing a strong fraud control and corruption prevention risk mitigation strategy with a focus on 'single point of failure';
- assuring that all personnel are cleared and hold the appropriate security classification as required by the Protective Security Policy Framework;
- ensuring that staff meet pre- employment screening with regards to Organisational Suitability Assessments to determine suitability for employment within the agency;
- building partnerships with federal, state and territory police forces, other law enforcement bodies and security agencies, to ensure that Customs and Border Protection has appropriate knowledge of the environment, to make informed decisions; and
- face to-face fraud control and corruption prevention training has been delivered to approximately 6900 staff between January 2009 and June 2012, which from 1 January 2011, also included information about the Australian Commission for Law Enforcement Integrity.

On 19 September 2012, the Minister for Home Affairs introduced the Law Enforcement Integrity Legislation Amendment Bill 2012. The measures contained in the Bill complement work being done within Customs and Border Protection to improve the agency's integrity culture.

The Bill contains three key measures:

1. It introduces targeted integrity testing for Australian Customs and Border Protection Service, Australian Federal Police and Australian Crime Commission officers suspected of corrupt conduct;
2. It doubles the number of law enforcement agencies covered by the Australian Commission for Law Enforcement Integrity; and
3. It strengthens the powers of the Chief Executive Officer of the Australian Customs and Border Protection Service to deal with suspected corruption.

Integrity tests are observed covert simulations designed to test whether a public official will respond to a situation in a manner that is illegal or would contravene an agency's standard of integrity.

Examples of integrity testing include:

- A covert operative handing a wallet containing cash to officers and observing that correct handling protocols are observed;
- Leaving valuable goods at a simulated crime scene or suspected shipping container to test whether an officer steals the item;
- A covert operative offering a Commonwealth officer a bribe; and
- Putting false information in a database to catch a person suspected of unlawfully disclosing information.

Under the legislation the ACLEI and agencies including the AFP, Customs and Border Protection and the ACC will have the power to conduct targeted integrity testing.

The Integrity Commissioner, the head of the agency and/or delegated SES will be responsible for authorising integrity tests.

The Integrity Commissioner will be made aware of all integrity tests being undertaken by agencies, and thereby have visibility of the operation of the integrity testing system.

Oversight of any use of covert police powers will be provided by the Commonwealth Ombudsman and the Parliamentary Joint Committee on Law Enforcement.

Employee representatives are also being consulted on the development of the system to ensure appropriate safeguards are in place.

The Bill also strengthens the powers of the Chief Executive Officer of the Customs and Border Protection Service with a series of measures to bring the powers of Customs and Border Protection's powers to act against corruption and misconduct into line with the Australian Crime Commission and the Australian Federal Police.

This includes:

- the power to authorise drug and alcohol testing;
- the power for the Chief Executive Officer to make an order declaring that the termination of an employee was for serious misconduct; and
- the power to issue orders including mandatory reporting requirements, whereby staff members will be required to report any suspected misconduct.