

Dr John Coyne



Submission to the Legal and Constitutional Affairs Legislation Committee in respect to a review of the *Transport Security Amendment (Testing and Training) Bill 2019*

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This submission does not reflect the Australian Strategic Policy Institute perspective. It is the opinion of Dr John Coyne, Head of the Strategic Policing and Law Enforcement Program, ASPI.

1. The Legal and Constitutional Affairs Legislation Committee is conducting a review of the *Transport Security Amendment (Testing and Training) Bill 2019*.
2. The purpose of the Bill is to introduce:
 - a. Explicit powers in the *Aviation Transport Security Act 2004* (the *Aviation Act*) for aviation security inspectors to conduct covert security systems testing to assess compliance of aviation industry participants with their security obligations under the *Aviation Act*;
 - b. Measures into the *Aviation Act* and the *Maritime Transport and Offshore Facilities Security Act 2003* (the *Maritime Act*) to provide for the implementation of a new requirement that screening officers must have completed relevant training and hold qualifications specified in a legislative instrument before they exercise powers or perform screening functions at security controlled airports and security regulated maritime ports.
3. I understand the core argument for this amendment is that terrorist and criminal threats continue to display:
 - a. the intent to defeat maritime and aviation security screening and
 - b. the capability to innovate in order to attempt to defeat aviation and maritime security measures.
4. In both cases, government's argument is supported by a variety of empirical evidence that the intent of terrorist and criminal threats to defeat aviation and maritime security measures remains unchanged. While evidence suggests that hierarchical terrorist organisations, like the Islamic State, are not necessarily creative by nature, there is both qualitative and quantitative data to suggest that some terrorist cells and

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would-be lone actor terrorists are able to identify and then exploit security vulnerabilities by innovating:

- a. Over recent years, IS has developed its cyber capability to create a diffuse and often encrypted communication network.
- b. Over the last few years law enforcement and intelligence agencies across the globe have managed to stem the flow of foreign fighters leaving their shores. In response to this success IS has intensified existing efforts to recruit and empower their global followers to think Caliphate but attack locally.

5. Covert security systems testing to assess compliance of aviation industry participants with their security obligations under the *Aviation Act*

Maintaining the integrity of the system of systems that collectively comprise Australia's aviation security remains critical to mitigating the terrorism risk. The provision of explicit powers for security inspectors conducting covert security systems testing will provide a much-needed additional mechanism to maintain the security of Australia's aviation sector. These powers will provide government with further assurances of the effectiveness of screening and the compliance of screening authorities.

However, these explicit powers will do much more than simply assuring the compliance of the various aviation security stakeholders. These efforts will provide invaluable, and otherwise unavailable, information on undetected gaps and vulnerabilities in Australia's aviation security. They will likely form an important source of information to mitigate the impacts of terrorist and criminal innovation.

6. New requirements for aviation and maritime security screening officers

In late July 2017, the Australian Federal Police (AFP) uncovered a suspected IS plot to blow up an Etihad flight to Abu Dhabi. The terror group were allegedly coordinated in Syria and mailed a bomb kit from Turkey. The kit was then collected by an alleged terror cell in Sydney. While this example shows that there are plenty of seams in non-state actors' activities that can be identified and exploited, disrupting transnational threats using law enforcement methodologies is challenging, even with the support of another country. Unsurprisingly then, security screening at Australia's airports and ports remains critical to safe air and sea travel.

The Australian government has of course implemented a regulatory framework that provides minimum standards for screening at airports and ports, as well as a program for compliance monitoring. However, vulnerability testing, especially in regional airports, has revealed the need for further training for security screeners. Furthermore, as screening technology improves, and terrorists innovate, the minimum level of training for screening officers must also increase if they are to continue to mitigate risks. The Bill recognises this challenge and creates a framework to streamline the implementation of future changes in screening officers' training requirements.

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7. I thank the Committee and the Secretary for allowing me to make this submission.