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SENATE

SELECT COMMITTEE ON A CERTAIN MARITIME INCIDENT

Reference: Certain maritime incident

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SENATE
SELECT COMMITTEE ON A CERTAIN MARITIME INCIDENT

Wednesday, 17 April 2002

Members: Senator Cook (*Chair*), Senator Brandis (*Deputy Chair*), Senators Bartlett, Jacinta Collins, Faulkner, Ferguson, Mason and Murphy

Senators in attendance: Senators Bartlett, Brandis, Jacinta Collins, Cook, Faulkner, Ferguson and Mason

Terms of reference for the inquiry:

For inquiry into and report on:

- (a) the so-called 'children overboard' incident, where an Indonesian vessel was intercepted by HMAS *Adelaide* within Australian waters reportedly 120 nautical miles off Christmas Island, on or about 6 October 2001;
- (b) issues directly associated with that incident, including:
 - (i) the role of Commonwealth agencies and personnel in the incident, including the Australian Defence Force, Customs, Coastwatch and the Australian Maritime Safety Authority,
 - (ii) the flow of information about the incident to the Federal Government, both at the time of the incident and subsequently,
 - (iii) Federal Government control of, and use of, information about the incident, including written and oral reports, photographs, videotapes and other images, and
 - (iv) the role of Federal Government departments and agencies in reporting on the incident, including the Navy, the Defence Organisation, the Department of Immigration and Multicultural Affairs, the Department of the Prime Minister and Cabinet, and the Office of National Assessments; and
- (c) operational procedures observed by the Royal Australian Navy and by relevant Commonwealth agencies to ensure the safety of asylum seekers on vessels entering or attempting to enter Australian waters.
- (d) in respect of the agreements between the Australian Government and the Governments of Nauru and Papua New Guinea regarding the detention within those countries of persons intercepted while travelling to Australia, publicly known as the 'Pacific Solution':
 - (i) the nature of negotiations leading to those agreements,
 - (ii) the nature of the agreements reached,
 - (iii) the operation of those arrangements, and
 - (iv) the current and projected cost of those arrangements.

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Committee met at 8.34 a.m.

CHAIR—I declare open this meeting of the Senate Select Committee on a Certain Maritime Incident and I call the committee to order. Today the committee continues its public hearings in relation to its inquiry. The terms of reference set by the Senate are available from the secretariat staff and copies have been placed near the entrance to the room. Today's hearing is open to the public. This could change if the committee decides to take any evidence in private. The committee has authorised the broadcasting of the public aspects of proceedings. The hearing is scheduled to adjourn at 7 p.m. but may finish earlier—I wish! The hearing will resume at 9 a.m. tomorrow morning. There will be a short lunchbreak between 12.30 p.m. and 1.15 p.m.

We shall attempt to deal as expeditiously as possible with witnesses. I therefore urge witnesses to be concise in their answers and I urge senators to keep their questions highly targeted. Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. It is important for witnesses to be aware that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. If at any stage a witness wishes to give a part of their evidence in camera, they should make that request to me as chair, and the committee will consider that request.

Should a witness expect to present evidence to the committee that reflects adversely on a person, the witnesses should give consideration to that evidence being given in camera. The committee is obliged to draw to the attention of a person any evidence which, in the committee's view, reflects adversely on that person and to offer that person an opportunity to respond. An officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy. However, officers may be asked to explain government policy, describe how it differs from alternative policies and provide information on the process by which a particular policy was arrived at. The committee has agreed to requests from certain witnesses that they be accompanied by counsel. However, counsel has no right to address the committee, nor will the committee address questions to counsel.

Before I call the first witness, I want to make the observation to the committee, or to those of us who are here, that we have a highly organised day. If we complete our list of witnesses today—and there is quite a number of them—it will be a record for this committee. Many of the witnesses that we have on our list today have very tight timetables and have made themselves available. We have accepted their attendance in the full knowledge of that, so I will be cutting off questions at the end of the times shown on the notice for the hearing today.

[8.38 a.m.]

HOUSTON, Air Marshal Allan Grant, Chief of Air Force, Department of Defence

CHAIR—Welcome, Air Marshal Angus Houston. Do you have any comments to make by way of an opening statement?

Air Marshal Houston—I spoke to the Senate estimates committee back in February and, essentially, I made a number of statements at that time. I stand by what I said then, and I am very happy to be here today to elaborate on anything that you want me to elaborate on.

CHAIR—Is that your opening statement?

Air Marshal Houston—Yes.

CHAIR—Thank you very much.

Senator BRANDIS—For how long have you been a military officer or in the service of the Royal Australian Air Force?

Air Marshal Houston—Since January 1970.

Senator BRANDIS—In the 32 years in which you have been in the service of the Australian Defence Force you would be in a better position than almost anyone to have an awareness of the values, standards and protocols of the ADF, wouldn't you?

Air Marshal Houston—Along with my colleagues—the Chief of Army, Chief of Navy and other members of the senior leadership group within Defence—yes.

Senator BRANDIS—May I suggest to you that among those values, standards and protocols there is a high level of confidence in an officer in command of a command or operational situation?

Air Marshal Houston—Yes, I would agree with that totally.

Senator BRANDIS—And that there is an expectation that when an officer in command of—what I have called—a command or operational situation makes a report then those for whom the report is made are entitled to rely upon its accuracy and truthfulness?

Air Marshal Houston—Yes. Usually, the reporting will come in the written form and, yes, that would be accepted totally.

Senator BRANDIS—I am not asking you about the medium, for the moment—I will turn to that. Regardless of whether a report is an oral report or a written report, when an officer in a command situation makes a report through the chain of command there is a high expectation

that that report is reliable and command decisions, or any other decisions for that matter, up the chain of command may be taken on the assumption that that report is indeed accurate.

Air Marshal Houston—Over the last 12 years, I have had a lot of experience in handling reports from the field. I have been in many situations where reports have come in by phone. The initial reports are often to let the high command chain know that something has happened, and the initial details are sometimes quite sketchy. So it is therefore quite important in those circumstances to wait awhile to let things sort themselves out and then you finally get a much more complete report. Let me give you an example. When I was Chief of Staff at Australian Theatre we conducted an evacuation operation out of Phnom Penh. It was a highly successful operation but sometimes the initial reports that came in were just a little bit sketchy and what was required was to wait a little while to get the complete story.

Senator BRANDIS—I understand entirely, Air Marshal Houston, but are you demurring from the proposition that those further up the chain of command have an expectation that they can rely on reports from the command situation by the commanding officer in the field?

Air Marshal Houston—Yes, definitely. All I wanted to alert the committee to was the fact that, when things are happening out there in the operational situation, what is actually happening is not always clear to the commander on the spot because, if we are up on the East Timor border and there has been an incident—a contact with militia or something like that—the initial details will always be sketchy.

Senator BRANDIS—I think you have made that point.

Air Marshal Houston—There is a need to assess the situation and then report back. The point I want to make is that every time that has happened in my experience the information that has come from the commander at the lower level has always been very good information and information that could then be passed on, and I had complete confidence in that information.

Senator BRANDIS—Quite. All I am really trying to get at is that a report from a commander in an operational situation would not likely be set aside or varied by those further up the chain of command. It may be supplemented or fleshed out by fuller information arriving and assimilated subsequently, but it would not likely be set aside, would it?

Air Marshal Houston—No, it would not be set aside.

Senator BRANDIS—Of course, it may be wrong. Human error is part of the human condition. I am not saying that there is an absolute and dogmatic adherence to every report from a command situation. The point I am merely trying to get across or see if you agree with is: if there is a report, those further up the chain of command have an expectation in the military that it is reliable and can and will be relied upon and it would not likely be set aside. Would you agree?

Air Marshal Houston—I would agree. In my experience, information that has come through Commander Australian Theatre from the tactical level has always been very good information.

Senator BRANDIS—Yes. I do not think you need to be a military officer to know this. It is really a matter of commonsense. Would you agree with these two propositions? The first is that a witness to events is more likely to have an accurate account of those events than those who have merely heard second-, third- or fourth-hand what took place.

Air Marshal Houston—I do not know quite what you are getting at when you say a witness to the events. Are you referring to the commander on the spot or are you referring to somebody that might be there with the commander?

Senator BRANDIS—Anyone. We are not talking about the command chain. I am simply putting the almost banal proposition that, if you want to find out what happened, you go to the man or woman on the spot, whether they be the commander or a person who was directly engaged in the relevant episode. The further away you get from the eyewitnesses, the less reliable the account will be. Would you agree with that?

Air Marshal Houston—The information that is used further up the chain of command relies totally on the reporting from the tactical level. From that point of view, I would agree.

Senator BRANDIS—The second proposition is, again, almost banal. It is that, the greater the passage of time since an event happened, the less reliable memory will be. The best evidence of something is the evidence of a person who narrates it as they see it and the least reliable evidence will be the evidence based on memory and recollection as the incident recedes into the past. Would you agree with that?

Air Marshal Houston—No, I would not. I think it depends on the context of the circumstances. Sometimes something happens and it is of such consequence and gravity that you remember it very well. I would concede that, with routine circumstances, that is probably true. But I think if you have been involved in something that is of great importance, you might tend to remember that quite vividly.

Senator BRANDIS—I am not disputing that, but you would certainly agree that what anyone remembers, say, six months after an event is never going to be better than what they remember and record as the event is happening?

Air Marshal Houston—I would agree with that.

Senator BRANDIS—And one indeed would view with suspicion the evidence of a witness whose memory of an event seemed to become better or more dogmatic with the passage of time rather than more tentative or uncertain.

Air Marshal Houston—I would not like to make a comment on that.

Senator BRANDIS—All right. Air Marshal Houston, you became the Acting CDF on 6 November 2001.

Air Marshal Houston—That is correct.

Senator BRANDIS—On the morning of 7 November 2001—I am going from your evidence in estimates—you saw a story in the *Australian* about the so-called ‘children overboard’ episode on SIEV4 and something struck you about it. Is that so?

Air Marshal Houston—Yes. I have a copy of it before me.

Senator BRANDIS—Of the article in the *Australian*?

Air Marshal Houston—I have a copy of the article.

Senator BRANDIS—I am not going to ask you any questions about it; I am just trying to locate a point in time.

Air Marshal Houston—That is correct.

Senator BRANDIS—Prior to the time when you saw the article in the *Australian* on 7 November, what, if anything, had been your involvement with what I might generically call the SIEV4 incident?

Air Marshal Houston—I am a member of the senior command group that advises CDF. Through the period that you refer to—that is, through October and November up to when I became Acting CDF—there were many meetings of the senior command group that talked about a large variety of operational matters. Most of them were to do with the war on terrorism. We also had the weekly operations briefing for CDF. As part of that weekly operations brief, we would get a briefing from Head of Strategic Command on what he had been up to in the previous week and also a briefing from Commander Australian Theatre who would do likewise. During those briefings, there was a brief overview of what had been happening on Operation Relex. My formal involvement in Operation Relex before I became Acting CDF was that I was not directly involved.

Senator BRANDIS—You were not directly involved. Would it be fair to say that you were generally aware of it, but you had no specific knowledge of any particular aspect of it?

Air Marshal Houston—I was aware of what was going on and I was aware of some uncertainty about SIEV4.

Senator BRANDIS—What was the uncertainty of which you were aware?

Air Marshal Houston—I was aware that there was some concern about the photographs and the fact that the photographs related to the events of 8 October not 7 October and about the fact that there was no documentary evidence to support the statement that children had been thrown overboard.

Senator BRANDIS—Would you expect there to be documentary evidence?

Air Marshal Houston—When I was Acting CDF, I did review some documentary evidence, yes.

Senator BRANDIS—We will come to that in a moment.

Air Marshal Houston—I think this is what you are seeking: I did not see any documentary evidence prior to becoming Acting CDF.

Senator BRANDIS—Nor did you have a conversation with Commander Banks?

Air Marshal Houston—No, definitely not.

Senator BRANDIS—Nor did you have a conversation with any member of the HMAS *Adelaide* crew?

Air Marshal Houston—No.

Senator BRANDIS—Did you speak to Brigadier Silverstone?

Air Marshal Houston—No, I did not.

Senator BRANDIS—Were you aware that Brigadier Silverstone had, on the morning of 7 October, reported to Air Vice Marshal Titheridge that he had been told during a telephone conversation with Commander Banks from the bridge of the *Adelaide* that a child had been thrown in the water?

Air Marshal Houston—I was not aware of it in the detail that you have just given me.

Senator BRANDIS—When you saw the *Australian* report, you had heard speculation or talk about the authenticity of photos, you had heard talk about the absence of documentary evidence demonstrating that a child had been thrown in the water—

Air Marshal Houston—Yes.

Senator BRANDIS—and you had inspected no source documents—

Air Marshal Houston—Correct.

Senator BRANDIS—and you had spoken to no witnesses?

Air Marshal Houston—When you say I had spoken to no witnesses, what do you mean? I was involved on a daily basis talking to CDF.

Senator BRANDIS—Maybe I am being too much of a lawyer. By ‘witnesses’ I mean eyewitnesses. I mean people who were there when the event happened—the crew of the *Adelaide*, in other words.

Air Marshal Houston—I had spoken to nobody at the tactical level. I had spoken to nobody who was aboard *Adelaide*. I had spoken to nobody in NORCOM. I had spoken with

Commander Australian Theatre on a variety of matters, but I do not recall having a discussion with him about that specific instance.

Senator BRANDIS—Not only had you not spoken to Brigadier Silverstone but you were in fact unaware that Brigadier Silverstone had reported that he had been told by the commander of the *Adelaide* as the event was happening, early on the morning of 7 October that a child had gone into the water. You were unaware of that?

Air Marshal Houston—No. I was aware that a report had come in that suggested that children had been thrown overboard. I was aware that that had come through Air Vice Marshal Titheridge. I was aware that that had gone to the task force and I was aware that there was some confusion about that report.

Senator BRANDIS—When you say confusion, Air Marshal, it amounts to nothing more than this, does it not: that certain people who were not witnesses to these events had raised a doubt about the accuracy of the report? That is all it amounts to, doesn't it?

Air Marshal Houston—Essentially, there was no documentary evidence. I was aware that there was no documentary evidence to support the report that children had been thrown overboard.

Senator BRANDIS—Air Marshal Houston, there was actually documentary evidence to support that report, which I will take you to in a moment. Be that as it may, you had not spoken to Silverstone, had you?

Air Marshal Houston—No, I had not.

Senator BRANDIS—Having seen the report in the *Australian* on the morning of 7 November, from your evidence in the Senate estimates committee you had a conversation with Air Vice Marshal Titheridge. Is that so?

Air Marshal Houston—That is correct.

Senator BRANDIS—What did he say to you about the so-called 'children overboard' incident?

Air Marshal Houston—Could I just give my side of the story?

Senator BRANDIS—Of course, but I want to approach this in a particular way and I am inviting you to give me your recollection of a conversation. That is not exactly a tendentious question.

Air Marshal Houston—No, that is fine.

CHAIR—I am very sure you will get an opportunity to say in your own words—

Senator JACINTA COLLINS—If the witness wants to explain something in context, I think he should be able to. Senator Brandis's particular passion for asking questions, given the nature of his interjections yesterday, is inappropriate.

Senator BRANDIS—I am asking the question, Senator Collins.

Air Marshal Houston—I am happy to take the question.

CHAIR—Order!

Senator BRANDIS—Please answer the question, Air Marshal Houston.

CHAIR—Are you wanting to take a point of order, Senator Collins, or have you had your say?

Senator JACINTA COLLINS—My point of order is that I believe the witness, if he seeks to, should be able to elaborate more fully than Senator Brandis's specific questions. And he has sought to.

CHAIR—Is there any other comment on the point of order?

Senator BRANDIS—I have asked him what was said during a conversation.

Senator FAULKNER—I will speak to the point of order. I always think that these things are, firstly, in the gift of the questioner. Senator Brandis is entitled to ask any question he wishes to. He is proceeding to do that and no doubt he will continue to do so. The witness at the table, whether it is Air Marshal Houston or any other witness, can answer the questions precisely as they see fit, as long as they answer truthfully. That is how these committees always work. I think we all know that. We should probably just get on with it.

CHAIR—On the point of order: I will not rule against Senator Brandis at this stage, for the reason that I have applied a very open and liberal interpretation of managing this inquiry. I am reasonably sure, with the greatest respect to you, Air Marshal, that all of us are adult and can deal with these questions by explaining what we want to put ourselves, so let us proceed.

Air Marshal Houston—Okay, fine.

Senator BRANDIS—Air Marshal, the question was: what was said in the conversation between you and Air Vice Marshal Titheridge on the morning of 7 November?

Air Marshal Houston—The first thing was, obviously, the article in the *Australian*. We talked about the article, and the focus of discussion was:

Christmas Islanders allege that naval officers told them claims that asylum-seekers had thrown their children overboard during a confrontation last month with HMAS Adelaide were untrue.

... ..

A spokesman for Mr Reith said last night: “I don’t put any credence in unnamed sources, and the Minister has no reason not to believe the reports he’s received from senior officers in the navy.”

Essentially, that was in relation to children overboard. We had a discussion about the article and, in this article, there is also a reference to a video. I was very interested in the video. I found out from Air Vice Marshal Titheridge that there was a copy of the video—the only one he was aware of was held by Admiral Smith in Sydney. I asked Air Vice Marshal Titheridge if he had seen the video; he told me he had not, but he had been briefed in some detail on it. He indicated that it was an infra-red video, quite grainy and of quite poor quality and, although it showed people jumping overboard, it did not show any women or children going into the water. The point he did make, though, was that there was a child that was taken to the side of the vessel and held over the side of the vessel.

The other thing that he told me was that Minister Reith wanted to speak to me quite urgently—I think the words he used were: ‘Minister Reith is chasing you.’ I assumed from that that Minister Reith wanted to talk to me about this particular article and, of course, my further actions from there were to find out as much as I could about the events of 7 and 8 October.

Senator BRANDIS—I am sorry; say the last sentence again.

Air Marshal Houston—My actions from there were to find out as much as I could about 7 and 8 October, given that the word I was given was that the minister wanted some fairly quick advice.

Senator BRANDIS—Given that that was the task you set yourself—to find out as much as you could about these events—what steps did you then take to find out as much as you could?

Air Marshal Houston—Obviously Air Vice Marshal Titheridge is the major adviser to CDF on operational matters; I had spoken to him.

Senator BRANDIS—Sorry, pausing there: have you completed your account of your conversation with Air Vice Marshal Titheridge?

Air Marshal Houston—Yes. I can remember the discussion about the video because that was really something that I was very focused on.

Senator BRANDIS—So everything you are able to tell us about your conversation with Air Vice Marshal Titheridge you have now told us?

Air Marshal Houston—All that I can recall, yes.

Senator BRANDIS—Did Air Vice Marshal Titheridge tell you that he had received up the chain of command on the morning of the seventh an unequivocal report from Brigadier Silverstone that Brigadier Silverstone had been told by Commander Banks that a child had been thrown overboard?

Air Marshal Houston—No, he did not, but we had moved on. We were a month away from those events at that time.

Senator BRANDIS—Did he refer to the fact that he had had a conversation with Brigadier Silverstone on the morning?

Air Marshal Houston—No, he did not. The whole thrust of the conversation was what the video showed, and what came out of that was that the video did not show that there was any evidence to support the fact that children had been thrown overboard. I think the word he used was that it was ‘inconclusive’ in terms of supporting the child overboard proposition.

Senator BRANDIS—‘Inconclusive’ means it is not conclusive one way or another, doesn’t it?

Air Marshal Houston—That was the word he used. I think the reason he used that word was that the video showed what happened down one side of the vessel and did not actually show what had happened on the other side of the vessel. I would assume that is why he came to the view of it being inconclusive. In fact, I think he actually said that. He said, ‘Therefore, it’s inconclusive.’

Senator BRANDIS—If I may be forgiven an editorial comment, as it were, he was plainly right; it was conclusive. It did not tell you one way or the other, did it?

CHAIR—It certainly did not prove a negative.

Senator BRANDIS—If it is inconclusive, it does not conclude.

Air Marshal Houston—What I was searching for was some documentary evidence that supported the children overboard proposition.

Senator BRANDIS—I understand.

Air Marshal Houston—I was vitally interested to see that video. I had not seen it myself.

Senator BRANDIS—Did you look at it yourself that morning?

Air Marshal Houston—No, I then went up to the CDF’s office and went into the Chief of Staff’s office. He shares that office with the then Lieutenant Colonel Steve Day—

Senator BRANDIS—Evans.

Air Marshal Houston—Evans and Day. I mentioned during Senate estimates that I had gone to talk to Evans; in actual fact I talked to Day. I talked to Lieutenant Colonel Day about the video. I wanted to see the video. The first question was: ‘Is there a copy of the video here?’ The answer was: ‘No, there is not.’ I said, ‘I understand that Admiral Smith has a copy of the video in Sydney. You’ve got some technology here in CDF’s situation room. Would it be possible for that video to be broadcast to Canberra so that I can have a look at it in the next half-hour or so?’ Clearly there was a need to talk to the minister as soon as I had the facts together. Unfortunately, that was not possible. After checking, he told me it was not possible to broadcast the video—

Senator BRANDIS—I am sorry, Air Marshal; I do not want to cut across you but I am conscious of the limit on time. What you are saying to me is that you made reasonable attempts to view the video but, for reasons beyond your control, that was not possible on the morning. Is that what it amounts to?

Air Marshal Houston—That is correct.

Senator BRANDIS—According to your evidence in estimates, you then had a conversation with Group Captain Evans and Brigadier Bornholt.

Air Marshal Houston—Yes.

Senator BRANDIS—Was there any intermediate event before you had that conversation? You spoke to Titheridge, who gave you his interpretation of the video and said it was inconclusive, and you tried to arrange to see the video and, for reasons for which you cannot be criticised, that proved not to be possible. Was the next thing that happened your conversation with Evans and Bornholt?

Air Marshal Houston—I corrected my Senate estimates evidence. The individual I spoke to was actually Lieutenant Colonel Day.

Senator BRANDIS—It was Day, not Evans.

Air Marshal Houston—It was Day, yes. The conversation was as I have just described to you. When I was talking to Day about that, Bornholt was in the office at the time.

Senator BRANDIS—I will take you through this step by step. Lieutenant Colonel Day, of course, was not a witness to any of these events.

Air Marshal Houston—When you say ‘a witness to these events’—

Senator BRANDIS—The SIEV4 events on 7 October.

Air Marshal Houston—He was not out on the ocean, no.

Senator BRANDIS—Did he say to you that he had read any source documents or seen the video? In other words, was he able to give you a second-hand account of any primary evidence?

Air Marshal Houston—No, he was not. He could not elaborate further on the circumstances. The conversation with Lieutenant Colonel Day really was in relation to the video and the opportunity to view the video.

Senator BRANDIS—So, Lieutenant Colonel Day told you nothing? Day introduced you to no relevant material fact?

Air Marshal Houston—That is correct, Senator.

Senator BRANDIS—Did you then speak to Brigadier Bornholt?

Air Marshal Houston—I did.

Senator BRANDIS—Bornholt was not a witness to these events in the sense I have used the word?

Air Marshal Houston—No, not in the way you have described the word.

Senator BRANDIS—Did he introduce you to any new or relevant material facts?

Air Marshal Houston—Yes, he did.

Senator BRANDIS—What were they, please?

Air Marshal Houston—He produced a chronology of events. In fact I have it here and I think it has been tabled.

Senator BRANDIS—Just pause. Let us make sure that we are talking about the right document. This is a four-page document starting with the words, 'SIEV4/01 sit rep event log Christmas Island'.

Air Marshal Houston—What I have here is 'Daytime group 10 1136Z, October 01'.

Senator BRANDIS—Air Marshal Houston, would you please pass that up to me.

Air Marshal Houston—Certainly. It is the chronology of events sent from *Adelaide* on 10 October.

Senator BRANDIS—Please freeze there for a moment while I check this. The document that I just showed you is not the document that Bornholt had. Is that right?

Air Marshal Houston—That is correct.

Senator BRANDIS—This is the document with the famous footnote. For the sake of completeness, at the last entry on the last page there is a footnote which has been quoted in part by other senators:

There is no indication that children were thrown overboard. It is possible that this did occur in conjunction with other SUNCs jumping overboard.

You did not see that document on the morning?

Air Marshal Houston—No, I did not.

CHAIR—It is a bullet point rather than a footnote, isn't it?

Senator BRANDIS—Sorry, it is a bullet point. It has been described as 'the footnote'.

Senator JACINTA COLLINS—I would like some clarification at this point. Has Air Marshal Houston provided to the committee the document that he is referring to?

CHAIR—He has provided it to Senator Brandis.

Senator JACINTA COLLINS—Could I have a copy of it, please?

Senator BRANDIS—It is this one. You already have it.

Senator JACINTA COLLINS—Where is it? Which one are we referring to? You have the benefit of seeing it, Senator Brandis. We do not.

Air Marshal Houston—This is the Op Relex SIEV4 list of chronological events for 7 October 2001 boarding from HMAS *Adelaide* to Maritime Commander Australia and for info of Maritime Headquarters, CJTF 639 Silverstone and a couple of other addressees.

Senator FAULKNER—Air Marshal, it is what we as a committee have probably not quite accurately described as ‘the signal’. That is the terminology that we have consistently used, as opposed to ‘chronology’, which is another document.

Air Marshal Houston—Yes.

CHAIR—We are all satisfied we know the document. Please proceed, Senator Brandis.

Air Marshal Houston—This is the signal that I referred to in my Senate estimates evidence.

Senator FAULKNER—Yes, indeed, and that terminology is the one that we have consistently used as opposed to ‘the chronology’, even though the signal contains a chronology and forms the basis of the other document.

Senator BRANDIS—Air Marshal Houston, is the document that we have now all agreed is the chronology, the only source document you saw before you spoke to the minister?

Air Marshal Houston—That is correct.

Senator BRANDIS—I was chastised by a journalist for making this distinction when I made the point in Senate estimates, but let me be bold enough to make it again. A chronology is an ordered sequence of events that is of things that are seen to happen as they happen. Would you agree?

Air Marshal Houston—Yes.

Senator BRANDIS—It is not a descriptive document that describes a panorama or a scene.

Air Marshal Houston—This came out on 10 October—

Senator BRANDIS—Can we just keep it at the conceptual level for a moment? We will go to the detail in a tick. Would you agree that a chronology is not a document that describes a panorama or a scene?

Air Marshal Houston—When I read this it described very well to me what happened out there, or what was happening out there.

Senator BRANDIS—The point I am at pains to make to you is that, if something is part of the panorama but it is not an event that is observed to be happening—for instance, a child being in the water as opposed to somebody seeing a child being thrown into the water—that is part of the observed phenomena but it is not necessarily something you would expect to find in a chronology. Would you agree?

Air Marshal Houston—This is a military signal. I have had experience of about 100 operations. What I read here gave me a very good picture, straight from the tactical level, as to what was happening out there. It is put in a chronological format, which I think actually adds to the clarity of what was happening out there.

Senator FAULKNER—Something that describes a panorama or a scene, to pick up Senator Brandis's words, would be a photograph, wouldn't it? That would describe a panorama or a scene to actually know that they were bodgie in relation to this incident.

Air Marshal Houston—I found this quite an informative document. That was what I really needed to—

CHAIR—The originator of this document has been trained in order to render a document which is informative and descriptive of the events so that the chain of command can be advised what happened?

Air Marshal Houston—Yes.

CHAIR—You are trained in interpreting it as well?

Air Marshal Houston—Yes. Most of these military signals are in a format that is very difficult for a layman to read and understand, but once you have been exposed to them over the years you become quite comfortable with them.

Senator BRANDIS—I understand that. I am only a layman and I did not find too much difficulty reading this document and, for the life of me, I cannot see any reference in this document to the proposition or the question of whether or not there was a child in the water. I agree it is silent on the matter. It just does not tell you one way or another. It certainly does not support the view that there was a child in the water, does it? It does not support that view, does it?

Air Marshal Houston—If a child had been in the water, it would have been reported in the text of the message.

Senator BRANDIS—How do you know that?

Air Marshal Houston—That is just the way we do business in the military.

Senator BRANDIS—How much do you know about the way they do business in the Navy?

Air Marshal Houston—Over the last 12 years, I have been involved in joint operations for seven years, I was head of Strategic Command immediately before this appointment and before that I was Chief of Staff at Australian Theatre. I have been involved in the direction of operations for probably around 70 or 80 operations from the strategic and the operational level over the last few years, and they were all joint operations. As a consequence, I have had a lot to do with the Navy, a lot to do with the Army and a lot to do with the Air Force.

Senator BRANDIS—Air Marshal Houston, this document itself, which is signed off by the commander, is itself a compilation, is it not, from all of the source documents and primary sources, including, may I suggest to you, the operations log and the boarding log?

Air Marshal Houston—It was issued on the 10th. It followed the events of the seventh and eighth. It makes reference to the fact that this is the report on the boarding and that there were two other reports to follow, one on the rescue operation the next day—I think it is actually in the message. I will read it to you. In fact, it says here that a second chronology of the distress signal p.m. 7 October and subsequent tow action and a third detailing the sinking on 8 October will also be prepared. So what I took this to be, when I was sitting there working quite furiously to meet the minister's requirements as I saw them, was that this provided a comprehensive summary of the events surrounding the incident on 7 October.

Senator BRANDIS—You say it was comprehensive, but it is a four-page abbreviated chronology. Yet we have been given dozens of pages of boarding logs, operations logs, 16 witness statements and other signals. This document is not comprehensive, is it? It is a summary of facts that particularly stand out to the author, isn't it?

Air Marshal Houston—The military system of messaging is such that this signal, the way I saw it, was designed to clarify the situation that arose on 7 October.

Senator BRANDIS—I take it that the situation was whether or not a child went overboard. That was of concern to you at this point.

Air Marshal Houston—Yes, it was.

Senator BRANDIS—So, if it was the intention of the author of this document to refute the proposition that a child had gone overboard, you would expect it to say that, wouldn't you?

Air Marshal Houston—Let me put it this way: it may be intuitive but there was no reference within it to children being overboard or children in the water—

Senator BRANDIS—Absolutely.

Air Marshal Houston—but there are a couple of references in it to children which suggest that it did not happen. For example, if we go to the third page and look about halfway down that page, we can see there that it says:

070502 golf Number of SUNCS threatened to commit suicide and throw children overboard unless taken to Australia.

Then further down that page we see the narrative that relates to a number of people jumping overboard. I concede the fact that it says here, ‘Man overboard. Man overboard.’ That is a term that is used—

Senator BRANDIS—That is my very point; you have anticipated it. ‘Man overboard’ is a piece of naval jargon.

Air Marshal Houston—That is correct.

Senator BRANDIS—What it means is ‘human being overboard’. ‘Man overboard’ is apt to describe ‘woman overboard’ and it is apt to describe ‘child overboard’. It merely means ‘human being overboard’, doesn’t it?

Air Marshal Houston—That is correct.

Senator BRANDIS—So how is that conclusive one way or the other that there were no children thrown overboard?

Air Marshal Houston—When you read it and take the whole context—and bear in mind that, although the video was described as being inconclusive, it does not show any children in the water or any children being thrown in the water—

Senator BRANDIS—No, it does not.

Air Marshal Houston—It does show—as I was briefed at the time—that a child was held close to the side of the vessel.

Senator BRANDIS—May I just interrupt you to point out that it is not in controversy on this committee—at least I do not understand it to be—and it has not been suggested that the little girl in the pink jumper who was held over the side was dropped into the water. If there was a child overboard, and there is evidence both ways about that, nobody suggests that it was the little girl in the pink jumper.

Air Marshal Houston—Sure.

Senator BRANDIS—So you cannot really extrapolate fairly and say that the child held overboard did not go into the water and therefore there was not a child in the water, can you? Perhaps that is what you have done.

CHAIR—Can I just interrupt you for a moment, Senator Brandis. Last night I was pulled up several times by your colleagues, and maybe even by you, about interrupting witnesses when

they were part way through an answer. I think it would be useful if you allowed Air Marshal Houston to complete his answers.

Senator BRANDIS—Fair enough. Please continue, Air Marshal Houston.

Air Marshal Houston—I suppose what you would like to know is why I made the assessment that I did.

Senator BRANDIS—Indeed I do. And when you address that, please bear in mind my criticism that what you have done is make an impermissible inference; that is, that because there is only a reference to a child being held overboard, it for some reason follows that there was not a different child in the water.

Senator JACINTA COLLINS—I do not read that inference.

Air Marshal Houston—First of all, if I can just continue, all the references in this signal relate to the fact that the children are on the vessel: ‘children taken to the side’, ‘child held over the side’, ‘child not thrown overboard’, ‘male SUNCs in vicinity of wheelhouse threatened to throw women and children overboard. This did not occur.’ From all of this, there were people overboard. I believe there were somewhere between 12 and 14 people overboard, as I was briefed at the time by Brigadier Bornholt. On reading this, on being briefed by Bornholt, having been—

Senator BRANDIS—But Bornholt was not a witness. He could not have told you anything.

Air Marshal Houston—No, but Bornholt had seen a lot of the information. Having spoken to Titheridge, I had to make a call.

Senator FAULKNER—Could you pause there. It is true, is it not, Air Marshal, that Brigadier Bornholt was central to the key issue: that the photographs of the event allegedly depicted—that is, children being thrown overboard—were in fact taken at the time of the sinking of SIEV4. Of course, Brigadier Bornholt was not out on the Indian Ocean but he had had early and clear knowledge of the fact that those photographs were not evidentiary support of such an incident. Bornholt knew that. He knew it very early in the piece. He knew it a month before he had any conversation with you when you were Acting CDF. We have got to be reasonable about this. While Bornholt was not out there on HMAS *Adelaide*, as we all understand, he was central to the fact and understood, because of his role in Defence, that the photographs were not evidentiary support of children being thrown overboard. So he did actually have in his possession first-hand information that was highly relevant to this event.

Air Marshal Houston—That is correct.

Senator BRANDIS—Air Marshal Houston, let us draw this together, please. At the time you spoke to Mr Reith you had heard a version of the video. And it is no criticism of you that you did not see the video, because you tried to and it was not possible. The view that was put to you, which I understand you adopted, was that the video was inconclusive. You had read the chronology, and may I put it to you that the chronology was also inconclusive—do you accept that?

Air Marshal Houston—What I had to do was review everything that was available to me. What was available to me was obviously the conversation that I had with Air Vice Marshal Titheridge. He gave me some information about the video. I concede he had not seen it himself. I then spoke to Bornholt. Bornholt knew a great deal of information. He was, after all, the military officer involved in public affairs and communications. He had been intimately involved in all of this on a day-by-day basis since the events of 7 and 8 October.

He also presented me with this signal. The signal came straight from the tactical level. It was a chronology of the events that related to the 7th. I looked at all of this and then I made an assessment. First of all we talked a lot about the photographs as well, and I am sure we will get on to that. It appeared to me that, first of all, there was no evidence available to support the fact that a child had been thrown overboard and, secondly, the photographs related to the events of 8 October, not 7 October. I then looked at all of this and when I advised Minister Reith, you will note from my previous evidence that I said that, on the basis of what I had been presented with, it appeared to me that no child was thrown overboard and that the photographs were misrepresented.

Senator BRANDIS—We will leave the photographs to one side. I am not asking about the photographs. There is no controversy that the photographs were misattributed. All you had to go on when you offered that view was this chronology, which I have suggested to you was inconclusive, and a second-hand account of the video, which you agree was inconclusive. You knew, didn't you—

Air Marshal Houston—I did not agree that it was inconclusive in the broadest sense of the word; I said it was inconclusive in supporting the fact that children had gone overboard.

Senator BRANDIS—It did not tell you one way or the other, did it, for the reasons you have already explained this morning?

Air Marshal Houston—What I am saying is that I did not agree. I just wanted to indicate to you—

Senator FAULKNER—This is really important. The photos and the video are alleged to be evidentiary support for the fact that children had been thrown overboard. If there is no evidentiary support and if the photos and the video do not depict this—and this is the whole point about the amount of evidence and public debate about the photos and the video—surely that properly leads anyone to the conclusion that there are concerns about the original claims which the photos and the video are supposed to support. That is the link. I am sure you understand that.

Senator BRANDIS—Just a moment. Do you adopt what Senator Faulkner says as being a fairly accurate description of your process of reasoning? That is, the discrediting of the photos as an evidentiary source had, as it were, in your mind the negative effect of suggesting the opposite?

Senator FAULKNER—That is my view.

Senator BRANDIS—Do you adopt Senator Faulkner's process of reasoning?

Air Marshal Houston—Can I just explain the military approach. We are trained to act on the information that is available at the time. We talked about what happens at the tactical level. Sometimes at the tactical level that information can be incomplete. In these circumstances, I had before me something I am very familiar with: a chronology which was a very good summary for me as to what happened on the 7th. There was a problem with the photographs, and we have spoken about that. I had had advice from Air Vice Marshal Titheridge and from Brigadier Bornholt. I then made my own assessment. My assessment is as depicted in the *Hansard* of the Senate estimates, which was that, when I spoke to Minister Reith, I said, ‘There appears to be a lot of confusion around the events of the 7th and 8th. In my opinion no child went overboard. My assessment is that no child went overboard and the photos relate to the events of the 8th, not the 7th.’

Senator BRANDIS—Leave the photos to one side. I understand that. I accept that you are obliged to do the best you can with the evidence that is available to you and to arrive at the conclusions suggested by that evidence. But surely you are obliged to do one other thing, and that is to ensure that the facts and the evidence which form the basis of your conclusions are as complete as they can be. Do you accept that proposition?

Air Marshal Houston—I accept that proposition and, based on the advice that I gave Minister Reith, I felt that I had done everything in my power with everything that was available to give him the advice that I gave him.

Senator BRANDIS—Were you aware on 7 November that 16 witness statements had been taken from the crew of the *Adelaide*?

Air Marshal Houston—No, I was not.

Senator BRANDIS—You are aware of that now, aren’t you?

Air Marshal Houston—I am now, yes.

Senator BRANDIS—You are aware, aren’t you, that two of those witness statements categorically say that there were no children in the water and they support the conclusion that you advanced? One of the witness statements says that that witness believed that there was a child in the water, so it contradicts the proposition that you have concluded, and the other 13 are inconclusive: six do not even address the issue and seven are by seamen who said they did not see a child in the water but they do not purport to have seen the entire event. You are aware of that now, aren’t you?

Air Marshal Houston—I am aware of that, but, in the circumstances that I was placed in, I had to go with the best information that was available, and in my opinion this chronology is a fairly complete document. It is a summary produced by the captain of the ship as to what happened on 7 October.

Senator BRANDIS—And it is a summary on the basis of source documents, including the boarding log?

Air Marshal Houston—Yes.

Senator BRANDIS—I do not say that you could have had the boarding log on the morning of the 7th, and there is no criticism of you for not consulting the boarding log. I have put the boarding log beside you at your left hand, Air Marshal Houston. Would you take it up, please? It is not paginated but I have put a little flag on a page. The date is Sunday, 7 October, and the first time entry in the left-hand-most column is '0518'. Do you see that?

Air Marshal Houston—Yes.

Senator BRANDIS—That is, as we take it, local time. Glance through the document to satisfy yourself, if you like, or just look at the front cover, but you accept that the boarding log is going to be the best source document of the events, or at least that there is going to be no better source document than the boarding log?

Air Marshal Houston—Once again, this document that I had was obviously sourced from this by the captain of the ship. My expectation was that what I had in my hand was something that was sourced from all the information that was available, including the boarding log. There may have been other things that the captain was aware of that are not recorded in the log.

Senator BRANDIS—Absolutely, Air Marshal, and what you did was make that assumption that you could rely upon the four-page chronology to inform you of all of the material facts that could be gleaned from, among other things, the boarding log. Is that right?

Air Marshal Houston—Correct.

CHAIR—What you have described is standard procedure, isn't it?

Air Marshal Houston—Yes. In the military we often have circumstances that you have to log, everything is recorded in the log and then at some later stage the commander will then put in a report. He will use everything that is available to him to come up with a summary, a chronology or something that gives a description of the whole thing, so that a person like the CDF, who is very busy, does not have to go to a mountain of paperwork; he can rely on one or two very important documents.

Senator BRANDIS—Commander Banks, of course, was the author of or the person who signed off on the signal, wasn't he? I think we have established that.

Air Marshal Houston—That is correct. It came from HMAS *Adelaide*. It would have been released by the ship's captain.

Senator BRANDIS—Go to the boarding log, please, to the page that I have opened for you. We will start at about 0540, about two-thirds of the way down the page, and an entry there:

PERSON ATTEMPTING TO JUMP O/B BPARTY TRYING TO HOLD THEM & STOPPING THEM JUMPING

Do you see that?

Air Marshal Houston—Yes.

Senator BRANDIS—You do not for a moment doubt the accuracy or the authenticity of anything in this boarding log, by the way, do you?

Air Marshal Houston—I have not seen this boarding log before. I would hope that it is accurate.

Senator BRANDIS—I am going to take you through a couple of bits in it, you see. 0540 is also recorded as sunrise. Then at 0541:

THROWN CABLE & GPS OVER SIDE (1 MALE)

At 0543:

MOB—

that is, man overboard—

STBD SIDE 3 IN WATER

Do you see that?

Air Marshal Houston—Yes.

Senator BRANDIS—And the acronym for human beings overboard is MOB—in other words, MOB does not mean adult male overboard, it means person overboard, don't you agree? Then at 0543 it says there were four SUNCS—suspected unlawful non-citizens—overboard. That is age non-specific. It could be a child or a grown-up, couldn't it?

Air Marshal Houston—It says four SUNCS. That means to me four suspected unlawful citizens.

Senator BRANDIS—And that could be an adult or child? The next entry is 0543 with five overboard. When you come down to the very foot of the page, there is another:

MOB—

man or person overboard and—

4 SUNCS IN WATER

Then there is five in water. On the top of the first page 550:

BP—

that is boarding party—

ENTERING BOAT (MAX)

Do you see that?

Air Marshal Houston—Yes.

Senator BRANDIS—Then the next three lines have:

BELIEVED CHILD LAST MOB

That does not much help the case that none of the men overboard were children, does it? Isn't that direct evidence from a source document that one of the men overboard was a child after all?

Air Marshal Houston—I would ask the captain of the *Adelaide* about that. I think he has spoken extensively—

Senator BRANDIS—Air Marshal Houston, I am not saying that you could have, but if you had seen that document before you gave your advice to Mr Reith that the man on the spot in the boarding party recorded at 5.50 a.m. that he 'believed child last man overboard'—

Senator JACINTA COLLINS—Chair, I seek to clarify what Senator Brandis is talking about here. Chair, point of order.

CHAIR—Order!

Senator BRANDIS—would you have given the advice to the minister on 7 November that you gave?

Senator JACINTA COLLINS—There is an important issue in this log that he is misrepresenting—

CHAIR—Order! There is a request, Senator Brandis, simply to identify what part of the log you are talking about.

Senator JACINTA COLLINS—No, I am not seeking to clarify what part of the log it is. I know that. What Senator Brandis read was 'boarding party: entered boat'. It actually says boarding party:

B ENTERING BOAT (MAX)

What that actually refers to is the RHIB that was departing from the ship, not the RHIB that was at the incident.

Senator BRANDIS—Senator Collins, that is your interpretation. But I am interested in the next—

Senator JACINTA COLLINS—It is quite clear—BEB.

Senator BRANDIS—Please stop interrupting me and trying to make political points, Senator Collins.

Senator JACINTA COLLINS—Be accurate then, Senator Brandis.

Senator BRANDIS—I am interested in the next line.

Senator JACINTA COLLINS—Be accurate.

CHAIR—Let's not get into trading questions about who is making political points.

Senator BRANDIS—I am interested in the next line and in hearing you correct me if I am misreading it. It says:

BELIEVED CHILD LAST MOB

That is what the second line of that page says, doesn't it, at 5.50? Air Marshal, do you agree?

Air Marshal Houston—Do I agree what?

Senator BRANDIS—That that is what it says.

Air Marshal Houston—That is what it says.

Senator BRANDIS—Had you had that piece of information on 7 November, you would not have given the advice to Minister Reith that you gave him, would you?

Air Marshal Houston—Well, this happened on 7 October. This is the log. But after the event, what would be important would be for the captain to sit down, review the log, and then give his assessment of these circumstances.

Senator BRANDIS—I understand that.

Air Marshal Houston—I am sitting up at the strategic level. This is a tactical level document. In all of my experience at the strategic level, I have never seen tactical level documents such as this. I rely on quality advice that comes up through the chain of command from people like Commander Australian Theatre, the joint task force commander and the tactical commander on the spot. I do not think it is fair to say that, if I had seen this log, I would not have given the advice. The point is that I have to rely on the advice that comes up the chain of command about what happened out there on the ocean.

Senator BRANDIS—But, Air Marshal Houston, the advice that came up the chain of command, as recorded by Brigadier Silverstone in his diary note which he made within minutes of the telephone conversation, was that he was told by Commander Banks, as the event was happening, that there was a child overboard. Commander Banks does not agree with that recollection of the conversation but conceded to me that it may be correct. Brigadier Silverstone is quite firm that that is what he was told and that is what he diarised at the time. That is the information coming up the chain of command. We now know that the boarding log recorded, by the people actually on the spot as it was happening at 5.50, 'believed child last MOB'. If you had had those two pieces of information in your mind, surely you would not have told Mr Reith that there was no child overboard, would you?

Air Marshal Houston—I did not have that information in my mind.

Senator BRANDIS—I know you didn't.

Air Marshal Houston—All I am saying is that this document here was all I had.

Senator BRANDIS—I understand that. You have made it very clear, Air Marshal Houston, but that is not the question I am asking.

Senator JACINTA COLLINS—But it reflects that the child was retrieved from the water.

CHAIR—We ought to get it very clear for the Air Marshal. Brigadier Silverstone reversed his original advice upon further advice from Commander Banks. In evidence to this inquiry, he said that he did not place too much store in the first piece of advice. What he regarded as more important was the speed and accuracy with which it was corrected.

Senator BRANDIS—Mr Chairman, that is not right. What he saw—

CHAIR—That is right, I am sorry to say for you, Senator Brandis.

Senator BRANDIS—Brigadier Silverstone has never vacated his account of the conversation with Commander Banks. That is the point.

CHAIR—He has said that he corrected it as soon as he got firm advice that no children were thrown overboard.

Senator BRANDIS—You ask him some questions when it is your turn, Mr Chairman.

Senator Jacinta Collins interjecting—

Senator BRANDIS—Are you going to try to cover this up, Senator Collins, just like you tried to cover up the child abuse?

Senator JACINTA COLLINS—I do not need to cover up anything.

CHAIR—Why did the government lie on this matter, Senator Brandis? Let us get into a trade of insults—

Senator JACINTA COLLINS—I raise a point of order, Chair. I ask that Senator Brandis withdraw that—'cover up child abuse'! Would you please ask Senator Brandis to withdraw that reflection on my character. For heaven's sake! He has lost it.

Senator BRANDIS—I withdraw the remark.

CHAIR—Thank you.

Senator BRANDIS—Air Marshal Houston, come to my narrow question, please. I have been asked by the chair to ask narrow questions, and this is a narrow and specific question. If you had known of this piece of information that the boarding log recorded at 5.50 a.m. 'believed

child last MOB' would you have advised the minister on 7 November that there was not a child overboard?

Air Marshal Houston—The important thing here is that I would rely on what had been provided by the captain of the ship.

Senator BRANDIS—But he was not the witness. We have agreed that the signal was derived in part from the boarding log. This is the source document, and this is the evidence of a child overboard.

Senator JACINTA COLLINS—And he assessed and discarded that element. For goodness sake, Senator Brandis, I know you are thick.

Air Marshal Houston—In any tactical situation, there can be a lot of confusion and what is important is that, after everything settled down, the captain then talks to all the witnesses and he then makes his assessment and he will then report back to higher authority. That is the important thing. As the CDF, I would never know about that log entry; I would not expect to know about that log entry.

Senator BRANDIS—We know that.

Air Marshal Houston—But I would expect to know, in these circumstances, about a document such as this.

Senator BRANDIS—What I am trying to demonstrate is that the four-page signal based on the boarding logs, which you suggested about 20 minutes ago could be relied upon to record all of the material facts—or words to that effect—in fact failed to record this highly material fact that at 5.50 the boarding log entry is 'believed child last MOB'. In view of that, your assumption that the chronology was reliable is plainly wrong. It is not a criticism of you, of course, but that assumption can no longer be supported, can it?

Air Marshal Houston—I think the important thing is that the captain of the ship released this after he had been through the log, after he had spoken to all the witnesses and he had come up—

Senator BRANDIS—No, his evidence was that when he prepared the document he did not read the witness statements before he prepared it. His evidence was that he remembers speaking to two of the 16 and he thinks he would have spoken to another two. So, to the extent to which you made that assumption, that assumption was also not available to you, Air Marshal Houston.

CHAIR—I think it is important to say that Commander Banks's evidence is also that, after he had read the witness statements, he would not have changed his signal had he read them before he provided his signal.

Senator BRANDIS—I will ask the question once more. We understand the process, we understand the systems and we understand the protocols. I want you to answer this question. If you had been aware on 7 October of this piece of information—that is, that the boarding log

records at 0550 ‘believed child last MOB’—would you have advised the minister that there was no child overboard?

Air Marshal Houston—If that had been in here, which I think is what you are getting at—

Senator BRANDIS—Yes, that is a good way of approaching it.

Air Marshal Houston—Of course what would have been required would have been more questions. That would have been documentary evidence that a child perhaps had been in the water. If the captain had confirmed the veracity of that entry in the log and had put it in his summary, of course that would have been the documentary evidence that was required to support the fact that there were children in the water. But that was not here.

Senator BRANDIS—I understand what you are saying.

Air Marshal Houston—Let us suppose that that one item was in here. I would have still spoken to the minister about the confusion, the fact that there was a problem with the photographs and so on. If you go back to my evidence to Senate estimates—

Senator BRANDIS—Yes, I read your evidence carefully.

Air Marshal Houston—I did say that it was on the basis of what had been presented to me. So there is an acknowledgment there that perhaps there is more out there that I have not seen. But, on the basis of what I have seen, my assessment is that there was no child in the water.

Senator BRANDIS—May I take it, then, that if the four-page signal upon which you did rely had included the words from the boarding log ‘0550 believed child last MOB’, you would not have given the advice to the minister you did give?

Air Marshal Houston—Not in relation to the first part of it, which was the child overboard.

Senator BRANDIS—Thank you. I think Senator Ferguson has some questions.

CHAIR—Before I give Senator Ferguson the call, just on that last point, ‘believed child last MOB’, that part of that signal that you have been directed to, do you regard that as evidence that a child was thrown overboard?

Air Marshal Houston—No, I do not. It means that a child could have been in the water. I guess my concern at the time was children thrown overboard, children in the water. I had a concern from two points of view.

CHAIR—And at this time a number of people were reported going into the water. There is no report that any of them went in against their own will.

Senator BRANDIS—On your version of events, Senator Cook, none of them are children. Here is the child who is the MOB, the missing child the negative proof of which we have been seeking.

CHAIR—Thank you for your assistance, Senator Brandis. I ask the air marshal this question: at this point in the log a number of people have been jumping in the water, and there is no evidence of their being forcibly pushed into the water. This log reports particular events. Even on the words that have been presented to you, there is no evidence that the child went into the water against its will, if in fact a child did go in the water. The language is ‘believed’. That is not conclusive, is it?

Air Marshal Houston—No, it is not completely conclusive. We are talking hypothetically here but, if I had had a doubt, if there had been something else in the documentation that had suggested that children had been in the water, that would have changed the way I presented my advice.

CHAIR—I asked this question earlier. This is, as I understand it, routine operational procedure. You do not wait until you get all the source documents; you rely on the commander who is an officer trained in synthesising and comprehensively encapsulating a situation so that senior officers can understand what is happening. That is the normal way in which the military operates, isn’t it?

Air Marshal Houston—That is correct. Right now we are running about 17 or 18 operations and the CDF of the day has a lot on his plate. Quite clearly, all of that information needs to come into a document that summarises the key points and the key issues. To some extent that is what this is all about.

CHAIR—Yes. And in major operations that is the system upon which you make decisions of considerable moment.

Air Marshal Houston—Generally speaking, a document would come up and if there are any concerns or something is not clear the superior commander will go back to the subordinate commander and discuss those items of concern. Then he will have it much clearer in his mind as to what is going on.

CHAIR—Senator Ferguson tells me he has five questions.

Senator JACINTA COLLINS—I want to follow on this issue. I do not have much time aside from this issue and this is probably the best time to do it if Senator Ferguson is going on to other matters.

Senator FAULKNER—That seems sensible. I will wait until Senator Ferguson has concluded his questions.

CHAIR—All right, Senator Collins. We have just under 30 minutes.

Senator JACINTA COLLINS—It is very short.

CHAIR—We do want to get Air Marshal out of here by 10.30.

Senator FAULKNER—We must try to stick to our time allocation.

CHAIR—Yes, today of all days.

Senator JACINTA COLLINS—Air Mashal, looking at this log—and taking into account that there are three logs that I have been through in quite some detail—this example is obviously the much discussed youth overboard.

Senator BRANDIS—It was a child.

Senator JACINTA COLLINS—We have various reports of a youth variously estimated to be 15, 18 or 21.

Senator BRANDIS—Are we changing the language now that the facts do not fit, Senator Collins? It says, ‘child’.

Senator FAULKNER—You know what it is.

Senator BRANDIS—I know exactly what it is.

Senator JACINTA COLLINS—We have Commander Banks’ evidence that on reviewing the logs and on reviewing the fact that no child was retrieved from the water, he discarded this element of the information. That is quite clear and on the record. It is unfortunate for Senator Brandis that he did not seek to go through this issue with the most relevant person who is obviously Commander Banks—because he would reiterate what he said to others.

Senator BRANDIS—This is like Ron Zeigler, ‘That fact is no longer operative.’

Senator JACINTA COLLINS—Senator Brandis, you seek to make cheap political points to the wrong witness because of your own negligence.

Senator BRANDIS—I am only interested in the facts. I am only interested in what the document says, Senator Collins.

CHAIR—Order! Senator Collins, please ask your question.

Senator JACINTA COLLINS—Because Senator Brandis probably has not been properly through this log I will take Air Marshal Houston through the relevant details. I reiterate, it would have been better if this had been done in detail with Commander Banks but, in his absence, and since Senator Brandis has raised this with Air Marshal Houston—I believe incorrectly—I will do it with Air Marshal Houston. If we look at the 5.50 reference it says:

BP B entering boat (Max).

What we know about *Max* is that it was the second RHIB. What we know is that boarding party B, at this point in time, is entering *Max* at *Adelaide*. It is not at the incident. It is some distance from the incident and whoever is being referred to as believing that a child was the last man overboard is probably also in the process of boarding that RHIB. That is the status of that information.

CHAIR—Is that what you are seeking confirmation of?

Senator JACINTA COLLINS—Do you read it that way, Air Marshal?

Air Marshal Houston—Fundamentally, I am not a naval officer and I think this is something that you need to direct to Commander Banks.

Senator JACINTA COLLINS—You would prefer to rely on the Commander Banks assessment of the various pieces of information. Is that correct?

Air Marshal Houston—Yes, I would.

Senator JACINTA COLLINS—Okay. We know that Ms Bryant raised with Commander Banks this component of the log. It is in the Bryant report, and this is why I was somewhat surprised that Senator Brandis had not raised this issue earlier. We know that, on the basis of Ms Bryant raising it with Commander Banks, Commander Banks explained why he gave that reference little weight. You would expect, if given the opportunity to question Commander Banks further on his assessment, that you would get the same explanation, wouldn't you?

Air Marshal Houston—I would expect that, yes.

Senator JACINTA COLLINS—It certainly did not lead Ms Bryant to stray from the conclusion she made, that no child had been thrown overboard.

Air Marshal Houston—Yes.

Senator JACINTA COLLINS—The point I want to go to, though, further in this log, is that at 0554 we finally have boarding party B alongside the SIEV and alongside those that Commander Banks would have been relying upon for their assessment on this 'child overboard' incident. We know from Commander Banks that he had discussions with several people about the youth—in fact, I think we have on evidence pictures of the RHIB and discussions over which of the people in the RHIB might be a youth. It is quite easy to see that this incident refers to that youth incident.

Air Marshal Houston—Yes.

Senator JACINTA COLLINS—To go back to Commander Banks's assessment in the signal that we were looking at earlier, you would expect that, if Commander Banks gave the reference in this boarding log—again, only one of three logs—then he would have included it in his signal. That is a fair assumption from your point of view, isn't it?

Air Marshal Houston—Yes, it is.

Senator JACINTA COLLINS—Whilst this log that Senator Brandis made some weight of is called the boarding log, it is actually collated from radio signal on the side wing of the bridge of the ship.

Air Marshal Houston—Yes.

Senator JACINTA COLLINS—So it is no closer than the other two logs.

Air Marshal Houston—I was the Acting CDF: I would like to help you with this, but I really think that these sorts of issues are issues for Commander Banks, and you should perhaps call him back to address these to him.

Senator JACINTA COLLINS—I apologise that this has been directed at you, because I agree with you. My view is that Commander Banks has dealt with this issue quite clearly, quite competently and quite adequately. I believe it is a cheap trick of Senator Brandis's to try and put this again on the public record before you in the position that you are in.

Air Marshal Houston—I do not want to get involved in that.

Senator FERGUSON—I think that should be withdrawn.

Senator BRANDIS—Chair, I ask that that remark be withdrawn; I find it offensive.

CHAIR—I did not hear it—

Senator JACINTA COLLINS—I do not believe it is unparliamentary.

CHAIR—I am not asking someone to repeat it if they thought it was offensive but, if something unparliamentary has been said, please have it withdrawn. Let's get on with it.

Senator FERGUSON—Thank you, Mr Chairman. I think Senator Collins has finished. Air Marshal Houston, I understand that you are currently the Acting Chief of the Defence Force.

Air Marshal Houston—That is correct.

Senator FERGUSON—Did you view the *Four Corners* program aired by the ABC on Monday night?

Air Marshal Houston—I did.

Senator FERGUSON—I want to ask you three or four questions arising from that program as they relate to this committee. Air Marshal, the implication that could be drawn by any reasonable viewer of that *Four Corners* program was that the Australian Defence Force used excessive force, including the beating of potential illegal immigrants. Is that a fair inference to draw from that program?

Air Marshal Houston—I think that there were suggestions along those lines.

Senator FERGUSON—Previous evidence before this committee has said that only reasonable or minimum force was allowed in the rules of operational engagement for Operation Relex. Is that correct?

Air Marshal Houston—That is correct.

Senator FERGUSON—Are you confident, on the evidence that has been presented to you as Acting Chief of Defence Force, that the ADF has met that obligation?

Air Marshal Houston—Absolutely. After the *Four Corners* program, we had a look at all the aspects that were raised, and it is quite clear. First of all, there was no use of any electrical cattle prod type implements. The only things the ADF people were equipped with were Batons and they carried capsicum spray.

Senator FERGUSON—I would like to move on to the issue of capsicum spray in a minute. So you are confident that they have met their obligations under those requirements?

Air Marshal Houston—Absolutely. I have total confidence that our Navy and Army people who were out there throughout this very demanding operation used minimum force at all times.

Senator FERGUSON—With regard to the use of capsicum spray, the committee has been told of one incident, I think, aboard SIEV7. Given that minimum force is the requirement, are you confident that in this case the use of capsicum spray was needed? You may be able to give us some details of the incident.

Air Marshal Houston—Yes, I am totally confident that capsicum spray was only used, on the basis of the advice I have been given, on one occasion. That was with regard to the vessel SIEV7, and you may have been briefed by other witnesses about this.

Senator FERGUSON—Yes, we have.

Air Marshal Houston—Personnel from *Arunta* were aboard SIEV7. After the announcement that the SIEV was returning to Indonesia, an attempt was made at first light by the asylum seekers to disable the engine on SIEV7. The Army transit security element had a protection party aboard and they created a barrier to prevent these people from getting to the engine bay. When they broke the barrier, a non-commissioned officer assessed that the security of the engine was under threat and that his two-man security element could not control the large number of people who were bearing down on them. At that point, he withdrew his spray canister and, in total accordance with the rules of engagement, applied the spray with one line of spray across the advancing line of people. That corrected the situation, the people backed away and the engine was not interfered with. That is the only instance I am aware of.

Senator FERGUSON—So in relation to the use of capsicum spray, it was used only in one instance, on one occasion?

Air Marshal Houston—On the basis of the advice I have been given, yes.

Senator FERGUSON—There were allegations about electric cattle prods or electric batons of some form being used against the unauthorised arrivals. Can you clarify the situation, because I have been led to believe that in fact the Defence Force are issued with metal detectors but nothing like electric prods?

Air Marshal Houston—Essentially, these people were carrying batons and they were also carrying metal detectors.

Senator FERGUSON—For what purpose the metal detectors—to look for knives?

Air Marshal Houston—The metal detectors are to look for weapons and things that might be hidden that might constitute a threat to our people aboard these vessels. I understand the metal detectors have little lights on them, and when they detect metal the lights flash. That may be what was being referred to during the *Four Corners* program. In terms of cattle prod type implements, I stress, as the minister has already said, that our people are not issued with those, nor do they carry them. We went right down to the people who were actually on board that vessel and none of them had any sort of improvised device or anything. They just had the standard issue baton, capsicum spray and metal detector.

Senator FERGUSON—The other issue was the refusal of medical attention. That was the other issue that was raised on this program; I think it was in relation to some woman on board one of the vessels. Previous evidence given to this committee has been that decisions on evacuations have always been left to experts on the spot, not directed from Canberra. Can you elaborate as to whether that is correct?

Air Marshal Houston—I am only the Acting CDF, but certainly that is the way that we have conducted ourselves for years. We always take the advice of the people on the spot and if there is a requirement for a medical evacuation, the recommendation would come from the tactical level and steps would be taken to mount the evacuation.

Senator FERGUSON—The final issue that I want to raise is the allegation about unseaworthy boats. We have had evidence given to us by senior serving officers in the Navy that only boats that are seaworthy are turned around and sent back. This was a rather serious allegation that was made because in the conclusion to this event there were three people that were missing. Given the allegations of the *Four Corners* program, do you have any evidence to suggest that the Navy has not met that standard, that only seaworthy boats are returned to their port of embarkation?

Air Marshal Houston—No, I have no evidence whatsoever, but I am totally confident that the Navy would do everything they could to ensure that the vessels that were turned around and sent back were seaworthy to go back to Indonesia. As I recall it from the *Four Corners* program, that actual incident related to when the vessel ran aground, not while it was transiting back to Indonesia.

Senator FERGUSON—So it was seaworthy?

Air Marshal Houston—It was seaworthy—

Senator FERGUSON—The fact that they ran it aground caused the problems.

Air Marshal Houston—The way it was described in the *Four Corners* program was that it actually happened when it went aground on Roti Island.

Senator FERGUSON—So just to summarise: the ADF has never used excessive force; the capsicum spray has only been used on one occasion; no electric cattle prods and no electric batons of any sort have ever been used by the defence forces; medical attention is determined by experts on the spot, not directed from Canberra; and only seaworthy boats have ever been turned around and sent back to their port of embarkation. Is that a correct summary of the implications?

Air Marshal Houston—I would agree that that is a correct summary.

Senator FERGUSON—Thank you, Air Marshal Houston. I am sure that your response to the ABC's *Four Corners* allegations and implications will receive the prominent publicity that they deserve on the ABC.

Senator MASON—I am sure that the ABC will show that examination, Senator.

Senator BRANDIS—Do not hold your breath, Senator Ferguson.

Senator FAULKNER—The first issue that I would like to briefly deal with is the one that Senator Brandis spent an hour and a half on this morning. Air Marshal Houston, I just want to take you briefly back to Ms Bryant's report on this matter. I do not know whether you have that in front of you or not.

Air Marshal Houston—I do not have that in front of me. I will just get a copy.

Senator FAULKNER—I take you to page four of Ms Bryant's report under the heading 'The "SIEV4" man overboard incident'. If you look at the second last paragraph, about halfway through—and I think you can confirm for me that I read it accurately—you will see that it says:

The boarding log records 12 SUNCs overboard at around 0843 (AEST)—

I assume that that is Australian eastern standard time.

Air Marshal Houston—That is correct.

Senator FAULKNER—It continues:

and all SUNCs retrieved by inflatable boats shortly afterwards.

I think that I have faithfully read that into the transcript, have I not?

Air Marshal Houston—Yes.

Senator FAULKNER—If I can read on for a moment, the report then says:

The entry at 0550 local time (0850 AEST) also shows the second boarding party, which was entering an inflatable boat in preparation for boarding the SIEV, "believed child last MOB".

Is that, again, an accurate reading of what is in Ms Bryant's report?

Air Marshal Houston—Yes.

Senator FERGUSON—Chair, one of our television cameras is over the shoulder of an officer in the audience, and I do not think it is right that they should be focusing on the documents that anybody in the audience has. We need to be careful with television cameras.

CHAIR—Thank you, Senator.

Senator FAULKNER—In support of that point of order, I think Senator Ferguson is right to point it out, but both our still cameramen and our television cameramen do understand these things. We always accept their professionalism. It always worries me when cameramen are around, more because we think of being shot—

CHAIR—We have to excuse this witness at 10.30, so let us get on.

Senator FAULKNER—I think that the cameramen understand their responsibilities. I was just quoting, from Ms Bryant's extract of the log, 'believed child last' overboard at 0550 local time. Do you see that reference in Ms Bryant's report?

Air Marshal Houston—Yes.

Senator FAULKNER—Then it goes on to say:

Later signals indicate that a total of 14 SUNCs jumped overboard during the incident.

That would be standard operating procedures: you would expect later signals on these sorts of issues, wouldn't you? That is what you have been canvassing this morning?

Air Marshal Houston—Absolutely.

Senator FAULKNER—Then it goes on:

Statements provided by sixteen crew and the CO of the HMAS ADELAIDE report that a number of people, including a male estimated to have been 13-15 years old, jumped overboard voluntarily and were retrieved from the water and returned to the SIEV.

Senator BRANDIS—Senator Faulkner, are you reading from what you routinely referred to in the Senator estimates committee as the 'discredited Bryant report'?

Senator FAULKNER—Yes I am.

Senator JACINTA COLLINS—Discredited by what was not in it compared to what was in it.

CHAIR—Order! We only have a few more minutes left to us with this witness. Please go to the questions.

Senator FAULKNER—Senator Brandis, I am impressed that you now share my view that this report is discredited.

Senator BRANDIS—I was only quoting you against yourself, Senator Faulkner. I do that sometimes.

CHAIR—Go to the questions, please.

Senator FAULKNER—You spent an hour and a half talking about this. Let us just quickly deal with it.

CHAIR—If you do not have a question I will excuse this witness forthwith. Please go to questions.

Senator FAULKNER—Mr Chairman, with due respect, I would like to be able to ask questions without interruption.

CHAIR—Yes, I know. That is why I am suggesting you go to them forthwith.

Senator FAULKNER—I do have a question. And if order were maintained at the committee I might be able to ask it. Air Marshal Houston, you note the reference here in Ms Bryant's report to the male estimated to be 13 to 15 years old—you have seen that reference?

Air Marshal Houston—Yes, I have.

Senator FAULKNER—I do not know if you are aware or not—please let us know—that in some of the witness statements that the commanding officer organised from crew of HMAS *Adelaide* I think there was even a suggestion of up to the age of 21.

Senator JACINTA COLLINS—That was in later discussions.

Senator FAULKNER—Yes, it was later discussions. So the age of this particular child, male, 'youth' is another terminology that has been used, is unknown. I am not going to get into definitions of child, whether at 13 to 15 years old you are a child or not. But as you read those few sentences—which, as I say, explain the incidents which Senator Brandis has been talking about for some 1½ hours—and you look at the information that was available to you in signal form from HMAS *Adelaide* on 7 November last year, my question—there is nothing new in this—is: as far as proper reporting processes go, as far as an appropriate course of action, is there anything from what you have seen—and I accept that you have not been intimately involved in the chain of command during the relevant period in October—that you think might be valuable to draw to the attention of this committee in relation to how this particular matter is reported about the child, the youth, the 13- to 15-year-old, however it is defined? Is there anything that is concerning enough for you to bring to this committee's attention about the reporting from HMAS *Adelaide*? Or would you say in general it is consistent with what you would expect on a naval vessel, given your broad defence experience?

Air Marshal Houston—I think the initial reporting was unfortunate. Things were done very quickly—

Senator FAULKNER—This is the telephone calls?

Air Marshal Houston—Yes.

Senator FAULKNER—I am talking about the written record here.

Air Marshal Houston—In terms of the written record, I think that this summary certainly gave me a reasonable picture. I think if—

Senator BRANDIS—Although we now know it is—

CHAIR—Order!

Senator JACINTA COLLINS—Senator Brandis, you have had ample opportunity.

CHAIR—Order! Please proceed, Air Marshal.

Air Marshal Houston—I thought this was about what I would expect in terms of a report from a naval tactical commander. I think there was enough there for me to make a call.

Senator FAULKNER—That is pretty consistent with advice that we have got from others in the chain of command, including quite senior naval officers of the rank of rear admiral, I think. It is your personal view; you are entitled to hold a view and express it here, and I have asked you to do that. I only asked you because it is a matter that has been canvassed for 1½ hours, and if we are going to canvass old news for 1½ hours we are going to be here for an awfully long time. I would like to get on to some new areas, if that is all right, for the brief amount of time I have available.

CHAIR—You have eight minutes.

Senator FAULKNER—I have 11 minutes available to me, technically. Air Marshal Houston, you talked in the Senate estimates committee, in relation to your contact with Minister Reith on the 7th, about the ‘long silence’. Minister Reith gave a lot of excuses for that long silence in that phone call. The first one was poor reception. Can I ask you about that. Was there any suggestion given by Mr Reith or was there any other cause for concern on your part that Mr Reith may not have been hearing what you were saying on your end of the phone conversation?

Air Marshal Houston—He did not indicate that to me, no.

Senator FAULKNER—Did the reception seem reasonable, given that you were the party on the other end?

Air Marshal Houston—I was sitting in the comfort of an office—

Senator FAULKNER—On a speaker phone, I recollect.

Air Marshal Houston—and he was on a mobile. It seemed to be going okay.

Senator FAULKNER—You would know, after your Senate estimates testimony, that at one point former minister Reith indicated that the reception was poor. Are you aware of that?

Air Marshal Houston—I was aware of that.

Senator FAULKNER—He did not complain at the time about poor reception?

Air Marshal Houston—No, he did not.

Senator FAULKNER—Another of his excuses for not acting on the information that you provided to him was that it did not stick in his memory. The feeling I got from the evidence that you gave was that this was quite stunning, in a way, for former Minister Reith, and that it was very much likely to stick in his memory. I wonder if you could reflect on that for a moment.

Air Marshal Houston—At the end of my advice, there was a pause, a silence, and then he said, ‘Well, I think we will have to have a look at releasing the video.’ That seemed to me to be a reasonable way to proceed at that stage. I had not actually seen the video, but clearly that was something that was necessary at that stage of the proceedings.

Senator FAULKNER—One excuse he used was poor reception. Another one was that it did not stick in his memory. The third excuse that he rolled out at one point in an attempt to deal with the matter was to suggest that you were only the Acting CDF as opposed to CDF. Do you have a reaction to that? As the Acting CDF, is it not your responsibility to have the same relationship with the minister that the CDF would have if the CDF were in the country?

Air Marshal Houston—I think the Acting CDF has all the powers of the real CDF. If the real CDF is out of the country and something happens, the Acting CDF has to act in exactly the same way as the CDF would and would provide the necessary advice to government on whatever matter was before him.

Senator FAULKNER—You may not be aware of this, but when Admiral Barrie, as CDF, came before this committee I asked him whether he viewed your actions at the time—that is, on 7 November—as utterly appropriate. He indicated that he was absolutely supportive of your actions and believed that they were entirely appropriate and did not warrant a moment’s criticism. I do not know whether you are aware that I asked the CDF that question.

Air Marshal Houston—I am aware of that.

Senator FAULKNER—I suppose that you were grateful that the CDF responded to my question in the way he did.

Air Marshal Houston—Yes, I was.

Senator FAULKNER—I suspect you were not that surprised.

Air Marshal Houston—No, I was not surprised.

Senator FAULKNER—Because you believe your own action was appropriate, don't you?

Air Marshal Houston—Absolutely. We had a situation where there was considerable confusion as to what the events of 7 and 8 October were and there was a need for clarification on a number of aspects. I do not resile from anything that I did.

Senator FAULKNER—I asked Admiral Barrie about the statement the Prime Minister made in the House of Representatives following Senate estimates testimony from both yourself and Admiral Barrie. I am sure you are aware of the statement—certain military hardware, Exocet missiles and torpedoes come quickly to mind. Are you aware of the statement the Prime Minister made?

Air Marshal Houston—I am aware.

Senator FAULKNER—Are you aware that, when I asked Admiral Barrie about how he felt about that statement, he responded, 'How do you think I felt?'

Air Marshal Houston—I was aware of that.

Senator FAULKNER—As the other principal in relation to this—as the Acting CDF at the time, and the CDF being the other principal—how did you feel when this matter was raised and about the manner in which it was raised in the House of Representatives by the Prime Minister?

Air Marshal Houston—Let me put it this way: I am very fortunate, like all the rest of us, to live in a very robust parliamentary democracy, and what happens in the House is really a matter for government and the opposition. What concerned me a little bit were some of the conclusions that were drawn by the media about that, in that there was a rift between Admiral Barrie and me. Let me assure you that there has never been a rift between Admiral Barrie and me. I think what is important is that we the chiefs get in behind CDF and get on with the job. We face a very challenging environment out there at the moment. I totally support Admiral Barrie. I think it is very important that the other chiefs do likewise.

Senator FAULKNER—But how do you feel when your Senate estimates testimony is ridiculed by the Prime Minister in the House of Representatives in the way it was, given that in very short order we had Admiral Barrie actually changing his view on this? We have canvassed that with Admiral Barrie, and I do not intend to go into that today.

Air Marshal Houston—I was very comfortable with my testimony. I do not want to get into matters concerning what happens in the House. Things are said in there, and I just prefer not to comment on them.

Senator JACINTA COLLINS—You do not believe the media were unreasonable on drawing the conclusions that they did in relation to the comments, do you?

Air Marshal Houston—I would prefer not to comment on that.

CHAIR—We are out of time. Do you have a final question, Senator Faulkner.

Senator FAULKNER—I was going to ask the air marshal about the senior leadership group and the lead-up to Admiral Barrie's public statement on this issue and wondered what advice, if any, the air marshal offered to his senior colleagues—including CDF—in the lead-up to the senior leadership group which, in turn, led to the public statement that Admiral Barrie made about his changed view of the 'children overboard' issue. Given that we are running short of time, could you briefly outline that to the committee.

Air Marshal Houston—Within the senior leadership group there was great concern that the media were reporting that there was a split in the senior leadership of the ADF. There was not a split, but there was a perception out there in the community that there was a split on the basis of the media reporting. We obviously had to address that, and that is what we did.

Senator FAULKNER—Air Marshal, given the statements of the Prime Minister in the House and given the public notoriety about this issue, are you concerned personally—particularly given those statements that were made—that this issue and the fact that you had to deal with it as Acting CDF on 7 November 2001 will have any impact, and I am thinking here of a negative impact, on your career?

Air Marshal Houston—Thus far there has been no evidence of any impact whatsoever. Frankly, I am quite comfortable with everything that has happened. I do not believe that it will have an impact on my career. I believe my job is to provide frank and fearless advice to the CDF, secretary and, when appropriate, the minister, and I stand by that. I think it is most important that, if there is a situation as there was in this situation where clarification is needed and the facts need to be put on the table, I provide the necessary advice. If I were in the same situation again, I would do it all over again.

Senator FAULKNER—I hear that. Are you absolutely satisfied you have acted in an apolitical way and not had a mind to political considerations as you have acted?

Air Marshal Houston—I believe my job is to always act in an apolitical way. I think that it is very important that we in the military provide the facts and, if there is a need for—I think someone has referred to it as—'political spin', that that be handled by the political side of the house. It is imperative that we in the ADF do not become involved in the political process.

CHAIR—I think we are going to leave it there. Thank you very much, Air Marshal Houston. There are a number of senators—Senator Brett Mason and for all I know Senator Bartlett—and me as chairman that have not had a chance to engage you directly with our questions. I have a number of questions that I will put on notice. I understand that that is the same with Senator Mason and it may be the same for Senator Bartlett.

Senator FAULKNER—I have some other questions, too. If you would not mind taking them on notice, I would appreciate that.

Air Marshal Houston—I would be very happy to do so.

CHAIR—Thank you. Obviously, when we see the answers, we will reserve the right as to whether we should invite you back again. Thank you very much for your attendance this morning.

Can I say to the committee that we now have a number of witnesses, each of whom have been allotted 20 minutes. I intend to divide it eight minutes, eight minutes and four minutes. I know that is extraordinarily tight. That is the fault of the timing. Anyone that does not want to take up their full time should feel free to vacate their time. I know of no fairer way of doing it. On that basis, I invite Group Captain Greg Evans to come forward and take the oath or affirmation.

[10.35 a.m.]

EVANS, Group Captain Gregory John, Chief of Staff to Chief of Defence Force, Department of Defence

CHAIR—Do you have an opening statement of any sort?

Group Capt. Evans—No, sir, I do not.

CHAIR—We have not had the normal discussion about who has questions. Senator Bartlett, do you have any questions?

Senator BARTLETT—In terms of the role that you have, could you just outline very briefly the nature of your responsibilities, particularly in terms of communication flows with the CDF, whether about specific incidents or the ongoing activity of Operation Relex?

Group Capt. Evans—Certainly, Senator. I am Admiral Barrie's chief of staff; perhaps chief staff officer might be a more accurate description of my duties. I run his office. I am responsible for a small group of staff who gather correspondence to the chief, prioritise it for his attention and basically run his in-tray, which is a large task. I take a fair bit of information by informal means, such as from people phoning the office and people coming by and talking to me about events about which they might not feel they need to correspond formally with the chief but which they think his office needs to be aware of. I also play a part in preparing CDF correspondence with the minister's office.

Senator BARTLETT—So, when we have had evidence from other witnesses further down the chain of command—Rear Admiral Ritchie, for example—and they say they have passed on information to the CDF, that would oftentimes be through you or your staff rather than personally to the CDF.

Group Capt. Evans—In Rear Admiral Ritchie's case, he would normally ring the office and, if it is humanly possible, I would put him straight through to the chief.

Senator BARTLETT—Right.

Group Capt. Evans—In the case of the service chiefs, that is also true. It would have to be quite an extraordinary circumstance for the Chief of Army, Chief of Air Force or Chief of Navy not to be able to walk straight in and talk to the chief. Normally, those senior commanders would not include me in that conversation. However, on a lot of occasions, they do ring me with information—'Let the chief know this the first chance you get.' We will do exactly that.

Senator BARTLETT—In terms of the specific incident that we have been spending a lot of time focusing on, were there any information flows in relation to that 'child overboard' allegation and the subsequent inquiries that occurred to establish the facts of that incident?

Group Capt. Evans—On 11 October, I was aware of a conversation between Colonel Day, who worked in the office with me—in fact, our desks are joined at the hip—and Brigadier

Bornholt. I was busy at the time—I do not recall exactly what I was doing—but Brigadier Bornholt was our military public affairs adviser and was frequently in the office. He had very open access to the chief, and often came by with hot issues type information—much of which often came to not very much, but some of which became important. By my recollection, Colonel Day made me aware that, in addition to information we were starting to get informally that we had a problem with the photographs—and I think that is now not contentious that we were becoming aware at about that time that there was a problem—there were now doubts about whether or not children had been thrown overboard. I discussed that briefly with my staff, Colonel Day and Tracey Jiggins, who is the admiral's public affairs adviser, and then I walked straight in, as I recall, to talk to the admiral about it. It seemed quite important.

Brigadier Bornholt had gone by this time, if my memory serves me. I spoke briefly with the admiral. I have no clear recollection of the famous chronology—that is the 1136 zulu message. I think I was aware that Brigadier Bornholt had it. But I was aware that there were now doubts about whether this had in fact happened. I spoke to CDF briefly—he was very busy at the time, and I crammed it in between two appointments. The context was that somebody no doubt enormously important was waiting to see him; that is always the case. CDF left me with the very clear impression that he set great store by the phone conversation that he had had: it was right on the spot, it was while it was happening, and he set significant store by that. But he also clearly understood that there were now queries about whether children had in fact been thrown overboard and he was troubled by that. It was my opinion that I was therefore behind him—in other words, I was troubling him with something he was already on top of. He briefly advised me that COMAST—Admiral Ritchie—was rechecking the facts and trying to get to the bottom of it. In the context that we were very busy in the office at the time and he had tasks he was very keen for me to be getting on with, he said words to the effect of: 'Get on with what you are doing. You do not need to work on this; Admiral Ritchie is.' I went back to my staff, conveyed those three elements to them and we went on with our work.

Senator BRANDIS—I just want to make sure I did not misunderstand something Air Marshal Houston said. In his Senate estimates evidence he said that on 7 November he had a conversation with you and Brigadier Bornholt. I understood him to be saying this morning that he wanted to correct that evidence; that he did not have a conversation with you, he only had a conversation with Colonel Day and Brigadier Bornholt. Is that right?

Group Capt. Evans—That is correct.

Senator BRANDIS—You were not a participant in any transactions or conversations with Air Marshal Houston on 7 November?

Group Capt. Evans—I was overseas, in Hawaii, with the chief. The Chief of Air Force's memory was just faulty on who it was. Colonel Day was effectively the bystander in the office, not me.

Senator BRANDIS—That is all I wanted to know. Thank you.

Senator FAULKNER—Brigadier Bornholt in fact says in his submission to General Powell's inquiry, and this is 11 October last year:

I immediately brought this signal—

I think we know the signal that we are referring to—

to the attention of CDFs chief of staff, and provided a copy of the signal.

As I heard your answer to an earlier question, I wondered if you were casting a little doubt on that statement by Brigadier Bornholt.

Group Capt. Evans—No, I was not trying to. I suspect both of our recollections are probably correct from our two perspectives. I think the brigadier may have had the bulk of his conversation with Steve Day and Tracy Jiggins. I cannot be certain of that; Colonel Day is next and might be able to clarify that. My recollection of how it worked is that there was a fairly animated conversation between the brigadier and Steve Day at one end of my office while I was dealing with something else; subsequently, I was made aware of what they had been talking about; we collectively made a judgment that the chief needed to hear about it and then I walked in to speak to him.

Senator FAULKNER—Are you aware of any doubts or concerns raised with CDF by others?

Group Capt. Evans—Not specifically. Certainly on that day, the 11th, I inferred from my conversation with the chief that he had had an unpleasant conversation with the minister about the photographs and that he had heard from senior sources—I inferred, again, perhaps COMAST or the Maritime Commander—that, despite the fact that he believed at the time that we had had a clear telephone message to the effect that children had been thrown, it was now in doubt.

Senator FAULKNER—So he actually communicated doubts or concerns to you about the issue?

Group Capt. Evans—Yes. He certainly did not give me a clear idea of where those doubts had come from, but he was aware, I think. Again, it was a brief conversation; I have to be careful not to read too much into it. It was quite a brief conversation and I was pressed for time, as was he. But that was my impression at the time.

Senator FAULKNER—As Chief of Staff for the CDF, do you recall when the statements from the crew of the *Adelaide* arrived in CDF's office?

Group Capt. Evans—Not specifically, but I do not believe that they arrived in the office until the Powell report arrived in the office.

Senator FAULKNER—Perhaps you could take that on notice. The CDF, as we know, was proactive in ensuring that those statements were provided. You are aware of that, aren't you?

Group Capt. Evans—My recollection is that on the 11th the chief told me that they were being gathered already: 'COMAST is looking into it; he is talking to witnesses.'

Senator FAULKNER—Anyway, the statements did not come in until the Powell report was commissioned—is that what you are saying?

Group Capt. Evans—I think so; I would like to check. If I can take it on notice I will get back to you.

Senator FAULKNER—I would appreciate your doing so. If they did come in earlier you might indicate when CDF looked at the statements, how he was made aware that the statements were received, effectively, and whether he saw them. In the couple of minutes we have available to us I want to focus on your role in this. Did you discuss the photographs of the sinking of the SIEV—the ones that were misrepresented in the public arena—with CDF at any stage?

Group Capt. Evans—We were, about the 11th, becoming aware in the office that there was a problem with the photographs. The photographs and the issue of whether the events had actually happened came up in that conversation I had with the chief. I said we had a problem with the photographs and perhaps there were doubts about whether it happened at all. That is the first time I raised the issue with the chief, I am sure.

Senator FAULKNER—Can you please take on notice whether you discussed the photographs with anyone else on or after 11 October, in the period up until 10 November? If so, who did you speak to and what was discussed? I ask you to take that on notice given the short time. In your role, do you have any contact personally with the minister's office?

Group Capt. Evans—The minister's chief of staff and I talk probably a couple of times a week, usually about the flow of time-critical documents. The minister's office is always hurrying them up; we are always rushing to get them there. And, of course, the opposite happens: we are always very keen to see ministerial pen script. So the flow of documents back and forth is the main topic of conversation when we speak.

Senator FAULKNER—On 'children overboard' or related incidents, did you have any discussions with the minister's office?

Group Capt. Evans—Not at any time. I was aware that others had, however.

Senator FAULKNER—Who were you aware of?

Group Capt. Evans—I have tried to nail down the time but I cannot. I was aware that Ms Jenny McKenry had emailed the minister's office and I have the impression that she emailed Mr Scrafton on that exact issue. I also formed the impression, after Brigadier Bornholt was in the office on that day, the 11th, that he had made fairly strenuous efforts to ensure that that information went in to the minister's staff.

Senator FAULKNER—Did you have any contact with the Prime Minister's office, the Prime Minister's staff or the Department of Prime Minister and Cabinet about the 'children overboard' issue?

Group Capt. Evans—No, none whatsoever.

Senator FAULKNER—I would like to ask some other questions but, given the time—you appreciate that we are on a very tight time frame here, Group Captain—I would appreciate it if you would not mind taking them on notice.

Group Capt. Evans—Certainly.

CHAIR—Senator Brandis?

Senator BRANDIS—I have asked my questions.

CHAIR—Any further questions?

Senator BRANDIS—Not from me.

Senator FAULKNER—I thought we had to wrap up.

CHAIR—We do have to wrap up, and we are on time, thank God. Thank you very much, Group Captain Evans.

[10.51 a.m.]

DAY, Colonel Stephen Julian, Deputy Commandant, Australian Defence Force Academy

CHAIR—Do you have any opening comments to make, Colonel Day?

Col. Day—No, I do not, Senator.

CHAIR—Would you like to open the batting, Senator Faulkner?

Senator FAULKNER—I think you were Acting Chief of Staff for CDF, Colonel, over this period that the committee has been focusing on—for some time at least—between 7 October and 10 November. You might provide those dates for the committee.

Col. Day—It is a moot point, but I considered that I was Acting Chief of Staff if the Chief of Staff was actually on leave or on course, but, whilst he was with the CDF, I think he was the Chief of Staff regardless of where the CDF was, and I continued in my appointment as the staff officer.

Senator FAULKNER—I see. But certainly you have a significant role when Air Marshal Houston is the Acting CDF, at least, because you were the Acting Chief of Staff, were you not, on 7 November?

Col. Day—I think it is fair to say I was the senior staff officer in the office on that day.

Senator FAULKNER—You do not like my terminology; fair enough. As the senior staff officer, can you quickly outline for the committee what occurred on 7 November when the Acting CDF raised the issue of allegations that children had been thrown overboard or doubts about that with you, and any interface or role that you had on that day?

Col. Day—The Acting CDF came into the office and he asked me if we had a copy of the video that related to the SIEV4 incident. I said we did not, but that I thought we would be able to get a copy of one. He said that he thought Admiral Smith in Sydney had a copy and could we organise some link for him to view it. I think I had about 45 minutes to do so. At about the same time, Brigadier Bornholt walked into our office and drew the Acting CDF's attention to the *Australian* article where the veracity of the claims had been questioned. They then turned and conversed themselves. Noticing that I did not have long to organise the video, I then withdrew from the conversation and tried to organise to get the video. I did not hear the balance of their conversation—and in any event it was not very long, because about a minute or two later they walked out together.

Senator FAULKNER—I see. I know that Brigadier Bornholt was present during the conversation that the Acting CDF had with the minister that morning, but were you present during the period of that conversation?

Col. Day—No, I was not. I think he made it from his own office and I was not aware either of the phone call or of his advice to the minister until I saw it in Senate estimates in February.

Senator FAULKNER—Fair enough. You are aware of the outcomes of that particular phone conversation. You say you have had an opportunity to hear and read the transcript of the Senate estimates committee, so you are well apprised of that. As senior staff officer at the time, was there any follow-through as a result of the air marshal's conversation with the then minister that you had any responsibility for progressing?

Col. Day—No. I was focused on trying to get hold of the video within the time frame. As it turned out, it was not until about midday that I was able to organise it—so, no. What occurred between him, Brigadier Bornholt and the minister's office was a black hole as far as I was concerned.

Senator BRANDIS—Colonel, do I understand that you are unaware of what documentary material either Air Marshal Houston or Brigadier Bornholt had access to on the morning of 7 November?

Col. Day—I knew that Brigadier Bornholt had access to a signal from HMAS *Adelaide*.

Senator BRANDIS—Is that the document that has been described in evidence as the chronology?

Col. Day—That is correct.

Senator BRANDIS—Anything else?

Col. Day—No, no other documentary evidence.

Senator BARTLETT—In terms of the information that would flow through to CDF, how much detail would be provided, on average, in relation to the ongoing activities of Operation Relex? Would it be daily updates and details of interceptions or would it include information about reports of boats leaving and those sorts of things?

Col. Day—It was fairly comprehensive. There was a regular written sit rep. If my memory serves me, it was correct as at 8 o'clock in the morning and it arrived about an hour or so after that. He would then be updated throughout the day as necessary by either COMAST from Sydney or Head of Strategic Command here in Canberra. If there was any information that came to pass into the office and to me or to the chief of staff that we thought was relevant, we would pass that through to him as well.

Senator BARTLETT—Would that include being notified about reports of boats leaving as well as boats being intercepted?

Col. Day—Yes, it would. He would have been informed of both of those sorts of things.

Senator BARTLETT—That would not go straight to him first before others? It would normally go to people like Admiral Ritchie and then be fed upwards rather than go straight to him?

Col. Day—Not necessarily; it would depend on who had the information and how significant it was at the time. It is quite possible that a departure of another vessel would first come to the attention of, say, Air Vice Marshal Titheridge and he may on occasions phone or personally see the CDF to inform him himself, so it would not necessarily come through the office.

Senator BARTLETT—Were any reports provided in relation to the vessel—I cannot remember the date it sank; I think it was about 19 or 20 October—that sank off Indonesia and that had a significant number of drownings?

Col. Day—Which vessel are you referring to?

Senator BARTLETT—It is the one that sank, before it got intercepted, fairly soon after departing Indonesia and that had some hundreds of people drowning. You are not aware of that?

Col. Day—I think I know what you are referring to. If you are asking if we knew the vessel had left and was headed for Australia, I would have to take that on notice.

Senator BARTLETT—That would be handy, and if you could look at what types of reports et cetera were provided after it sank and where they came from.

CHAIR—As no-one is seeking the call to ask further questions, we thank you, Colonel Day.

Proceedings suspended from 11.00 a.m. to 11.22 a.m.

McKENRY, Ms Jennifer, Head, Public Affairs and Corporate Communication, Department of Defence

CHAIR—Welcome, Ms McKenry. Do you have an opening statement?

Ms McKenry—No, I do not.

CHAIR—In that case we will go straight to questions from the committee. I think I should give the call to you, Senator Faulkner.

Senator FAULKNER—Thank you, Mr Chairman. Ms McKenry, you would recall that at the Defence estimates we canvassed a number of matters that are now subject to further examination by this select committee. Reflecting on the evidence that you gave at the estimates committee, is there anything that you felt you might usefully add to the comments you made, in the light of other information that is now in the public arena?

Ms McKenry—No, there is nothing specific. I am happy to take questions that you might have on any of that information.

Senator FAULKNER—Fair enough. Are you aware of the evidence that was given by the Secretary of the Department of Defence, Dr Hawke, to this committee in relation to you?

Ms McKenry—Yes, I am.

Senator FAULKNER—Dr Hawke confirmed that on 11 October last year, after a conversation with you about the incorrect portrayal of photographs, he asked you to put in writing to the minister's office advice that the photos had been misrepresented by the minister. I think that is a fair summation of the evidence that Dr Hawke gave. I hope you would agree it is a shorthand version.

Ms McKenry—Yes, it is fine.

Senator FAULKNER—So you are aware of that?

Ms McKenry—Yes, I am aware of that.

Senator FAULKNER—Is that what Dr Hawke asked you to do?

Ms McKenry—If I can recall the conversation with Dr Hawke, he phoned me the morning of the 11th about the photos specifically that had been released. In the course of that conversation I explained to him that Brigadier Bornholt and I were about to talk to Mike Scrafton in the minister's office to explain to him what the photos portrayed. I also explained to him, in the context of that, that I had an email which quite clearly showed the photographs and that there were captions which told the date on which the photographs had been taken, that I was also requesting from my Director, Media Liaison, a chronology of how the photographs came to be

released and that my intention was to talk to Mike Scrafton with Brigadier Bornholt and to forward that material to the minister's office.

Senator FAULKNER—So there is a communication that goes to the minister's office—that is true, isn't it?

Ms McKenry—That is correct.

Senator FAULKNER—But it is not really what Dr Hawke had in mind, is it?

Ms McKenry—I have to say, Senator, that in my discussion there was never any indication that what I had explained that I was about to do was not what he was intending that I do. The key thing in that conversation was that the minister's office was acquainted with the fact that the photographs had been taken on the 8th and not the 7th, and certainly my explanation to him was that the email did show that.

Senator FAULKNER—I am sorry, your explanation was? It is hard to hear.

Ms McKenry—My explanation to him was that the email I had did in fact show that.

Senator FAULKNER—Did in fact show that?

Ms McKenry—Yes.

Senator FAULKNER—You sent a copy of your email to Dr Hawke anyway, didn't you?

Ms McKenry—What I sent to Dr Hawke was a copy of the letter I had received from the Director, Media Liaison, which was the chronology of events. I did not send a copy of the email that I had forwarded to Mr Scrafton, which actually had the photographs and the captions, to Dr Hawke, no.

Senator FAULKNER—But what happens is that, on the same morning as Dr Hawke raises this issue with you, you have what I think is described in one of the emails as a lengthy conversation with Mr Scrafton?

Ms McKenry—That is correct.

Senator FAULKNER—Could you tell me what the time of your conversation with Mr Scrafton was?

Ms McKenry—I cannot recall the exact time but it would have been some time after 9.30 a.m. and it would have been well and truly over by about 10.30, a quarter to 11.

Senator FAULKNER—But it was lengthy, so what do we mean by lengthy?

Ms McKenry—It was in several facets. The first facet was with Brigadier Bornholt in the room. We discussed the photographs that had been released. We made it very clear that they did

not represent what they were purported to represent in the press. Brigadier Bornholt did explain the attempts to clarify that the previous day with Mr Hampton. We then talked about what our limited understanding at that time was of how the photographs had been released. He then phoned off to go and check the photographs, because I had said to him, 'There are captions which actually say that the photographs were taken on the 8th.' He rang off, he went to check the photographs and at that stage he came back and said there were no captions to his knowledge in the minister's office.

Senator FAULKNER—Did he say who he checked the photographs with?

Ms McKenry—No, he did not.

Senator FAULKNER—He said that there were no captions in the minister's office.

Ms McKenry—To his knowledge there were no captions in the minister's office. We then described the photos to make sure we were talking about the same photos.

Senator FAULKNER—Brigadier Bornholt was still with you at this point?

Ms McKenry—At this point he was. He then left. I told him that I had an email and that I would send him my email, which quite clearly had the date on it. I also undertook to try to get a copy of the email which I believed had been sent to the minister's office or to Mr Hampton. I believed at the time that it had been sent to Mr Hampton with the captions so I undertook to do that. At that point we terminated the conversation again. Brigadier Bornholt was not in the room. He left. Following that I sent a copy of my email, which was at 11.04. He did acknowledge receipt of that email in the sense that he phoned back because there was information on that email which we raised in conversation afterwards.

Senator FAULKNER—And that was the end of the conversations with Mr Scafton.

Ms McKenry—That was it, on that incident, yes.

Senator FAULKNER—Dr Hawke's account was that you should immediately contact Michael Scafton and inform him that the photos were a misrepresentation. I think that is a fair account of what Dr Hawke was saying.

Ms McKenry—That is true. Yes. We were keen to get the message across and into the office.

Senator FAULKNER—Do you feel that that phone call and those emails that were sent did adequately respond to the direction that you received from Dr Hawke?

Ms McKenry—I felt so. I have had no indication otherwise from Dr Hawke. When I related the following day what had occurred I had no indication that what I had done was inappropriate or there was a shortcoming. Certainly, when Brigadier Bornholt was in the room and we were having the discussion with Mr Scafton, we were left in no doubt that Mr Scafton understood what we were saying about the photographs.

Senator FAULKNER—So you have no doubt that he clearly understood what you were saying about the misrepresentation of the photos?

Ms McKenry—I have no doubt and Brigadier Bornholt, as I say, was in the room. I wanted to make that phone call with someone else in the room.

Senator FAULKNER—Yes, but why do you have no doubt, Ms McKenry?

Ms McKenry—I have no doubt because we went through the photographs. We talked about the photographs. We described the photographs. He later phoned back, having received the photographs. I had mentioned in the course of my email to him that the photographs I had discovered were on the restricted system within the defence department, which meant that they were readily distributable. He indicated to me that I should pursue getting them off the restricted system.

Senator FAULKNER—Is that all he asked you to do?

Ms McKenry—In the course of the conversation he was keen to have a copy of the chronology that I had said I was putting together for my own benefit to show how the photographs had come to be released and that was it. His request was for the chronology of the events leading up to the release of the photographs, and also to make no effort to get them off the restricted system.

Senator FAULKNER—But given what Dr Hawke has said to this committee previously about offering his resignation—I think you would be aware of that evidence. That is why I am keen to be absolutely clear about this. He actually asked that your advice to Scafton be in writing, didn't he?

Ms McKenry—In the course of the conversation we had I cannot remember the exact words 'in writing'. All I can say to you is that I described to him what information I had and what I had intended to convey to Mr Scafton in terms of the email and later the chronology. I think it was the next day or could have been later that day—my mind is hazy on the time of that—when I described what had happened. As I say, and I have raised it with him, at no stage did I have an indication that he viewed what I had done as inappropriate.

Senator FAULKNER—You do not deny that Dr Hawke asked you to provide advice to Mr Scafton in writing about the misrepresentation of the photos?

Ms McKenry—I cannot recall the words 'in writing' used. I can recall that he asked me to convey to Mr Scafton information about the misrepresentation of photographs. I had described to him that I had an email and what that email showed. I proposed to send that email across after discussion.

Senator FAULKNER—Did in any sense Mr Scafton ask you to take a different course of action than you had intended to take or Dr Hawke might have intended you to take? In other words, were you asked by Mr Scafton to take a different approach?

Ms McKenry—No.

Senator FAULKNER—Did you communicate to Mr Scafton that you had been requested to progress this issue by the departmental secretary?

Ms McKenry—I do not recall having mentioned that in the conversation.

Senator FAULKNER—Dr Hawke had asked you to do this. Would Mr Scafton be aware of that? He would not have been aware that there had been earlier communication between you and Dr Hawke?

Ms McKenry—I think it is most unlikely. I cannot recall raising it in the conversation.

Senator FAULKNER—Certainly if it was to be raised I expect it would be raised by you. One of the witness statements that we have available to us is that of Ms Jiggins. That is a submission to the Powell report. I do not know whether you have seen it or not.

Ms McKenry—I have not seen her witness statement. I am aware of Tracey Jiggins. I know Tracey Jiggins.

Senator FAULKNER—Can I read an element of that statement to you and ask you to comment on it please. It is paragraph 12 of that statement. Ms Jiggins says:

Sometime in the few days after the photographs had been released, I received another email from John Clarke asking that I delete the photographs from my system and to ask anyone that I may have forwarded them to, to also delete them. I also received a telephone call from Ms Jenny McKenry's PA asking me to delete the photographs.

Going behind that a little, did you ask your PA to make that phone call or general request?

Ms McKenry—I must have. I do not recall having done that. She would be accurate in saying that that happened. When I became aware on the morning of the 11th that the photographs were on the restricted system I was concerned that there were a lot of copies of them around. My concern was that the information may be released before the minister or his office had an opportunity to correct the date. That was certainly what was behind that request.

Senator FAULKNER—But why does it go from your PA to Ms Jiggins? First, does it go at your request?

Ms McKenry—I cannot recall making the request.

Senator FAULKNER—I assume your PA would not do this without your authorisation?

Ms McKenry—That is a correct assumption, I would think. I was quite busy that morning. I did ask Mr Clarke to inform people. The one person that he had mentioned specifically was Ms Jiggins. It could well have been but I do not recall having asked my PA to make a call, amongst doing other things.

Senator FAULKNER—Do you know whether your PA rang others, as well, or was it just Ms Jiggins?

Ms McKenry—No, I do not, because I do not recall actually having made that request.

Senator FAULKNER—I want to try to find out why the request was made to delete.

Ms McKenry—Quite simply, as I said, the request was made by me to the people I knew had them—and to the people Mr Clarke had sent them to—to delete them simply because I was concerned that the date might become public before the minister's office had a chance to make the correction. That was simply it.

Senator FAULKNER—Were you asked by anyone to take that course of action?

Ms McKenry—No, I was not. As I mentioned earlier, a subsequent discussion with Mr Hampton suggested that I not worry about the fact that the photographs were on the restricted system. I did not pursue it any further.

Senator FAULKNER—You are saying that you wanted these photographs to be deleted so that there would be no inadvertent leak before the minister's office corrected the record. In a nutshell, is that what you are saying to me?

Ms McKenry—I believed the minister's office should have the opportunity to make the correction, yes.

Senator FAULKNER—What date was this?

Ms McKenry—This was on the 11th, so we are still talking about the morning.

Senator FAULKNER—Yes, it was 11 October.

Ms McKenry—That is correct, yes.

Senator FAULKNER—So how did you react in the days, weeks, months that went by without any correction? You asked for this deletion to occur so the minister's office could correct the record but the minister's office did not correct the record, did it?

Ms McKenry—No, it did not.

Senator FAULKNER—It did not that day, the next day, the next week, the next month or at any stage.

Ms McKenry—That is correct; it did not happen.

Senator FAULKNER—What did you do as a result of that not happening?

Ms McKenry—We had this discussion at the estimates hearings, when you asked a similar question. My response then, and it is still the same, was that I did not think it was appropriate for us to enter that debate.

Senator FAULKNER—After they are released, what difference does it make if they are on a restricted or an unrestricted system, anyway?

Ms McKenry—It is easier to circulate material within the organisation and outside the organisation from the restricted system.

Senator FAULKNER—But the photos you were requesting be deleted from the computer system are actually out there in the public arena, aren't they?

Ms McKenry—Yes, that is right.

Senator FAULKNER—So you made this request a couple of days after they had been released by the minister?

Ms McKenry—No, I made the request the morning after they had been released by the minister. They were released on the 10th, the discussions with Mr Scrafton were on the morning of the 11th and this was on the 11th. I did not pursue the matter at all after the conversation with Mr Scrafton which, again, was on the morning of the 11th.

Senator FAULKNER—If they are released, what is the difference between Defence's restricted and unrestricted system?

Ms McKenry—I do not quite understand.

Senator FAULKNER—They are out there; they are released. Does it make any difference if they are on the restricted or unrestricted system? That is the reason you say that this is occurring.

Ms McKenry—What I have explained is that, when they are on the restricted system, it is easier for them to be circulated and go outside the organisation. They were released certainly in the public but they were not released with captions showing the date.

Senator FAULKNER—The captions exist with the photographs on Defence's system, don't they?

Ms McKenry—That is correct; they do.

Senator FAULKNER—Can you say to this committee that the instructions that you issued were not to cover the fact that the captions existed with the photographs on the Defence computer system? Can I be assured of that?

Ms McKenry—The only intent, as I have explained, in asking that they be limited in circulation at the time on the restricted system was to give the minister's office the opportunity to make the clarification.

Senator FAULKNER—I take at face value that that was the intent but the impact of it was significant, wasn't it?

Ms McKenry—I doubt whether the impact in fact was significant. The only people I was discussing taking it off the restricted system with were staff within PACC, no-one else. I was concerned that my own staff did not circulate it. As has become evident, the photographs were around the organisation more widely than I was aware of at the time.

Senator FAULKNER—But surely, in requesting the deletion of the photographs, a reasonable person could come to the conclusion that that was done so as to remove potentially a very embarrassing situation for the government, and to allow this misrepresentation and deception to continue with the Australian public at a very sensitive time during an election campaign. Wasn't that the real motivation?

Ms McKenry—Certainly my motivation, as I have explained, was to give the minister's office the opportunity to clarify the date of the photographs. My request in no way resulted in the photographs coming off the Defence restricted system in total.

Senator FAULKNER—You took a course of action to allow the minister's office to correct the public record in the first instance. That correction never happens, does it?

Ms McKenry—No. It does not happen.

Senator FAULKNER—You know, Ms McKenry, that there is a misrepresentation on these photographs right through for a month in the period of a federal election campaign, don't you? You know that is the case and you know it is not corrected. You had expected it to be corrected early in October and that is why you took certain administrative action. You expected the minister to correct the public record but he did not?

Ms McKenry—That is correct. I took action to make sure that the minister's office was aware of the information.

Senator FAULKNER—And what did you do when no correction was made?

Ms McKenry—I continued my work within the organisation as a public servant. I did not see it as appropriate, as I explained earlier in the estimates process, to enter the debate at all. I believed that what I had done and what some of my colleagues had done had been appropriate. We had informed the minister's office of the date on which the photographs were taken. We had informed them that the photographs as they were did not represent what they were purported to represent. I had informed certainly my head of department of that information and I did not believe, having done all of that, that it was appropriate for me to enter the debate in any other way.

Senator FAULKNER—This is when the caretaker provisions applied so what did you do when the minister's office did not correct the public record? I think I know the answer, Ms McKenry. You did nothing. You did not raise it with the minister's office again, did you?

Ms McKenry—I do not believe I did.

Senator FAULKNER—You did not raise it with Dr Hawke or any of your departmental superiors?

Ms McKenry—It had been raised with Dr Hawke.

Senator FAULKNER—Previously. But you take a course of action that is dependent on giving a minister an opportunity to correct the public record. That is right, isn't it?

Ms McKenry—That is correct, yes.

Senator FAULKNER—The public record is not corrected by the minister, is it?

Ms McKenry—No, it is not.

Senator FAULKNER—Were you surprised by that?

Ms McKenry—I expected a correction to come out.

Senator FAULKNER—You expected it, but it did not happen.

Ms McKenry—That is correct.

Senator FAULKNER—When it did not happen, did you raise that fact with your superiors?

Ms McKenry—I think there was conversation that it had not occurred, yes.

Senator FAULKNER—Who was that conversation with?

Ms McKenry—It was raised, certainly, with Dr Hawke, but in passing. But there was discussion—

Senator FAULKNER—When did you raise it with Dr Hawke again in passing?

Ms McKenry—I cannot recall. It would have been between that particular date and when the election took place.

Senator FAULKNER—Are you sure you raised it with him in passing?

Ms McKenry—I have a recollection of raising it with him in passing. It was not a monumental event.

Senator FAULKNER—Can you tell me when that occurred?

Ms McKenry—I cannot, Senator, no.

Senator FAULKNER—Can you tell me where it occurred?

Ms McKenry—It would have occurred within the department. It would have occurred during the course of a discussion.

Senator FAULKNER—But you did not put pen to paper on it or anything like that?

Ms McKenry—No, Senator, I did not. I go back to the comments I made during the estimates. I did not see it as appropriate for me or for anyone else to enter the debate as a public servant. My belief was that, as public servants, we had done what was required and the information was there for action to be taken.

Senator FAULKNER—The fact that you did nothing may turn out to be a very convenient let-out for the government. Do you understand why someone could come to that conclusion?

Ms McKenry—I do not believe I should comment on that, Senator.

Senator FAULKNER—You would not want anyone to come to the conclusion that you personally acted in a partisan way during the election campaign, would you?

Ms McKenry—I do not believe I acted in a partisan way in any way. I believe I acted as was appropriate for a public servant.

Senator FAULKNER—We go back to the situation where the matter is not corrected by the minister, and then nothing happens. This gross misrepresentation remains in the public arena right through a very sensitive period—that is, during the conduct of a federal election campaign.

Senator FERGUSON—But it wasn't an issue for three weeks, was it, Senator?

Senator FAULKNER—It was enough of an issue, as you are aware, for Ms McKenry to await a public correction by the minister and the minister's office, which was not forthcoming.

Senator FERGUSON—But she had given her information to the minister. It was up to him; it was not up to her.

Senator FAULKNER—You believed that the minister should have corrected it, didn't you, Ms McKenry?

Ms McKenry—My personal belief was that there should have been a correction, yes.

Senator FAULKNER—It should have been on or around 11 October, shouldn't it?

Ms McKenry—It should have been, once the information had been presented.

Senator FAULKNER—And the information was presented in clear and categorical terms at least by 11 October, wasn't it?

Ms McKenry—The information certainly was with the minister's office before midday on 11 October.

Senator FAULKNER—But nothing happened.

Ms McKenry—No, nothing happened.

Senator FAULKNER—Nothing happened, no, and that misrepresentation ran for another month right through to polling day. My question to you, Ms McKenry, is: what personal responsibility do you accept for that? I am aware that, at the end of the day, the buck stops elsewhere, but do you accept some responsibility, given the failure of the minister and the minister's office to act, not to follow it through?

Ms McKenry—No, I do not, Senator. I think a responsibility was placed with me and my close colleagues, which was acted on—and acted on very speedily—to make sure that the correct information was within the minister's office. That was done, and I believe that was appropriate. Having passed that information on, as I have mentioned before in this place and earlier in February, I did not see it as appropriate for me to take any further action.

Senator FERGUSON—So you consider your job is completed once you have passed on the information. What is then done with that information is then somebody else's responsibility.

Ms McKenry—That is correct, Senator. As a public servant, I see that as as my job.

Senator FERGUSON—And you do not see it as your responsibility to reiterate information? Once you have passed the information on, and you are sure that it has been received by the next person or the person that is supposed to receive it, that is your responsibility completed and it then becomes somebody else's responsibility to act on that information.

Ms McKenry—That is correct. That I believe is the role of a public servant.

Senator FAULKNER—What happens when they do not do it? You say that you gave the minister and his office an opportunity to correct the public record. What happens when they do not do it? You have said yourself that it should have been done sometime after noon on 11 October and that your actions gave the minister's office an opportunity to do that, but it did not happen. Does that mean you just absolve yourself of all responsibility?

Ms McKenry—I do not take on the responsibility. As I said, I believe that I acted the way I should have acted as a public servant. We were in the middle of an election campaign, as has been noted. I did not believe that it was my role or the role of anyone else to enter the public debate on the matter, the information having been provided to the minister's office. Brigadier Bornholt and I were left in no doubt, as I conveyed also to the secretary to the department, that the senior adviser understood quite clearly what those photographs represented.

Senator FAULKNER—Did anyone give you an instruction to get rid of those photos from the Defence computer system?

Ms McKenry—No, no-one.

Senator FAULKNER—Can you assure me that that course of action was not an attempt to doctor the PACC computer record?

Ms McKenry—No, because our base library still held the photographs.

Senator FAULKNER—What is the base library?

Ms McKenry—Our digital library within public affairs held those two photographs. If you are asking, by asking people within PACC to delete the photographs, was that an attempt to clear the files, then the answer is no because the photographs were in the repository within Public Affairs and Corporate Communication, and I believe they are still there.

Senator FAULKNER—So really what you are saying to us is that, at the end of day, you are satisfied you provided the information to the minister and the minister's office and it is up to the minister to act?

Ms McKenry—That is what I am saying.

Senator FAULKNER—In this case, the minister and the minister's office did not act, did they?

Ms McKenry—No, there was no retraction.

Senator MASON—I want to ask a question on that issue. At that time were there other SIEV incidents that you had been made aware of?

Ms McKenry—Were there any other SIEV incidents?

Senator MASON—Yes, around 11 October?

Ms McKenry—No, not at that time.

Senator MASON—You said before you were engaged—

Ms McKenry—Sorry, was I aware of other boats or other ships?

Senator MASON—Yes.

Ms McKenry—I had been aware since August that there were arrivals, yes certainly.

Senator MASON—There was an election campaign and you were very busy?

Ms McKenry—Yes, but not because of the election campaign. Certainly we were busy on a number of fronts. Certainly there were actions happening around the SIEVs. At the time we were also in the throes of deployments or preparing to deploy to the Middle East. There were welcomes and farewells. I think that there was also a church service being organised in the course of that time. There were a lot of things happening, yes.

Senator MASON—There were a lot of things happening and it was not a top order priority to correct the minister's office misperception?

Ms McKenry—I believed the correction had been made.

Senator MASON—You had done what you could do?

Ms McKenry—That was my belief, yes.

Senator MASON—Thank you.

Senator FAULKNER—Can I go to go to the broader background to this, Ms McKenry? I want to go back prior to the incident that we have just been canvassing—prior to the alleged children overboard incident. Is it true that a system had been instigated within the Defence PACC—Public Affairs and Corporate Communication division—that made it a requirement that all media releases had to be physically signed off by a Canberra based officer of one-star rank?

Ms McKenry—The content did, yes. The content had to be approved by a one-star officer and the actual release was signed off by me or one of my colleagues within PACC before it went.

Senator FAULKNER—Did that officer have to be from the parent service, if you like, to which the release related?

Ms McKenry—It had to be someone who was aware of the contents and the facts contained within the release. For example, you might have had a release which was coming out of an area where the people who had the actual facts and were working on it may have been in different coloured uniforms or in purple jobs.

Senator FAULKNER—In the Powell report, there is a footnote that describes this system. It is a footnote to page 8 of 10 about the requirement for all media releases to be physically signed, and signed off by, a Canberra based officer of brigadier rank from the parent service to which the release related. It says:

Although initially seen as tedious, this procedure served to improve the quality of Defence media releases and established a clearly defined chain of command between PACC and the three Services in terms of the communication and release of public information.

That is contained in a footnote to Major General Powell's report. Do you think that last comment about it being 'tedious' but having some other advantages is a fair comment?

Ms McKenry—I do not know whether I would call it 'tedious'. What might be seen as tedious is, I believe, just normal quality control. It did not just pertain to the services; it was all media releases which were prepared within the Department of Defence.

Senator FAULKNER—Yes; he stresses that—he highlights 'all'.

Ms McKenry—All media releases. It was a one-star or one-star equivalent—so band one. What it did was give us some confidence that the content of the information and the facts that were in the media release were accurate. So in fact it did improve the quality. It was seen as restrictive in areas, I will confess, where there were not many one-stars to go around.

Subsequently there has been, as I think has been before this committee and I think Dr Hawke talked about, a release of a new directive which makes it a bit more flexible. But content still has to be signed off by the area that knows the content.

Senator FAULKNER—So that system that we have just been talking about predates the ‘children overboard’ incident?

Ms McKenry—Yes; that directive came out in August of last year. What is being referred to there is the DI(G)08-1 ‘Public comment and dissemination of information by Defence members’.

Senator FAULKNER—Did that process or procedure change at all in relation to communications involving Operation Relex?

Ms McKenry—In terms of Operation Relex, we did not issue media releases or visuals. No; that directive stood until—I think, but I would have to check the date—about 25 March this year, when the new one was issued.

Senator FAULKNER—So in theory it is still overarching guidance. It didn’t not apply. Is that the best way of describing it?

Ms McKenry—Yes, it was there in the background. And it was a directive that was live until it was superseded.

Senator FAULKNER—In relation to the events of 7 to 10 October, was there any breach of that background directive?

Ms McKenry—In terms of media releases and release of material to the media, that directive was supplemented by a specific public affairs plan for Relex, which I think you are privy to. In that plan it made it very clear that release of information or any visuals would happen by the minister’s office so that, as a department, we were not in a position to release any information during the course of Relex.

Senator FAULKNER—Sure. But it is supplemented as opposed to supplanted, I suppose. That is what I am trying to understand.

Ms McKenry—Yes, with the PA plans, one cascaded off the other.

Senator FAULKNER—Fair enough. What responsibility, if any, does your division, PACC, have in developing and implementing Defence-wide communications strategy? Let us go to some broad background here so we can understand this.

Ms McKenry—Part of its charter is responsibility for the development of an overarching strategy for the whole of the organisation and for strategies for specific large-scale operational matters, basically. So it rests with us.

Senator FAULKNER—In a mountain of paper I read—and I am going to be very frank with you, Ms McKenry, I cannot remember what the document was—I think I read about a Defence communications and organisations strategy. I took a little pen note to that effect.

Ms McKenry—You should have read the document, Senator.

Senator FAULKNER—Maybe I have; I do not know. I do not think I have seen the document. Is there such a document?

Ms McKenry—There is such a document.

Senator FAULKNER—I was not aware of it and I certainly have not read it. Was that developed in PACC?

Ms McKenry—Yes, it was developed in PACC. In fact, it was developed in Brian Humphreys' area—one of my colleagues, who I think is sitting behind me—and in consultation with people within the organisation.

Senator FAULKNER—Perhaps you could provide a copy of that document for us.

Ms McKenry—Yes, we could. We would be happy to provide it.

Senator FAULKNER—It may have been provided. I can seek some advice from the committee.

Ms McKenry—I would not think so. It does not relate specifically to this activity.

Senator FAULKNER—Okay, I see. When was that developed?

Ms McKenry—That was developed over the last year and released last year, but I would have to seek advice from my colleague, who is not here, as to when it was released but it was last year.

Senator FAULKNER—That was Mr Humphreys, did you say?

Ms McKenry—Yes. I think it was about May.

Senator FAULKNER—Do not worry about that. I will ask him the date because he is appearing at a later stage. What is it actually called?

Ms McKenry—It is called the *Defence organisation communication strategy*.

Senator FAULKNER—Anyway, it is a reasonably recent document developed in the last couple of years.

Ms McKenry—Certainly. It was one of the things that the organisation was set up to prepare and implement—

Senator FAULKNER—The PACC was set up to prepare it?

Ms McKenry—That is correct.

Senator FAULKNER—So it is quite fundamental to PACC's charter, if you like?

Ms McKenry—It is fundamental not only to PACC but to the organisation and how it goes about engaging the support of the community.

Senator FAULKNER—What is the broad thrust of that strategy?

Ms McKenry—The broad thrust of the strategy is to give Defence an opportunity to explain to the community what it does and to gain support for what it does, in terms of explaining its operations. It has a role in presenting Defence as an option, as a place for people to have a career. It has an internal communication function and part of its aim explains the white paper to the community.

Senator FAULKNER—Fair enough. I think I understand. Does it also go to the level of the relationship between Defence and the Australian public?

Ms McKenry—It talks about engaging the Australian community—yes, certainly—and stakeholders.

Senator FAULKNER—And does it talk about the role of the media in that?

Ms McKenry—It talks about the media as one way to do that—certainly.

Senator FAULKNER—What about government? How does government interplay with this?

Ms McKenry—It talks about the role of explaining government policy—namely, the white paper—and I think there is a line there about wanting to improve our relationship and communication with government, but that is about it.

Senator FAULKNER—So we have the overarching advice or—I forget how you described it—the advice that was spoken about in the Powell report. Does that have a name? This is the one-star signing off process. Does that process have a name?

Ms McKenry—It is just a clearance process.

Senator FAULKNER—So we have the clearance process and we have the more overarching strategy, if you like, that we are talking about now: the Defence organisation communication strategy. Does that strategy provide clarity about the role of your division—PACC—when you have an operation like Relax in prospect?

Ms McKenry—It is not that specific. It is a broad, overarching strategy which talks about how we engage the community in the elements that I have mentioned before. It then goes through each division of the organisation, what each division will do under those parameters

and the assistance that will be sought from PACC. Basically, it is us working with other areas in Defence at the broad level. It does not specify operational procedures.

Senator FAULKNER—So it is broad guidance as opposed to specific guidance. Is that a fair way of summing it up?

Ms McKenry—That would be fair. It is a high-level document.

Senator FAULKNER—Yes, but it is prepared in PACC.

Ms McKenry—It is prepared in PACC, it is maintained in PACC and it is revised through PACC. We are going through an exercise at the moment of confirming what is in there to see whether that is appropriate.

Senator FAULKNER—Fair enough. What about PACC's role in the development and issue of Defence Instructions (General) 08-1 on 8 August 2001? Did PACC have a role in that?

Ms McKenry—PACC certainly had a role in drafting that directive. We were nominated as the sponsor area. That is correct.

Senator FAULKNER—I know the answer to this question, but I think it might be useful for you to explain, in layman's language, what Defence Instructions (General) actually means—just a very brief outline for the committee. What is the impact of that Defence Instruction (General)?

Ms McKenry—It no longer exists, as we know.

Senator FAULKNER—You are right; I should have used the past tense. What was the general impact of that Defence Instruction (General)?

Ms McKenry—The impact, as it was, was to try and make sure that there was consistency of information that was provided to the public and that the information that was provided was quality information. So there were clearance processes there. It was also done in an environment where there were a number of leaks outside the department. One of the concerns that was inherent in that was an attempt to stop the number of leaks that were happening and to give guidance to people on what their responsibilities were in communicating Defence information to the public. There was another basis which was clearly there, which was no surprises for the minister's office.

Senator FAULKNER—No what?

Ms McKenry—No surprises.

Senator FAULKNER—Would it be fair to say that it gave an enhanced role for the minister's office?

Ms McKenry—That directive?

Senator FAULKNER—Yes.

Ms McKenry—I do not believe that it did. The minister's office was seeing media releases et cetera. I suppose it formalised the interaction between the department and the minister's office more so and probably meant that more information went to the minister's office than previously did so simply because there was information that was issued outside the correct channels.

Senator FAULKNER—As I understand it, that Defence Instruction (General) replaced a previous instruction that had been in place since about mid-1999. I am depending on your corporate memory here, Ms McKenry, but I think it is valuable background for the committee.

Ms McKenry—There was one. I do not know what the date of that was. Again, I think Mr Humphreys is probably more across the date of that one. Yes, there was one in existence. The major concern with that document and the need for its revision was that it did not reflect the new organisation—that is, PACC—and the centralised and coordinated approach that had been taken in Defence. A major concern, which led to the rewrite, was that, in terms of giving guidance to people about their responsibilities, it was quite flexible, open and made it very difficult when you were dealing with situations of leaks in the department to have this document to fall back against.

Senator FAULKNER—What were the key changes you could identify for the committee from the 1999 document to the August 2001 document?

Ms McKenry—I would have to take that on notice. I am not as across that document as I need to be. It was before I arrived in Defence.

Senator FAULKNER—By all means take it on notice, and thank you for that. But isn't it true that the 2001 instructions were more restrictive than what had previously been the case? It is fair to say that, isn't it?

Ms McKenry—They were a lot more coordinated than had been previously the case. There was a lot more guidance given to people than had been previously the case, that is true, and there were more refined clearance processes that were reflected in the 2001 document than was the case before.

Senator FAULKNER—What were those clearance processes?

Ms McKenry—Those clearance processes were that the content of media releases and materials that were going out had to be cleared by a one-star or equivalent officer.

Senator FAULKNER—Who requested the instructions be changed or revised?

Ms McKenry—I think it was a combination of factors. It was, to be honest, frustration within the department about information not being released in a coordinated fashion, inappropriate information being released and the fact there was no guidance there. My experience was that the rewrite of was generated internally.

Senator FAULKNER—Only internally?

Ms McKenry—Yes, only internally. It is a directive by the secretary and the CDF. I remember discussion about it and about the need for it to be redrafted. This is going back some time.

Senator FAULKNER—So this direction comes from CDF and the secretary of the department to you?

Ms McKenry—That is right. And there was also a discussion before the redrafting with our security people. There was a long discussion. They had in fact initiated some concerns and had raised those as well with the secretary and CDF. From their point of view, they felt that they did not have a document that gave them the ability to give guidance to people about what could or could not go outside the organisation. They believed they did not have that framework.

Senator FAULKNER—So what was the minister's and his office's role in these changes?

Ms McKenry—The minister's office actually got to view the document and cleared the final draft of the document. The document was drafted with input from people, but the final document was signed by CDF and the secretary, after it was viewed by the minister's office.

Senator FAULKNER—What you are saying is a draft goes to the minister's office before it is signed off by CDF. Is that right?

Ms McKenry—And the secretary. It carries both signatures.

Senator FAULKNER—Is that the normal process for Defence Instructions (General)?

Ms McKenry—I am not sure what the normal procedure for Defence Instructions (General) is. I have only been involved with this one and its redraft. You would have to ask the relevant people.

Senator FAULKNER—When you say 'this one and its redraft', do you mean this specific Instruction (General) or the redraft of the standing Instructions (General)?

Ms McKenry—No, I am talking about the one on public comment and dissemination of information by Defence members—so the August version, which we are talking about now, and the version of March this year.

Senator FAULKNER—The two most recent iterations of it?

Ms McKenry—That is correct, yes.

CHAIR—Was it cleared by Minister Reith?

Ms McKenry—I would not think so.

CHAIR—He cleared it, didn't he?

Ms McKenry—His office viewed, certainly last year, the version that was issued in August, but the way they are is that there are different sponsor areas in the organisation for these DI(G)s, and they are all signed off—

Senator FAULKNER—Did the new minister follow the same process for the new Instruction (General)?

Ms McKenry—This one was actually signed off by the secretary of CDF. I know there was discussion with the minister's office that it was going to happen, but I have no recollection of it going there for approval. I may be wrong.

Senator FAULKNER—So it was a different approach that was taken for August last year's Defence Instruction (General). That went for clearance to the minister's office, the most recent one. When was it? Was it March?

Ms McKenry—It was March. I cannot recall the day. It certainly went to the minister's office.

Senator FAULKNER—But not for clearance?

Ms McKenry—I would have to check that.

Senator FAULKNER—When the one in August went to Minister Reith's office, were any changes made as a result of that clearance process?

Ms McKenry—There was some finetuning made. I was not intimately involved with the final clearance process. That was handled by the secretary simply because the secretary, I think, was travelling with the minister, or was in a situation where he would be with the minister and staff interstate.

Senator FAULKNER—Does your division know what the finetuning was?

Ms McKenry—I think the finetuning was very much in the opening. It was along the lines of the minister's desire not to have any surprises.

Senator FAULKNER—Is there any way we can get some detail on that finetuning over the luncheon break?

Ms McKenry—We can certainly have a look. I do not know whether I could get it for you over the luncheon break. I do not actually think that we have those files. We do not have those files.

Senator FAULKNER—In relation to the development of the Defence Instructions (General) of August last year, does PACC have a view about the appropriateness or otherwise of the changes being made?

Ms McKenry—We certainly wanted to have a situation where we had clearance of the content that we were issuing and making sure that that was in fact accurate. So we did want high level sign-off on the content of media releases or issues that were going out. We certainly wanted, I suppose, to have a process which would ensure that messages that went to the public were coordinated in a particular way.

Senator FAULKNER—So you thought they were positive changes?

Ms McKenry—We thought they were positive. We certainly recognised that at the grassroots level they were very much a change of culture, that they were quite different, and that people may have felt a bit of—I will use the word—disempowerment. However, there were opportunities there still for people at the grassroots level to do what they had always done. It was just a matter of informing up the chain.

Senator FAULKNER—But were there changes that PACC did not view as positive?

Ms McKenry—I do not think so, no.

Senator FAULKNER—There weren't any? Okay. The change of culture that you speak about was a change that, in the view of the PACC division, was appropriate—a good change of culture, a positive change of culture?

Ms McKenry—Certainly we viewed as quite positive the more disciplined—to use a word—approach in terms of making sure that we had information going out that was accurate and of making sure that we did not have one person saying one thing at one end of the country and someone else potentially saying another thing at another end of the country. We also viewed as positive the fact that we actually had an overarching strategy which gave guidance and that there was now guidance for communicating and engaging the community.

Senator FAULKNER—The overarching strategy being the—

Ms McKenry—The Defence overarching strategy.

Senator FAULKNER—The one we talked about previously?

Ms McKenry—The issue here is that certainly the document released in August was a lot more prescriptive than the former document. As I mentioned to you, there was intent in that from a security point of view in terms of information—and certainly there were cultural issues with it in people coming to terms with and understanding that. But we discussed with people that there was still a lot of flexibility there and they—the people who did engage us—were able to do lots of things. We did take that document, and Mr Humphreys can talk to you at length about that, around the country after it was there and asked people what they felt about it and whether there were changes that we should or should not make. That information was harnessed and is reflected in the March document that you have now.

Senator FAULKNER—Yes.

Ms McKenry—I have to say that the main area where people felt some concern was at the local level and with the clearance processes where they do not have a one-star officer.

Senator FAULKNER—What I am interested in understanding is how these revised instructions affect what happened with the SIEV4 incident. I do not know what time the chairman wants to break.

CHAIR—About now actually.

Senator FAULKNER—So I might come back after the break and ask you about that and for more detail about these changes.

CHAIR—I think it is your unhappy fate, Ms McKenry, to be held over now and return after lunch.

Proceedings suspended from 12.30 p.m. to 1.19 p.m.

CHAIR—When the proceedings were suspended for lunch, Senator Faulkner had the call and he has it back again.

Ms McKenry—I want to clarify a date regarding the current DI(G), the March DI(G). It was 25 March as I mentioned. Regarding it going to the Minister for Defence's office, yes it did go for information and it came back without amendment.

Senator FAULKNER—But it did not go for clearance?

Ms McKenry—It went for information.

Senator FAULKNER—Yes, and the August 2001 one went to Minister Reith's office for clearance.

Ms McKenry—It was discussed between the secretary of the department and the staff. I am not quite sure what the context of that was but we are chasing that at the moment.

Senator FAULKNER—Thank you for doing that. I take you to the 8 August 2001 Defence Instructions (General). I do not know if you have got a copy of it there or not, Ms McKenry—have you?

Ms McKenry—No, I do not.

Senator FAULKNER—Can I just read one paragraph of it to you. Paragraph 5, under the heading 'Public comment and dissemination of information by Defence members: Introduction', states:

5. Within this context, the Government retains the right to have the final say in the release of information on Defence issues to the public and the media.

Was that a new paragraph, if you compare it to the earlier 1999 iteration of the Defence Instructions (General)?

Ms McKenry—I would have to check that. My feeling would be that it was, but I would have to categorically check that.

Senator FAULKNER—Isn't it true that, in relation to the government's retaining the right to have the final say, this relates not only to policy but also to operational matters?

Ms McKenry—I am not aware—

Senator FAULKNER—It is everything, isn't it?

Ms McKenry—It certainly was the case with the public information that that was so. I cannot speak more broadly—

Senator FAULKNER—It relates to all public comment on not only policy matters but operational matters as well.

Ms McKenry—Specific to public affairs matters and public communication matters that are linked to operational issues, yes—as that document says.

Senator FAULKNER—And that had traditionally been the preserve of Defence personnel, hadn't it? I am talking about operational matters.

Ms McKenry—I could not categorically say whether that had been totally the preserve. I am not sure.

Senator FAULKNER—That was certainly the general practice.

Ms McKenry—It was certainly the practice that people were able to talk about operational matters, and certainly the DI(G) as it stood did not stop personnel talking about operational matters in all circumstances.

Senator FAULKNER—Are you aware that in his opening statement to this committee on Friday, 12 April—Friday of last week—Admiral Barrie said:

Turning now to public affairs: in Senate estimates I was asked about the importance of correcting the public record in this situation and whether Defence had failed in its attempts to do so. I can confirm to you that, by direction emanating from the former minister's office, no member of the ADF—

no member of the ADF—

myself included, could make any public comment on Operation Relex, of which SIEV4 was a part.

Was the CDF right in his statement?

Ms McKenry—Certainly in Operation Relex, yes, that is true.

Senator FAULKNER—In relation to Operation Relex it is certainly true. Admiral Barrie goes on to say:

There have also been many concerns about the prescriptive and restrictive nature of the defence instruction DI(G) admin 08-1, which relates to public comment by military personnel.

You would have been aware of those concerns, which were reflected very widely in Defence—not just the CDF, is it?

Ms McKenry—No, I would be aware. I think I mentioned before the lunch break that in taking the DI(G), or the instruction, around to people and explaining to them after it was issued certainly there were concerns expressed to us about the DI(G) and some issues of it, and subsequently they were picked up in the redraft that we have at the moment.

Senator FAULKNER—Rear Admiral Smith in fact said to this committee on page 667 of *Hansard*:

It restricted—

and we are talking about the same Defence instruction—

significantly those that were authorised spokesmen, indeed. We needed authorisation from the minister's office to be able to speak about those things.

Would you, from your knowledge, accept that that is a pretty fair representation of the position?

Ms McKenry—That is certainly correct. I think we discussed earlier that there was a paragraph in the public affairs plan that was issued for Operation Relex which was quite specific on those matters.

Senator FAULKNER—What it actually meant in relation to operational issues, or in relation to what actually occurred with suspected illegal entry vessel 4, was that Defence's capacity to correct the public record was limited, wasn't it?

Ms McKenry—Certainly the public information and the information about Operation Relex were issued through the minister's office. That is correct.

Senator FAULKNER—That is right. So—and we have talked about this before—in terms of its capacity to correct the public record, Defence had both hands tied behind its back, didn't it?

Ms McKenry—Defence certainly had an instruction that all communication with the media was to go through the minister's office.

Senator FAULKNER—All press inquiries that came to your unit, or any of the media liaison link points or contact points in Defence, had to be directed back to the minister's office, didn't they?

Ms McKenry—That is correct, Senator, yes.

Senator FAULKNER—Every single press inquiry that was made was sent back to the minister's press officer?

Ms McKenry—That is correct—on Operation Relex, yes.

Senator FAULKNER—On Operation Relex, sure, and SIEV4 is part of Operation Relex.

Ms McKenry—That is correct, yes.

Senator FAULKNER—How many inquiries would that be? Do you know how many inquiries a day that might be in Defence?

Ms McKenry—I would not even be able to guess on that.

Senator FAULKNER—You would not be able to guess?

Ms McKenry—No, I would not be able to guess.

Senator FAULKNER—It would be pretty substantial, though, wouldn't it?

Ms McKenry—There was a lot of interest in the whole of Operation Relex.

Senator FAULKNER—So that is certainly an impact on the SIEV4 situation in relation to this Defence Instruction (General). Were there any other effects of this Instruction (General) in place that had a direct relationship to the SIEV4 incident that you can inform the committee about—that is, appreciating the general one that all inquiries had to go back to the minister's office? What else did it mean? Were you hamstrung or affected in any other way?

Ms McKenry—We were not able to talk about our operations. We were not able to showcase, I suppose, the men and women of the ADF doing their job.

Senator FAULKNER—Is there anything else you would draw our attention to? That is important; I accept that.

Ms McKenry—It was a very wide question, but that was the main issue of concern for us as a public affairs unit.

Senator FAULKNER—Did you express that concern to anyone? I am referring to the positive element—not being able to project the image of the ADF.

Ms McKenry—Certainly in the last days of August and early days of September it was raised with the minister's office, yes, that we did want to have the opportunity—as we always do want to have our opportunity, security reasons aside, and they sometimes preclude us from doing so—to showcase our Defence personnel.

Senator FAULKNER—So you raised it with the minister's office?

Ms McKenry—Certainly it was raised with Mr Hampton in a conversation and certainly it was raised—we are going back now to the last days of August and to early September—with Mr Hendy and with Mr Scrafton. I was at a meeting with Mr Humphreys, Mr Scrafton and Mr

Hendy to talk about that. My records show it was 3 September. I recall a meeting prior to that—and I think it was 2 September—with myself, Brigadier Bornholt, Mr Hampton and Mr Humphreys, where those issues were raised.

Senator FAULKNER—What did the ministerial staff say to you? Did they take this on board?

Ms McKenry—The discussion with Mr Hampton left us in no doubt that all media inquiries and visual information were required to go through the minister's office. When we had the discussion with Mr Scafton and Mr Hendy, they were not favourably disposed to our proposition.

Senator FAULKNER—And is that where it ended?

Ms McKenry—Yes, that is where it ended.

Senator FAULKNER—Did you outline your concerns and the problems that this approach was causing?

Ms McKenry—We outlined that we thought that the men and women of the forces were doing a lot of very positive stuff and that we would have liked the opportunity, for a lot of reasons, to be able to show the Australian public what they were doing.

Senator FAULKNER—Did you have a proposal? What was the department's idea? Did you put another suggestion to the minister's staff?

Ms McKenry—A whole-of-government public relations plan had been drafted—the drafter of which was Mr Humphreys—which suggested a whole-of-government approach to Operation Relex which would allow the Department of Defence to showcase their personnel and also allow some coordination of what was happening between all of the departments so that we would get a coordinated approach. The intention of that was that we would be able to have tactical operational information explained to the public—but not have Defence look at the policy aspects of that; have the relevant departments look at the policy aspects of that.

Senator FAULKNER—So would it be better to ask Mr Humphreys about the whole-of-government plan when we see him soon?

Ms McKenry—He was the author. It certainly was discussed internally with the executive and it was drafted after discussion with the CDF.

Senator FAULKNER—What was the end point of it?

Ms McKenry—It did not go very far at all.

Senator FAULKNER—I will ask Mr Humphreys about that. What was it actually called?

Ms McKenry—It was a draft. It was called ‘Op Relex—outline of proposed strategic communication approach’ and it was dated, from memory, 31 August.

Senator FAULKNER—Would you be able to provide the committee with a copy of that?

Ms McKenry—We can certainly look at providing it. I will check, but I think we can provide it to the committee for the committee’s benefit.

Senator FAULKNER—What were relations like between the PACC division of Defence and the minister’s office? They obviously at times were pretty strained, judging by the evidence that Brigadier Bornholt gave the Senate estimates committee.

Ms McKenry—They were professional working relationships.

Senator FAULKNER—Didn’t we receive evidence from Brigadier Bornholt that, on at least one occasion, Mr Hampton had been very abusive with his staff?

Ms McKenry—That is correct. I understand that on, I think, the 10th there was an exchange between Mr Hampton and Captain Belinda Byrne that was not cordial. Certainly, it was related to me by Mr Clarke on the 11th that he had had an exchange with Mr Hampton over the photographs that was not cordial. I think he is actually quoted in the report.

Senator FAULKNER—Is that the pattern with Mr Hampton—you described them as ‘not cordial’, I used the word ‘abusive’, but whatever you care to call them: the less than cordial communications?

Ms McKenry—I do not know whether you would say it was a pattern. Certainly there were occasions, and staff were asked quite clearly to elevate the situation to members of the PACC exec—me or my executive colleagues—if things did become unpleasant. But in the nature of the job—it is a media job—there are a lot of things happening and there are times when it is fair to say that tempers stray, but I would not describe it as a pattern.

Senator FAULKNER—It does not sound like the very professional relationship you told the committee about a few moments ago?

Ms McKenry—Certainly I would have to say to you that personally I had nothing but cordial discussions with Mr Hampton.

Senator FAULKNER—It was just more junior staff in PACC who were being abused by the minister’s staff?

Ms McKenry—More junior staff did relate from time to time that the exchanges were not always cordial, yes. On those occasions they were actually asked to elevate concerns to us and we would deal with them. I think Captain Byrne, in fact, did that.

Senator FAULKNER—My point is that that does not seem to be indicative at all of a professional relationship or a proper relationship?

Ms McKenry—It is certainly not the way I conduct a relationship with people.

Senator FAULKNER—I accept that.

Ms McKenry—But I would say there are times in the nature of that work when things actually do not go as smoothly as one would like.

Senator FAULKNER—There were extensive discussions in PACC from about 10 October, certainly on 10 and 11 October, about issues that relate to SIEV4, particularly the photographs? It is fair to say that, isn't it?

Ms McKenry—Certainly there were discussions in PACC on the 10th and the 11th. The discussion and the knowledge of the photographs began in PACC on 9 October. That is correct, yes.

Senator FAULKNER—So the 9th, 10th and 11th. Was it dominating your days at that time?

Ms McKenry—It was certainly an issue for me during those days; and certainly, as was made known, as other events took over it petered down. I said to you earlier, Senator, that the matter of the photographs and of the correction were discussed. They were discussed within the division and they were discussed around the department.

Senator FAULKNER—When you say 'discussed around the department', what was—the requirements of the minister and the minister's office on this particular subject?

Ms McKenry—The public affairs plan and paragraph 14 of that plan were certainly discussed, yes.

Senator FAULKNER—Paragraph 14 of the public affairs plan is what?

Ms McKenry—Paragraph 14 states that all imagery and digital stills are to be relayed to the Directorate in PACC for clearance, no image is to be released outside the system, all media inquiries/responses to the MINDEF Media Adviser, Mr Hampton.

Senator FAULKNER—And your concern about how that was working was not unknown to your more senior officers in Defence either, was it?

Ms McKenry—It was certainly raised by me and by Brigadier Bornholt that there was the instruction out and that the guidance around that instruction had appeared to be broken or ignored on one particular occasion. There was a conversation with Brigadier Bornholt and relevant people to reinforce that directive or make people more aware of it. That subsequently happened.

Senator FAULKNER—Which was the particular occasion it was broken?

Ms McKenry—Certainly the interview by Commander Banks.

Senator FAULKNER—The Channel 10 interview?

Ms McKenry—The Channel 10 interview.

Senator FAULKNER—Can I ask you whether PACC was sensitive to the fact that, at this time, as these events flowed right through to 10 November, they were occurring in the context of a federal election campaign and whether you as a professional public servant had a mind and an eye to the caretaker provisions?

Ms McKenry—Certainly we were sensitive about the environment in which all of this was operating. That is true; there was an election going on. We were aware of the caretaker conventions.

Senator FAULKNER—How did this manifest itself in terms of the extraordinary amount of contact between the minister's office, PACC in Defence and the requirements that the minister's office had? Did you seek any advice at any stage about the relevance of the caretaker conventions to the role that you and your division were playing at that time? Did you have any concerns about it?

Ms McKenry—We had the caretaker conventions. I recall that, during the course of the caretaker period, there were probably a couple of discussions with our parliamentary area. However, most of the discussions that I was relating to you in clarifying the public relations directives and what we would or would not do took place before the election was called. It was virtually sewn up by 3 September. In terms of interaction with the minister's office on these matters, what went across was strict operational information and nothing else. Any requests that came to us were bounced back to the minister's office.

Senator FAULKNER—But all this material is being used in the context of an election campaign. It is not just as if they are matters of importance to Defence that are being approved and cleared by the minister's office; all this is going into the public arena in the context of an election campaign. It was not just business as usual, was it? This material was being used to defend the government's position.

Ms McKenry—The material we provided was within caretaker conventions—that is, straight operational material re the responsibility of a minister can be provided during that period. Once it goes to the minister's office, what happens to it is another issue.

Senator FAULKNER—Is it true that Minister Reith issued many more press releases in the four weeks leading up to the 2001 election—there were 36—than did the then Minister for Defence, Mr McLachlan, when he released 16 prior to the 1998 election? Do you know about those statistics?

Ms McKenry—No, I do not.

Senator FAULKNER—Is it not true that Minister Reith's press releases during this period were overtly political in nature?

Ms McKenry—I cannot answer that, Senator.

Senator FAULKNER—You looked at them surely.

Ms McKenry—No, I do not look at all of his media releases.

Senator FAULKNER—Were they distributed by Defence Public Affairs?

Ms McKenry—His media releases during the election campaign?

Senator FAULKNER—Yes.

Ms McKenry—No, his media releases during the election campaign were distributed through his own office channels. For a certain period they were hosted on the Web according to guidelines, but because of some technical problems to do with IT that no longer happened. We did not distribute his media releases during the election campaign from the caretaker period on.

Senator FAULKNER—You can assure me that none of the minister's press releases were distributed by Defence Public Affairs?

Ms McKenry—To my knowledge, no.

Senator FAULKNER—Can you assure me that, in the period 7 October to 10 November, there was no pressure from Minister Reith or his office in regard to the carrying out of public affairs functions of Defence in a way that could be construed as political in any sense?

Ms McKenry—To my knowledge, that did not happen.

Senator FAULKNER—So you can give me that assurance?

Ms McKenry—To my knowledge and my understanding, yes.

Senator FAULKNER—Were you asked to distribute Minister Reith's press releases?

Ms McKenry—During the election period?

Senator FAULKNER—Yes.

Ms McKenry—No.

Senator FAULKNER—You did not refuse to distribute them?

Ms McKenry—I was not asked to distribute them.

Senator FAULKNER—I mean PACC; not you personally.

Ms McKenry—Not to our knowledge. We did take them off the hosting site, as I explained, but that was because of a technical IT problem and not for any other reason.

Senator FAULKNER—At any time from 7 October to 10 November did you come to a conclusion or express a view that your organisation, the PACC division of Defence, was being asked to carry out a function that was inappropriate, given the election context?

Ms McKenry—I was very mindful of the caretaker conventions, and I made sure that my senior staff were also aware of the caretaker conventions. I was satisfied that we acted within the specifications of those caretaker conventions. I also asked staff, if they felt at any stage or at any time they were being asked to do anything that would compromise those conventions, to raise the issue with the executive—and nothing was raised with me or the executive, to my knowledge.

Senator FAULKNER—You are confident that you acted in accordance with the spirit and letter of the caretaker conventions?

Ms McKenry—I am, Senator. We referred to them a number of times. In fact, they sat on my desk during that period.

Senator FAULKNER—You can say to the committee that at no time were you asked to do something that you felt was either in breach of the conventions or in breach of the spirit of the conventions in relation to the Defence public affairs issues in the broad by the minister or the minister's office?

Ms McKenry—Not to my knowledge, no.

Senator FERGUSON—That is the fourth time you have asked that question.

Senator FAULKNER—If that is the case, Senator—and I do not believe it is—I will make absolutely certain I do not ask it again.

Senator FERGUSON—Thank you.

Senator FAULKNER—I might ask my other questions of Mr Humphreys. Ms McKenry, are you likely to remain in the building?

Ms McKenry—I can remain in the building.

Senator FAULKNER—If I have any other issues to be directed to Ms McKenry I am happy to place them on notice.

CHAIR—Ms McKenry, are you the officer in PACC who assisted Vice Admiral Shackleton to write his 'clarifying' statement early in November?

Ms McKenry—This is the statement of 8 November?

CHAIR—I should remember that date because that is my birthday. Yes, it is the statement of 8 November.

Senator FERGUSON—That is why you cannot remember, Senator!

Ms McKenry—That is correct. I was in Canberra and Vice Admiral Shackleton was in a car, I understand, somewhere in Perth.

CHAIR—You were in Canberra, and you had a telephone conversation of some sort with Vice Admiral Shackleton to frame the words that his statement would contain. Is that the case?

Ms McKenry—That is correct, yes.

CHAIR—We have had evidence from Commander Banks, Commander of HMAS *Adelaide*, that, when he became aware that the photos misrepresented the incident and when he became aware of press reports that contained the allegation that children had been thrown overboard, he moved immediately to correct that and passed that information up the line.

We have had evidence from Brigadier Silverstone, who was the immediate superior to Commander Banks in this operation and who was based in Darwin, that when he too became aware of the misreporting he corrected it immediately and passed that advice up the line. What strikes me as odd about the words that were used in the ‘clarifying’ statement—which you helped frame in this telephone conversation, I understand—are the words:

My comments in no way contradict the minister. I confirm the minister was advised that Defence believed children had been thrown overboard.

Within Defence, the Navy knew at that stage, and had known at that stage for almost a month, that that was not true: that children were not thrown overboard. How can those words then be written so that the minister is not contradicted when he says that they were thrown overboard?

Ms McKenry—The advice to me—and Admiral Shackleton concurred with this in the statement—was that the government had been advised that children had been thrown overboard.

CHAIR—The government, according to our evidence, had been advised of that as a consequence of a telephone call by Air Vice Marshal Titheridge following advice that he had obtained from Brigadier Silverstone and which Air Vice Marshal Titheridge, under a special arrangement, notified the People Smuggling Task Force of on 8 October, I think it was. We have contradictory advice as to whether or not that view was transmitted. As you know, Commander Banks, the man in charge of the operation, says that he never said that and Brigadier Silverstone, his immediate superior, says that he took it down in a note. So we have conflict there, but it is clear from Brigadier Silverstone’s evidence that he passed it on.

Senator FERGUSON—On a point of clarification, Commander Banks said that he did not recall saying it. He did not say that he did not say it; he said he did not recall saying it.

CHAIR—I can point you to the *Hansard* at several points, because I put the question explicitly to him on a number of occasions.

Senator FERGUSON—We could point to others too.

CHAIR—Maybe so, but the authoritative evidence, I believe, is the considered statement made by the commander of the frigate when he addressed us in his opening statement. That is a matter of subjective judgment and it may be that, for your political purposes, you will form a judgment other than the one that I have referred to. However, I am just putting the line of developments clearly down because this is a discussion about the truth, the whole truth and nothing but the truth. Part of the truth is that the Navy were advised that children were thrown overboard back on 8 October; the whole truth is that, according to Banks and Silverstone, they were advised on 10 or 11 October that it did not occur. And we have a statement from the vice admiral saying that he does not contradict the minister, who was sticking with the first piece of advice, not the corrected advice. My question is: how does that occur?

Ms McKenry—It occurs because the information that was conveyed to me—and certainly, as I said to you, it was information that Admiral Shackleton happily agreed with—was that the government had been told that children had been thrown overboard, and that was what the clarification in the statement was saying, basically.

CHAIR—The media get the blame for this and I must say that I think the media deserve criticism, let me make that clear; I think all of us do—certainly politicians do and so do the media—but some criticism is deserved and some is not. I do not disagree with what you are saying in that, from the evidence we have had, advice appears to have been provided that children were thrown overboard. However, the bit I have difficulty with is that, as soon as the responsible commanders became aware of that report appearing in the paper and particularly of the photographs that were misleadingly labelled, they corrected it. The only thing that the vice admiral says is about the first part, nothing about the second part. We are all human and we can make mistakes. The issue is not that we make them, but do we correct them when we make them and own up? Why was there no recognition in this statement that the facts that the minister had referred to were wrong?

Ms McKenry—The nature of the statement itself was to actually focus on what Admiral Shackleton had said rather than anything else. Admiral Shackleton had made a statement—I have not got it with me now—and AAP ran a story basically with the suggestion that there was a contradiction to what the minister had been saying. Having received the AAP story, I sought guidance on what, in fact, the reality of the situation was and I also sought to talk to Admiral Shackleton about what he had said. I was told that the government had been advised and I had that discussion with the secretary of the department. There were very few other senior people around that day because it was the day that we had had our church services for the people being deployed overseas so it was a busy day in the office.

Allan Hawke said to me that quite clearly the minister and the government had been told that children had been thrown overboard and that needed to be clarified in a statement. So I went downstairs and when I talked to Admiral Shackleton I suggested to him that somehow we had to find a form of words, and we did, and that was the focus of the very short statement that was issued.

CHAIR—This is, I think, an accurate quote from the AAP news report, but if it sounds foreign to you please stop me and point out what you think is wrong. I have in front of me these words which I understand are from AAP:

Navy chief Vice Admiral David Shackleton said today the navy had never advised Defence Minister Peter Reith that boat people threw children overboard from an Indonesian vessel.

Vice Admiral Shackleton said the navy's advice to the minister was that a child, believed to be aged about five or six, had been held over a top railing of the boat with intent to throw the child overboard.

Then in quotes from Admiral Shackleton, in his own words:

Our advice was that there were people being threatened to be thrown in the water and I don't know what happened to the message after that.

Ms McKenry—That sounds familiar.

Senator FERGUSON—That is his first statement, isn't it?

CHAIR—Yes. At this stage we know that that advice had been transmitted by Titheridge to the committee and apparently to Minister Reith, but we also know that the advice correcting that a day or so later had also been transmitted. We know that the minister had run with the first advice and not with the second correcting advice. We know that Admiral Shackleton made this statement in the words that you have broadly confirmed. Why wasn't the correcting advice referred to in the clarifying statement?

Ms McKenry—I was not aware of the points of reference that you talk about now. I have now become aware of them because of the reports and how information was conveyed or not conveyed. At the time of sitting down with me in Canberra and the vice admiral in Perth, the focus was on whether or not the government had been given advice that children had been thrown overboard.

Senator FERGUSON—And they had.

Ms McKenry—And the information provided to me by the secretary of the department was that that had in fact occurred. The information that the vice admiral—

CHAIR—What had occurred was that the advice was given, but what we know did not occur was that children were thrown overboard.

Ms McKenry—That is correct. Advice had been given—

Senator FERGUSON—The clarifying statement was to give the advice.

Ms McKenry—And that is what the clarifying statement was about. Vice Admiral Shackleton—I think we used the word 'Defence' rather than 'Navy', and I think that was probably the only point of discussion—was happy to issue that statement.

CHAIR—When Dr Hawke spoke to you about this, what did he say to you?

Ms McKenry—When I took the AAP story up there I showed it to him. He read it and he basically said that we need to issue a clarifying statement, because, in fact, the government was told that children were thrown overboard.

CHAIR—And the government was told later that they were not. That was left out, was it?

Ms McKenry—That was not discussed any further.

Senator FERGUSON—Mr Chairman, the point of the clarifying statement actually was to correct a misstatement by the vice admiral in the first place. Because his first statement, which you read out, said that the government had been advised that children had not been thrown overboard. The clarifying statement did not come to the issue of whether or not children had been thrown overboard; it was whether or not the government had been advised that children had been thrown overboard.

CHAIR—Yes. But if you tell only part of the truth that is convenient to you, you in fact tell a lie. To tell the truth, you need to tell the whole truth.

Senator FERGUSON—You are pontificating, Mr Chairman.

CHAIR—No, I am not pontificating; you were pontificating and I was correcting you.

Senator FERGUSON—It was correcting a statement.

CHAIR—No. You surely agree that the oath is to tell the truth, the whole truth and nothing else but the truth. It is not to tell selective portions of the truth to suit your case.

Senator FERGUSON—Are you referring to Ms McKenry's oath that she has taken?

CHAIR—I am referring to you, and I would be grateful if you would allow me to continue.

Senator FERGUSON—I did not know I was under oath, Mr Chairman.

CHAIR—I beg your pardon?

Senator FERGUSON—Am I under oath now for something?

CHAIR—No. I am pointing out to you a basic, elementary fact, because you wish to engage in a debate about it.

Senator FERGUSON—Because you are distorting the actual event.

CHAIR—I am not distorting it. The truth is that no children were thrown overboard. The truth is that Vice Admiral Shackleton said words that contradicted the minister and that he then issued a so-called clarifying statement.

Senator FERGUSON—Because his first statement was not true.

CHAIR—Are you saying, then, that Vice Admiral Shackleton did not tell the truth?

Senator FERGUSON—I am saying that he made a mistake in his first statement.

CHAIR—No, he did not tell the whole truth.

Senator FERGUSON—He made a mistake in his first statement.

Senator JACINTA COLLINS—The statement was actually quite accurate.

Senator FERGUSON—No, it was not. He said that the government had not—

Senator JACINTA COLLINS—No. He said, ‘Navy had not told.’ That is accurate: it was not Navy; it was Brigadier Silverstone.

Senator FERGUSON—Through the Navy.

Senator JACINTA COLLINS—He is not in the Navy.

Senator FERGUSON—He is from the Navy.

Senator JACINTA COLLINS—No, he is not.

Senator FERGUSON—Yes, he is.

Senator JACINTA COLLINS—He is from NORCOM; it is a joint task force.

CHAIR—We can have this debate in private among ourselves whenever we want, and no doubt we will. Ms McKenry, when you framed these words, did you consult with Minister Reith’s office about them?

Ms McKenry—No, not at all.

CHAIR—Did you notify Minister Reith’s office that the admiral was going to make a ‘clarifying’ statement?

Ms McKenry—What happened after I had been upstairs to talk to the secretary was that I received a call from Mr Hendy, who had obviously read the AAP report. He said that his belief was that a clarifying statement should be issued, that he would leave that to us and, once we had issued it, could we make it available to his office and also send a copy to Mr Sinodinos in the Prime Minister’s office. That was it. There was no reference back to Mr Hendy at any stage, or to the minister’s office at any stage.

CHAIR—So the people who spoke to you that day about the need for a clarifying statement were Vice Admiral Shackleton, Dr Hawke and Mr Hendy?

Ms McKenry—That is correct.

CHAIR—Was there anyone else?

Ms McKenry—No-one at all.

CHAIR—Was any explanation given as to why it should be sent to the Prime Minister's office?

Ms McKenry—No, there was no explanation.

CHAIR—Did Admiral Shackleton say anything to you about no children being thrown overboard?

Ms McKenry—In the course of the discussion, no, he did not.

CHAIR—Since you now know that none of this was true and that children were not thrown overboard—that is an established fact; that is what the Bryant report finds, that is what the Powell report finds, and that is what the evidence of the people on the scene shows.

Ms McKenry—I have more information now than I did then, yes.

CHAIR—I know hindsight is a wonderful thing and we would all wish to be equipped with it ahead of time. But now that you have it, what do you think that clarifying statement did? Did it clarify the issue or did it mislead people into believing that children were thrown overboard?

Ms McKenry—I think it clarified the fact that the government had been advised that children had been thrown overboard. That was a fact of life—they had, and he was seeking to clarify that.

CHAIR—But did it tell the truth?

Ms McKenry—With respect to that particular bit of information, yes, it did tell the truth.

CHAIR—With respect to the incident?

Ms McKenry—With respect to whether or not the government had been advised, certainly the statement told the truth.

CHAIR—With respect, though, to the incident that this referred to?

Ms McKenry—With respect to the incident, we now know—as you say—that there was a lot more information than we had at the time. But I did not have that information at the time.

CHAIR—I am not challenging you on that. I am just going to the sublime question of the truth. Did it, in your judgment now, tell the truth?

Ms McKenry—As I have said to you, I believe that it told the truth in clarifying a particular statement, yes.

CHAIR—But about the incident?

Ms McKenry—The incident was wider context, and the purpose of the clarifying statement was whether the government had been told or had not been told.

CHAIR—So do I take it that, by declining to answer the question about the wider incident, your answer is that it did not tell the truth?

Senator FERGUSON—Mr Chairman, that is an unfair—

CHAIR—It is not an unfair question.

Senator FERGUSON—It is an unfair proposition to put to a witness.

Ms McKenry—The wider context was not being considered at the time.

CHAIR—That is why I am asking you to comment with hindsight, now knowing what you know.

Ms McKenry—With hindsight, now knowing what I know, I still believe that the statement, as made, was a truthful statement.

CHAIR—The whole truth?

Ms McKenry—The government had been advised that way.

CHAIR—I have trouble with this. Let me put to you directly where I have the trouble. This occurred the second day after an announcement of a federal election. This was on the front page of every newspaper. It was a notorious story.

Senator FERGUSON—Notorious?

CHAIR—Yes, it was. That is why we are having this inquiry. There is public concern.

Senator FERGUSON—You have trouble believing every witness, Mr Chairman.

CHAIR—Yes, I do have trouble believing every witness—

Senator FERGUSON—You are a very sceptical man.

CHAIR—and that is a proper approach for an inquiry to take, to examine witnesses.

Senator FERGUSON—But not to disbelieve them.

CHAIR—The question that the reports were about was: were children thrown overboard or not? We know photographs were published which are now proved to be untrue. With the glorious advantage of hindsight, we know that is untrue and it was deceitful at the time. We know that. So, to the wider incident: are you satisfied that the truth was told?

Ms McKenry—Going back to the statement, as I said, I am satisfied that the—

CHAIR—I know. We are at sixes and sevens: every time I say ‘incident’ you say ‘statement’, and every time you say ‘statement’ I say ‘incident’.

Senator FERGUSON—Good heavens! She is only responsible for the statement.

CHAIR—Let us do a trade. You tell me what you think about the incident and I will tell you what I think about the statement.

Senator FERGUSON—I would decline that offer, Ms McKenry.

CHAIR—Thanks for your assistance, Senator Ferguson, but you are out of order.

Senator FERGUSON—So is the question.

CHAIR—No, it is not. It is entirely in order.

Senator FERGUSON—‘You tell me and I will tell you’!

CHAIR—That is a fair deal.

Senator FERGUSON—It is not a deal at all.

CHAIR—You tell us, with hindsight, whether you believe people were properly informed as to the incident.

Ms McKenry—The information I have now suggests that there was a lot more to the incident than I knew at the time.

CHAIR—Okay, thanks. That will do, I think, at that point.

Senator FAULKNER—I do not want to put words into your mouth, Ms McKenry, but I think earlier in your evidence today—and I just want to clarify this—you indicated that Mr Scrafton had indicated that you should get the photographs off the unrestricted system. I want to be clear about that.

Ms McKenry—No, that was probably the way I expressed it. That was not the case. What I was saying was that the email that I had sent to Mr Scrafton contained the photographs and the captions. Within the covering note to that email that I put together, I informed Mr Scrafton that the photographs were also on the restricted system. I think I used words like, ‘It has now come to my knowledge that these photographs are on the restricted system.’ When I talked to Mr Scrafton, he told me not to worry about them being on the restricted system. In other words, ‘Don’t worry pursuing taking them off.’ So at that point I took no further action and I did not even pursue it within my own division.

Senator FAULKNER—You did not have a concern about the restricted system; your concern at that point was the unrestricted system.

Ms McKenry—There are two systems within the organisation: a secret system and a restricted system. The restricted system is restricted in that it is not an open system. There is restricted information on it as well as information which is not restricted. But from the restricted system within Defence you can actually send stuff to the outside world and you can circulate material to virtually everyone who has a computer. The secret system is a very different system. Not everyone has a secret computer and you cannot easily disseminate information from the secret system to the outside world; there are barriers there. A lot of operational information is transferred on the secret system.

Senator FAULKNER—And separate to that there is an unrestricted system.

Ms McKenry—No, there is not. There are only two systems: restricted and secret.

Senator FAULKNER—For the purposes of the record, how do you define ‘unrestricted system’?

Ms McKenry—We do not have an unrestricted system.

Senator FAULKNER—Have I misheard you using the terminology ‘unrestricted’?

Ms McKenry—Yes, I think so. What I was saying was that I had found that there was material on the restricted system. Although the word ‘restricted’ is used, anyone can transfer material from the restricted system to the outside world. You have to note that it is unclassified material to be able to do that. And you can send material around the organisation off there.

Senator FAULKNER—I think I did misunderstand what you were saying. That was why I wanted to clarify it. At no stage did Mr Scrafton say to you that you ought to remove material from any Defence system?

Ms McKenry—That is correct, yes.

Senator FAULKNER—Whether I misunderstood you or whether it is unclear I know not, but I think it is useful that—

Ms McKenry—I think the word ‘restricted’ is confusing.

Senator FAULKNER—The other matter I wanted to raise with you was in your submission to the Powell report. At the end of your submission dated 29 November last year, in post action events, in paragraph 17 it says:

In briefings with Senator Hill’s staff (27/11/01), the incident of the photos was raised by staff. They were interested in who gave the authority to release the photos and what the photos actually depicted. They were also keen to know if all this material would be captured in the internal inquiry.

Can you give us the background on why Senator Hill's staff were going back to the issue of the photos in briefings in November?

Ms McKenry—Can I have a page reference to that?

Senator FAULKNER—It is the last page of your submission to General Powell, at paragraph 17.

Ms McKenry—Could you ask the question again? Sorry, you threw me.

Senator FAULKNER—I was asking what the background was. At that stage, why were you going back with Senator Hill's staff to this issue of the photos in November of last year?

Ms McKenry—It was at one of the initial meetings with the staff. The photographs were raised in passing and I think the conversation came up about what we knew about them. The question was asked and I said, 'Yes, they were released through Public Affairs and Corporate Communications.' Their question was, 'At the time, who gave the authority for those to be released?'

Senator FAULKNER—Were you able to say that to them?

Ms McKenry—Yes, I explained that the instruction had come from the minister's office and from Mr Hampton. It did not take very long in what I think was close to a two-hour briefing.

Senator FAULKNER—Did you say that the photos had been misrepresented through the period of the election campaign?

Ms McKenry—I do not recall precisely whether I said that. Certainly, they were more concerned about the release and how they had been released. I do not recall that. I do recall that it came up, and hence it is there, but it was not a big point of discussion.

Senator FAULKNER—What was this about being keen to know if the material would be captured in the internal inquiry?

Ms McKenry—They asked whether all this information would actually be picked up in the inquiry.

Senator FAULKNER—What was the background to that?

Ms McKenry—I had explained at the time that there was an internal inquiry. The comment was made, 'Would this be all captured in the internal inquiry?' My comment was that I thought it would, and that was it.

Senator FAULKNER—Senator Hill's staff did not pass any comment about the operation of the former minister's staff, did they?

Ms McKenry—Not at all.

Senator FAULKNER—You mean not to you.

Ms McKenry—Certainly not in the course of that discussion, not to me, no.

CHAIR—Are we all done? There being no further questions, thank you, Ms McKenry.

[2.17 p.m.]

HUMPHREYS, Mr Brian Andrew, Director General, Communication Strategies, Department of Defence

CHAIR—Routinely, we ask people appearing before us if they have any opening statement to make or any comments to put on the record.

Mr Humphreys—I have no opening statement.

CHAIR—You are then available to answer questions?

Mr Humphreys—Yes.

Senator FAULKNER—Mr Humphreys, we heard from Ms McKenry about the draft Op Relex outline of strategic communications approach document. I hope I have the right title, but you know what I am referring to.

Mr Humphreys—Yes.

Senator FAULKNER—Is it best described as the draft? What is a good shorthand way of describing this, do you reckon?

Mr Humphreys—It is basically Defence's proposed strategic direction for the handling of organisational communication. What I have here is exactly right. The working title is *Operation Relex—outline of proposed strategic communications approach*.

Senator FAULKNER—I gather that, from what Ms McKenry was telling us, you are either the author or one of the authors of this document. Is that correct?

Mr Humphreys—That is right.

Senator FAULKNER—Would you say that you were the primary author?

Mr Humphreys—I was the primary author. I had staff assisting me actually typing it up.

Senator FAULKNER—And this was developed by staff in PACC, was it?

Mr Humphreys—Yes.

Senator FAULKNER—Okay. When did you prepare that draft?

Mr Humphreys—That was prepared on 30 August 2001.

Senator FAULKNER—When you say it was prepared then, was it finalised then?

Mr Humphreys—The document itself was never finalised. As a draft, it was basically a proposal. The document is essentially a two-page strategic direction. It was submitted to the secretary and CDF. That document then formed the basis of a larger document, which was basically the Op Relex PI plan, or public information plan—again based on that same strategic direction.

Senator FAULKNER—The draft communication strategy sits with the public information plan. Is it in a sense a broad element of the public information plan or is it a small part of it? I want to understand how it fits in with the overall plan.

Mr Humphreys—The Operation Relex strategic direction was basically a substrategy or an antecedent of the proposed *Tampa* public information plan that we developed. Both of these documents were based on the strategic guidance, direction and principles established in the Defence Organisational Communication Strategy.

Senator FAULKNER—We have asked for a copy of the draft to be made available to the committee. I think Ms McKenry is assisting us with that, which is appreciated. We have not received that yet, so, very briefly, can you tell the committee what approach the draft took?

Mr Humphreys—In broad it says that all of our communications should be led by the strategy; that the strategy in turn should be driven by government messages; that it should have a strategic and operational information focus; that it should include coordinated whole of government; that it should include mass and targeted information with messages going to multiple audiences; and that it should include sustained information, leveraging off the initial three weeks for a three-month program.

Senator FAULKNER—As the primary author of the strategy, why did you establish those principles or objectives?

Mr Humphreys—As I said, all the strategies should take their guidance from the overarching strategy. We have some principles established in that strategy that needed to be reflected in that. So we start from that basis, and then it is our goal, as public information officers within the Public Service, to ensure that we adequately and effectively communicate government messages. That is what drove that strategy.

Senator FAULKNER—I see. Was the draft strategy consistent with the broader defence organisational strategy? I do not know whether I am using the correct terminology, but it is something like that.

Mr Humphreys—The Defence Organisational Communication Strategy—yes, it was.

Senator FAULKNER—So it was consistent?

Mr Humphreys—The draft was, yes.

Senator FAULKNER—Did this draft set out details such as appropriate ways for information regarding Operation Relex to be made public? Does it go to that level of detail?

Mr Humphreys—Yes, it does.

Senator FAULKNER—In that context, for Operation Relex, does it go to the appropriate role for the Minister for Defence?

Mr Humphreys—Yes, it does.

Senator FAULKNER—More broadly, government?

Mr Humphreys—Yes, it does, and how Defence would interface with that whole-of-government communication.

Senator FAULKNER—Defence organisation in the broad?

Mr Humphreys—Yes.

Senator FAULKNER—Any consideration given the timing of the caretaker conventions?

Mr Humphreys—I could be wrong, but from recollection that was not an issue on 31 August.

Senator FAULKNER—You are right; that is why I ask you. I make the qualification.

Mr Humphreys—No.

Senator FAULKNER—It is in advance, of course, as you probably say, of the caretaker conventions. When you go to the role for the defence organisation, and the role for the minister and government and the like, could you give us the flavour of what this strategy is saying about the details of the respective roles? Given this committee, I am particularly interested in the minister and the government, but I think minister, government and Defence might be helpful given it is only a short document.

Mr Humphreys—Noting that it was only a draft document, the document itself basically said that the process would be strategy led, aimed firstly at sending clear, constant and consistent whole-of-government messages. Messages might include, for example, that the government is resolved to effectively deter illegal incursions of our borders. So it established the sorts of messages. It proposed the role of ministers and the Prime Minister in the making of strategic level announcements on a regular basis. It then went to the determining of somewhat secondary level coordination of information across departments and then to the tertiary level, which recommended that daily media briefings be provided on the operation to media in Canberra by government and Defence officials.

Senator FAULKNER—We have heard about a limitation in relation to the minister and the minister's office. Was there any limitation about that? I ask this in the context of some of the discussion I had a little earlier with Ms McKenry about the background to the Defence Instruction (General) of August 2001. Were there requirements that information be channelled through the minister's office?

Mr Humphreys—The August 2001 version of the DI(G) did not have any impact on what was proposed in the Op Relex public information plan.

Senator FAULKNER—Why was that? Why doesn't that have any involvement?

Mr Humphreys—Essentially because the assumption was that the strategic direction would have been established and agreed with the minister's office before it was acted upon. The DI(G) basically, in essence, required that the minister be aware of any proposed release of information and the mechanisms for doing that. Essentially, the DI(G) did not restrict what could be done under this proposed draft strategy.

Senator FAULKNER—Again, this is something that I raised with Ms McKenry: under this draft, who is proposed to have the role of operational level announcements?

Mr Humphreys—This draft proposed that the detailing of operations would be done by a senior naval or senior Defence official.

Senator FAULKNER—That is quite a significant difference to what occurs as a result of the DI(G) of August last year, isn't it?

Mr Humphreys—No. The DI(G) itself says that, whilst information can and should be released by Defence officials, operational announcements need first to have been cleared through the minister's office. The difference is that we are saying here that significant announcements are provided by the minister, and the detail as proposed in this strategy—the release of information, the release of operational detail—comes from a military or a uniformed officer.

Senator FAULKNER—That is what I am asking. That is a useful shorthand way of describing it. I think you have mentioned before that broad policy and strategic direction are a matter for government; the nitty-gritty, if you like, at the operational level is a matter for the ADF, the relevant services or whatever.

Mr Humphreys—Yes.

Senator FAULKNER—What actually is the final process for deciding on a communication strategy for an ADF operation? Perhaps I should have asked this of Ms McKenry, but I am sure you can help me. How does the general process work in relation to a communication strategy like this?

Mr Humphreys—In the case of Operation Relex and *Tampa* we put together a proposal. That proposal is staffed around Defence, a position is agreed, the position is then taken to the minister's office and the minister's office then determines the way forward.

Senator FAULKNER—But do you take it through the secretary or CDF first?

Mr Humphreys—In the case of the strategic direction for Operation Relex we did; for more routine matters we would not.

Senator FAULKNER—So what is the process that was followed in relation to Operation Relex?

Mr Humphreys—As I said, we established a strategic direction; we provided a brief overview of that to the secretary and CDF to take with them to whole-of-government fora. Then, on the basis of CDF-secretary satisfaction with that very broad document, we put some meat on the bones of that strategy. We then took that strategy, as Ms McKenry has told you, to Mike Scrafton and Peter Hendy. We also discussed it with Ross Hampton, and that strategy was set aside at that point.

Senator FAULKNER—So your draft Operation Relex communications strategy was put aside at the minister's office or at some whole-of-government forum?

Mr Humphreys—I know that we provided a brief to the secretary and CDF on our proposed way forward for use at a whole-of-government forum; I am not sure whether it was SCONS or NSC. It was unclear or uncertain as to how that strategy was going to progress from there, so we then took that strategy to Minister Reith's office and then, as Ms McKenry said, that office were not predisposed—as they are perfectly entitled to—to take our proposed option. Instead they put their own forward.

Senator FAULKNER—You are not sure which. It goes to either the NSC, the National Security Committee of Cabinet, or SCONS, the Secretaries Committee on National Security, or to both of them?

Mr Humphreys—Yes.

Senator FAULKNER—Is it normal for a communications strategy to go to the National Security Committee of Cabinet or the Secretaries Committee on National Security?

Mr Humphreys—It was actually produced for use at one of those fora, which is why I am not certain as to which one it went to. It was really a proposed strategic direction that the secretary or CDF could have to put at one of those fora if the issue of the handling of public information regarding Relex was discussed.

Senator FAULKNER—But it certainly would not go for cabinet approval or anything like that?

Mr Humphreys—No, it certainly did not go anywhere for formal approval.

Senator FAULKNER—You do not know whether it goes to the secretaries committee or the National Security Committee of Cabinet—it's fair enough you do not know that—and I will ask you to take that on notice on behalf of the department so that we can find out, if you wouldn't mind.

Mr Humphreys—Yes.

Senator FAULKNER—But you do not know?

Mr Humphreys—No.

Senator FAULKNER—Can you let me know where it it is not supported?

Mr Humphreys—It may or may not have been raised at those fora. Certainly a brief was prepared to take into those fora. It was my understanding that following that Defence was to be given the public affairs lead on the handling of Operation Relex, so that necessitated the drafting of the somewhat longer version of that strategy. We then took that longer version to Minister Reith's office.

Senator FAULKNER—And the longer version was not accepted or was rejected by the minister's office?

Mr Humphreys—Not accepted.

Senator FAULKNER—How did you learn about that?

Mr Humphreys—As Ms McKenry said, we had a meeting with Mike Scrafton and Peter Hendy, and we also had a separate meeting with Ross Hampton at which the role of the minister's media adviser as the conduit for information in relation to Op Relex was established.

Senator FAULKNER—Under whose signature is the brief that goes to the minister's office? Does that go under Ms McKenry's signature, Dr Hawke's or someone else's?

Mr Humphreys—We did not put forward a formal brief. In that meeting with Mr Hampton, and in the separate meeting with Mr Scrafton and Mr Hendy, we discussed the proposed way forward and we gave them a copy of the draft. When you are in an environment where you are having six or seven meetings on the subject at one time, you do not have time to do a full, agreed and signed-off brief; you basically put the proposal and see whether or not it is going to fly.

Senator FAULKNER—I understand that. What you are saying is that it was a draft for discussion. Is that a fair way of describing it?

Mr Humphreys—That is a good way of describing it, yes.

Senator FAULKNER—And you had that discussion in two meetings?

Mr Humphreys—Yes.

Senator FAULKNER—One of those was with Scrafton and Hendy, from the minister's office?

Mr Humphreys—Yes.

Senator FAULKNER—Who was involved in that meeting from the departmental side?

Mr Humphreys—Ms McKenry, Mike Scrafton, Mr Hendy and I.

Senator FAULKNER—And in the separate meeting with Mr Hampton?

Mr Humphreys—Brigadier Bornholt, Ms McKenry and I.

Senator FAULKNER—Do you know the dates of those meetings?

Mr Humphreys—I will take that on notice. They were around 30 August to 2 September.

Senator FAULKNER—I would appreciate it if would you take that on notice and let us know. It was made clear to you at that point they were not acceptable?

Mr Humphreys—I have 3 September as the date for the Scrafton-Hendy meeting.

Senator FAULKNER—Please take on notice the date of the Hampton meeting. I am assuming that it was around the same time.

Mr Humphreys—From memory, it was 2 September.

Senator FAULKNER—The Hampton meeting was before the Scrafton-Hendy meeting, was it?

Mr Humphreys—Yes.

Senator FAULKNER—I might come back to those meetings in a moment. I want to be clear about the process: is there currently an Operation Relex communication strategy in place?

Mr Humphreys—Yes, there is.

Senator FAULKNER—There is a current one as we speak?

Mr Humphreys—Yes.

Senator FAULKNER—When was that implemented?

Mr Humphreys—That was drafted shortly after these meetings.

Senator FAULKNER—So yours gets bumped off, basically—excuse the vernacular—and something else is put in place?

Mr Humphreys—We took our proposal to those meetings. In a meeting with Ross Hampton and Mr Hendy, we ultimately discussed their proposed way forward.

Senator FAULKNER—So this was a third meeting?

Mr Humphreys—No. This was the meeting with Ross. We established the way they would like to have this done. We then discussed that separately with Mr Hampton and Mr Hendy.

Senator FAULKNER—No, we have got our names wrong here. I am sorry to pull you up. The first meeting was Hampton on his own, with you two, wasn't it?

Mr Humphreys—Yes, that is right.

Senator FAULKNER—The second meeting was Scrafton and Hendy with you two?

Mr Humphreys—Yes.

Senator FAULKNER—For the *Hansard*, I think we might have got a few of the names around the wrong way. Can you briefly go through the first meeting with Hampton?

Mr Humphreys—Essentially, we put forward our proposed handling of communications. Mr Hampton then outlined his preferred way forward. We immediately set in train mechanisms to deliver that. We subsequently put the original proposition to Mr Hendy and Mr Scrafton.

Senator FAULKNER—‘Original’ being your—

Mr Humphreys—Our draft.

Senator FAULKNER—To Scrafton and Hendy?

Mr Humphreys—Yes—and the decision was that we would continue with the strategic direction established in our discussion with Mr Hampton.

Senator FAULKNER—What you are really saying to me is that you had two cracks at it, basically. You had a meeting with Hampton and he suggested a different approach, but you tried again with Scrafton and Hendy, and the outcome of that was to progress the different approach. Is that a fair summary?

Mr Humphreys—Yes.

Senator FAULKNER—So the Operation Relex communications strategy that is currently in place is the one that comes about as a result of the discussions you had around 2-3 September with former Minister Reith's ministerial staff.

Mr Humphreys—That is right.

Senator FAULKNER—Do you know what the kick-off date of that was? Did it have a formal start date?

Mr Humphreys—No, but there were situation reports which indicated that around 3 September the strategic direction provided by Mr Hampton had been communicated—in this case we are talking about the application of it in the context of *Tampa*. The strategic direction

established in *Tampa* was distributed on 5 September from COMAST. That strategic direction then became the basis of the Op Relex plan, and the copy I have is undated.

Senator FAULKNER—You may not have seen this, but amongst the submissions to the Bryant report, which we have not made available to this committee, is one from Ms McKenry, and there is a thing called the Op Relex PA plan attached to it. Are we talking apples and apples here? Is that the communications strategy that is currently in place?

Mr Humphreys—The Operations Relex PA plan, yes.

Senator FAULKNER—That is attached to Ms McKenry's submission.

Mr Humphreys—Yes.

Senator FAULKNER—Is that strategy consistent with the Defence organisational strategy?

Mr Humphreys—It is not consistent with the proposed strategy that we put forward.

Senator FAULKNER—Where is it inconsistent?

Mr Humphreys—I suppose the issue comes down to the most effective way of meeting the desires of the Defence Organisational Communication Strategy. In the first instance, we have the desire to provide as much information as we possibly can on a regular basis in a timely fashion. The principles that guide the Defence Organisational Communication Strategy include being innovative with organisational communications, being proactive in dealing with issues, engaging with and listening to audiences, communicating openly and honestly and providing relevant and timely information, withholding information only when disclosure would adversely affect security or threaten safety or privacy, using research to continuously evaluate the strategy, supporting and encouraging effective internal communications and working cooperatively with other government agencies to achieve whole-of-government communications objectives. I think it is true to say that our concern about the strategy that was used was that it was more restrictive than we think an ideal strategy should have been and, appropriately, we believe, we took steps after the end of the caretaker provision to seek to remedy that in relation to briefs—

Senator FAULKNER—It has not been remedied yet.

Mr Humphreys—It has in relation to the conduct of operational briefings for Op Slipper. The revision of the DI(G) et cetera was meant to ensure that our communications were in keeping with that overarching strategy.

Senator FAULKNER—But what reasons were given to you at the two meetings you had—one with Hampton and the other with Scrafton and Hendy—as grounds for rejecting your proposal?

Mr Humphreys—Essentially that the minister's office had their preferred course of action and that we would support that.

Senator FAULKNER—They had a preferred course of action, but I am trying to focus in on the differences and the reasons. Help me with that.

Mr Humphreys—Maybe it is a question you should put to Mr Hampton.

Senator FAULKNER—Maybe it is. Given that it is only you and Ms McKenry that we have available to this committee as witnesses—and at this stage there is an indication of an unwillingness by Mr Hampton to attend—sadly I am limited to asking you. At the end of the day, you are one of the two departmental officers who are here. I think it is a reasonable question for me to ask you.

Mr Humphreys—I think the guiding motivation of Mr Hampton was to ensure that the minister's office could see the information before it was released, was aware of information before it was released and had an ability or an opportunity to decide which information was released. The proposal we put involved putting military officers in that loop in terms of the provision of information. The alternative offered was that the information would be released through the minister's office. Both involve a degree of subjectivity as to which is the best way to manage information. Mr Hampton had his preferred way of ensuring that the minister was fully aware of the information that was being provided to the public.

Senator FAULKNER—Surely in the meetings you were told, or you asked, specifically what the reasons were for rejecting your proposal. Did any of the three ministerial staffers level with you about that?

Mr Humphreys—No.

Senator FAULKNER—So you do not know what the reasons were for your draft being rejected?

Mr Humphreys—No.

Senator FAULKNER—They did not tell you?

Mr Humphreys—As I have said, they basically listened to our proposal and put their proposal forward. We accepted that and began using that as strategic direction and guidance, which then went through the chain of command to our public affairs officers on the ground.

Senator FAULKNER—That is, I must say, reasonable enough as far as it goes, but I find it incredible that there was not a little bit more of an explanation forthcoming from the ministerial staff.

Mr Humphreys—The only explanation that I can recall clearly is that Ross articulated his role as being responsible for coordinating with other ministerial officers the information sent out by Defence. He was more comfortable being the only point of information coming out from Defence so that he could ensure that Defence information was coordinated with information from Foreign Affairs, Immigration and other ministerial officers.

Senator FAULKNER—Did you get a feeling for what information might be better, in the view of these ministerial staffers, out in the public and what might be better kept under wraps? Did they say that?

Mr Humphreys—No. They gave us some particular instruction as to the types of images that should be captured, the types of comments that should be made to local media and the arrangements for local media. That is essentially the limit to the guidance provided.

Senator FAULKNER—What was the other thing after ‘the types of images that should be captured’?

Mr Humphreys—The interaction with media on the ground and in Canberra in relation to, first of all, *Tampa* and, more broadly, Relex.

Senator FAULKNER—Give me some more detail on the types of images that should be captured. What were the types of images? Who was this—Mr Hampton or Mr Scrafton?

Mr Humphreys—Mr Hampton.

Senator FAULKNER—What did Mr Hampton say were the types of images that should be captured?

Mr Humphreys—More appropriately, the types of images that should not be captured.

Senator FAULKNER—Yes, should or should not.

Mr Humphreys—Essentially, we were told to concentrate on the ADF activities at the time—so the work of ADF personnel in relation to Operation Relex, first of all, as targets of opportunity for photographers. We were then given instructions in regard to photographing SUNCs—or whatever the latest term is. We were certainly aware that Immigration had concerns about identifying potential asylum seekers, so we got some guidance on ensuring that there were no personalising or humanising images taken of SUNCs.

Senator FAULKNER—Did you say that you received an instruction to ensure that there were no humanising images of SUNCs?

Mr Humphreys—Yes.

Senator FAULKNER—You are kidding me?

Mr Humphreys—No.

Senator FAULKNER—This is from Mr Hampton?

Mr Humphreys—Yes.

Senator FAULKNER—What did you and Ms McKenry say to the ministerial staffers who said this?

Mr Humphreys—You have got to realise that this is in the context of not identifying potential asylum seekers because it interferes with their claims. I am not aware of the specifics, but that was the general reason given originally by the department of immigration. That guidance was then translated back down to the public affairs teams on the ground.

Senator FAULKNER—Am I going too far to ask you whether it was made clear to you that the asylum seekers were to be dehumanised?

Mr Humphreys—Yes, it is going too far. Basically, we were told: do not take any photographs of asylum seekers.

Senator FAULKNER—Because that might humanise the refugees?

Mr Humphreys—‘Humanise’, ‘personalise’—both those words were used.

Senator FAULKNER—This is occurring during the last federal election campaign, isn’t it?

Mr Humphreys—No, this guidance came in advance of the election campaign.

Senator FAULKNER—The meeting occurs in advance of the election campaign, but it applies during the election campaign.

Mr Humphreys—Yes.

Senator FAULKNER—Sure, the meeting occurs on 2 and 3 September and the election is not called until early October, but the guidance applies in the election campaign. Did you or Ms McKenry report the outcomes of this meeting to any of your superiors in Defence?

Mr Humphreys—I personally did not. Because Brigadier Gary Bornholt was there, obviously that made its way up the chain of command and was the basis of the advice through the chain of command to the public affairs officers on the ground.

Senator FAULKNER—Yes, so what we have is the Minister for Defence saying in the immediate post-*Tampa* environment, ‘Don’t humanise the refugees.’ That is right, isn’t it?

Mr Humphreys—Yes—personalise, humanise.

Senator FAULKNER—Was this a broader perspective in government or was this just the view of the minister’s staff?

Mr Humphreys—I have no way of knowing that.

Senator FAULKNER—Well, did the minister’s staff say to you that this was the view of the Minister for Defence?

Mr Humphreys—No. Certainly the discussion related to immigration and asylum seeker claims. We did mention that. I know we have had that discussion with Immigration in the past about identification.

Senator FAULKNER—I am sorry, but I do not understand that. Could you just explain that to me?

Mr Humphreys—In the past we have had cause to discuss more broadly the requirement not to identify asylum seekers because it has some bearing on the immigration process.

Senator FAULKNER—Was it passed on to you or Ms McKenry that this was view of the minister for immigration too?

Mr Humphreys—No.

Senator FAULKNER—Or the staff of the minister for immigration?

Mr Humphreys—No.

Senator FAULKNER—Was it suggested to you that this was the view of the Prime Minister or the Prime Minister's office?

Mr Humphreys—No.

Senator FAULKNER—So this was just all the work of one member of the staff of the Minister for Defence?

Mr Humphreys—The guidance was provided by Mr Hampton.

Senator FAULKNER—You just took that at face value?

Mr Humphreys—Yes.

Senator FAULKNER—Did you or Ms McKenry actually enter into a discussion about the appropriateness or otherwise of an instruction coming from the Minister for Defence's staff members that they did not want anything done which would humanise the refugees?

Mr Humphreys—No, we did not discuss it as an issue because, in my particular case, I was aware of earlier concerns expressed by Immigration regarding the identification of asylum seekers.

Senator FAULKNER—So, in relation to the broader communication strategy, there was no suggestion to you or Ms McKenry that other ministers or other levels of government were involved in this at all?

Mr Humphreys—Involved in what aspect of that strategy?

Senator FAULKNER—In terms of the feedback you were getting from the ministerial staffers at the time, were you left with any impression at all that these matters that were being reflected and said were any broader than just a reflection of the view of the Minister for Defence and his staff?

Mr Humphreys—I think I have already mentioned earlier in my evidence today that Mr Hampton said that he was in daily discussion with ministerial officers from Immigration and Foreign Affairs, and Attorney-General's, I think.

Senator FAULKNER—What about the Prime Minister's office?

Mr Humphreys—I am not sure.

Senator FAULKNER—He did not say that?

Mr Humphreys—He did not say that specifically.

Senator FAULKNER—He did not mention the Prime Minister's office or the Prime Minister?

Mr Humphreys—No.

Senator FAULKNER—So he said he was in daily contact with other ministerial officers?

Mr Humphreys—I do not recall him specifically mentioning the Prime Minister's office.

Senator FAULKNER—I hear that. But you said he is in contact with other ministerial officers.

Mr Humphreys—Yes, that is right.

Senator FAULKNER—Did this view in relation to nothing being done to humanise or personalise the refugees reflect the view of the officers of other ministers as well?

Mr Humphreys—I think I have already answered that question directly—that the issue was not raised. It was not discussed whether or not that reflected other ministerial officers' views.

Senator FAULKNER—How does PACC treat this from a professional standpoint? Here we are now being told in terms of the media management of this: 'Concentrate on promoting the ADF personnel.' That is perfectly reasonable in my view—

Mr Humphreys—On photographing ADF personnel in their day-to-day activities.

Senator FAULKNER—That is pretty reasonable, isn't it, Mr Humphreys?

Mr Humphreys—Yes, that is right.

Senator FAULKNER—I certainly think it is; I think that is a good idea. But from a professional standpoint, did PACC have concerns about what you had been told by Reith's office—that they did not want anything done which would humanise or personalise the refugees? Did you have concerns about that?

Mr Humphreys—I think the best way to answer that question is that my concerns or my views do not really matter here. The fact is that we were given very clear instructions and directions and we set about meeting those. I can say that as an organisation we have since looked at the way we handled Op Relex. We have looked at the DI(G), we have spoken to our own Defence personnel and we have spoken to the new minister's officers and identified alternative ways of doing things, constantly looking to improve the way we handle information.

Senator FAULKNER—Why is it unreasonable for me to ask you a question from a professional standpoint about these sorts of approaches? I am not asking you for a personal opinion; I am asking you for an opinion, wearing your hat as a professional officer, and a senior officer, in the PACC division of Defence.

Mr Humphreys—It is true to say that we felt that fundamentally the reliance upon a single individual as the conduit of information, whilst it has some benefits in terms of control and management of information, has downsides which principally outweigh the benefits. These downsides include the perception that the organisation is not being fulsome, the limits that it places on the ability of the organisation to communicate internally about its activities and the limits it places on the organisation's ability to communicate with families and with the Australian community about Defence activities. So, as I said, we then put those concerns—as one would, as a professional officer—to the incoming minister. They were accepted and are reflected in the new DI(G) and in the arrangements for Operation Slipper and the communication of activities in support of the coalition against terrorism.

Senator FAULKNER—That is fine. You put those concerns and warnings to the incoming minister, and I accept that. You have told us that they have been adopted; that is good. This committee is dealing with an event that took place with the previous minister and his staff. It is true to say, isn't it, that the warnings, counsel and advice provided by PACC to the former minister were not accepted?

Mr Humphreys—Yes.

Senator FAULKNER—They were not accepted?

Mr Humphreys—No.

Senator FAULKNER—It is also true to say that, partly as a result of that advice being not accepted or the general communications strategy and framework that is in place, it was impossible to correct false and misleading information from Defence sources in the public arena during the last federal election campaign. That is fair too, isn't it?

Mr Humphreys—I do not think it is fair to say it is impossible to correct.

Senator FAULKNER—It was not corrected. It was impossible to correct unless the minister agreed to it being corrected. Is that a better way of putting it?

Mr Humphreys—Yes, the minister needs to agree to the information being clarified.

Senator FAULKNER—Therefore, if the minister did not agree to misrepresentations being corrected in the public arena by Defence personnel it would not happen. It could not happen, could it?

Mr Humphreys—Under the Op Relex PR plan and guidance provided, the minister's office was responsible for decisions as to information going out and the clarifying statements.

Senator FAULKNER—So it could not happen, could it?

Mr Humphreys—Not without ministerial direction.

Senator FAULKNER—It could not be corrected unless the minister agreed to those corrections or misrepresentations being corrected.

Mr Humphreys—That is right.

Senator FAULKNER—I know the special deal that was adopted for Operation Relex was against your advice, Mr Humphreys; I know you advised something different. But, in other words, under the procedures that were adopted, contrary to your advice, a regime was put in place where distortions, misrepresentations, lies and downright deceit could be propagated with the Australian public in relation to children overboard and pictures that allegedly represented that and it could never be fixed by anyone in Defence unless the minister approved those corrections being made. That is the way it worked, isn't it?

Mr Humphreys—I cannot agree with your extensive editorialising, but basically I will come back to the clarifying statement which is that the minister's office was responsible for clearing of information.

Senator FAULKNER—I try not to extensively editorialise and it is right for you to chide me if I ever do that—

Senator BRANDIS—Believe me, Senator Faulkner, we enjoy your rhetorical flourishes immensely.

Senator FAULKNER—Let me put it really simply: Defence was gagged, wasn't it?

Mr Humphreys—The minister was responsible for the release of information about Op Relex.

Senator FAULKNER—And it was gagged by the regime that was insisted on by the then minister.

Mr Humphreys—The handling of public information about Op Relex was determined by the minister's office.

Senator FAULKNER—From your experience, what was the nature of the contact like between the minister's office and PACC? We have heard a little from Ms McKenry about the, at times, aggressive and confrontationist approach that was taken, particularly by Mr Hampton from the minister's staff.

Senator BRANDIS—Unlike your aggressive and confrontationist approach, Senator Faulkner.

Senator FAULKNER—You are right to point that out, Senator Brandis: it is very much unlike my approach. What was your experience in relation to the nature of the communications with Hampton?

Mr Humphreys—No different to relationships with ministerial advisers that I have had in the last 15 years of both political persuasions. Ministerial media advisers are often where the rubber hits the road and there can be heated discussions. I think that almost comes with the territory, given the deadlines and the pressure that ministerial media advisers operate under.

Senator FAULKNER—It seems to be a bit different for the more junior officers in PACC, doesn't it? I hear what you say and I accept that because Ms McKenry has told us that. But she has also told us about the experience of more junior officers in PACC who are basically browbeaten and stood over by people like Hampton.

Mr Humphreys—I had no such problems with Mr Hampton. I am aware of the problems that Ms McKenry discussed with you earlier.

Senator FAULKNER—I know other senators want to ask you some questions. I am sensitive to that and I will, very briefly—

Senator BRANDIS—I do not have any questions for Mr Humphreys, and nor does Senator Mason. I am letting you know out of courtesy, so please do not restrict yourself for our sake.

Senator FAULKNER—I appreciate that; I thought you might. I want to quickly touch on one final issue and perhaps come back when Senator Bartlett has concluded. Was there a specific public information or communications strategy for the *Tampa* incident?

Mr Humphreys—There was one draft but it was never implemented.

Senator FAULKNER—Who drafted that?

Mr Humphreys—I did.

Senator FAULKNER—In consultation with whom?

Mr Humphreys—Again, in consultation with a number of players around Defence.

Senator FAULKNER—Was it a similar process to the draft Op Relex communications strategy?

Mr Humphreys—That's right. Both of them were developed almost simultaneously, which is why in my earlier evidence there might have been some confusion regarding *Tampa* versus Relex. We were talking about the last days of August, the first days of September, where both of those were running. We were dealing with *Tampa* and the imminent arrival of Op Relex.

Senator FAULKNER—That is why I am asking you; I was interested in the dates. Could we have a copy of that draft, too.

Mr Humphreys—Yes. I am sorry, I can take that one on notice.

Senator FAULKNER—Yes, sure. That is what I meant: could you take that on notice. What happened to that?

Mr Humphreys—That essentially was based upon Defence taking the lead on public affairs when the lead was put to IDC—the interdepartmental committee—and it too was set aside following that meeting with Mr Hampton.

Senator FAULKNER—Were both of these discussed at the same meeting?

Mr Humphreys—Essentially we discussed Op Relex at that meeting, but the general way forward is the same in both of those—in other words, strategic-level information provided by ministers, tactical-level information being provided pretty much extensively by uniformed officers. When that strategic position or that proposal was set aside, it had the same effect on the *Tampa* public affairs plan.

Senator FAULKNER—So who was the final decision maker on the *Tampa* information strategy? Did that go up to the National Security Committee or the secretaries committee?

Mr Humphreys—No, it certainly would not have gone outside of Defence. I have to take that on notice as to what eventually happened. I suspect it was overtaken by events and probably, from memory, became largely irrelevant in the context of the larger Op Relex public affairs plan.

Senator FAULKNER—If you could take that on notice and the time frames, I would appreciate it.

Mr Humphreys—Yes.

Senator BARTLETT—I was out of the room for part of that evidence. Were you going to look at providing us with copies of that communications strategy?

Mr Humphreys—Yes.

Senator BARTLETT—You said that there were directions, riding instructions or whatever from the minister's office in relation to the portrayal of asylum seekers and other issues. Are they in writing as well?

Mr Humphreys—No, that was a general discussion. I should clarify that. The main driving behind the issue of personalising, not humanising, was about identifying UBAs in any way. The position that was put was that the safest way to do that was not to photograph them.

Senator BARTLETT—Was that a phone conversation or—

Mr Humphreys—That was a face-to-face discussion.

Senator BARTLETT—Were details of other SIEV incidents and of some of the other allegations we have heard about—various threats et cetera from some of the other boats—provided to your division?

Mr Humphreys—I cannot speak of the division; I can only speak for myself and my branch. Essentially, when the decision was made to go forward on using the strategic communications proposals established by Minister Reith's office, I largely went on to other tasks, so I was not privy to the day-to-day operational public information regarding Operation Relex.

Senator BARTLETT—So details like the possible departure of boats from Indonesia in our direction would not have come to you?

Mr Humphreys—None of those came across my desk.

Senator BARTLETT—Did the follow-up inquiries into the 'children overboard' allegations or assertions—when the further clarification et cetera was done and was passed up the chain of command—flow through your office as well?

Mr Humphreys—No.

Senator BARTLETT—So you are basically out of that loop altogether?

Mr Humphreys—Basically. My role is strategic level: I propose directions, we put them forward, I develop higher level strategies. Once the strategic direction is set, I move on to other priorities. You also must realise that we are talking now about the first week of September and then September 11. I was basically not on Op Relex from then on.

Senator BARTLETT—And neither you nor your branch has any involvement in Operation Relex activities now?

Mr Humphreys—No, I do not. I have a role now in relation to the task force—which is the task force looking at ways to improve public information communications—and, as such, I assist the organisation in answering Op Relex questions from the media, such as the *Four Corners* questions.

Senator BARTLETT—Going a little bit further into that face-to-face discussion you had on the portrayal or identification of asylum seekers—I apologise if I double up on something because I was out of the room for part of it—was that a conversation in the context of a meeting about a broader range of issues?

Mr Humphreys—In the broader range of issues relating to *Tampa/Relex*.

Senator BARTLETT—Would you say it was a directive or a request?

Mr Humphreys—It was guidance that we accepted as an instruction, which then formed its way, as I have said a couple of times, into formal directives to public affairs staff on the ground.

Senator BARTLETT—Would you say it extended predominantly just to, ‘Don’t take photographs of them, because we don’t want them to be able to be identified,’ or was it broader than that, such as any portrayal or use of information outlining their experiences or their views?

Mr Humphreys—The discussion centred around identification. Essentially, I suppose what you are getting at is the concept of manipulating imagery to shape community perceptions. We did not go down that path.

Senator BARTLETT—Not so much manipulating imagery but what details you do provide and what details you do not, and whether that is through deliberate omission or they are seen as details that are not relevant to your task of communicating the activities of Defence personnel rather than anything that the asylum seekers may or may not be doing. Is that it?

Mr Humphreys—Sorry, can I get the question again.

Senator BARTLETT—Information to the public would have focused on what the defence forces were engaged in—

Mr Humphreys—Yes.

Senator BARTLETT—and that did not include communicating what the asylum seekers story was?

Mr Humphreys—No.

Senator BARTLETT—Is there any issue to do with identification of Defence personnel and the need to avoid that?

Mr Humphreys—There is operational security designed or determined by the services, and I am sure you are aware that in relation to SAS personnel there are requirements not to identify them. It depends on the op sec requirements at the time. They varied particularly after September 11: on some occasions you were able to identify, for instance, naval officers and you could not identify Air Force officers. It just depended upon the particular operational security requirements at the time.

Senator BARTLETT—What about in relation to Operation Relex?

Mr Humphreys—Off the top of my head, I cannot tell you what the arrangements were in relation to photographing ADF personnel on Operation Relex, other than to say that obviously I am aware of the standing arrangements in relation to SAS personnel.

CHAIR—Mr Humphreys, was it ever explained how a humanising photograph would work against or work for a refugee's application for asylum?

Mr Humphreys—No. We were basically told that refugees should not be identified and that was an Immigration requirement. I am not across why that was the case.

CHAIR—That does not mean that there should not be a photograph in which a refugee does not appear.

Mr Humphreys—On the basis of not wanting to identify UBAs, the decision was taken that no photographs whatsoever of refugees or potential asylum seekers were to be taken.

CHAIR—What, no distance shots where you could not identify individuals?

Mr Humphreys—The guidance was no photographs.

CHAIR—No photographs at all?

Mr Humphreys—At all.

CHAIR—And certainly nothing that would humanise or personalise?

Mr Humphreys—No.

CHAIR—I think we have finished with you, Mr Humphreys, ahead of time, and a good thing too. Thank you very much to you and Ms McKenry.

Proceedings suspended from 3.22 p.m. to 3.32 p.m.

CHATTERTON, Commander Piers Sydney Nevill David, Director of Operations—Navy, Department of Defence

CHAIR—Welcome, Commander Chatterton. We extend the courtesy for people appearing before us to make an opening statement, if they wish, or some preliminary comments.

Cmdr Chatterton—I would like to make comments on two matters that may be of interest to the committee in relation to this matter.

CHAIR—This is not a prepared statement; this is a matter of comment?

Cmdr Chatterton—Just a matter of comment, yes.

CHAIR—Please proceed.

Cmdr Chatterton—My comments deal with two matters: firstly, the email that contained the two pictures of the rescue of personnel from the water, what I did with that email and how it passed through my office; and, secondly, what I did when I found out that the two pictures were being used to relate to a different event following the release of those pictures to the media.

Firstly, the email of the two pictures was sent to me from Strategic Command Division on 9 October at 11.29. The reason for me getting these pictures is that I am the point of contact for Strategic Command Division inside Navy headquarters at the staff level, and the officer sending me those pictures would know that I would be the person to pass them on to the appropriate person within Navy headquarters. I looked at this email and saw that it was a good news story of RAN sailors doing a courageous and brave act and that this was a public relations matter. I talked to Mr John Clarke, the public affairs adviser to the Chief of Navy, and he agreed that this was essentially a good news item. He then took it for action.

Some time the same day, 9 October before 2.30, he came back to me and told me that a copy of this email that had gone to Maritime Headquarters in Sydney had something wrong with it—they could not open the pictures—and he asked if I had a copy that I could send to him. At the time the copy I had was on the Defence secret network. I knew that Mr Clarke was not on the secret network, so I could not simply forward it to him. So I took a closer look at the email to check that it had nothing of a classified nature—for example, capability of ships or the Defence Force in any way, shape or form—or positional data to give away where ships were at a previous time. I determined that it was an unclassified good news story. It was liable to go into the media. I copied it from the Defence secret network over to the Defence restricted network and then forwarded it to Mr Clarke. As he had the pictures and the emails and the captions, he was then going to use them as he required to send on to his organisation. That was basically my involvement in the receiving and forwarding of the original email with the two pictures.

Secondly, I want to speak about what I did when I found out that these two pictures had been used in media reports to portray a different event. On 10 October I saw on the TV the then Minister for Defence, Minister Reith, using pictures in a radio interview, and the voiceover of the interview was that children had been thrown over the side of a vessel and that here was the

evidence. But the pictures I recognised were the ones that had been originally sent as a good news story.

On 10 October, when at work I contacted Mr Clarke to let him know that I believed there had been a mistake made, that these pictures were being used to relate to a different event. Also, on 11 October I passed this information on to Steffan King. He is the Australian Defence Force Liaison Officer in the Department of the Prime Minister and Cabinet. As he has a liaison role, I used to see him every day. I passed the information on to those two people—one on the PA side and the Australian Defence Force Liaison Officer. Because that had gone up the chain of command, I then left that issue and moved on to other matters within my field of works.

CHAIR—Thank you very much, Commander Chatterton, for that reasonably full and direct summary of those two events. We will rest the throat muscles of Senator Faulkner for a moment. Please proceed, Senator Bartlett.

Senator BARTLETT—Can you just clarify for me your broader role? You say that you are the contact point for Maritime Command; is that right?

Cmdr Chatterton—My role is the Director of Operations. I brief the Chief of Navy on the day-to-day operations of all ADF units, so I have quite extensive liaison with Maritime Headquarters, the Strategic Command Division and any other authority that I might get operational or tactical level information about, which I then might disseminate to the Chief of Navy so that he can carry out his role as the strategic head of the Navy.

Senator BARTLETT—So would you get information about all the range of incidents on the SIEVs and the various interceptions that occurred?

Cmdr Chatterton—Yes, I would.

Senator BARTLETT—And you would then make an assessment of what is worth passing on to the Chief of Navy?

Cmdr Chatterton—That is correct.

Senator BARTLETT—I presume you are aware of some of the other allegations and incidents of threatening conduct and the like on some of the other vessels, apart from SIEV4, that have come out during this inquiry. Were you made aware of some of those, as other threats to children et cetera that we have been focusing on?

Cmdr Chatterton—Yes, I have seen that. Throughout all SIEVs I have noted the increasing level of violence and the other threats made in relation to our sailors and people on board the SIEVs as well.

Senator BARTLETT—So would you have passed on reports of those sorts of incidents to the Chief of Navy?

Cmdr Chatterton—I would have passed on in the early times of the SIEVs the significant changes in the increase in the level of violence, particularly if it involved any possible threat to RAN sailors or units.

Senator BARTLETT—How does the flow of information work? We heard earlier from Admiral Smith on the oversight of Operation Relex that the information would flow to him. How does information pass to you? What channels does it go through?

Cmdr Chatterton—It mainly comes through emails, signals and cablegrams from various sources—usually through Strategic Command Division or through Maritime Headquarters—to me, where I sift through all the information to find out if there is anything noteworthy to inform the Chief of Navy of.

Senator BARTLETT—So it would usually come to you after it had gone to people like Admiral Smith, rather than the other way round?

Cmdr Chatterton—Usually, yes. There would be a time delay in getting information from ships through the communications centres, Maritime Headquarters to Canberra. In Canberra, we work a basic eight to five day, so there may be information that comes in overnight that I would not see until the following morning. Maritime Headquarters runs on a 24-hour basis.

Senator BARTLETT—Would you only get information in relation to activities of the Navy? I am thinking of some of the Orion aircraft, for example, that were doing surveillance work that was part of Operation Relex but, as I understand it, they were not Navy personnel. Would you be informed about anything they were doing as well?

Cmdr Chatterton—I would get the broad results of their surveillance effort.

Senator BARTLETT—Would you be made aware then if there was anticipation of boats departing Indonesia to come to Australia?

Cmdr Chatterton—In addition to the emails and signals, I am also a user of intelligence that comes from various intelligence agencies, and that might contain information of a classified nature that would indicate possible departures of vessels.

Senator BARTLETT—Were you notified of instances like that?

Cmdr Chatterton—I would find out that information from the information that I had available to me, yes.

Senator BARTLETT—Were you notified in any way about the fate of the vessel that did not get a number because it sank before it was intercepted? You would be aware of that one which had significant loss of life.

Cmdr Chatterton—I only found out about that vessel after the Indonesian fishermen had picked up the few people that had survived and had returned to an Indonesian port. I did not hear that there was a vessel that had specifically sailed from a specific port at a specific time.

Senator BARTLETT—Where did that information come from?

Cmdr Chatterton—That the people had been picked up?

Senator BARTLETT—Yes.

Cmdr Chatterton—I think that the first time I saw that was in the media.

Senator BARTLETT—So you would not normally get information from Search and Rescue or Coastwatch?

Cmdr Chatterton—Not directly to me, no. There would be no reason for me to have that. I am in the strategic level and Search and Rescue matters would go more properly to the operational part of the organisation so that they can deal with it directly—on a 24-hour basis.

Senator BARTLETT—Are you aware of any reports that were done, after the event, into the particular incident of the vessel that sank?

Cmdr Chatterton—I remember that, after it, I was asked where the nearest Navy ship was and I knew that there was one ship in the vicinity of Christmas Island. I found out from Maritime Headquarters that—I cannot remember the exact figure—it was something along the lines of 164 miles at least from the position. Looking at the chart and the way the seabed is there, a grossly overloaded vessel would have gone out into the Sunda Strait and, as it reached the main water mass, as the water comes up from the Indian Ocean, it probably would have sunk around that area—being overloaded. That was well inside the Indonesian area, so I would not have expected one of our ships to be in that area anyway, and I knew that our ship was actually patrolling around the Christmas Island area. So it was just a matter of working out how far away it was.

Senator BARTLETT—And you are not aware of any specific report or investigation that was done by any Australian authorities into the circumstances surrounding that incident?

Cmdr Chatterton—No, there is no specific item that I know of.

Senator FAULKNER—Commander, in your opening statement you mentioned that there were two primary involvements that you had in the matters being examined by this committee. Is that right?

Cmdr Chatterton—That is correct.

Senator FAULKNER—The second of those was contact with an officer, I assume, seconded to the Department of Prime Minister and Cabinet. Could you just indicate to me what the background is there? I assume that there are Defence officers in the International Division of Prime Minister and Cabinet. I do not know whether you have this background, but could you indicate the nature of the contact you had with that officer and why you thought it appropriate to make contact with that officer on the matters that had come to your attention?

Cmdr Chatterton—The officer involved at the time was Commander Steffan King. I am not sure exactly of which part of Prime Minister and Cabinet he is placed within. He is the ADF liaison officer, and there is one commander level—

Senator FAULKNER—I think, traditionally, the ADF liaison people—I have heard this over many years—have been in the International Division. That is an assumption on my part, and I do not know, but it probably does not matter. Someone no doubt will tell us if I am wrong.

Cmdr Chatterton—As for my relationship with Commander King, he attended a meeting—it is one that we have at that time every day—which involved Operation Slipper, the war against terrorism. Because he is not in the mainstream of Defence whilst he is over at Prime Minister and Cabinet, if I had an item that I believed he should know about as perhaps being of importance, I would relate that to him either before or after the meeting. In this case, on 11 October—he was away on the 10th; the meeting occurred every day and it was unusual for us not to attend that meeting—I informed him, as we were going to the meeting, that the two pictures I had seen the previous day in the media portraying that children had been thrown overboard were not of that event but were of the sinking event that happened on the 8th. I believed that he should be made aware of that information, as it involved Defence and high profile activity which was occurring that involved the political level at which he was liaison officer. That is why I gave him that information.

Senator FAULKNER—Going back a step, you indicated that you were aware that the photographs were not of the depicted event; that is, they were of the sinking of the SIEV, as opposed to children being thrown overboard. Was that awareness basically as a result of the captions that were with the photographs?

Cmdr Chatterton—Exactly. The email that I received was very plainly a good news story. The talk of Able Seaman Boatswain's Mate Whittle and Leading Seaman Cook Barker clearly indicated that they were doing something out of the ordinary. This was a good news story and it clearly related to the sinking of the vessel. It was quite obvious, when I saw them being used otherwise, that they were being used incorrectly.

Senator FAULKNER—It is quite interesting because, with the captions available to you, you have said that it was quite obvious. It does not require an enormous sort of deductive effort. If you have the captions available with the photos, coming to a conclusion that the photos cannot depict children thrown overboard is not that difficult, is it? You have had this experience and so you are someone I think I can ask this of—being, hopefully, a pretty objective observer placed in that position.

Cmdr Chatterton—Absolutely. I received the email, read the words on it and opened the two photographs, and it was obvious that these were two sailors involved in a rescue situation.

Senator FAULKNER—You passed this information on to Commander King, who is seconded to the Department of the Prime Minister and Cabinet. Again, going back one step, is there anyone else that you passed that on to?

Cmdr Chatterton—I passed it on to Mr John Clarke, who is the public affairs adviser to the Chief of Navy.

Senator FAULKNER—Only to Mr Clarke and Mr King?

Cmdr Chatterton—I passed it on to Mr Clarke who was, as the public affairs adviser, deeply involved in this because it was a public affairs matter. He informed me essentially that the situation was known about, or that it had certainly been communicated up the chain of command. So to my mind, having worked within the chain of command, action would be taken as required by senior people, as they saw fit.

Senator FAULKNER—In your professional role, your Defence role as Director of Operations—Navy, would you see it as being standard operating procedure for you to pass such information on to Steffan King? I am not suggesting it is not but I think it is probably important for the record. We have heard from you about your regular contact with Commander King as you go about your daily duties. You make an assessment of what information you might pass on to that officer. Is that a role for Director of Operations—Navy?

Cmdr Chatterton—Yes, it is. A lot of my role is liaising with the likes of Commander King and many other people to get an interaction going so that I can find out what is happening out in other departments and in other operational commands—not only in Navy but also in Army and Air Force—so I can build a whole picture of what is happening and put any strategic concerns that I have to the Chief of Navy so he can build the whole picture. I believe that, as the Defence Liaison Officer, he would be an appropriate person for me to talk to and to liaise that sort of information to.

Senator FAULKNER—So you have got the authority to pass such a matter on and you have to make, if you like, a professional judgment call on a case-by-case basis on what matters you would pass on to whatever other officers might be in a position to be able to benefit from that advice. Is that how it works?

Cmdr Chatterton—Yes, that is correct.

Senator FAULKNER—Okay. What actually prompted you to pass this information on to Commander King? Why did you think, in this instance, it was important he knew about the information that was available to you?

Cmdr Chatterton—Because, essentially, a mistake or an error had been made and the way I have always worked at sea is that, if there is something broke, you fix it. In this case an error had been made, or something had gone wrong where information was not being correctly used, so somebody needed to be informed so they could take appropriate action to either correct it or do whatever they are required to do at that level.

Senator FAULKNER—Was this the standard way of you passing on such information to Commander King? I imagine these issues come up from time to time—perhaps not as publicly or politically sensitive as this one, but there would no doubt be any number of matters you might have to raise with Commander King. The way you passed this information on to Commander King—would that be just standard operating procedure, the normal process?

Cmdr Chatterton—Yes, it would. At that time we were having daily meetings to discuss other matters. During those meetings we would discuss what was generally happening within

the Navy and if I felt that there was anything that he needed to know. So it would be standard practice. If I had not been attending the meetings then I would have liaised with him probably by email but, as it was, I would meet him at that time on a daily basis.

Senator FAULKNER—How long does your communication with the commander take?

Cmdr Chatterton—It will vary.

Senator FAULKNER—Sorry, I mean in this instance.

Cmdr Chatterton—Probably one or two minutes.

Senator FAULKNER—So what do you make clear to him?

Cmdr Chatterton—That the pictures I saw on media reports that showed children being thrown over the side were not of that event, that the pictures were of the rescue the following day, and that somewhere some wires had been crossed and these pictures were being used incorrectly. That would have been the general thrust of the conversation. He acknowledged that—he went, ‘Ah, okay.’

Senator FAULKNER—That is what I was going to ask you. Did you get any response that indicated to you that Commander King had taken this on board?

Cmdr Chatterton—Yes. This was some time ago. From what I recall, he asked me a couple of questions and it certainly confirmed in my mind that he knew that the pictures that were being used in the media quite extensively at that time—I think one of them was on the front page; they were all over the place—were the wrong pictures.

Senator FAULKNER—This may be difficult for you to answer, given the effluxion of time, but did you get any impression as to whether Commander King had had any prior knowledge of this matter, or was this basically new information for him?

Cmdr Chatterton—I gathered that this was the first time he had heard that. Yes, it was the first time he had heard that.

Senator FAULKNER—In passing that on to Commander King, did you have any expectation about what he might do with the benefit of that information?

Cmdr Chatterton—I had no idea as to how his role fit in with his then department. I would expect Commander King to have made his own decision on what to do with that information and to either pass it on or act on it as he saw fit.

Senator FAULKNER—Do you ever follow up with Commander King whether he had been able to pass this information on in his role as Defence liaison? ‘Defence liaison’ may not be the correct description. Do you know if he is called the Defence Liaison Officer?

Cmdr Chatterton—As far as I know he was the Defence Liaison Officer.

Senator FAULKNER—Did you ever get any feedback from the commander as to whether he had followed through with that information?

Cmdr Chatterton—I believe he may have done. I would have to refer to Commander King on that one.

Senator FAULKNER—But you did not have any further discussions with him about it?

Cmdr Chatterton—Not about that specific matter. We would have then moved on to other things as appropriate.

Senator FAULKNER—In any future conversation after that date, did you canvass that issue with Commander King?

Cmdr Chatterton—No.

Senator FAULKNER—I think it is fair to say that, as far as you are concerned, there was no follow-up. But what you cannot say to us is what Commander King may or may not have done with that information once it had been made available to him.

Cmdr Chatterton—That is correct.

Senator FAULKNER—Did you have any expectations in relation to the outcome? Having provided this information, did you have any expectation as to what might have occurred, given Commander King's Defence liaison role in PM&C?

Cmdr Chatterton—I think the main part of that would be that I would have expected—through Mr Clarke, as the Public Affairs Adviser; through that public affairs chain—the story to be corrected or the photographs to be used for their correct purpose. That did not occur. I knew that it had gone to the various people I had told and that action was going to be taken by members higher up in the command chain; so I left it at that.

Senator FAULKNER—It was Commander King who had some discussions that have been variously described as tearoom gossip and other descriptions—I do not know whether that is fair or unfair and I am making no comment about that. I have canvassed it with at least one other witness at this committee in some detail. Were you aware that that so-called tearoom gossip that has received some notoriety emanated from Command King?

Cmdr Chatterton—I have heard of that.

Senator FAULKNER—It is in the public arena. You have only heard of it?

Cmdr Chatterton—I have heard of it. I would have to talk to Commander King to get his side of the story.

Senator FAULKNER—Sure. I make no judgment about that because we have not had an opportunity to speak to Commander King either. Were you aware of the fact that some officials,

that this information had been passed on to, described it as tearoom gossip? You were aware of that background?

Cmdr Chatterton—I heard of the tearoom gossip comment. However, I would not know any more than that.

Senator FAULKNER—But you know that Commander King was one of the principals involved in the tearoom gossip; were you aware of that?

Cmdr Chatterton—Yes, Senator.

Senator FAULKNER—You passed this information on to Commander King because you think it is important that he knows. Is that right?

Cmdr Chatterton—That is correct.

Senator FAULKNER—In passing it on to Commander King you would do so with the expectation he would act on it and act on it appropriately?

Cmdr Chatterton—As he saw fit, yes.

Senator FAULKNER—But not necessarily as a gossip item in the margins of the morning tearoom; would that be right?

Cmdr Chatterton—No, I would not have imagined that, to be quite honest. Commander King is a very professional officer who, I would imagine, would not get involved in that. I would imagine he would have done something.

Senator FAULKNER—I do not doubt that. As I said, we have not had the advantage of speaking to Commander King and following that through. I hope at some point we might be able to do that. Did you have any expectation, beyond what you have told us, about the outcome of the information being provided to Commander King? Were you satisfied that passing it on to the Defence Liaison Officer was standard operating procedure which was appropriate and, beyond that, you turned your attention to other matters?

Cmdr Chatterton—That is correct. At the time there were a lot of other things happening within the Navy and the ADF so I was happy that, having passed that up the command chain within the Navy Headquarters and to the Defence Liaison Officer, appropriate action would be taken so I had to leave that at that time.

Senator FAULKNER—I think you are right not to speculate too much about what Commander King—or for that matter anyone else—may or may not have done with information made available to them but what you can talk about is what you do. Are you able to say to this committee that you believe that you acted correctly and reasonably in passing that information on to Commander King when you did and in the manner that you did?

Cmdr Chatterton—I would confirm that. You already talked about gossip. It was not passed on as a form of gossip; it was passed on because he was the Defence Liaison Officer. I passed it to him as official information, that something was wrong, and that if he needed this information that he should have it to deal with it as he required within his working environment.

Senator FAULKNER—Just to be clear: I do not think anyone has suggested that your communication with Commander King has been characterised as gossip. I do not know of anyone suggesting that, but I think there have certainly been numerous exchanges where the Prime Minister, the Secretary to the Department of the Prime Minister and Cabinet and other senior officers in the Department of the Prime Minister and Cabinet have described possible exchanges between Commander King and other officers of PM&C as tearroom gossip. I think it important to draw that distinction, and you understand why I draw it. It is a proper distinction to draw, isn't it? I am not suggesting that Commander King was involved with gossip at any level. I am not making that judgment. I do not think one should rush to judgment on any of these sorts of issues. No-one has suggested, that I am aware, that your conversation with him has been so characterised, but you certainly would not characterise it as such?

Cmdr Chatterton—Certainly not, no.

Senator FAULKNER—That is the point. It is very hard for me, given that you have not received feedback on this, to ask you about Commander King and what occurred—we can ask him or others about that. All I can ask you about is those issues in which you were directly involved, and I think I have done that to my satisfaction.

ACTING CHAIR (Senator Brandis)—Thank you, Commander Chatterton.

[4.07 p.m.]

BLOOMFIELD, Mr Tim, Director, Media Liaison, Department of Defence

ACTING CHAIR—Welcome, Mr Bloomfield. Would you like to make an opening statement?

Mr Bloomfield—No.

Senator FAULKNER—It is Commander Bloomfield, isn't it?

Mr Bloomfield—No, it is not, Senator.

Senator FAULKNER—It used to be?

Mr Bloomfield—It used to be.

Senator FAULKNER—The committee has received a submission from the press gallery in this building. I do not know if you have had an opportunity to read that, but I would like to ask you whether you have seen the press gallery submission which has been made public to this committee.

Mr Bloomfield—Yes, I have seen that submission.

Senator FAULKNER—It says, in part:

There was a single response from Mr Tim Bloomfield, at the Public Affairs and Corporate Communications Division of the Defence Department, stating that all the matters raised should be directed to Mr Reith.

I do not know if you recall reading that.

Mr Bloomfield—I did read that.

Senator FAULKNER—That is a pretty fair summation of what occurred in relation to matters relating to the incident that this committee is examining that were raised by media during the election campaign, isn't it?

Mr Bloomfield—With Operation Relex, it was to be referred to the minister's office as opposed to 'Mr Reith'. That was the only difference.

Senator FAULKNER—To the minister's office?

Mr Bloomfield—To the minister's office.

Senator FAULKNER—You make, I think, a proper distinction: as opposed to ‘all the matters raised should be directed to Mr Reith’, you would say, ‘All matters raised should be directed to Mr Reith’s office.’

Mr Bloomfield—That is correct, yes.

Senator FAULKNER—From your perspective, Mr Bloomfield, when was that instruction instituted?

Mr Bloomfield—We were given absolute direction that all matters in relation to Operation Relex were a matter for the minister’s office. The reason I was given for this was that Relex was an all-of-government operation. It did not just involve Defence, and as such Mr Hampton was the nominated spokesman for the operation.

Senator FAULKNER—From the time the *Tampa* issue blew up in the public arena until election day—from late August, if you like, to 10 November 2001—how many times do you reckon that you or your staff gave this single line response to media on matters raised with your division?

Mr Bloomfield—Certainly daily, but we would receive in excess of 10 to 15 inquiries from various segments of the media during a day and that line was given. We would also provide the phone number of Mr Hampton for them to contact. Where I was able I would also advise Mr Hampton of any issue that I felt he may not be aware of that was coming through with those inquiries.

Senator FAULKNER—So you at least provided a phone number for the minister’s press secretary.

Mr Bloomfield—Absolutely.

Senator FAULKNER—This was a pretty new experience for you, wasn’t it? It did not operate outside Relex effectively, did it?

Mr Bloomfield—It was a growing tendency from the minister’s office to have more and more of the inquiries on a range of subjects to be directed to the minister’s office for response. Relex was one. It depended on the issues, but we had a list of issues in the office at the time for which all comment had to go through to the minister’s office. It did depend on what the issue was. If it was a departmental issue we would generally make a response ourselves. The moment an issue involved a minister, it became for us a ministerial issue. Therefore, it was not proper for us to make comment on that. If the Prime Minister or the minister had made comment on an issue, it was not for us to provide comment after that. It was a matter that must be referred back to the minister’s office, and that is what we did.

Senator FAULKNER—Could you provide the committee with a copy of that list of issues? That might be helpful for us.

Mr Bloomfield—Yes, I can.

Senator FAULKNER—Attached to the press gallery submission is an example of a fax signed by you under Department of Defence banner, Public Affairs and Corporate Communications Division. This one is to a journalist from the *Sydney Morning Herald*. As I say, it is attached to the press gallery submission. It says this after the fax header:

Thankyou for your Fax received on 9 November 2001, addressed to various senior Defence officials requesting response to a series of questions in relation to the interception of potential illegal immigrants on 7 October 2001.

I am not in a position to release the information requested. As you would be aware, this is a whole of government issue. In view of the foregoing you may wish to direct your inquiries to the Minister for Defence. Yours aye, Tim Bloomfield.

How many faxes like that would you have sent out?

Mr Bloomfield—I sent a group of faxes that particular day to about seven journalists who had sent in submissions. It was only on that day that I sent that fax.

Senator FAULKNER—So normally you did not make this communication by fax. That is what I am trying to understand.

Mr Bloomfield—No, this was in response to written submissions or requests.

Senator FAULKNER—If you received a request for written information, you tended to give a response in writing. Is that how it worked?

Mr Bloomfield—Yes.

Senator FAULKNER—Most of your requests would be telephonic, wouldn't they?

Mr Bloomfield—The vast majority of our requests are by telephone.

Senator FAULKNER—The vast majority are by telephone and some are in writing or by fax—and if they were in writing they would probably come by fax. Is there any other way you would receive a request?

Mr Bloomfield—No. They are generally all by phone or by fax.

Senator FAULKNER—Can I ask you for a professional judgment here. I want to quote to you again from the Press Gallery submission to this inquiry. It states:

Had the campaign of censorship and misinformation not begun—

months beforehand, at the time of *Tampa*—

then the truth of the children overboard affair would have been revealed much earlier and the CDF himself would have been forced to find out the facts before causing such fundamental damage to his own command.

I do not know, if you have read the submission, whether you recall that part of it?

Mr Bloomfield—I do recall it.

Senator FAULKNER—Do you agree that the limitation of information flow that was imposed by Mr Reith's office can be properly described as a 'campaign of censorship', as the gallery submission describes? Do you think that is fair?

Mr Bloomfield—Under the meaning of what censorship is then yes, it would be a form of censorship.

Senator FAULKNER—We have got working journalists developing this submission for this committee. One hopes they would have some intimate knowledge of the way the information flows work—it depends on the nature of the press coverage I get as to whether I am going to be that generous on any given day as to say so. Would you accept the view expressed that I have read to you from the journalists' submission that the 'children overboard' lie would have been exposed much earlier if the so-called 'campaign of censorship', as described, was not in place?

Mr Bloomfield—Had Defence been responsible for making the comment through to the media, most definitely the misinformation would have been terminated immediately.

Senator FAULKNER—Were you personally frustrated by this? You are really at the coalface in this, aren't you? You are the unfortunate officer who happens to receive a lot of the telephone calls, has to basically say no to the media on a pretty regular basis as a result of the DI(G) that was put in place in August last year. Do you think it badly affected relations between Defence and the press and, as I say, became personally frustrating for you?

Mr Bloomfield—Most definitely the level of frustration of the media grew through the whole period to the point where they vented on either me or members of my team on a daily basis when we were unable to provide the information they requested, regardless of whether we knew that information or not. Because of the direction to refer to Mr Hampton on this issue, and some others, yes, there was a level of personal frustration but more that we were concerned about the Defence image with the media as well because this did cause that to deteriorate considerably.

Senator FAULKNER—That is your professional judgment?

Mr Bloomfield—Yes, it is.

Senator FAULKNER—Why do you make that judgment?

Mr Bloomfield—I make that judgment because of the articles we saw in the *Australian Financial Review* by Mr Geoff Barker and Mr Ian McPhedran—we also had articles by Mr Craig Skehan and Mark Forbes—venting their concern at what they termed 'censorship' and their frustration with my organisation, my team, because we were not providing them with the information, and at the Public Affairs and Corporate Communication Branch in general because we were not providing the service they expected of a public affairs and corporate communication branch.

Senator FAULKNER—You are saying to me that you believe that that anger and frustration was justified in that instance?

Mr Bloomfield—Yes, it was.

Senator FAULKNER—Did you, in those circumstances, report your concerns to your superiors?

Mr Bloomfield—I did. I also discussed it with Mr Hampton and said that we were copping a lot of flack from the media on this. From my own organisation it was very clear there was a strategy on Operation Relex—all information was to be run by the minister. There were some minor issues that I suggested we could respond to but Mr Hampton advised that no, this was an all-of-government issue and I must refer all issues through to him, and we continued to do that.

Senator FAULKNER—Relations between you and Mr Hampton were not, from what I have read, that crash hot, were they?

Mr Bloomfield—No, I disagree with that. He was exceptionally busy in the minister's office. He was coming to grips with a new organisation that he was relatively new in. Defence is not a small organisation; it is huge. He had to come to grips with a lot of that. We did our utmost to assist him to come to grips with that. These were decisions that were taken; whether they were taken by Mr Hampton or the minister's office, the fact is they were taken, and we responded to that and kept ourselves along those lines accordingly.

Senator FAULKNER—I have never met Mr Hampton, but from what we hear from other witnesses he is pretty hard to get on with.

Mr Bloomfield—He gets frustrated quickly; I guess so do I at times. He certainly vents his frustration at times if he is unable to achieve in a reasonable time frame information that he requires. Because we in the Media Liaison organisation are supposed to be the primary point of contact for Mr Hampton he would come to us to try to seek information. If we were unable to provide it, yes he would vent his concerns at my people. I did have to intervene on a couple of occasions where a couple of my staff were getting a bit upset about it.

Senator FAULKNER—This is because of his abusive phone calls?

Mr Bloomfield—I do not think I would call them abusive.

Senator FAULKNER—Fair enough; that is my terminology. You describe them in words that you are comfortable with.

Mr Bloomfield—He would get angry. But I do not think he was disrespectful to any member of my team.

Senator FAULKNER—But you had to intervene. Did you make the decision to intervene?

Mr Bloomfield—Yes, I did. My team was getting upset because it was no fault of theirs that we were unable to provide the information. That was the issue.

Senator FAULKNER—Were these more junior officers in your—

Mr Bloomfield—They were part of my team—the public affairs officers on my team who work through me.

Senator FAULKNER—What was the nature of the contact they had with Mr Hampton?

Mr Bloomfield—All of us in my office had contact, depending on the subject—whether it was a Navy issue, an Army issue, an Air Force issue—or who picked up the phone. We had a particular phone in the office that was the only phone Ross would ring in on and that phone was set aside so that we knew if that phone rang it was coming from the minister's office. We knew there was a priority on that and we could act accordingly.

Senator FAULKNER—He had his own special phone into your organisation?

Mr Bloomfield—We did that because invariably it is a very busy office—we receive in excess of 30 to 40 media inquiries a day with the corresponding number of phone inquiries. Rather than have him receive the recorded message, particularly if the minister needed information quickly, we thought this was the best way to achieve a quick response so we established the phone in the office. Either Mr Hampton or the media advisers to the parliamentary secretary and Minister Scott could come in on it.

Senator FAULKNER—How often would that be used by Mr Hampton?

Mr Bloomfield—Depending on the day, sometimes up to 10 to 15 times.

Senator FAULKNER—And he always received priority?

Mr Bloomfield—Absolutely.

Senator FAULKNER—Given that you put on a special telephone for him—a special telephone for the minister's media adviser—

Mr Bloomfield—It was a phone that was in the office already, at a desk that was not being used.

Senator FAULKNER—But it was dedicated to him.

Mr Bloomfield—Yes, we did not give the number out to any others.

Senator FAULKNER—Yes, so he had a dedicated telephone line into your organisation and even then you had to intervene on a couple of occasions because of the nature of his communications with members of your staff.

Mr Bloomfield—The reason it was getting a bit turgid with those members was that they were unable to provide the information that he required in a tight time frame. If they did not have the information in 10 minutes, he would be back on the phone again to find out where the information was. He was obviously getting considerable pressure at his end to get that response.

Senator FAULKNER—Would you agree with Mr Michael O'Connor from the Australian Defence Association who described in the *Australian Financial Review* the new Defence Instruction (General) as 'obnoxious', or do you think that that is going too far? This is the one that was in place in August last year.

Mr Bloomfield—I think that is going too far. Defence was having a lot of problems at the time. I think that just about everyone in Defence was a Defence spokesperson at some stage. Every day you would read something in the paper or hear it on the news somewhere; something had to be done to tighten that up and guidelines were put in place to tighten that up. It was also for the benefit of my team in that we needed to be aware of what was occurring. We would have the media ringing on an issue that we knew absolutely nothing about that had come in from left field somewhere in Defence. So certainly I had problems with the guidelines, but I would not say that they were obnoxious.

Senator FAULKNER—In the Parliamentary Press Gallery Committee's submission they say:

... defence media liaison and the public affairs apparatus of the Department of Immigration bowed to political pressure to spread government falsehoods or stonewall media inquiries.

You have a pretty substantial budget, haven't you? Last time I checked I think it was over \$7 million.

Mr Bloomfield—Unfortunately Media Liaison does not have that budget. That budget is for Public Affairs and Corporate Communication.

Senator FAULKNER—Yes, it is for Public Affairs. I do not know what Media Liaison's budget is but PACC's is about \$7½ million, is it not?

Mr Bloomfield—Yes, but you have to understand what that budget covers and that is not something that I can appropriately comment on.

Senator FAULKNER—PACC in Defence has a substantial budget. What is the point of spending one red cent when you cannot actually say anything at all? Isn't that the position you are placed in?

Mr Bloomfield—We are also used for research and gathering information. In this instance Mr Hampton was the spokesman.

Senator FAULKNER—Yes, but what is happening is that the government is funding this outfit—it is not your fault; I am not blaming you—and then completely restricting what you are able to say and do. That is what happened, isn't it?

Mr Bloomfield—Yes, it is, under the terms of DI(G) 08-1 of 8 August.

Senator FAULKNER—We heard from Mr Humphreys a few minutes ago about some of his interactions with Mr Hampton and other members of former Minister Reith's staff. I just want to be clear about a technical issue here and I hope you can help me; I think you are the right

witness to ask. Is it true that there are ways of photographing or videoing refugees which do not identify them? It might be photographs from a reasonable distance or positioning or pixelating faces or whatever. Is it possible to photograph or video refugees, not identify them—using those or other mechanisms—but actually still humanise them?

Mr Bloomfield—It is quite possible to photograph by pixelating to avoid identification.

Senator FAULKNER—I want to be clear on this. Can you photograph or video refugees on SIEVs, or who have come from SIEVs? Are there ways of photographing or videoing those refugees that do not identify them but still does not dehumanise them?

Mr Bloomfield—Yes, there are. From a distance, it is fine.

Senator FAULKNER—That is an example isn't it—from a distance?

Mr Bloomfield—Yes.

Senator FAULKNER—Or using a particular positioning would be another way, wouldn't it?

Mr Bloomfield—Yes.

Senator FAULKNER—Pixelating the photographs might be another way, might it not?

Mr Bloomfield—Yes.

Senator FAULKNER—So it certainly is possible?

Mr Bloomfield—Absolutely, yes.

Senator FAULKNER—The government's restrictions of course went much further than that, didn't they, in relation to photos and videos and the like? I think I am right in this, but I would like to hear it from you; is it true that the government's restrictions, when applied to photographs and videos, meant that there could be no photographs or videos taken without ministerial permission?

Mr Bloomfield—We were given direction that we were not to deploy, through MAPACC, photographers or public affairs officers to Operation Relex to the point where at the very beginning we had sent a military public affairs officer to Christmas Island for the *Tampa* and we were directed to return her immediately back to Australia—and we did.

Senator FAULKNER—What did that cost you?

Mr Bloomfield—It was on military aircraft.

Senator FAULKNER—It was not on a special military aircraft?

Mr Bloomfield—No, it was not.

Senator FAULKNER—That is good. So there were absolute restrictions placed not only on the media but on Defence public affairs and media liaison as well.

Mr Bloomfield—Yes, there were.

Senator FAULKNER—There is no way PACC could authorise the videoing or photography of matters or incidents involved in Operation Relex?

Mr Bloomfield—To the best of my knowledge—and this is not in my area, this belongs to the digital media area and MAPACC—there were directions that we were not to undertake any filming or photography.

Senator FAULKNER—Can you take on notice those directions and ask the relevant part of PACC or your organisation if those directions could be provided? Were you aware of any intention that there was an absolute ministerial ban on images which would humanise or personalise refugees?

Mr Bloomfield—I do not know that those words were used. We were just told that we were not to take any photographs of the operation. We did not have photographers there, so that was not an issue for us.

Senator FAULKNER—It is not an issue because you could not take any photographs at all, is that what you are saying?

Mr Bloomfield—That is right. We did not have a photographer there.

Senator FAULKNER—Were you aware of the information that was provided to this committee a short time ago by Mr Humphreys? Were you aware of that background in relation to the way refugees might or may not be depicted?

Mr Bloomfield—I was aware of some of it, but not the full extent of it. That was done by the strategy area within Defence and I was not part of that.

Senator FAULKNER—How did you become aware of that?

Mr Bloomfield—Through discussion with Mr Humphreys and, once we had received the draft strategy, I became aware of some of it through that.

Senator FAULKNER—What did he say to you?

Mr Bloomfield—It was more to the point of that we are unable to take pictures and we will not be having any imagery or stills photography. Because it was an issue for the minister's office, it was not an issue for the media liaison area.

Senator FAULKNER—I do not know whether you heard Mr Humphreys's evidence in relation to the depiction of refugees—and we have used the terminology 'humanise' or 'personalise'. Were you aware of that background?

Mr Bloomfield—Not that I recall; not in those words. Again, there was to be no imagery or photography. I did not hear the terminologies ‘humanising’ or ‘personalising’ at all.

Senator FAULKNER—In relation to the decisions about photography, how is such a restriction put in place? I have asked you to take on notice a copy of the instruction. Is it done by written instruction?

Mr Bloomfield—That is something I have to check on. I do not know whether that was written or verbal.

Senator FAULKNER—There was a restriction that ensured that all media comment for Operation Relex must come from the office of the Minister for Defence. That is true, isn’t it?

Mr Bloomfield—That is true.

Senator FAULKNER—There was a restriction that there were to be no photographs or videos taken by Defence personnel or anyone else in relation to Operation Relex. That is true, isn’t it?

Mr Bloomfield—I can only talk for Defence Public Affairs Corporate Communications. I cannot talk for—

Senator FAULKNER—Speaking on their behalf, then?

Mr Bloomfield—Yes, we had a direction that we were not to take any public affairs photographs.

Senator FAULKNER—Were there any other broad directions in relation to restrictions that were applied specifically for Operation Relex that you could share with this committee?

Mr Bloomfield—Not to my knowledge, apart from the ones you have mentioned there.

Senator FAULKNER—In relation to video and photographic material, having received the instruction—which is one issue and you are going to take that on notice for us, and I appreciate that—how is it put in place within your organisation?

Mr Bloomfield—Again, that does not affect me or my area. I am not sure where the direction came to. That would be an issue for the Military Adviser, Public Affairs and Corporate Communications—Brigadier Gary Bornholt, as he was then—and for his team to manage that side of it, and for Mr Rob Care-Wickham, who is our Director of Digital Media. They are responsible for that side of it. In the media room, I have no responsibility for imagery or photography.

Senator FAULKNER—I am wondering if there are any specific directions in relation to Operation Relex for photographers and cameramen. I think you are saying to us that there are not, because they were not allowed to take any shots at all.

Mr Bloomfield—The specific direction would be that they were not to take any shots, but we did not have any photographers there in that period.

Senator FAULKNER—You had one goer who had to come back for *Tampa*.

Mr Bloomfield—That was a Public Affairs officer, yes.

Senator FAULKNER—Who made the decision to send that person?

Mr Bloomfield—The adviser of military public affairs, Brigadier Bornholt. But that would have been in consultation with the operational side and Ms McKenry.

Senator FAULKNER—Yes. Brigadier Bornholt, in consultation, made a decision to send a photographer along. Was that a still photographer?

Mr Bloomfield—I cannot answer that. I do not know the full detail of that. I know that, as normal planning would dictate, we went to put the resources in place in order that we could properly access good information from the area. We were directed to withdraw those resources.

Senator FAULKNER—The photographer goes on Brigadier Bornholt's direction; I hear what you say about that information. Who directs the photographer, 'Come straight back again'?

Mr Bloomfield—That came from the minister's office—that we were to withdraw them immediately—and that would have gone back through the Military Adviser, Public Affairs.

Senator FAULKNER—So it came from the minister's office?

Mr Bloomfield—Yes. It came through my office initially and I passed it to Brigadier Bornholt because it was not an issue for my area.

Senator FAULKNER—Was it just a telephonic communication from the minister's office?

Mr Bloomfield—Yes, it was. Most of the communication with the minister's office between me and Mr Hampton was by telephone.

Senator FAULKNER—Was this the instruction from Mr Hampton, too?

Mr Bloomfield—Yes, it was. Mr Hampton relayed the message, but I was not aware of the decision making process in the minister's office.

Senator FAULKNER—Was that a civil conversation on this occasion with Mr Hampton?

Mr Bloomfield—Yes, it was.

Senator FAULKNER—Did you debate the issue with him or did you just accept it?

Mr Bloomfield—I left that for Brigadier Bornholt to debate.

Senator FAULKNER—You passed the information on to Brigadier Bornholt?

Mr Bloomfield—Yes, I did.

Senator FAULKNER—Did you get any feedback from the Brigadier about his interface with the minister's office on that issue?

Mr Bloomfield—Only the fact that the public affairs officer came back to Australia.

Senator FAULKNER—Mr Hampton 1; Brigadier Bornholt nil.

Mr Bloomfield—The minister's office was running the strategy for Operation Relex.

Senator FAULKNER—Thank you.

Senator BRANDIS—Just a couple of things: earlier in your answers to questions from Senator Faulkner you agreed with the proposition put to you that appeared in the Press Gallery's submission that the restriction on the flow of certain information to the media amounted to the censorship of that information, or that is what I understood you to be saying. Is that your position?

Mr Bloomfield—I was asked whether I consider that censorship and under the definition of censorship, yes, it is a form of censorship—restriction of information.

Senator BRANDIS—I think you already apprehend my point. Censorship is a very loaded and, to some, emotive term. Any restriction of the flow of any information to anyone could be called censorship, couldn't it?

Mr Bloomfield—Yes, it could.

Senator BRANDIS—I will go on by way of illustration. The refusal of the government to release information, the public disclosure of which would be prejudicial to the national security, is in that sense censorship, isn't it?

Mr Bloomfield—Yes, it is.

Senator BRANDIS—The refusal of a minister's office to release information, the accuracy of which it is uncertain about, is also in that sense censorship, isn't it?

Mr Bloomfield—Yes.

Senator BRANDIS—The point I am making to you is that the adoption of that rather emotive term, which suggests some sorts of constraints on freedom of political discussion, in the sense in which it was put to you does not necessarily suggest any such thing. It merely

suggests the commonplace proposition that sometimes, for whatever reason, the public disclosure or release of information is limited.

Mr Bloomfield—Yes, that is correct.

Senator BRANDIS—That is, in your experience particularly—although not exclusively when one is dealing with Defence matters—a most commonplace and necessary thing?

Mr Bloomfield—Yes, it is.

Senator BRANDIS—Thank you. One other thing: were you in your position aware of the information that was flowing up the military chain of command that ended up on the minister's desk?

Mr Bloomfield—I am sorry: at what time?

Senator BRANDIS—It is more a generic question. Would you have had at any time an awareness of information flows up the military chain of command which reached the minister's desk?

Mr Bloomfield—Was I aware of flows up the military operational chain? No, I was not.

Senator BRANDIS—So, for instance, if a decision were made in the minister's office not to release a particular piece of information, and if that decision were based upon certain information flowing up the military chain of command which might have cast doubt upon the accuracy of that piece of information, you would not have been aware of that information flow?

Mr Bloomfield—No, not generally.

Senator BRANDIS—Indeed, more generally, you would not have been aware of the reasons for a decision not to release or disclose a particular piece of information?

Mr Bloomfield—Not in the military operational chain; I am not in that chain.

Senator BRANDIS—Thanks, Mr Bloomfield.

CHAIR—Just before we release you, Mr Bloomfield, on that last matter, this quite fascinating conceptual discussion about the meaning of the English language word 'censorship', my understanding of the meaning of it is that all of the information does not reach the audience because some of the information is withheld. Is that what we are talking about?

Mr Bloomfield—Yes, it is.

CHAIR—That is what happened here?

Mr Bloomfield—Yes, it is.

CHAIR—I must apologise because I was out of the room when your evidence in chief was taken and this may have been covered: we are now all generally agreed that the photographs that were published that allegedly portrayed children being thrown overboard were of an entirely different time—

Mr Bloomfield—Yes.

CHAIR—and that the labels on those photographs that identified the correct time had been removed at some point?

Mr Bloomfield—At some point, yes.

CHAIR—That would be an example of censorship, wouldn't it?

Mr Bloomfield—It could be. In this instance I am not sure where they were—

CHAIR—I am not saying by whom.

Mr Bloomfield—But I do not believe it was deliberate either, so I am a bit concerned about calling it censorship in that regard.

CHAIR—I see. The result was a deception.

Mr Bloomfield—But not by deliberate deception.

CHAIR—I see what you are saying. Do you know that for a fact?

Mr Bloomfield—I am reasonably confident, because I thought it was I that sent the photographs to the minister's office, but it was not; it was one of my colleagues in the office, and I understood the captions were with those photographs when they went across.

CHAIR—The captions were with the photographs when they went to the minister's office?

Mr Bloomfield—I understood that at the time.

CHAIR—There appear to be no further questions from anyone so, Mr Bloomfield, thank you very much for your attendance today and for the assistance you have provided to our inquiry.

[4.48 p.m.]

STACKPOOL, Mr Andrew Michael, Public Affairs Officer, Directorate of Media Liaison, Public Affairs and Corporate Communication, Department of Defence

CHAIR—Welcome, Mr Stackpool. Do you have an opening statement or do you wish to make some introductory comments?

Mr Stackpool—No, I do not.

CHAIR—I am scanning the table to see if any of my colleagues wish to go first for questions. I call Senator Collins.

Senator JACINTA COLLINS—Mr Stackpool, some of the evidence that we have received earlier has, in part, eliminated some of the reasons for us calling you here today. One of the remaining questions I have for you relates to your statement in the report that was prepared from your discussions with Ms Bryant's inquiry where you indicated that Mr Clarke sent you the photos 'for interest'. Can you explain why Mr Clarke would have sent you the photos for interest?

Mr Stackpool—Yes, Senator. We had become aware of the incidents, of course, on Monday, the 8th. On the day in question, the issue for us was the interview given by Commander Norman Banks, the captain of the *Adelaide*, in which it had been mentioned that there were photographs of people in the water—there were no specific details. During the course of my many phone calls that I had with Mr Clarke on this particular day, he mentioned that they were in receipt of two photographs from the *Adelaide* showing sailors doing what they do best, which is helping people, protecting our sovereign waters et cetera. My interest at that point was whether we could in any way use these photographs to push a good-news story about Navy in that role. He had advised me at that time that the photos were on the SECRET system and that they could not be so used, and I then forgot about it. Subsequently, during the day, he contacted me and said, 'Listen, just for information, I am sending you those photos. We have got them now on the RESTRICTED system and I am sending you them just for your interest.' That was the reason behind it; in other words, it was sent to me as the person on the Navy desk simply as, 'We have two photos that you might want to look at.' That was all.

Senator JACINTA COLLINS—And it was later that we discovered that they should not have been on the RESTRICTED system. Is that the case?

Mr Stackpool—I was advised—I believe on the 10th or the 11th—by Mr Clarke of that, yes. He rang me and said, 'Do you still have those photos?' I said, 'Yes, I am probably going to dump them, because I am clearing my system.' He said, 'Well, we have been directed to get rid of them.' I did so immediately.

Senator JACINTA COLLINS—Do you have any understanding about how they had reached the RESTRICTED system?

Mr Stackpool—I understand now that they had been cleared for various reasons by Commander Piers Chatterton. He had provided them to Mr Clarke who had then forwarded them to me and, I believe, some of the strategic communications advisers and others.

Senator JACINTA COLLINS—At a restricted level rather than at a secret level?

Mr Stackpool—Correct.

Senator JACINTA COLLINS—This is correcting an impression that Ms Bryant's record of your interview seems to indicate that there was a strange reason—that it was just for your interest—that you were forwarded them. It was quite a legitimate forwarding of information in relation to an understanding that the photos were now unrestricted?

Mr Stackpool—Correct.

Senator JACINTA COLLINS—And it was quite a legitimate interest of yours for operational reasons in your role of portraying Defence activity?

Mr Stackpool—Correct, yes. The issue that came up, of course, was when he said that they should not have been taken from the SECRET system, which I obviously cannot comment further on. I had a concern that we may have been looking at a security breach—that was all. The photos had been sent for information and, as I understood it, they had been taken to the RESTRICTED system properly.

Senator JACINTA COLLINS—Yes, but when we are talking about a security breach here, are we talking about a security breach in the same sense that applies to Ms McKenry's concerns that the misrepresentation not be leaked or that the original photos not be leaked?

Mr Stackpool—No, it was a personal concern that information that had been on a SECRET system may have, for whatever reason, found its way onto a RESTRICTED system. That was all.

Senator JACINTA COLLINS—And your understanding as to how that occurred was that Commander Chatterton had released them?

Mr Stackpool—Correct.

Senator JACINTA COLLINS—That concludes my questions.

Senator FAULKNER—What were your relations like, Mr Stackpool, with Mr Hampton in former Minister Reith's office?

Mr Stackpool—I tried to make those relationships as professional as possible. Quite often Mr Hampton could be a very easygoing, friendly, affable person; at other times, when he was under some stress or when situations were perhaps getting a bit tight, certainly he could become somewhat abrasive.

Senator FAULKNER—Was he abrasive with you at times?

Mr Stackpool—Yes, he was.

Senator FAULKNER—How did you deal with that?

Mr Stackpool—On a couple of occasions I had cause to speak to the director when I felt it was a bit over the top, but, as I have reiterated many times, our relationships were extremely cordial.

Senator FAULKNER—Were you one of the officers in Defence Media Liaison who actually had to raise with Mr Bloomfield the issue of Mr Hampton's behaviour?

Mr Stackpool—I don't recall that I necessarily would have raised it formally, but we had had a talk at times about it, yes.

Senator FAULKNER—Give us a feel for what it was like receiving the phone call that caused you to have that conversation with him.

Mr Stackpool—It would be demanding. Basically I think that he at times would get quite angry. He could get quite abrasive and say, 'I want this information; I need it now; where is all this? Where is it? If you can't get it, who should I speak to to get this information?'

Senator FAULKNER—So you felt pressured by that?

Mr Stackpool—At times, absolutely. We are a high-pressure environment anyway, dealing with a wide range of requests from media and other sources.

Senator FAULKNER—I do not know if you have heard some of the evidence today about some of the restrictions that applied during Operation Relex. I think the committee has a good feel for what those restrictions are, and I have no doubt that you have an intimate knowledge of the way they worked in practice. Would that be fair?

Mr Stackpool—I had some knowledge, yes.

Senator FAULKNER—Did you at any stage in your responsibilities have direct contact with journalists and others from the media?

Mr Stackpool—Yes. We were in contact with journalists every day, including—

Senator FAULKNER—I was not sure whether it was part of your personal responsibilities.

Mr Stackpool—Yes, it is.

Senator FAULKNER—How did you find the task of communicating to journalists that you couldn't help them on any matter in relation to Operation Relex? We have heard from Mr Bloomfield that it was very frustrating. Is that your view too?

Mr Stackpool—Yes, it certainly could be, because often there were quite simple questions that would come in. Having come from a Navy background, sometimes I could possibly have answered those questions. I could not give specific examples now, but the policy was perfectly clear: all matters were to be referred to the minister's office—to Mr Hampton—and my understanding of that is that it was because it was an interdepartmental operation. I understood the policy but, yes, at times it could get frustrating.

Senator FAULKNER—Who had the responsibility of answering the dedicated line that Mr Hampton had the number for? Which poor sucker had the job of actually picking the damn thing up when it rang?

Mr Stackpool—Basically it would be any person who happened to be free at the time. The phone rang; we knew that it was the minister's office; it needed to be answered urgently—really, anybody who didn't happen to be on the phone at the time. That could be the director or any one of us.

Senator FAULKNER—So it was not a designated officer?

Mr Stackpool—No, absolutely not.

Senator FAULKNER—I wonder, given the nature of Mr Hampton's telephonic manner, whether you decided if it was best if you and Mr Bloomfield dealt with those as opposed to more junior staff. Was any thought given to that?

Mr Stackpool—No, not really, not the way our office is built. We have teams of two people. As I have said, the requirement was that we dealt with the phone call as soon as it came in. It is quite possible that the particular officer to whom you wished to speak, particularly the director, might not have been available.

Senator FAULKNER—But there was no policy in relation to answering the dedicated phone line for Mr Hampton?

Mr Stackpool—No. The phone has gone; it is a priority call; whoever is free gets it.

Senator FAULKNER—Is there still a dedicated phone line for the ministerial staff?

Mr Stackpool—It is there. It is for all three ministers' staffs.

Senator FAULKNER—But it is the same *modus operandi* now that it has been established?

Mr Stackpool—Yes.

Senator FAULKNER—But you do not answer it with such trepidation, I suppose, now?

Mr Stackpool—I have had dealings with previous media advisers from ministers' staffs.

CHAIR—Are there any further questions? Mr Stackpool, you have arrived at the end of your evidence. Thank you very much for making yourself available and attending the inquiry.

Committee adjourned at 5.00 p.m.