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Proof Committee Hansard

SENATE

SELECT COMMITTEE ON A CERTAIN MARITIME INCIDENT

Reference: Certain maritime incident

TUESDAY, 30 JULY 2002

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SENATE
SELECT COMMITTEE ON A CERTAIN MARITIME INCIDENT

Tuesday, 30 July 2002

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

Senators in attendance: Senators Brandis, Collins, Cook, Faulkner 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.

WITNESSES

BYRNE, Air Commodore Philip Darcy, Commander, Maritime Patrol Group, Royal Australian Air Force..... 2154

HALTON, Ms Sarah Jane, Former Chair, People Smuggling Task Force, Department of the Prime Minister and Cabinet..... 2040

Committee met at 9.39 a.m.

CHAIR—I declare open this meeting of the Select Committee on a Certain Maritime Incident. Today the committee continues its public hearings in relation to its inquiry. The terms of reference set by the Senate for the committee are available from the secretariat staff and copies have been placed near the entrance to the room should anyone require a copy. 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 public aspects of proceedings. Today's hearing will be suspended for lunch between 12.30 p.m. and 1.30 p.m. I remind members that there will be a private meeting of the committee during the lunch break.

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 part of their evidence in camera, they should make that request to me as chair and the committee will consider the request. Should a witness expect to present evidence to the committee that reflects adversely on a person, the witness 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 should not be asked to give opinions on matters of policy. However, you 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.

Witnesses will be asked to make an oath or affirmation. Where witnesses are accompanied by counsel, counsel may be seated at the witness table, but counsel may not answer questions on behalf of the witness nor will the committee direct any questions to counsel.

[9.41 a.m.]

HALTON, Ms Sarah Jane, Former Chair, People Smuggling Task Force, Department of the Prime Minister and Cabinet

CHAIR—I welcome the first witness this morning, Ms Jane Halton. Do you have an opening statement before we proceed with questioning?

Ms Halton—No.

CHAIR—That leads us directly to questions.

Senator FAULKNER—I am happy to open the batting, Mr Chairman. Ms Halton, because of some conflicting evidence that the committee has received, the committee thought it would be valuable to ask you to come before it again. I want to start with the task force meeting of the evening of 7 October.

Ms Halton—Senator, can I just say at the outset that when I asked the question about what you wished to canvass today, I was informed by the secretariat—this was some time ago—that you wished to canvass material in relation to SIEVX. I draw your attention to the procedures to be observed by Senate committees for the protection of witnesses. It is stated:

A witness shall be given reasonable notice ... and a statement of the matters expected to be dealt with during the witness's appearance ...

So, whilst I am very happy to attempt to answer your questions, you will appreciate that I have not had sufficient time to revisit all the testimony given by people. If you can assist me by pointing to particular bits of testimony that would be greatly appreciated.

Senator FAULKNER—I am more than happy to do that. That would have been my intention anyway. The chairman may be able to assist us here. I am afraid I cannot shed any light on any view that may have been expressed to you that evidence you would be asked to give would relate to the SIEVX issue, but I seek your guidance on that, chair.

Ms Halton—Why don't we proceed with the questions, Senator? I suppose I am merely flagging that this was not foreshadowed. You will appreciate that the considerable effluxion of time and the amount of time available to read all of the transcripts—which I have not had—may mean that I am not in a position other than to take some of your questions on notice.

CHAIR—On the point that has been raised, I am not aware of what you may have been advised by the secretariat. Doubtless, if that advice has been given, it has been given to you in good faith by them.

Ms Halton—I have no doubt, Senator.

CHAIR—The other thing I am bound to say is that you appear here as a witness to this inquiry—

Ms Halton—I accept that, Senator.

CHAIR—and questions within the terms of our reference are relevant. Any member of this committee is able to proceed without being limited to anything that has been communicated to you in any field relevant to our terms of reference.

Ms Halton—Of course. My point is simply that, consistent with the advice about witnesses, I have not had any particular issue other than SIEVX foreshadowed with me, so I ask for Senator Faulkner's forbearance in asking for assistance when he wishes to go to some of those issues to point explicitly to where they are.

CHAIR—So if your remarks are about requesting forbearance, I am sure the committee will note that because the committee is keen to obtain the best possible evidence.

Ms Halton—Okay.

Senator FAULKNER—It never tends to be my practice to flag with witnesses issues I might canvass because inevitably one deals with a range of issues with a witness that comes to the table. I would be surprised if you had not anticipated being questioned on conflicting evidence, given that you appeared before this committee on 16 April 2002. Ms Edwards and Group Captain Walker and others appeared later of course and gave their testimony at a later stage.

Ms Halton—Senator, that presupposes that people have read the transcripts, and I have not.

Senator FAULKNER—No, but I am happy to indicate to you, as we work through, the basis of any questions that I ask if those go to what I would describe as conflicting evidence before the committee. So I am happy to give that reference to you.

Ms Halton—Certainly. That would be useful. Thank you.

CHAIR—To add to what I have said earlier, I am sure that any advice offered to you by the secretariat was offered in the spirit of being cooperative in trying to give an indication of the area; it was not offered on the basis of limiting only to that particular area.

Senator FAULKNER—Are you aware that before this committee on 22 May 2002 Group Captain Walker said:

I returned to the evening IDC—

this was the meeting of 7 October—

and, when it came to my turn to speak, I pointed out that I had no written confirmation that children had gone into the water

... ..

basically I was trying to say to her—

‘her’ is you—

‘Since I can’t prove what you’re saying, I think you should go back and check from your source that you are happy that the information is correct.’

Are you able to confirm with us that Group Captain Walker did indicate that to you at the time?

Ms Halton—Not in those terms, Senator.

Senator FAULKNER—Could you indicate in what terms he might have canvassed this issue?

Ms Halton—I think I said previously that I do not believe Group Captain Walker made a comment of that type. I think there was some discussion about the cables. I think you will recall from my last evidence that I said we had anticipated that Air Vice Marshal Titheridge would be coming to that evening meeting and, as the issue of the paper—I think we have agreed that it was not the original source of advice to ministers in respect of this incident—was to be canvassed and fully covered later on, that issue would not have been dealt with in any detail then. In other words, as you know the paper was dealt with line by line by people at that meeting, including Air Vice Marshal Titheridge, and was edited line by line, including by Air Vice Marshal Titheridge, who, as I think we all agree, was a principal source in the information chain in relation to that claim.

Senator FAULKNER—Can I ask you about Ms Edwards’s evidence to this committee. I would note here, given our previous discussion, that after your appearance here you and Ms Edwards did have a discussion about conflicting evidence before this committee—

Ms Halton—Different memories; that is right.

Senator FAULKNER—I think that is true, isn’t it?

Ms Halton—That is correct.

Senator FAULKNER—In fact, I think, according to Ms Edwards, that happened very soon after you gave testimony here.

Ms Halton—Some time after.

Senator FAULKNER—We might check that at a later stage. Ms Edwards, who was the note taker at that task force meeting, said to this committee on 22 May this year:

I believe that in the afternoon discussion he—

that is, Walker—

mentioned that he had gone back to his office and checked the record to see whether there was anything in writing, and there had not been.

... ..

My recollection is that Group Captain Walker had not been able to provide any updated information on what had occurred, nor had he been able to validate the ‘children’ issue.

I think it is fair to say that previously you indicated—and I think you have reinforced this today—that you do not recall Group Captain Walker’s statement to the task force. I think that is right, isn’t it?

Ms Halton—What I recall is a conversation about the cable traffic, and I think I covered in my evidence last time in some detail the slowness of the cable traffic. I do not believe he said, ‘You should go back to your original source.’ I do not believe that that is the case. It is entirely consistent with my memory and, in fact, with Ms Edwards’s evidence as you have just read it out, that he had not had any update. That would be consistent with my memory about the discussion about cables and the practice as we had observed it over the preceding five or six weeks. The fact, as I have indicated, is that this was consistent with the experience we had had in relation to cable traffic and that Air Vice Marshal Titheridge, who was our principal interlocutor, was, as you know, attending the evening meeting. My memory is that he attended it some 40 minutes or so after the meeting had commenced. The work of editing that paper was done line by line with Air Vice Marshal Titheridge present.

Senator FAULKNER—But are you able to confirm whether that element of what Ms Edwards told this committee—that is, that Group Captain Walker mentioned that he had gone back to his office and checked the record to see whether there was anything in writing, and there was not—is correct or not?

Ms Halton—I cannot confirm the precise wording that you are quoting to me. I can tell you that the essence of that is consistent. My memory—and remember, she was note taking and I was not; I was chairing—is that there was a discussion about cable traffic and there had been no updated cable traffic.

Senator FAULKNER—In that circumstance, I suppose one of the issues that arises is why—obviously it did not set off any alarm bells for you—that did not raise at least some concerns in your mind about the issue at the time.

Ms Halton—As I have already indicated to you, Senator, and I indicated this last time I appeared, our experience right throughout this period was, firstly, that cable traffic was sometimes days later; secondly, that people like Air Vice Marshal Titheridge were much more senior in Defence, had access to other people who were senior in Defence and they were our source of advice; and, thirdly, the advice that had been received from Air Vice Marshal Titheridge right throughout this period had, in our experience, always been reliable. There was nothing about that incident that suggested that there was a problem with it.

Senator FAULKNER—So you would be able to say to the committee now that you believe Ms Edwards’s evidence—basically, that Walker had gone back to his office and checked the record to see if there was anything in writing—was not inconsistent.

Ms Halton—That is correct.

Senator FAULKNER—But do you have any recollection of it?

Ms Halton—I have a recollection of a discussion of cables. I think that is probably the same discussion. You and I would probably agree that, in any memory of particular discussions, people will take away particular parts of that discussion and store them in their memory. The part I have recorded in mine is a discussion in respect of cables. The reason I recall it is that it was congruent with our earlier experience with Defence and their cable process.

Senator FAULKNER—I think you previously indicated to us that, as an outcome of all this, the task force paper report that goes to the Prime Minister, which included the phrase ‘jumping into the sea and passengers throwing their children into the sea’, did not contain any caveat at all. That is fair, isn’t it?

Ms Halton—Yes, that is correct. And, as I think I pointed out to you last time, there were other parts of that paper that were explicitly and deliberately caveated by Defence.

Senator FAULKNER—Yes, that is right. Is it fair to say that not only was that sentence or element of the task force report not caveated but it appears as if it has been at the time discredited by the task force representative who says that there is no written evidence he could find—

Ms Halton—No. Let us go back. The task force member was Air Vice Marshal Titheridge. Air Vice Marshal Titheridge was the senior Defence person who cleared that paper line by line. Group Captain Walker was sitting in Titheridge’s chair temporarily at the beginning of that meeting. He did not stay until the end of that meeting; he left before the close of the meeting. The paper was signed off by Air Vice Marshal Titheridge, who had been through it line by line.

Senator FAULKNER—The point I am asking you about, Ms Halton, is that there was a discussion about cable traffic on the question of whether children had been thrown into the water. On that issue Group Captain Walker goes back to his office and checks. In fact, he returned and pointed out that there was no written confirmation. I do not think that is argued by anyone. That is at least what he says, and it is confirmed by Ms Edwards. We accept that it is not caveated in the report that goes to the Prime Minister, excepting the fact that the formal Defence representative is Air Vice Marshal Titheridge—I am aware of that; I understand that—and Group Captain Walker is present representing him for a majority of the proceedings—

Ms Halton—Not in the evening meeting, he is not. He is there for the minority of the proceedings. He was only representing Air Vice Marshal Titheridge for a minority of the evening meeting.

Senator FAULKNER—No. A majority of the proceedings on that day, it is fair to say, isn’t it?

Ms Halton—But the issue you are going to is the robustness of the paper and the process by which it was cleared. There should be no doubt that that paper was not authored by Group Captain Walker; it was jointly authored by Air Vice Marshal Titheridge.

Senator FAULKNER—What I am interested in understanding is how that sentence could appear in the task force report without a caveat, given what Group Captain Walker had said earlier.

Ms Halton—Because Air Vice Marshal Titheridge considered it appropriate to leave there is the only assumption I can come to.

Senator FAULKNER—Do you feel that the task force did not give the Prime Minister accurate advice in its report of 7 October?

Ms Halton—As far as we understood the situation at that point that report was accurate. The advice of the senior Defence interlocutor to the task force process was Air Vice Marshal Titheridge. He, as you know, was the source of the advice. We were actually not the original source of advice to the Prime Minister, as you also know, because there was another chain whereby that information travelled. In terms of our understanding of the issues—cleared by the relevant senior Defence person in that process—those were the facts.

Senator FAULKNER—Given that Group Captain Walker and Ms Edwards have told this committee that there was no written advice and given that you have indicated strongly the role that Air Vice Marshal Titheridge played in that evening meeting, do you consider it was your or the task force's responsibility, in the circumstances of the advice from the group captain, to ensure that Air Vice Marshal Titheridge checked the basis of that information before it was communicated to the Prime Minister?

Ms Halton—It was always the responsibility of each agency to reconcile its own views in bringing them to the task force. At the end of the day, it was for Air Vice Marshal Titheridge to be satisfied that from a defence perspective the advice was correct. He—as you know, because that comment is not caveated—was clearly satisfied. I cannot tell you what process he went through in detail. You have taken evidence from him in terms of his being confident about that advice. That is not something upon which I can comment. But what I can tell you is that someone who is very much more senior in the Defence Force, as you well understand, is the person who was responsible for clearing that paper line by line.

Senator FAULKNER—But of course Air Vice Marshal Titheridge was not there at the meeting; he was elsewhere—I think at the races, from memory.

Ms Halton—In the morning?

Senator FAULKNER—Yes.

Ms Halton—I do not know where he was.

Senator FAULKNER—I think he told us that. Someone certainly did. It certainly stuck in my memory that Air Vice Marshal Titheridge was not there when Group Captain Walker reported to the task force about checking the information and finding it unsupported.

Ms Halton—Are you talking about the morning or the afternoon, Senator? You are not being clear. We know that Air Vice Marshal Titheridge was—you said this and I think we all agree—at the races in the morning. He was not there; however, he was on the telephone. We all agree

t the races in the morning. He was not there; however, he was on the telephone. We all agree with that, and we have all got the telephone evidence to prove that that was the case. He not only rang me; he rang a number of other people. You have taken evidence in that respect. We know what he told a number of people. I have my diary note. We have a series of other notes in that regard. In terms of the evening meeting, from memory he missed about the first 40 minutes, when people did some of the housekeeping business, including looking at the first draft. He was there for the line by line discussion of the paper. He was the principal source of communication in relation to this issue. He was the one to whom, as I understand it, advice had been given directly by NORCOM.

Senator FAULKNER—Do we know who drafted that element of the task force report in relation to children in the water?

Ms Halton—There was a first cut, a chopping block, of the report done in the afternoon. It was dictated, and I dictated it.

Senator FAULKNER—So you drafted that?

Ms Halton—I would not say that that sentence was exactly the same sentence that ended up in the final report. In fact, I think it was not. But I dictated a first chopping block of the paper to my assistant.

Senator FAULKNER—Thank you for that. Are you able to say how the draft changed, as you have described it?

Ms Halton—My memory is that it changed virtually line by line. I think nearly every line of that paper was edited in the course of the evening meeting. I have a very vivid memory of my assistant running in and out with the paper as the edits were coming out. There were changes in relation to numbers. There were changes in relation to the caveats that were added. There were changes in relation to the tense. There were changes right throughout the paper.

Senator FAULKNER—Sure, but are you able to say how that very important line in the task force report, which is about passengers ‘jumping into the sea and passengers throwing their children into the sea’, changed?

Ms Halton—My memory is that those precise words did not change. There was additional information added. I do not have it in front of me, but I think there is something about disabling steering and navigation equipment. Whatever is there was added.

Senator FAULKNER—So those words did not change?

Ms Halton—Those words, no; that is my memory.

Senator FAULKNER—That was drafted before Air Vice Marshal Titheridge’s presence?

Ms Halton—Yes, and after Air Vice Marshal Titheridge’s phone call.

Senator FAULKNER—Given that you have such vivid recall of this, are you able to say when the drafting took place in relation to the information provided by Group Captain Walker?

Ms Halton—It was drafted in the afternoon. I have records of when I went in and out of the building. It was dictated from about 2 o'clock onwards in the afternoon.

Senator FAULKNER—You talked about the cable traffic. How immediate was this? How contemporary, if you like, was the cable traffic that you were dealing with?

Ms Halton—We did not deal with Defence cable traffic, I think, as you understand it. I think we had a conversation the last time I appeared here about the slowness. I think the example I used was in relation to the boarding of the *Tampa*. You might recall that conversation. Our experience with the cables that were sometimes received in Strategic Command—and I said this last time—was that they were often very slow compared to what was happening on the ground.

Senator FAULKNER—What did you have before you at the time?

Ms Halton—Nothing.

Senator FAULKNER—I might not be recollecting it accurately; I thought 'cable traffic' was your terminology.

Ms Halton—That was my memory of how Captain Walker described it.

Senator FAULKNER—There is no mention, in the cable traffic from HMAS *Adelaide*, of children being thrown overboard, is there?

Ms Halton—I do not know; I did not see it.

Senator FAULKNER—You are probably able to say that now, aren't you?

Ms Halton—Clearly; but at the time we relied on what we were told by Defence. We relied on the senior people in Defence to confirm things and we relied on their advice.

Senator FAULKNER—What I am saying is that it does appear that what Ms Edwards reported Group Captain Walker to have said and what Group Captain Walker has said to us in relation to the cable traffic—which has been much canvassed and examined—is clearly supported by the actual cable traffic.

Ms Halton—I am sorry, you will have to repeat that, Senator. I do not understand the point you are making.

Senator FAULKNER—The cable traffic does not canvass an issue of children being thrown overboard. It does appear that what Group Captain Walker said in evidence to this committee and what Ms Edwards has indicated to us is supported by an examination, in retrospect, of the cable traffic from HMAS *Adelaide*.

Ms Halton—I have not seen the cable traffic so I would not want to comment on it. I think we all agree the event did not happen.

Senator FAULKNER—Do you accept that, in the circumstances of the advice that had been given to the task force by Group Captain Walker, it would have been sensible for someone to have asked Air Vice Marshal Titheridge to check the original source of advice to find out if the verbal advice—that he had in this case received from Brigadier Silverstone—was correct?

Ms Halton—I think you are trying to make too much of a leap here, and I understand why you are doing it. I have to say to you that my memory of the report from Group Captain Walker was that he, in his normal way, had been back to the office during the day and reviewed the cable traffic. I do not recall his saying explicitly, ‘I do not think this happened’—he did not, in my memory. I do not think anybody else has given evidence that he said any such thing.

Certainly, when Air Vice Marshal Titheridge turned up, Group Captain Walker and Air Vice Marshal Titheridge had a conversation outside the room. I do not know what the subject of that conversation was. It is a perfectly proper thing to do, when your very much more senior officer turns up, somewhat delayed, at the beginning of a meeting, to give him a brief overview of what has been going on in the meeting. You are trying to make the point, I think, that Group Captain Walker is a fairly careful individual. It is therefore entirely plausible that he went through with Air Vice Marshal Titheridge what he had been up to during the day—I cannot say. But in terms of our relationship with Defence—and remembering that Group Captain Walker then sat in the meeting through the beginning part of the paper being gone through and at no point said, ‘Excuse me, I think that is wrong,’ or ‘I think that should be caveated,’—I think that is completely consistent with all the evidence.

Senator BRANDIS—Ms Halton, in the course of that conversation, had information been conveyed to Group Captain Walker which would have suggested that the report was wrong or ought to have been caveated, you would have expected that the most natural thing in the world would have been for him to have said so at the time.

Ms Halton—Correct, and the point I would make to you, Senator, is that this issue was not the issue that we were canvassing. This particular point was a background sentence in a report about other issues. The reality is that it would have been the simplest thing in the world, precisely, to add a caveat, as there was elsewhere in that background section—‘we believe’ or ‘we understand’ or some other such caveat. It was not added. Each agency was completely free with, in fact, rewriting whole slabs of text if it did not accord with their view.

Senator BRANDIS—Of course, the political heat that subsequently attached itself to this issue was not a consideration at the time of this meeting, so that one infers from the silence of Group Captain Walker on the matter that nothing relevant would have been said or he would have been placed in possession of no relevant knowledge in the course of his conversation with Titheridge; would you agree?

Ms Halton—I have nothing that would cause me to disagree with that.

Senator BRANDIS—And there is not a skerrick of evidence to the contrary, of course, is there?

Ms Halton—No. At the end of the day, this issue was not the issue du jour. It was a minor issue. In retrospect it has become the major issue. It was a very minor issue.

CHAIR—Of course, the assertion about political heat is not true either, because there was some political heat being generated at that time in any case, wasn't there?

Ms Halton—What time would that be, Senator?

CHAIR—At the time you were considering this report.

Ms Halton—On that day?

CHAIR—Yes.

Ms Halton—Not that I was aware of. I think we have already ascertained that I spent my entire day in the office, and, if there was political heat being generated, I was not aware of it.

Senator BRANDIS—You have to understand, Ms Halton, that what you as a senior officer of the Public Service may have regarded as material and what Labor Party politicians may have regarded as material may somewhat differ but, for the purposes of this exercise, we are concerned with your perspective at the time.

Ms Halton—Thank you.

CHAIR—Of course, what Liberal Party politicians, who are beneficiaries of the deception practised on the Australian people, regard as important is another matter again!

Senator BRANDIS—Engaging in a bit of point-scoring here, Mr Chairman, are you?

CHAIR—If you want to engage in it, Senator, expect it to be returned.

Senator FAULKNER—I do not know about that, but I think it is fair to say, Ms Halton, isn't it, that it was hardly a background sentence in Mr Ruddock's announcement?

Ms Halton—Again, Senator, I think we canvassed this in glorious detail last time I was here. I think we understand that the information was passed from Mr Farmer to Mr Ruddock. I think you have taken evidence about the fact that—this was consistent with what I said in my witness statement and in my evidence last time—I was actually on the phone when he was talking to Mr Ruddock. I did not hear what was said to him and I did not hear what advice he was given.

Senator FAULKNER—The point I am making is that the media had been running hard with the 'children overboard' line throughout the day. It was hardly a background issue. I obviously cannot comment on what was in your mind and in the minds of those at the task force meeting when this thing was being drafted, and whether it was background or foreground, but it sure as hell was not a background sentence in Mr Ruddock's announcement. It was the front and centre issue. That is a reasonable point to make.

Ms Halton—What I would ask you to do is consider the following. We met that morning at 9. As you know, I was in the office most of the day. I do not know what time Mr Ruddock made a statement, nor do I know what time other people made comment. Certainly when I came into the office and did a first cut of that paper and when the meeting recommenced, the thing I can say here with absolutely categorical assurance is that it was not the principal subject of conversation. If indeed it was already running, as you say, in the media with some level of vigour, that was not something that was discussed by the people in that meeting. I frankly do not think the people in that meeting were conscious of it. If I might make the point, it is one thing in retrospect to get every media clip of what was on radio or what have you, but the simple reality is that if my colleagues were running around Canberra on Saturday doing their business—and I suspect most of them were taking their kids to the football and probably going to the markets to do their shopping—it is entirely conceivable that they did not know that this was being canvassed in detail.

Senator BRANDIS—Do you remember any reference during the meeting to the extent of media coverage of—

Ms Halton—No, I do not.

Senator BRANDIS—When you say that, are you telling us that it was not said or that it may have been said but you do not remember?

Ms Halton—I do not think it was said.

Senator BRANDIS—Thank you.

CHAIR—On that point, the ABC carried a report about the children being thrown overboard before your meeting started at 9 o'clock. I understood that in earlier evidence you said that you were aware of that report.

Ms Halton—No, I said I was not completely clear about what time I was informed. Air Vice Marshal Titheridge was my source. I think we have all agreed that the point of when we heard what is a bit confused. If you go back to look at the evidence, a number of people thought that someone else had said it in the meeting first.

CHAIR—We can go back and look at the *Hansard*. I do not have it here, so I am going on a recollection. It can be verified by going to the *Hansard*. My recollection is—

Ms Halton—Maybe now my memory is not as good as it was some months ago. Remember we are discussing this from almost a year ago. But the point that I am making here is that, in terms of the evening meeting, the notion that this was 'running hot'—I think that was the description over here; perhaps I have got the words wrong—was not something of which I would say I was conscious and was explicitly not canvassed in that evening meeting.

Senator BRANDIS—It was not the business of the meeting, was it?

Ms Halton—No, it was not.

Senator BRANDIS—The business of the meeting, unlike the obsessions of Labor Party politicians, was not to consider the media's treatment of an issue; the business of the meeting was to report to assemble information and make accurate decisions. Is that correct?

Ms Halton—The business of the meeting was to provide advice about a number of handling options, which had nothing to do with 'children overboard' or otherwise. That sentence was included as background information only. It was part of the standard stocktake that was done. As a normal process in the preparation of these papers, there was at the beginning of the papers a stocktake of what was happening. It was part of the stocktake. It was, if you like, the context. It was not relevant to the matter that the paper dealt with other than by way of context.

Senator BRANDIS—I assume that the very brief and almost passing mention of the 'children overboard' matter reflected the degree of salience—or the lack of it—of that issue at the meeting.

Ms Halton—In fact, if I can go further, the reality is that we had all forgotten that particular sentence was even there. When the paper was produced in whichever public forum it was produced in, I have to say that the people who had been associated with it in PM&C had collectively forgotten that sentence even existed.

CHAIR—Can I just be clear on one thing about your evidence. It is a fact that the ABC broadcast a news report about 'children overboard' before your meeting convened at 9 o'clock. I understood—and it is a question of my memory, but it is ascertainable because it is on the record—that you had indicated to this committee previously that you heard that news broadcast. Did you?

Ms Halton—I believe I heard a news broadcast in the middle of the day, possibly once. My memory might be incorrect, and we will go back and look at the *Hansard*. I entered the office at 8.54, and I do not know what time you are referring to.

CHAIR—It was before that hour.

Ms Halton—I cannot recall. I would have to go back and examine my memory.

CHAIR—You would have to go back and examine your memory?

Ms Halton—I will take that on notice.

CHAIR—You will take that on notice?

Ms Halton—Yes.

Senator FAULKNER—So you do not think that the media issue was front and centre for the task force at all?

Ms Halton—It is not that I do not think so; I know it was not.

Senator FAULKNER—Why did the task force develop media lines?

Ms Halton—We have canvassed that terminology at length before. The reality is that facts were provided in relation to particular circumstances. We canvassed last time—I recall this quite vividly—the notion that public servants do not do ‘spin’, which I think was the term that one of the senators used. We provided facts. If you are talking about the discussion on—

Senator JACINTA COLLINS—We now know that at least one of them was not a fact.

Ms Halton—Yes, in hindsight. If you are referring to the briefing of Minister Ruddock on the 7th, I have just said, and I said last time—and it is consistent with other people’s evidence—that I did not hear that discussion.

Senator FAULKNER—It seems to me that the senior public servants that were at the task force meeting must have known about the public significance of the issue of passengers throwing their children overboard, and that is why the media handling lines were done up. Any reasonable person, surely, would come to that conclusion.

Ms Halton—Actually, Senator, I do not think that anyone in that meeting anticipated what was going to happen with that information. This might sound surprising to your very political ears, but I genuinely do not believe that anybody in that room thought it was a particular political issue. I think that people thought that it was regrettable, but I do not believe that it was thought of as being a political issue. In relation to what Minister Ruddock said—and I think you had this in evidence but, again, this is where I have not read the transcripts—I understand that he was giving a press conference about something else. I understand from my DIMIA colleagues that he was getting a current update so that he understood the facts of particular situations, and he was provided with these by telephone.

Senator JACINTA COLLINS—I want to clarify this and make sure that I heard you correctly earlier when you gave evidence with respect to Group Captain Walker’s evidence. If my recollection is clear, I think you said, ‘I do not believe that Group Captain Walker made such a statement in the meeting.’

Ms Halton—Yes.

Senator JACINTA COLLINS—That is stronger than what you said previously when you said, ‘I do not recall this statement.’

Ms Halton—Yes. Certain people seem to think that ‘I do not recall’ means ‘I do not remember.’ The point I want to make is that we should accept that sometimes ‘I do not recall that, Senator,’ may mean ‘I do not think that happened, Senator.’

Senator JACINTA COLLINS—That is what I am asking. You are now standing by the stronger statement that you do not believe it happened—

Ms Halton—I do not think that happened.

Senator JACINTA COLLINS—despite the evidence of Group Captain Walker and despite the evidence of Katrina Edwards?

Ms Halton—As I understand Katrina’s evidence, it is slightly different to Group Captain Walker’s evidence.

Senator JACINTA COLLINS—Let us go back to Katrina Edwards’ evidence. So you do not need to find it, I will read it. On page 1715 of *Hansard* on 22 May, she said:

I believe that in the afternoon discussion he—

that is Walker—

mentioned that he had gone back to his office and checked the record to see whether there was anything in writing, and there had not been.

She also said:

My recollection is that group Captain Walker had not been able to provide any updated information on what had occurred, nor had he been able to validate the ‘children’ issue.

How do you explain to us the conflict between your evidence and that of Katrina Edwards?

Ms Halton—My evidence is, in fact, consistent with Katrina’s evidence. He said that he had no evidence of it. My memory of it is that he said that he did not have any updated cables, and that is consistent with what Katrina said.

Senator JACINTA COLLINS—No. Katrina said:

I believe that in the afternoon discussion he mentioned that he had gone back to his office and checked the record to see whether there was anything in writing, and there had not been.

He did not say ‘updated cables’. He said that there was no confirmation in writing.

Ms Halton—There were no updated cables.

Senator JACINTA COLLINS—He did not say that. He said, ‘... whether there was anything in writing, and there had not been.’

Ms Halton—My memory of it is that he said that he had not had any updated cables. I do not think that what I am saying is in any sense inconsistent with what Katrina said.

Senator JACINTA COLLINS—It is different to what Ms Edwards said.

Ms Halton—But I do not think it is inconsistent, and you have just told me it is.

Senator JACINTA COLLINS—I do believe it is inconsistent—

Ms Halton—That is your opinion; it is not mine.

Senator JACINTA COLLINS—because there is a big difference between him saying, ‘I have not been able to find written confirmation,’ which is consistent with what Katrina Edwards said, and you saying, ‘I believe that he never said such.’ There is a big difference.

Senator BRANDIS—Ms Halton, I have never heard two honest witnesses give an identical word-for-word version of the same conversation, particularly a year later.

Ms Halton—Precisely. I was considering this morning asking Senator Faulkner if he could recall line for line a discussion a year ago in the party room—I suspect he could not.

CHAIR—It would depend on how vivid the circumstances were.

Ms Halton—This was not vivid.

Senator FAULKNER—That is it, Ms Halton!

Senator JACINTA COLLINS—I do not think he would accuse another witness of being a liar, which is what you have done. Just to recap—

Senator BRANDIS—On a point of order, Mr Chairman—that is an outrageous thing for Senator Collins to say.

Senator JACINTA COLLINS—It is not. She said, ‘I believe he did not.’

Ms Halton—I did not.

Senator BRANDIS—Ms Halton did not accuse Ms Edwards of being a liar.

Senator JACINTA COLLINS—She did.

Senator BRANDIS—That is a disgraceful attribution which is extremely offensive and unfair to the witness!

Senator JACINTA COLLINS—She did. It is accurate. She said, ‘I believe he did not.’ He has told us he believes he did.

Senator BRANDIS—She did not accuse her of being a liar.

Ms Halton—That is right.

Senator BRANDIS—That is a disgraceful thing to say, Senator Collins! You should be ashamed of yourself!

Senator JACINTA COLLINS—No; it is true.

Ms Halton—Senator Collins, I think it is entirely plausible that people have inconsistent memories of particular events.

Senator JACINTA COLLINS—That is different to you saying you believe he never said such.

Ms Halton—That is my memory and that is what I believe.

Senator JACINTA COLLINS—It is not consistent with Katrina Edwards.

Ms Halton—In that case, we have inconsistent memories, don't we.

Senator JACINTA COLLINS—That is right, you do.

Ms Halton—That is right. Correct.

Senator JACINTA COLLINS—I am glad you agree.

Senator BRANDIS—Just a moment, Ms Halton, just in fairness to you—

Senator JACINTA COLLINS—Put words in her mouth now, Senator Brandis.

Senator BRANDIS—are you saying—

Senator JACINTA COLLINS—Put words in her mouth. Senator Brandis—

CHAIR—Order!

Senator BRANDIS—because I think you ought to have the opportunity to get your evidence on the transcript here—

Senator JACINTA COLLINS—She has had her opportunity.

Senator BRANDIS—are you saying that Ms Edwards is a liar?

Ms Halton—No, of course I am not. What I said, Senator Collins—so that we can be absolutely clear on the record—is I believe my memory and Ms Edwards's memory are consistent. It is entirely plausible that Group Captain Walker has a different memory. The reality is that I was chairing the meeting and Ms Edwards was taking notes. He may have thought he inflected in a particular way. I did not take away that memory. I believe my memory is consistent with Ms Edwards's memory.

Senator JACINTA COLLINS—And Ms Edwards's memory is consistent with Group Captain Walker's.

Ms Halton—I would dispute you in that.

Senator JACINTA COLLINS—Okay, take me to it then. How would you dispute that?

Ms Halton—I do not have the transcript in front of me. If you wish to give me the transcript, I will take you through how I think that is the case. In the absence of having the piece of paper in front of me, I think it is an unreasonable question.

Senator JACINTA COLLINS—The secretariat will—

Senator BRANDIS—Chair, let the witness be shown the transcript.

Senator JACINTA COLLINS—Senator Brandis, I am not finished here, please! The secretariat will provide you with the *Hansard* in a moment and we can go to that.

Ms Halton—But I think, Senator—

Senator JACINTA COLLINS—I think it is a very critical point. You were saying that Group Captain Walker, in your belief, did not make these comments. To me that does amount to accusing him of being a liar.

Ms Halton—I do not believe it does.

Senator JACINTA COLLINS—Well, you are just using fancy words to say precisely the same thing.

Senator BRANDIS—Are you doing that, Ms Halton? Are you making the accusation that has been attributed to you by Senator Collins?

Ms Halton—No.

Senator JACINTA COLLINS—But you are saying that you believe he never said such?

Ms Halton—I believe we had a conversation about the cables.

Senator JACINTA COLLINS—And Katrina Edwards interprets that conversation differently to you.

Ms Halton—I would like to see the pieces of paper, but can I make this point, Senator, because you seem to be placing vast store on this issue: we come back to the point that Group Captain Walker's was a report of Air Vice Marshal Titheridge's. Air Vice Marshal Titheridge was the responsible senior officer. He was responsible for Group Captain Walker and everything that happened in Strategic Command. At the end of the day, Air Vice Marshal Titheridge was the member of the People Smuggling Task Force. He was briefed by Group Captain Walker before he cleared out line by line this particular piece of paper.

Senator JACINTA COLLINS—We are going off the point here.

Ms Halton—No, we are not going off the point.

Senator JACINTA COLLINS—The point is that Ms Edwards has said:

I believe that in the afternoon discussion he—

Walker—

mentioned that he had gone back to his office and checked the record to see whether there was anything in writing, and there had not been.

Ms Halton—And that is consistent, in my view, with my memory in relation to a discussion about whether there were any updated cables.

Senator JACINTA COLLINS—You were told that there was no written confirmation, according to the evidence of Edwards and Walker, and you are denying that?

Ms Halton—No, I am saying to you that there was, to my memory, a conversation about cables and, to my memory, there were no updated cables. My memory is not that he said, ‘I don’t have written confirmation. This did not happen. There should now be a caveat in this piece of paper. I am now going to tell my senior officer.’

Senator JACINTA COLLINS—No, no. Now you are going much further than the issue here.

Senator BRANDIS—Let her finish her answer, for goodness sake!

CHAIR—Order!

Ms Halton—At the end of the day, Group Captain Walker is a careful individual—we all agree with that—and I take deep offence at the suggestion that you have made that I am accusing him of something, which I am not. I am attempting to say to you what is my memory of something and, at the end of the day, it is entirely plausible that he has a different memory to mine—so be it—and it is not germane.

Senator JACINTA COLLINS—Yes. But what he and Edwards said, according to the evidence before this committee, was that there was no written confirmation. I have taken you to two references to it here, whereas you are saying that you believe that that reference never occurred.

Ms Halton—I said to you that I believe he said there were no updated cables.

Senator JACINTA COLLINS—That is not the wording used by him and that is not the wording used by Edwards, and yet you cannot explain that inconsistency. Instead, you say you believe he never said such.

Ms Halton—I believe there was a conversation about updated cables. Frankly, if he or anyone else in Defence had thought that the absence of some written confirmation was of sufficient weight and moment, they merely had to add a few little words to that sentence. They did not.

Senator JACINTA COLLINS—Was he present at the time when you went line by line through the document?

Ms Halton—Yes, he was present, actually. The introduction to that piece of paper was done at the beginning of the meeting. He was.

Senator JACINTA COLLINS—When Titheridge was not present?

Ms Halton—No. We did not start—

Senator JACINTA COLLINS—You cannot have it both ways, Ms Halton.

Senator BRANDIS—Let her finish, for goodness sake!

Ms Halton—Excuse me, Senator. What I said to you at the beginning was that the beginning of the meeting comprised housekeeping. Air Vice Marshal Titheridge turned up part way through the housekeeping. We then went through, line by line, that paper. Group Captain Walker left the meeting—from memory, 20 minutes or 25 minutes before the close—after the defence material was complete.

Senator FAULKNER—Can I ask you a more general question, just to take you back a step to something you said a little earlier, because I do think this is important. On a very significant number of occasions the last time you came before us, you indicated that there were matters—to use your words—that you could not recollect. I think you would acknowledge that. I think it is important for the committee to understand what you mean when you have provided that answer because, in a sense, you have qualified what you might mean when you have provided that answer, and you qualified that a little earlier. I wondered if you could, for the benefit of the committee, indicate what you mean when you say you cannot recollect.

Ms Halton—If I do not remember something, as in I have forgotten something, I will tell you that. If I do not recall it, I do not necessarily have the evidence to say it did or it did not happen.

Senator FAULKNER—When you say you cannot recollect, what does that mean?

Ms Halton—It depends on the particular context. If I do not recall something, one could form a conclusion that either it did not happen or I do not recollect it.

Senator FAULKNER—So it could mean either of those two things?

Senator BRANDIS—Or it could mean a third thing, couldn't it, Ms Halton—that is, conceivably it could have happened but you did not happen to hear it being said?

Senator FAULKNER—Mr Chairman, now Senator Brandis is answering for Ms Halton.

Senator BRANDIS—No, I am not.

Senator FAULKNER—We have not asked Senator Brandis if he ever used the terminology ‘I could not recollect’ what he might mean by that. That is fair enough. Senator Brandis can say what he likes, but I am not asking Senator Brandis because we know what a perfect memory—

Senator BRANDIS—I am just trying to be helpful, Senator Faulkner.

Senator FAULKNER—I know you are. We know what a perfect memory you have, so you would never utter such words. I was just trying to check with Ms Halton—

Ms Halton—Senator, I think we should be clear. In relation to Senator Collins’s question on the specifics of what Group Captain Walker claims he says, I do not recall that. I do recall a discussion about cables. I do not think that what I recall is inconsistent with what Ms Edwards recalls. In terms of the specific statement made about written evidence, I do not recall that. As I have said, had there been a concern, had they wished to, it was very easy to insert two or three words of qualification, and that did not happen. Group Captain Walker was there when this paper was edited. As I have said, even though Senator Collins did not actually hear the precise detail, we did housekeeping before Air Vice Marshal Titheridge turned up.

Senator FAULKNER—I was not talking about those specific issues, though I appreciate that information. The reason I am asking you this—and it was one of the reasons I thought it was important to ask you to come before us again—is that we asked you questions about a range of issues early in this committee’s inquiry. Since we have had the benefit of your evidence before the committee, other witnesses have come before us, as you would appreciate, and provided information about those same matters. I think it is not unreasonable to ask you, in light of some of that evidence, whether other questions arise from it. I think that is sensible and reasonable. When you came before us previously you did use that terminology in response to a range of questions, and that is fair enough. It is very important for us to understand what you meant when you used the terminology, ‘I cannot recollect.’

Ms Halton—I did not say, ‘I cannot recollect.’ I think you will find if you look at the transcript that it is not a term I used. I think I said, ‘I don’t recall that, Senator,’ on a number of occasions.

Senator FAULKNER—I would beg to differ with you. If you used the terminology, ‘I don’t recall’—

Ms Halton—That is what I said.

Senator FAULKNER—What—it may mean that you do not remember or it may mean something else?

Ms Halton—Yes.

Senator FAULKNER—What is the something else? That is what I am trying to check. I am just trying to put your previous evidence in context.

Ms Halton—I think it is difficult to come up with a generality. I think you would have to go to the specifics and then perhaps I would be able to answer your question.

Senator FAULKNER—It would take an awfully long time for us, Ms Halton, to go back to all the occasions when you said that. I do not mind doing that, but I want to get a broader understanding, conceptually, which I think you were trying to provide to us a little earlier before there was a subsequent exchange.

Ms Halton—As a general rule I would say, ‘I don’t recall,’ if I had a belief that something may not have occurred, but I could not say categorically that it did not.

Senator FAULKNER—Can I move on to another matter?

Ms Halton—With great willingness.

Senator FAULKNER—We are probably both happy to do that.

Ms Halton—Indeed.

Senator FAULKNER—I want to ask you about an issue that arose on the days after what was just canvassed. It goes to the question of why the Department of the Prime Minister and Cabinet sought advice from Strategic Command in relation to the ‘children overboard’ matter. Ms Edwards indicated to this committee that she went to you after receiving DFAT’s sit rep 59 on 8 October. I think it is fair to say that you were both able to note that it did not contain information that children had been thrown overboard. I think that is right, isn’t it?

Ms Halton—That is my memory, yes.

Senator FAULKNER—Then there was the issue of what happened next. Is it fair to say that you both decided it was best to make inquiries with Strategic Command about that issue?

Ms Halton—No, I do not think that is a reasonable characterisation of my understanding of what happened. I think we canvassed in detail last time the fact that there had been some media reports. I think it was the media reports that actually said we had been shooting at boats which, as I said to you last time, alerted me. I think I said to you last time—and I think this is consistent with what Ms Edwards has said—that we did not have any doubt that this event had occurred. I cannot speak for others, but what I had a concern about was the facts of the situation as they had been reported to us. You will recall the background section of that particular piece of paper—which, as you know, had a caveat and some of the facts were changed and what have you by the other agencies. What alerted me was the notion that we had actually been firing at boats.

Senator FAULKNER—Yes, I recall that.

Ms Halton—My memory is that that is in the afternoon. Sit rep 59—I think that is the right number, isn’t it?—did not throw up any particular doubts. It was the media reporting in relation to shooting at people that got my attention. As I think I have said to you previously, at the IDC of the next day I said to the defence forces that I wanted them to go and clarify the detail of what had happened. At this point, we had not been asked for confirmation. I have noted that Ms Edwards believes that Mr Jordana had asked for the precise details. If he did, I was not aware of that explicitly. The conversation I had with Mr Jordana was a report to him. After I had asked

the IDC on 9 October to clarify the detail, I rang him and told him that that is what I had asked them to do. I think Ms Edwards has given evidence that she believes she had a request from him. I was not party to that if that was the case. In any event, we are not doing anything that is inconsistent with each other.

Senator FAULKNER—Let us go to the sit rep. I am aware of the evidence you gave in relation to the firing. I do understand that background. But what Ms Edwards told us, after you gave evidence here, is:

... I am confident we started our inquiries on 8 October, following receipt of DFAT sit rep No. 59. I can remember being concerned about the lack of mention of children or people being pushed overboard. While it is not unusual for sit reps to be short on the details of events, Ms Halton and I agreed that, in the circumstances, we should follow up to obtain further details of the incident.

It is that element I want to ask you about: ‘Ms Halton and I agreed in the circumstances we should follow up to obtain further details of the incident’. That is what Ms Edwards told us.

Ms Halton—And that is not consistent with my memory. My memory is that we had a conversation. Sit rep 59 was around. The trigger point for me was the media reporting. It may well have been that the trigger point for her was sit rep 59. In any event, we agreed we should get the detail.

Senator FAULKNER—Do you remember seeing DFAT sit rep 59?

Ms Halton—On that day, no.

Senator FAULKNER—Do you know when you would have seen it?

Ms Halton—I think actually probably some considerable time later. Let me just check. I have a record of all the papers that came in and out of my office, as you probably appreciate.

Senator FAULKNER—There is no record of the chronology.

Ms Halton—No, there is not. Again, this is recorded elsewhere. I think I had a whinge about not getting adequate and timely information from Defence and so I got my first Operation Relex update on 11 October.

Senator FAULKNER—This is very important, because obviously Ms Edwards tells us that sit rep 59, not mentioning kids being thrown overboard, causes her concern. You know that from the evidence that she has given.

Ms Halton—Absolutely.

Senator FAULKNER—Can you explain to the committee why Ms Edwards says she shows this sit rep to you on 8 October?

Ms Halton—Did she say that she showed it to me?

Senator FAULKNER—She says:

... Ms Halton and I agreed that, in the circumstances, we should follow up to obtain further details of the incident.

Ms Halton—With respect, Senator, that is not saying that she showed it to me.

Senator FAULKNER—All right; let me be absolutely precise about it. Can you explain why she said:

... Ms Halton and I agreed that, in the circumstances—

and the circumstances are the receipt of DFAT sit rep 59—

Ms Halton—No, I think you are reading what suits you into those words. She is saying that, in the absence of detail, she was concerned to get more detail. Again, I think our memories are quite consistent here; it is just that they come from a different starting place. My starting place was media reporting in terms of shooting. Her starting place was in terms of a sit rep she had seen. We have a conversation, which clearly we both recall, which is in terms of the need to get detail.

Senator FAULKNER—So you do not believe Ms Edwards's statement—I do not want to read it again, because I have read what she said on the *Hansard* record—relates to sit rep 59?

Ms Halton—I am sure it does relate to sit rep 59, but the point here is a discussion about detail. Clearly we had a discussion about detail. She agrees with it. I agree with it. Her reason for thinking there was a need for detail, she is saying to you, is sit rep 59. My reason for saying to you that I wanted some detail was in relation to us firing at small boats. There is nothing inconsistent with that.

Senator FAULKNER—There is, because I asked you the question on 16 April:

Would you know why the DFAT sit reps, including DFAT sit rep 59, did not prompt further questioning about the veracity of the 'children overboard' claims?

Your answer was:

In a word, no.

That is what you said. Yet effectively, and I think quite clearly, Ms Edwards is saying to us that the circumstances were that this matter should be followed up.

Ms Halton—You would have to ask Ms Edwards about that.

Senator FAULKNER—I have. Now I am asking you. There is a clear difference here, and I am wondering if you can shed any light on it. It is one of the reasons for asking you to come back—just to see if we can clarify some of these things.

Ms Halton—Okay. As I am explaining to you, Senator, I have a memory of that conversation which was not about a DFAT sit rep. My memory of the conversation was in relation to media

reporting about shots at vessels. I recall having a conversation with her where I said, 'They're saying that we have shot at vessels. This sounds to me unsavoury, and I think we should ascertain the precise facts.' She agreed and said, 'We'll go away and look at it.' I do not believe the fact that she has a different reference point in her mind is inconsistent.

Senator FAULKNER—Ms Edwards also told us when she appeared before this committee that PM&C held a series of conversations with Strategic Command on 8, 9 and 10 October.

Ms Halton—I was not aware of ones on the 8th. I was aware that they were having conversations on the 9th and the 10th.

Senator FAULKNER—You are aware of the 9th and the 10th?

Ms Halton—After we had had our conversation, we agreed she would go away and have a conversation with Strategic Command.

Senator FAULKNER—She also said to us:

Strategic Command had been telling us a very similar message for the previous couple of days, which was that they had no evidence within their holdings ...

That is about the 'children overboard'. Does that conform with your understanding?

Ms Halton—She did not report that to me.

Senator FAULKNER—It is not just the question of the chronology, is it? There is a series of phone calls during the period of 8, 9 and 10 October in which it was evident that, within Prime Minister and Cabinet, Strategic Command had found no evidence whatsoever that children had been thrown in the water.

Ms Halton—I understand the point that you are trying to make here, and I think it is not right.

Senator FAULKNER—No, I am not—

Ms Halton—Yes, you are trying to make the point—

Senator FAULKNER—Ms Halton, I want to interrupt you here to say I am not trying to make any point; I am trying to clarify conflicting evidence, and all I am doing is asking you questions. I am trying to be very careful about that.

Ms Halton—Excellent. Allow me to assist you in answering your question.

CHAIR—An extraordinary outbreak of mutual cooperation!

Ms Halton—Excellent. It is to be encouraged, Senator Cook. In terms of the understanding of Ms Edwards and I—as I understood it at the time, and I still understand this to be the case—we did not believe that that particular event was not a fact. As I think we have all been at some

pains to point out to you over a period of time, Strategic Command was explicitly outside the line of command and was, in our experience, often behind the play on what was happening.

That said, had they had any concern about the facts of this matter at the point at which the photo was proven to be something different—there are a whole series of points we can put to here, Senator—had they had any explicit concerns, they could have, should have but did not raise those with us. And in terms of conversations that may have occurred amongst junior officers in the Social Policy Division, it is not my belief that those junior officers were in fact alarmed or concerned as to the veracity of this story. It is my belief that there was a considerable level of frustration, that the details seemed to move around and that they were attempting, as I think you understand well, to nail down the precise detail, the facts—the numbers et cetera—and that was the process that they were following.

Following Ms Edwards's and my conversation—from my perspective, the shots issue; clearly from her perspective, sit rep 59—the outcome was the same. Those junior officers were tasked to have those conversations. In terms of there being a blow-by-blow, running description of those discussions, there was not one. However, had there been a particular concern that there was emerging doubt, that there was uncertainty, that there was in any sense a level of concern, I am absolutely confident that would have been brought to my attention. It was not. As I understand what Ms Edwards has said to you, she did not doubt that this had occurred. There was some frustration with dealing with a body that was out of the line of command in terms of nailing down the facts, which is what people were attempting to do.

Senator FAULKNER—I cannot talk about Ms Edwards's motivation. All I know about is the answers that she has given this committee. What she says to us is that there were vigorous inquiries going on between PM&C and Strategic Command on 8, 9 and 10 October about these very issues. But I think what you are saying to us is that you are not aware of it.

Ms Halton—What I am saying to you is that I am aware that they were tasked to do this. I did not physically sit in the Social Policy Division, so I cannot say that I saw people running around doing vigorous things. However, the notion that Social Policy Division were attempting to clarify, for example, numbers, time, time in the water—yes, that is consistent with my understanding.

Senator FAULKNER—And you do not know when you saw sit rep 59?

Ms Halton—I do not believe I saw sit rep 59 until some considerable time later. My memory is that that is one of the things that Mr Jordana asked Ms Bryant for in early November, and my memory is that I saw it then.

Senator FAULKNER—When I asked you previously who the DFAT sit reps normally go to in the department, you made it quite clear to me—when you were before this committee before—that you normally got one.

Ms Halton—I did normally get them, but I have made the point to you there was some confusion about where things were going. In fact, I think I made the point, and it is reflected in the minutes, about making sure that everyone was copied-in on things, and that is reflected in the documents that I was receiving by the middle of that week.

Senator FAULKNER—Ms Edwards also tells us, as you mentioned a little earlier, that Mr Jordana called the division on 8 October, I think asking for further details about the events of 7 October.

Ms Halton—Again, I was not privy to that conversation. I am not aware of it. I am aware that I had a conversation with him where, it is my belief, I told him that I had said at the IDC of the 9th that I wanted them—this is reinforcement of the conversation that Ms Edwards and I had already had—to clarify the details.

Senator FAULKNER—But when did you become aware of Mr Jordana's call?

Ms Halton—Which call? Sorry, Senator.

Senator FAULKNER—Ms Edwards has told us that Mr Jordana called the division—the Social Policy Division, I assume—on 8 October asking for details about the events of 7 October.

Ms Halton—When I read it on a piece of paper last night.

Senator FAULKNER—Because Ms Edwards thought this call came to either herself or yourself or possibly both of you.

Ms Halton—No. I called him after the IDC and told him that I had asked Defence to go away and check. I did not receive a phone call from him asking for details on the 8th.

Senator FAULKNER—In an answer to a question on notice, Ms Edwards said:

As I indicated, I believe Mr Jordana rang either Ms Halton or myself or both on either October 8 or 9 seeking further details around the events of 7 October. As I have stated, we indicated that we were pursuing the matter.

Can you confirm whether that statement in that answer to a question on notice is, from your perspective, accurate or not?

Ms Halton—He did not ring me and I am not aware of him having rung Ms Edwards.

Senator FAULKNER—She goes on to say:

The request for a chronology of events was part of this follow-up effort.

Are you able to confirm whether that is the case or not?

Ms Halton—No, I cannot.

Senator FAULKNER—You just do not know?

Ms Halton—No, I did not receive a phone call from Mr Jordana asking me to provide details of this matter. My conversation with Mr Jordana about this matter was me ringing him in relation to the request I had made at the IDC.

Senator FAULKNER—Can you confirm the further detail that was given in this answer to the question on notice by Ms Edwards? It reads:

... the lack of detail and equivocal comments in the chronology were somewhat unsatisfactory, although we did provide talking points derived from the chronology to Mr Jordana that evening.

Are you able to shed any light on that?

Ms Halton—Which evening is that?

Senator FAULKNER—I assume it is the 9th, but that is an assumption on my part because it is not clear in her answer.

Ms Halton—We provided talking points on the 9th, I think, which were the facts as we knew them. But we certainly did o on the 10th. I make a point: it would not be unusual for Mr Jordana to have made a request directly of the line division and it would not necessarily be unusual that I would not know all the details.

Senator FAULKNER—Yes, but this is a prepared answer to a question on notice from Ms Edwards.

Ms Halton—Okay.

Senator FAULKNER—She then says:

I assumed at the time, however, that Ms Halton would also advise Mr Jordana of the difficulties around the chronology, as well as the ‘footnote’, as well as the subsequent advice from Mr Reith and his office of that afternoon.

Is that right? Did you do it?

Ms Halton—That is her assumption. We have already had a lengthy conversation about my understanding of the chronology and I have no doubt you want to ask me some more about that; maybe we should deal with that question at the time. As I have said to you previously, I did not receive the chronology and, again, Ms Edwards and I have different but not inconsistent recollections in relation to the chronology. I did not see the chronology; I did not receive it. In terms of inconsistencies, as I think I have said to you previously, my memory is of Ms Edwards telling me that we were having difficulty pinning down the precise detail of the facts—that is not inconsistent. In terms of advising people of that, Ms Edwards was principally responsible for trying to nail down those facts. In terms of advice to people about that issue, no, I was not providing advice to people about that issue. I was not undertaking that work.

Senator FAULKNER—I think the assumption here from Ms Edwards is that you should have done it. She writes:

I assumed at the time, however, that Ms Halton would also advise Mr Jordana of the difficulties around the chronology, as well as the ‘footnote’ ...

My assumption is that Ms Edwards is saying she felt that you should have done it.

Ms Halton—I do not know why she would have thought that I had done it. To my certain knowledge there were about five minutes between when I walked into the building, when we agreed we had a conversation about the difficulty of the facts, a series of phone calls and chairing a meeting. Quite when I was meant to have done this, I do not know. It was not the subject of detailed conversation.

Senator FAULKNER—But you did not read these questions on notice until last night.

Ms Halton—That is right.

Senator FAULKNER—You told us before that you did not prepare anything for SIEV4; that you were only dealing with SIEVX.

Ms Halton—No, what I said to you was that in terms of any details of inconsistencies you would have to show a little forbearance if you went to the transcripts, because I have not read the transcripts. I was handed a folder last night at about a quarter to 8 which included that particular document and I did read that document.

Senator FAULKNER—Who handed you that folder, Ms Halton?

Ms Halton—An officer from the Department of the Prime Minister and Cabinet.

Senator FAULKNER—Who was that officer?

Ms Halton—My colleague sitting behind me.

Senator FAULKNER—I am asking what the name of the officer is. What did that folder contain?

Ms Halton—It contains a series of answers to questions on notice, a letter from Dr Hawke to the committee, some news reports, some transcripts and some material that, clearly, Prime Minister and Cabinet thought I would not have seen—and they were quite correct: I had not.

Senator FAULKNER—Did you request that folder or did they just give it to you?

Ms Halton—The details of this folder, I did not request.

Senator FAULKNER—The details of it?

Ms Halton—No, I did not request a folder.

Senator FAULKNER—So you were not aware that you were going to receive such a folder?

Ms Halton—No, but I was very grateful to receive it.

Senator FAULKNER—But you did not know you were getting it.

Ms Halton—No, I did not.

Senator FAULKNER—It was a bit late to get it at 8 o'clock last night anyway, I would imagine. Did you have a chance to read it?

Ms Halton—Not all of it.

Senator FAULKNER—But some of it.

Ms Halton—Some of it.

Senator FAULKNER—So obviously there was at least a suggestion from some in Prime Minister and Cabinet that a member of the committee might ask you about such matters, even if you were not expecting it.

Ms Halton—You could read that into it, Senator.

Senator FAULKNER—Yes, I could, and you brought the folder along.

Ms Halton—I did.

Senator FAULKNER—That was most prescient on your part.

Ms Halton—It was.

Proceedings suspended from 11.01 a.m. to 11.21 a.m.

CHAIR—Order! The committee will resume.

Senator FAULKNER—Ms Halton, I will very briefly recap where we were at a little earlier in relation to the meeting of 7 October, in the evening. A view has been expressed by Group Captain Walker which, as you are aware, we have canvassed before the committee. Both you and Ms Edwards have given evidence about this particular matter. To encapsulate, in a nutshell, you made the point that Group Captain Walker was at the meeting on the evening of 7 October for only a comparatively short period of time.

Ms Halton—No, that is not the point I made. I said to you that he was not there for all of the meeting. He was there at the start of the meeting, and he left some 20 or 25 minutes before the end of the meeting when the Defence material was finished. He was there for the majority of the meeting.

Senator FAULKNER—Were you making the point that he had cited the draft report to the Prime Minister?

Ms Halton—Yes, that is right.

Senator FAULKNER—How would you describe his response to it?

Ms Halton—The first part of the meeting was housekeeping. The conversation that we have just had with Senator Collins was about the three different versions of what is clearly the same conversation that occurred in the housekeeping part of the discussion when Air Vice Marshal Titheridge arrived at the meeting. From my memory, we had either just commenced or not commenced working through that paper. Group Captain Walker went outside the room with him—my understanding was that it was to give him an update, a quick canter through or whatever; no-one was there other than them—and then we proceeded. My memory is that we had not started the paper when Air Vice Marshal Titheridge arrived. Maybe that is not right—maybe we had it on the table and we were just about to start—but it is of that order. As I think we have canvassed extensively, we then went through the paper line by line.

Senator FAULKNER—Would Air Vice Marshal Titheridge have had a copy of the draft?

Ms Halton—There were copies for everyone in the room.

Senator FAULKNER—In other words, Air Vice Marshal Titheridge would have had a copy of the draft?

Ms Halton—Absolutely. There were sufficient copies for every single person in that room. We provided a copy for everyone. We numbered them because they were sensitive issues. We then took them back when everyone had finished the editing process. One of my officers wrote down the edits from around the table. I think I have indicated to you that, in some cases, departments rewrote whole slabs of text—they did not agree with the option, we discussed it and what have you. This was a combined effort of all of the departments. There was no single author, as we have canvassed previously. Those edits were handed to my assistant, who had the document up on the word processing system. As I think we discussed, the chopping block was something I had dictated earlier in the day. She then made those edits. That occurred progressively through the meeting.

The document ultimately came back for one last read. My memory is that Group Captain Walker had left by that point. My memory is that he stayed for the period when all the Defence material and issues that were material to Defence were dealt with but that when that material had been completed and all the edits had been agreed he left. Air Vice Marshal Titheridge was there until the completion of the meeting. And, as I think I said to you when I last appeared, that was something we had confirmed on the security tapes that Prime Minister and Cabinet held.

Senator FAULKNER—But you are satisfied that Air Vice Marshal Titheridge—the relevant Defence officer at this point—did not demur from the content of the final document?

Ms Halton—There was no point at which that final document—and, indeed, any final document that we put through—was disputed. The essence of this whole operation was to have agreement amongst the agencies about the text and about the advice. I think we have canvassed previously that it was not an occasion when we inserted ourselves in the line of command with agencies or in Operation Relex or whatever else and, where there was combined advice required on something, that was always discussed and the material was always agreed.

Senator FAULKNER—And you are satisfied that Air Vice Marshal Titheridge was aware of the content of the final document?

Ms Halton—Absolutely. Categorically.

Senator FAULKNER—How do you explain Air Vice Marshal Titheridge's answer to question on notice No. 49? The question stated:

On the evening of 7 October the People Smuggling Task Force developed a paper for the Prime Minister to provide an update and options for handling SIEV4. How closely involved were you in developing that options paper?

This is Air Vice Marshal Titheridge's response:

I believe the reference to the report in the question should have been the one on unauthorised boat arrivals, not on SIEV4.

I think that is a fair qualification, isn't it? It was not only dealing with SIEV4.

Ms Halton—It was not dealing with SIEV4, no.

Senator FAULKNER—Then Air Vice Marshal Titheridge goes on:

I was one of the team that provided oral advice for a draft paper on broad handling strategies for unauthorised arrivals. I was not given a copy of the draft. I did not see elements of the final document until it was released by Ms Bryant.

Ms Halton—That is not correct.

Senator FAULKNER—Are you saying that Air Vice Marshal Titheridge is responding untruthfully to a question on notice?

Ms Halton—No, and let us not revisit the interchange with Senator Collins earlier.

Senator FAULKNER—I do not want to revisit it either, Ms Halton.

Ms Halton—There were a number of occasions on which papers were prepared. Air Vice Marshal Titheridge has not had the benefit, as I have, of being able to scrutinise the security logs of Prime Minister and Cabinet of when people came and went or of the IT records of when documents were edited and when they were sent. I can assure you that Air Vice Marshal Titheridge was in the building. My handwritten notes, which I prepared for when I came last time, were that—and the chronology goes—the meeting convened at about 5.30 in the afternoon. You had taken evidence from Mr Doyle that he did not recall the paper. Again, that is not consistent with the factual—

Senator FAULKNER—Yes, but—

Ms Halton—Let me go through my chronology, because I think that it is relevant.

Senator FAULKNER—I think we have to be reasonable about this, because we do not have a huge amount of time. I am trying to focus on the clear conflict in evidence between you and Air Vice Marshal Titheridge.

Ms Halton—And I am saying to you that I have got a complete list of who came and went from the building and when. I have a list of when the document was edited and when it was sent

out of the building. The document did not change after people had left the building. People left the building at 19.52, including Air Vice Marshal Titheridge. The paper was completed and was edited. It is true that nobody was given a copy of the document to take away—that was standard practice. These materials were considered sensitive, and agencies were not given copies of the document. But the document was edited whilst Air Vice Marshal Titheridge was there in the room. That is the memory of the officers from Prime Minister and Cabinet who came in and out of the room taking the edits away, and it is consistent with the security camera details from the department and the times at which the document was edited.

Senator FAULKNER—So you accept there is quite a serious conflict of evidence between what Air Vice Marshal Titheridge tells this committee and what you say, not to mention the conflict between what Ms Edwards says and what you say, not to mention the conflict between what Group Captain Walker says and what you say. But let us just concentrate on the air vice marshal. Do you accept there is a clear conflict of evidence between you and Air Vice Marshal Titheridge on this very important point?

Ms Halton—As you have read that evidence, yes, there is. I am saying to you that, based on the documentary evidence and the memories of people from Prime Minister and Cabinet, according to our records, he was in the building and, according to our memories, he was in that room. According to my memory and the memories of my assistant and a number of other people, that document was physically on the table with copies for everyone in that room. It was edited line by line, consistent with what I told you last time, and it is consistent with the security camera evidence that everyone left the building at the same time after that document had been finished.

Senator FAULKNER—You now sound a little more prepared perhaps than you suggested a little earlier, when you thought that our questions might go to SIEVX. I am very impressed that you are armed with security and IT records, as you suggested to the committee that you were unprepared to answer questions about these matters.

Ms Halton—You are trying to impugn something there.

Senator FAULKNER—No. I am merely saying how impressed I am.

Senator BRANDIS—Senator Faulkner is just jealous because you are so much smarter than he is.

Senator FAULKNER—Absolutely.

Ms Halton—I would not be so bold. I brought with me the material I had prepared for our last discussion, which includes my handwritten chronology of exactly what happened and when over the periods of days which went to this issue. So I am reading from my handwritten chronology.

Senator FAULKNER—Whatever the IT records show or whatever the security camera tapes show, Air Vice Marshal Titheridge says that he did not see or approve the document. That is the key point.

Ms Halton—You would have to ask him about that, not me.

Senator FAULKNER—I have. We have asked him a question on notice and categorically he has responded the way I have said. He said:

I was one of the team that provided oral advice for a draft paper on broad handling strategies for unauthorised arrivals. I was not given a copy of the draft. I did not see elements of the final document until it was released by Ms Bryant.

That is categorically different from what you have told us. Who are we to believe?

Ms Halton—Senator, if necessary, I presume you could look at the security camera footage yourself.

Senator FAULKNER—No. That does not tell me about this document.

Ms Halton—The document was edited by the entire group, and all of the evidence that we have is consistent with that.

Senator FAULKNER—Who are we to believe—you or the air vice marshal?

Ms Halton—I have to say that I would have thought my answer on that would be self-evident.

Senator FAULKNER—Who are we to believe—you or Ms Edwards?

Ms Halton—To my mind the conversation we have had about Ms Edwards in terms of our memories of particular things shows they are not inconsistent. You have not yet shown me the particular text to which you refer, and I would not want to make any more comment. But, in terms of what you have said to me, I do not believe that our memory is inconsistent or what we have said is inconsistent. You assert that it is. Clearly, in this particular case, you are right. There is an inconsistency. My view, backed up by the documentary evidence held in Prime Minister and Cabinet and the memories of the officers of Prime Minister and Cabinet, is that without doubt this document was edited line by line and that Air Vice Marshal Titheridge was at the table when this happened.

Senator FAULKNER—Who are we to believe—you or Group Captain Walker?

Ms Halton—Group Captain Walker has made a particular comment. Whether or not that is accurate, I have told you my memory of what happened on that particular day. You can choose to assess that in whatever way you wish. However, it does not go to the facts to which I am now pointing you as to how this document was edited and who cleared it.

Senator FAULKNER—After your appearance at the committee on the previous occasion you were here, I think you had a discussion with Ms Edwards about your evidence.

Ms Halton—I think we had a couple of conversations, one of which may have gone to that.

Senator FAULKNER—Can you explain to the committee what you did discuss with Ms Edwards about your evidence before the committee?

Ms Halton—I am aware from last night's reading that there is a statement in relation to that issue in her answers to questions on notice. I think we discussed our different memories of the afternoon of the 10th, which went to the issue of who told us at what point where particular information came from and the handling, as you are aware, of the chronology. I have told you, and I told you this last time, that, in terms of the chronology, I am absolutely certain that Katrina walked into my office part way through a phone call I had received from former Minister Reith. I should say that her memory here is incorrect, because she said to you that I was in Melbourne. I was not; I was in Sydney. So her memory is clearly fallible as well, Senator. As you know, I walked back into the office at a quarter to five, according to the evidence I have from a Cabcharge receipt; that is consistent with the security information. As I walked in, I received a phone call from Minister Reith. I was not in the habit of receiving phone calls from Minister Reith. My memory is that he wanted to quiz me about when we could unload the *Adelaide*. From memory, the *Adelaide* was sitting off Christmas Island with people on board and he was keen to have his ship back—I am never sure whether you should say ship or boat; I always get that wrong.

Halfway through that conversation, Ms Edwards walked in. I can remember her walking in and standing at the top left-hand corner of my desk with a bundle of papers in her arms. In the course of the conversation—which I recall was testy, because he wanted those people off that boat/ship and I was unable to give him any immediate comfort as to where they were going to be accommodated—he passed on to me, and I said this to you last time, that there was a video and that he had just told the media that there was a video of this incident. I think, as I have said to you, this was something to which I reacted. I was not aware of it; in fact, I was quite surprised by it. Ms Edwards and I then had a brief conversation in which I said to her, 'He's just told me there's a video; do you know anything about that?' To which she said, 'No.'

I think this is very similar to the conversation we just had about the reference point she had for a conversation and the reference point I have for a conversation. So, as to your question about sit rep 59 and my recollection of it being about shots at boats, we both agree there was a conversation. The starting points we both had for those conversations were different. That is probably not surprising, given that we were doing different things. In this particular case I had just had a discussion with Minister Reith in which he told me something about which I was not aware.

I think it is very likely—because it was either in this conversation or in the next conversation that I was also told that there were photos, but I cannot be completely categorical because it was the video bit that really stuck in my mind—she came into my office part way through this conversation and said to me that they were having trouble pinning down the detail. I said about the video, 'Do you know anything about that?' She said, 'No.' I then made a series of calls—I gave this in evidence last time—to Hendy and to Titheridge. Remembering that this was at 16.45, the meeting convened at 5 o'clock, and I should say here that the minutes are wrong. The minutes say that the meeting convened at six. Again, I have gone back to the security cameras, and my notes are that the meeting convened at five. We have checked that with the security cameras: when people came in, the meeting did convene at five. It is absolutely the case that Ms Edwards said to me in that conversation that there was some confusion about the detail. She

said to you that she read me the footnote and she gave me the chronology. As I have said to you, I had not seen that chronology, and I did not see it until it was shown to me by Matt Healey as part of the investigation. In fact, I was very surprised when I saw it.

Was I given a copy? Again, I have gone back through my records. If I have a piece of paper in my office, it goes out and it is marked out of my office. I have a complete record of every piece of paper coming in and going out. That has always been my practice, and it is my practice now in my new position. There is no record of it coming in—and in this case it might not have, because she said she handed it to me—but, more importantly, it did not go out. However, the reason I did not make an issue of this when I made my opening statement last time is that the essence of what she said, that they were having a bit of trouble pinning down the detail, is not inconsistent with my memory. We both agree that we discovered the existence of the video, the photos and the witness statements in this series of phone calls. We both agree that there was a 15-minute period between when I walked in and when we went to this meeting and that, of that 15 minutes, a good eight or nine minutes were spent on the telephone. We both agree that we ascertained the facts as best we knew them—and we canvassed this a little bit earlier when you asked about the talking points—that we documented them as best we could, that we tabled them in that evening meeting and that they were not demurred from by the agencies there, including Defence.

I understand the point you are trying to make about the footnotes and about doubt but, as far as I am concerned—and my understanding is that this is consistent with her evidence—she did not have a doubt and I did not have a doubt: we had not been led to believe that there was a doubt. Yes, we have an inconsistent memory. We are both very aware that that is something that will sit as an inconsistency in our evidence. The point was just made to me by someone during the tea-break that, if we all had completely consistent memories of every single thing that happened here, you would rightly think we had all sat and discussed exactly what it was that happened at the particular time. That is not the case. We have memories. I think it is completely understandable where mine started and where hers started and what was common about those memories.

Senator FAULKNER—Thank you. I was asking about the discussions with Ms Edwards about differing recollections. Ms Edwards in an answer to a question on notice said that you and she had had a discussion at the Department of the Prime Minister and Cabinet in December last year while Ms Bryant was preparing her report. Do you recall that discussion with Ms Edwards?

Ms Halton—Can you tell me which question number that is?

Senator FAULKNER—It is Ms Edwards's answer to question on notice No. 24. I can read it to you if you would like.

Ms Halton—No, I have it in front of me by dint of my folder from last night. Which paragraph are you reading from, Senator?

Senator FAULKNER—The first one; it says in part:

Ms Halton and I initially discussed our differing recollections ... in December 2001 ...

Ms Halton—That is right. That was about who first told us about the photos and the principal point of a couple of those phone calls. Her memory had been about the photos; my memory had been about the video. I have not read it for a very long time—since I last came to this committee—but my memory is that she had remembered the phone calls as being about photos, whereas I am absolutely certain that the photos were a by-product of those phone calls. The phone calls were not about the photos; the phone calls were to ascertain whether there was a video—because Minister Reith had just said to me that he had just told the press that there was a video.

Senator FAULKNER—Was your discussion at that time about the content of the Bryant report?

Ms Halton—No.

Senator FAULKNER—Did you initiate the discussion with Ms Edwards?

Ms Halton—I do not believe so. We both gave witness statements independently. I was in Sydney when I gave mine; I do not know where she was when she gave hers. I think after those witness statements had been completed, somebody—and I cannot tell you who it was—drew to our attention that we had different recollections of this and at some point we canvassed that in passing.

Senator FAULKNER—But you had a number of meetings and phone calls with Ms Edwards about differing recollections. That is true, isn't it? There was the one in December and then there were a range of others.

Ms Halton—I would not say 'range'. There were probably two or three where, in the course of other discussions, the fact that we had a different memory of things—and, again, I do not think that is surprising—would have come up.

Senator FAULKNER—But you did ring Ms Edwards on Saturday, 16 February this year in relation to media reports in the *Sydney Morning Herald*. That was your initiative, wasn't it?

Ms Halton—I think that was a conversation about trying to work out where something had come from.

Senator FAULKNER—Could you tell me what the background to that particular conversation was? You take the initiative there.

Ms Halton—I think my question to her was, 'Do you know what it was a reference to?' There are a number of things that have appeared in the press, and I have not been reading all of them; in fact, I actively stopped reading them.

Senator FAULKNER—But you would not ordinarily ring a senior officer in the Department of the Prime Minister and Cabinet on a Saturday morning about something in the press, would you?

Ms Halton—When you work with people very closely, often you ring them and chat about things. I have no doubt you have occasion sometimes to ring your Senate colleagues over the weekend.

Senator FAULKNER—Yes, I do—but it is not normally about conflicting evidence at Senate committees.

Ms Halton—This was not about conflicting evidence. Can you tell me which paragraph you are referring to?

Senator FAULKNER—It is in the second paragraph of the same question.

Ms Halton—Of 24?

Senator FAULKNER—Yes. Mr Allard of the *Sydney Morning Herald* wrote:

Government sources say one of the key players in the affair, Jane Halton, the former executive co-ordinator in the Department of Prime Minister and Cabinet, will tell the Senate inquiry she never saw the chronology.

Sources say the document was received only by a junior officer in the department whose senior officer was first assistant secretary Katrina Edwards.

It is understood Ms Halton will claim the chronology—received at noon on October 10, the same day the former minister for defence Peter Reith released photos of children in the water to back up the false assertions—was later ignored as her staff undertook other tasks.

According to Ms Edwards, it was on that day that you rang her about that article.

Ms Halton—I remember the piece and I remember ringing her and saying, ‘Have you seen this? Do you know where it has come from?’

Senator FAULKNER—Were you able to shed any light on it?

Ms Halton—No, I think both of us agreed that we did not know.

Senator FAULKNER—Then, of course, you also rang on 18 February.

Ms Halton—On 18 February?

Senator FAULKNER—According to Ms Edwards, that is the case. She says:

On the following Monday, February 18, Ms Halton rang to advise me that she had learnt that she had been in Melbourne in meetings that day until late afternoon, and had been uncontactable, and felt that this explained the discrepancy in timing.

That is a point that you made a little earlier.

Ms Halton—That may well be the case; I do not have any particular recollection of it.

Senator FAULKNER—Ms Edwards goes on to say:

I have spoken to Ms Halton socially on a few occasions over the last few months, and may have peripherally canvassed some of these issues, although certainly not in any depth.

Ms Halton—And that is quite consistent with what I just told you.

Senator FAULKNER—Then she goes on to say:

We also met at PM&C one Sunday afternoon to access records in preparation for these hearings.

Do you know which Sunday afternoon that was?

Ms Halton—No, I do not.

Senator FAULKNER—But you keep such meticulous records; you should be able to assist us with that.

Ms Halton—I am sure I could go back and precisely tell you. I will take it on notice. You will appreciate that neither Ms Edwards nor I are now officers of the Department of the Prime Minister and Cabinet. In terms of going back and looking at the documentary evidence, we have had to do that out of hours and we have had to ask officers of the Department of the Prime Minister and Cabinet—

Senator FAULKNER—When you went to the Department of the Prime Minister and Cabinet, were you still an officer? You would not have been an officer of the Department of the Prime Minister and Cabinet.

Ms Halton—That is right—and neither was Ms Edwards.

Senator FAULKNER—Everyone involved in this has left the department.

Ms Halton—That is not uncommon, given the turnover in the Department of the Prime Minister and Cabinet. I have noted your comments in respect of this issue, but if you look at the mobility in that department you will see that this is not unusual.

Senator Cook interjecting—

Ms Halton—I do not think that would be uncommon either, given the two-year rotation in Defence.

Senator FAULKNER—I do not know how usual or unusual it is—I cannot make any comment. I am merely noting that nearly everyone involved has gone to another department.

Ms Halton—And I am noting that that is not unusual.

Senator FAULKNER—In fact, it is very handy. So you cannot tell us which Sunday afternoon this was?

Ms Halton—In preparing myself today—as you know, I got this folder last night—I have not been in a position to confirm when that would have been. As I started to say, in terms of

reaccessing material, we have had to go back in out of hours. That has required officers of the Department of the Prime Minister and Cabinet to be available and, in terms of efficiency, doing it at the same time, seemed the most sensible thing to do, in terms of prudence and economy.

Senator FAULKNER—Why was it thought necessary to do it at all?

Ms Halton—Because one has to go back and look at the papers, and we do not hold any of these papers.

Senator FAULKNER—But this was both you and Ms Edwards.

Ms Halton—We were both on notice that we were going to have to appear as witnesses and we were going to have to make comments about a series of things.

Senator FAULKNER—Who took the initiative to organise this meeting at PM&C on a Sunday afternoon?

Ms Halton—I wrote to Max Moore-Wilton asking him that I be allowed access to records held in the Department of the Prime Minister and Cabinet so that I could reacquaint myself with the material prior to giving evidence so that I could assure myself that my memories in certain areas were accurate and that I had reviewed written material that was relevant. That material is held, as you know, by the Department of the Prime Minister and Cabinet. It was therefore necessary to go to the Department of the Prime Minister and Cabinet to examine the material. That request was agreed by Mr Moore-Wilton. That request was then passed to, I think, the Acting Executive Coordinator—that is from memory, but I would not want to be held to that point precisely—and I received a phone call asking when that would be convenient. As the time that I had available in work hours did not enable me to devote what would be a number of hours to reviewing emails, files and things of that sort, it was agreed that some of the officers from the Department of the Prime Minister and Cabinet would make themselves available on a weekend as a courtesy to enable this to occur.

Senator FAULKNER—But this was not just you; this was Ms Edwards as well. You had a meeting there with her.

Ms Halton—My understanding is that she had made a similar request and the Department of the Prime Minister and Cabinet had indicated to her that they were making records available to me. My understanding is—this might not be correct—that she thought it would be easier for them if they did not have to go in twice.

Senator FAULKNER—You took that initiative, but you did not take any initiative to meet with Ms Bryant in PM&C?

Ms Halton—I do not know where Ms Bryant has come from; I thought we were discussing Ms Edwards.

Senator FAULKNER—Sorry, I meant Ms Edwards.

Ms Halton—No; in fact, my memory of that particular day is saying what particular written material I would like to look at and sitting at a computer terminal, having had my email records regenerated so I could go through them.

Senator FAULKNER—Was Mr Webster there too?

Ms Halton—I think so.

Senator FAULKNER—It does say that Ms Bryant—whose name I mentioned before—was present that afternoon. Do you recall that?

Ms Halton—She may well have been. The thing about Prime Minister and Cabinet is that they tend to be there seven days a week. There were a number of people in the building that day. My memory is that probably three out of the four SES in that division were there doing other business.

Senator FAULKNER—This is what Ms Edwards says: ‘We also met at PM&C one Sunday afternoon.’ The date is not provided. It would not have been 10 March, would it?

Ms Halton—I do not understand the significance of 10 March.

Senator FAULKNER—That is the same time when Mr Hammer was trying to have a meeting at his home with other officers. It would not have been 10 March.

Ms Halton—I do not know when it was, Senator. I have said to you that I will take it on notice, and I am very happy to provide you that on notice. I think I should make the point, as you are trying to make a conjunction between those two events, that I was at no time aware of what Mr Hammer was doing or, indeed, any of that matter. So if he was or he was not meeting on a day the same as or similar to, I was not aware of it. But I will get you the date on notice.

Senator FAULKNER—So Mr Moore-Wilton did not take any initiative here to suggest you get together?

Ms Halton—No.

Senator FAULKNER—This was your initiative.

Ms Halton—No; please do not put words in mouth, Senator.

Senator FAULKNER—You said you wrote to Mr Moore-Wilton.

Ms Halton—I wrote to him not to get together. Those were your words. You conjuncted them, that it was my initiative to get together, and I think that is unreasonable. What I said to you was that I took the initiative to write to seek access to the written material so I could refresh my memory.

Senator FAULKNER—And I am expected to believe that, by pure fluke, Ms Edwards is there, along with Ms Bryant and Mr Webster, and there is a meeting which Ms Edwards described as:

My recollection is that the conversation mainly consisted of drawing each other's attention to key documents, checking records and recollections of factual events (such as who attended relevant meetings). Ms Bryant was present that afternoon (although not necessarily in the room for all of the conversation), as was Mr David Webster.

And I am supposed to accept that this is just some sort of chance encounter.

Ms Halton—No, Senator, and I frankly take great offence at what you are implying.

Senator FAULKNER—I am not implying anything at the moment—

Ms Halton—You are implying something, Senator.

Senator FAULKNER—What I am doing, Ms Halton, is trying to ask questions.

Ms Halton—Senator, you are implying that there is something unusual in seeking, when you are no longer the officer of a department, to reacquaint yourself with the documentary evidence. As I have explained to you, two of the people from whom you have taken extensive evidence are no longer officers and had sought agreement, which was granted, to revisit the written material in order to refresh their memories and to look at their own email traffic—which, by definition, occurs in different rooms, because there is not a series of terminals in one room.

Senator FAULKNER—And drawing each other's attention to key documents.

Ms Halton—I think that is a perfectly reasonable characterisation, because at the end of the day people were trying to make sure—just as I was trying to make sure that I had seen all of the relevant documents—that they had seen all the relevant documents. As I have pointed out to you, Senator, if there had been an extensive discussion about all of the details of this, the reality is that we would actually have exactly the same memory of it. We do not. And that is my point to you. What we have done is gone back and looked at the written records, and I cannot speak for others. What I know is that I, having asked for access, went to those written documents to look at them again, to look at the chronologies, and then asked a series of questions. So, for example, I asked the question, which officers from the Department of the Prime Minister and Cabinet then answered, about what time people came into meetings, to check my memories of things. So, for example, that question we have just canvassed extensively about when Air Vice Marshal Titheridge came and went on the 7th: that is precisely the kind of question I anticipated, and it is precisely what I asked following that discussion.

Senator FAULKNER—But, anyway, this took place before you gave evidence at this committee on 17 April this year.

Ms Halton—I believe that to be the case—which, by definition, therefore, and I think you may well be right—

Senator FAULKNER—I am sorry; the 16th of April is when you gave evidence.

Ms Halton—Yes. And, as I said to you, by definition it was preparation in terms of looking again at the documents so that I would be able to reconstruct my precise details of when I came and went, where I was on particular days, what I did on particular days, who did what, and who also happened to be in the room.

Senator FAULKNER—If this was an attempt to reconcile different views, attitudes and recollections, it was not very successful, was it?

Ms Halton—It was not an attempt to do that, Senator. You keep trying to say that it was, and it was not.

Senator FAULKNER—After you appeared before this committee on 16 April, Ms Edwards had a further discussion with you the next day. I think that is right, isn't it?

Ms Halton—Either then or in the immediate vicinity.

Senator FAULKNER—According to Ms Edwards, it was 17 April—the day after you gave evidence before this committee.

Ms Halton—I cannot tell you precisely, but I think that is consistent with my memory. We had a conversation soon after I gave evidence.

Senator FAULKNER—Ms Edwards said:

The day following Ms Halton's evidence at this Inquiry (ie April 17) she rang me and said that she felt she had not handled the questions around our differing recollections well initially, but had ultimately dealt with the issue.

Did you say that to her?

Ms Halton—I actually think we had a conversation about how unpleasant the experience had been, and I think—

Senator FAULKNER—You should try being here all the time, like the rest of us.

Ms Halton—That is why I am not a senator, Senator. I think we had a conversation that went to, as I said, the fact that it was unpleasant. I think, from memory, I said to her that our different memory was something which had come up but possibly not in the detail. Again, my memory is not inconsistent with that. I do not know that I would have put it in quite those words.

Senator FAULKNER—I think this is important.

Ms Halton—Why is it important, Senator?

Senator FAULKNER—In my view it is important. I cannot speak on behalf of the committee, so let me just say that I think it is important to understand if you contacted Ms Edwards—both of you now having given evidence to this inquiry—and indicated to her in relation to your evidence that you felt that you had not handled questions around differing recollections well. I think that is significant. You asked me the question; fair enough; I will

answer it. We have been dealing now for a couple of hours with differing recollections, inconsistency of evidence, and conflict between witnesses here at the committee. That is why I think it is important.

Ms Halton—Okay, that is a fair comment. My answers to you today go to the different sources of what might have been at the back of a conversation two people have had, the details of that conversation not being inconsistent but coming from different starting places. I did not say that last time. I may well have reflected on that point to Ms Edwards, and I think it goes to a couple of the conversations we have already had here today, one of which was about sit rep 59 and the other of which is about the chronology. I suppose my point is that I do not think that the details, the real import of a couple of particular conversations, are particularly different between us. I think the starting point of those conversations may well be different, and I think that is perfectly understandable. Last time, as you will appreciate, it was not for me to say at that particular point, ‘I think you will find other witnesses have different memories of this.’ That was something you had to deal with yourself in good time. Maybe I should have said to other people, ‘I think I have a different memory of this,’ but I do not think it was my place to so do. In terms of what I have said to you today about what may have been at the base of some of those different memories, I am trying to explain to you my understanding of why that might be the case.

Senator FAULKNER—Was your conversation with Ms Edwards on 17 April a particularly tense one?

Ms Halton—No.

Senator FAULKNER—Really?

Ms Halton—No, absolutely not.

Senator FAULKNER—So it ended quite amicably, did it?

Ms Halton—Certainly, from my perspective. And I have had conversations with her since which would not suggest that there is any particular personal rancour. We have a different memory of some things, but that does not mean that there is some fundamental problem.

Senator FAULKNER—I appreciate that there are glaring differences between your evidence and hers.

Ms Halton—I think to say ‘glaring differences’ is a question of your interpretation.

Senator FAULKNER—Yes, and I think I am trying to be reasonable. Some would go further, but I think ‘glaring differences’ is more than fair.

Ms Halton—In one case I would—

Senator FAULKNER—But I am surprised to hear that you believe this was an amicable conversation.

Ms Halton—As I say, I think the essence of the conversation was that this was not a particularly pleasant experience. That was the root cause of the conversation.

Senator FAULKNER—In relation to the high level group on 30 August last year—

Ms Halton—Of the 30th?

Senator FAULKNER—Yes, the date was 30 August 2001.

Ms Halton—Yes.

Senator FAULKNER—I want to ask you about the minutes, if I could.

Ms Halton—Yes.

Senator FAULKNER—I do not want to get into the definitional issue of whether they are minutes or not. I think we both know what we are talking about.

Ms Halton—Yes, and I spoke to you last time about note taking.

Senator FAULKNER—Yes. There are three sets of notes or minutes of 30 August 2001. I think you can confirm that is the case. One is marked:

HIGH LEVEL GROUP—30 August 2001, 9 am and 2.30 pm

Ms Halton—Yes.

Senator FAULKNER—One is marked:

... 30 August 2001, 9 am and 2.30 pm

It is shorter.

Ms Halton—Yes.

Senator FAULKNER—And one is marked:

HIGH LEVEL GROUP—30 August 2001, 2.30 pm

I want to refer you to the first one.

Ms Halton—The 9 a.m. one, the first one?

Senator FAULKNER—The 9 a.m. and 2.30 p.m. one.

Ms Halton—The one with the attendance list at the top?

Senator FAULKNER—Yes, that is right. I want to ask you about that first dot point, if I could. It says:

Ags gave an update on the legal proceedings and advice on the status of the letter from those on board ...

Which legal proceedings does that refer to?

Ms Halton—Because, other than reading these notes, I genuinely have not looked at this, I would say to you that at this particular point my memory—but I have to go back and look at other records to confirm this—is that there had been advice from A-G's that legal proceedings were likely and about their likely nature. My memory is that they had received some sort of indication, via the legal fraternity, of cases that might be mounted. I do not think there was anything on foot at this point, but I could be corrected on that point; I think there were things on foot later.

Senator FAULKNER—Please take on notice for me—I could spend a lot of time on this and I do not want to get too bogged down on it—a question relating to what that dot point means, particularly in relation to legal proceedings and advice on the status of the letter from those on board.

Ms Halton—I suppose I would say to you that I do not know that I can answer that question. I cannot go to the Attorney's department; this is an issue that was raised by the Attorney's department. I can tell you what my memory of it is. I can see whether there is any other record in Prime Minister and Cabinet and, with their forbearance, I may or may not be able to answer that question. But it seems to me that this is a question that would be put more properly to A-G's.

Senator FAULKNER—I am asking you in your capacity as former chair of the task force, which I think is reasonable in the circumstances.

Ms Halton—I will give it my best endeavours. I will let you know if we are unable to—

Senator FAULKNER—If that leads to an inadequate response, perhaps I can go to A-G's. At the meeting they had two representatives who may or may not be able to assist me. I would appreciate it if you could take this on notice: I am interested in understanding the status of the legal proceedings. I am not going to legal advice and the like but trying to understand the status of legal proceedings. What were the legal proceedings on that particular date?

Ms Halton—That is the Thursday. My memory is that by the Thursday legal proceedings were not on foot but there were rumours of them. But we will take that on notice.

Senator FAULKNER—If that is the case, it is one of the reasons I would like to have this more fully explained. If you can provide me with some information about that and how that came to the task force's attention, I would appreciate it.

Ms Halton—Clearly, that question is answered in the minutes or the notes, because this was a briefing from the Attorney-General's Department, from the officers concerned.

Senator FAULKNER—Thank you.

Senator JACINTA COLLINS—Ms Halton, when looking at that, could you please clarify the word ‘refouled’?

Ms Halton—Refouled?

Senator JACINTA COLLINS—I want to know what the definition of that word is.

Senator FAULKNER—I am aware that Senator Brandis wants to ask questions. I had cut away from what I was asking Ms Halton when Senator Collins commenced her questioning. I am just sensitive about the time. We have not even got to what Ms Halton prepared herself for, which of course was SIEVX.

Senator BRANDIS—Quite. If Senator Collins was moving to a new topic, I was going to ask a question arising from your questions, Senator Faulkner. But if you are not moving on then I will wait until you are finished, Senator Collins.

Senator JACINTA COLLINS—I do not think Ms Halton will be able to answer this question at present. While looking into matters specified by Senator Faulkner, I would ask her to explain the reference to ‘refouled’.

Ms Halton—‘Refouled’ is a technical term.

CHAIR—On the timing matter, at 12.30, which is our next break, we will have to make a decision about what the outlook for timing is. I know a number of us have made arrangements to leave at a later hour this day or tomorrow in anticipation of this running longer than we thought.

Ms Halton—I might also make the point that it was anticipated, according to the advice I got, that I would be here from 9.30 to 12.30. I am very happy to continue after lunch, if that is necessary, but there will come a point mid-afternoon when I will have to leave.

CHAIR—Let us hope we can get through this. We are all acutely mindful of the fact we have not got on to SIEVX yet.

Ms Halton—We will get you the technical definition of ‘refouled’. It is a term used in the international migration context. It is in relation to repatriating someone into an environment where they can actively fear persecution. But we will get you the precise definition. I am sure that Ms Gillard could tell you chapter and verse; but we will come back in writing.

Senator BRANDIS—My question is fairly generic. Senator Faulkner asked you a series of questions in relation to conversations, discussions and briefings you had with individuals and so on. Are you satisfied that all the conversations, discussions and briefings you had concerning the topics Senator Faulkner has explored with you over the last 20 or 30 minutes were consistent with PM&C guidelines and consistent with PM&C practice?

Ms Halton—Absolutely. There was nothing inconsistent and nothing improper.

Senator BRANDIS—Of course, I am not suggesting impropriety.

Ms Halton—Others were.

Senator BRANDIS—I am really putting it on a slightly higher level than that: not only was it not improper but, as I understand it, it was perfectly proper and foursquare within the PM&C guidelines.

Ms Halton—Yes.

Senator BRANDIS—Am I correct in that understanding?

Ms Halton—Yes, absolutely; and prudent preparation, correct.

Senator JACINTA COLLINS—Just before we get to the SIEVX issue and while we are on odds and sods issues associated with the minutes, you might be able to assist the committee with one other matter related to the minutes on 25 September about changes to AMSA procedures.

Ms Halton—On 25 September? Which point, Senator?

Senator JACINTA COLLINS—It is on the first page, the third from last and the last dot points. We have reference to a Coastwatch update on intelligence—‘currently doing an assessment of whether routes might change and require reworking of surveillance patterns, particularly once legislation is passed’. Then there is also a note of new AMSA procedures that would be trialled for a three-month period with a report back to the group as necessary. Can you explain for us what that relates to?

Ms Halton—Again, not having prepared this at all, there is an international convention that says that all communications with maritime safety bodies should be in English. My memory is that it was found, through the *Tampa* exercise, that whilst that might be the international standard to which everyone signed up, including the Indonesian authorities—BASARNAS being the relevant Indonesian authority—in practice there was often not anybody on the other end of a fax who actually spoke English. My memory is that AMSA decided that, notwithstanding the international convention to which we are a signatory, as are they, it would be prudent for them to start sending faxes in Indonesian as well as, I think, in English. That actually drew their attention—when there were occasions to draw their attention to things—in a language that they would immediately comprehend. That is my memory: they had found that people who spoke English were available intermittently and not all the time.

Senator JACINTA COLLINS—I would appreciate it if you would look further into that to see if there is some other aspect of that situation.

Ms Halton—I am sorry, I am just advised by my colleague that in fact Indonesia is not a signatory to SAR so it may well be that they decided they just needed to get on and do it in Indonesian. But the essence of my memory is that they were starting to fax them in Indonesian.

Senator JACINTA COLLINS—I was trying to understand whether that related to the move from Coastwatch away from the approach to Christmas Island.

Ms Halton—I do not think so. I think it had nothing to do with it.

Senator JACINTA COLLINS—When that move occurred, when and why did that occur?

Ms Halton—Coastwatch and Defence basically intersected operationally in relation to Operation Relex. This was not a matter that was ever dealt with in any detail by the committee other than peripherally. As we have canvassed extensively previously, we were not in the operational line. Operation Relex was an operation that was run by Defence under the instructions of the Minister for Defence. The operational intersection between them and Coastwatch was a matter for them. They made those decisions depending on the availability of aircraft and a series of other logistical issues, is my understanding. But our understanding on this would be very incomplete because we were not briefed on a day-by-day basis as to what the precise operational arrangements were between Coastwatch and Defence.

Senator JACINTA COLLINS—So if we are talking about, for instance, comments through the minutes about whether something had been sighted by surveillance, we should read interchangeably Coastwatch as meaning Coastwatch and/or Defence.

Ms Halton—Yes. Our understanding was that it was Coastwatch and/or Defence, as was appropriate—and it was for them to coordinate—depending on the availability of assets and a number of other things they were surveiling, and I think there is a reference in the minutes at one point to checking that a PC3 was still surveiling because there was some ambiguity in the report from the relevant officers at that particular meeting.

Senator JACINTA COLLINS—We will probably get to that later because that is a SIEVX issue.

Ms Halton—Yes, exactly. But in terms of the surveiling activity, that was a matter for Operation Relex, together with Coastwatch, which they organised.

Senator JACINTA COLLINS—So this comment here in the third last dot point that the routes may change requiring a reworking of surveillance patterns, particularly once legislation passed—can you explain what the issue was there?

Ms Halton—That is a different issue. That is a discussion about intelligence. In fact, I remember this because Mark Bonser produced very pretty maps with all sorts of coloured lines on them, ultimately, which showed what they thought were likely routes depending on size of boat, people smuggler et cetera. I would not want to go into too much more detail. That was their effective risk assessment of likely routes.

Senator JACINTA COLLINS—But what was the relevance of the legislation?

Ms Halton—In terms of excising particular islands, there was an assessment being made about whether larger vessels might go further afield and, if they did, which way they would go and whether there was a risk of that.

Senator JACINTA COLLINS—So there was an assessment as to whether the surveillance based on Christmas Island and Ashmore might not be adequate once they were excised and larger ships might attempt other destinations.

Ms Halton—No, essentially the surveillance of Christmas and Ashmore was a given. The question was what one did about the Torres Strait and the east coast. It was basically a risk assessment which, as I understand it, they prudently did on a regular basis, taking account of any new facts as they knew them.

Senator FAULKNER—Was there any report to the task force on disruption activities?

Ms Halton—There were a couple of reports. Some of them are referred to a little bit cryptically in here. I think you have already had evidence about the now famous T-shirts. So there were a couple of reports of that ilk.

Senator FAULKNER—What do you understand disruption activities to be?

Ms Halton—They were largely about provision of information to, for example, families who might have sailors who would crew these vessels towards Australia, making sure that they were aware of the penalties that might apply and about getting the assistance of Indonesian police to arrest people as they were heading towards vessels and that kind of thing.

Senator FAULKNER—What agencies provided reports on these activities to the task force?

Ms Halton—My memory is that the principal agency was the AFP, but with some corroboration. I think the corroboration on the T-shirts came from DFAT. I think they even came into one meeting with one.

Senator FAULKNER—Are you aware of any legal advice being sought at any stage by any agency about the nature of this disruption activity?

Ms Halton—No.

Senator FAULKNER—Are you aware of the reason for the breakdown in the protocol—the MOU—between the INP, the Indonesian National Police, and the AFP?

Ms Halton—No.

Senator FAULKNER—No background to that at all?

Ms Halton—No.

Senator FAULKNER—Was that ever reported to or spoken about at the task force?

Ms Halton—The only memory I have of a discussion about working relationships with the INP is in relation to where some of our officers were located. It is my memory that they had to be moved at one point. Then I know that there was a report that the Commissioner of the Australian Federal Police was going to visit Indonesia, but that was the extent of it.

Senator FAULKNER—Did the People Smuggling Task Force give any tasking at all on disruption activities in Indonesia?

Ms Halton—No.

Senator FAULKNER—That was outside your terms of reference or brief?

Ms Halton—Absolutely. Not only that, it goes back to the point I have made on several occasions about us not inserting ourselves in line structures. That was rightly a matter for other agencies. It was not germane to what we were principally doing, which was looking at people as they arrived on the edge of our contiguous zone and then either managing them in terms of accommodation or moving them off to processing centres or whatever.

Senator FAULKNER—On two occasions, to my knowledge—I could find only two—there was discussion of disruption at the task force. One was on 10 October, where in the minutes these words appeared:

Discussion of the ‘architecture’—disruption, regional conference proposal, UNHCR positions

Are you able to tell us a little more about what ‘disruption’ meant in that context?

Ms Halton—My memory of this is that there was to be a conference—and I think it subsequently occurred—which would look at the whole question of people-smuggling, and I think there was some discussion about other sorts of transnational crime. My memory is that this was part of that updating of where we were at in terms of getting an agreement to have a regional conference.

Senator FAULKNER—It also appears on 12 October 2001 with the ‘discussion of disruption activity and scope for beefing up’. Do you know what ‘scope for beefing up’ meant?

Ms Halton—Again, this would have been one of only a very few conversations on this issue. As for whether or not the information was being transmitted effectively, I do not want to say that there was a T-shirt discussion here—I do not know that there was—but it was of that ilk. That is my memory.

Senator FAULKNER—Did it go to resources for beefing up?

Ms Halton—I do not think so, no. You have to remember that there were resources provided for this in the previous budget. Again, I think we canvassed last time the additional resources that have been allocated to this broad suite of issues.

Senator FAULKNER—Maybe it is fair enough, but you do not seem to have a real conceptual understanding of what this disruption activity might be.

Ms Halton—No. The essence of the disruption activity was not, as I have just said, canvassed in this forum in any kind of detail. It was as peripheral colour and movement on a couple of occasions, as a rhetorical question about whether people were doing their jobs as assigned elsewhere. There was the notion of an international conference and the notion of whether the information that was being provided through fishing villages to families about likely penalties for people-smuggling was being delivered.

Senator FAULKNER—But was beefing up disruption activities an actual decision of the task force? I suppose that is what I am trying to understand.

Ms Halton—As we have canvassed extensively, the task force did not take decisions. The fact that issues were sometimes discussed amongst the agencies was for people's information. There were, as you know, sometimes products from these meetings which went to people for decisions. I think this does say quite clearly 'update/discussion'. The fact that there was some discussion about this issue does not constitute any kind of a decision. As I have just said, issues around disruption were not within the purview of this committee.

Senator FAULKNER—Do you have an understanding of who carried out these disruption activities?

Ms Halton—Not in detail, no.

Senator FAULKNER—What information are you able to give us? I appreciate that you may not know this in detail, but what is your understanding?

Ms Halton—I do not know that I could say to you I had an understanding other than 'persons in Indonesia and elsewhere'.

Senator FAULKNER—But what sorts of persons?

Ms Halton—I do not have an understanding of that. It was not my business in this context to ask those detailed sorts of questions. There were people who attended these meetings who, put bluntly, would not have had the security clearance to be briefed on these sorts of matters. They were not canvassed in these meetings in detail.

Senator FAULKNER—The reports to the task force about this came from whom? Which particular agencies or individuals gave the reports?

Ms Halton—My memory is that the AFP did make some comment about this issue. My memory is also that DFAT did the show and tell with the T-shirts. I am probably sweeping into this notion of disruption the broader context of an information campaign, and that is possibly unfair to my DFAT colleagues, but that goes to the fact that this issue was not canvassed in anything even approximating detail.

Senator FAULKNER—Mr Moses and Mr Castles were pretty regular attenders at the task force, weren't they?

Ms Halton—Yes, they were.

Senator FAULKNER—Did they give any information to the task force about these sorts of activities?

Ms Halton—No, not in detail. It was not within the purview of the committee.

Senator JACINTA COLLINS—There is a further reference to the broader characterisation of disruption activities—you referred to information campaigns—on 23 October. In the second last dot point on the second page of the minutes under ‘Indonesia’ there is a reference to the information campaign moving well. Then a bit further down there is a dot point saying that DFAT was ‘to seek Rick Smith’s views on making of assistance direct to embassy here’ and that ‘AFP should send resources if required’. Do you know what that was referring to?

Ms Halton—No, I cannot tell you.

Senator JACINTA COLLINS—Could you take it on notice to refresh your memory?

Ms Halton—Yes. Again, I cannot be sure that on this one we will have anything more, but we will look at it.

Senator JACINTA COLLINS—We are talking about assistance direct to, I presume, the Indonesian embassy in Australia?

Ms Halton—Yes.

Senator JACINTA COLLINS—And the AFP ‘sending resources’—I find it difficult to imagine what is being referred to there.

Ms Halton—It would probably have been some sort of briefing, but I will take that on notice.

Senator FAULKNER—Is it fair to say that, generally, the task force did have knowledge of the most up-to-date intelligence about potential boat arrivals?

Ms Halton—It depends on how you define ‘intelligence’. The task force had a broad idea of what boats may or may not have been out there, and when I say ‘out there’ I mean in the pipeline, not just physically on the water. At the task force meetings—again, I have said this previously—my standard practice was to go around the table, seeking updates, information that people wished to table and what have you. In so doing, relevant agencies were able to, and did, broadly anticipate what might be likely over the forthcoming period—

CHAIR—Sorry, I do not want to interrupt your answer, but I just want to ask a broader question. Please complete your answer.

Ms Halton—It is all right. I have lost my train of thought—off you go.

CHAIR—Is this an appropriate time? Maybe we should break for lunch.

Senator FAULKNER—I was expecting you to interrupt before this, Mr Chair.

CHAIR—I just thought I would squeeze in a bit more extra time. But that does indicate consent and, as there is no demur, we will now adjourn.

Proceedings suspended from 12.33 p.m. to 1.49 p.m.

CHAIR—Order! The committee will resume.

Ms Halton—Can I go back to one of the questions that was asked before the break?

CHAIR—Do you want to clear up some matters?

Ms Halton—A couple of things.

CHAIR—Yes, please do.

Ms Halton—Firstly, Senator Collins asked about the definition of ‘refoulement’. It comes from article 33 of the 1951 refugee convention. I will table the article afterwards. Under the heading ‘Prohibition of expulsion or return’, otherwise known as ‘refoulement’, article 33 states:

1. No Contracting State shall expel or return (“refouler”)—

as in a French verb—

a refugee in any manner whatsoever to the frontiers of territories where his life or freedom—

we note the generic gender reference—

would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

I am happy to table that. I should say that, in generic conversation with my DIMIA colleagues, they tend to shorthand this to having a well-founded fear of persecution. Someone might like to provide this to Senator Collins. On another issue, you made a comment at the outset that in my evidence last time I said about my saying in evidence last time about having heard things on the radio. My colleagues have located this. I think I said, at CMI 965, on 16 April that I did not become aware that it was in the public domain until very much later that night. I did have a transcript of the media stuff in relation to the shots—possibly you are confusing the two—but that is the reference that I can find to this particular issue.

CHAIR—I do not think I am confusing it. The issue I had in my mind—and thank you for drawing my attention to the *Hansard*—is that there was an ABC report that was broadcast about children being thrown overboard before your committee met that day. If you like, I can now ask you a question that might arise from that, which would resolve my line of questioning. Just to

give you the context, I am trying to work out how it would be that a news outlet could report such a thing in those circumstances, when the time lines are so tight. The only way it could happen, it would seem to me, is that someone along the line leaked the story to them. Did that story come from your committee or from you?

Ms Halton—No. On the assumption that you are right—that there was a news report prior to the 9 a.m. convening of that meeting—my evidence has been quite consistently that I became aware of that issue either immediately on the commencement of or immediately prior to. All our other corroboration now suggests it was in a phone call at 9.15 a.m. I was not aware of that issue. I think I also gave evidence last time that I did not communicate that issue to anyone other than in the discussion in that meeting, of which you are aware. I think I confirmed last time that my phone call to the Prime Minister's office on this issue was at 1532.

CHAIR—Let me be a little laborious about this. I understood you to say that you did not know of this story until at least 9.15 a.m. on 7 October.

Ms Halton—What I have said to you is that I am confident I first heard it from Air Vice Marshal Titheridge. Other sources suggest that his phone call to me was at nine. I think Katrina's record showed 9.15 a.m. His phone record showed 9.17 a.m., so that is consistent with my memory that it was at the beginning of that meeting. I think I said last time that I could not be quite confident whether it was immediately preceding the meeting or whether it was just as the meeting was convening, but we are talking here in the order of a 15- or 20-minute difference. In terms of any ABC report, I know from the security swipes that I walked into the building at 8.54 a.m. I would certainly not have heard a news bulletin on my way there. I live approximately a two-minute drive from that office.

CHAIR—And there would have been no news bulletin at all. Would that be that you heard no report—not of children being thrown overboard necessarily—of what turned out later to be SIEV4 arriving in the zone?

Ms Halton—I am not aware of there being things in the public domain prior to our being advised of it.

CHAIR—That is a blanket answer no, that you are not aware of the news bulletin either? You are confirming that.

Ms Halton—Mmm.

CHAIR—That 'mmm' is a yes?

Ms Halton—It is a yes.

Senator JACINTA COLLINS—Ms Halton, starting on the SIEVX issue, I think it is useful if we go back to the *Hansard* from the last occasion.

Ms Halton—Can you tell me what page, Senator?

Senator JACINTA COLLINS—In particular page 947, where you are responding to questions from Senator Bartlett. There are two references there. I take you to the second part of your comment in the middle of the page, the section starting with ‘Not necessarily’. You say:

It is fair to say that sometimes we had a vague knowledge that maybe somewhere something had left. But to say that we had categorical knowledge of individual vessels leaving a particular place at a particular time in a categorical way I think is to misstate the truth.

In response to the next question, the second part of your answer reads:

I have certainly read something in the newspapers in the last little while about our state of knowledge of particular vessels which, I have to say to you, from where I sat, is absolutely not correct.

Ms Halton—That is correct.

Senator JACINTA COLLINS—I am aware that in some of the reports it has been mis-suggested that you had denied knowledge—

Ms Halton—Which is not what I said here.

Senator JACINTA COLLINS—That is why I have come back to here. The way I read the first of those two comments, it is almost the two extremes of the situation. There is vague knowledge and there is categorical knowledge. My concern is that, now that we have had the opportunity to look at the People Smuggling Task Force notes, the truth of the matter seems to fit somewhere between the two.

Ms Halton—The point I was making here, and this is a very condensed point—

Senator JACINTA COLLINS—Which is why I have taken you back there so you can elaborate now.

Ms Halton—That is fine. We should probably talk, if it assists, in terms of the nature of the briefings that were provided about anticipated departures—one boat, two boats, several boats. I think I have said this on the record but certainly publicly on a number of occasions: for every time we were told that a boat was leaving, about to leave, had left, what have you, I would say probably one in 10 turned up. Maybe that is an exaggeration but it is of that order of magnitude. There were a lot of intelligence reports. Sometimes that was because the boat did not exist, sometimes that was because the boat had returned to Indonesia, sometimes the boat had stopped at several places along the way. We almost never had a clear understanding of exactly who was organising what, where it was and where it was up to.

I think the point I was making here is that there had been allegations made in the press that we categorically knew about the vessel that subsequently became known as SIEVX, that we absolutely knew it existed. We knew where it was and we knew when it had left and, therefore, there was the allegation made about dereliction in relation to not having gone and found it. The point I was attempting to make here, albeit a very concatenated version, was that that was never the case. In terms of our experience, sometimes vessels that people thought had left turned up. It may well be that in terms of the chain of information—accepting, if you will, that this is a bit like Chinese whispers—someone at the top end of the chain knew something categorically, but

it was not presented to us by the time we heard it, and we did not get great detailed catalogues in relation to all of this. These were not absolute facts, and our experience was very frequently that even things that people thought were a reasonable prospect did not eventuate.

Senator FAULKNER—Did you identify the vessels, Ms Halton? We know that when the Navy intercepted a vessel there was a numbered—

Ms Halton—Sequence, basically, the order that they turned up.

Senator FAULKNER—A numbered sequence of suspected illegal entry vessels. I wonder if you could assist us by informing us how at this much earlier stage the task force dealt with identification. In the case of SIEVX, we know that the people smuggler was Abu Qussey. Was it done by smuggler, by location or in some other way?

Ms Halton—Essentially that was not the task force's role. We started on that line of questioning before lunch. The intelligence agencies did tend to, I think, have a listing of them by smuggler. I have to say I would not think that nearly anybody, other than the people involved in the detail of intelligence, was cognisant of who the smugglers were. It was not germane to what we were doing. This goes back to the conversation we just had about disruption—

Senator FAULKNER—Yes, but it is mainly an identifier, if you like. I assumed it would mainly be by people smuggler, but I wanted to check that.

Ms Halton—And essentially I think that was their way of keeping track. Our principal interest was in relation to what might be turning up tomorrow and whether we were going to have a problem in terms of accommodation or other issues. So our interest was in what was imminent.

Senator FAULKNER—Did you try to identify the boats in any way so that you could keep tabs on this sort of thing yourself?

Ms Halton—No. There is one boat which got itself a rather unfortunate title, and I would be hard-pressed to find it in the minutes right now—

Senator FAULKNER—The poison pill boat.

Ms Halton—That is the one. Because there was a specific view about tactics that might be employed, it was one that was separately identified for precisely that reason. But the rest, no, I would not say that they were separately identified. Again, it goes back to those comments, that SIEVX as we now know it was explicitly identified by that group. It would have been part of the panoply of vague maybes, sometimes more likelies, in the suite of things that might turn up.

Senator FAULKNER—The task force was really updated through August, September and October about the activities of the people smuggler Abu Qussey, who in fact was the person responsible—

Ms Halton—No, regular updates on the activities of individuals were not a feature other than perhaps by way of peripheral relevance; in other words, the fact that there might be a particular person behind a particular series of activities. I think there was a discussion at one point about somebody giving up people smuggling, and there was a more robust discussion about that and that therefore meaning that anything he might have had in the pipeline was not likely to now emerge. I should add—otherwise I will mislead you—that there was also a discussion about one particular individual. Again, I think this is recorded in the contemporaneous notes. He was operating out of a different country other than Indonesia, and there was some traffic around that particular individual being in custody and working with the government of that particular country.

Senator FAULKNER—Just for the record, before we go back to Senator Collins, what were the tactics involved in the poison pill boat?

Ms Halton—I think as you would probably guess from the title.

Senator FAULKNER—As you would appreciate, Ms Halton, I try not to guess. It is better if you explain it to us.

Ms Halton—I think there was an expectation that the people concerned might be prepared to take drastic action if their requests to be taken to particular places were not realised.

Senator FAULKNER—Including the possibility of causing self-mutilation or possibly even taking their own lives, effectively.

Ms Halton—That was the suggestion. As it happened, that did not eventuate.

Senator BRANDIS—Was that name meant to be a literal description of what was feared? When you say ‘poison pill’, was there an apprehension that there might be some drug ingested by the asylum seekers?

Ms Halton—That was my understanding.

Senator BRANDIS—Was that ever verified subsequently?

Ms Halton—As I said, we never had a vessel that met that description and we never saw that behaviour. I think had we seen it that is probably what we would be discussing in a committee like this rather than the other issue.

Senator BRANDIS—Indeed. Perhaps you are not at liberty to disclose this, but what was the source of information that that tactic may have been at risk of being employed on the vessel?

Ms Halton—I think it would be not appropriate for me to say.

Senator BRANDIS—That is fine. I will not press it.

Ms Halton—Sufficient to say that people thought it was a genuine likelihood.

Senator JACINTA COLLINS—If these issues were peripheral to what the task force did, where were they managed from?

Ms Halton—You probably know, Senator, that there had been work done under the aegis of the Coastal Surveillance Task Force in mid-1999, which sought to more properly focus and coordinate intelligence work across agencies who were responsible in this particular area. My understanding is that joint work was done throughout this period between DIMIA, the AFP and Coastwatch.

Senator JACINTA COLLINS—Was that the genesis of the DIMIA-AFP strike force?

Ms Halton—I think its genesis is a little bit later, but it comes from the same original wellspring, if we can describe it that way.

Senator JACINTA COLLINS—Going back to your earlier comments about the nature of the intelligence coming to the task force, once these minutes became available—and I will come back to this page later; but I think this one clarifies the point best—the concern was that on 22 October, in relation to the mischaracterisation of SIEVX as SIEV8, there is the comment:

Not spotted yet, missing, grossly overloaded, no jetsam spotted, no reports from relatives.

Ms Halton—Yes.

Senator JACINTA COLLINS—There is not another SIEV throughout all of these minutes where that characterisation is ever reflected.

Ms Halton—And that reflects a particular conversation on that day.

Senator JACINTA COLLINS—But for this particular SIEV to then be characterised along with the rest as the subject of limited and non-categorical reports and for this statement to exist in the minutes—can I put to you at least on the public record—demonstrates a clash of concepts?

Ms Halton—I think we need to be clear that there was a general uncertainty about all of the reporting. Let us take that as the foundation. There were a couple of things that were unusual about this period. Firstly, there was the reporting about multiple boats, which was unusual. Secondly, there was a fair amount of accommodation pressure on Christmas Island. So there was a level of attention being paid in terms of what might happen and of managing the logistics if it did happen, which probably meant there was a greater level of discussion at this point than there was at another point. In terms of this particular issue being something of which we were more certain, you will see in the notes that there was multisource reporting. Some of the other vessels were single-source reports. In our experience, single-source reporting was less reliable than multisource reporting. Therefore, if you wanted to come down to a confidence interval about what was more likely than what was not likely, this one was more likely.

The conversation on the 22nd—and it goes to the things that are explained there—was actually a discussion about whether in fact this boat existed. Essentially, what that reflects—it goes back to the conversation about memories and what have you—

Senator JACINTA COLLINS—Just before you go on with that point, how can it be about whether the boat existed if the comment refers to it being ‘grossly overloaded’?

Ms Halton—That reflects what the DIMIA people, from memory, thought: whether or not it was on its way, as in on the water, heading towards Christmas Island. That was what they understood in terms of their intelligence, from whatever sources it came. The conversation went on and the ‘no jetsam’ and ‘no reports from relatives’ followed a conversation—I remember this because I was frankly a bit startled. What the DIMIA people advised was that they were now starting to think that the boat was not on the water. So to say that it did not exist—

Senator JACINTA COLLINS—Just before you go on, what time of day was this meeting? It is not on the minutes is why I ask.

Ms Halton—I would have to take that on notice. I have not got that with me.

Senator JACINTA COLLINS—3.15. Sorry, we know that from earlier evidence.

Ms Halton—The DIMIA people advised that, if a vessel had departed and had not arrived—that is, if some tragedy had befallen it—they tended to get phone calls from relatives, because the relatives in Australia knew that the vessel had left. They reported that they had not had any reporting. There was a report that no jetsam had been spotted. In fact, the conversation turned on whether in fact it existed, whether it had returned to Indonesia or what have you. My memory is that the balance of view at that point—we now know that, tragically, this was not the case—was that the vessel was not on the water.

Senator JACINTA COLLINS—Sorry?

Ms Halton—That it was not en route to Christmas Island. This was as a consequence of the DIMIA experience. This was a conversation to which, I have to say, we were largely observers, because this is not our technical area.

Senator JACINTA COLLINS—So who was involved in this conversation?

Ms Halton—Principally, it would have been the DIMIA people, who were talking about their experience of vessels leaving Indonesia and particularly vessels that were overdue, and principally, also, people from Coastwatch about what you tended to see in the event that a vessel foundered—that is, flotsam. So there was this dialogue about whether or not this vessel was actually en route.

Senator JACINTA COLLINS—Was there AFP participation in that conversation?

Ms Halton—From memory, the AFP were actually at that meeting. I do not particularly recall any active participation in that conversation. I actively recall this issue about no calls from relatives as being the kind of thing that they would use to assess whether in fact the vessel had foundered.

Senator JACINTA COLLINS—So your view, then, is that this discussion here reflected a view that this ship may not be en route to Christmas Island?

Ms Halton—Mmm. And there was a balancing, which I think is reflected in that item, because that item is reflecting, on the one hand, some information that was obviously available to DIMIA—and again, we know with hindsight that this was in fact accurate and that the vessel was overloaded. So on the one hand there was information that said, ‘We think there is a vessel. We can’t confirm it; we didn’t see it leave.’ It is back to categorical: no government person actively saw this thing and could say with categorical assurance, ‘It left from here with this many people on it.’ They did not know that; that was the import. But they balanced—

Senator JACINTA COLLINS—The other problem we have is that at this stage the two principal parties to the discussion that you are referring to were not aware of the AFP confirmation of the departure, which arrived on the 20th.

Ms Halton—I cannot say I am aware of that either, Senator.

Senator JACINTA COLLINS—It is in the intelligence summary that we have been provided with: the telephone conversation that went from the strike team to Defence confirming, through an additional source of intelligence, that the ship had in fact departed. I appreciate what you have said about not having had the opportunity or the time to peruse the *Hansard* of other evidence, but the evidence we had on the last occasion from DIMIA was that it was not until after the 22nd—sorry, it might have been on the 22nd—that they actually received the information that the AFP was confirming that a departure had occurred.

Senator FAULKNER—Ms Halton, don’t Defence, Coastwatch and the AFP know on the 20th that the boat has departed?

Ms Halton—I cannot comment on that, Senator, because I am not aware of this. I have my handwritten notes here. You are saying that in fact DIMIA are saying that they were not told until the 22nd. That was not something that was ever reported here, to my knowledge.

Senator FAULKNER—I said Defence, the AFP and Coastwatch knew on 20 October—

Ms Halton—I cannot comment on that, Senator, because I do not know.

Senator FAULKNER—which of course was a corroboration, effectively, that the vessel had left.

Ms Halton—That was not the advice that I received—or we received—in this context. As to what was transpiring between those agencies, I just cannot comment.

Senator JACINTA COLLINS—So this was not part of the advice that fed into the report, for instance, on 20 October, that the second boat was expected to arrive the next day?

Ms Halton—Yes, and again this goes to the balance of probabilities. If you read that particular sentence, it goes on: ‘if arrives, assessment to be made whether’. So we are planning

prudently for things that may or may not happen. There is a greater probability with things that are multisource—we just discussed that—but here we are still saying ‘if arrives’. There is no categorical assurance or understanding in our minds that it is absolutely on its way. It had not been spotted. The confirmation that we always relied on in terms of vessels was them actually being found by an aircraft. Our experience of however many SIEVs beforehand was that sometimes they got unnervingly close to Ashmore or to Christmas Island before they were actually spotted.

Senator FAULKNER—But let us just go back a step. Senator Collins is methodically working through some of the material that is available out of the task force notes or minutes—or about to methodically work through it. When, in your view, do the task force notes or minutes first record the existence of or reports of SIEVX? Maybe that is a better place to start.

Ms Halton—If we go back to the question you just asked me about whether we identified separate boats, I would have to say that you would be hard pressed in the task force concept to say we ever identified a particular boat at a particular time. So to say that that one was separately and categorically identified, I think, is very difficult. There is no doubt that we had reports of likely arrivals a week before this, but I will have to go back and have a look.

Senator FAULKNER—There is 18 October 2001. That seems to be a reasonable starting point to me.

Ms Halton—Yes, and I have a memory that, in fact, there was reporting prior to this. It goes back to that broad update that people do about a range of possibilities. It is not possible to say whether one of those vessels in the range of possibilities was categorically this vessel. On the balance of probabilities that is likely. From memory, when we reviewed this immediately after the event, there was a conversation that, when they actually looked back—and I think that this was advice that DIMIA gave—and tracked that particular vessel back from the time they had actually seen it, they had had reports of it leaving five or six times, but I do not think you can say that the task force was aware of ‘it’.

Senator FAULKNER—The whole role of the task force, as I understand it, in part, is to share information on these important issues, including boat departures from Indonesia.

Ms Halton—The role of the task force is not to sieve through intelligence. As I have already outlined, there was a separate arrangement which brought together the intelligence processes that had its origins in an earlier review of all of these exercises. The task force got, basically, a high-level summary of what might be in prospect in terms of the numbers of people that would need to be managed, rather than a kind of categorical catalogue of every single possibility, every single people smuggler et cetera. As I have said, this particular period was unusual because, with something other than the single-source reporting, there seemed to be more boats in the ether and with a significant number of people. The task force was very focused on the accommodation issues and particularly on how, if that number of people turned up, they would actually be accommodated. If you look at the contemporaneous notes, there is quite a lot of traffic in here about when people could be moved from Ashmore, people being moved, the use of the *Samson Explorer*, the issues around C130s going to Manus et cetera, and that was because the principal focus was on the logistics if they turned up.

Senator FAULKNER—Prior to the task force minutes or notes of 18 October, are you able to point out to the committee any of those references of boats that may have included SIEVX?

Ms Halton—I do not believe there is an explicit reference in here, no.

Senator FAULKNER—I was talking about non-explicit references, if you like. Are you able to point out any non-explicit reference to us?

Ms Halton—No, other than that there are a couple of occasions on which there were briefings given. For example, on 12 October there is just a one-liner: ‘Assessments of risks of further boats provided by Coastwatch’. I have just said to you that my memory is that DIMIA told us that the boat that eventually became titled SIEVX had been assessed at various points as being likely to leave about five or six times. My expectation would be that as part of that—the quick canter through what might be in prospect—that would have been one of the features there. You will have noted that the minute-taker changed and the detail in the notes changes.

Senator FAULKNER—Let’s move then to 18 October 2001. Under the subheading ‘Further prospective arrivals’ are those two dot points that exist in the minutes there:

Intelligence re two boats with total 600 PUAs expected at Christmas ...

and it goes on to say:

... some risk of vessels in poor condition and rescue at sea.

Second dot point:

No confirmed sightings by Coastwatch but multi-source information with high confidence level.

Are you able to say to us that that, in part, refers to what is now described as SIEVX?

Ms Halton—No, I cannot confirm that because the vessels were not identified in that level of detail. I think, in retrospect, yes, one of them was, but in terms of at the time were we tracking particular vessels and did we know categorically which vessel was which here, no. So we knew—

Senator BRANDIS—You couldn’t have done at that early stage in the proceedings, could you?

Ms Halton—No, our principal issue and our principal interest was, in fact, in the 600 and 600. What we were actually worried about were the total numbers not—

Senator FAULKNER—Are you able to say though whether one of these was an Abu Qussey vessel?

Ms Halton—Not categorically, no.

Senator BRANDIS—Is that so for the same reason—because you just could not have known at that point in the sequence of events?

Ms Halton—What I cannot comment on is what Coastwatch and DIMIA would have known. It is very likely that they actually did have them tagged in that way but, in terms of what was canvassed here, I do not believe that it was canvassed in that level of detail.

Senator BRANDIS—So those pieces of information if they existed had not come up the chain to you by that stage?

Ms Halton—Yes, I would believe that they would have existed in terms of likelihoods of particular smugglers and particular vessels. Whether, particularly in this environment where there were a number of vessels mooted, people knew categorically which one belonged to whom, I cannot comment on.

Senator BRANDIS—I suppose we should not lose sight of the fact, Ms Halton, that at the level at which you operated you were at the end of a filtering process whereby information was filtered and filtered again, so that what came to you was a subset of the totality of all the information at the beginning of the filtering process. Is that right?

Ms Halton—I think ‘highly digested’ would be the—

Senator BRANDIS—Highly digested!

Senator FAULKNER—If you cannot say categorically that one of these vessels was an Abu Qussey vessel, are you able to say with a reasonable degree of certainty that that was the case?

Ms Halton—No, not really. There was a lot of publicity about that particular people smuggler after the event, and I remember that there was a lot of coverage in the press. It would be creating a memory, Senator, if I were say to you that we categorically discussed and/or had drawn to our attention a particular people smuggler. There would be no reason for that to have happened. As I have already explained to you, the intelligence was being dealt with elsewhere, and so our principal issue was an assessment of what numbers might be about to turn up, rather than who was the orchestrator of this, other than the unfortunately titled ‘other boat’.

Senator JACINTA COLLINS—The first dot point here refers to ‘some risk of vessels in poor condition and rescue at sea’. What we know of from DIMIA is the concern that some of the disruption activities had in a sense led to the encouragement of a less experienced people smuggler—which this Qussey person was described as being, perhaps in relation to the ultimate demise of the ship—due to the indirect impact of the disruption activities. None of that was discussed at the People Smuggling Task Force at that stage?

Ms Halton—No, I have no knowledge of the experience or otherwise of people smugglers.

Senator JACINTA COLLINS—What about this reference to ‘some risk of vessels in poor condition and rescue at sea?’

Ms Halton—You will recall that, by this point, the Navy’s instructions about return if that were possible were well known. Certainly that was therefore an issue in terms of the seaworthiness of vessels, so the likelihood that a particular vessel might be seaworthy for a return trip was something that became of interest at this time. Clearly people were making an assessment here, and I have to say that, as we well know, some of the vessels that came were not in good condition. Some of them were in very good condition; some of them were not. It varied. So, clearly, the advice here is in the context of whether or not a return would be possible with some of these vessels.

Senator JACINTA COLLINS—Did the condition of the ships deteriorate significantly after the decision to return?

Ms Halton—Not that I am aware of. I think it was variable.

Senator FAULKNER—Surely, though, if you have multisource information at the high confidence level—and that is recorded in your own notes and minutes—that must have had some status and significance?

Ms Halton—It did, and I think I have indicated that to you. Our experience was that multisource information tended to be more reliable than single source. If multisource information suggested that 1,200 people or thereabouts were likely to turn up, that was to be considered in a more serious way than a single source that said that 1,200 people were about to turn up. We have gone through the point that the categorical confirmation that individual vessels had left was not the advice that we were provided. Senator Collins clearly has some information in relation to other issues which I am not familiar with. But in terms of what we were advised—and you can see this here—we thought that there was a reasonable prospect that 1,200 people were going to turn up. There was a particularly wry sense to the discussions at several points because vessels had the habit of turning up on Friday afternoons and ruining everyone’s weekend. This seemed to happen with monotonous regularity. I think the 18th was a Thursday, and my memory is that people said, ‘Here we go again; another weekend.’

Senator FAULKNER—But are you able to say what ‘No confirmed sightings by Coastwatch’ means here?

Ms Halton—That Coastwatch had been unable to identify any of these anticipated vessels; so they had not spotted any. I made the point earlier that the objective—I did not make this point, but I will go on to the point I made—was to identify these vessels before they were on the edge of the contiguous zone, to enable people to consider their response to the vessel and to be positioned to respond to the vessel. Sometimes vessels got quite close to Christmas Island or Ashmore Island before they were spotted.

Senator FAULKNER—But do you know if Coastwatch was looking for particular vessels on 18 October?

Ms Halton—My understanding generically was that the agencies who were tasked with looking for things were out looking for things. It was certainly our understanding that in a period of heightened likelihood, if I can describe it that way—we are talking here about

multisource information—there was an active process of trying to identify any vessel that might be on the water heading to either Christmas Island or Ashmore.

Senator FAULKNER—But they have indicated to this committee that they did not search the area around Christmas Island, that they were a thousand nautical miles away.

Ms Halton—I have to say that was not communicated to us, Senator. I think you will see it in that point on the 21st, where explicitly we have had a conversation about it. You will see that in the reference, where it says ‘Check Defence P3 is maintaining surveillance’. It was certainly our understanding that that is what they were doing. Did they show us flight patterns? Never. Did they give us any of the details of those operations? No, never. Did we have an understanding that they were out looking? Absolutely.

Senator FAULKNER—When did you get the DIMIA intelligence notes—say, the DIMIA intelligence note of 18 October? When would that ordinarily have come to you and the task force?

Ms Halton—They would not have come to the task force. They would have been talked about by someone from DIMIA, if the person from DIMIA had them with them. The discussion about intelligence was most commonly run by Coastwatch in those meeting, so it was most normal for Coastwatch to have a sort of sheet with plottings of vessels that they thought may or may not be in prospect. The officer from Coastwatch would basically give a commentary on that.

Senator FAULKNER—Were those sheets kept on file by the task force?

Ms Halton—No, they were not. They were not provided to other people around the table.

Senator FAULKNER—They were in the possession of the Coastwatch representative on the task force?

Ms Halton—That is correct.

Senator FAULKNER—And that representative took those with them?

Ms Halton—Yes.

Senator FAULKNER—But they plotted the suspected location of the SIEVs?

Ms Halton—Not the location. Let us be clear about what I mean by ‘plotted’. Essentially, they had a time line. I suspect it would have been smuggling rings of some sort or other. They were plotting information such as they knew it about what might be in prospect: ‘We might get something in a month’s time; we might get something in two weeks’ time.’ Possibly, saying that only one in 10 of those turned up is too extreme, but it would not have been one in five.

Senator FAULKNER—Do you have available a copy of the status report that was prepared for the Prime Minister on the issues that were dealt with on 18 October?

Ms Halton—I do not think I have a copy, but I will check.

Senator FAULKNER—I wonder if that could be provided. If it cannot be, could you read to us—

Ms Halton—I do not think I have it, Senator; I am sorry.

Senator FAULKNER—I am interested in understanding the form in which these matters are communicated from the task force to the Prime Minister. Could you assist us with that?

Ms Halton—The first thing I should say is that a status report on the 18th would, I think, have been a departmental status report rather than a task force report. My officers will just go and find out. My memory is that there was a brief to the Prime Minister done from the Department of Prime Minister and Cabinet, not from the task force. But that brief would, I imagine, have canvassed particularly this likelihood of—

Senator FAULKNER—The task force notes say: ‘Status report to be prepared for PM on above issues; copy attached.’

Ms Halton—You might be right; it might be a task force paper. I will stand to be corrected on that. If it is a task force paper, it would be my suspicion that it would have said it in probably almost the same terms as those listed here. But someone has just gone out of the room and we can come back and confirm that for you.

Senator FAULKNER—Okay, we might come back to that. Dr Toloni from Defence was present at that meeting.

Ms Halton—That is correct.

Senator FAULKNER—What was his position? Do you know?

Ms Halton—His name is Toloni, Dr Paul Toloni. I cannot tell you precisely what his classification or title was. He was certainly there with Air Vice Marshal Titheridge, who also attended that meeting. Air Vice Marshal Titheridge was certainly the senior officer, in my understanding.

Senator FAULKNER—So he was probably from Strategic Command.

Ms Halton—I would not want to say that categorically, but that would be my guess. Sometimes people from the public affairs area came.

Senator FAULKNER—Those from the Defence task group who are assisting the committee might be able to establish that. I was just wondering, given that his name was there and he did not appear to be at any of the other meetings.

Ms Halton—I think he did come here on other occasions.

Senator FAULKNER—I may have missed it—I just wondered what area of Defence he was from.

Ms Halton—I am sure we can find that out for you very simply.

Senator FAULKNER—Okay.

Ms Halton—Yes, he did come on a number of other occasions. But where he was from, precisely, I would not want to be categorical about. We can probably find that out.

Senator JACINTA COLLINS—When was the first ship returned? Was that the SIEV5, which is discussed on the next day in the minutes?

Ms Halton—I believe that is the case.

Senator JACINTA COLLINS—I am following on from your earlier comments that the issue of rescue at sea was discussed in terms of returning ships.

Ms Halton—Last time we canvassed the whole process of advice about return, and my memory is that that was the previous week. So the notion that there would be the possibility of return was well known amongst the key players for the entirety of that week.

Senator JACINTA COLLINS—Then there is a discussion on the 18th. Was the nature of it that some of these ships that were anticipated would not be suitable candidates for return because of their poor condition?

Ms Halton—There was always an understanding in that respect. Again, it is reflected at least somewhere in these notes that whether a vessel was a candidate for return was always a matter for the judgment of the commanding officer of whatever vessel was engaged in that particular activity. The question of seaworthiness was absolutely something which had to be judged operationally by the people who were there at the time.

Senator JACINTA COLLINS—Yes, I understand that, but when I was listening to your answer earlier about the discussion of the vessels being in poor condition and the risk of rescue at sea, as I understood it at the time it was, again, akin to the comments about this particular people smuggler not being particularly experienced and that others had stopped smuggling because of the potential for return. But, in fact, none of that occurred until after the 19th.

Ms Halton—No, I did not make any comment about people stopping people-smuggling. I think you made that comment.

Senator JACINTA COLLINS—Yes, but I am trying to understand the full context of the situation. It may be that I misunderstood your earlier comments as dealing with safety issues that were the result of the response by the people smugglers to the knowledge that ships would be returned to Indonesia—that response being that they sent less seaworthy vessels.

Ms Halton—No, and I think I said to you that I do not think there was any material change in the quality of their vessels; some were good, some were bad. But certainly I think there was a consciousness once there had been an agreement to return vessels if possible; there was certainly a high level of awareness amongst the task force members about safety of life at sea issues. Safety of life at sea was always something which people had at the forefront of their mind. So a more regular discussion of those kinds of issues as boats arrived and the getting of advice from whoever was the commanding officer about whether a vessel was actually robust in terms of return then became part of the more normal *modus operandi*.

Senator JACINTA COLLINS—But this is talking about rescue at sea issues prior to these boats being accepted.

Ms Halton—SIEV5 was under way on the 18th.

Senator JACINTA COLLINS—I am talking about the comments on the 18th, which relate to the two boats to Christmas Island, the three boats to Ashmore, the assessment of their being in poor condition and the rescue at sea. That is quite independent of anything that a Navy commander would have been assessing.

Ms Halton—Absolutely. The point I am trying to make—and possibly I am poor at making the point—is that we tended from that week onwards to take more interest in information about the seaworthiness of vessels. On the 18th SIEV5 was under way, on its return to Indonesia. We all knew that. People in this meeting actively knew that SIEV5 was on its way.

Senator JACINTA COLLINS—I thought SIEV5 was on its way on the 19th.

Ms Halton—I think it was delivered on the 19th.

Senator JACINTA COLLINS—The minutes of the 19th say:

... (SIEV5) reloaded with women and children and proceeding to Roti.

Ms Halton—Yes, and I think you will find that women and children were offloaded on the vessel en route. I think they returned to their vessel on the edge of the territorial sea.

Senator JACINTA COLLINS—So you are saying that SIEV5 was on its way back on the 18th, although it is not covered in these minutes?

Ms Halton—That is my point. The conversation about returns had happened the previous week, and there had been a policy decision taken by the government in that respect. People in this group were very conscious of that decision. People in this group were very conscious of issues in respect of safety of life at sea. I think there was a greater interest in those issues from that time on.

Senator JACINTA COLLINS—The final issue in relation to this day that I want to try to clarify a bit further is one of the references to Coastwatch that I alluded to this morning.

Ms Halton—Which date are we on?

Senator JACINTA COLLINS—The 18th still, ‘no confirmed sightings by Coastwatch’. Coastwatch was not conducting surveillance at Christmas Island at that point in time; it was Defence.

Ms Halton—I cannot comment on the precise words that are written here in terms of the specifics of an individual agency. My belief would be that that reflects advice that none of those surveilling had seen any vessels.

Senator JACINTA COLLINS—Yes, and that is consistent with what you said this morning. But what I am trying to understand is that, if on the approaches to Christmas Island and Ashmore Island the principal agency conducting surveillance was Defence, why—as you said a few moments ago—was it Coastwatch that was providing the information to the task force about surveillance?

Ms Halton—I cannot answer that. At the end of the day, the advice was coming in from agencies in relation to the responsibilities they had adopted. I think we have just canvassed that there were separate external relationships between a number of these agencies, and there were working arrangements between the officers of those agencies which led them to collectively form views or share information, whichever way you want to describe it. Essentially, we asked reflexively and rhetorically, ‘Has anybody seen one of these vessels yet? Have we found one?’ I think I told you last time that the thing that you could almost guarantee was that as soon as one of the agencies found a vessel there would be a peal of telephones all around the room. So this is just a reflection that a vessel had not been seen. As to the particular reference to Coastwatch, you would have to question the person who wrote those notes.

Senator JACINTA COLLINS—What I am trying to sound out, though, is your comment that from this week on, once the decision had been made to look at returning their ships, there was a greater keenness as to the safety of life at sea issue or the seaworthiness of the ships. With this keenness at this stage, I cannot understand from the minutes or from any of the earlier evidence why it was that the principal agency conducting surveillance was not reporting directly to the task force but was coming through Coastwatch.

Ms Halton—I cannot answer that other than to say to you that Defence provided relevant briefings as supplements and other things to individual comments made by other agencies in all of those meetings. So, when we went around the table and said what updates there were from particular agencies, they always made their contribution. I cannot comment on the coordination arrangements between them and Coastwatch.

Senator JACINTA COLLINS—Do you recall Air Vice Marshal Titheridge ever referring to surveillance matters?

Ms Halton—I cannot think of a particular instance off the top of my head.

Senator JACINTA COLLINS—I ask this question because, from the minutes of the 18th, it does not even look as though Coastwatch were present.

Ms Halton—No, that is true. There were occasions on which, when an agency was not going to be present, they rang prior to a particular meeting.

Senator FAULKNER—So this is all second-hand information from Coastwatch?

Ms Halton—I cannot say that. I cannot say whether this particular reference is to a report from someone else or whether, for example, it was from Air Vice Marshal Titheridge. It was certainly a matter that was canvassed at the meeting. If you hang on a second I will check something to see whether I can throw any other light on this. I believe that was something that was said at the meeting but I cannot tell you who it was.

Senator FAULKNER—Was that also reported to the Prime Minister?

Ms Halton—We are getting the advice about what that particular piece of advice said. We always knew—I cannot say it was within a matter of minutes, but I can say it was within very short order—when a vessel was spotted. As I said to you, when a vessel was seen I think just about every phone in the city went off. In a sense it is probably a bit tautological to say that at that point there was some prospect of 1,200 people arriving but not one vessel had been seen, because had a vessel been seen that vessel would have been referred to.

Senator FAULKNER—Yes, but there was this comment in relation to Coastwatch:

No confirmed sightings by Coastwatch but multisource information with high confidence level.

We know that Coastwatch was not within 1,000 nautical miles of Christmas Island. It was, I think, in the Torres Strait. We know that there was no Coastwatch representative at the task force meeting. We also know about the fate of SIEVX. I wonder what was passed on in the status report to the Prime Minister.

Ms Halton—We will find that out shortly and I will be able to tell you.

Senator FAULKNER—Admiral Bonser was present at the task force meeting on 20 October. I will check whether he was there on the 19th. Yes, he was there on 19 and 20 October.

Ms Halton—I now have this piece of advice, which was departmental advice, not task force advice. It sourced information from the ADF, DIMA, as they were at that point, DFAT and A-G's. It does not source any of this information as being from Coastwatch. It refers to the information in that point: two boats, three boats, 600, 600.

Senator FAULKNER—Did you say three boats?

Ms Halton—It is almost a carbon copy of that particular point, that first dot point, but it does not duplicate the second dot point.

Senator FAULKNER—I see. That information came from DIMA, AFP and DFAT—is that what you said?

Ms Halton—In terms of the information about what is coming?

Senator FAULKNER—Yes.

Ms Halton—The intelligence, yes. Not DFAT.

Senator FAULKNER—What were the agencies?

Ms Halton—DIMA is my understanding.

Senator FAULKNER—Yes. And other agencies?

Ms Halton—No, that is not my understanding.

Senator FAULKNER—So just the one agency?

Ms Halton—On this particular occasion. Again, that is consistent when we know that the strike force is working cooperatively across a series of agencies, and we know they were sharing intelligence in terms of predicting what may or may not be.

Senator FAULKNER—On the meeting of the task force's High Level Group on 19 October, can you identify in the notes or minutes of that meeting any reference to SIEVX?

Ms Halton—Again, there is no particular boat identified at that point. If you look under 'Current state of play', the fifth dot point reads:

... 2000 still linked to boats. Next boat to CI could be 250. More arrivals could come to Ashmore in next five days.

That is I think an extension of the point from the earlier day. That is the only boat that is identified separately there, and I do not believe we would be in a position to say that that is this particular vessel.

Senator JACINTA COLLINS—We know from what DIMIA said to us that it was their original assessment as to the numbers that would be on that vessel.

Ms Halton—Yes.

Senator FAULKNER—There are four representatives of the then DIMA: Mr Farmer, Ms Godwin, Mr Killesteyn and Mr McMahon.

Ms Halton—That is right.

Senator FAULKNER—As well as, of course, Mr Castles from the AFP.

Ms Halton—And Admiral Bonser from Coastwatch.

Senator FAULKNER—Yes, but, given that you have indicated to us that the source of the information on the 18th was exclusively for the task force from the DIMIA representatives—

Ms Halton—I suppose the point I am making to you is that my understanding is that they had a shared view, that they were sharing that information. If you go further down in this particular

note, the last sentence of the second last dot point says 'if third boat arrives'. This is the point about the lack of clarity of our understanding, because it is all 'could be' and 'if it arrives'.

Senator FAULKNER—If we go through to the next meeting on the 20th, again Mr Farmer, Mr Killesteyn and Mr McMahon are there from DIMIA and Mr Castles is there from the AFP.

Senator JACINTA COLLINS—If I can just interrupt for a moment, could we also be apprised of what the status report prepared for the PM indicated on the earlier day, the 19th?

Ms Halton—This is because SIEV6 had been spotted. SIEV6 was spotted on the 19th. The principal issue that was being canvassed here was in relation to handling of numbers. The point I made earlier is that the principal focus was what we were going to do with these people if they all turned up, and the question of handling the numbers of people concerned is the principal subject of this particular note, and also what is currently at that point happening in respect of SIEV6.

Senator JACINTA COLLINS—Is there nothing discussed about the additional accommodation options that might be necessary if there were further arrivals?

Ms Halton—Yes, there is. So that is consistent with these notes.

Senator JACINTA COLLINS—And at this stage it is still talking about a potential third boat to Christmas Island?

Ms Halton—No. Let me just be completely categorical: it talks about an aggregate of numbers. It is about capacity—total numbers that could be accommodated.

Senator JACINTA COLLINS—So the minutes on that day were talking still about the possibility of a third boat, which intelligence had been talking about for a little while prior to this date, but the note to the Prime Minister is simply referring to capacity?

Ms Halton—Capacity—and SIEV6.

Senator JACINTA COLLINS—And no further SIEVs?

Ms Halton—The point about capacity is that it is in anticipation of what happens in the event others turn up, but it is not a status report which does an assessment.

Senator JACINTA COLLINS—Can you describe that anticipation?

Ms Halton—I beg your pardon?

Senator JACINTA COLLINS—Can you read for us what the comment was in relation to the anticipation?

Ms Halton—No, I cannot read it for you. I do not have authority to do that. What I can tell you is that it talks about Manus, which I think is consistent with some of the stuff in here, and it talks about the transfer of the SIEV4 group from Christmas Island to Manus.

Senator JACINTA COLLINS—What does it refer to as the capacity issue for Christmas Island?

Ms Halton—The capacity to manage 600 to 700.

Senator JACINTA COLLINS—From Sunda?

Ms Halton—If necessary.

Senator JACINTA COLLINS—We should ask formally for a copy of these documents. We might need to do that directly to PM&C. I appreciate that is not your authority.

Ms Halton—Thank you.

Senator FAULKNER—The task force met on 20 October, I think at 4 p.m. That is right, isn't it?

Ms Halton—That is right.

Senator FAULKNER—By that stage, there had been a phone call from the AFP to Coastwatch about the Abu Qussey vessel. Was this issue raised at all on 20 October?

Ms Halton—Not that I am aware of. I suppose the point I would make to you is that these notes are still framed in terms of 'if it arrives'. There was not—and I think that is reflected here—a categorical piece of information introduced into this meeting that said that it had left. From what I understand you to be saying—and I am not aware of this particular piece of evidence—there is some other conversation about this issue to which I am not privy. If your question is, 'Were we told in here about some phone call?' then no.

Senator FAULKNER—Colonel Gallagher told the committee—

Ms Halton—Sorry, who is Colonel Gallagher?

Senator FAULKNER—He is the head of the Australian Theatre Joint Intelligence Centre. I hope I am getting that correct.

Senator JACINTA COLLINS—ASTJIC.

Senator FAULKNER—ASTJIC, yes.

Ms Halton—Who I have never heard of and never met.

Senator FAULKNER—He has been offered up to the committee as one of the witnesses instead of Admiral Gates, because Senator Hill does not want Admiral Gates to come before us.

Ms Halton—I suppose I have seen his name as one of the people you have questioned.

Senator FAULKNER—Anyway, that is who he is. I am very pleased I could remember that acronym!

Ms Halton—How do you say it?

Senator FAULKNER—I think it is ‘Aust-jic’, but I stand to be corrected. Is that about right? It is close. I gather that is not quite right.

Ms Halton—There is probably a Brisbane versus a Sydney version.

Senator FAULKNER—It is better than saying A-S-T-J-I-C, I suspect.

CHAIR—You can only get it right if you are wearing a khaki uniform, I think.

Ms Halton—There is a bunch of them next door, so maybe we should ask them.

Senator FAULKNER—They will be able to tell us. But the point is that Colonel Gallagher informed this committee that the report from the AFP of 20 October was a confirmation that the vessel—in this case, SIEVX—had departed. ASTJIC reported this immediately along its normal reporting line—to all those who receive such intelligence—and this occurred on the morning of 20 October. Let me quote him directly from *Hansard* on 11 July this year. He states:

Once we were advised by Coastwatch on 20 October that the vessel was reported to have departed at a time and from a place, as you have heard in previous testimony, we reported it immediately to all the people who received the normal distribution of intelligence.

It is true, isn’t it, that the task force—your task force; the task force you chair—met at 4 p.m. on 20 October?

Ms Halton—That is correct; but, to be complete, I have never heard of this acronym I cannot pronounce. We have never had, to my knowledge, any communications with them. So if you are suggesting that we were told this—

Senator FAULKNER—No. Let us just work through it.

Ms Halton—Okay.

Senator FAULKNER—There does not appear to be any mention of this Australian Federal Police report in the notes of that meeting.

Ms Halton—No.

Senator FAULKNER—I think you can confirm that for us, can’t you?

Ms Halton—That is right.

Senator FAULKNER—But it would seem to be credible to suggest, given its significance and the significance that was placed upon the information from organisations like the AFP and Coastwatch and Defence, that that may have happened. As you were chairman of the task force, I am keen to explore that with you. I think you can say to us, can't you, that Mr Castles from the AFP was at that meeting?

Ms Halton—That is correct; he was.

Senator FAULKNER—There were three representatives from the then Department of Immigration and Multicultural Affairs at the meeting.

Ms Halton—That is correct.

Senator FAULKNER—And they would have had access to this intelligence from the AFP?

Ms Halton—I cannot comment on that because I do not know what the arrangements inside each of those organisations were in terms of the communication of any material that was being passed around amongst duty officers, as to whether or not at the time that they came to that meeting they would have been in possession of it. What I can tell you is that I do not think—and it is consistent with what is reflected here—that there was any direct report of such advice. I have to say to you that these notes, I believe, would reflect that, had it been said, because, when we get to the section on further arrivals, 'if arrives' is not a 'when arrives'; it is an 'if arrives'. I have absolutely no recollection that we were told that a particular vessel had categorically left. That is not consistent with my memory of this meeting, and I think my memory is consistent with the terms in which these notes are drafted.

Senator FAULKNER—You can confirm that Rear Admiral Bonser was at the meeting of 20 October?

Ms Halton—I can.

Senator FAULKNER—Are you aware that he received a phone call that same morning from Federal Agent Pratt of the AFP, who offered Rear Admiral Bonser a personal opinion. Let me quote Rear Admiral Bonser's letter here, so that I do not do anyone a disservice. It states:

... a personal opinion that the vessel may be subject to increased risk due to the numbers reportedly on board.

Ms Halton—No, I am not aware of that conversation.

Senator FAULKNER—And you do not have any recollection of this matter being discussed at all at the task force?

Ms Halton—No, certainly not at that level of detail at all. I cannot speak for those people, but I think the point I made earlier was that there were multiple occasions on which we had been told that vessels had left, and they returned to Indonesia and went through multiple ports. I cannot speak for them, but there is a more than plausible explanation. Our focus in this meeting

was on accommodating people who were actually turning up and at risk of turning up. I think that point here under 'Further arrivals' is acknowledging the likelihood of something, but it is saying 'if it arrives'.

Senator FAULKNER—But if you are made aware of an AFP report which includes details that a vessel has 400 people on board, that a vessel was 'grossly overloaded' and that some people had refused to get on the vessel, do you think such details would have made you or the task force consider this a possible safety of life at sea situation?

Ms Halton—I think had that material been provided, yes. But as I have said, and in fact the thing that makes me quite confident about this is, when we actually had read to us the details of the cable—which is noted in here later, after the event; I think it is on the 23rd—there is the material provided about people leaving the vessel. There was not any sense, to my mind, and I have to say I did not think to the minds of my colleagues in the department, that this was a matter that was familiar—that it was something of which we were aware. I have made the point about issues around safety of life at sea.

I suppose the point I would make to you is that there is nothing in here which is consistent with them actually having gone through those facts as you have just outlined them. No, I was not aware of them. The point that I would make to you is that we were thinking in the previous days about the numbers of vessels and the total of 600 and the issue about the third vessel, which is back there somewhere or other. In reality I do not know that we were ever apprised of the fact—until after the tragic event—that there was a vessel with 400 likely. We had had the discussion about 250, in that early discussion, and I think it was the three in three scenario that had been painted; the second one being of the order of 250, the total leading to about 600, but the notion of a vessel of 400, and the thing I can say to you quite categorically is if we had had the notion of that number coming all at once it would have set every alarm bell—other than the safety of life at sea alarm bell—ringing, because we had a huge accommodation problem. We were debating bunks, security guards, food and everything else around a very fine margin of having people properly accommodated, so the notion that a vessel that we had been told was likely to be of the order of 250 might all of a sudden have blown out to 400 would have got every alarm bell going in the place.

Senator JACINTA COLLINS—Where does the reference to relieving possible overcrowding come from?

Ms Halton—Where are you reading from?

Senator JACINTA COLLINS—On the 20th under 'Further arrivals', at the end of that first dot point. We have the AFP report as the report referring to overcrowding and then we have this reference in the minutes here to overcrowding. If that did not come from the AFP report, I am asking where would it have come from?

Ms Halton—That would have been basically using the *Arunta* to house people temporarily; putting people on the deck of the *Arunta*. I have already told you that Minister Reith did not like it that we had to leave people on the decks of particular vessels—okay, the *Adelaide*—and that was one of the issues we were canvassing in the event that we had this—

Senator JACINTA COLLINS—Further arrivals?

Ms Halton—Yes.

Senator FAULKNER—I am going to qualify this question by the word ‘if’, but it is, nevertheless, a very important question. If the task force or you, yourself, as the chairman of the task force had identified a possible safety of life at sea situation—and I hear what you say: you say this is not the case; I hear that—but if you or the task force had identified a situation reported at the task force as a possible safety of life at sea situation, would the task force or you as its chairman have behaved any differently?

Ms Halton—I think there are two points to make here. Firstly, we did not interfere in the decisions that the relevant line agencies took. As far as I understood it, the declaring of a safety of life at sea issue was a matter, rightly, for the appropriate authority. So Mr Davidson would have alerted his Indonesian colleagues, and I think we canvassed that earlier. This goes back to a conversation we had earlier about a conversation that happened a couple of days later, and that was about whether or not this vessel was on the water heading to Christmas Island, and it goes to that issue about flotsam and relatives. I remember that discussion because there was this interchange about ‘You tend to get phone calls and you tend to be able to find flotsam,’ et cetera. That conversation was not in the context of ‘We know it is on the water.’ The conversation was, ‘Is it on its way?’ ‘Did it really exist?’ It was that kind of speculative conversation.

Senator FAULKNER—My question goes to whether the task force acts any differently if you are able to identify such a situation.

Ms Halton—I think it is always hard to answer hypothetical questions. I think hypothetical questions are impossible to answer.

Senator FAULKNER—I appreciate that. I did note that it is qualified and it is a hypothetical question. It can be answered only if you faced this situation in relation to other incidents.

Ms Halton—The things that I would say to you go back to my earlier comments. There was in our minds a concern about the safety of life at sea and making sure that there was no loss of life, and in the inquiries we had about how operations were going—I think I have already given you evidence—that was always basically the first question we asked: was everyone safe, had everyone been accounted for? It was at the forefront of my mind and of my colleagues’ minds. We would not have been able to take any action. Would we have questioned people in more detail and asked them what they were doing about it? Yes, I believe we would have.

Senator JACINTA COLLINS—Still on the 20th, we also know from the Defence intelligence report that:

NORCOM INTSUM—

Intelligence summary for NORCOM, I presume—

assesses there is a high probability of the vessel arriving vic Christmas Island from 21 Oct 01, and that due to its overcrowding and need to maintain stability it may be limited to a slow passage, and therefore a later time of arrival could be expected.

That information was not presented to the task force on that day.

Ms Halton—No.

Senator JACINTA COLLINS—So information from Defence, information from the AFP and information from Coastwatch was not presented to the task force on that day.

Ms Halton—I am not privy to what all of that information is. All I can tell you is what I am aware of. In terms of what you described, no, I was not aware of that.

Senator JACINTA COLLINS—All I am saying is that the evidence to the committee to date is that this information was the privy of Coastwatch, of the AFP and of Defence, and none of those agencies fed that information into the task force.

Ms Halton—There is nothing that I know that is inconsistent with what you have just said.

Senator JACINTA COLLINS—Okay. The other issue on this day that I want to clarify is under ‘further arrivals’ and it is the first dot point regarding the second boat expected. That is the one that I am assuming we can say, in retrospect, is SIEVX. Would you concur with that, in retrospect?

Ms Halton—I suspect probably. To say anything in this area categorically is, I think, to go too far, but I think on the balance of probabilities, given the three issue, likely.

Senator JACINTA COLLINS—You are still talking there about ‘if arrives’ and not reflecting, for instance, the NORCOM assessment of a high probability.

Ms Halton—No—other than going back to the earlier days when we had the multisource. On the balance of probabilities, we thought it was more likely than not.

Senator JACINTA COLLINS—‘Assessment to be made on whether possible to return the larger vessel.’ Can you tell us which was the larger vessel?

Ms Halton—‘Larger vessel’ simply meant the one with more people on it.

Senator JACINTA COLLINS—So it is not the size of the vessel, it is the numbers on it.

Ms Halton—Again, there was a conversation here about safety because, given the accommodation issue, the desire was to take as many people back to keep the pressure on accommodation down. But that was contingent on an assessment about safety.

Senator JACINTA COLLINS—But as far as the task force was aware at this stage—because you had not been apprised of this other information—the number of people on this second SIEV was around the same as the number of people on SIEV6.

Ms Halton—That is right.

Senator JACINTA COLLINS—So there was not a larger vessel?

Ms Halton—No, but it had been our experience that intelligence was badly wrong, so until it actually turned up and you physically did a headcount you did not know what you had. So it was the general principle that was being discussed that, if it were possible, you would return the larger, rather than the smaller, of two vessels.

Senator JACINTA COLLINS—So you still have the people on SIEV6 at that stage?

Ms Halton—That is correct. It is moored off Smith Point.

Senator JACINTA COLLINS—So you were waiting to see how many people came in on the second boat, to determine which was the larger, and then you would look at whether it was possible to return the larger?

Ms Halton—No, that is not true. SIEV6 was moored at Smith Point. SIEV6 was seaworthy and was in reasonable condition. It was then sabotaged, and the Navy were busy trying to find a mechanic who understood the ins and outs of a particular type of Chinese engine. So the assessment about what was possible also went to whether in fact SIEV6's motors were going.

Senator JACINTA COLLINS—So putting aside the seaworthiness issue, the point of this first dot point is that, all other things being equal, if this second ship arrives an assessment will be made between it and SIEV6 as to which was the larger and as to whether the larger could be returned.

Ms Halton—Correct.

Senator JACINTA COLLINS—It sounds a bit like a lottery.

Ms Halton—Yes, it was a bit.

Senator JACINTA COLLINS—You get to stay depending on whether you are in the larger ship or not.

Ms Halton—It came down to straight pragmatics, I think. Also, if SIEV6's engines had not been going, that would not have been a contest.

Senator JACINTA COLLINS—The bottom of this page also refers to 'documents circulated', and it is blacked out. I cannot remember whether (a) or (b) referred to security issues. Was that a standard way of depicting whether documents were circulated amongst members of the task force?

Ms Halton—We will find out what it was.

Senator JACINTA COLLINS—But in terms of just a notation at the bottom of it saying ‘documents circulated’, was that a standard way?

Ms Halton—I think it became more common with this set of notes than perhaps with the earlier sets of notes. They were very often, for example, copies of cables that were circulated and retrieved. You can see these notes are more complete than the earlier sets.

Senator FAULKNER—On the task force material of 31 October, I could not find any reference to the vessel described as SIEVX. I just wondered if you could.

Ms Halton—No. You will understand that it goes back to our understanding of what is definite, what is likely, what is probable and what is a vague chance. There was an understanding that it was multisource and that something may turn up—it might have been two—and you can see at this point we have already had the conversation about how those people would be accommodated in terms of some of those logistical issues. You can see that the last dot point under SIEV6 says:

Plans to be reviewed if further arrivals at Christmas Island ...

Again, it goes to the point that certainly at this point in my mind we were not categorically certain that there was anything more in prospect, and you can see that very last point under ‘other issues’:

Check Defence P3 is maintaining surveillance ...

I suspect that comes from an ‘Are-you-out-there-looking?’ kind of conversation, but at this point issues are in hand.

Senator FAULKNER—Understanding that, do you have any recollection of any discussion about the possible fate of the SIEVX vessel or matters relating to the SIEVX vessel at that meeting?

Ms Halton—No.

Senator FAULKNER—Does that mean that we had a situation where not only was the AFP contact with Coastwatch and other agencies—including DIMA and Defence—which are all represented at that meeting, not canvassed at the People Smuggling Task Force at 4 p.m. on 20 October 2001 but it was not canvassed at the meeting at 5.30 p.m. of Sunday, 21 October 2001 either?

Ms Halton—I think that is correct. As I think I have already indicated to you, I did not have any knowledge of that, not only on that Saturday but also on that Sunday. These notes are consistent with my understanding, which is that no-one had anyone categorical knowledge. That goes back to the comments I made last time I appeared here. It is consistent with these notes as written up by the note taker.

Senator FAULKNER—So there is no mention of either meeting.

Senator JACINTA COLLINS—Can I interrupt you for a moment. Ms Halton, the minutes of the 21st refer to you advising the Prime Minister's office. Was that written advice?

Ms Halton—No, I think that would have been a telephone call—I would have go back and look at my phone records; I can do that—in terms of where we were up to, particularly in relation to SIEV6.

Senator JACINTA COLLINS—Which was that you were waiting for the second one to determine which was the larger of the vessels.

Ms Halton—No—

Senator JACINTA COLLINS—That was the day before?

Ms Halton—No. Please go back and look at what I said. I said very clearly that we were not waiting with SIEV6 to see which one was better. The defence forces were actively working on SIEV6 to get a motor started. Had SIEV6 been ready before anything else happened—as was the case, as it happened—then it got the guernsey. There was no notion of waiting with SIEV6 for something else. In terms of what happened with SIEV6, you will see—and it is reflected in here on the 21st—that there were a range of issues about it: AFP, Customs, fuel rations, bottled water, life jackets, provisioning and all those kinds of logistical issues. My habit, particularly when one of those issues was in play, had been to keep the relevant people informed, which is what I did.

Senator JACINTA COLLINS—If we go back to the 20th, the minutes do not refer to a report going to the Prime Minister's office from that date. But it is being discussed on the 20th that there is an anticipated second boat for Christmas Island. The next day that boat is not referred to—

Ms Halton—Other than in the generality.

Senator JACINTA COLLINS—I am asking whether your report to the Prime Minister's office covered the issue of the second anticipated boat for Christmas Island.

Ms Halton—I do not believe so. The reason for that is that, as we have just canvassed, there were a couple of notes to the Prime Minister which went through the aggregate of possible arrivals. In other words, at the outside, we believed the total number we were looking at was 1,200. That issue had been canvassed in writing to the Prime Minister. There was nothing further to add to that. In relation to the point that has been made about a categorical understanding, we did not have that categorical understanding, so the issue on which I would have been providing a factual brief to the Prime Minister's office at this point would have been the progress on SIEV6.

Senator JACINTA COLLINS—If no further boat arrived, SIEV6 was the candidate.

Ms Halton—Correct.

Senator JACINTA COLLINS—Finally, in relation to this last point—‘Check Defence P3 is maintaining surveillance over Christmas Island’—in the minutes of the days following this, I cannot find any feedback on the response to that check.

Ms Halton—No, it would have been on an exception basis.

Senator JACINTA COLLINS—What does that mean?

Ms Halton—It would have been, ‘We understand that you are out there looking. Can you just check that that is the case.’ In the event that that had not been the case, our how expectation was that they would come back and tell us. It is not reflected here that they came back and told us they were not checking. It is consistent with my understanding that, in fact, they were checking.

Senator JACINTA COLLINS—Checking?

Ms Halton—Surveilling. If we could just go back to the point about the 21st and the advice following the meeting, my phone records show that I had a conversation with both Mr Jordana and Mr Moore-Wilton that evening—which, again, would be consistent with my practise of making the double-barrelled phone call about facts.

Senator JACINTA COLLINS—Do you have file notes about what was covered in that conversation?

Ms Halton—No, I do not, but, as I said, it would have been consistent with this.

Senator JACINTA COLLINS—Do you know if it went to a concern that Defence surveillance might not be being maintained?

Ms Halton—I do not believe so. I believe it would have been restricted to the facts in relation to SIEV6.

Senator JACINTA COLLINS—At this point in time, what was your understanding of how surveillance was occurring?

Ms Halton—I cannot say that we had a detailed, technical or any other precise understanding of how surveillance was occurring, other than that the approaches to Christmas Island and to Ashmore were being thoroughly examined to try and identify vessels on their approaches towards those two destinations.

Senator JACINTA COLLINS—So you had no notion at this point in time that they were looking for a particular vessel?

Ms Halton—No. Again, what I said I think earlier on today was that our understanding was always that they were actively looking for vessels that might be coming—how do I put this?—that, if we had an anticipated arrival, be it high probability, medium probability or what have you, there was an active process of trying to identify those vessels.

Senator JACINTA COLLINS—So you had a view that, rather than just blindly maintaining a routine pattern with no other input, it would be fair to assume that the crews surveilling these regions had the benefit of other intelligence that might lead the task force and others to anticipate arrivals?

Ms Halton—I think there are two questions in there. Did I have any notion of the physical manner in which they were looking? No, I cannot say that I ever had that understanding. Did I have a notion that they were categorically looking for things that we thought might be coming down the pipeline? Yes.

Senator JACINTA COLLINS—Okay. You would have been surprised to hear, for instance, that intelligence you were aware of was not brought to the attention of the crews surveilling these areas.

Ms Halton—A little.

Senator FAULKNER—In the task force notes of 22 October, there is a point made—well, a number of points, effectively—about a vessel called SIEV8.

Ms Halton—Yes.

Senator FAULKNER—Can you confirm that SIEV8 in relation to the notes of the People Smuggling Task Force of 22 October 2001 is, in fact, SIEVX?

Ms Halton—I do not know why this vessel in these notes is called SIEV8—I should say that at the outset. As you have already pointed out yourself—and you understand well—the practice was not to name a vessel until it was the next in the chronology, and it was not in these meetings described in that way. What I can assume is that the second vessel that was being anticipated, which I think Senator Collins and I agreed, on balance, you could assume was SIEVX, but we did not understand it to be that. Would I say that the vessel styled here as SIEV8 was the same vessel we were discussing earlier as the second vessel? Yes.

Senator FAULKNER—So it is SIEVX?

Ms Halton—Which now we know as SIEVX, yes.

Senator FAULKNER—But you ticked off these notes, didn't you?

Ms Halton—No, no, as I said to you last time, the notes were done as contemporaneous notes by whoever was the note taker. They wrote them up and filed them. They did not come back to me for verification.

Senator FAULKNER—Okay. Anyway, in the task force notes of 22 October, the vessel labelled SIEV8 is in fact the Abu Qusey vessel, SIEVX?

Ms Halton—We now know that, yes.

Senator FAULKNER—Under that heading ‘SIEV8’, which we know as SIEVX, it says:

Not spotted yet, missing, grossly overloaded, no jetsam spotted, no reports from relatives.

Ms Halton—Yes.

Senator FAULKNER—Are you able to tell us how that information was transmitted to the task force for reporting and, in this case, for the record of the notes or minutes of the meeting?

Ms Halton—Yes. As I indicated earlier there was a conversation between a couple of the agencies, principally DIMIA and Coastwatch, and it was about whether this vessel was genuinely there: whether it was on the water and whether it existed. There was a question about whether it was real. As I have said, this was something of which we were largely observers. We were not party to this because this relates to the technical way that these agencies, I suppose, assess things. I remember the conversation because it was about the advice from DIMIA that people tended to let their relatives in Australia know as they were leaving Indonesia on a vessel. DIMIA’s experience had been—and I cannot say what that experience was, but clearly there was some history to this comment—that in the event that a vessel was missing they tended to know about it. I think the comment was that they tended to know about it very quickly because the relatives knew exactly when that vessel was anticipated to arrive at Ashmore, Christmas Island or wherever. Then there was the advice in relation to jetsam. The conversation was along the lines of, ‘Well, do we think something has happened?’ The conversation then turned to the fact that nobody had spotted any jetsam.

Senator FAULKNER—I think ‘flotsam’ would have been better.

Ms Halton—Sorry.

Senator FAULKNER—It is recorded as ‘jetsam’ but flotsam is more accurate.

Ms Halton—I am sure you are right, Senator. But in assessing whether there was an issue at sea, on balance the advice seemed to be that if there was a vessel out there in distress there would have been phone calls from relatives and something would have been said.

Senator FAULKNER—So, ‘no reports from relatives’ came from DIMA?

Ms Halton—Yes.

Senator FAULKNER—Do you know where ‘not spotted yet’ and ‘missing’ came from?

Ms Halton—I cannot be categorical. The reason I remember precisely that DIMIA were the ones who were talking about the phone calls from relatives was because I remember thinking ‘ooh’—it was quite a graphic conversation. I would not wish to be categorical about who made that earlier point.

Senator FAULKNER—Do you know where ‘grossly overloaded’ came from?

Ms Halton—Again, that would have been part of the intelligence. I cannot be categorical about which agency said it.

Senator FAULKNER—Was this the first you heard of it?

Ms Halton—What, Senator?

Senator FAULKNER—This was the first you heard that the vessel we now know as SIEVX was grossly overloaded.

Ms Halton—Yes. We had earlier reports about 250. As we understood it in those earlier discussions 250 was not a discussion about ‘grossly overloaded’.

Senator FAULKNER—I will tighten up the question for you. When did the task force first learn that the vessel was grossly overloaded?

Ms Halton—In this conversation.

Senator FAULKNER—A whole 20 seconds?

Ms Halton—Yes. Again, this was in this context: had it left it should have arrived by now. The context was, ‘Did it leave? Is it really on the water?’ There was a conversation about jetsam. You were right, it was flotsam; we could have a conversation about what jetsam is, later. There were no reports from relatives. I would characterise it as a dialogue between the agencies involved in that intelligence process about what they thought the facts of this were.

Senator FAULKNER—This sounds like it is a pretty concerning discussion, even from the way it is recorded—it is missing, grossly overloaded, no reports from relatives—so I gather this is a pretty concerning situation at the task force.

Ms Halton—It was, absolutely.

Senator FAULKNER—What happens as a result of that level of concern? Is there any action that emanates or tasking that emanates from the task force as a result of those concerns?

Ms Halton—There was a conversation about safety of life at sea and whether in fact someone should ring AMSA and talk them about this and get them to issue a notice. In fact I think, from memory, Ms Edwards might have reflected part of that conversation to you. My memory is that those agencies who would normally be involved in this process actually thought no, because they thought on balance that the vessel was not on the water and was not in distress. As it happened—and I think we got advice towards the end of this meeting—AMSA had already taken action itself.

Senator FAULKNER—Yes. Is that because someone from the task force proactively checks with AMSA?

Ms Halton—Somebody from the task force has a conversation with AMSA. What I cannot tell you is whether contemporaneously someone went off and rang or whether it happened after the meeting itself. My memory is that the view of the people who do this intelligence work was in fact that there was not a safety of life at sea issue. We had some dialogue with AMSA either at the end of this meeting or immediately after this meeting. Again, I cannot tell you whether it was us, PM&C or one of the other agencies who, following the discussion, went and had the dialogue with AMSA—I just cannot be that specific. But, either at the end—

Senator JACINTA COLLINS—The AMSA dialogue occurred at 4.37.

Ms Halton—Do you know what time this meeting was?

Senator JACINTA COLLINS—It is not on here.

Ms Halton—I think the point is that, contemporaneously, inquiries were made of AMSA and, contemporaneously, AMSA was issuing a notice. I do have a clear memory, however, that DIMIA and Coastwatch actually did not think—based on that discussion in here—that there was actually a safety of life at sea issue, because they did not believe, in the absence of these bits of evidence, that there had been a vessel out there.

Senator FAULKNER—Are you aware that the vessel has sunk before the meeting of the task force on 23 October? The People Smuggling Task Force notes are quite substantial about the sinking on the 23rd. Do you know before that meeting commences that the vessel has sunk?

Ms Halton—I think everyone in Australia knew; it was on *AM*.

Senator FAULKNER—That is what I—

Ms Halton—Yes. It was on CNN and it was on—

Senator FAULKNER—Your task force was at 3.15 p.m.

Ms Halton—That is right.

Senator FAULKNER—So you were well aware of the situation.

Ms Halton—That is right.

Senator FAULKNER—Did you learn about the sinking of the vessel from radio reports?

Ms Halton—No, I did not. I received a phone call from Shane Castles at 2 a.m. It woke me up. I missed the call, went out and looked to see who it was and returned his call. He told me the barest bones—that he understood there was a report but that a cable would be coming later in the day that a vessel had sunk. That was it.

Senator FAULKNER—Literally, that is it? No location, no further detail?

Ms Halton—No detail; no nothing.

Senator FAULKNER—And the next report you hear about it is a radio report?

Ms Halton—On *AM*.

Senator FAULKNER—In the morning.

Ms Halton—That is right, the point being that I was told that there was a cable coming and then, of course, that cable was canvassed that afternoon in the task force. It is reflected here.

Senator FAULKNER—So the report of the 23rd—the report of the sinking of the vessel we now know as SIEVX—was based on that cable, was it?

Ms Halton—Sorry, which report?

Senator FAULKNER—In the report of the 23rd there is a more substantial—

Ms Halton—In the notes?

Senator FAULKNER—Yes, in the notes.

Ms Halton—Yes, sorry. I took this down in quite detailed notes. Someone was reading from a cable, and I actually hand wrote in my daybook a whole series of the details. They are completely consistent—in fact, in some cases, they are word for word—with this. The person concerned was reading from a cable, and so my belief is that that is almost an exact quote from details of a cable.

Senator FAULKNER—Did that include the advice: ‘vessel likely to have been in international waters south of Java’?

Ms Halton—That was, as I understand it, part of this cable, but I could not be sure of that.

Senator FAULKNER—What advice did you, the task force or PM&C provide to the Prime Minister on this? I would be interested in both when advice was provided to the Prime Minister and the content of such advice.

Ms Halton—Advice was not provided in terms of a general update on a range of issues until the afternoon of the 24th.

Senator FAULKNER—Then are you able to explain to us the basis of Mr Howard stating, in an interview on radio 6PR on 23 October 2001, that the boat, the SIEVX, had sunk not in Australian waters but in Indonesian waters?

Ms Halton—No, I am not.

Senator FAULKNER—But it was not a report from the task force?

Ms Halton—No, that is right.

Senator FAULKNER—You can be categorically sure that it was not an advice from the task force or you?

Ms Halton—Yes, I can.

Senator FAULKNER—If it was based on advice, it was based on advice from someone else?

Ms Halton—Correct.

Senator FAULKNER—The Prime Minister, at the announcement of his party's border protection policy at Observation City, Scarborough and Perth on 23 October, again indicated that the vessel sank in Indonesian waters. This advice could not have come from the task force, could it?

Ms Halton—No, that is right. You have already made the point, as I understand what you are saying, that those particular occasions were in the morning. The task force met at 3.15 that afternoon; the task force did not provide any advice.

Senator FAULKNER—So did the advice that went to the Prime Minister on 24 October canvass where the vessel sank?

Ms Halton—It did. What it says is: 'boat capsized and sank quickly south of the western end of Java with loss of possibly 352 lives'.

Senator FAULKNER—So, with that advice 'south of the western end of Java', it could be in Indonesian waters or it could be in international waters?

Ms Halton—Yes.

Senator FAULKNER—It does not say.

Ms Halton—No. But I should be quite clear here: there is a heading here which says 'boat sunk in Indonesian waters'. It does not say territorial waters. There had been a conversation about Indonesian safety in its search and rescue zone. That is just a heading. This particular note was based on advice from DFAT, DIMA, DTRS, AG's and Defence.

Senator FAULKNER—Are we able to get a copy of that advice?

Ms Halton—Again, it is not my gift to provide you with it.

Senator FAULKNER—Just quickly go through the agencies that are involved in the formation of that advice again, please. You just mentioned them.

Ms Halton—DFAT, DIMA, DTRS, AG's, Defence.

Senator FAULKNER—Was that advice done under the auspices of the task force?

Ms Halton—That is a minute that I have signed out on the afternoon of the 24th, following discussions both at the meeting and with individual agencies in relation to a range of issues. It is an update. It was not explicitly about the sinking; it was about a range of other issues.

Senator FAULKNER—When you say that you have signed it out, have you signed that out as chairman of the task force or as a senior officer of PM&C? What is the status?

Ms Halton—No; as a senior officer of the Department of the Prime Minister and Cabinet.

Senator FAULKNER—So it is more of a PM&C role as a coordinating department, if you like?

Ms Halton—It is an information brief, yes, exactly. As I understand it, as I have said to you, it went in the afternoon. It was signed out on the 24th, and I do not think it went until very late in the day.

Senator FAULKNER—Are you aware of any other advices that were received by the Prime Minister on that issue?

Ms Halton—No, I am not.

Senator FAULKNER—So you cannot throw any light for us on these statements that the Prime Minister made on the 23rd—

Ms Halton—I cannot.

Senator FAULKNER—when he launched his attack on Mr Beazley?

Ms Halton—I have no knowledge.

Senator FAULKNER—If you could provide us with a copy of the advice, I am sure we would appreciate it. Please take that on notice.

Senator JACINTA COLLINS— Ms Halton, just going back to the advice that was presented to the task force on that day, what was the source of that advice? That cable was from where?

Ms Halton—It was from our mission in Indonesia.

Senator JACINTA COLLINS—Did that have any mystery headings?

Ms Halton—I do not quite understand the point.

Senator JACINTA COLLINS—The point I am making is that the content of the message that you indicate was passed on to the Prime Minister was ‘south of Java’.

Ms Halton—And that is not in the detail.

Senator JACINTA COLLINS—But there was a heading in it that you said referred to Indonesian waters. I am asking whether the source of the material that describes the vessel as likely to have been in international waters had any headings or the like to detract from the statement that it was international waters.

Ms Halton—I do not have that in front of me. I will have to take that on notice. What I can say to you is: the comment about ‘south of the western end of Java’ was not contained, as I understand it, in the material that was read to us on that afternoon of the 23rd. The point I was making to you about the source of the information that was contained in that minute was that there had been, as there always was—before PM&C sent a brief to the Prime Minister, which was a state of play brief—a canvassing of the individual agencies which were relevant to the particular subject matters. What I cannot tell you—because, whilst I was a signatory to that, I was not the author of it, if you see the distinction I am making—is which agency provided us with the additional detail in relation to south of the western end of Java; but it has come from one of those agencies.

Senator FAULKNER—But the original information, you said, was not passed on.

Ms Halton—That is correct.

Senator FAULKNER—The material that did go from under your signature went to the Prime Minister on the 24th.

Ms Halton—In the afternoon.

Senator FAULKNER—In the afternoon of the 24th. Are you able to be more precise than that?

Ms Halton—We would have to take that on notice, but it was in the afternoon.

Senator FAULKNER—Was that particular ‘information brief’—I think they are the words you have used to describe it—generated out of the task force as a result of your initiative, or was there a request for you to prepare such an information brief and pass that to the Prime Minister?

Ms Halton—I think, as we have already acknowledged throughout this process, intermittently updates were provided, founded on what happened in the task force. And, as you know, very often it was acknowledged that there was going to be one—and they are often acknowledged here. My recollection is that, on the afternoon of the 24th, there was not a task force meeting. On this particular occasion, the material that would have been included would have come from a ring around from the officers in Social Policy Division, trying to get the most current state of information in relation to things that were currently on foot: what was happening at Ashmore Reef in terms of SIEV7 and a series of other things that were—

Senator FAULKNER—Yes, but you have told us that you did not do this brief to the Prime Minister wearing your hat as chairman of the task force.

Ms Halton—That is right—

Senator FAULKNER—That is right, isn't it?

Ms Halton—because there had not been a task force meeting.

Senator FAULKNER—You did this in your role as the then Deputy Secretary of the Department of the Prime Minister and Cabinet.

Ms Halton—Correct.

Senator FAULKNER—What I am asking is: why did you do that? Was it on your initiative, did someone else request that you do that, or what?

Ms Halton—I think it was done as an initiative of the department because there were a series of things that were in play, particularly in terms of 'What's happened to the group from SIEV4?' and 'What's happening to SIEV6 and SIEV7?'; in terms of making sure people were apprised of the relevant details, that it was considered timely just to provide a factual update.

Senator FAULKNER—Who by; you?

Ms Halton—My memory is that the division thought it would be timely to do an update and that they proposed we send a note. I thought that was prudent and agreed it. They prepared it, we canvassed it and it was signed and sent.

Senator FAULKNER—Who did you canvass it with?

Ms Halton—The people in the division.

Senator FAULKNER—Was it cleared by Mr Moore-Wilton?

Ms Halton—No, it was not.

Senator FAULKNER—So he did not know about it?

Ms Halton—I will tell you whether he received a copy at the time, which he undoubtedly did. Yes, he did.

Senator FAULKNER—What is the explanation for the difference between the information that came in the cable reported in the task force and what is contained within the brief?

Ms Halton—The information in the brief, as I have said to you, came from the relevant agencies. In terms of the information about Indonesian waters, it does not say 'Indonesian territorial waters'. In terms of the likely location—that is, south of the western end of Java—that material would have been provided by one of the line agencies.

Senator FAULKNER—Can you say who?

Ms Halton—I cannot. I would have to go back and ask the authors whether they can clarify which agency it was.

Senator FAULKNER—I would appreciate that. Given the information recorded at the task force that the vessel is likely to have been in international waters south of Java, it would be interesting to know on what basis someone came up with a different view.

Ms Halton—Yes. We will take that on notice.

Senator JACINTA COLLINS—Could you also take on notice providing us with a copy of the original cable, the one that is reported here from the embassy?

Ms Halton—We will take that on notice. I have no idea what it is classified.

Senator JACINTA COLLINS—And/or seeking that it be declassified so that we can do a comparison.

Ms Halton—Yes. Again, I cannot do that, but I will ask Prime Minister and Cabinet to look at the issue.

Senator FAULKNER—But, given the significance of this and it is under your signature, did you yourself take any steps to check the accuracy of that information?

Ms Halton—Did I ring each of these agencies? No, I did not, because the assurance I was given by my officers was that they had been dealing on a regular basis with all of the agencies that are involved in this. In fact, the habit in Prime Minister and Cabinet is to acknowledge whence this information came. Hence, at the bottom right-hand corner of every brief of this type that goes out, there is a section that says ‘consultation’, and it lists the agencies that are the source of the substance. As we have observed on many occasions in these hearings, Prime Minister and Cabinet is not a line agency. It is not responsible for managing these programs, for getting itself involved in the line of command, and we rely on the advice that is given to us. I categorically was assured that this was the current update in terms of the status in relation to the range of issues that are canvassed here. This particular section is nine lines.

Senator FAULKNER—Yes, but it is in conflict with what was said. You have told us that you yourself took responsibility for recording on this occasion the words ‘vessel likely to have been in international waters south of Java’.

Ms Halton—And, as I think you would probably appreciate, the advice that we got as the cable was read to us was that this was a preliminary report from, my memory is, the AFP. I think it says they had had a conversation with a 19-year-old survivor and they were making a very early assessment of the facts in relation to this issue. Certainly I think our understanding was that the agencies concerned had had time to reflect on this issue in a more considered way. The facts were as we understood them—it says ‘we understand’ in this brief—and so we were not there and did not have—

Senator FAULKNER—Yes, of course you were not there. But no-one is suggesting for one moment that the 19-year-old Afghani male survivor was responsible for reporting that one

fishing vessel rescued 44 people and another rescued five people—four deceased and one survivor—that 41 adults and three children survived, that 352 drowned and that survivors taken to Jakarta were being cared for by IOM at Bogor outside Jakarta. I am sure a survivor did provide some of the information but, quite clearly, a lot of that information is coming from other obviously authoritative sources.

Ms Halton—But also sources that were being quizzed almost immediately after this event had happened. When things are moving very quickly—I think we all know this—the facts of things can become confused and sometimes, in retrospect, one discovers the facts—in this particular case it does not even say this is a fact; it says ‘likely’—and those precise details may change.

Senator FAULKNER—Yes, but your People Smuggling Task Force, which met at 3.15 Eastern Standard Time on 23 October, received a report about this vessel likely to have been in international waters south of Java and you personally make a decision to minute that—

Ms Halton—No.

Senator FAULKNER—because you minuted the full detail of the sinking.

Ms Halton—You are putting words into my mouth. What I said to you was contemporaneously to the note taker. I did not write these notes. I did not personally take a decision to minute this—the note taker did. What I said to you was that my handwritten notes of the day are very consistent with this in a number of areas, which makes me think that this is a word for word transcription of what was read, and what was read was direct from the cable. I did not personally take any decision about the recording of this.

Senator JACINTA COLLINS—Did you write ‘international waters’ in your notes?

Ms Halton—I did not, actually, no.

Senator FAULKNER—Prior to this, the Prime Minister announced in Perth that this boat sank in Indonesian waters.

Ms Halton—As I have said to you, I do not know what the source of that advice was. It may well be the source of the same advice that we got later but I do not know, it was not discussed with me and I cannot make any comment.

Senator FAULKNER—Were you alert to the fact that there was an inconsistency here?

Ms Halton—I would have to say to you that, no, we would not have said that there was a particular inconsistency. As much as anything else, our experience of the description of Indonesian waters right throughout this period was, to say the very least, confused. We have the Indonesian search and rescue zone, we have what would have been their contiguous zone if they declared it and then we have their territorial waters. Right throughout this period there was a lack of precision about what the legal definition was. Understand, if you will, that my understanding is that you cannot actually see the land unless you are inside the territorial waters of Indonesia but that there were always issues in respect of the Navy about what would have

otherwise been declared as Indonesia's contiguous zone, if they had declared it. And then there was the area for which they were responsible for search and rescue—that is, BASARNAS. In my experience, right throughout this period you found that people used all this terminology quite interchangeably. So were we aware there was an inconsistency? I think the short answer is no.

Senator FAULKNER—But by this day it was a significant issue in the federal election campaign, wasn't it?

Ms Halton—In terms of it being said that this was not an issue for Australia, it was not something for which we had a responsibility. You are quite right—it got a lot of prominence.

Senator FAULKNER—Yes, you had Mr Howard saying it was a despicable thing for the Leader of the Opposition, Mr Beazley, to try and score political points and so forth. That was on the morning when your task force was recording in its notes that this sinking occurred in international waters.

Ms Halton—You are quite right when you say that the Prime Minister made a comment in the morning. We did not even have a meeting until the afternoon.

Senator FAULKNER—Yes.

Ms Halton—I have to say to you there was no discussion about any inconsistency between this and anything that might have been said by the Prime Minister. I think, as I have said to you, that that is completely understandable amongst those people who have been party to this process, because—as I have already explained to you—there was vast interchangeability amongst these three pieces of terminology.

Senator FAULKNER—Nevertheless, the Prime Minister described Mr Beazley's comments as 'desperately despicable' and 'an absolutely contemptible contribution'. The point here is that, as you know, the caretaker provisions were applying at this time; you acknowledge that.

Ms Halton—Absolutely.

Senator FAULKNER—This was well into an election campaign. It was highly politically charged and sensitive—trying to be reasonable about this, most objective people would acknowledge that that was the case. This was front and centre in terms of political debate in Australia in an election campaign on that day.

Ms Halton—You understand better than most that the guidelines to witnesses say explicitly that public servants will not comment on matters that are political, and that would be my complete intention. As I have said to you, we will take on notice which of the agencies that were canvassed as part of the construction of this update provided us with that particular piece of information.

Senator FAULKNER—It does not sound like there is any information, from what you have read out to us. The words I heard were 'south of the western end of Java'.

Ms Halton—That is correct. As we have already acknowledged, the comments were in the public arena long before either the task force meeting or indeed the brief. This issue had already been in the public domain for a day and a half at least at the point at which this brief went. I do not know when it was seen by the Prime Minister. If it had been consistent, it would not have been seen by the Prime Minister until some time after the 24th. This information was not the source of the Prime Minister's comments and I have already told you that I cannot tell you what the source of those comments was.

Senator FAULKNER—Of course, it was not just on that day, because Mr Howard said it again on the *Today* show on 29 October. I think you were present for Mr Howard's National Press Club address on 8 November, weren't you?

Ms Halton—And Mr Beazley's.

Senator FAULKNER—And Mr Beazley's, yes, but you were present for Mr Howard's?

Ms Halton—I was; that is right.

Senator FAULKNER—He said it there too, didn't he?

Ms Halton—That is my memory, yes.

Senator FAULKNER—Did anyone think to check?

Ms Halton—As I have said to you, there was not seen to be any inconsistency in terms of what was a very initial report and the subsequent advice which we received from agencies. I think, in hindsight, it is a bit like the identification of SIEVX—there is now some level of confusion and it would be fair to say no-one really knows where this was. But agencies that were the source of this information provided, on best endeavours, the information as they understood it. Information is caveated; we understand.

Senator FAULKNER—There were no caveats on the task force report of the 23rd, were there?

Ms Halton—Other than the word 'likely'.

Senator FAULKNER—It says:

Vessel likely to have been in international waters south of Java.

Ms Halton—That is not a categorical statement, to my understanding. I think the word 'likely' is a caveat.

Senator FAULKNER—Is that what you describe as a caveated statement?

Ms Halton—Yes. It does not say, 'Vessel was in international waters.'

Senator FAULKNER—But, when you have talked about the caveats that have applied, it is not the use of qualified language, is it? The actual caveats have previously been put in the task force minutes, haven't they?

Ms Halton—There is a difference between a categorical statement and a statement about probability. This is not a categorical statement.

Senator FAULKNER—I accept it is not a categorical statement. What I want to know is how that statement can be recorded in your task force minutes at 3.15 on 23 October and how Mr Howard can be making absolutely categorical and unqualified statements—including calling Mr Beazley 'despicable' and 'contemptible'—when a vessel sank in Indonesian waters. Mr Howard said:

... it sank, I repeat, sunk in Indonesian waters, not in Australian waters. It sunk in Indonesian waters ...

There is nothing qualified about that.

Senator JACINTA COLLINS—When this report was received at the task force, was there any reporting from you to the Prime Minister's office?

Ms Halton—Not that I can recall, no.

Senator JACINTA COLLINS—There was no dialogue between you and the Prime Minister's office on this issue between you being woken up at 2 a.m. and when that written report was given on the 24th?

Ms Halton—That is a different question. Did I have a conversation in the morning before this meeting with Mr Jordana? Yes, I did. Did I pass on to him any particular information other than—and by this time it was in the public arena—that I had had a phone call to say that there was a cable coming from Shane Castles? That is all I said to him.

Senator JACINTA COLLINS—You have had no conversation with the Prime Minister's office regarding where the ship sank, other than that written report on the 24th?

Ms Halton—No.

Senator JACINTA COLLINS—Did any of the intelligence you saw about the SIEVX include an attempt to ascertain from the harbourmaster whether fishing ships returned to the position where they collected the asylum seekers?

Ms Halton—Not that I can recall but I did not see a vast amount of intelligence on this issue.

Senator JACINTA COLLINS—You never sought to clarify exactly where the ship had sunk?

Ms Halton—The issue of where this vessel sank was not a matter for which we were responsible. We were not asked to provide particular details about it. The fact that we have, in a state of play briefing, swept it up as one of the issues and, based on the advice of the line

agencies concerned, provided our current understanding of the facts in the matter is a function of that kind of department and that kind of role. We were never asked in relation to the details of that issue, and as I have said to Senator Faulkner I did not have any dialogue on this issue with the Prime Minister's office other than, as I have just told you, a conversation where I said I had had a phone call from Shane Castles.

Senator JACINTA COLLINS—You do not need to repeat that issue. I am trying to ascertain whether there was any work done by the task force to ascertain where the ship had sunk.

Ms Halton—No. There was not.

Senator JACINTA COLLINS—You said in your comments a moment ago, 'It was not our responsibility.'

Ms Halton—That is right.

Senator JACINTA COLLINS—You said that particularly after the decision was made to attempt to return vessels to Indonesia, safety of life at sea issues became more—

Ms Halton—Germane?

Senator JACINTA COLLINS—Germane.

Ms Halton—Correct.

Senator JACINTA COLLINS—Was the task force not alert to the maritime principle that if a vessel or assets are in an area where a safety of life at sea event occurs it is their responsibility to respond to it?

Ms Halton—Yes, absolutely.

Senator JACINTA COLLINS—If there is the possibility that this ship sank in the surveillance zone of the Orions, isn't it the task force's responsibility to ascertain why that event was not managed?

Ms Halton—No, because we were not aware—and as I have said regarding the conversation that we just went through in some detail—that it had sunk in the area of surveillance. On the contrary, the discussion the day previously said that we had not seen any flotsam—I will not say 'jetsam'; Senator Faulkner points out rightly that it should be 'flotsam'—and there were no reports from relatives. We explicitly had here an observation that nothing had been seen by the surveillers. That did not change.

Senator JACINTA COLLINS—And that is the end of the matter, is it?

Ms Halton—That did not change.

Senator JACINTA COLLINS—That reads more like, ‘We didn’t want to know,’ rather than, ‘We made an effort to ascertain whether this might have been the case.’

Ms Halton—Frankly, I think that is deeply offensive, Senator Collins.

Senator JACINTA COLLINS—You can have it as offensive as you like. I think this whole incident is offensive. The notion that the task force had no responsibility to ascertain whether this ship had been within the Australian surveillance zone is offensive.

Ms Halton—Why?

Senator JACINTA COLLINS—Why!

Ms Halton—At the end of the day, the surveillance was being undertaken under Operation Relex, which was not the responsibility of this task force. As we keep going over and over again, this task force was responsible for dealing with the issues about when they actually hit the edge of the contiguous zone and the surveillance that was occurring under Operation Relex. Explicitly and deliberately, the task force was not part of the line command arrangements; we did not insert ourselves in those arrangements. The surveillance was a matter for Defence and Coastwatch operating in conjunction.

At the end of the day, our understanding had been that this vessel had sunk quite close to Indonesia. I do not think the non-Defence members of this task force in fact had an explicit understanding of exactly how close to Indonesia there was surveillance. We have all read with great interest the maps that actually show what was going on at the time; that was not shown to us at the time, and the notion that we should suddenly take responsibility for something which was not within our remit is unreasonable.

Senator JACINTA COLLINS—Okay, let us go back to what is reasonable then. What appears to be reasonable is the assumption that these were issues within your purview, if your minutes indicate that you are checking to see if Defence P3 is maintaining surveillance over Christmas Island.

Ms Halton—Over Christmas Island and I think we would agree, Senator, that if you look at the map, with respect to the gap between Christmas Island and Indonesia, there is quite a big difference.

Senator JACINTA COLLINS—So the comment here under ‘Other issues’ only pertains to the area in the immediate vicinity of Christmas Island? It is not related to what was happening with SIEVX?

Ms Halton—Our understanding is that they were surveilling on the approach to Christmas Island. As I have said to you before, I did not understand—and I would be very surprised if my colleagues understood—until I saw the maps exactly how close to Indonesia they were going. I was actually very surprised when I saw the maps.

Senator JACINTA COLLINS—So they had not been part of the earlier maps that you had been shown by Coastwatch—the multicoloured ones you referred to earlier?

Ms Halton—No. If you listened to what I said, the map showed Coastwatch's possible routes; it had nothing on it which actually showed surveillance areas. It showed lines about possible routes for vessels to sail on.

Senator JACINTA COLLINS—Yes. How far did those lines extend?

Ms Halton—The lines extended from Indonesia to a variety of places.

Senator JACINTA COLLINS—Are you telling me that, as the head of the task force, you had no understanding until around 23 October that Defence was surveilling up to 30 nautical miles from Indonesia?

Ms Halton—No. You did not listen to what I said; what I said was that until the maps were published in whichever newspaper they were published in—I think they were on the front page of the *Weekend Australian* a few weeks ago—we did not know that they were actually physically that close to Indonesia. Our understanding was that they were surveilling the approach routes and that we have the territorial sea and the contiguous zone and space beyond that, but we did not know that they were physically that close to Indonesia.

Senator JACINTA COLLINS—What did you think happened to these ships that were returned to Indonesia once they got past the contiguous zone? They were out on their own, were they? You weren't watching to see that they maintained seaworthiness on their approach back to Indonesia?

Ms Halton—The vessel that deposited them did maintain visual contact with those vessels.

Senator JACINTA COLLINS—So the surveillance was going to the Indonesian coast?

Ms Halton—That was the vessel, not aeroplanes—you are talking about aeroplanes. In terms of the vessel that returned a vessel to Indonesia, yes, they kept an eye on what had happened.

Senator JACINTA COLLINS—I was actually talking about surveillance more generally. Are you aware of any satellite surveillance?

Ms Halton—No.

Senator JACINTA COLLINS—Can you say categorically there was no satellite surveillance or that you are just not aware?

Ms Halton—I am not aware. We were not in the chain on Operation Relex.

Senator JACINTA COLLINS—You were not in the chain of Operation Relex, but you did have a concern about the safety of life at sea issues in relation to people who were approaching Australia on these ships?

Ms Halton—That is correct.

Senator JACINTA COLLINS—But in many senses there were issues that were not your responsibility?

Ms Halton—That is correct.

Senator JACINTA COLLINS—So, even though right through these minutes we have references to issues that were not your responsibility, it was not your responsibility?

Ms Halton—Senator, this group was formed to manage unauthorised arrivals once they arrived in Australia or when they were on the edge of the contiguous zone. You have had hours of evidence on Operation Relex and on the fact that Operation Relex was an operation of the defence department. Operation Relex was not something for which we were responsible or on which we inserted ourselves.

In terms of the surveillance, I think we have already canvassed here today in some detail the fact that our understanding was that they were looking, but we did not have the details of who or how. We had an understanding in relation to them looking at the approach routes to Christmas Island and to Ashmore. As I have just said to you, we had no understanding that they were actually that close to Indonesia. We did not need to have that understanding; it was not our responsibility. It was that of Operation Relex.

Senator JACINTA COLLINS—So the safety of life at sea issues that the task force has responsibility for, as far as you are concerned, are asylum seekers once they reach the contiguous zone—otherwise, it is not your responsibility?

Ms Halton—Safety of life at sea was relevant to what we were doing in relation to the things for which we were responsible. We just had the conversation about the fact that this discussion led then to a discussion with AMSA about that particular vessel. Yes, it was my expectation that in the intelligence context, if those people had particular issues, they would be raising those with the other agencies as appropriate. That is a longstanding and existing arrangement between agencies. We did not take over running every part of government; on the contrary. As I keep saying, we were not taking decisions. There was a sharing of information here. Decisions were taken either by ministers or by line agencies under delegated authority.

Senator JACINTA COLLINS—Then whose responsibility do you believe it is to ascertain whether this ship sank in regions where we were conducting comprehensive surveillance?

Ms Halton—It seems to me that is a question that should be put to Defence.

Senator JACINTA COLLINS—You think it is a Defence issue?

Ms Halton—On the question of whether they were surveilling an area where the vessel may have sunk or indeed did sink, my understanding—I only know this from what I read in the press—is that there is still a lack of clarity about this particular issue. As I keep saying, the issue of surveillance was part of Operation Relex. That was a Defence initiative; it was under the aegis and the authority and the command of the Chief of the Defence Force. The Chief of the Defence Force, I can tell you right now, did not report to me. He had a very strong view about his independence in this area.

Senator JACINTA COLLINS—Yes. As you say, there is a lack of clarity, except in the reports that the Prime Minister made about the incident.

Ms Halton—As I have just explained to you and Senator Faulkner, I did not have any detail other than one phone call from Shane Castles at two in the morning to say it had occurred and a cable was coming, and the cable was duly read in the afternoon. The fact of that phone call was passed on. There was nothing else that we were aware of to pass on, and we did not pass anything else on, because we were not in a position to do so. As to the source of those comments, I do not know.

Senator JACINTA COLLINS—You never identified the inconsistency between the reference to international waters in these notes based on that cable and the document that you put your name to on the 24th that went to the Prime Minister's office under the heading 'Indonesian waters'.

Ms Halton—As I have said to you and as I have said to Senator Faulkner on a couple of occasions—in fact, probably more than 10—these minutes, these contemporaneous notes, were taken by a note taker who then typed them up and stuck them on a file. They did not bring them back to me. You just asked me what I had written in my daybook. As I have said to you, my handwritten note did not include that particular sentence. As I have also said to you—

Senator JACINTA COLLINS—But what about the cable itself? Did the cable refer to international waters?

Ms Halton—I do not know. I did not see the cable. We have said we will look at that for you on notice.

Senator JACINTA COLLINS—That is pretty germane. You said just a moment ago that the discussion that occurred at the task force meeting on 22 October was the basis for the alert sent to AMSA. What time was the meeting of the People Smuggling Task Force on 22 October?

Ms Halton—I think we have agreed it was in the afternoon. I do not have that in front of me. I do not know. We would have to take that on notice. I do not have it here.

Senator JACINTA COLLINS—Rather than your assertion a moment ago, it would be very useful, because the alert to AMSA, from an earlier discussion, went independently of the task force.

Ms Halton—Yes, that is what I said to you. I said there was a phone call to AMSA, and while we had been meeting AMSA had independently sent out an alert.

Senator JACINTA COLLINS—I misheard you, then. I thought I heard you say that this discussion led to that alert.

Ms Halton—No. What I said was it led to a phone call to AMSA. I did not say it led to the alert from AMSA. My understanding is that AMSA actually issued an alert while the meeting was in progress. I believe the meeting was in the afternoon.

Senator JACINTA COLLINS—That is right. So this discussion did not lead to the phone call to AMSA? It had already occurred?

Ms Halton—No, the discussion led to the phone call to AMSA. The phone call to AMSA discovered that they had issued an alert.

Senator JACINTA COLLINS—Do you mean a second phone call to AMSA, not the original phone call to AMSA that led to the alert being issued?

Ms Halton—No. What I said to you was this: there was a discussion at the meeting. Either at the end of the meeting or immediately after the meeting, there was a phone call to AMSA. That phone call led to the information that AMSA, while the meeting had been in play, had already issued an alert.

Senator JACINTA COLLINS—That is right. I am just clarifying that you are not claiming that the result of this discussion led to AMSA issuing that alert. It had already been done.

Ms Halton—That is right. The point that I was making to you was that the phone call to AMSA occurred notwithstanding the advice of the agencies in the meeting that there probably was not an issue here—to wit, the thing we have just canvassed at length, about phone calls et cetera. There was a phone call to AMSA which, for whatever reason it was originally occurring, then became redundant, because they told the rest of the world—the people at the meeting et cetera—that there had already been an alert.

Senator JACINTA COLLINS—So you do not know why the original phone call to AMSA occurred?

Ms Halton—My memory is that the phone call to AMSA occurred from Coastwatch. The Coastwatch officer—this is my memory and I cannot confirm this—stood up and said he would ring AMSA. He then came back and said, ‘They have already issued an alert.’

Senator JACINTA COLLINS—So it was not out of a more general concern from the task force that some action should be taken about this vessel, about which the minutes say:

Not spotted yet, missing, grossly overloaded, no jetsam spotted, no reports from relatives.

Ms Halton—No. I think that, following on from that discussion, there was a concern that there should be a dialogue with AMSA and so that Coastwatch-AMSA conversation occurred. It became a redundancy, because they told us that they had issued an alert.

Senator JACINTA COLLINS—So it was an agreed action? It was not just something that the Coastwatch officer stood up and said he was going to do?

Ms Halton—I think there was an agreement that someone should ring AMSA. I think the basis of the discussion was that there was not necessarily a need for an alert, because the intelligence people thought that there was not likely to be an issue. Nonetheless, there was a phone call to AMSA. The phone call to AMSA then elucidated the fact that an alert had already been issued.

Senator JACINTA COLLINS—Did this discussion, where the ‘grossly overloaded’ concept was introduced to the task force, deal with why there had been a two-day delay from when that information was first received by agencies participating in the task force?

Ms Halton—There was no canvassing of the fact that there had been a delay, so there was no conversation about why there had been a delay.

Senator JACINTA COLLINS—So, even though DIMA intelligence accepts that there was a two-day delay that they cannot explain, this issue was not canvassed at the task force?

Ms Halton—No. There was no statement—I think we have canvassed this already—that this information had been with several agencies before that conversation.

Senator JACINTA COLLINS—I am not sure that we have covered that, but you might have covered it with Senator Faulkner.

Proceedings suspended from 4.23 p.m. to 4.38 p.m.

CHAIR—Senator Collins, before the break you were in full flight.

Senator JACINTA COLLINS—I have pretty much concluded. Thank you, Chair.

CHAIR—You have landed, have you?

Senator JACINTA COLLINS—I have.

Senator FAULKNER—I know that Ms Halton has some other commitments, so we should try and finish as quickly as we can. I have one or two other questions, but I will place them on notice.

Ms Halton—Let us try and do them.

Senator FAULKNER—No, I will try and not do them at all. It will be easier, I think.

Ms Halton—That would suit me! Could I just go back to the question that was asked earlier about the ‘blank’ document circulated. Having consulted with colleagues, we believe that the ‘blank’ is in reference to a place, so it is in relation to a matter that was being canvassed.

CHAIR—I will come back to Senator Faulkner and Senator Collins to see if there are any follow-up questions on that piece of information. I will just ask you to conclude from my point of view. I know you have told us this before, but can you tell us on how many occasions over the period 7 October to 7 November, which I think was the day on which the Prime Minister appeared before the National Press Club, you had a telephone conversation or a personal conversation with the then Minister for Defence, Mr Reith?

Ms Halton—I would have to go through the phone records and count. It would be on less than the fingers of one hand.

CHAIR—Yes, there were not many.

Ms Halton—No, and always at his initiation, not at mine.

CHAIR—That is to say he rang you?

Ms Halton—Correct. Or I got a message that I was to speak to him.

CHAIR—Whereupon you eventually returned the call.

Ms Halton—I would say probably three.

CHAIR—Probably three?

Ms Halton—Three conversations.

CHAIR—Can you place them on the calendar between 7 October and 7 November? I am not going to hold you to the exact day—I am happy to say that it is subject to confirmation.

Ms Halton—The first of the three that I recall—and I cannot tell you what dates these were without going back and looking at the documents—was a conversation we had in relation to the unloading of the *Manoora*. As I think I told you, I was actually in this room chairing a meeting and I think I was visited by a member of Minister Reith's staff who instructed that I was to attend his office.

Senator JACINTA COLLINS—Was it Mr Scrafton?

Ms Halton—No, it was one of the female staff. I said that I was chairing a meeting and would be delighted to attend his office when I found an appropriate moment for a tea break. I think I managed that some 15 minutes later. The conversation—and I think we canvassed this last time—related to my view on appropriate procedures for negotiating with, discussing with and finding some accommodation with the people on the *Manoora* about their unloading, and to a difference of view I had with Air Vice Marshal Titheridge—and possibly the entire Defence Force—about what action would be appropriate. That was conversation one of the three that I recall, but do not hold me to the chronology here.

The second was a phone call from Minister Reith about the unloading of the *Manoora*. We had some discussion about his decision that it should happen and the basis on which it should happen. The third was the one we have canvassed here this afternoon regarding his desire that I facilitate the unloading of the *Adelaide*, which was at that point standing just off—at the dock of, I think—Christmas Island. As we canvassed here earlier today, the issue there was that the accommodation arrangements for those people were not yet finalised. I think I said to you that the conversation was a tiny bit testy.

CHAIR—Yes. That was a telephone conversation?

Ms Halton—Yes. That was the one in which the sort of postscript to the conversation was, ‘And by the way, I have just done a media interview and I have told them there is a video,’ which led to all that other business. Those are the three that I recall.

CHAIR—Can you place these conversations from a date point of view?

Ms Halton—Clearly, the one in relation to the video et cetera was on 10 October. In terms of the unloading of the *Manoora*, it gets a little more difficult. We can find precisely the date. My memory is that it would have been at the very end of September. One was in the middle of the week—so I think it was the last week of September—and one was on the weekend. If I am right, 30 September was probably a Sunday. So the phone call would have been on the Sunday—whatever that Sunday was—and being asked to visit Minister Reith’s office was in the middle of the preceding week.

CHAIR—So when do you think the third contact was—the telephone conversation when you were talking about facilitating the unloading of the *Adelaide*?

Ms Halton—I know it was on 10 October.

CHAIR—And the other two—

Ms Halton—They preceded that.

CHAIR—And they were in September, so they were ahead of the SIEV4.

Ms Halton—Yes.

CHAIR—So what you are saying is that between 7 October and 7 November—

Ms Halton—I am sorry, I see your point. I think there was only one in that period.

CHAIR—There was only one in that period?

Ms Halton—I am sorry, yes.

CHAIR—So that was the ‘testy’ telephone conversation—if I can characterise it that way—about whether you could facilitate the unloading of the *Adelaide*?

Ms Halton—That is right. That is my memory.

CHAIR—In your clear recollection—I am not trying to lead you here; I am just seeking confirmation—that was 10 October?

Ms Halton—I know it was on 10 October. That is the day when I walked in the office at a quarter to five and the meeting started at 5 o’clock. I spoke to him almost immediately I walked in, and Ms Edwards walked in halfway through the conversation. That is that precise phone call.

CHAIR—Did he ask you anything about the ‘children overboard’?

Ms Halton—Did he ask me? No. This is the conversation where he was keen to have the *Adelaide* unloaded. There were people on board, and he did not want them on board; he wanted them accommodated on Christmas Island. He was aware that the task force was trying to accommodate and coordinate the provision of appropriate provisions—accommodation, security, food, all of the above—to those people, and he wanted that expedited. That was what the conversation was about. He said almost as a postscript at the end of the conversation, ‘Oh, by the way, I’ve just given this media interview,’ to which I thought, ‘Yes, right,’ and he said, ‘I’ve told the media that there is a video of this’—that is, the ‘children overboard’. He did not ask me anything about it; he was the one who volunteered—

CHAIR—He dropped it into the conversation.

Ms Halton—He volunteered it at the end of the conversation. When we had the earlier conversation about Ms Edwards’s starting point in terms of the conversation and my starting point in the conversation, that is why I said that particular instance sticks in my mind so vividly—because there had never been any suggestion that I had heard of that there was a video. As I said last time we canvassed this and in detail this afternoon, I then made a series of phone calls to actually ascertain whether this was correct—the first of which was to Air Vice Marshal Titheridge who said, ‘I know nothing about it.’

CHAIR—Would you expect in the normal course that the minister would ring you about an event such as the unloading of the *Adelaide*?

Ms Halton—To the extent that there was some tension between the competing objectives here—and I had been saying that I did not think it prudent that the *Adelaide* be unloaded, because there was simply no place to put these people and they could not just be herded onto the dock; they had to be appropriately accommodated with beds, food et cetera. If I was seen as being obstructive, that might well have been the source of the phone call. I think we were trying to balance all of those considerations.

CHAIR—The question about the unloading of the *Adelaide*, though, had been presented to you by Defence at an earlier point. This was not the first time—

Ms Halton—No, we had had the rounds of the kitchen table on the unloading of the *Adelaide* over a couple of days.

CHAIR—Am I right to assume that it rose through the hierarchy of more senior people and then more senior people talking to you about it?

Ms Halton—I think ‘escalate’ would be the appropriate word.

CHAIR—Yes, that would be an appropriate word. So it escalated through the hierarchy?

Ms Halton—Yes.

CHAIR—Until it finally got to the minister ringing you?

Ms Halton—Yes.

CHAIR—You were not an officer of his department. What is the normal course if a minister rings a PM&C official and makes a direct request?

Ms Halton—PM&C is a little unusual.

CHAIR—I know that.

Ms Halton—In my experience in that agency—and this is certainly not an experience in line agencies—there were occasions on which ministers did make contact with senior officers in that particular department. I have to say that, every time I had one of those, my immediate response was to tell Mr Moore-Wilton about it. I have to say that it was not unheard of prior to this whole business. Other than, perhaps, peripheral conversation in the cabinet room when I was note-taking I had not ever had any dealings with Minister Reith.

CHAIR—So it was not surprising to you, though, that he had rung you on this issue.

Ms Halton—I cannot say that I was anticipating his call but, when it happened, I do not know that I felt any particular surprise. When you have an issue about which there is a disagreement, usually that disagreement vents itself in some way, be it through a direct call or be it to somebody else. It did not surprise me that the issue was raised but I was not expecting a phone call from Minister Reith, if that is what you are saying.

Senator JACINTA COLLINS—Ms Halton, what was the nature of the minister's concern about these people still being on the *Adelaide*, and I think there was a later one that you referred to earlier today?

Ms Halton—He wanted his boat back.

Senator JACINTA COLLINS—Did that same concern apply to whether the people got on his boat in the first place?

Ms Halton—I think there was, rightly, some reluctance among naval personnel in that there might have been damage to their vessels. In retrospect I do not think in these particular cases, where people were accommodated on the various decks, that was the case. But there was some concern that it might be the case.

Senator JACINTA COLLINS—I am asking whether that concern came from the minister.

Ms Halton—No, not that I can recall.

Senator JACINTA COLLINS—In the cases you were talking about—for instance, the *Arunta* accommodating people—if there was an overcrowding problem—

Ms Halton—I do not think that discussion went any further than the task force. That discussion was about scenarios: what if and how might we cope. We never got into the situation; therefore it never became a live proposition.

Senator JACINTA COLLINS—So Minister Reith wanted his boat back.

Ms Halton—Yes. I really think that is the right way to describe it: he wanted his boat back now.

CHAIR—I think the Navy would probably say his ‘ship’ back.

Ms Halton—I am sorry. I think I said earlier that I always get boat versus ship wrong.

CHAIR—It may well be that Minister Reith called it a boat; that may be true. You wanted to give it back, didn’t you, in the sense that you wanted the problem resolved?

Ms Halton—Absolutely. Certainly our ambition was to expedite the arrangements so that people could be appropriately accommodated as quickly as possible.

CHAIR—Were there any expected new arrivals of SIEVs at that time? Was there any urgency to put another boat into the frontier? Was that the pressure?

Ms Halton—There was always a concern that there might be something we were not aware of. We had the conversation earlier about the surveillance and whether or not it would identify things before they were on our doorstep. There was a concern that naval vessels be deployed on surveillance, in addition to aerial surveillance. I think you could say there was a general principle that vessels should not have been tied up at Christmas Island.

CHAIR—Did the boat go back—

Ms Halton—Ship.

CHAIR—I am quoting Minister Reith. Did the boat go back any quicker because of his intervention?

Ms Halton—No.

CHAIR—Could it conceivably have gone back any quicker because of his intervention?

Ms Halton—The things that were constraints before the intervention were the same.

CHAIR—So it was not likely that, unless the problem had been solved, a bit more pressure on you was likely to yield a result. If I can put it in this way, you were snookered by the circumstances.

Ms Halton—We were doing everything we could to resolve the circumstances, but there was a logistical constraint. But I would suggest that the detail of that logistical constraint may not

have been brought to Minister Reith's attention. I do recall giving him some chapter and verse on what those logistical constraints were. I seem to recall that one of the logistical constraints was whether or not Defence could assist us in moving some things and I think that perhaps following that conversation some things were moved.

CHAIR—So it surprised you. How do you characterise your action when at the conclusion of the 'can I have my ship back' conversation he dropped this question about the children overboard.

Ms Halton—It did.

CHAIR—How did he introduce it? Was it casually or earnestly? Did it follow naturally? Did he move gear into a new part of the conversation? I am just asking you to characterise how it got introduced.

Ms Halton—The point he was making was that he was being asked questions about what was happening to those people and the vessel. That led him to say, 'I have just given a media conference.' I took him to be saying that he was being asked about what was going to happen to those people who were on the deck.

CHAIR—Would it be possible that he was saying, 'I've just had a media conference, and I would like a bit more information to bolster those things that I've told the media?'

Ms Halton—No, absolutely not. There was no sense of that. The conversation was principally around getting the *Adelaide* back and the questions he was being asked about when those people were going to be brought ashore. That was an issue of some considerable interest. He said in that context—that is, the context of being asked those questions—'I have just given a media conference.' At the end of that, it was a kind of afterthought. That was the way I interpreted it. He was not asking me for any information. This was a 'being spoken to' conversation. I gave him certain facts about the constraints in relation to the unloading of the *Adelaide*. The part of the conversation which went to what he told me about what he had just said in public was certainly not a request to me for information, for confirmation or for anything else. He was telling me what he had just put into the public domain.

CHAIR—He was informing you of what he had said but not seeking from you any confirmation or support?

Ms Halton—Correct.

CHAIR—Nor did he ask you to obtain any new information to back what his assertion was?

Ms Halton—No, he did not.

CHAIR—Did he in any way indicate that he considered that he needed further information?

Ms Halton—No, he did not.

CHAIR—So he was just putting you on notice that this is what he said so that you knew?

Ms Halton—Yes.

Senator JACINTA COLLINS—Was he concerned that these people on the *Adelaide* were being humanised?

Ms Halton—He never raised that term or anything about that with me.

Senator JACINTA COLLINS—Not on this occasion nor on any other occasion?

Ms Halton—No.

CHAIR—Have you spoken directly to the Prime Minister about these events?

Ms Halton—No.

CHAIR—In the lead-up to the Prime Minister's Press Club appearance on 7 November, you spoke on a couple of occasions to Mr Jordana. Did he seek from you directly any corroboration of the view that children were thrown overboard?

Ms Halton—No. I said last time that, in relation to the particular material that he asked for, he actually made that request, as I understand it, to Ms Bryant. He did not make that request to me. I became aware of that request from Ms Bryant's advice to me and not from him. He did not ask me for corroboration, evidence, particular documents or any advice in that respect.

CHAIR—Were you aware at that stage of the imbroglio over the photographs?

Ms Halton—As I said last time, the point at which I became aware of the imbroglio over the photographs was when I got that phone call from Ms Bryant. As I said to you last time, in respect of the photographs—and I went through this in a huge amount of detail—she rang me at 6.23 in the evening. We are already aware of the substance of that conversation, my reaction to it and what I then did. I said to you last time that, when I rang Miles, he said, 'That was in the paper today'—those are not the precise words. I then went and found the article, and I saw that the issue was addressed and there was an explicit response. As I said last time, I was passing on the information as it had literally come to me—again, tearoom gossip has been canvassed at length—and I basically told him exactly what I had been told by Ms Bryant.

CHAIR—I want to look at the behaviour of Mr Jordana at this point. We do not have the advantage of actually talking to Mr Jordana directly, because he has been barred from appearing at our inquiry by a decision, apparently, of the cabinet—although to the best of my knowledge we have never been shown the precise decision of the cabinet, we are advised there was one that prevents him from appearing. But it seems, as one can best reconstruct the events, that he was trawling around through the various agencies and people who ought to know for confirmation or otherwise of children being thrown overboard—and the photos which did not depict that but which had been published under the pretence that they did—and any evidence whatsoever so he could properly brief the Prime Minister, as he would be required to do, on a sensitive matter that

may arise at the National Press Club speech. So Mr Jordana, at that time, never spoke to you directly about any of these things?

Ms Halton—No; and nor did he seek my advice. Can I say to you that that does not surprise me because, to my mind—and I know this is an issue Senator Faulkner might dispute—we were not the original source. There is that line in the paper; the paper went much later on that evening and, as you well know, my phone call to Mr Jordana on the day—the 7th of October—was not until the middle of the afternoon; long since this issue had been in the public domain. On the notion that he would think of asking us in this period to provide any confirmation: if I were him, I would not have asked us either. I would have gone back to the original sources. We know from Ms Bryant that he asked for a couple of the sit reps. As you know, in the process of going to dig those sit reps out, that is where she came across the tearoom gossip—and that has been canvassed at some length.

CHAIR—I think our hearing is probably satisfied that it was not correctly characterised as tearoom gossip at all, but I understand the reports that you are referring to.

Ms Halton—That is right. And in the information that was available to us—on the social policy side—that is how it was characterised to us internally and that is therefore how we characterised it externally.

CHAIR—In a way, you have provided a justification for Mr Jordana not talking to you. Here is someone canvassing the bureaucracy to find information necessary to properly brief the Prime Minister, at the last major appearance before an election in which this question was likely to be asked, and you are the chairperson of the task force that is coordinating all this activity. It seems to me odd, to say the least, that in a desperate search for information no-one bothers to ask you.

Ms Halton—He has gone to my officials, because what he has asked for are some documents, and in terms of getting access to those documents, my officials—who would either have them on their own files or could readily access them—would be the place I would go too. As an executive coordinator, I do not keep a bank of files in my office; the files are all held in the division. He did not ask for confirmation. In fact he did not even say, as I understand it—but Ms Bryant is the person who had the conversation—precisely what it was he was doing; he simply asked for a couple of documents, which is what she reported to me.

CHAIR—I would have thought a conversation that goes something like: ‘Hello, Jane. Do you know anything about this? I am on the track of this type of information.’

Ms Halton—There was no such conversation. None.

CHAIR—Maybe he was not searching for any information that was inconvenient to the thesis that children were thrown overboard.

Ms Halton—I do not know what he was searching for because I did not discuss it with him, so I cannot comment.

CHAIR—He never raised it with you?

Ms Halton—No. This goes back to the conversation we had last time: the fact that he was asking us for material, we now know from evidence—and I have to say I do not think my officers knew this at the time; I certainly did not—that he asked other agencies for material, for example the ONA report. The ONA report was seen by us in early October.

I have to say that all of the people inside the bureaucracy who read ONA reports think that they are authoritative sources. We all read it at the time and thought, ‘Yeah, right.’ But that would not be something that you would come to us seeking, because we are not the author of it. We are also not the kind of place to whom you would say, ‘I want this, that and the other.’ You would go to the original agency—which, I understand from the evidence that was given, is what happened.

CHAIR—I understand what you are saying. You are repeating the same proposition. The proposition I am putting is that you are the point person here. You are the intersection of all this information. People work under pressure in your department, and people on the Prime Minister’s staff are usually under intense pressure. In logical circumstances, it seems to me, you would ring a key person and ask, ‘Where do I look?’ ‘Can you give us a hand?’ or ‘What have you heard?’ but that does not happen—

Ms Halton—No, and that was not his style.

CHAIR—I understand your point about sources but, in the pressure climate necessary to get these things properly bedded down, there is the alternative view, and maybe it is just open to conclude that he really did not want to find any information that disrupted the view that he had briefed the Prime Minister on.

Ms Halton—You are asking me to comment on speculation, and I cannot do that. All I can say to you is that his habit was to deal not just with me, because quite frankly you could not always get me on particular issues. He had a habit of dealing with not only me. Again, you have taken evidence from Ms Edwards, I believe, that he dealt with her bilaterally, and from Ms Bryant that he dealt with her. On this particular occasion, the request went to Ms Bryant. She properly informed me that she had been asked to find a couple of documents, and there was no discussion between me and Mr Jordana of the nature that you are hypothesising.

CHAIR—You are just reinforcing the point. You had a discussion with him at the relevant time, and it never got raised.

Ms Halton—There were a number of discussions in this particular week, most particularly about the current handling; so, as you recall SIEV—whatever we were up to at that particular point—was the source of some discussion. This issue was not canvassed in any conversation I had with Mr Jordana.

CHAIR—That is my point, too, that it was not.

Ms Halton—Yes; it was not.

CHAIR—I have no further questions.

Senator FAULKNER—I have one last question very briefly, Ms Halton. Do you take any lessons from this whole episode as, at the time, a very senior officer of the Commonwealth but now as the secretary of a very large department? Have any of the experiences been valuable from that point of view?

Ms Halton—Invaluable, Senator. It is fair to say that I and the senior officers in the department have had a number of lengthy conversations about the lessons to be learned here—about documentation, about the role of advisers and a number of other lessons. Indeed, I have written to the senior executive in my current department about standards in relation to record keeping and a number of other issues, for precisely those reasons. I think you know that my current department has a bit of a history of issues in relation to record keeping, and I have been very minded to reinforce with them what I think are some of the issues. I have been able to speak from personal experience about the circumstances in which one may be if one finds oneself involved in an issue which at the time does not look particularly important but which in retrospect becomes an issue of some controversy and some public interest. It is fair to say that we have an SES planning day tomorrow for all of the officers in my department, and one of the things I am going to say in my prepared notes the first thing tomorrow morning goes to these issues.

Senator FAULKNER—Very briefly, what would you say in relation to the first issue: record keeping? Have you gone further than just identifying its importance and significance? I am sure we would all understand that, but have you gone any further and looked at how that might be improved in terms of your experiences from this issue?

Ms Halton—I have told my senior officers that, in the next round of performance agreements, issues about attention to record keeping and keeping a proper trail in relation to particular decisions will be things that people are assessed against. We have talked about the need to be very clear about those things being filed and available. There is a series of lessons here. I would not want to give you the exhaustive list, because I will miss something, but I think it is also fair to say that secretaries more broadly have canvassed this issue, and I think it is something that we are all very aware of.

Senator FAULKNER—Finally, what lessons do you learn in the area of ministerial advisers?

Ms Halton—The instruction I have given my staff is that advice provided to officers is to be provided, in writing, to ministers.

Senator FAULKNER—All advice?

Ms Halton—That is not to say the normal traffic of conversation but, in terms of matters of moment, in terms of issues of decision, in terms of the business of government, there needs to be a paper trail and it needs to be to the minister.

Senator JACINTA COLLINS—So executive authority resides with the minister.

Ms Halton—That is quite correct. I think one of the difficulties for us in today's world is that information moves much more quickly than it did in the Public Service of 20 years ago, and that

may mean that we slow down a little bit. But in terms of prudence of public administration, I have made it very clear to my senior staff what I think is appropriate, and we have talked about this experience. What I have said to them is that no-one wants to end up in a position like this.

Senator FAULKNER—And accountability of ministerial advisers? Is that part of it?

Ms Halton—There has been a discussion about that issue.

Senator FAULKNER—Very quickly, are there any views you can share with us about that?

Ms Halton—I think that what has been canvassed are the facts of the situation and how to deal with that, which goes to advice to ministers.

CHAIR—Thank you, Ms Halton. I think that concludes today's questions and, I think, your evidence to this inquiry. Thank you.

Ms Halton—I am pleased to hear it. Thank you, Senator.

[5.14 p.m.]

BYRNE, Air Commodore Philip Darcy, Commander, Maritime Patrol Group, Royal Australian Air Force

CHAIR—Welcome to the inquiry. We apologise for keeping you waiting so long. There is nothing more I can say about that, other than our apologies, but we as a committee felt the need to pursue a number of questions with the previous witness. Do you have an opening statement?

Air Cdre Byrne—I have, Mr Chairman.

CHAIR—Before you proceed, the practice we have followed is that if there are copies of that and they can be handed around, it can save a fair bit of time in questioning. I think that is what has happened in the background behind you, so please proceed now.

Air Cdre Byrne—I am the current commander of the Maritime Patrol Group, which is located at RAAF Base Edinburgh in South Australia. I assumed my position as Commander MPG in February 2000. My experience in maritime patrol operations began in 1974 and extends for 14 years, with intermittent breaks. I am able to assist you by describing Maritime Patrol Group operations in relation to Operation Relex. To begin with, it may assist the committee if I describe the role and place of my organisation within the Australian Defence Force. The Maritime Patrol Group operates the P3C Orion long range surveillance and anti-submarine warfare aircraft. This aircraft carries a number of sensor systems, including a maritime search radar and an infra-red detection system for night operations.

Maritime Patrol Group aircraft and crews have been involved in searching for SIEVs as part of Operation Relex and its predecessor since August 2001. Since the beginning of operations, Orion aircraft have patrolled search areas, with few exceptions, daily. Operation Relex has flown eight- to 10-hour missions on most days over the past 11 months. Aircraft conducting Operation Relex surveillance are under the command of Headquarters Air Command and the operational control of Commander NORCOM whilst airborne. In addition, aircraft come under tactical control of RAN ships deployed on Operation Relex while in the search area.

Turning now to the events surrounding the so-called SIEVX, Orion surveillance missions were flown daily from 18 to 23 October inclusive. These missions were approximately 10 hours long and spent some 4½ to 5 or so hours on surveillance in the vicinity of Christmas Island. I understand the committee has had provided to it a summary of search patterns undertaken by Orion aircraft during this period. The material shows in a pictorial format the general search patterns for the flights from 19 to 20 October.

In addition to the daily flights over the period, an additional surveillance mission was flown on the evening of 19 October in response to a request from Headquarters NORCOM. I was a crew member on that flight. I can say that at no time was surveillance withdrawn over the period in question. To the contrary, on 19 October Orion surveillance was increased. I have reviewed the intelligence briefing material provided to the crews who flew missions over the period. This briefing material contains no information to indicate a safety-of-life-at-sea issue

before 23 October 2001. No distress signals were received by any of the surveillance flights. Had a distress signal been received, we were in a position to respond immediately. Each surveillance aircraft was fitted with an air-sea rescue kit.

In summary, the men and women of the Maritime Patrol Group have been involved in daily surveillance flights since 28 August 2001, and have diligently and professionally undertaken their duties. I am proud of the way they have carried out their mission.

CHAIR—Thank you, Air Commodore. The *Australian* newspaper yesterday on page 5 carried a report headed ‘Spy planes not told of boats’ status’, with a by-line of ‘Cameron Stewart’. Are you aware of that report?

Air Cdre Byrne—I am.

CHAIR—Did you speak to Mr Stewart?

Air Cdre Byrne—He rang me last Friday.

CHAIR—Are you, therefore, the source that is quoted in this story?

Air Cdre Byrne—I told him that I could make no comment on the statement. I asked him if he would read me the statement that he was going to make. He read it to me. I said, ‘I can make no comment except that “I do not disagree with anything that you have said.”’

CHAIR—Which is to confirm what he read to you.

Air Cdre Byrne—That was all I said.

CHAIR—Which confirms what he read to you.

Air Cdre Byrne—I made that statement to him. I said, ‘I can make no comment.’ Yes—the answer is yes.

CHAIR—From what you were saying, though, you did not provide the original information to the reporter, Mr Stewart? He had that when he spoke to you?

Air Cdre Byrne—That is correct.

CHAIR—And he was seeking confirmation that what he had was—

Air Cdre Byrne—He was seeking further comment, and I gave him no comment except to confirm that I would not object to any of the information that he was going to state. Effectively, I was wanting to say that yes, I would be upholding the Maritime Patrol Group and defending them in Operation Relex.

CHAIR—Did he let you know how he obtained the information that he put to you?

Air Cdre Byrne—No.

CHAIR—Had you circulated your statement?

Air Cdre Byrne—No, I had not.

CHAIR—Do you have any idea how he would have obtained it?

Air Cdre Byrne—No, I do not.

CHAIR—Did you notify the minister's office of what you were going to say?

Air Cdre Byrne—I rang the Chief of Air Force's office, told him that I had been called by Cameron Stewart and told him that I had made that statement.

CHAIR—So this was after the event. I am going to how Cameron Stewart may have obtained the information about what you were going to say today before he rang you.

Air Cdre Byrne—Cameron Stewart had spoken with me about a month before and asked me simple questions. I had said to him—and I cannot remember exactly—that I expected that Maritime Patrol Group would in fact be part of the investigation at some stage.

CHAIR—But the point I am coming to is that the information he rang you with last Friday—

Air Cdre Byrne—I did not provide to him.

CHAIR—You did not provide him with that information?

Air Cdre Byrne—I did not provide it to him.

CHAIR—Who did you provide that information to?

Air Cdre Byrne—I provided no information. The only information I provided with regard to the investigation that we are part of today was to the task group that was headed up by Rear Admiral Gates.

CHAIR—So you provided the information to Rear Admiral Gates's task force.

Air Cdre Byrne—Correct.

Senator JACINTA COLLINS—Do you know if they provided that information to the minister's office?

Air Cdre Byrne—I am sorry, Senator; I do not know.

CHAIR—I may come back to this later or I may not—and I do not want to delay the proceedings—but can you refresh my memory about the current situation for officers of the

Defence Force speaking to the media. We know, for example, during the period from August last year, I think it was, through to early this year, under the previous minister there was in effect an order which centralised comment through the minister's office. What is the current situation?

Air Cdre Byrne—Comments can only be made by officers with the rank of one star or higher. In the case of Air Force, that is Air Commodore.

CHAIR—When comments are made, are you required to notify anyone?

Air Cdre Byrne—Yes, I am.

CHAIR—Who are you required to notify?

Air Cdre Byrne—The Chief of Air Force. I cannot remember exactly; I have the piece of paper sitting beside me on my desk.

CHAIR—Is this who you notified after you had spoken to Mr Stewart?

Air Cdre Byrne—I could not get on to the Chief of Air Force, so I spoke to a group captain who runs his office.

CHAIR—In the expectation that a staff member in his office would notify him of your call.

Air Cdre Byrne—Yes, but I did speak with the Chief of Air Force yesterday, and he was aware of it.

CHAIR—That is after the event—after the press report appeared?

Air Cdre Byrne—Yes, but I notified the Chief of Air Force's office of the contact with the press when it occurred.

CHAIR—As I say, I may come back to this or I may not, but thank you for that.

Senator FAULKNER—Air Commodore, when did you discover that you were going to be offered up as a witness to the committee?

Air Cdre Byrne—I was overseas. I think it would have been about the same time as Colonel Gallagher, who was brought before the committee on 11 July—my birthday—and I was overseas at the time.

Senator FAULKNER—Happy birthday for that day.

Air Cdre Byrne—Thank you, Senator.

CHAIR—It was perhaps not the present you were looking for on that day!

Air Cdre Byrne—I feel proud to be here.

CHAIR—We will not exploit the opportunity of having you under oath to ask you how old you are. We will pass immediately to the next question.

Senator FAULKNER—I could comment that, if that was on your birthday and your birthday was on 11 July, you had a little more notice than Colonel Gallagher had, because his appearance followed quickly after your birthdate, as you would appreciate. In terms of your appearance, where did that indication to you come from?

Air Cdre Byrne—It was passed to me by telephone. I was flying with my crews in a major exercise in Hawaii. I landed one day, and it was passed to me.

Senator FAULKNER—Who passed it to you?

Air Cdre Byrne—I cannot remember.

Senator FAULKNER—Was the indication that this was the suggestion of the minister or of somebody else?

Air Cdre Byrne—The information that was passed to me was that I would be appearing before the Senate inquiry. I am sorry; I really have not got any further information. I assume that, if I have been told that I am appearing in front of an inquiry, I am appearing in front of an inquiry.

Senator JACINTA COLLINS—You cannot recall the source of that request.

Air Cdre Byrne—No, Senator.

Senator FAULKNER—Did anyone inform you of what issues you might be canvassing or might be expected to canvass before the inquiry?

Air Cdre Byrne—Yes, I was provided with that information on my return to Australia.

Senator FAULKNER—Have you had the benefit of a discussion with Rear Admiral Gates about your evidence?

Air Cdre Byrne—I have not.

Senator FAULKNER—Are you aware that you are appearing today because the Minister for Defence has blocked the appearance of Rear Admiral Gates?

Air Cdre Byrne—No, I have no knowledge of that.

Senator FAULKNER—Thank you very much for that. I wondered if we could just turn the air commodore to some of the issues surrounding one element of this committee's work that has come about as a result of an expansion of the terms of reference, which I think was a very useful

decision that was made so we could examine in some detail the question of SIEVX. I wonder, first of all, if we could go to some of that evidence that Colonel Gallagher actually provided to us at the committee. I am interested, in a sense, in some of the interface between your role, responsibility and what you are able to provide for us and what Colonel Gallagher was able to tell us. I do not know if you have had the benefit of reading his evidence or not. You might share with us whether you have or not.

Air Cdre Byrne—I have read it, yes.

Senator FAULKNER—You recall that Colonel Gallagher said to us, in relation to reports from ASTJIC, that they went to all those involved in operational work. I asked him some questions about that. Let me quote him to you. He said:

It goes to all people involved in conducting the operation, which would have been the ships at sea; the aircraft, or the squadrons that the aircraft belonged to; Headquarters Northern Command; and all four component commands—that is, naval, land, air and special operations. Information copies would have been forwarded to DIO, DSD and DIGO.

In relation to your own group, can I be clear that you received intelligence from ASTJIC?

Air Cdre Byrne—We did, Senator.

Senator FAULKNER—Is that direct? Do you receive that directly from ASTJIC?

Air Cdre Byrne—We do. We also receive intelligence reports from NORCOM.

Senator FAULKNER—Are there any other sources of intelligence that go to your group?

Air Cdre Byrne—Not that I know of, but I can take that question on notice. I do not want to say that we do not if we do.

Senator FAULKNER—Fair enough. But generally it is ASTJIC mainly but also NORCOM—is that right?

Air Cdre Byrne—ASTJIC and NORCOM, yes.

Senator FAULKNER—In relation to the suspected illegal entry vessels, can you say to the committee whether this intelligence, in the broad, tended to outline when possible SIEVs might be departing from Indonesia or other countries?

Air Cdre Byrne—The reports, on a daily basis, were providing indications of possible departures.

Senator FAULKNER—Can you say in relation to SIEVX what sort of intelligence your group received?

Air Cdre Byrne—Yes, I can.

Senator FAULKNER—Could you share that with us, please?

Air Cdre Byrne—The term ‘SIEVX’ is one that has been used only in the last few months.

Senator FAULKNER—If I can interrupt, I do appreciate that that is the point and I do understand that this would not have been terminology that would have been used at the time. But, for ease of our speaking about this, it is probably valuable if we just use that terminology. I do appreciate the point you make and I know all the committee members do.

Air Cdre Byrne—Certainly, Senator. From the information that we derived from reports that were provided by NORCOM and ASTJIC, and which were subsequently provided as intelligence summaries for crews who were flying, the first mention of a small and overcrowded vessel—which is my hint that it is the vessel now known as SIEVX—was mentioned in a 92 Wing intelligence summary for 21 October. That would have been based upon ASTJIC and NORCOM intelligence reports from 20 October noting that the intelligence summary for the crews who were flying on the 21st were put together to brief the crews at or about midnight of the 21st.

Senator FAULKNER—So you did not receive any reports of 18 October? They did not come through?

Air Cdre Byrne—There were no reports on 18 October that specifically identified the boat that we now refer to as SIEVX. In my investigations I have tried to link it with SIEVX being small and overcrowded, and the first indication of a small and overcrowded vessel in a NORCOM and ASTJIC ‘in sum’ was the 20th, which was subsequently briefed to the crews at about midnight of that night, which was for the flight of the 21st.

Senator FAULKNER—I appreciate and acknowledge the point you make about a small and overcrowded boat. I understand that qualification. Is there anything in relation to an in sum on 18 October or that emanated from ASTJIC or NORCOM on 18 October—and it may not have been received by you on 18 October—that could possibly have been SIEVX? In other words, it did not necessarily have that characteristic of ‘small and overcrowded’ that we have just been talking about?

Air Cdre Byrne—Not to my knowledge.

Senator FAULKNER—So you are quite clear that the first report was the report of 20 October and that it was received by your group on 21 October?

Air Cdre Byrne—No, it was received by my group on the same day, on the 20th, and it was used to put together a briefing for the crew that was going to be briefed about midnight of that day.

Senator FAULKNER—Are you able to be more precise in relation to those timings on the 20th—in other words, when it was actually received?

Air Cdre Byrne—I would have to take it on notice. I am pretty certain that we would keep that information. In fact, my staff could try to get that information now.

Senator FAULKNER—If you do not mind taking it on notice, that would be helpful. But the point you are making is that the tasking that resulted from this report—those flights—took place on 21 October?

Air Cdre Byrne—Correct.

Senator FAULKNER—Can you say to us in the broad—you are dealing very much with laypeople here, of course—how much you rely on these intelligence reports for the sort of surveillance work that you are doing; how important are they?

Air Cdre Byrne—It depends. They are important if they lead us to search an area in a particular way. In the absence of the reports, we will still search the area as best we can. However, if we have queuing information that might lead us to search in one particular area first, then they might become important.

Senator FAULKNER—How much notice is taken of this sort of intelligence material?

Air Cdre Byrne—Crews will generally be very aware of the possibility of one or two SIEVs in the area. I shall not say that they try harder, but perhaps crew members will be a little more diligent in their duties. It is a natural reaction if you are expecting two in the area.

Senator FAULKNER—Are you able to tell us how much signals intelligence, human intelligence and imagery are used in the tasking of aircraft?

Air Cdre Byrne—Senator, I cannot; I do not know.

Senator FAULKNER—You are just not in a position to make that sort of assessment?

Air Cdre Byrne—No.

Senator FAULKNER—Are you able to make an assessment generally about how important those different types of inputs are?

Air Cdre Byrne—As an officer with 32 years experience, I have worked in various positions that would give me a view as to how important they may be, but I would prefer not to discuss that in this open fora.

Senator FAULKNER—I am not going to individual intelligence reports here; I am just trying to get a broad understanding—I think it is useful to the committee—of the relative weights you might apply to some of this sort of information, particularly in relation to the sorts of reports that you have coming through from ASTJIC and NORCOM. But if you are unable to assist us, so be it.

Air Cdre Byrne—It is really not my area of expertise, and I just point you in the direction of the intelligence experts; that is their job. I am an expert on maritime surveillance; I am a user of their information.

Senator FAULKNER—Yes, and that is the point I am trying to come to. Obviously, I appreciate that you are neither a collector nor an analyser of this material. I do understand that. But, as you say, you use that information in your role in surveillance. It is that interface that I am interested in. What about information from radio beacons? Is that used as intelligence to tasking of surveillance aircraft?

Air Cdre Byrne—Not in this case, although we do have the ability to pick up radio beacons. To my knowledge, no intelligence from a radio beacon has been pertinent to Operation Relex over the last 11 months.

Senator FAULKNER—Fair enough. I wondered about that—maybe even from beacons used on Indonesian fishing boats, for example.

Air Cdre Byrne—I can say that Indonesian fishing boats do, on occasion, discuss between themselves on a radio frequency.

Senator FAULKNER—Yes. I think we are aware that these are used increasingly on Indonesian craft. This might be due, in part, to a Canadian aid program, as far as I understand. I am wondering whether they provide useful information to surveillance aircraft. I am thinking here of the EPIRB beacons. What do you call those beacons?

Air Cdre Byrne—Emergency personnel locator beacons. We have the ability to pick them up.

Senator FAULKNER—Yes. I just wondered whether there was any particular role for SOLAS situations.

Air Cdre Byrne—Absolutely. And had an emergency personnel locator beacon been triggered, we would have picked it up immediately, had we been within range of that beacon.

Senator FAULKNER—That sort of SOLAS related information, if there were any, would be passed on to aircraft, obviously.

Air Cdre Byrne—Yes.

Senator FAULKNER—But in terms of Operation Relex, that has not been used effectively, I think you were saying.

Air Cdre Byrne—We monitor those emergency frequencies, including EPIRB frequencies, whenever we get airborne.

Senator FAULKNER—Did your group ever receive phone calls about intelligence information in relation to the SIEVX vessel or the notorious people smuggler Abu Qussey? Do you get information in that sort of form when it comes through from ASTJIC and NORCOM? Reports that are no longer ‘raw intelligence’ may be the best way of describing it.

Air Cdre Byrne—No, we do not. We receive processed intelligence from ASTJIC and NORCOM.

Senator FAULKNER—Do you receive only processed intelligence?

Air Cdre Byrne—That is my understanding but I could clarify that with my intelligence officers, if you so desire.

Senator FAULKNER—No, I accept what you say. I am just trying to get a broad understanding at this stage of how the group works. More specifically, could you tell us whether any directions were ever given to the patrol group to focus on a particular area in the period from 18 October 2001 to 22 October 2001?

Air Cdre Byrne—On 18 October, there was no direction. The search was undertaken as a creeping search from the south to the north. On 19 October, it was the same: from the south to the north. For the second flight of 19 October, which was the night flight put on to take the place of *Arunta*'s helicopter, which was unserviceable, we were advised to search the southern areas—south-west first, then south-east, then north-west, then north-east, in that order. So the priorities for the second flight were south-west, then south-east, then north-west, then north-east. On the flight of 20 October, I believe it was south-west, then north-west, then north-east, then south-east, in that order.

Senator FAULKNER—And who gives those directions, Air Commodore?

Air Cdre Byrne—They are given by the ship on joining with the ship. The aircraft receives initial instructions via a tasking message. When it reaches the area, it joins with the ship, rings the ship up on radio and receives more detailed tasking from the ship.

Senator FAULKNER—In the case of the second flight on 19 October, the relevant ship was the *Arunta*?

Air Cdre Byrne—It was, Senator.

Senator FAULKNER—Is that also the case in relation to the 28th; is it also the *Arunta*?

Air Cdre Byrne—I believe so.

Senator FAULKNER—I have just noticed a number of references to the unserviceability of the *Arunta*'s helicopter, which I absolutely accept. I would have thought that the P3 Orions would have had a vaster range than the helicopter off *Arunta*; there would be no comparison, would there?

Air Cdre Byrne—In what sense, Senator? We carry more fuel. We go further.

Senator FAULKNER—And you go a lot quicker?

Air Cdre Byrne—We go quicker. I think we have a more powerful radar, and there are some other capability differences in other sensors.

Senator FAULKNER—Yes. In official capability.

Air Cdre Byrne—We are a bigger aircraft.

Senator FAULKNER—A bigger and better operation.

Air Cdre Byrne—And more capable in certain areas.

Senator FAULKNER—What I am interested in understanding is how significant an operational impact the loss of the *Arunta*'s helicopter had. You may not be able to assist us in that.

Air Cdre Byrne—I think the loss of a helicopter is a significant loss in a surveillance operation. Helicopters are not as capable as a P3 for the reasons we have discussed but they are not incapable. They are still very capable platforms.

Senator JACINTA COLLINS—So, in terms of the surveillance powers that we have been provided so far, are we only seeing part of the picture? Do we also need to look at the ship's helicopter surveillance as well, other than on this one occasion when the P3 replaced the *Arunta*'s helicopter?

Air Cdre Byrne—Perhaps, Senator. My understanding is that the ship's helicopter would search the southern part of the area in the p.m. hours.

Senator JACINTA COLLINS—In the evening hours?

Air Cdre Byrne—In the afternoon hours. Most of the Orion surveillance flights were carried out in the morning hours. The helicopter carried out a surveillance flight in the evening hours but, of course, that surveillance flight would have been limited to the southern reaches of the area because of the limitations in range and endurance of the helicopter.

Senator FAULKNER—So the direct tasking in relation to those 'sectors'—is that the correct terminology: south-west, north-west, north-east, south-east sectors?

Air Cdre Byrne—That will do.

Senator FAULKNER—Tell me if there is better terminology. That comes from HMAS *Arunta*?

Air Cdre Byrne—It does.

Senator FAULKNER—Do you know if it comes originally from NORCOM or elsewhere?

Air Cdre Byrne—I suspect that it is the Captain of HMAS *Arunta* in consultation with the Commander of NORCOM or his staff who make that judgment.

Senator FAULKNER—When you receive such tasking, is there any difference between tasking for surveillance for interception or some other function or a safety of life at sea situation?

Air Cdre Byrne—Very much so.

Senator FAULKNER—Could you explain the detail of that for us?

Air Cdre Byrne—The methods of surveillance that were being used in Operation Relex were primarily radar, as a prime sensor, and visual, as a secondary sensor. If a safety of life at sea incident is at hand, the prime sensor would be that which one would expect had a best chance of detecting the person, persons or vessel at risk. For example, if the safety of life at sea incident is to look for a ship, the prime sensor may well still be radar; if it is to look for someone in the water who has an EPIRB beacon, it would be a beacon search, not a radar search; if it is for somebody in the water who does not have a beacon, it would be a visual search and it would be restricted to, one hopes, an accurate datum of the last known position and it would have very close track spacing.

Senator FAULKNER—Were there any differences in the surveillance that takes place over the period that we are talking about—18 October to 22 October 2001—in relation to that type of surveillance?

Air Cdre Byrne—None whatsoever—and logically so, because there was no safety of life at sea situation known at that time.

Senator FAULKNER—In relation to the information that comes through the ASTJIC for the tasking of your group on 21 October, are you able to provide any more detail specifically about the nature of that intelligence reporting or tasking? Can you assist us any more with that?

Air Cdre Byrne—As I have made a small note here, on the 21st a report mentioned the possibility of a small and overcrowded vessel. It reported that the vessel had left the west coast of Java. No, I tell a lie. I think that was the only vessel that they were searching for on that day. The reason I mentioned that is that there had been two vessels that we had been searching for on the previous two days, but we had found one of them on the 19th.

Senator FAULKNER—So really the only intelligence report goes to the possibility of a small and overcrowded vessel?

Air Cdre Byrne—Correct.

Senator FAULKNER—Not to the point of departure or anything like that?

Air Cdre Byrne—I would have to check whether the intelligence report does in fact give a point of departure or a possible point of departure. I have not got that—

Senator FAULKNER—Yes, a possible point of departure or any other elements that might assist the surveillance operation.

Air Cdre Byrne—All we have got in the report is that the vessel had left the west coast of Java.

Senator FAULKNER—So there are two elements: a vessel had left the west coast of Java, and it was small and overcrowded. Is that it in a nutshell?

Air Cdre Byrne—That is it.

Senator FAULKNER—Is there any date in relation to when it leaves the west coast of Java? Is there any time or—

Air Cdre Byrne—No. None whatsoever.

Senator FAULKNER—Was it the practice of the P3 Orion surveillance groups to take photographs of SIEVs when they were spotted?

Air Cdre Byrne—Yes, it was.

Senator FAULKNER—What form are those photographs in?

Air Cdre Byrne—Generally they are taken as wet film. Recently we have been taking digital film.

Senator FAULKNER—We have received evidence that there were no photographs taken of SIEVX, but I think I should ask you this just so you can confirm it for the committee. Can you confirm that that is the case?

Air Cdre Byrne—That is the case.

Senator FAULKNER—What sort of knowledge did the Maritime Patrol Group actually have—I assume it is quite detailed—of the Royal Australian Navy vessels that were in the area?

Air Cdre Byrne—Total knowledge.

Senator FAULKNER—Does that include submarines?

Air Cdre Byrne—No, it does not.

Senator FAULKNER—So, all surface vessels?

Air Cdre Byrne—Correct.

Senator FAULKNER—Would you know, in this case, whether there was any Royal Australian Navy submarine activity in that broad area?

Air Cdre Byrne—I do not know whether there were any submarines there.

CHAIR—You do know that there were no submarines on the surface?

Air Cdre Byrne—I do know that there were no submarines on the surface.

Senator JACINTA COLLINS—You saw no submarines on the surface?

Air Cdre Byrne—We did not detect any submarines on the surface.

Senator FAULKNER—Did the Maritime Patrol Group have any interaction at all with the People Smuggling Task Force?

Air Cdre Byrne—No.

Senator FAULKNER—I assume the answer to this is no, but I want to be clear here: you would not be receiving any direction regarding surveillance matters from the People Smuggling Task Force?

Air Cdre Byrne—No.

Senator FAULKNER—Because you were only receiving these from either ASTJIC or NORCOM?

Air Cdre Byrne—Correct.

Senator FAULKNER—You may not be able to assist us here. When we read the task force notes, for example on 21 October it says:

- Check Defence P3 is maintaining surveillance over Christmas Island.

On 22 October, it says:

SIEV 8

- Not spotted yet ...

that element of it. On 4 October, an unidentified

boat has been upgraded to possible arrival ... but no sighting as yet.

Those sorts of reports obviously originate with your group, don't they, or Coastwatch?

Air Cdre Byrne—No. The only reports that originate from my group are contact reports. If we find a SIEV—for example, we found SIEV6, then we reported SIEV6 both in the air—

Senator FAULKNER—So if you find nothing you report nothing?

Air Cdre Byrne—We report everything that we do find, and most sorties do find something—20 or 30 fishing vessels and merchant vessels—and they are reported.

Senator FAULKNER—Yes, but what you report is contacts?

Air Cdre Byrne—Correct.

Senator FAULKNER—Who do you report to?

Air Cdre Byrne—We report them, in the air, to the ship with whom we are working and we report them, once we have landed, to our operating control authority and a number of other agencies. The operating control authority then further distributes that report.

Senator FAULKNER—Are you aware of what those other agencies are?

Air Cdre Byrne—Not off the top of my head, but I could find out.

Senator FAULKNER—I would appreciate it if you would take that on notice. I suppose I am interested in who they are and—you might take this on notice too—the time delay that might be involved in those reports being disseminated. There is no urgency about that, but if you could I would appreciate it. Have you looked exhaustively at those contact reports for the period that we are speaking of—

Air Cdre Byrne—I certainly have.

Senator FAULKNER—18 October through 22 October?

Air Cdre Byrne—I have. I have looked at the post-flight reports for each of those sorties.

Senator FAULKNER—What, if anything, can you say to us about them? You can say, I assume, that there is no contact of anything remotely like SIEVX, can you?

Air Cdre Byrne—Yes, except for the contact on the 19th, which was SIEV6.

Senator FAULKNER—You may or may not have seen it, but there has been some press commentary—most recently I could point you to a *Dateline* program on SBS television. That reports survivors, in some instances, actually saying to camera—I do not know if you have seen this or not—that they saw a large ship or a number of large ships shining their lights on survivors. Some thought they were, in fact, naval vessels. There was even a suggestion at one stage, which has subsequently been found to have no substance, that it might have been a Royal Australian Naval vessel involved. Are you able to indicate to us in the assessment that you have made of the contacts in this period, particularly about the time when we now know SIEVX sank, whether such reports make any sense to you from the information you have had available to you?

Air Cdre Byrne—I have looked—quite obviously it was an important point.

Senator FAULKNER—You have looked for that specifically?

Air Cdre Byrne—I did. I tried to make some sense out of it and I could not. If you look at—I think you have got the material—the radar contacts from the flights of the morning of the 19th and the 20th, they do not shed too much light on concentrations of ships, particularly merchant ships, in the vicinity of that latitude and longitude that was mentioned on the *Dateline* program.

Senator FAULKNER—I think the key element here is that the evening of the 19th is the night of the 19th, isn't it? That would be what we would be talking about. But you specifically looked to see whether there was anything that might make sense?

Air Cdre Byrne—I have looked to see if there is a concentration of vessels in the vicinity of the point at which the *Dateline* program indicates that the SIEVX went down. I could not find anything.

Senator FAULKNER—Can you say to us whether the maritime border patrol knows of any ships that may have been in the area or in some way adjacent to the area where it is suspected that SIEVX sank?

Air Cdre Byrne—Yes, I can give you the positions of all of the ships that were in the area that were detected on the flights of the 19th, because the aircraft flight on the 19th detected ships and fishing vessels and those contacts were all reported.

Senator FAULKNER—But none of this information throws any light on these suggestions or allegations or claims that are made in relation to largish vessels and lights shining on survivors?

Air Cdre Byrne—Not that I have seen.

Senator FAULKNER—In relation to the second flight of 19 October, it seems to indicate from the map—but I would seek your professional assessment of this—that the second flight of 19 October does not go as far north as similar flights. Is that right?

Air Cdre Byrne—That is correct.

Senator FAULKNER—Can you say to the committee why that was the case?

Air Cdre Byrne—Certainly. Firstly, we were tasked by the *Arunta* when we first came on task with searching a sweep from east to west, 10 nautical miles to the south of the area. So we actually initially searched to the south of the area, which obviously takes time. We also had very bad weather. We were deviating around thunderstorms and rain cells for the full 4½ hours on task, and that takes up time and effort. We also deviated out to the west of the area. You will notice on the radar contacts and fishing contacts that were picked up just outside the area, to the west of the area. We were 45 minutes outside the area visually identifying those in the dead of night with infra-red detection gear. That actually involves overflying each contact at 300 feet and looking for hot spots to try and identify suspected illegal entry vessels by multiple hot spots, for example. We were out of the area for 45 minutes.

Senator JACINTA COLLINS—Does that identify the number of people on board the vessel?

Air Cdre Byrne—That is right. Each contact has to be flown over directly, and that takes time. There is the deviation around the cloud and the fact that we were asked to search to the south of the area initially. We compressed the track spacing because of the bad weather to try and increase the probability of detection. Also, we had been told that the high-probability areas were the south-west and south-east areas.

Senator FAULKNER—Have you been able to establish in the work that you have done why that tasking went to the south, the south-west and south-east first and then followed the north-west and north-east?

Air Cdre Byrne—I can only make an assumption in that regard, and that is that that is the high-probability area, because they were expecting two vessels that day. They had found one in the morning in the south of the area and they wanted to make sure that they sanitised the south of the area before the next flight, which was not coming on until dawn the next day. If indeed they had not sanitised the south of the area, and if there had been something there, it would have reached Christmas Island before the next aircraft came on task at dawn the next day. So the tactical priority was to ensure that there was nothing in the southern part of the area. That is the reality of tasking priorities. But I also highlight that we were not restricted from searching the north of the area, and indeed we were tasked as a next priority with searching the north-west then the north-east. We never made it there because we ran low on fuel. It was just the luck of the game—going around all these thunderstorms in the area.

Senator FAULKNER—How bad was the weather that night?

Air Cdre Byrne—It was not good. It was particularly bad, as is indicated in the diagram. There was an ‘impenetrable’—I think that was the word used in the post-light report—area of thunderstorms about 30 miles long and 10 miles deep about halfway through the area.

Senator JACINTA COLLINS—Was it the weather that led to the usage of fuel?

Air Cdre Byrne—No, we were still on task for 4½ hours. It was the fact that we closed up the track spacing.

Senator JACINTA COLLINS—To saturate the southern—

Air Cdre Byrne—It was not so much the fuel usage; it was the flight track that led us only to search the southern area, largely. The track was closed up.

Senator JACINTA COLLINS—For what reason?

Air Cdre Byrne—Because the wind velocity was high and there was a lot of rain. That makes radar detection performance less than ideal.

Senator JACINTA COLLINS—Let me understand this: the weather then led you to contract so that you had 100 per cent surveillance of the southern sectors—

Air Cdre Byrne—Actually, 95 per cent was what we determined.

Senator JACINTA COLLINS—and those the southern sectors were your priority tasks.

Air Cdre Byrne—They were.

Senator JACINTA COLLINS—So, as a consequence of the weather leading to that contraction, you ran out of fuel before you could get to the northern sectors.

Air Cdre Byrne—That is right. In fact, we finished about the centre of the area. We were tasked at the end of the sortie with doing a sweep of about 60 nautical miles from west to east, 60 miles north of Christmas Island. We reached a point where, had we gone on, we would have used up about another 150 or 160 miles going away from our home base before we would have been on task in the north-west. At that point we would have had to turn around and come back again. So it was largely a combination of weather and the initial tasking which made us search outside the area, combined with us searching that high-density area of fishing boats which was to the west of the area. In fact, that was pretty much most of the contacts that we found that evening, as you can see from the radar contacts, which are plotted on the information that was given to you.

Senator JACINTA COLLINS—So was there a decision taken in the course of this flight, when your radar identified at 1930 a vessel that was never visually identified, that, no, you could not go there yet, you needed to travel all the way over to the south-western sector and conclude surveillance there first?

Air Cdre Byrne—I cannot remember the 1930. I have got the surface detections for the second flight on the 19th. Could you explain that?

Senator JACINTA COLLINS—Flight 2, the 19th, right at the top, north-western sector, right on the dotted line, 1930.

Air Cdre Byrne—Yes, that was an unidentified radar contact. From the range that it was made at, it would have been a good radar contact. We simply did not have a chance to get up there.

Senator JACINTA COLLINS—That is what I am saying.

Air Cdre Byrne—In fact, if it was made at 1930, it would have been detected on a leg from west over to the 2045-2050. Our priority was to search the south-east area and then return to the north-west once we had finished the south-east. If we had gone to that contact that we detected at 1930, that would have seduced us away from our primary search area, which at that point would have been the south-east sector.

Senator JACINTA COLLINS—Yes. What I am trying to understand from the crew's point of view is whether they would have needed to say, 'We can't look at that now. Our priority is still to get over to the south-east, and if possible, although not likely, given how much fuel we have already used, get up there.'

Air Cdre Byrne—We would have searched all of the south-east sector and then have attempted to get up into that area after we had searched the south-east sector.

Senator JACINTA COLLINS—But, given that, just looking at the earlier map, you have conducted about two-thirds of the sortie by that stage, the crew would have been aware they were not likely to have enough fuel to get back there, wouldn't they?

Air Cdre Byrne—Probably half of the sortie.

Senator JACINTA COLLINS—If you look at the earlier page, you have got that loop right up the middle and then, as you have said, a very contracted sortie in the south-western sector. The final loop around is where you picked up that radar contact.

Air Cdre Byrne—We were off task at 2115, so that was a 1930; almost two hours to go.

Senator FAULKNER—But this is picked up by radar. Would that have to be a boat or could it be flotsam or something like that? Does radar pick up that sort of thing? It would have to be a boat, wouldn't it, of some description?

Air Cdre Byrne—I would suggest yes. I would think so. In that weather we were picking up wooden fishing boats at about 12 nautical miles and in particularly bad weather seven nautical miles. We would not have picked that up—I would think that that would have been a good radar contact, certainly nothing less than a boat.

Senator FAULKNER—Do you know how difficult it would have been to detect what that vessel was? Basically you had reached your limit of endurance, hadn't you? You could not go there.

Air Cdre Byrne—That is correct. We had reached our limit of endurance and that would have been 10 o'clock at night and there was another aircraft on task at 5.30 in the morning.

Senator FAULKNER—But it was because you had reached your limit of endurance that you could not check.

Air Cdre Byrne—We were unable to go up and look at it.

Senator FAULKNER—So that was not a weather issue?

Air Cdre Byrne—No, it was a fuel issue.

Senator FAULKNER—Who knows, but it does appear to be in the general area where SIEVX sank, doesn't it?

Air Cdre Byrne—We do not know where SIEVX sank.

Senator FAULKNER—That is why I used the major qualifier ‘general area’. I appreciate the debate around the location. But the point here is that that sort of radar would pick up only a vessel; it would not pick up flotsam and survivors.

Air Cdre Byrne—I would say that in the weather that was present in the area that night it would have been impossible to pick up flotsam or jetsam.

Senator FAULKNER—A lot of—how shall I describe them?—commentators have questioned why the surveillance patterns changed on 19 October. It is true, isn’t it, that routine surveillance took place over the Christmas Island surveillance zone on 18, 19 and 20 October?

Air Cdre Byrne—That is true. It is also occurred on 21, 22 and 23 October.

Senator FAULKNER—Sorry, it also occurred on?

Air Cdre Byrne—Routine surveillance occurred on 18, 19, 20, 21, 22 and 23 October. And on 19 October there was an additional sortie.

Senator FAULKNER—Yes, I appreciate that point, but I was limiting my questions to that. I was wondering whether the Orion crews were alerted to any potential SOLAS situation.

Air Cdre Byrne—Not at all—none.

Senator FAULKNER—Of course, the point here is—and I hear very clearly the evidence you give—that this is a situation that is revealed in ADF intelligence reports of SIEVX’s departure on 18 and 20 October. I think it is very important that this issue be nailed down. We also now know that this issue was not discussed in any detail at all at the People Smuggling Task Force. But you can categorically say to this committee that no SOLAS focused air search took place on any of those days in the relevant period from 18 October through to 23 October?

Air Cdre Byrne—That is correct.

Senator JACINTA COLLINS—In point of fact, you were not aware of any SOLAS information, were you?

Air Cdre Byrne—If there had been SOLAS information, I would have become aware of it.

Senator JACINTA COLLINS—So you never received the detail of the AFP report indicating a potential SOLAS situation?

Air Cdre Byrne—We received no information of an AFP report indicating SOLAS information. I understand, by reading Commissioner Keelty’s evidence, that there was no report until 23 October.

Senator JACINTA COLLINS—You will have to read very carefully how he characterises that. He says ‘all of the information that might have led to a SOLAS situation’, including reports from survivors, ‘was not available until 23 October’. He later corrected that to clarify that point that it all was not available by that stage. He has not denied that there was a report on the 20th that formed the basis of the ASTJIC report, that formed the basis of your report to crews at midnight on 20 October. But, from what you say to us, that report did not include any information that would lead to SOLAS concerns.

Air Cdre Byrne—That is correct.

Senator FAULKNER—In relation to the early morning flight of 19 October, on the chart there is a radar detection at 9.19 of something just outside the surveillance area, something that looks like it might have been heading south. Are you able to say what that was?

Air Cdre Byrne—No. It was a radar contact that could not be visually identified because of the range. Also, we were not in a position to further investigate that vessel, because it was within the no-go area, 24 nautical miles from the Indonesian baselines.

Senator FAULKNER—Was it ever determined what it was?

Air Cdre Byrne—Not to my knowledge.

Senator JACINTA COLLINS—What was the 9.32 one?

Air Cdre Byrne—Was this on the morning of the 19th?

Senator JACINTA COLLINS—Sorry, that was a merchant ship.

Senator FAULKNER—Are you aware of any reason why there was no afternoon search of the north-west quarter on 19 October, after the 9.19 radar trace that morning?

Air Cdre Byrne—The only reason I would put down is that there was no reason to have an afternoon search. There would have been no reason to put one up. Is this for the 19th?

Senator FAULKNER—Yes, 19 October.

Air Cdre Byrne—There was only the additional Orion flight that took off at about three o’clock in the afternoon and was on-task at about 5.30. It landed at about midnight or one o’clock in the morning.

Senator FAULKNER—Obviously what we are looking at is whether it is possible that any of these traces may have been SIEVX. No doubt this is something that has exercised your own mind.

Air Cdre Byrne—Exactly.

Senator FAULKNER—I suspect that this is an imponderable, isn’t it?

Air Cdre Byrne—Very much so.

Senator FAULKNER—But, of course, the similar radar contact on the second flight at 1930 was in fact inside the surveillance area, wasn't it?

Air Cdre Byrne—It was.

Senator FAULKNER—So there were other elements that pertained there.

Air Cdre Byrne—That is right; we did not get up there because we did not have the fuel.

Senator FAULKNER—No report came from ASTJIC or from NORCOM at this stage that caused any difference to the way surveillance was done through this period from 18 to 23 October, was there?

Air Cdre Byrne—No.

Senator JACINTA COLLINS—Can you provide us with the detail of when you received the ASTJIC report on 20 October and, similarly, the NORCOM int sum on that day as well?

Air Cdre Byrne—The ASTJIC int sum of 20 October was received at the 92 Wing detachment at Learmonth in Western Australia, from where they were operating at the time. It was 200001 zulu, which was 200801 local time.

Senator JACINTA COLLINS—I was trying to trace that through what we know about when the originating report arrived.

Senator FAULKNER—It was from Colonel Gallagher.

Senator JACINTA COLLINS—No, earlier than that—the AFP one. When we go to the original AFP report, it arrived with Coastwatch at 9.30K on 20 October, and it was that report that Colonel Gallagher told us formed the basis of the ASTJIC report they put out that day to forward on that information as quickly as possible. When I trace through the timing of the 9.30K, it seems that it appears to be before the timing of the flight on the 20th. I am trying to understand why, if at 9.30K intelligence arrives, that intelligence would not be passed through to a crew that is commencing at about that time on-task.

Air Cdre Byrne—Let me put that report in kilo terms. That report was put out at 201001K, about half an hour after that time you mentioned.

Senator JACINTA COLLINS—No, the time I mentioned was 9.30K.

Air Cdre Byrne—Yes, and the ASTJIC int sum of 20 October was put out half an hour later.

Senator JACINTA COLLINS—So that was put out half an hour later?

Air Cdre Byrne—It was.

Senator JACINTA COLLINS—So it was received by you at that time?

Air Cdre Byrne—It was received half an hour later at 92 Wing det Learmonth, yes.

Senator JACINTA COLLINS—How does that time translate to where the P3 was at the time?

Air Cdre Byrne—The flight for the 20th was airborne when that report was received. The crew for the 21st were briefed on that information that night before they got airborne.

Senator JACINTA COLLINS—So they were not briefed on that information whilst they were on task?

Air Cdre Byrne—No, they were not.

Senator JACINTA COLLINS—Can I ask why that would not have occurred.

Air Cdre Byrne—I would suggest it was because there was no information in there that they needed to be briefed on. Let me also check on the timings. When the int sum was received on the 20th the aircraft was three hours from off-task. The only thing I can think of is that there was nothing of any criticality in that intelligence report to bring to the attention of the crew, which was airborne.

Senator JACINTA COLLINS—This in part reinforces for us why we need to see that report.

Air Cdre Byrne—This is the ASTJIC report?

Senator JACINTA COLLINS—Yes. As we understand it, that report was produced following the advice from AFP that there was an overcrowded vessel, with the AFP officer raising concerns about safety. I am finding it difficult to understand why, if that information was received by ASTJIC and used to compile their report—which they said they compiled immediately because of that sort of information—when it was received at your end it was not immediately translated to a crew that was in the air in the region at the time.

Air Cdre Byrne—No, there was no safety of life at sea information. Correct.

Senator JACINTA COLLINS—But we need to see what information there was to understand your comment about why whatever information was there was not translated.

Air Cdre Byrne—I will take it on notice, then, to attempt to get the intelligence people to produce that for you.

Senator FAULKNER—Was there any special tasking after it became clear that SIEVX had sunk?

Air Cdre Byrne—The first indication we had that the SIEVX had sunk was on the 23rd. It was reported to the crew that got airborne on the 23rd.

Senator JACINTA COLLINS—So on that occasion there was a report directly to the crew?

Air Cdre Byrne—ASTJIC NORCOM reported that a vessel had foundered, and this appeared in our subsequent int sum of 23 October. So it was reported, I suggest, at some time on the 22nd.

Senator FAULKNER—But that did not lead to any special tasking for your crews?

Air Cdre Byrne—No. We did not know where it was, for a start.

Senator FAULKNER—Has there been any role for your group in assessments—obviously ex post facto—of this whole episode: for example, has there been any involvement in the development of Rear Admiral Gates's report and the like?

Air Cdre Byrne—We provided this information that has been provided to you to Rear Admiral Gates's group. We have not undertaken any analysis. That is beyond our capacity—we do not have the information. What we have been doing is flying Relex sorties every day, including today.

Senator FAULKNER—But you were able to provide some of that material that we obviously now have the benefit of.

Air Cdre Byrne—Yes.

Senator FAULKNER—That also has obviously been part of Rear Admiral Gates's consideration. You have done your own assessment of—

Air Cdre Byrne—All I did was look through this information that was provided to me, which is based upon the information that we gave to them, and try to make a bit of sense out of it in anticipation of questions here. But I cannot make any sense of the concerns.

Senator FAULKNER—We probably will not need to detain you much longer, Air Commodore. But if there was this expectation in the southern sectors on the day of looking for two boats and one of them was located and one was not located, I suppose the issue is the logicity of looking further north. No doubt that logicity would have struck those who were determining the strategic and tactical approaches for the day, I assume.

Air Cdre Byrne—Not necessarily. What is important here is an understanding of the vagaries of weather, and the weather on the 19th was not good. And radar is not brilliant; it loses a lot of effectiveness, particularly against wooden hulled vessels in high sea states. The crew that flew on the 19th indicated that they assessed the probability of detection against a fishing vessel in the northern areas would be 75 per cent.

Senator FAULKNER—Probability against detection?

Air Cdre Byrne—No, probability of detection of 75 per cent. That is a subjective assessment by the crew on the day, but it does indicate that it is not a perfect radar search. The integrity of their search was reasonably good in the north of the area; I checked the tracks basing myself. If I were an operational planner I would start by concentrating in the south of the area to make sure that nothing got through in the seven or eight hours subsequent when there was no aircraft on task, whilst there could have been a vessel transiting from north to south.

Senator FAULKNER—Do you have any other insights into the surveillance operation and the sinking of SIEVX that you might be able to share with us to assist us in this element of this committee's inquiry?

Air Cdre Byrne—Unfortunately no, Senator, I do not. It was a terrible tragedy but unfortunately we had no safety of life at sea indications and really did not know that it had happened until the 23rd, based upon all of the information that we had at hand.

Senator JACINTA COLLINS—I want to go back to the issue of what advice ASTJIC did provide as a consequence to the AFP report from 9.30K on the 20th. I appreciate that you need to take on notice the full detail of that. What we know from our end is what information was fed into the system from the AFP end. We have some insight of that material, such as that it referred, I think, to overcrowding from ASTJIC. Are you able to indicate whether the overcrowding aspect was part of the report that was received by ASTJIC on that morning of the 20th?

Air Cdre Byrne—At some time on the 20th, ASTJIC would have put out a report which indicated that a small and overcrowded vessel had departed, because it was definitely in our intelligence summary for that night for the crew that was flying the 21st. So, yes, I can say it. I cannot say when, but I can say that the mention of a small and overcrowded vessel would have occurred sometime in an ASTJIC report on the 20th.

Senator JACINTA COLLINS—From your end, what would constitute a safety of life at sea situation?

Air Cdre Byrne—A report from AusSAR or the Australian Maritime Safety Authority or anything that we receive from any other party which would indicate that there was a safety of life at sea situation and anything that we would have picked up airborne. I cannot think of anything else.

Senator JACINTA COLLINS—If we were to ask the Federal Police, hypothetically, if they were aware that there was a vessel of the standard 20-metre length with more than 400 people on board and it was a confirmed departure, would you agree that for them that would constitute a SOLAS situation?

Air Cdre Byrne—No, I do not know. I do not know what a 20-metre vessel with 400 people on board looks like, to be frank.

Senator JACINTA COLLINS—You would be relying on the assessments of others?

Air Cdre Byrne—Yes, I would have to rely on the assessments of others.

Senator JACINTA COLLINS—If a safety of life at sea situation had been clearly announced from one of the other agencies providing you with information, how would the MPG have responded? What would you have done?

Air Cdre Byrne—We would have taken the most appropriate action depending upon the information that was provided to us. For example, if a last known position had been provided to us, we would then have launched an aircraft and undertaken a search pattern appropriate to the safety of life at sea incident.

Senator JACINTA COLLINS—If for instance on the 20th the assessment had been reached that there had been a SOLAS situation, if you had been apprised of the departure point as a confirmed departure, the destination point and the likely travelling speed, would you have gone directly to that point to look?

Air Cdre Byrne—If we had known that there was a safety of life at sea incident, we would have taken appropriate action, yes.

Senator JACINTA COLLINS—In relation to some of the survivors' reports, if a P3 had flown over the survivors in the water, would they have been likely to have heard it—taking into account the weather conditions as well at the time?

Air Cdre Byrne—If it had gone straight over the top, I would have thought so.

Senator JACINTA COLLINS—Right. Even in inclement weather?

Air Cdre Byrne—Perhaps if they were in cloud—

Senator JACINTA COLLINS—You were up that night.

Air Cdre Byrne—I really cannot categorically say so, but I would think that somebody who had an aircraft of the P3 type overfly them at 1,000 or 1,500 feet would probably see it or hear it.

Senator JACINTA COLLINS—Was that the height that you were flying at?

Air Cdre Byrne—Generally, the searches were at 1,000 feet and definitely below cloud and the cloud was 1,000 to 2,000 feet over that period.

Senator JACINTA COLLINS—I appreciate that you have taken on notice the issue of why the information you received from ASTJIC was not immediately disseminated to the crew that were in the area, but I want to look at the timing in that regard. If the report came through three hours before they went off task then they were actually in that north-west sector—the area where some people have been hypothesising the ship sank. It is critical to ascertain why that information was determined not to be relevant to the crew in the area at the time. Is there anything further you can say to us at this stage or do you need to take it on notice?

Air Cdre Byrne—The ASTJIC int rep of 20 October was posted to the ASTJIC web site at the time that I indicated at 20.00.01z. I cannot advise when the int rep was read at the Learmonth detachment, but I can advise that the P3 flight for 20 October would have been under way at that time.

Senator JACINTA COLLINS—We understand that but why wasn't the information conveyed to the crew in the air? I am assuming you have radio contact.

Air Cdre Byrne—You would have to determine, once you read it, that there was a reason to pass it to the aircraft.

Senator JACINTA COLLINS—That there was a significant cue in it, for instance?

Air Cdre Byrne—I think, in fact, what it would say is that it was a small and overcrowded vessel. All of the vessels are small and all of those vessels had been overcrowded at some point—it is just that there are varying levels of being overcrowded. That is the only assumption I could make at the time, but I cannot speak for the intelligence personnel who were putting together those int reports, particularly at ASTJIC.

Senator JACINTA COLLINS—No, but you can take that issue on notice.

Air Cdre Byrne—I will take it on notice, Senator.

Senator JACINTA COLLINS—I can understand if the answer is that there was insignificant information from ASTJIC but, from our end, we are tracing information that came from the AFP indicating more detail than you seem to understand was the case. Our process needs to sift through how that information came out of the system and if there was some chance that that information could have assisted people still sitting in the water at that point in time.

Air Cdre Byrne—Yes.

Senator JACINTA COLLINS—The other thing that I would like you to clarify for me is that my recollection of Colonel Gallagher's evidence was that they posted on the web site and made calls about that intelligence report, so it may be that a call had been made directly rather than just simply that the report was posted on the web site. My impression from his evidence was that they posted an immediate report rather than wait for the end of the day, for instance, and they made calls to alert some people at least—DIMA was one of those that was not alerted—to this information. Obviously it would be critical to alert people to that information, particularly the people out there surveilling and looking for the ship, so I would question, if no call had been made, why that was the case, too.

Air Cdre Byrne—I will put it to my intelligence people and ask them to work back. Really, my judgment is that a report of a small and overcrowded vessel does not, of itself, indicate a safety of life at sea situation.

Senator JACINTA COLLINS—No, I appreciate that. If that is all that the report said, then it does not accurately reflect the report that we understand an AFP officer delivered. That might be the critical issue. You said earlier that the role you saw for yourself here today was defensive.

I would suggest that that is far from necessary in relation to the surveillance, but there are—certainly in my mind—some communication issues that I would like to get to the bottom of, such as why it was that certain communication flows had not occurred. I think the last people who sit in the spotlight on that issue are the crews who were out on the aircraft.

CHAIR—That concludes our examination of you as a witness, Air Commodore. I understand a colleague of ours, Senator Ludwig, has flown with your wing under the arrangement for members of parliament to experience activity with the defence forces, and he reports to us the very high standard and the professionalism of your wing. I wanted to pass that on to you. Senator Mason, Senator Brandis and Senator Faulkner have left but that is meant as no disrespect to you. If they had not left, they would have missed their planes, and the end of the examination of you as a witness was in sight, so I pass on their regards and thank you for your appearance here.

We do not have a listed date for another hearing—this may well be the last formal hearing of the inquiry. I cannot be certain about that, because there are outstanding matters yet to be settled and we are in anticipation of some answers that are on notice as well as other information that has been requested. There is also the possibility of other witnesses being called. With those considerations, on behalf of the inquiry, I take this opportunity to pass on to the officers of the defence forces that have appeared before us and those that have worked with our secretariat in arranging appearances and helping witnesses our thanks and appreciation for the work that has been done. We do appreciate it, and it will make our report and our job in writing the report a lot easier. On behalf of the committee, I pass on our thanks and appreciation.

Committee adjourned at 6.45 p.m.