

KILLESTEYN, Mr Edward Victor, Deputy Secretary, Department of Immigration and Multicultural and Indigenous Affairs

McMAHON, Mr Vincent, Acting Deputy Secretary, Department of Immigration and Multicultural and Indigenous Affairs

SIEGMUND, Ms Nelly, Assistant Secretary, Department of Immigration and Multicultural and Indigenous Affairs

CHAIR—Order! I call the witnesses from the Department of Immigration and Multicultural and Indigenous Affairs. I think this is the second time the department has appeared before us. As I recall, on the first occasion you were not in a position, or chose not, to make a statement. Do you wish to make a statement to begin the proceedings on this occasion?

Mr Killesteyn—No.

CHAIR—You are quite happy for us to go directly to questions?

Mr Killesteyn—Indeed. We understand the committee is interested in intelligence issues, and Ms Siegmund is the head of the branch that deals with those sorts of matters. Hopefully we can answer your questions as best we can.

CHAIR—I have a few questions not on the intelligence subject but on another matter which I would like to briefly cover, if I may. Back in May, I think, the committee was of the view that we wanted to take evidence from people on Manus Island, and we never went ahead because those people we sought to interview declined to make themselves available. At the time, I asked through the secretariat for an indication from the department as to whether the department would extend to people on Manus Island who may choose to come forward and give evidence the privilege that they would normally extend to or that would normally cover people giving evidence to a hearing in Australia, where we have jurisdiction. Clearly, on Manus Island, we do not have jurisdiction. It seemed a reasonable request to make.

My understanding is that the answer to that question was that the department's view was that they were perfectly happy to respect the evidence anyone gave but that, if people said or did things in the giving of that evidence which the department felt were useful, they would use that material in making any assessments about those individuals' rights. As a consequence, we were not able to guarantee to those people that they would have the same protections of privilege that they might have were we to conduct our proceedings in Australia. That is my understanding of the situation. Perhaps I should ask: do I understand that correctly, in your view?

Mr Killesteyn—We attempted to facilitate the request to speak to the particular people on Manus Island.

CHAIR—Yes, you did.

Mr Killesteyn—We took legal advice on this matter, and we were guided by that legal advice. Essentially, the issue was around whether any information that the person might provide, if it went to their claims in relation to asylum, would be in a sense useable by the refugee status determination officers in the context of assessing their claims. The advice that we received was that, if the matter went to the veracity of their claims for asylum, there would be every right for the department to use that information in making a final assessment as to whether or not the claims were valid. We could not therefore give any sort of guarantee to the individuals that that information would not be used.

CHAIR—However, if the hearing were conducted in Australia with people resident in Australia, you would not be in a position to use any material adduced in proceedings such as these in that manner, would you?

Mr Killesteyn—The issue concerned the way in which the process was being set up; there was an attempt to try to find a way in which a teleconference could be set up between the committee and the individuals in PNG. It was against that background that we were making that assessment about the use of any information that the person might provide.

CHAIR—I understand that. Any evidence given in Australia is privileged and cannot be used for assessment purposes. That is understood, isn't it?

Mr Killesteyn—That is understood but, as I say, the issue that we were tackling at the time was in the context not of a person appearing here in Australia but rather of a person providing advice from Papua New Guinea.

CHAIR—That is, someone appearing outside of our immediate jurisdiction where we can enforce our privilege protection. It is not legally necessary for you to take the view that you took, is it?

Mr Killesteyn—The view is about determining whether the person's claims for asylum are valid and I think it behoves us to take all information into account to determine the veracity of those claims. If a matter goes to those claims as a consequence of the person providing evidence then it would be irresponsible if we did not look at whether the person's claims were accurate or fair or honest.

CHAIR—Yes, but I return to my point. If they were resident in Australia, that situation would not obtain, would it?

Mr Killesteyn—I would have to take some further advice on that. Perhaps Mr McMahon can offer some views there.

Mr McMahon—One of the issues that did arise in respect of this is that evidence could be used in a variety of ways. For example, if an asylum seeker gave evidence before the committee remotely, overseas, then it is quite possible that we would have had people coming to us in any case through the back door simply trying to dissociate themselves from that evidence. That is entirely possible in a domestic context as well. In Australia where the laws of procedural fairness apply, an officer making a decision on a case is actually required, through the procedural fairness laws, to take into account all relevant considerations and to not take into

account irrelevant considerations. So even in Australia, although the evidence given could not be directly used, if there were consequential actions which arose in respect of that evidence then we are actually duty-bound by the law to respond to the information.

The situation was—with regard to the overseas context as well—that we were really quite conscious of that issue arising. We thought it was highly unlikely, in the overseas context, that the general nature of the evidence that would be given would adversely affect the claims of any individual. But part of our concern was simply that we could not give an absolute undertaking that the evidence, directly or indirectly, might not affect the claim. Our view is probably similar to that of others—that the risk was relatively low. In the end, there was more than one reason why the evidence did not proceed. I think there was that generalised concern but the process itself was also found to be slightly intimidating for some of the asylum seekers. As I understand it, there was more than one reason why they did not proceed with the evidence.

CHAIR—It may very well be the case that there was more than one reason why they did not proceed, but I am not concerned about that at the moment. I am concerned about the actions the department took to decline to extend the privilege that this committee would expect for witnesses appearing before it in Australia to witnesses appearing before it on Manus Island. My question at this point is simply this: it was a decision the department made but it was not a decision the department was compelled to make, was it?

Mr McMahan—I believe that we are under an obligation to consider all relevant material.

CHAIR—So if someone gave evidence under privilege to this committee, would you consider that in terms of their application for asylum?

Mr McMahan—No, we would not. But if, as a result of giving evidence, for example, someone came to us dissociating themselves from that evidence or elaborating on it—in other words, it is an indirect consequence in Australia—then we would need to consider it.

CHAIR—And the same proposition would apply on Manus Island if you chose to respect the privileges of this committee taking evidence on Manus Island.

Mr McMahan—The situation was that, just as in Australia, where we could not rule out that there may be circumstances which might apply which would actually be consequential to the evidence, we could not rule that out on Manus, as well. Having said that, we made it fairly clear that we thought the potential for that to be relatively slim. The other issue that I think is quite relevant is that the International Organisation for Migration had a duty of care, which it made clear. It was concerned about the possibility and consequences—

CHAIR—I am concerned about the department, though. All that you are saying is that the concerns that you had—and you were putting it in this context, might I say—were concerns for the people involved. But here in Australia they have the protection of privilege. Offshore, they do not. Your department chose not to extend it to them for the purposes of this inquiry when it was not a decision that you were forced to make. It was a decision that you chose to make. Am I stating it correctly? Is there something wrong with what I am putting as the factual situation?

Mr McMahan—I would put it another way.

CHAIR—How would you put it?

Mr McMahon—I would put it that we fulfilled our obligations in respect of information.

CHAIR—To the letter of the law?

Mr McMahon—I think in respect of what we would consider to be natural justice and procedural fairness.

CHAIR—You chose not to recognise privilege for this committee in hearings offshore. That is what you chose to do.

Mr Killesteyn—I think the interpretation and the explanation that Mr McMahon has provided go to the question of whether an absolute guarantee could be given about the information.

CHAIR—Can an absolute guarantee be given in Australia?

Mr Killesteyn—We are not talking about the direct information or evidence that might be provided by an individual; we are talking about issues that arise as a consequence of that evidence. That was the finer point about providing the absolute guarantee that the committee was looking for.

CHAIR—Why would someone not come to the conclusion that, because you were not prepared to extend privilege to witnesses who may come forward offshore, witnesses did not come forward and that suited your purpose? Why would that conclusion not be open?

Mr Killesteyn—It was not a matter of the department not extending the privilege. The issue is that on the advice we received about this matter of privilege, it was open and required, in terms of making a decision on the person's claims, that there may be information arising as a consequence of that evidence which should be taken into account in determining whether the person's refugee claims provided a basis for refugee status.

CHAIR—What I am now coming down to is a question of accountability and responsibility. As a department, you are accountable and responsible to the government and, beyond the government, which is the executive wing, to the parliament. Indeed, just two weeks ago we voted as a Senate on your appropriations. In order for us to vote on your appropriations, you went through an estimates process in which we quizzed you on your conduct. We are a committee inquiring into a certain maritime incident, and the people on Manus Island were directly involved in that incident. We asked if you would extend the courtesy of privilege to them so that they could give evidence knowing that there would be no repercussions in the assessment of their asylum applications, and you chose not to give that privilege. That is a free choice that you made. How do you explain that to us—to whom, ultimately, you are accountable—when that can, at least on one reading, interfere with the process of this inquiry?

Mr Killesteyn—We also have the responsibility for making decisions which go to a person's refugee claims.

CHAIR—Were you guided by the minister in this, or did you make this decision off your own bat?

Mr Killesteyn—This was on the basis of the legal advice that we had in relation to a request from the committee for an absolute guarantee in relation to this matter of privilege. The advice, as Mr McMahon has explained, is that, in relation to direct evidence, that privilege existed, but in relation to consequential matters that arose as a consequence of that evidence it was valid and proper, in terms of making a decision about the refugee status of the person, that that information could be taken into account. There is probably some debate about whether that was the overriding factor that ultimately led to the people not providing evidence.

CHAIR—The department could have saved itself a lot of time and effort by simply asking the Clerk of the Senate what the privileges rules were and obtaining an honest and direct reading from him as to what the obligations are. The privileges rules are relatively straightforward. People will not injure another party that gives evidence to us under privilege and if they do they risk contempt of the Senate and consequences may then follow. All we asked you to do was to put the cloak of that protection over people on Manus Island so this inquiry could fulfil its mandate from the Senate and ask those who were involved in the certain maritime incident what happened. The fact that you declined to do so may be a factor in those people not coming forward to give their story and it may be a factor for this committee to consider when it writes its report—that the actions of your department in part may have caused that to be the case. You understand that point, don't you?

Mr Killesteyn—Indeed. I think there will always be some debate about whether or not the department acted properly and indeed whether this was an issue that ultimately led to the people not offering any evidence. I do not think there is any direct causal relationship in this matter.

CHAIR—On reflection, would you have done it another way?

Mr Killesteyn—We went to great lengths to facilitate the request of the committee.

CHAIR—Except that you did not go and do what we asked you to do and tell the people on Manus Island that you would respect privilege if they gave evidence to us.

Mr Killesteyn—Because the committee was seeking an absolute guarantee which we could not give.

CHAIR—I do not understand why you could not. All we were asking you to do was to give us your word as a department that, in making assessments about these people's applications for refugee status, anything they said to us—which if they had said it in Australia would have been protected—would also have been protected if they said it from Manus Island. That is fairly straightforward and that is all we were asking you to do.

Mr McMahon—I believe that is what we said to them.

CHAIR—I beg your pardon?

Mr McMahon—I believe that is exactly what we said to them. They essentially respect—

CHAIR—It is not what you said to us, Mr McMahon. It is not what you have just said either.

Mr McMahon—It is exactly—

CHAIR—With respect, it is not what you have just said. You have just said that you obtained legal advice that you did not have to give that extension of privilege and you did not.

Mr McMahon—Essentially we were not going to participate in the direct evidence. We simply made the point that if people came to us subsequently, trying to dissociate themselves from evidence or providing further evidence, as a result of that extension, we would be duty-bound to use it. We also indicated that we thought that to be an extremely unlikely situation. We did everything we could to facilitate it; we encouraged IOM to facilitate the phone hook-up. It goes back to the question of the nature of the request that basically sought in absolute terms that there could be in no way any consequence at all. That was simply going beyond what we were capable of giving.

CHAIR—With the greatest respect, Mr McMahon, you have driven the question to the point where it loses its point. Clearly, we are not going to ask the department to give a guarantee it cannot give. The guarantee that nothing at all would ever happen to anyone as a consequence is not a guarantee that you could give because who knows what will happen. People giving evidence to our inquiry under privilege in Australia may have actions taken against them. Our cloak of privilege does not protect them from that. All that we can say is, in those circumstances, if it occurs, we can take action under the contempt rules of the Senate to punish the people who might try to break our privilege. That is all it says. We cannot ask you to say that no-one will ever do anything, but we can ask you to give us a guarantee that evidence given to us offshore will be respected as privileged for the purposes of the assessment of the applications these people might want to make. You declined to do that.

Mr McMahon—We indicated to them that we would not seek to use any evidence that was directly given to the committee. We made that very clear to IOM. In the end, my advice from IOM—I could go back and tease this out a bit more—was that that issue was not the main issue that resulted in their deciding not to proceed.

CHAIR—That is an observation that I have not even gone to at this point. What I am concerned about is the conduct of the department towards this committee and this inquiry. It may be that you would like us to record in our report for consideration when estimates come around next and your appropriations are before us that you declined to extend privilege offshore and, thus, in a way, blocked part of this inquiry. We have an obligation to the Senate to fulfil a mandate given to us. You may have contributed significantly to us not being able to fulfil that. That is not a matter of light moment.

Mr McMahon—I know it is not. I also believe that the evidence does not support it.

CHAIR—I am not sure what evidence there is. Would you care to provide us with a copy of the legal opinion on which you based your decision?

Mr McMahon—The evidence that I am talking about was the feedback from IOM as to why it did not proceed.

CHAIR—There is no such evidence before us.

Mr McMahon—Nor did I expect to have to give it tonight, as we were given a clear undertaking that this hearing was about intelligence gathering. Had I known that this was going to be on, I would have sought to provide the committee with more information.

CHAIR—Yes, of course it is about that. This is a threshold question that I raise and I will certainly shortly turn to the main purpose of this hearing. But you could not give evidence, I put it to you, as to what was in those people's minds when they declined to come forward. That would be hearsay, wouldn't it?

Mr McMahon—Indeed.

CHAIR—What evidence are you referring to then?

Mr McMahon—I am referring to the feedback from IOM as to why it did not proceed. It may not meet the standards of evidence in a court but I would have thought that it was quite relevant in respect of an inquiry such as this.

CHAIR—You are referring to what the agency told you.

Mr McMahon—Indeed.

CHAIR—And only that, which does not go to the point of what those people necessarily thought.

Mr McMahon—It was the feedback from IOM as to why it did not proceed.

CHAIR—In any case, I just do not accept that. I had better be square and frank with you: I do not accept that that would be evidence in the normal course.

Senator BRANDIS—Mr Chairman, given that this inquiry is not governed by the rules of evidence, I am struggling to see the relevance of your line of interrogation of these witnesses.

CHAIR—The line of inquiry is quite simple: we asked the department to extend privilege to people on Manus Island to give evidence to this inquiry, and the department declined. It is an option for the department.

Senator BRANDIS—The department is not at liberty to extend parliamentary privilege.

CHAIR—The department is at liberty, I put it to you firmly, to say that it will not use any evidence obtained in a hearing conducted offshore against people who are applicants for asylum.

Senator MASON—It will not take it into account in terms of their applications.

CHAIR—Yes.

Senator MASON—I understand.

CHAIR—And it declined to do so.

Mr Killesteyn—I think there is a finer distinction here which, at least from my reading, it seems is being interpreted, in the way that you are putting it, that we are not respecting privilege.

CHAIR—No, I am not saying that you are not respecting privilege.

Mr Killesteyn—Or that we declined to respect privilege.

CHAIR—In fact, I can say to you that what you have done is legally possible. All I was saying to you was that, as a department accountable to the government and through the government to the parliament, in a parliamentary inquiry, we asked you whether you would mind letting those people on Manus Island know that they could give evidence to us and that the evidence they give to us would not be used against them in assessing their asylum applications, and you declined to do so.

Mr Killesteyn—That is not correct, Senator.

CHAIR—Whether that was the reason they did not give evidence to us or not is another matter, but it could be thought to be at least one of the considerations, if not the major one. That is what I am putting to you.

Mr Killesteyn—And we are saying that that is not correct. We did advise the people on Manus that the evidence that they could give to the committee would not be used in the refugee status determination matter. It was matters that arise as a consequence of that, and later, that we could not give a guarantee would not be used. So the privilege was still there; and we were guaranteeing the privilege, and respecting the privilege.

CHAIR—What was the manner in which you give this advice, Mr Killesteyn?

Mr McMahon—We advised IOM.

CHAIR—Did you advise them in writing or orally?

Mr McMahon—I believe orally.

CHAIR—Is there a notation recording what you said?

Mr McMahon—There may well be.

CHAIR—Do you know what IOM told those people?

Mr Killesteyn—They would have told them what we told them. We can take that on notice.

CHAIR—Do you know that for a fact?

Mr McMahon—Yes I do, as a matter of fact. I cannot vouch for this, but we had a liaison officer on the island at the time. I seem to recall that we passed the information to her as well, and that she spoke to IOM and possibly to the asylum seekers themselves. But I would have to verify that.

CHAIR—Then please do.

Senator BRANDIS—Mr Chairman, I wonder if, before the point is lost, I could pursue Mr Killesteyn's answer from about four questions ago in which he sought to explain the reason for the decision. May I do that?

CHAIR—You may, if you wish.

Senator BRANDIS—Thanks, Mr Chairman. Mr Killesteyn, what I understand you to be saying—correct me if I am wrong—is that, although the department may have told possible witnesses on Manus Island that it would not have regard to their testimony before this committee in assessing any application for refugee status that they might subsequently bring, the department was not in a position to, and therefore was not able to, assure such people that it would, under no circumstances, have regard to any other facts that might subsequently be revealed, which might perhaps be prejudicial to their applications for refugee status in consequence of their testimony to this committee. Is that the substance of it?

Mr Killesteyn—That is exactly right. It is a distinction between the direct evidence and any consequential matters that arise.

Senator BRANDIS—Or, in legal parlance, the distinction between what is called direct and derivative immunity. Your legal advice was essentially to that effect?

Mr Killesteyn—I cannot recall precisely what the legal advice was, but it was certainly to that effect—the distinction between direct and derivative, as you say.

Senator BRANDIS—And, of course, any determinations in relation to refugee status are reviewable by the Refugee Review Tribunal?

Mr Killesteyn—Not in the context of the decisions being made in respect of people in Manus or in Nauru. They are reviewable, but it is an administrative review as distinct from one that is run by—

Senator BRANDIS—As opposed to a merits review.

Mr Killesteyn—That is right.

Senator BRANDIS—Quite. I am sorry, I put that badly, but that is really the point that I am getting at. One of the bases upon which a decision is reviewable in an administrative review—and this is, I think, the point Mr McMahon was at pains to make—is having regard to irrelevant

considerations, or failing to have regard to relevant considerations. I think we know that. If, for instance, a fact were to be revealed by a refugee applicant in evidence before this committee which produced a conclusion as to his or her application for status, and there was subsequently an application for administrative review, I put it to you that the fact that a piece of evidence given before this committee was disregarded within the view of the review tribunal that ought to have been had regard to might result in a determination being overturned—potentially to the prejudice of that applicant.

CHAIR—That is a very long bow.

Senator BRANDIS—It is not a long bow. Senator Cook, if you were a lawyer, you would understand it is elementary.

CHAIR—I am not a lawyer, but I do regard it as a long bow. I would think that there would be some weight given to what processes the department agreed to accept for a parliamentary inquiry.

Senator BRANDIS—No, there would not be—not by an Administrative Review Tribunal. If the Administrative Review Tribunal were of the view, as a matter of law, that that piece of evidence, if it was direct evidence, irrespective of any immunity offered by the department, or if it was indirect evidence, regardless of whether the immunity was upheld or not, ought to have been had regard to and was not, then that would be a very proper and commonplace basis for a determination to be set aside. I apprehend it was that kind of prejudice against which you were seeking to protect potential applicants when you made the decision on the undoubtedly correct legal advice you received.

CHAIR—I accept that as your opinion. We are going to have a copy of the legal opinion?

Mr Killesteyn—We will provide that to the committee.

CHAIR—Can you provide us with copies of any written information given to the people on Manus Island by IOM as a result of the verbal communication of the position?

Mr McMahon—I cannot say that there was written advice given by IOM.

CHAIR—Was it all by word of mouth?

Mr McMahon—It may have been. I am just saying I cannot say that there was written advice. The fact of the matter is that when you are dealing—

CHAIR—If there was any, you can provide it?

Mr McMahon—We will certainly have a look at it. If it was given, I will certainly provide it.

CHAIR—Thank you.

Mr McMahon—The bottom line is that it is often difficult dealing in written material with groups of people who speak a lot of languages. A considerable amount of the communication that takes place within those centres is oral because they ask a lot of questions and they go over the material so that they can get an understanding of it. It is quite common for us to provide messages orally.

CHAIR—Thank you for that information, but you will obtain any written advice that was given and provide it to us?

Mr McMahon—Correct. I give you that undertaking.

CHAIR—Thank you. That is enough for the time being. Are there any other questions from the committee?

Senator FAULKNER—I certainly have some. I realise the government senators get first call if they have any.

Senator BRANDIS—I do not have any more questions for the moment.

Senator MASON—I will defer to Senator Faulkner for the moment.

Senator FAULKNER—Thank you both for that qualified deferral. Mr Killesteyn or Mr McMahon, both of you were present at the task force meeting on 12 October 2001 when the task force minutes or notes talk about ‘discussion of disruption activity and scope for beefing up’. You were both there so I wondered if you could share with us what that means.

Mr Killesteyn—Generally, disruption activity refers to those activities on the ground in Indonesia which would frustrate any impending departure of a vessel. We were looking at around that time, in October, where there was clear evidence that there was a build-up potentially of quite a considerable number of vessels. It was thought prudent to see what we could do to extend disruption activities to prevent those vessels from leaving in the first place. That disruption activity was not a matter that we were directly involved with in Indonesia. It goes to things such as information campaigns.

Senator FAULKNER—Who is ‘we’ in this instance who were not directly involved? Is it DIMIA?

Mr Killesteyn—That is correct.

Senator FAULKNER—Can you help me with this, Mr McMahon?

Mr McMahon—That is my understanding of it as well, but I believe it also went to informing the Indonesian authorities about activities that were taking place.

Senator FAULKNER—It seems to me from what I have heard at this committee and from a whole range of witnesses that DIMIA’s intelligence operation or coordination role is the lynchpin role. Quite a number of witnesses have said that. I think that is a reasonable thing for

me to say, but perhaps one of you as witnesses would care to comment on that or acknowledge or confirm if that is the case.

Mr Killesteyn—It goes to the question of the description of ‘lynchpin’ or ‘coordination.’ Perhaps I can give you a general description of essentially what happens—

Senator FAULKNER—Please.

Mr Killesteyn—and perhaps Ms Siegmund can amplify that at some point. Within the Border Protection Branch we have a group of people known as the Intelligence Analysis Section. I provide that information early because it goes to our essential role of analysis of intelligence. In a sense, the role is played out by the IAS receiving intelligence from a range of sources and then making an analysis of the veracity of that intelligence to give us and other agencies a basis for planning action and responses to the impending departure of any vessel. We initially started the Intelligence Analysis Section two years ago. It was essentially an internal section where the product of intelligence analysis was being provided internally to the department and to the minister. Ultimately that proved to be a valuable product and other agencies started to request copies of the various intelligence notices we put out. Over time, that grew into a recognition that there was value in having one central agency collect the intelligence, analyse it, make sure it has more than one source, determine its veracity and so forth. We then filled a role where we were very actively and quickly collecting that intelligence, putting it into the form of notices and bulletins and distributing it to the relevant agencies outside DIMIA.

Senator FAULKNER—In terms of the government’s objective to counter people-smuggling operations, the Intelligence Analysis Section of DIMIA becomes the key point for the receipt of primary intelligence reports and you obviously analyse that and distribute it more broadly in the bureaucracy. Is that a fair description?

Mr Killesteyn—That is a fair comment.

Senator FAULKNER—Understanding that, what is coming into the Intelligence Analysis Section? It is primary intelligence. I do not want to go too far into this. However, I would like to know what agencies are inputting to you. For example, you have the AFP intelligence. Just give me a list of what agencies, organisations or groups are inputting in terms of your sources, in the broad, of primary intelligence.

Ms Siegmund—Perhaps I can answer that. We have an all-source analysis capability. It includes a very broad range from open source material and, as you have alluded to, to agencies that provide us with support from a very broad range of the Australian intelligence community and also the law enforcement community. It includes agencies within defence such as Defence, AFP and state police. We also have a network overseas of what are called compliance officers who work offshore. There are 26 of those officers located in embassies around the world. Their function is to look at people-smuggling trends and illegal people movements within their region and provide that information back to IAS and other areas. It also includes nine airline interdiction officers who work at airports.

Senator JACINTA COLLINS—What are they called?

Ms Siegmund—Airline liaison officers—ALOs—is the correct title. They are based at seven airports, mostly within the region—hub airports—and their role is to work with airlines and assist them with document examination skills and provide advice about who can and cannot be uploaded to Australia. That is also a very prime source of intelligence for us from people working at airports.

Senator FAULKNER—So you have this material coming in—these primary reports—and then you have the strike team. Can you explain the role of the strike team?

Ms Siegmund—Certainly, Senator. The joint agency AFP-DIMIA people-smuggling strike team is physically located within the AFP. It was created as a result of a cabinet decision to look at organised criminality behind people-smuggling, so its role is to undertake investigations which will hopefully lead to the prosecution of people involved in organising people-smuggling. The joint agency team comprises 15 people—five from DIMIA and 10 from the AFP. It is a combination of analysts plus certified investigators, and they undertake a series of operations where they have targeted people whom we believe are involved in the organisation behind people-smuggling. Their role is also then to provide information that they may come across in the course of their investigations to IAS as well, or vice versa—that we are able to provide them with the result of our collation analysis and the product that comes out. There is a close relationship in terms of the information sharing that goes on between the two but the strike team takes the role a step further in that its role is really to look at investigation and prosecution.

Senator FAULKNER—So that is called the joint strike team?

Ms Siegmund—It has a very long title: the Joint Agency People-Smuggling Strike Team; that is, DIMIA and AFP.

Senator FAULKNER—The DIMIA involvement in that comes from, effectively, your border control branch too?

Ms Siegmund—Yes. It comes in several ways. One is that we provide five team members, as I mentioned. There is also a board of management that I think I mentioned to you previously, Senator.

Senator FAULKNER—Yes, indeed.

Ms Siegmund—That comprises myself and my equivalent in the AFP. The role of that board is to look at how the strike team is conducting its operations, what operations it takes on, what are its priorities and how it is running. That is the other involvement in that strike team from DIMIA's perspective.

Senator FAULKNER—You have the strike team and the intelligence analysis section. Are any other bureaucratic structures in the Border Protection Branch playing a role in relation to countering people-smuggling?

Ms Siegmund—Yes, Senator. There are currently five sections within the branch. One of those other sections is the offshore compliance and liaison area which manages the offshore

compliance liaison network that I described to you and the ALOs—the airline liaison officers network. They have a very strong role to play in terms of how our offshore compliance network operates and how it feeds information back to us. There is also a separate investigations policy and liaison area. We currently have four investigation sections throughout Australia. It is the role of the central office section to coordinate the activities of those investigations units as well. In the course of those investigations, if they come across people-smuggling issues, they feed them in either to IAS or the PST—the people-smuggling strike team—depending on what it was and what level it was at.

There is also the identity fraud and document integrity section. We have become increasingly concerned about identity fraud as a global and national issue and the impact that it may have on transnational crime issues such as people-smuggling. Whilst the section looks more broadly at the composite issue of identity fraud and how it impacts on the portfolio of immigration, there is also a component in terms of people who are involved in people-smuggling who may seek to change their identity because they feel it will help them to have a different outcome in terms of being smuggled or being involved in smuggling. That is another area that obviously has a direct impact too.

Senator FAULKNER—Thanks for that helpful background. Let us come back to the task force and the decision in relation to what is termed in the task force minutes:

Discussion of disruption activity, and scope for beefing up.

What role did DIMIA or any of these parts of DIMIA have in that activity?

Mr Killesteyn—Can I seek some clarification? When you ask what role we had in that activity, do you mean activity in Indonesia?

Senator FAULKNER—No, I am talking about it from a task force perspective at this stage. Did your strike teams, the Border Protection Branch or anyone actually suggest that this might be a way forward, given the crucial role that you were playing?

Ms Siegmund—I do not think this is the whole answer, but it might go part of the way to answering your question. As I think Mr Killesteyn mentioned, IAS does the collection analysis and then produces reports coming out of that. Those reports have a distribution list that includes agencies that are represented on the People Smuggling Task Force. So all of the intelligence reports that we were putting out during that period of time were certainly made available to members of that task force, or they had access to them.

Senator FAULKNER—I do not know if you heard any of the evidence the AFP gave earlier today.

Ms Siegmund—Some of it, but not all of it.

Senator FAULKNER—We heard of a protocol between the AFP and the INP being laid aside. Did DIMIA have any knowledge or understanding of the background to that protocol being terminated?

Mr Killesteyn—No.

Senator FAULKNER—None at all?

Mr Killesteyn—None at all.

Senator FAULKNER—What are you able to tell us about the disruption activities on the ground in Indonesia?

Mr Killesteyn—Only generalities in terms of the things I explained before about information campaigns and providing an opportunity for people to be delivered to the IOM processing areas. You are probably aware—I think it has been referred previously—that there has been a regional cooperation model running whereby IOM seeks to care for these people pending an assessment of their refugee claims and resettlement to other countries. That facility was established a couple of years ago and it works well with the Indonesians.

Senator FAULKNER—Let us start with the information campaigns. They are part of the disruption activities, are they?

Ms Siegmund—Yes. Several campaigns have been conducted in Indonesia. For example, I am advised that one of the campaigns was aimed specifically at Indonesian nationals who had been lured in to be crew members for some of the vessels. As you may have been advised in other evidence, many of the crew members of illegal vessels that have attempted to travel to Australia have been fisherman from small villages who have been offered amounts of money, probably amounting to a year's salary for many of them, as enticement to get involved. One of the campaigns was aimed at trying to let them know what would happen if they were caught trying to enter Australia illegally—what the consequences of that might be—and to alert them to the fact that they were becoming involved with organisers who in effect were criminals.

Another campaign was also aimed at trying to point out some of the dangers in travel to passengers and the fact that they were involving themselves with organised criminals—people who were working in the people-smuggling industry, which is an illegal industry—and that they should not allow themselves to be enticed into that kind of activity.

Senator FAULKNER—Yes.

Ms Siegmund—The former was certainly done very much with the cooperation of Indonesian authorities, particularly because it was aimed at Indonesian nationals in terms of the fishermen. It was done very much with Indonesian authorities at the time, I believe.

Senator FAULKNER—So how did you run such an information campaign? I think we know about the T-shirts. I do not know if the T-shirts were relevant to that campaign. I heard evidence previously from a DFAT officer about T-shirts. You may not even know about that so let us not get bogged down in it.

Ms Siegmund—I am sorry, I do not. I have seen pamphlets and leaflets that were produced and I am also aware that officers from the embassy in Jakarta have visited certain places to have face-to-face discussions with people rather than expecting them just to read pamphlets—which

were obviously translated. It was a combination of many different sorts of tactics. The T-shirts is one I had not heard of but that is obviously part of it. Leaflets and direct discussions were the ones that I was aware of.

Senator FAULKNER—Do you have a budget for this activity?

Mr Killesteyn—It is within the appropriation provided to DIMIA.

Senator FAULKNER—Yes, but these are moneys being spent in Indonesia, isn't it? I know it is within your appropriation. Give me a fair go.

Mr Killesteyn—Yes, but if we produce a pamphlet then we will produce it here. It is not a matter of paying anybody in Indonesia. To the extent that we are—

Senator FAULKNER—So all the pamphlets that are printed for distribution in Indonesia are printed in Australia?

Mr Killesteyn—Even if they are printed in Indonesia—which I do not know—it is still paid for by DIMIA.

Senator FAULKNER—Yes, I know. I guess what my question was: do you have a budget for this sort of information campaign?

Mr Killesteyn—A fixed budget?

Senator FAULKNER—There must be some accountability.

Ms Siegmund—Again, I am not sure I can answer all of your question. It is a little bit out of my area. But we were provided with funding as a result of the Prime Minister's Coastal Surveillance Task Force to look at issues such as capacity building and others. What I would prefer to do, I guess, is to come back to you to say whether any of those funds in that task force or subsequent budgets were allocated specifically to issues such as information campaigns. I am sorry; I do not have that—

Senator FAULKNER—So you could take that on notice for me?

Ms Siegmund—If you would not mind. I will get back to you.

Senator FAULKNER—That is fine. If you could disaggregate it, I would appreciate it. I could then get some sort of understanding on how the moneys are being spent—

Ms Siegmund—Sure.

Senator FAULKNER—and where they are being spent, if that were possible.

Ms Siegmund—To clarify, just on the information campaign or, from the task force, how other funding was spent as well?

Senator FAULKNER—Yes. What about other disruption activities that you are aware of?

Ms Siegmund—We certainly are aware that the AFP have been working quite extensively in developing their relationship with the Indonesian National Police. The level of detail, though, in terms of what that actually means on the ground or how that is actually conducted, I would only be relaying second hand to you.

CHAIR—That does not stop Mr McMahon doing the same.

Ms Siegmund—I cannot comment on that, I am sorry.

CHAIR—All I am saying is that Mr McMahon was free to do that but apparently you have drawn the line at doing that.

Ms Siegmund—I would hesitate to try and give you something second hand on something quite as serious and detailed.

CHAIR—That is precisely the point I made to him.

Senator FAULKNER—There would be ministerial briefs going up to your minister on disruption activities, I suppose,?

Mr Killesteyn—Yes. We keep him briefed on all such matters.

Senator FAULKNER—What part of the department would prepare those briefs?

Mr Killesteyn—That would be within the Border Protection Branch.

Ms Siegmund—To clarify, we provide him with regular briefing on the people-smuggling situation generally—you know: what is happening in terms of Indonesia, numbers coming in, boats et cetera.

Senator FAULKNER—I would expect that, but my question went to disruption activities and whether the minister is briefed about that.

Ms Siegmund—Yes. It perhaps expands the question that I felt I could not answer more clearly. It has occurred to me too that we have had reports from our colleagues at the AFP about Indonesian involvement in being able to stop certain vessels from departing—vessels that they felt were leaving their harbours illegally. It then transpired that they had passengers on board who were attempting to come into Australia illegally. We have certainly reported that to our minister, yes.

Senator FAULKNER—Did the minister raise, at any meetings in his ministerial visit to Indonesia in June, the issue of disruption activities?

Ms Siegmund—I did not accompany him during that journey. I have visited Indonesia myself to have discussions with the Indonesians, but I did not accompany him on that June visit so I cannot answer that question. I do not know whether there is any record of meetings.

Senator FAULKNER—Has any part of the Border Protection Branch of DIMIA or—to your knowledge, Mr Killesteyn—any part of DIMIA more broadly sought legal advice in relation to the appropriateness or otherwise of disruption activities?

Ms Siegmund—No. I can speak for my branch. I am not aware of any other area of the department that has done what you have outlined.

Senator FAULKNER—Are you aware of whether the strike team has sought legal advice in relation to disruption activities?

Ms Siegmund—No, I am not aware of that.

Senator FAULKNER—Who would be able to assist me with that?

Mr Killesteyn—We can take that on notice. It is a fairly broad description of ‘disruption activity’. If you start to break it down in terms of the various types of activities that are being undertaken under that broad heading, then in many cases the issue of the legality does not arise. The information campaign, at least on my assessment, would not invite a question of legality, but if you started looking at other—

Senator FAULKNER—No, I would assume that you are absolutely right. An information campaign would not, but I am wondering about other elements of the disruption campaign that might.

Mr Killesteyn—And all I am saying is that, until you get down to a specific suggestion of a specific activity which might, on first principles, raise suspicions about the legality, then we really cannot—

Senator FAULKNER—Well, call me suspicious—

Mr Killesteyn—I am not calling you suspicious.

Senator FAULKNER—but I want to know now whether you, Mr Killesteyn, have ever had raised with you any concerns about the nature or legality of any of the disruption activities.

Mr Killesteyn—None at all. DIMIA is not an agency that has a role or a function or a mandate to be involved in disruption activities that might invite some sort of question as to its legality. That is not our role. We are not a law enforcement agency.

Senator FAULKNER—No, I appreciate that, but you do have officers in the strike team.

Ms Siegmund—As I mentioned, the role of the strike team is investigations leading to, hopefully, prosecutions. Their aim is to investigate the persons behind the organised criminality,

then bring that to a prosecutions brief with DPP, hopefully leading to a successful outcome of that prosecution. With that role in mind, I do not think that that is really what I would call disruption activities, other than that they are attempting to arrest or prosecute some of the main organisers. I suppose in that sense you could call that disrupting a criminal network of some kind.

Senator FAULKNER—But you also have your offshore compliance and liaison officers in Jakarta working very closely with the AFP there, haven't you?

Ms Siegmund—Yes. As I mentioned, the role of our compliance officers in Jakarta—we now have three there—is to look at the whole issue of people-smuggling in their region, which is Indonesia, and to report back to us on what is happening. For example, have they picked up information from their Indonesian host government—and from other embassies there, the Dutch, the German, the Canadian and New Zealand—on what is happening? Are people moving through the area and out again? Are there more people trying to attempt to leave illegally through the airports? Have they noticed movements of varying nationalities into Indonesia or not? What kind of work is the host government doing? What are their attitudes to people-smuggling? What are the visa regimes and so on? So we have tasked them very strongly with doing that kind of level of reporting back to us so that we know what is going on up there.

Mr Killesteyn—Can I add to that that we pay very careful attention to the role that our overseas compliance officers undertake. It is very clearly laid out to them that they are not law enforcement officers; they do not involve themselves in any clandestine activity. They are simply there collecting information that is generally and openly available.

Senator FAULKNER—Are clandestine activities taking place there?

Mr Killesteyn—I am making a point about my officers; I am not making a point about anybody else, nor am I reflecting on what might be going on. All I am suggesting is that that is the very clear role of DIMIA compliance officers. They are collection points that feed into our intelligence analysis. There are clear limits.

Senator JACINTA COLLINS—Mr Killesteyn, did I mishear earlier? I thought Ms Siegmund said that the compliance officers were involved in the information campaigns.

Mr Killesteyn—Yes; in distributing—

Senator JACINTA COLLINS—That is not an information collection activity. That was part of your disruption campaign activity.

Ms Siegmund—I think I mentioned officers at the post across the board and certainly the extent to which our officers were involved in the actual distribution of leaflets and so on. I would have to check and get back to you on that but I think what I said to you was all of the officers at the post.

Mr Killesteyn—An information campaign is—

Senator JACINTA COLLINS—I accept that is an open and transparent activity but—

Mr Killesteyn—Exactly.

Senator JACINTA COLLINS—the earlier point was that you were saying that they were only involved in the reception of information. This is a different role to that.

Mr Killesteyn—I acknowledge that there are broader roles that they provide, but I was simply making the point that in terms of their collection activity it is about dealing with open source information. They are not trained to do anything else.

Ms Siegmund—Just to clarify it and to give you a complete answer, the other strong role they have at the post is to look at any case load fraud. For example, in terms of the applications that are presented at the embassy they have a role at looking at the question of whether we are being targeted by certain organised efforts to defraud us in some way. That is another very clear role they all have across the board.

Senator FAULKNER—Have you been aware at any stage from any source of any concerns about the nature or legality of disruption activity?

Ms Siegmund—No. I have not been aware of anything that you are describing.

Senator FAULKNER—To what extent does your branch receive reports from the strike team? What is the interface like between the strike team and the Border Protection Branch?

Ms Siegmund—It occurs in several different ways. First, there can often be daily contact, for example, between the analysts that work as part of the strike team and the analysts that work within my branch. There can often be that daily interchange between them. It occurs in our formal monthly board of management meetings. It also occurs at another level through written reporting. We provide them with copies of our departmental intelligence notices, and any reports that they might be producing would come to us. So it is a combination of verbal interchange between the staff of the two areas, and from our distribution list they would receive intelligence notices or product that we put out.

Senator FAULKNER—But you are not aware of any legal advice that has been sought about disruption activity that may have caused concern or that may have been questionable in some way?

Ms Siegmund—From us or from the strike team? No.

Senator FAULKNER—I am just asking generally whether you aware of any.

Ms Siegmund—No, I am not aware of any.

Senator FAULKNER—You have mentioned that, in relation to DIMIA's responsibility with the disruption activities, one involvement is the information campaigns. Can we go to the next step of what other disruption activity you might be involved in?

Ms Siegmund—The only other involvement we have is with a whole of government committee. I am not sure if you have been made aware previously that ONA chair a committee—again, a whole of government committee—called the Intelligence Oversight Committee. Again, that came out of the Coastal Surveillance Task Force recommendation that there should be better coordination of information flows between agencies. A subgroup of that committee, a much smaller group, looks at the intelligence in more detail to see how that could go to informing us for things like information campaigns and other such activities. DIMIA are involved in that committee as well as the oversight committee.

Senator FAULKNER—Are there any written objectives that you could point me to for the disruption activities that DIMIA itself is involved in?

Ms Siegmund—I am not aware of any, but I would certainly like to make sure of that and have the capacity to come back to you if there are any. It would be along the lines of information campaigns that we have been involved in and what they were aiming to do. But if there is anything in writing, I would certainly like to take that on notice and come back to you, if that is possible.

Senator FAULKNER—From DIMIA's perspective, who is responsible for this and who carries it out?

Ms Siegmund—The information campaigns?

Senator FAULKNER—The disruption activities that you are involved in.

Ms Siegmund—The campaigns in the past have been a combination of some involvement from our public affairs area, from my area and also from our international cooperation branch, which looks at issues to do with engaging countries in international cooperation efforts.

Mr Killesteyn—But that is in terms of putting the material together. Once it gets to Indonesia, I guess there would be a broad range of people who might assist in distributing the pamphlets, making sure they are getting to areas where potential illegal immigrants are known to congregate and making sure that IOM are cooperating, because they also have communication links throughout areas of Indonesia where potential illegal immigrants are located. When you get to the dissemination of information, I do not think that it falls to any one group. AFP are probably involved as well.

Ms Siegmund—I am sorry, I did misunderstand that. AusAID are another good example too, I think. They have actually done considerable work in a lot of the areas where these fishermen come from.

Senator FAULKNER—Are you aware of concerns that the Indonesian authorities have expressed about disruption activities?

Mr Killesteyn—No.

Ms Siegmund—No.

Senator FAULKNER—That has not come to the attention of Department of Immigration and Multicultural and Indigenous Affairs?

Mr Killesteyn—No.

Ms Siegmund—No. In fact, as I mentioned, we have done one component—the information campaigns—very much in conjunction with the Indonesians.

Mr Killesteyn—I think it is fair to say that our relations with our counterparts, at least, in Indonesia—immigration in Indonesia—are very good.

Senator FAULKNER—Wasn't it the immigration authorities in Indonesia who drove the AFP-INP protocol being laid aside?

Mr Killesteyn—I have no knowledge of that.

Senator FAULKNER—That has never been raised with the department of immigration?

Mr Killesteyn—Not to my knowledge.

Senator FAULKNER—Indonesian immigration authorities never raised such concerns with the immigration department in Australia?

Mr Killesteyn—Concerns about disruption?

Ms Siegmund—Or the MOU?

Senator FAULKNER—The concerns that led to the protocol between the AFP and the INP being abandoned.

Ms Siegmund—No.

Mr Killesteyn—Not to my knowledge, no.

Ms Siegmund—Indonesian immigration have never raised that with us, to my knowledge.

Senator FAULKNER—Have they ever raised concerns with you about Enniss, who has some notoriety? With his work for the AFP, there was some publicity about him. You would be aware of the individual, I am sure.

Mr Killesteyn—We are aware of the individual, but we have no knowledge of the person's activities, and nothing has ever been raised with the immigration department.

Senator FAULKNER—I do not expect you to have knowledge of the person's activities.

Mr Killesteyn—The answer is no.

Senator FAULKNER—My question merely goes to whether concerns about his role or activities have ever been raised with DIMIA by Indonesian authorities.

Mr Killesteyn—Not to my knowledge.

Senator FAULKNER—Would you know if that were the case? I am assuming that the answers you are providing me—which I accept absolutely that you are providing in good faith—are provided on behalf of the department. You are not giving personal answers in that sense?

Mr Killesteyn—No, that is true. We get a range of information coming in, such as cables from the embassy, and I certainly cannot recall receiving any information that goes to immigration Indonesia raising concerns about the activities of Enniss.

Ms Siegmund—If I can clarify, Senator. I am not sure that Mr Killesteyn is aware that Indonesian immigration, at one time, in the course of another meeting with us that was not to do with Enniss—it was to do with other discussions they were having—raised concerns about a particular person who they thought might have some visa irregularities. It was just in that very general context. It was not raised again. I would prefer, because I do not have the dates in front of me, to get back to you on that. I did not bring that material.

Senator FAULKNER—That is fair enough. I appreciate that. I would ask you, Mr Killesteyn, in relation to these questions, to check that the answers, which I do accept are being provided by you and Ms Siegmund in good faith on behalf of the department, are in fact able to be represented as being on behalf of the department. If there is some knowledge at a departmental level that you might not necessarily have, I hope that you would so inform the committee.

Mr Killesteyn—Indeed.

Senator FAULKNER—That is probably a given, but let me just say that.

Ms Siegmund—My apologies too, Senator. That is why I interjected: because I knew Mr Killesteyn was not aware of that.

Senator FAULKNER—I appreciate that. This is a question to Mr Killesteyn or Mr McMahon: in this instance, in your own role on the People Smuggling Task Force, were the disruption activities a regular topic of conversation or just for beefing things up, as it was described on 12 October? Was this something that was discussed on a more regular basis? I know that both of you were at least irregular attendees of the task force, if not regular attendees.

Mr Killesteyn—I think that the minutes are probably reasonably accurate in that it would have been a fairly short conversation. Obviously, as I said before, the People Smuggling Task Force was concerned about the evidence of a surge and was, in a sense, giving a direction to the responsible areas to look for further opportunities for disruption. Beyond that, in terms of discussions on particular activities, I certainly cannot recall in my time and in the number of meetings I went to that we got down to chapter and verse of what disruption might be possible.

As you have seen from Ms Siegmund's evidence, there were plenty of bureaucratic structures that could take that particular direction forward.

Senator FAULKNER—But the notation that I am referring to about 'being beefed up' was occurring at a time when the protocol was laid aside.

Mr Killesteyn—That may be correct, but—at least in my recollection—it was not a matter that was linked during the discussions in the People Smuggling Task Force.

Senator FAULKNER—Mr McMahon, are you aware of whether this was a once-only discussion at the task force or whether it cropped up from time to time?

Mr McMahon—I think it may have come up more than once. But I have to say that, in many respects, the task force was trying to lay down some principles about what the broad activities of the Commonwealth should be, so it was not a discussion in detail about the nature of the activity. For example, there was the principle that the ships were to provide—or continue to provide—some sort of naval barrier and there was the principle that we should be doing as much as possible with Indonesia to stop or to disrupt the activities. It was a question not of detail but of principle, I believe.

Mr Killesteyn—That is essentially the way that the People Smuggling Task Force operated. There was another group—in a sense, a subgroup—which dealt with logistics issues of establishing the processing centres. The People Smuggling Task Force would set clear directions and then others would carry those out.

Senator FAULKNER—All I am asking is whether these disruption activities were discussed on one occasion or on more than one occasion. I think you and Mr McMahon have given answers to that, and that is fair enough and appreciated. At any stage were any concerns raised at the task force about the nature of that activity?

Mr McMahon—Not ever, to my knowledge.

Senator FAULKNER—Ms Siegmund, could you say how many DIMIA officials are now in Indonesia? I have heard about the three who are newly engaged.

Ms Siegmund—We have had a compliance officer in Indonesia for the past six or seven years. We provided a second compliance person about two years ago and then a third one about a year ago. I can give you more precise dates if you would like. In terms of the operational side of Immigration persons at the embassy, I am not too sure how many are there, but I can find out.

Mr McMahon—There are eight DIMIA officers stationed in Jakarta. One of them is a regional director, and there are another seven. Some are related, as Ms Siegmund said, to compliance type activities and some have no contact with those; they are there to supervise applications for permanent residency et cetera.

Senator FAULKNER—What proportion would you say were working on countering people-smuggling activities, for example?

Ms Siegmund—For the three compliance officers, that is their major priority.

Mr McMahon—I would add that that is not their only activity, because they do things like assisting with the integrity of processing.

Senator FAULKNER—Would all of the AFP raw intelligence that has been discussed a little at this committee today in relation to the SIEVX vessel have been received at the intelligence analysis section?

Ms Siegmund—Certainly the AFP is one of the agencies that provide us with information and intelligence. Whether or not it was all of it, I do not know. We certainly rely on agencies to provide us with that so that we can then do our job, which is to do the analysis and provide the best picture.

Senator FAULKNER—Given that it has been an issue of some public notoriety—that is, the sinking of SIEVX—has there been any internal assessment at all done within DIMIA of how that intelligence was handled and dealt with in relation to the SIEVX issue specifically?

Mr Killesteyn—Not specifically reviewed. We have a fairly good process for collecting information. We have a range of relationships and meetings with those agencies. We feel pretty confident that the bulletins and notices that we provide are done in a timely way, that they are done with all of the intelligence that is given to us and that they are providing a good service to other agencies. In relation to SIEVX, all of the intelligence that we were getting at the time was produced and moulded into the intelligence bulletins that were being distributed around the other agencies.

Senator FAULKNER—Have you seen the attachments to the material that Senator Hill has had tabled at the committee in relation to some of the inputs, particularly the DIMIA intelligence notes?

Ms Siegmund—Yes, I have. I saw a copy today, which was in fact a time line. That was the heading. It listed by date.

Senator FAULKNER—Have you been able to check its accuracy as far as it goes particularly for the DIMIA intelligence notes and any other DIMIA inputs?

Ms Siegmund—Yes. They go by dates. From memory I think there were two errors. It was simply an error in the date that we had released something. Rather than it being on the first of the month, it had actually come out on the second of the month. Other than that, the departmental intelligence notices that they are referring to I have crosschecked with ours.

Senator FAULKNER—Are you able to identify the two wrong dates?

Ms Siegmund—I do not have them here in front of me. I would rather get back to you. One of them, I think, was 1 or 2 September and another one was 1 or 2 October. It was the change of the month. It was the first of the month that they had inaccurately drawn.

Senator FAULKNER—The committee would certainly appreciate if you could take that on notice.

Ms Siegmund—Certainly.

Senator FAULKNER—But you have been able to check all the other dates?

Ms Siegmund—Yes, certainly.

Senator FAULKNER—And they are accurate?

Ms Siegmund—Yes, they are accurate.

Senator FAULKNER—Thank you. Is there anything that is missing from that time line? There are two issues about accuracy: what is there and whether there is any material not there that should be.

Ms Siegmund—No, I have not found anything that is missing. Given that I saw it this morning and went through it, I basically compared it to our records of the DINs, the intelligence notices that we produced at the time. I have not found anything that was missing.

Senator JACINTA COLLINS—Before Senator Faulkner goes on, are these intelligence reports classified at the moment?

Ms Siegmund—Yes, they are.

Senator JACINTA COLLINS—Can they be declassified?

Mr Killesteyn—We can take that on notice, Senator. We previously provided the committee with one of the intelligence notices. As long as we go through the appropriate processes and check with our minister, we will certainly do that.

Senator JACINTA COLLINS—At this stage of the process, we are obviously interested in any of those that pertain to SIEVX and the reports of its departure. I could spend the time now identifying the precise dates but, since you need to take this on notice, you can probably do it without them.

Mr Killesteyn—There would be quite a few that relate to SIEVX. The issue with intelligence has been explained to you before—that there is a good deal of intelligence about the Abu Qussey boat.

Senator JACINTA COLLINS—No, but what we can do—with retrospective knowledge—is deal with those that deal with what we now know to be the actual departure and detail associated with SIEVX after its departure. I am looking at any reports that relate to that period from about 14 October to probably about 24 October.

Ms Siegmund—I was just going to ask for that clarification, Senator. Did you say the 18th?

Senator JACINTA COLLINS—No, I am actually asking about the 14th. Certainly, in terms of this document, we still have not had explained to us what one of the footnotes refers to. I said the 14th to be on the safe side but, for instance, on this occasion it says:

CDF/Secretary Task Force believe this to be a typographical error and should instead refer to 16 October 01.

But if I look at this table, there was intelligence starting at about the 11th and an opsum on the 14th about the ship being delayed. It looks as if the critical date is probably the 17th, where the report says the vessel is reported moving from one port to another.

Ms Siegmund—Yes, we did.

Mr Killesteyn—We can start with the 17th. I guess there was a notice on the 18th as well.

Ms Siegmund—And the 16th, 18th and 19th.

Senator JACINTA COLLINS—The 16th may be the relevant notice if we are talking about, as I said, some lack of clarity at this stage about what the task force is referring to as the 16th. If you go forward to the notation on 18 October, there is a footnote there. That is why I am trying to err on the safer side in following through some of these issues. I would say that we need to start on the 16th.

Ms Siegmund—Certainly, Senator, yes.

Senator FAULKNER—But specifically in relation to 20 October, we know that Coastwatch received information from the AFP about the Abu Qussey vessel—the SIEVX. I will read what Rear Admiral Bonser said, just to give this some context, so we are all clear. At page 1631 of *Hansard* he said:

The next indicator about the Abu Qussey vessel was on Saturday 20 October 2001, when Coastwatch received telephone advice from the Australian Federal Police that a vessel was reported to have departed from the west coast of Java the previous day. The information included advice that the vessel was reportedly small and overcrowded. The full detail of the advice is classified.

That is what Admiral Bonser told this committee. I wondered, in relation to that, whether that same advice from the AFP was received in your intelligence analysis section.

Ms Siegmund—No, it was not. I have reports for the 19th, which was the Friday, and the 22nd, which was the Monday. In fact, the advice on the 22nd later proved to be incorrect. We were not aware of that advice that you are referring to that came from the AFP to Coastwatch and that Rear Admiral Bonser was reporting on. We did not have that.

Senator JACINTA COLLINS—What was incorrect on the 22nd?

Ms Siegmund—Some of the information we relayed in the DIN later proved to be not incorrect but it did not have any of that information that you are referring to in it. That was on the Monday. Rather than incorrect, sorry, it was incomplete.

Senator JACINTA COLLINS—When you say ‘we’, does that encompass the strike team?

Ms Siegmund—No, ‘we’ is water protection branch, IAS, DIMIA.

Senator FAULKNER—You certainly do not have any of that information on the 20th from the AFP. Is that usual? Is that standard operating procedure?

Ms Siegmund—As I mentioned, we rely very heavily on our partner agencies to provide information to us, obviously. But I also accept the fact that, in these circumstances—particularly where an agency might feel that it has operational information that has to be passed quickly—the first instinct might be to ring an agency such as Coastwatch or Defence, rather than us, because it is something they are expecting action to be taken on or it is needed more urgently. We might be advised at a later time. In this instance we were not part of that intelligence loop. It was not provided to us.

Senator FAULKNER—What is your normal turnaround time in reporting this sort of material? This was a Saturday, I think.

Ms Siegmund—Yes. The normal procedure for me would have been to provide that advice via telephone, unless it was something that I could not do over the phone. But if it is of an urgent nature where my executive needs to be briefed or my intelligence analysts need to be briefed, I would normally do that over the telephone, particularly in the instances that you are describing: if it is at night, on weekends or whatever. If it is something that allows us to do some analysis and pull it together with the rest of what we know, we pump it out in a daily report that comes out. They are the DINs that we were referring to.

Senator FAULKNER—Yes, there is your daily report but information of this nature that went, in this case, from the AFP to Coastwatch but did not go from the AFP to your intelligence analysis section.

Ms Siegmund—Yes.

Senator FAULKNER—I suppose what I am really asking is: what were the consequences of it not going? Were there any consequences of it not going there? Are we able to make that assessment?

Ms Siegmund—Not adequately. Certainly, the consequence for us was that we were not aware of the full picture until much later. I am sorry, I am stating the obvious but, in terms of our intelligence picture of what was happening, we certainly were not in the full loop at the time and we did not become aware of the full picture until later.

Senator JACINTA COLLINS—When did you become aware of the full picture?

Ms Siegmund—Really, events were unfolding from the Monday onwards. I have looked at the DINs that we have produced for that period of time and, certainly, in terms of what we provide for you, I think you will probably see the same. I do not have to state that intelligence is not evidence, but one of the issues in this case and in others is that we started hearing about this particular organiser with this particular boat—which we initially thought was two boats—back in July. From that period on, the number of passengers varied, not dramatically, in terms of what we had. At one stage we thought there were two boats coming, not one, and the departure points

varied. So it is not unusual for information to come that is different from what you had previously, which is often hard to explain to members of your executive or, often, to a minister. But it is the facts of the situation that we are in. Events will unfold, we learn more as we go along or we learn something differently. In the case that I am referring to, from the Monday onwards, yes, we gleaned more information through the media, through IOM and through other agencies, and learned then of the gaps that had been missing previously. But certainly we were not aware of it on Saturday, 20 October.

Senator FAULKNER—So the group that we established a little earlier in tonight's hearing was the key intelligence analysis outfit in relation to countering people-smuggling, which I think was the qualification we spoke of, actually does not know about this key piece of information. This key piece of information was not passed to your Intelligence Analysis Section. Did you know that this boat had sailed, before it sunk?

Ms Siegmund—We had varying reports that the boat had left and from where it left, which were then rescinded. We later found out that it had not sailed. That unfortunate pattern basically started occurring from about September onwards, where there were stop-starts in terms of reporting that the boat was leaving and then not.

Senator JACINTA COLLINS—This is not unique to SIEVX though, is it?

Mr Killesteyn—No, it is not, Senator.

Ms Siegmund—Did you say it is not unique?

Senator JACINTA COLLINS—That pattern is not unique to SIEVX.

Ms Siegmund—No, it is certainly not. The other issue is, at that time, we had up to six boats that we thought were all leaving at the same time. We had reports of them all leaving around the same time.

Senator JACINTA COLLINS—They are the ones that the people-smuggling task force regard on 18 October as being multisource reports of a high level of confidence.

Mr Killesteyn—That is correct, but there is never any definitive advice about the departure of a vessel. We have seen time and time again that information that says the vessel has departed turns out to be incorrect. The other point that I would perhaps make—

Senator FAULKNER—But you were at that meeting on the 18th, weren't you, Mr Killesteyn?

Mr Killesteyn—Yes, I was.

Senator FAULKNER—So are you able to say whether any of that multisource information is provided via your Intelligence Analysis Section?

Mr Killesteyn—The actual information that was provided to the people-smuggling task force on the 18th would have come from the DIMA intelligence notice issued on that day.

Senator FAULKNER—Let's go through that. On 18 October, we know that part of the task force minutes says:

Further Prospective Arrivals

- Intelligence re 2 boats with total 600 PUAs expected at Christmas, with one possibly arriving today, a further 3 boats with total 600 expected at Ashmore, with earliest arriving Monday. Some risk of vessels in poor conditions and rescue at sea.
- No confirmed sightings by Coastwatch, but multisource information with high confidence level.

Are you able to say whether that information contained within the people-smuggling task force minutes actually comes from your Intelligence Analysis Section?

Mr Killesteyn—The answer is yes. There is a good deal of symmetry between the minutes that you have just referred to and the DIMA intelligence notice that was issued on the 18th. But I make the point that, specifically in relation to SIEVX, the DIMA intelligence note does not make any assessment about the seaworthiness of the vessel. That particular reference is made in relation to another vessel associated with another smuggler.

Senator FAULKNER—Doesn't the first dot point refer to SIEVX?

Mr Killesteyn—Are you referring to the minutes of the meeting?

Senator FAULKNER—Yes.

Mr Killesteyn—All I can say is that it is a summary—the minutes are a cryptic summary if you like—of the information that was provided and again I did not write the minutes.

Senator FAULKNER—No; sure.

Mr Killesteyn—All I can suggest to you is that in the actual intelligence notice from 18 October the reference to the seaworthiness of a vessel is made in relation to another one, not the SIEVX vessel.

Senator JACINTA COLLINS—This refers to vessels. Are you saying that is not accurate? It says: 'some risk of vessels'—plural—'in poor condition and rescue at sea.'

Ms Siegmund—The intel note on 17 and 18 October both refer to—as I mentioned, there were at least six or seven boats that we were concerned about at that time, including the SIEVX boat as it transpired.

Senator JACINTA COLLINS—As one boat or as two at that point in time?

Ms Siegmund—We had conflicting advice. By 18 October I believe we had it down to one. The other commentary was to do with another organiser who had previously used boats that had

been in a very poor condition. I was not at the meeting. I am not sure whether that is an amalgamation of those points taken out of the DINs or not.

Senator FAULKNER—Mr Killesteyn was there. Fair enough if you were not there but what it says is:

Intelligence re 2 boats with total 600 PUAs expected at Christmas ...

Many have jumped to the conclusion—I, of course, do not jump to any conclusions necessarily—that the two boats are SIEV6 with 200 aboard and SIEVX with approximately 400 aboard. Are you able to shed any light on that, Mr Killesteyn?

Mr Killesteyn—No. However the minutes were crafted I cannot comment on but all I am suggesting is that the DIMA intelligence notice at the time, issued on 18 October, referred to both the Qussey vessel and vessels associated with another organiser. The specific reference in the intelligence notice to a vessel in poor condition is in relation to the second organiser. There is no other reference.

Senator FAULKNER—So what happened to the second Abu Qussey vessel?

Ms Siegmund—It never eventuated. It turned out to be just one.

Senator FAULKNER—It turned out to be one.

Ms Siegmund—Yes. That was early reporting where we thought he was sending two boats. Sorry, not early—it was off and on.

Senator FAULKNER—Let us go back because I think it is absolutely crucial. I understand that Mr Killesteyn qualifies what is written in the People Smuggling Task Force minutes. I understand that point that you have made about the nature of them. I would have made that point too given what we know about them at this stage. That is fair enough. I am not critical of that. I understand the point that you make. I want to focus on that first phrase:

Further Prospective Arrivals

- Intelligence re 2 boats with total 600 PUAs expected at Christmas ...

Is it possible for us to conclude from the primary intelligence reports that you have and your original assessments from your intelligence analysis section whether that does refer to two vessels—one, SIEV6 with around 200 people on board and, the other, SIEVX with 400 on board—both expected to go to Christmas Island? Can we draw that conclusion? Many have and on the surface it seems to be a reasonable enough conclusion to draw. I do not draw it myself necessarily but can you shed any light on that?

Ms Siegmund—I do not think we can. I think possibly that conclusion is drawn from the knowledge we had after the event of the 400 figure. I am looking at the DIN at the moment. The numbers we had reported to us in relation to Qussey's boat ranged from 150 to 250 at varying times. The figure of 400 came to our attention after the event of the tragic sinking. On the day

that you are referring to, in terms of the task force, there were at least three organisers that we were concerned about who potentially were going to send boats through to Christmas Island. The numbers certainly would have added up to 600-plus, spread across those organisers. But, in terms of the Qussey vessel at that time, our estimate was still that it would be possibly carrying up to 250 passengers.

Senator FAULKNER—But, you see, the task force minutes break this up into, effectively, five boats:

... 2 boats with total 600 PUAs expected at Christmas ... a further 3 boats with total 600 expected at Ashmore ...

Ms Siegmund—Yes.

Senator FAULKNER—Then it says:

Some risk of the vessels in poor condition and rescue at sea.

So that is five vessels anyway.

Ms Siegmund—Yes. The other problem too was that the two vessels—

Senator FAULKNER—But we know that SIEVX was going to Christmas Island too, don't we, Mr Killesteyn?

Mr Killesteyn—We do, but—

Senator FAULKNER—And we know that SIEV6 was going to Christmas Island.

Mr Killesteyn—All I am suggesting is that—and it is probably a broken record now—the reference to the condition of the vessels was a general reference, and there is nothing in the DIN which suggests that it was a specific reference to any specific boat.

Senator JACINTA COLLINS—Let's put that reference aside for a moment and go back to the numbers, though.

Mr Killesteyn—Sorry, if I can retract that, it was a specific reference in relation to only one of the boats. I think we have already made the point of how the minutes were constructed of the end of the day.

Senator JACINTA COLLINS—But, leaving that issue aside, it is difficult to understand how these numbers were constructed to two boats.

Ms Siegmund—I will try again to clarify it. It is one of the frustrations we had at the time too, trying to keep track of numbers of boats where and when. It is a complex issue. As I mentioned to you, this is the report of the 18th. Our best reporting was that we thought the Abu Qussey vessel, at that time, was going to be carrying up to 250 passengers—so that is one going to Christmas Island. Another vessel that we also felt was going to Christmas Island within that same time period—in fact, a week—was from a different organiser, and we had had reports of

between 400 to 500 PAX. We did not know exactly how many we were going to get onboard the vessel; we never do. We can only go on the reports that get given to us. Sometimes they are roughly accurate; sometimes they are way off, because you never quite know, at the time that they are boarding the vessel, how many will get on and how many will not.

I have to say that I am trying to guess something that I was not privy to, but I am assuming there are two boats from our intel reports—yes, we have two boats heading to Christmas Island. There is a third organiser, as I mentioned to you, who also uses Christmas Island, but we had no firm timeline on that person. Between the two, one with 250 and one with 430 to 500 is possibly where they got the 600-plus from. But, again, I am trying to look at what I have got in front of me and make an assumption of what might have been in their mind. I can only assume from what I have got written here.

Senator JACINTA COLLINS—What was the size of that second boat? Is that SIEV6 that you are talking about there?

Ms Siegmund—I do not know. I would have to take that on notice, and I do not have anything here about the size of the vessel.

Senator JACINTA COLLINS—But you would be able to trace back through intelligence and ascertain that.

Ms Siegmund—Yes, certainly.

Senator JACINTA COLLINS—The next point is:

- No confirmed sightings by Coastwatch.

Why would Coastwatch be surveying that area? We understand that that zone had been vacated by Coastwatch and that it was now Defence.

Mr Killesteyn—I cannot offer any comment on that.

Ms Siegmund—No, I am not sure of the zones. Certainly Coastwatch was still undertaking surveillance operations, but I think we would have to try and take advice on where the Defence and Coastwatch zones intersected.

Senator JACINTA COLLINS—Coastwatch has clearly told us that Christmas Island was not their zone at this period in time. This is one of the reasons why as part of the Defence document there are Orion PC3 surveillance maps. They are not Coastwatch maps

Ms Siegmund—Yes.

Mr Killesteyn—That may go to the construction of the minutes.

Ms Siegmund—Perhaps it means full stop, as opposed to near Christmas Island. I do not know. They certainly were still doing surveillance, as you have stated. Perhaps it meant—

Senator JACINTA COLLINS—Yes, but I think that they had moved over to the Torres Strait. I stand to be corrected on this but I do not think they were even doing Ashmore.

Ms Siegmund—I do not know. Without referencing or going back to them, I do not know what their flight patterns were on that date—or for that period, I should say.

Senator JACINTA COLLINS—Let us move on to the 19th, then—any of the information that you had available on the 19th. We still have a report in this Defence document that the SIEVX is a possible arrival, as it was reported to have departed. Was that based on any new intelligence or is that still the same information available from the 18th or 17th—or indeed the 16th if you read the footnote on this document?

Ms Siegmund—On the 19th, in terms of the Qussey vessel, we again report that we felt it was up to 250 passengers. There had been reports that it had possibly departed from a particular area in Indonesia which made it, I think, the sixth or the seventh locality we had mapped out where—

Senator JACINTA COLLINS—So it was not the same locality as the earlier report that you were relying on on the 18th?

Ms Siegmund—On the 18th I do not think we had it departing from a particular locality. But this location in Indonesia has been mentioned before. It is an area that we know boats have left from in the past. I am trying to be careful about how much detail I go into and obviously we will look at the issue of trying to provide you with this separately. To try and answer your comment as best I can now, certainly on the 19th we were still working on that 250 figure in terms of numbers of passengers and a possible probable departure from a place in Indonesia. We can certainly provides you with a map as well later, if you like.

Senator JACINTA COLLINS—A possible probable?

Ms Siegmund—It is the terminology we have to use because it is not an exact science.

Senator JACINTA COLLINS—I understand that but for some reason or another you have a level of intelligence which—

Ms Siegmund—Let me read out the exact words.

Senator JACINTA COLLINS—leans you more to the probable rather than a possible. Is that it? I understand there are levels of certainty in this but I am just trying to understand what yours was.

Ms Siegmund—I am sorry?

Senator JACINTA COLLINS—I am saying I understand that there are levels of certainty in this but I am trying to understand what the assessment was at that point in time.

Ms Siegmund—The terminology used was, ‘Abu Qussey’s boat carrying up to 250 passengers that reportedly departed from probably’—and then it gives the town; the location—‘on Tuesday night has not yet been sighted.’

Senator JACINTA COLLINS—Not yet been sighted by who?

Ms Siegmund—Anyone, full stop. Well, either that somebody has reported it within the Indonesian archipelago—or Defence or Coastwatch; anybody.

Senator JACINTA COLLINS—Okay.

Ms Siegmund—Often if vessels were reportedly departing and then suddenly you did not hear from them, sometimes it was because they—depending on the weather, sometimes the Indonesian authorities got reports from Indonesian nationals who had sighted them within the archipelago because they had taken into an island to take cover.

Senator JACINTA COLLINS—That reported departure from that location, was the source of that data separate to the source of the data the day before?

Ms Siegmund—I would have to come back to you on that, I think.

Senator JACINTA COLLINS—I am trying to understand what the level of corroboration of the departure was.

Ms Siegmund—It was the same source.

Senator JACINTA COLLINS—The only new thing—and correct me if I am wrong—is that it is actually nominating a probable departure location?

Ms Siegmund—No. That was also listed on the 18th—the same place.

Senator JACINTA COLLINS—When did you receive that source of data?

Ms Siegmund—Not on the 17th, but on the 18th and 19th as being a likely departure point.

Senator JACINTA COLLINS—You received this intelligence on the 18th and you resighted it again on the 19th?

Ms Siegmund—Yes. But just to clarify, that particular location within Indonesia had been mentioned before, as had others.

Senator JACINTA COLLINS—As a possible departure place?

Ms Siegmund—Yes.

Senator JACINTA COLLINS—Did you have any other sources in relation to SIEVX at this stage?

Ms Siegmund—With relation to where it had departed from?

Senator JACINTA COLLINS—Yes, in relation to the fact that it had departed and where it might have departed from. Did you have any other sources on the 18th or 19th to that effect?

Ms Siegmund—Just to clarify, are you asking if it is single sourced or multiple sourced information?

Senator JACINTA COLLINS—Yes. In fact, go back to the 17th in relation to that question.

Mr Killesteyn—I do not know whether it helps, but each DIN is not necessarily issued with absolutely brand new information. It essentially builds up over time, so we could be repeating ourselves.

Senator JACINTA COLLINS—I understand that. That is why I am asking whether it was the same source that was referred to on the 18th and 19th.

Ms Siegmund—Yes, it was.

Senator JACINTA COLLINS—We have had that answered. What I am trying to ask is: from the 17th onwards, how many sources of information did you have?

Ms Siegmund—I would have to take that on notice.

Senator JACINTA COLLINS—If you take that on notice, we also need to know what the consistency between those sources was. If you come back to me and say, ‘Yes, we had multisource data,’ the next obvious question is: how consistent was it? Was it corroborating the other sources, or was it contradictory?

Ms Siegmund—In general terms, you either get single or you get multisource—obviously. But we would expect multisource information to corroborate. If there was a difference, we would probably report it as such—that one source said this and another source said that—because that is also part of our assessment process that we need to go through with the intelligence.

Senator JACINTA COLLINS—If that is the case, it surprises me that in relation to SIEVX you are not now able to say to me that before it sank you only had single source information or multisource information, because the critical issue there is the level of corroboration before it sank.

Ms Siegmund—Certainly. You are quite right. There are two issues. One is that I would need to go back and double-check the sources on here to definitively say to you that the source I have in front of me is either single or multisource. Secondly, we have been very careful about the language we have used in these reports, as you will probably see when you get them—probably; I am using the terminology—because we were not convinced that we had a definitive number of passengers and/or point of departure. We were very careful about how we worded that, because we did not want to give the impression that what we were putting out in these intelligence notices was fact—that it was a definite. It was very important, given that these notices went out

to a very wide range of agencies. So we were very careful about how we worded it. But what you then get is something that says ‘probably’ and ‘possibly’. We have to use that kind of terminology.

Senator JACINTA COLLINS—Let us move on to the next day—the day when you did not receive the AFP intelligence. Did you receive any additional intelligence that day?

Ms Siegmund—No. The order of the DINs goes the 19th, the 22nd, the 23rd, the 24th—

Senator JACINTA COLLINS—Is that usual? Is that a weekend thing?

Ms Siegmund—The DIN would have been produced on the Monday in a written form, but it is not unusual for us to be contacted either at night, after business hours, or weekends.

Senator JACINTA COLLINS—But what I mean is, for the reports to go out, is it usual that there would not be a report over the weekend period and the Monday report would catch up on whatever intelligence had come through?

Ms Siegmund—Yes, that is usual.

Senator JACINTA COLLINS—What day of the week was the 20th?

Ms Siegmund—Saturday.

Senator JACINTA COLLINS—If it was not unusual for you to receive phone calls and such like over the weekend, did any such calls occur?

Ms Siegmund—No.

Senator JACINTA COLLINS—So then the information that you put out on the 22nd that ending up being incorrect, as you have said—

Ms Siegmund—Incomplete.

Senator JACINTA COLLINS—Sorry—incomplete. Was there anything new to the intelligence you put out on the 19th?

Ms Siegmund—On the Monday report we were still reporting that it had not been sighted, but the change was that we now had information that the vessel was possibly carrying up to 400 passengers. So that is a change.

Senator JACINTA COLLINS—If it did not come from the AFP report, where did that information come from?

Ms Siegmund—I am afraid I cannot provide that information for you.

Senator JACINTA COLLINS—Is that because you do not have it or because there is a classification problem?

Ms Siegmund—There is a classification problem.

Mr Killesteyn—We really do need to go through a declassification exercise.

Senator JACINTA COLLINS—I am happy for you to say these things in relation to particular areas.

Ms Siegmund—That might solve the problem though, too. If we go through the classification problem that might answer your question.

Senator JACINTA COLLINS—I may also be able to reframe the question which satisfies the issue that I am exploring without it being problematic. Can you say to me that it was different to the AFP reported data?

Ms Siegmund—No, I cannot say that.

Senator JACINTA COLLINS—Again, the same issue of classification?

Ms Siegmund—Yes.

Senator JACINTA COLLINS—Was that the only change?

Ms Siegmund—With regard to the Abu Qussey vessel, yes, we were still maintaining the same intelligence in the area from where we thought it had departed.

Senator JACINTA COLLINS—Did the information that you got before the report on the 22nd actually corroborate the departure?

Ms Siegmund—No. We were still making an assessment that we believed it was that same town or area from where the vessel—

Senator JACINTA COLLINS—So the new information that told you there were 400 passengers did not corroborate the departure.

Ms Siegmund—No.

Senator JACINTA COLLINS—Did you usually receive things such as the NORCOM intelligence summaries?

Ms Siegmund—Yes, we have occasionally received NORCOM intelligence reports.

Senator JACINTA COLLINS—Did you receive the one from 20 October? It stated that:

NORCUM INTSUM 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.

Ms Siegmund—I would have to take that on notice. I do not have that information in front of me.

Senator JACINTA COLLINS—It would be of concern to your unit though, if the information arrived on the 20th, anticipating an arrival at Christmas Island on the 21st, and you had not been contacted over the weekend. You would be concerned about your internal administration, wouldn't you?

Ms Siegmund—Yes, certainly it would be of concern. As I mentioned to you though, in terms of either after hours or weekends, the procedure would normally be for agencies—whether it is Coastwatch, NORCOM or whomever—to contact us by telephone rather than rely on a report, for example, that is sent—

Senator JACINTA COLLINS—On a fax?

Ms Siegmund—Yes, on a secure fax or by some other means, because they would know, obviously, that we were not there.

Senator JACINTA COLLINS—Are you suggesting to me that, if NORCOM reached an assessment that there is a 'high probability' of an arrival on the 21st, you should have received a call on the 20th?

Ms Siegmund—I would have expected to, yes.

Senator JACINTA COLLINS—Was there any follow-through on why that did not occur when you discovered after the 22nd that you had not been called?

Ms Siegmund—Do you mean us following up with NORCOM why they did not telephone us?

Senator JACINTA COLLINS—NORCOM, Coastwatch or whomever you felt was responsible for the lack of communication.

Ms Siegmund—I will have to take that on notice and provide you with some detail. I think I made the point earlier, and forgive me if I am repeating myself, that we certainly rely on other agencies. We are in that position of having to rely on people feeding us information. One of the issues is where there are operational considerations, as I mentioned. If an agency decides that the information is to do with an operational issue, we might be third or fourth on the list for them to telephone. Having said that, we have always taken—I certainly have and I am aware that Mr Killesteyn and my staff have, too—every opportunity in every forum to continue to remind agencies that it is our role to collate and pull together all of the intelligence to do with illegal immigration and people-smuggling. It is our expectation that we would be provided with intelligence in as timely and accurate a fashion as possible. If events are unfolding in a certain operational context, obviously we understand that there is a need, for example, to ring the

operational agencies before they ring us. But we still have the expectation that we will be part of that information loop.

Senator JACINTA COLLINS—I assume, for instance, if this sort of information is being dealt with by the People Smuggling Task Force, where you are represented, your own people would be particularly conscious of that and the internal communication would occur.

Ms Siegmund—Yes.

Senator JACINTA COLLINS—So then the question goes to whether on the 20th or the 21st that information was raised at the People Smuggling Task Force. If we go to the minutes on the relevant days, Mr Killesteyn was there on the 20th and Bill Farmer and Christine Sykes were there on the 21st. The 21st was the day when one of the issues raised was to check whether ‘Defence P3 is maintaining surveillance over Christmas Island’. Mr Killesteyn, can you fill us in on why that issue was raised?

Mr Killesteyn—Frankly, I cannot recall the discussions of the task force on those particular days. The point I would make in relation to the information that was not passed on on the 20th is that we have a clear focus, from the intelligence group, on building information around any impending departure, in particular. A lot of that information, as we said before, is then used in activities to try to prevent the departure or to frustrate it from happening in the first place. When you get to a situation in an operational environment, with Coastwatch and Navy patrolling particular areas, it then becomes a matter of trying to surveil and intercept the particular vessel.

I suspect that the particular piece of intelligence we are referring to—from AFP to Coastwatch on Saturday 20—was around the process of interception as distinct from making sure that there was an opportunity to build it into a report. It was very much a focus on interception, and then dealing with the vessel and its passengers at that point. I cannot recall whether it was communicated at the People Smuggling Task Force. I would be surprised if it was not because of the level of representation that we had from the various agencies, but I have no specific recollection of that piece of information.

Senator JACINTA COLLINS—If we go back to 20 October, which was the meeting you were present at, under the heading ‘Further arrivals’ we have:

Second boat expected at Christmas tomorrow. If arrives, assessment to be made whether possible to return larger vessel.

Do you know which was the larger vessel? Were they talking about SIEVX as being larger than SIEV6 at that stage?

Mr Killesteyn—I cannot recall, specifically. It is probably a bit obvious that the minutes are a bit cryptic.

Senator JACINTA COLLINS—Yes, which is why we are sitting here asking questions.

Mr Killesteyn—Exactly.

Senator JACINTA COLLINS—It then goes on to say, ‘*Arunta* to relieve possible overcrowding.’ My question there is whether that relates to the AFP report about how overcrowded SIEVX was.

Mr Killesteyn—We are just speculating on whether that meant overcrowding of the SIEV or whether it meant overcrowding on *Arunta*, because the naval vessels were being used to ferry passengers off vessels to Christmas Island. Again, I cannot shed any real light on that.

Senator JACINTA COLLINS—At that stage, according to the minutes, we had SIEV6 moored at Smith Point, with 222 people plus crew—so they were still on SIEV6. I understand in part what you say about DIMIA’s role, with intelligence being more focused on departures and avoiding departures. But equally, there was the DIMIA role in terms of dealing with asylum seekers once they arrived at Christmas Island. I assume that Ms Siegmund’s intelligence was relevant to that process as well.

The minutes on that day in relation to SIEV6 point out that the 222 people plus the five crew were still moored on SIEV6 at Smith Point and that ministers are maintaining the public line that the government is still considering the handling of SIEV6. When you go down to the heading ‘Further arrivals’, it talks about a ‘second boat expected at Christmas tomorrow’—which is the 21st—and that is consistent with the NORCOM assessment. It then says, ‘If arrives, assessment to be made whether possible to return larger vessel.’ I do not know off the top of my head at the moment which was the larger or indeed what this assessment regards as the larger—the vessel itself or the number of people on it.

Ms Siegmund—I am trying to look at the DINs that we produced and what you are relaying to me in the minutes. I am trying to see how they made a connection.

Senator JACINTA COLLINS—The problem in part is that your DINs have not accommodated the information that was also discussed at the People Smuggling Task Force that SIEVX was anticipated as arriving on the 21st.

Ms Siegmund—In terms of those exact dates you are quite right.

Senator JACINTA COLLINS—And, if you go back to the NORCOM assessment, at a high level of probability.

Ms Siegmund—I do not know what they are basing that high level of probability on either.

Senator JACINTA COLLINS—It appears from other evidence we have had that it is based on the AFP report that you did not receive. The point that I am making is that it appears as though that AFP report was discussed at the People Smuggling Task Force on the 20th, by the status of information here, where DIMIA was represented as well—in fact, I think, well represented on that day by Bill Farmer, Ed Killesteyn and Vince McMahon—but still that information did not get to your own intelligence. You did not get a call from your own people.

Mr Killesteyn—It may or may not have, Senator. I do not think we can take the minutes as absolutely verbatim as to what information was or was not provided, at least in terms of

information that may not have been provided to our intelligence area. But the fact is that on the—

Senator JACINTA COLLINS—‘Second boat expected at Christmas tomorrow.’ Obviously a report was made, probably consistent with what NORCOM had put in their report, that they were anticipating would arrive on the 21st, and that information was not relayed to the DIMIA intelligence unit, a fact confirmed by your own indication of what was in your report on the 22nd.

Ms Siegmund—Senator, I have not relayed to you the full contents of the DINs. I am constricted in doing so because of classification issues and I apologise—that is an issue. I have taken on notice, though, whether I can, because I think it is important to try and do that. NORCOM received our reports. The way the DINs are set up—and we have provided some of these to you before—is that there is a summary section, we go through the current situation, then we do an assessment. The assessment we made on the 19th was that we anticipated that one of the vessels that we are talking about—it is not the Qussey vessel; it is the other one—would arrive off Christmas Island by the weekend. I do not know whether that statement has then translated into the 20th or 21st, because they are obviously the dates of the weekend, or whether that is where it has come from, but Defence obviously got our reports. They got this one on the 19th.

Senator JACINTA COLLINS—That is SIEV6 that you are referring to, isn’t it?

Ms Siegmund—I do not know whether SIEV6 is this one. I have the name of the organiser for this one but I do not have it written as SIEV6, because that is not how we reported our intelligence at the time. We went on the basis of who the organisers were.

Senator JACINTA COLLINS—Did you have the name of the ship: the *KM Mulya Jaya*?

Ms Siegmund—No, as that was prior to its arrival.

Senator JACINTA COLLINS—Okay.

Ms Siegmund—But I can find that out. As you said earlier, we can backtrack it. My difficulty is in not being able to go through this in graphic detail with you to see how it then possibly relates. As I said to you before, the members of the People Smuggling Task Force had all of these reports in front of them, and that is what you do not have in front of you.

Senator JACINTA COLLINS—No. And, again, that is why I am finding it problematic that the AFP report of the 20th had not been encompassed in your reporting until after the 22nd. That is what I am still finding problematic because, at the same time, as you said, you have even DIMIA officials attending the People Smuggling Task Force with your own reports in front of them with this gap of information in the DIMIA reports.

Ms Siegmund—To ascertain how much of a gap it is I would need to look at the minutes and then compare them to my two or three complete DINs to try and answer that.

Senator JACINTA COLLINS—Put it this way: you will be providing us with a declassified version. You may want to reconsider these questions when that information is available to us, and respond to anything that you think is outstanding with respect to this conversation. I suppose I should ask you the questions that way. It gives you the opportunity then to deal with them in the light of what facts we will later have before us.

Ms Siegmund—I understand.

Senator JACINTA COLLINS—Mr Killesteyn and Mr McMahon, you were both present on the 22nd, so I will ask you both this question. Can you explain to me the reference in the minutes—to the extent that you understand it—to the ship as being ‘SIEV8’ and the comments:

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

Mr Killesteyn—I can probably explain very little more than what is in the minutes.

Senator JACINTA COLLINS—Mr Killesteyn, what was your understanding of the attribution of a number to a SIEV?

Mr Killesteyn—It was essentially a sequential allocation as the SIEVs arrived.

Senator JACINTA COLLINS—Done by whom?

Mr Killesteyn—It is done within the unauthorised arrivals section of DIMIA. As I say, it is essentially a sequential ordering.

Senator JACINTA COLLINS—But it is done within DIMIA, from your perspective?

Mr Killesteyn—That is right.

Senator JACINTA COLLINS—Defence tell us it is done within Defence—that they are the ones who number these ships as they intercept them.

Ms Siegmund—Sorry, that was my error. We previously gave boats codenames. They were named after towns in Victoria or Western Australia. The SIEV numbering—1, 2, 3, 4—was actually done by Defence, you are quite correct.

Senator JACINTA COLLINS—At what stage do they number a SIEV?

Mr Killesteyn—We can only speculate, but I think the obvious answer would be that it is upon the boat actually arriving.

Ms Siegmund—And also upon determining that it is in fact a SIEV. We have had sightings of vessels that have turned out to be inter-island ferries or fishing vessels. I would imagine that that would be the other issue.

Senator JACINTA COLLINS—The earlier evidence we received in terms of SIEVX was essentially that we really did not know anything about it until after we were told that it had sunk. That information did not arrive until the 23rd, and yet, in these minutes, we have a report about this SIEV—which it has been accepted was SIEVX:

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

It leaves this committee with some very serious questions about what precisely the discussions were that occurred at the task force in relation to SIEVX. I am going to ask both of you to give the committee your recollections of how SIEVX was discussed at the task force between the first reference—which I think was on the 18th—and this reference, very clearly marked in the minutes in relation to SIEVX, before we knew that it had sunk.

Mr McMahon—I will talk from my recollection of it. This was like one of many boats which had come. Within the task force, we were quite used to receiving a report that a boat had left and then receiving a report that it had not left. I had a particular interest in the numbers coming, because I was looking after the infrastructure side, and I read those now as saying that there was a report, but nothing happened following that report. In other words, there was no information saying that it had left, nothing had been sighted—no flotsam had been sighted—and it was missing. We could have expected, the next day, to find that it had returned to port or that it had not actually left. The state of the intelligence at that stage was such that you would often get quite conflicting information, and in that discussion, as I recall, it simply said that we had no more information on the boat. There are different things you can look for to verify whether or not a boat is on the way, but none of those particular leads had given fruit.

Senator JACINTA COLLINS—We have two corroborations of the departure on the 22nd. This is without even taking into account what other information DIMIA might have elsewhere on the public record that we are not aware of.

Mr McMahon—With a departure, as has happened, we often find that they have returned to port or they have stopped a couple of hundred metres up the road. Certainly, from my perspective—and this was not my focus within the task force—it simply meant that we had no confirmation of where the boat might be.

Senator JACINTA COLLINS—I appreciate the perspective and the focus you had in your role, but the concern at least I have, and possibly, more broadly, the committee has, is whose focus was the safety of life at sea issue. We have an AFP report from the 20th, saying the boat was ‘grossly overloaded’ and that there were concerns for safety, but apart from references such as this in the minutes, we do not seem to see any safety of life at sea response to that report. Is one of the problems that nobody had that clear responsibility or focus?

Mr Killesteyn—The focus of the People Smuggling Task Force was managing the surge in unauthorised arrivals. Information was being provided about the likely time of arrivals, there were naval assets and Coastwatch assets in the vicinity and, to the extent that safety of life at sea issues arose at that time, I imagine they would have been fulfilled. Here we had imprecise information about potential boats, and I guess it is a question of on what basis do you then go and look for a possible boat—when you do not even know where it is—to execute some possible safety of life at sea issue.

Senator JACINTA COLLINS—There does seem to be some confusion. Again, whilst this was not your particular focus, it is obvious that this issue was at least discussed by the task force so I am discussing it with you now on that basis. But there is a difference between Defence maintaining some sort of regular surveillance pattern in relation to surveillance of potential arrivals and their actually responding to a safety alert of a grossly overloaded ship, and we seem to be getting to some conflicting information here. We have information, on one side, saying that a large search for this vessel was occurring and then, on the other side, we have Defence saying to us: ‘No, it was just regular surveillance occurring’. From the discussions at the task force, what was your understanding as to what was occurring? Was there a search for this vessel or not?

Mr Killesteyn—As I said, there was a surveillance pattern in place, there was information, albeit imprecise, about the vessel potentially arriving, and the naval assets and Coastwatch were looking for the boat.

Senator JACINTA COLLINS—So this reference on 21 October ‘Check Defence P3 is maintaining surveillance’ has no meaning? You just told me you understood surveillance was occurring.

Mr Killesteyn—Sorry, where are you referring to now?

Senator JACINTA COLLINS—The last dot point on the minutes of 21 October: ‘Check Defence P3 is maintaining surveillance’. Whoever compiled these notes was obviously responding to some discussion or some question as to whether that surveillance was occurring.

Mr Killesteyn—That may be the case, Senator. It was surveillance over Christmas Island that was obviously the major area or pattern of the search and surveillance was in place at the time.

Ms Siegmund—I think there were several boats on the horizon near Christmas Island at that time.

Senator JACINTA COLLINS—Mr Killesteyn, correct me if I am wrong, but I just want to be sure I understand what you are saying. You were not aware that Defence was indicating that they were actively searching for this vessel?

Mr Killesteyn—What I am saying is that the whole of Operation Relex with the combined assets of Coastwatch and Navy was based on the surveillance of the normal areas in which the vessels arrive both at Ashmore and Christmas Island. That is what I am saying. That presumes that they are searching for vessels.

Senator JACINTA COLLINS—In their normal surveillance patterns?

Mr Killesteyn—In whatever pattern was being employed at the time. That is beyond my expertise, Senator.

Senator JACINTA COLLINS—That may be beyond your expertise but again I am asking you this question in terms of being someone who participated in a number of discussions about these issues and that response just does not seem to sit with the response, for instance, of the

dialogue between AusSAR and Defence over what was happening with this vessel. You have this dialogue, for instance: ‘Defence contacting AusSAR to say, “Just got your fax—what is your source?”’ and AusSAR then saying ‘Coastwatch’. Defence says, ‘We already have a large search for this vessel for surveillance matters.’ That language does not sit with a description that we would assume that we would pick this ship up under our normal surveillance.

Mr Killesteyn—All I am suggesting is that in terms of specific activities of surveillance and pattern and so forth those were not matters that were discussed in any, again, chapter and verse in the People Smuggling Task Force.

Senator JACINTA COLLINS—Okay, but there was a question of whether it was occurring over Christmas Island on 21 October?

Mr Killesteyn—In relation to one P3, that would appear to be correct.

Senator JACINTA COLLINS—But you have no knowledge of that?

Mr Killesteyn—I have no recollection of it.

Senator JACINTA COLLINS—Let us look at 22 October. This is not actually in the minutes but it is from our evidence from Katrina Edwards. Do you recall a discussion about issuing a safety alert?

Mr Killesteyn—I am sorry, I don’t.

Senator JACINTA COLLINS—Were you present, Mr McMahon, on that day?

Mr McMahon—I was and I do not recall it.

Senator JACINTA COLLINS—You don’t recall that either? Do you recall in relation to any of these SIEVs, many of which as has been recognised were unstable in terms of their seaworthiness, discussions about safety of life at sea issues at the People Smuggling Task Force?

Mr Killesteyn—Actually I do not recall any such discussions.

Mr McMahon—There were a number of discussions or references to the responsibilities associated with safety of life at sea. I am not sure whether that leaps to the next bit about going to look for them or whatever. Essentially, on a number of occasions, in discussion, when we were talking about what would be done in respect of particular boats, there was a clear spelling out by Defence of their responsibilities associated with safety of life at sea. I am not sure whether that goes to the point of your question.

Senator JACINTA COLLINS—I am sorry, but could you please repeat the last bit. It is getting late; I did not pick up the last part of your point.

Mr McMahon—What I am saying is that, if people are in the water, there would be automatic responses or whatever from the Department of Defence. I think you are asking a wider question as to whether, if they were looking at point X and there was a possible safety of life at sea issue at point Y, that would completely change your configuration to look at that possibility? I do not recall that sort of discussion taking place.

Senator JACINTA COLLINS—As you said a moment ago, you do not recall any discussion about whether a safety alert should be made?

Mr McMahon—No, I do not.

Mr Killesteyn—In relation to SIEVX?

Senator JACINTA COLLINS—Yes.

Mr Killesteyn—No. As I suggested in my earlier evidence, we had had a significant arrival of a number of boats. All of them arrived safely, I guess, with the exception of this one. The advice in relation to SIEVX was never precise to the extent that it was overcrowded.

Senator JACINTA COLLINS—Certainly from your point of view, because you did not get the AFP report.

Mr Killesteyn—That only arrived after the event. The information about overcrowding arrived after it actually sank.

Senator JACINTA COLLINS—The AFP report about the overcrowding arrived when these people were still in the water, and possibly some of them died in the time before they were picked up by Indonesian fishing vessels. We have yet to get to the bottom of why it took the time it did for intelligence that is clearly from the departure on the 18th to reach us on the 20th. That is an issue aside from this. But the next point, too, is that that information arrived on the 20th when these people were still in the water and there was limited response to it. And from your department's point of view, you did not even get that information in your own intelligence unit until after the 22nd. There are some very serious communication issues here.

Senator FAULKNER—Mr Killesteyn, could you explain to the committee the request that the secretary put out in relation to inappropriate public comment from departmental officers that might compromise the conduct of DIMIA work. What is the background to that?

Mr Killesteyn—My apologies; I missed your question.

Mr McMahon—What date is that, Senator?

Senator FAULKNER—I was interested in the instruction to all staff, both in Australia and overseas, that Mr Farmer put out on 20 June this year. Are you aware of that?

Mr Killesteyn—I do not have a copy. I would prefer to see a copy before I comment.

Senator FAULKNER—Did Mr Farmer put out a statement to all staff beginning with these words:

Subject: All Staff

You will have noted the increased public interest, particularly in the media, in some business activities of the portfolio in recent times.

It goes on:

One feature of this interest has been the protests held outside DIMIA offices around Australia. These demonstrations have caused inconvenience to some employees and I take this opportunity to thank you all for the professionalism you have displayed in dealing with these interruptions.

Do you know the note I am referring to?

Mr Killesteyn—Yes, I do now.

Senator FAULKNER—Yes. Then it says:

The increased public scrutiny of our activities provides a timely reminder of our obligations as DIMIA employees.

It then goes on:

In order to maintain this record—

this is the good record—

we all need to be aware that there may be occasions when a perception of a conflict of interest may arise. This may occur where your personal affairs have an impact, or may be seen to have an impact, on your work. Inappropriate public comment, for instance, may be seen as a conflict of interest and may create a range of problems including compromising the conduct of DIMIA work.

And it outlines what ‘inappropriate public comment’ is. One of them is:

... personal criticism of employees or clients of DIMIA, the Minister or the Minister’s office.

Can someone tell me what the background to this is?

Mr Killesteyn—Firstly, that is a general minute which tries to deal with the whole question of ethics and integrity in the public sector. But what, from my recollection, prompted the note to staff were one or two incidents. One where, I think, one of our employees was seen as part of a group of demonstrators outside one of the buildings—I have forgotten whether it was Melbourne or not—and the implication of that incident was that the person was participating in the demonstration. That was investigated and, as I understand it, the person was simply observing what was going on rather than necessarily participating.

Senator FAULKNER—But how does such a minute affect those who are giving evidence before parliamentary committees like this?

Mr Killesteyn—I hope it would not affect them at all. I do not think it would. Indeed, why would it?

Senator FAULKNER—It is unethical to bag the minister, is it?

Mr Killesteyn—No, I am not suggesting that. But you are suggesting that that is an invitation not to provide honest and open advice to a committee such as this. I do not see anything in that document—

Senator FAULKNER—No, I am asking if it is. I am not suggesting anything. I rarely make suggestions, Mr Killesteyn; I merely ask questions.

Mr Killesteyn—I am saying there is nothing in that document which would prevent a person from providing open and honest advice to a committee such as this.

Senator FAULKNER—I see. And that is what:

... personal criticism of employees or clients of DIMIA, the Minister or the Minister's office ...

means? It is not a shot across the bows?

Mr Killesteyn—No, it is simply, as I said, that the background was a couple of incidents where innocent behaviour could be interpreted in a way which goes to the person's involvement in activities such as demonstrations.

Mr McMahon—Senator, I believe that that statement is consistent with the APS Code of Conduct. The general principle within the Public Service—

Senator FAULKNER—Why was there any need to put it out, then?

Mr McMahon—There is occasionally a need to remind people of their obligations—and we do code of conduct training quite regularly—because some people forget. The general principle within government, as I understand it, is that people are free to express their opinions, and they can do it in newspapers or wherever, but that there is a conflict of interest when you actually start expressing views in respect of the portfolio that you are working in, because it can imply that the way you go about your duties within the portfolio may be tainted. I believe that that is an accepted APS principle reflected in the code of conduct, which is a regulation for the Public Service.

Senator FAULKNER—What about honest and open advice that might be critical of a minister or his office?

Mr McMahon—In respect of a public forum, it is inappropriate. In respect of internal advice, the expectation is of frank and honest advice.

Senator FAULKNER—Is this public advice that you are providing here tonight? What should my expectation be?

Mr McMahon—The expectation here would be that we provide frank advice about questions of fact and that we leave matters of policy alone.

Senator FAULKNER—Sure. I do not think you have been asked questions about policy, have you? I do not think other officials who have come before the committee have. Most senators are pretty careful about those sorts of things and appreciate that they are matters for the political representative, the minister—although it is very difficult when ministers are so reluctant to front up to committees. But even so, even under such severe provocation, I do not think you would find too many senators asking those sorts of policy questions to witnesses.

Mr McMahon—I think the comment that Mr Killesteyn made earlier is that I would be astonished if the secretary, in writing that, believed that he was putting any boundaries around the sort of advice that we would give before a committee such as this.

Senator BRANDIS—You are not really giving advice, are you, Mr McMahon? We are not saying it is in relation to matters within your knowledge.

Senator FAULKNER—It is only a filler, Mr McMahon, while Senator Collins looks up what she is going to do. I am relieved at that. Anyone outside this committee who is interested in this extraordinary document is welcome to a copy.

Mr Killesteyn—We will certainly reject any assertion—

CHAIR—Was there a rash of criticism of the minister from inside the department?

Mr Killesteyn—No, Senator.

CHAIR—Then why was it necessary to put out a statement saying that it is not on?

Mr Killesteyn—It is a timely reminder to staff who might put themselves in that position—

Senator FAULKNER—To watch themselves.

Mr Killesteyn—inadvertently—

Senator FAULKNER—Come on! You are pulling our leg now.

Mr Killesteyn—I am giving you my assessment of the situation, and I reject any implication or assertion that that document has been issued to prevent people in any way from giving honest and open advice to the committee or whomever.

Senator JACINTA COLLINS—This is in part related to that question. I have not been able to find the place again in the minutes, so we might both need to deal with this, depending on where we go with the question. There is a report in the minutes that there was a leak from the task force and an AFP investigation. Are you aware of that, Mr Killesteyn?

Mr Killesteyn—Yes, I am. I recall reading it in the minutes just recently.

Senator JACINTA COLLINS—I, like you, at the moment and at this hour cannot find the precise reference, but was that related to this issue?

Mr Killesteyn—To SIEVX?

Senator JACINTA COLLINS—No; was the leak related to Senator Faulkner's issue and why that notice was sent out?

Mr Killesteyn—No, Senator. As I explained, there was the incident—I think it was a demonstration in relation to detention policy—where one of our officers was observed with the group. The implication of course was that he or she—I cannot recall even that, now—was participating in the demonstration.

Senator JACINTA COLLINS—Are you aware of any resolution of the AFP investigation?

Mr Killesteyn—I would have to take that on notice.

Senator JACINTA COLLINS—If it was someone from your own department you would be aware of it, wouldn't you?

Mr Killesteyn—We are very confident that those sorts of things do not happen in DIMIA.

Senator FAULKNER—Not confident enough not to put out a document—

Mr Killesteyn—There was no AFP report to our department in relation to that particular leak that implicated any DIMIA employee.

Senator JACINTA COLLINS—Also in these minutes—Ms Siegmund, you might be able to help us here—early on, on 13 September, there is a reference to the 'poison pill' boat. Do you know what that was?

Ms Siegmund—I am aware of the issue you are referring to, but I am unable to provide you with the details about that, because of the classification. If you wish, that would be another DIN that we could have a look at declassifying.

Senator JACINTA COLLINS—Okay. Was that an actual boat that was named the poison pill boat? Or can you not say that much either?

Ms Siegmund—No, it was not the name of a boat.

CHAIR—Was it a designation assigned to a boat.

Ms Siegmund—No.

CHAIR—Was it a colloquial way of referring to a boat?

Ms Siegmund—It was referring to a boat that contained that issue, rather than calling the boat that name.

Senator JACINTA COLLINS—‘Let me in or I’ll take a poison pill’—was that the threat?

Ms Siegmund—I would prefer to—

Senator JACINTA COLLINS—Declassify what you have.

Ms Siegmund—be able to hand you the DIN, to be honest. I will put it on that list in terms of those dates.

Senator JACINTA COLLINS—My final question is in relation to assessments that SIEVX had returned to Java. The only indication we have of such an assessment comes from the NORCOM intelligence summary of 22 October. It is not sourced and does not refer to any evidence. Are you aware of such an assessment?

Ms Siegmund—That SIEVX had returned to Java?

Senator JACINTA COLLINS—Is there any basis for it?

Ms Siegmund—On 22 October, in our reporting regarding SIEVX, as I mentioned to you, the change was to the number of passengers, and it was still the departure from the same place. I do not have anything in that report regarding a possible return. I am just looking at 23 October. No, I do not have anything about a possible return to Java on the 22nd. Senator Collins, in terms of the DINs that we would like to look at getting declassified and presenting to you, I have got 13 September and the 16th—through to which particular date?

Senator JACINTA COLLINS—As far as it is relevant. The 23rd was when CNN reported, but if your intelligence has been delayed by another day or so then I would like to see it.

Mr Killesteyn—In terms of Senator Collins’s questions around SIEV8, I appreciate that tracking the numbers with particular vessels is proving problematic, and I am probably just going to add to that, but there is a reference in the minutes of 29 October—

Senator JACINTA COLLINS—That is the SIEV8. They renamed another ship SIEV8. We have had that explanation, yes. The explanation we have been given is basically that whoever compiled these notes incorrectly attributed SIEVX to be SIEV8 because it had not actually been intercepted yet and the number 8 was actually attributed to a later ship carrying 33 Vietnamese.

Mr Killesteyn—That is right. I just wanted to clarify.

Senator JACINTA COLLINS—The reference in these minutes to SIEV8 on 22 October or thereabouts is actually SIEVX.

Mr Killesteyn—Yes.

Senator FAULKNER—Could you please take on notice to provide the committee with the informational material that was printed for distribution as part of the disruption activities in Indonesia. I expect this is not in English.

Ms Siegmund—I am sure we would have an English copy I could provide to you.

CHAIR—Would you like a T-shirt as well, Senator Faulkner?

Senator FAULKNER—I believe that the T-shirts were produced by Department of Foreign Affairs and Trade. Correct me if I am wrong. Hence it would be improper to place such a request on notice to this department.

CHAIR—Indeed! Thank you, Mr Killesteyn, Mr McMahon and Ms Siegmund for your forthright answers to questions. The committee is adjourned until a date to be fixed.

Committee adjourned at 11.01 p.m.