

## Chapter 8

# The Sinking of SIEV X: Intelligence and Surveillance

### Introduction

8.1 In the early hours (approximately 1.30am ‘Golf’ or local time) of 18 October 2001, a vessel under the pay of alleged people smuggler, Abu Qussey,<sup>1</sup> departed from Bandar Lampung in south Sumatra.<sup>2</sup> 421 passengers and crew, including 70 children, were on board. Ten people had refused to embark due to the boat’s size. Media reports, based on passenger accounts, claim that the remainder were forced at gun point by Indonesian officials to board the vessel.<sup>3</sup>

8.2 Before heading to Christmas Island, the vessel stopped near the Karakatau group of islands where 24 passengers disembarked due to concerns about the SIEV’s seaworthiness. 397 passengers and crew remained onboard.

8.3 At about noon on 19 October 2001, the engines on the vessel stalled. By about 2.00pm (GT) the vessel began to take on water out of the sight of land, a situation that deteriorated an hour later when it began to take ‘heavy water, listed violently to the side, capsized and sank within an hour’.<sup>4</sup> 120 people are estimated to have been in the water after the boat sank; none of the 70 life jackets worked.

8.4 Around noon on 20 October, after close to twenty hours in the water, two fishing boats picked up the survivors. The notes for the People Smuggling Taskforce state:

41 adults and 3 children survived, 352 drowned. Survivors taken to Jakarta – being cared for by IOM [International Migration Organisation] at Bogor

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1 There are various spellings of Qussey in the intelligence material. Some use ‘Quassey’ (ADF intelligence review), others ‘Qussay’ (DIMA Intelligence Notes). Hansard follows Rear Admiral Smith’s use of Qussey. Unless citing material, the Committee employs this version in the report.

2 Except where otherwise noted, the account of SIEV X’s passage and sinking is based on the following: ‘SIEV X Chronology’, Attachment A in the declassified summary of the Defence review of SIEV X intelligence, Minister of Defence to CMI, undated, received 4 July 2002; and PST Notes, ‘People Smuggling Taskforce – High Level Group Meeting, 3.15 p.m., Tuesday 23 October 2001’, p.2.

3 *Transcript of Evidence*, CMI 1983.

4 ‘SIEV X Chronology’, p.2.

outside Jakarta. Vessel likely to have been in international waters south of Java.<sup>5</sup>

8.5 The exact location where the boat sank remains in doubt, with speculation that it might have gone down in the Sunda Strait within Indonesian waters. One report received by DIMIA indicated that the vessel capsized ‘between Java and Sumatra’.<sup>6</sup> A DIMA Intelligence Note issued on 23 October, however, suggested the boat had capsized and sunk approximately 60 nautical miles (NM) south of the Sunda Strait.<sup>7</sup> Advice provided to the Prime Minister, Mr Howard, on 24 October referred to the vessel sinking in ‘Indonesian waters’, and stated that the ‘boat capsized and sank quickly south of the western end of Java’.<sup>8</sup>

8.6 Survivor testimony claimed that, during the night of 19 October after SIEV X sank, two large vessels approached those in the water. According to the survivors, these vessels shone lights on the people in the water, but did nothing to rescue them.

8.7 The closest RAN vessel, the frigate *HMAS Arunta*, was by the Navy’s estimation at least 150 nautical miles distant from the position where SIEV X is roughly estimated to have foundered.

### **The Committee’s Inquiry**

8.8 During the inquiry a range of concerns arose about Australia’s role in relation to the fate of the Qussey vessel or, as it has now become known, SIEV X. Questions were raised about the extent to which Australian government agencies knew of the vessel’s departure, its unseaworthy state and what actions were taken or not taken in response. In short, did the Australian authorities have sufficient forewarning of SIEV X and its likely fate, such that they could have either acted to avert the disaster or rescued more survivors?

8.9 These concerns were fanned as the evidence to the inquiry gradually unfolded to reveal that early claims from Defence witnesses, that little was known of SIEV X, were at odds with the volume of intelligence gathered on the vessel during Operation Relex.

8.10 In this chapter, the Committee examines the prime sources of potential information about SIEV X available to Australian decision makers: intelligence and maritime surveillance. It attempts, first, to trace the development of the intelligence picture being formed by Australian agencies in the lead up to its passage. The

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5 PST Notes, ‘People Smuggling Taskforce – High Level Group Meeting, 3.15 p.m., Tuesday 23 October 2001’, p.2.

6 PM & C e-mail traffic, 24 October 2001.

7 DIMA Intelligence Note 83/2001, 23 October 2001, p.2.

8 *Transcript of Evidence*, CMI 2127. Ms Halton acknowledged that the advice to the PM did not specify whether the location was inside or outside Indonesian *territorial* waters.

Committee then discusses the information available on the level and patterns of maritime surveillance conducted at the time of the SIEV X incident.

8.11 Against this backdrop, in the next chapter the Committee examines the response of Australian agencies to this information, and whether that response and the reasons for it were appropriate.

### **Evidence available to the Committee**

8.12 In addition to the testimony of relevant officials before the inquiry, the Committee has received a range of declassified intelligence and other official material relating to SIEV X. This material is an important source of information for reconstructing the SIEV X episode. The Committee considers, however, that the evidence before it is limited in four respects.

8.13 First, much of the intelligence material has been heavily censored, with agencies citing national security reasons for so doing. In some cases, agencies have stated that they are not able to disclose information because the source agency has not agreed to declassify it. The Committee notes the following explanation provided by DIMIA:

Those [source] agencies have cited reasons of national security, particularly the possibility of exposing intelligence collection capabilities and the need to protect sources from exposure and, in the context of the current people smuggling environment in Indonesia, possible harm.<sup>9</sup>

8.14 Second, as a consequence, gaps exist in the intelligence picture on SIEV X. The Committee has not been able to see original or 'raw' intelligence received from sources. It has also not been able to compare the information it has received on SIEV X with that available to agencies on other boat arrivals. Thus, it has had to rely on witness testimony in making assessments of the extent to which reports on SIEV X fitted the overall intelligence picture on boat arrivals.

8.15 Third, the evidence concentrates mostly on SIEV X *after* it was reported to have departed Indonesia. The Committee has had little in the way of information on SIEV X *before* it left Indonesia. As was outlined in chapter 1, Australian authorities were involved in substantial 'disruption' activities in Indonesia. These activities involved information campaigns, targeting people smuggling syndicates and preventing passengers from embarking on vessels bound for Australia. The Committee was interested to understand the relationship between the disruption activity and the circumstances of SIEV X. However, despite extensive questioning of official witnesses on the disruption strategy, the Committee was provided with limited information.

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9 Letter from G.W. Pettitt, Border Protection Branch, DIMIA, undated, received 18 September 2002.

8.16 The fourth problem the Committee encountered with the evidence on SIEV X was the piecemeal manner in which information was provided to the inquiry. During the initial inquiry hearings official witnesses took a blanket approach of reassuring the Committee that Australian authorities had acted properly in relation to SIEV X, rather than providing a more open and detailed account of the intelligence trail about the vessel. Although this stance seems to have reflected the sensitivity surrounding Australia's intelligence capability, it raised more questions than it answered.

8.17 To illustrate the difficulty that this approach posed for the inquiry, the Committee notes the evidence from Rear Admiral Smith, the senior operational commander for Operation Relex. In his opening testimony to the Committee, Admiral Smith declared:

if my memory serves me right, we had some information that a boat might have been being prepared in the vicinity of Sunda Strait but we had no real fixed information as to when it was going to sail. Indeed, the first time that the Navy knew that this vessel had sailed was when we were advised through the search and rescue organisation in Canberra that this vessel may have foundered in the vicinity of Sunda Strait.<sup>10</sup>

8.18 Subsequently, Admiral Smith wrote to the Committee to clarify his original testimony.<sup>11</sup> Among other things, Admiral Smith referred to intelligence that 'reported' SIEV X as departing Indonesia and as a 'possible' arrival at Christmas Island, prior to the advice that it had foundered. He concluded that:

While the intelligence reports regarding the Abu Qussey vessel were from Coastwatch assessments and normally reliable sources, they provided only an assessment of 'alleged' departures and 'possible' arrival windows. No specific confirmation of departure was ever received. ...

... my Headquarters did not receive any information (intelligence or otherwise) that could lead to a definitive assessment that the vessel had departed Indonesia.<sup>12</sup>

8.19 Although Admiral Smith might have been strictly correct in his original evidence, such a narrowly defined answer provided only a limited portrayal of the complex picture surrounding SIEV X and therefore an inadequate impression of the situation related to the vessel. The Committee continued to experience difficulties in receiving a full account of the SIEV X episode throughout the inquiry. As is discussed later in this chapter, vital information revealing gaps in the chain of reporting of the intelligence traffic emerged only at the Committee's last hearing and afterwards, thus preventing the Committee from exploring it as fully as might have been expected.

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10 *Transcript of Evidence*, CMI 461.

11 Rear Admiral Smith, 'Clarification of Evidence', letter to CMI, 22 May 2002.

12 Rear Admiral Smith, 'Clarification of Evidence', letter to CMI, 22 May 2002, pp.3-4.

8.20 The Committee is mindful of the particular sensitivities and national security interests that attend matters of intelligence. Nevertheless, intelligence agencies and practices are properly the concern of the parliament and cannot be shielded from accountability and review, particularly in cases of public importance such as SIEV X. As the Committee's findings of gaps in the handling of SIEV X intelligence show, parliamentary examination of the intelligence matters is not only a vital accountability mechanism but it is also a key element in strengthening the governance and working of the national security system.

8.21 The Committee considers that the intelligence community should, in consultation with the relevant parliamentary committees, review its approaches to the provision of information to parliamentary inquiries to better balance the flow of information to parliament with the need to protect intelligence capabilities and sources.

## **The Intelligence System and SIEV X**

8.22 The story of what Australian government agencies knew about SIEV X is to a large degree a story of intelligence and its limitations, how it is coordinated and fed into operational decision making.

8.23 Before detailing the intelligence chronology for SIEV X, it is worth reiterating here the key elements of the intelligence system. As noted in chapter 2, an extensive intelligence capability involving several government agencies supported the overall border protection strategy and Operation Relex in particular. The main elements of the system included:

- Wide-ranging 'all source' intelligence on people smuggling and illegal immigration activities, including off-shore sources in countries of origin, first asylum and transit, particularly Indonesia. Information in Indonesia came partly from defence attaches in the Australian embassy but mainly from posted AFP and DIMIA compliance officers, their counterparts in the Indonesian police and military and from 'human sources' (ie. agents or informants on the ground);<sup>13</sup>
- DIMIA served as the central agency for the collection, analysis and production of intelligence on border protection. It produced intelligence reports for a range of 'customer' agencies;
- Australian Theatre Joint Intelligence Centre (ASTJIC) was, during the SIEV X episode, the primary Defence intelligence body. For Operation Relex it received mainly processed intelligence, the 'vast bulk' of which came from DIMIA and Coastwatch,<sup>14</sup> which it in turn analysed and used to produce reports;

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13 In addition to the section on intelligence in Chapter 2, see *Transcript of Evidence*, CMI 1889-1890 and 1901 (ADF), 1924-1925 (AFP), 1996-1998, 2001 and 2003 (DIMIA).

14 *Transcript of Evidence*, CMI 1886.

- ASTJIC reports provided ‘a consolidated forecast of SIEV activity to COMAST [Rear Admiral Ritchie] and to subordinate ADF headquarters and units’,<sup>15</sup> as well as ‘intelligence support to people who are deployed and to operational decision makers’.<sup>16</sup> ASTJIC reports formed part of the basis upon which Rear Admiral Smith (Naval Component Commander) and Brigadier Silverstone (HQNORCOM/CJTF 639) made daily operational decisions;
- Coastwatch<sup>17</sup> and to a lesser degree DIMIA<sup>18</sup> regularly briefed the People Smuggling Taskforce (PST) on numbers of potential boat and people arrivals, with forecasts on expected dates and destinations.<sup>19</sup> DIMIA intelligence bulletins, containing more detailed information on arrivals and the state of the people smuggling pipeline, also went to the agencies represented on the PST;<sup>20</sup> and
- RAAF and Coastwatch maritime surveillance, as well as operational intelligence gleaned from intercepted arrivals supplemented the intelligence reporting on impending people and boat arrivals. Defence told the Committee that the Defence Signals Directorate (DSD) also produced reports, presumably based on signals intercepts, that ‘may or may not have’ related to SIEV X.<sup>21</sup> It should be noted, however, that HQNORCOM indicated to the Committee that it received no intelligence based on DSD intercepts of communications from SIEV X.<sup>22</sup>

8.24 This is the framework within which domestic and external intelligence on SIEVs was collected, analysed and disseminated to various agencies and then onto decision makers and military units deployed on Relex operations.

## **SIEV X Chronology**

8.25 The period of time from the receipt of the first reports of SIEV X by Australian agencies to its sinking covers three months. It can be divided into two phases:

- July to mid October – when a series of reports about Abu Qusey and possible boat departures began to emerge; and
- 17 to 23 October – the period surrounding the SIEV X disaster.

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15 *Transcript of Evidence*, CMI 1885.

16 *Transcript of Evidence*, CMI 1887. For more on the exchange of intelligence across the various agencies engaged in the new border protection strategy, see Answers to Questions on Notice, Defence, 20 September 2002, esp. W65 and W77.

17 Answers to Questions on Notice, Coastwatch 17 June 2002, pp.1-2.

18 For example, *Transcript of Evidence*, CMI 2014.

19 See also PST Notes, particularly for 18-23 October 2002.

20 *Transcript of Evidence*, CMI 1998.

21 Answers to Questions on Notice, Defence, 20 September 2002, Question 33.

22 Answers to Questions on Notice, Defence, 20 September 2002, Question W79.

8.26 The Committee discusses the nature and timing of the information received during these two phases, identifying the key points that emerge and foreshadowing some of the questions that the Committee will deal with in the next chapter.

### ***July to mid October 2001: Early intelligence***

8.27 The first reports on SIEV X can be traced to July 2001 when indications were received that a people smuggler, Abu Qussey, was preparing vessels for departure to Christmas Island. The internal ADF review of intelligence on SIEV X identified 20 July as the earliest mention of Qussey. It also noted that ‘DIMA<sup>23</sup> [was] monitoring and reporting on the progress of 10 other SIEV[s] at the time’.<sup>24</sup>

8.28 Ms Nelly Seigmund, head of the DIMIA Border Protection Branch which includes the Intelligence Analysis Section (IAS), told the Committee:

...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.<sup>25</sup>

8.29 As what follows will show, Ms Siegmund’s statement points to the varying signals on SIEV X that Australian agencies were receiving throughout July to October.

8.30 During August 2001 DIMA Intelligence Notes mentioned Qussey on nine occasions, mainly during the last half of the month. On five occasions these Notes indicated that SIEV X ‘was about to depart or had departed’.<sup>26</sup>

8.31 Reporting on Qussey increased in September with DIMA Intelligence Notes referring to him on 21 dates. Coastwatch indicated to the Committee that it had received information that SIEV X was about to depart or had departed ‘anywhere within a seven-day block in September’.<sup>27</sup>

8.32 However, according to ADF evidence it appears that there was only one report in September – 5 September<sup>28</sup> – indicating that the ‘Qussey vessel’ had

23 As noted elsewhere in the report, DIMA was the acronym for the Department of Immigration and Multicultural Affairs at the time of Operation Relex in 2001.

24 ‘SIEV X Chronology’, Defence review of SIEV X intelligence, Attachment A, p.1.

25 *Transcript of Evidence*, CMI 2012-2013. See also Colonel Gallagher, *Transcript of Evidence*, CMI 1902.

26 ‘SIEV X Chronology’, Defence review of SIEV X intelligence, Attachment A, p.1. Coastwatch told the Committee that it had received information of possible/actual departure on only four dates in August, *Transcript of Evidence*, CMI 1630.

27 *Transcript of Evidence*, CMI 1630.

28 Rear Admiral Ritchie, *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 4 June 2002, p.158.

departed. This appears to be the first instance where a location of departure – ‘south-west Java’ – is mentioned.<sup>29</sup>

8.33 While DIMA Intelligence Notes referred to Qussey continually through early October, there appears to have been no further reports of the ‘Qussey vessel’ (ie. SIEV X) or departures until around 11-14 October. On 14 October a Coastwatch daily Civil Maritime Surveillance Program (CMSP) Operations Summary (OPSUM), based on an intelligence report of 11 October, suggested that SIEV X had been delayed.<sup>30</sup>

8.34 No overdue notice or concern seems to have been raised during the period between the September report of SIEV X departing and subsequent 11-14 October intelligence that it had been delayed. This suggests that the intelligence on Qussey or SIEV X at this time was unconfirmed and that Australian analysts discounted these early reports of the vessel’s supposed departure.

### ***17 to 23 October: Ambiguous intelligence***

8.35 The intelligence trail on SIEV X resumed on 17 October. Over the next five days a number of reports about the vessel’s apparent movements arrived. The mixed signals seen during the July-early October phase also resumed, but in a more compressed timeframe.

8.36 The chain of events during this critical phase is complex, not least because of the ambiguity of the intelligence and the number of Australian agencies dealing with it. To help make sense of this complexity the Committee examines the incoming intelligence reports and steps taken by the various Australia agencies on each day.

### ***17 October***

8.37 Two reports about SIEV X’s movements appear to have entered the intelligence and decision making system on 17 October. At midday DIMIA issued a DIMA Intelligence Note. In a heavily censored section of the version of the Intelligence Note that the Committee received, the following comment is made:

DIMA Jakarta reports that several sources claim [DELETED] moved [DELETED] passengers on [DELETED] last night. The departure of the boat has yet to be confirmed.<sup>31</sup>

8.38 Although it is hard to be certain of the vessel and organiser’s identity to which this passage refers,<sup>32</sup> other evidence suggests that it relates to Abu Qussey and SIEV

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29 ‘SIEV X Chronology’, Defence review of SIEV X intelligence, Attachment A, p.1.

30 *Transcript of Evidence*, CMI 1727 and ‘SIEV X Chronology’, Defence review of SIEV X intelligence, Attachment A, p.1.

31 DIMA Intelligence Note 79/2001, 17 October 2001, p.2.

32 In the only other declassified entry in this section, the Intelligence Note states ‘There is no recent reporting about [DELETED] next boat’. DIMA Intelligence Note 79/2001, 17 October 2001, p.2.

X. First, the comment that the report is based on ‘several sources’ sounds akin to the ‘multisource information’ mentioned elsewhere in relation to SIEV X, although it appears that SIEV X was not the only vessel mentioned in this intelligence.<sup>33</sup>

8.39 Second, the daily Coastwatch OPSUM is said to have referred to the ‘Quassey vessel moving from port to port’.<sup>34</sup> This movement was not seen as unusual. Colonel Gallagher, the current Commander of ASTJIC, explained to the Committee that ‘it is a common occurrence...that the people smugglers would move their vessels through a number of ports’.<sup>35</sup>

8.40 The second report about SIEV X came much later in the day. At about 10.00pm (Kilo Time or AEST) Coastwatch received information that SIEV X had left central Java on 16 October bound for Christmas Island. It assessed that the vessel was expected to arrive early on 18 October.<sup>36</sup> Coastwatch promptly relayed this message by telephone to both HQNORCOM and the ASTJIC watchkeeper.<sup>37</sup> (As is now known, SIEV X did not depart Indonesia until 18 October.)

8.41 Both Coastwatch and ASTJIC posted the formal advice of this intelligence the next day.

## ***18 October***

8.42 On the day SIEV X sailed from Sumatra, Coastwatch ‘promulgated’ an OPSUM containing the previous night’s report of the vessel’s ‘departure’ on 17 October.<sup>38</sup> ASTJIC also reported this information at its daily morning Theatre

33 See the discussion linking ‘multisource’ information to not only SIEV X but also another unnamed organiser’s vessel in the next section on 18 October.

34 ‘SIEV X Chronology’, Defence review of SIEV X intelligence, Attachment A, pp.1-2. It is not entirely clear, however, if the Coastwatch OPSUM did mention the port-to-port movement. In a letter clarifying his evidence, Colonel Gallagher said that this assessment on ASTJIC’s part was an ‘after-the-fact judgement’, based on the ‘combination of the two differing points of departure reported on 17 and 18 October’ (ie. central Java on 17 October and western Java on 18 October). The 17 October report refers to the *second* Coastwatch intelligence report that day, not the earlier OPSUM. See Answers to Questions on Notice, Defence, 20 September 2002, Question W85.

35 *Transcript of Evidence*, CMI 1897.

36 Answers to Questions on Notice, Defence, 20 September 2002, Question W85. As noted in the Defence review of SIEV X intelligence (Attachment A, p.2), an error in some of the intelligence reporting recorded the departure date as 17 October, not 16 October. The DIMA Intelligence Note of 19 October 2001 talks of the Qussey vessel departing on Tuesday night, ie. 16 October. See DIMA Intelligence Note 81/2001, 19 October 2001, p.2.

37 There is a slight discrepancy between Coastwatch and ASTJIC about the timing of this phone call, which is attributed to the officers involved keeping rough details of such calls. See Attachment A, Answers to Questions on Notice, Coastwatch, 17 June 2002, cf. *Transcript of Evidence*, CMI 1920.

38 ‘SIEV X Chronology’, Defence review of SIEV X intelligence, Attachment A, p.1.

intelligence briefing, whereafter it would have been disseminated to the Defence network in a formal message and updated on the ASTJIC webpage.<sup>39</sup>

8.43 Rear Admiral Smith informed the Committee of the detail of the Coastwatch OPSUM:

The Abu Qussey vessel in the Coastwatch's CMSP OPSUM on PM 18 October through intelligence sources was 'reported' to have departed Indonesia for Christmas Island on 17 October 2001. Coastwatch assessed that the vessel could 'possibly' [original emphasis] arrive at Christmas Island, late 18 October or early 19 October 2001.<sup>40</sup>

8.44 At this time, a question appears to have remained about the exact date when SIEV X was thought to have departed. Colonel Gallagher told the Committee that the 'date of departure was unclear, and to my mind, remains unclear'.<sup>41</sup>

8.45 DIMIA also reported on SIEV X's apparent departure, as well as other possible arrivals in its Intelligence Note of 18 October.<sup>42</sup> This Intelligence Note served as the basis for a discussion on 'prospective arrivals' at that day's meeting of a subgroup of the People Smuggling Taskforce (PST). The notes from that meeting record in bullet point form:

Intelligence re 2 boats with total 600 PUAs [possible unauthorised arrivals] expected at Christmas, with one possibly arriving today, a further 3 boats with total 600 expected at Ashmore, with earliest arriving Monday [22 October]. Some risk of vessels in poor condition and rescue at sea.

No confirmed sightings by Coastwatch, but multisource information with high confidence level.<sup>43</sup>

8.46 Deciphering these notes requires care. Although Mr Killesteyn of DIMIA (who was present at the subgroup meeting on 18 October) said that 'there is a good deal of symmetry' between the PST meeting notes and the DIMA Intelligence Note,

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39 *Transcript of Evidence*, CMI 1897.

40 Rear Admiral Smith, 'Clarification of Evidence', letter to CMI, 22 May 2002, p.2.

41 *Transcript of Evidence*, CMI 1897. DIMIA assessed the boat as departing on 'Tuesday night', ie. 16 October. DIMA Intelligence Note 80/2001, 18 October 2001, p.3.

42 *Transcript of Evidence*, CMI 2014. In the declassified version of the DIMA Intelligence Note of 18 October provided to the Committee, there is in the largely censored section called 'Current Situation' a reference to 'DIMA Jakarta [DELETED] the departure of the boat, which should arrive in Australian territorial water sometime today. IAS COMMENT [DELETED]'. Presumably this refers to the Qussey vessel. The only other uncensored statement in this section repeats the same advice from the 17 October DIMA Intelligence Note that 'there is no recent reporting about [DELETED] next boat'. Since DIMIA knew by 18 October that Qussey was now only preparing one boat, not two as thought earlier, this second statement does not appear to be related to Qussey or SIEV X. DIMA Intelligence Note 80/2001, 18 October 2001, p.3.

43 PST Notes, 'People Smuggling Taskforce – High Level SubGroup, Thursday 18 October 2001'. Cited also in *Transcript of Evidence*, CMI 2014.

the meeting notes ‘are a cryptic summary’ and therefore not entirely accurate.<sup>44</sup> The following seeks to clarify these notes.

8.47 DIMIA confirmed that the opening reference to ‘2 boats’ referred to SIEV X belonging to Abu Qussey and a second vessel belonging to another people smuggler.<sup>45</sup> Ms Siegmund said that intelligence was now indicating that there was only one Qussey vessel and no longer two, as had been thought to be the case earlier.<sup>46</sup>

8.48 Members of the Committee were concerned to ascertain whether the reference to ‘total 600 PUAs’ indicated that SIEV X was expected to be carrying 400 people – and therefore was an early warning of overcrowding – and that the other vessel was carrying 200 people. However, DIMIA advised the Committee that the *opposite* was the case. Ms Siegmund explained how DIMIA arrived at the figure of ‘total 600 PUAs’:

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.<sup>47</sup>

8.49 The following day’s DIMA Intelligence Note reflected these figures. It noted that SIEV 6 was thought to be carrying between 250-300 passengers; that the Abu Qussey vessel was believed to be carrying 250 passengers; and that there had been ‘no further reporting on Abdul Paskistani’s (aka Mohammed Khan) intentions to send his boat with over 500 passengers to Christmas Island next week’.<sup>48</sup>

8.50 The fluidity in the passenger numbers reflects the flux in the intelligence not only on SIEV X but on possible boat and people arrivals in general. In the next chapter, the Committee discusses this feature of the Operation Relex intelligence.

8.51 Contrary to some of the speculation based on the PST notes, the mention of ‘some risk of vessels in poor condition and rescue at sea’ did *not* relate to SIEV X but, rather, the condition of the other organiser’s vessels. Ms Siegmund mentioned that that particular organiser ‘had previously used boats in poor condition’.<sup>49</sup> The DIMA

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44 *Transcript of Evidence*, CMI 2014.

45 *Transcript of Evidence*, CMI 2014.

46 *Transcript of Evidence*, CMI 2014-2015.

47 *Transcript of Evidence*, CMI 2015-2016.

48 DIMA Intelligence Note 81/2001, 19 October 2001, p.2.

49 *Transcript of Evidence*, CMI 2014-2015.

Intelligence Note of 19 October made the same comment and observed that ‘the requirement for a rescue at sea cannot be ruled out’.<sup>50</sup>

8.52 The Committee believes that the second bullet point that talks of ‘no confirmed sightings by Coastwatch’ is probably an instance of a mistake in the PST meeting notes. As noted earlier in the report, at the beginning of Operation Relex the ADF took over surveillance of the Christmas Island and Ashmore Reef zones, while Coastwatch withdrew from these areas to concentrate its efforts on the Timor and Arafura Sea approaches.<sup>51</sup> Based on this, the notes perhaps meant to say that the ADF or RAAF had not reported any sightings of SIEV X at that point. This would be consistent with the evidence provided on air surveillance in the Christmas Island area for 18-20 October that is discussed later in this chapter.<sup>52</sup>

8.53 The mention of ‘multisource information’ is another example of the need to decipher the PST meeting notes with care. Although it appears that earlier intelligence (17 October) on SIEV X might have been multisource, DIMIA advised the Committee that the intelligence on Qussey on 18 October was *single source*.<sup>53</sup> Thus it seems that, again, the PST notes are referring in this instance to the ‘other’ organiser’s vessel, not SIEV X. As the matter of the ‘multisource information’ (the second part of the bullet point) goes to the question of the credibility of this intelligence, the Committee discusses its importance in the next chapter.

## ***19 October***

8.54 On the day that SIEV X foundered, no fresh intelligence appears to have been received on it. Coastwatch repeated its advice of 18 October in its OPSUM for the day that a Qussey vessel was a ‘possible’ arrival.<sup>54</sup> In reference to the Coastwatch OPSUMs for both 18 and 19 October, Rear Admiral Smith observed that ‘neither of these reports were confirmed’.<sup>55</sup>

8.55 On the same day a P3 surveillance flight sighted SIEV 6 near Christmas Island. In reporting the sighting, the DIMA Intelligence Note of the day also commented that ‘the other vessel’ (ie. SIEV X) had not been seen. The Intelligence Note stated:

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50 DIMA Intelligence Note 81/2001, 19 October 2001, p.2

51 Rear Admiral Bonser, *Transcript of Evidence*, CMI 1629.

52 Attachment B, Minister of Defence to CMI, undated, received 4 July 2002.

53 Answers to Questions on Notice, DIMIA, 20 September 2002.

54 It was usual for Coastwatch to repeat advice in subsequent OPSUMs until new or additional information was received. Attachment A, Answers to Questions on Notice, Coastwatch, 17 June 2002; Rear Admiral Smith, ‘Clarification of Evidence’, letter to CMI, 22 May 2002, p.2; and ‘SIEV X Chronology’, Defence review of SIEV X intelligence, Attachment A, p.2.

55 Rear Admiral Smith, ‘Clarification of Evidence’, letter to CMI, 22 May 2002, p.2.

**Abu Qussay's** boat carrying up to **250 passengers** [original emphasis] that reportedly departed from probably Cilicap, on Tuesday night has not yet been sighted. It was expected to arrive in the vicinity of Christmas Island late Thursday.<sup>56</sup>

8.56 DIMIA's Intelligence Analysis Section (IAS) attributed the delay to the following factors:

IAS COMMENT: Abu Qussay's boats often take longer to complete the journey to Christmas Island than those organised by [DELETED] for example, possibly because of the departure point (south-west Java) and the prevailing currents and the use of smaller boats.<sup>57</sup>

8.57 In other words, although SIEV X was by DIMIA's reckoning a day overdue at this stage (based on intelligence that it had left Java on 16 October, which turned out to be wrong), it was not seen as unusual given DIMIA's experience with earlier vessels organised by Qussey. Further, adverse weather conditions appear to have prevailed over these days. Bad weather is thought to have forced SIEV X to shelter in the lee of an island in the Indonesian archipelago on 18 October,<sup>58</sup> and the weather conditions in the area of operations north of Christmas Island were also poor on 19 October.<sup>59</sup>

8.58 The expectation that SIEV X was but one of many people smuggling vessels due to arrive in Australian waters during this period should also be noted. After earlier predictions of an impending influx in boat and people arrivals,<sup>60</sup> the DIMA Intelligence Note of 19 October made the following assessment:

The sighting of possibly [DELETED]'s vessel [SIEV 6] north west of Christmas Island earlier today is probably the vanguard of the anticipated surge and will probably be followed by Qussay's boat later today. This will probably see approximately 550 people off Christmas Island by the weekend. There will probably be a three to five day break before the first of the Ashmore Island-bound boats are likely to be approaching Australian waters.<sup>61</sup>

8.59 The Committee discusses the 'anticipated surge' in chapter 9.

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56 DIMA Intelligence Note 81/2001, 19 October 2001, p.2.

57 DIMA Intelligence Note 81/2001, 19 October 2001, p.2.

58 DIMA Intelligence Note 83/2001, 23 October 2001, p.2.

59 Forecast weather conditions in the vicinity of Christmas Island during this period included warnings on thunderstorms and sea squalls. See Answers to Questions on Notice, Defence, 20 September 2002, Question W82. See also the section on Surveillance and SIEV X later in the chapter, especially Air Commodore Byrne's comments on the sea state on 19 October.

60 See DIMA Intelligence Note 80/2001, 18 October 2001, p.3.

61 DIMA Intelligence Note 81/2001, 19 October 2001, p.3.

8.60 One further development should be noted. According to Coastwatch, from 19 October on the AFP became ‘the primary source of information about SIEV X’.<sup>62</sup> As will be seen, AFP reporting over the next three days is central to the intelligence picture on SIEV X.

## **20 October**

8.61 Two key items of intelligence appeared on 20 October. The organiser of SIEV 6 was identified as not being Abu Qussey,<sup>63</sup> indicating that SIEV X was still in transit.

8.62 The second critical item of intelligence arrived early in the morning. The AFP telephoned Coastwatch to advise that a ‘source’ had provided fresh intelligence indicating that a vessel had departed west Java the previous day and that it was reported to be small and overcrowded.<sup>64</sup> Coastwatch immediately telephoned this advice through to ASTJIC and HQNORCOM and later issued an OPSUM.

8.63 According to Rear Admiral Smith, Coastwatch’s advice indicated:

that the Abu Qussey vessel had allegedly departed Sumar ... on the West Coast of Java early AM hours 19 October instead of Pelabuhan Ratu as previously reported on the previous two days.<sup>65</sup>

8.64 While neither the date nor place of departure was correct, the rest of the message was consistent with the later testimony of SIEV X survivors. Rear Admiral Smith continued:

The vessel was reported by the source ‘allegedly as small and with 400 passengers onboard, with some passengers not embarking because the vessel was overcrowded’.<sup>66</sup>

8.65 In addition to the information that SIEV X was small, carrying 400 passengers and overcrowded, the AFP officer who provided the advice, Ms Kylie Pratt,<sup>67</sup> also made a risk assessment of the vessel’s capacity to ferry its passengers safely. Rear Admiral Bonser, the Director General of Coastwatch, told the Committee:

When the advice about the vessel’s alleged departure was provided to Coastwatch by phone on 20 October, the AFP officer providing the advice

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62 Answers to Questions on Notice, Coastwatch, 17 June 2002, p.5.

63 ‘SIEV X Chronology’, Defence review of SIEV X intelligence, Attachment A, p.2.

64 *Transcript of Evidence*, CMI 1631; ‘SIEV X Chronology’, Defence review of SIEV X intelligence, Attachment A, p.2.

65 Rear Admiral Smith. ‘Clarification of Evidence’, letter to CMI, 22 May 2002, p.2.

66 Rear Admiral Smith. ‘Clarification of Evidence’, letter to CMI, 22 May 2002, p.2.

67 *Transcript of Evidence*, CMI 1961. Ms Pratt was an analyst attached to the Joint AFP-DIMA People Smuggling Strike Team, based in Canberra.

also offered a personal opinion that the vessel may be subject to increased risk due to the numbers reportedly on board.<sup>68</sup>

8.66 In the Committee's view, the AFP's advice on 20 October is probably the single most crucial piece of intelligence in the traffic about SIEV X. It reached Australian authorities at a time when it might still have been possible to have launched a search and rescue operation to locate the survivors of SIEV X. The Committee traces the passing of this advice through the intelligence system below, and then in the next chapter examines why it triggered little reaction from operational decision makers.

### **Coastwatch to ASTJIC and HQNORCOM**

8.67 Soon after its receipt, Coastwatch telephoned the AFP advice through to ASTJIC and HQNORCOM. Coastwatch records<sup>69</sup> show the timing of the sending of this information as:

0930K	Phone call	From AFP to Coastwatch
0950K	Phone call	From Coastwatch to ASTJIC
1000K	Phone call	From Coastwatch to HQNORCOM
1000K	OPSUM	From Coastwatch to Defence addressees

8.68 The news from Coastwatch galvanised ASTJIC into action. In less than 15 minutes ASTJIC had issued an immediate intelligence report on the imminent arrival of another SIEV.<sup>70</sup> In his recounting of the intelligence traffic on SIEV X, Colonel Gallagher told the Committee 'that even though the point of departure was different [to the 17-18 October reports], the ASTJIC took that report from the AFP via Coastwatch on the morning of the 20<sup>th</sup> to be corroboration of the fact that the vessel had left'.<sup>71</sup>

8.69 Colonel Gallagher also said that this was the only instance when ASTJIC generated a 'specific immediate intelligence report', its uniqueness reflecting the agency's assessment that the information was of 'sufficient moment that people needed to be aware of it'.<sup>72</sup>

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68 Attachment A, Answers to Questions on Notice, Coastwatch, 17 June 2002.

69 Attachment A, Answers to Questions on Notice, Coastwatch, 17 June 2002.

70 In a letter to the Committee, Colonel Gallagher corrected his earlier testimony in which he said that the ASTJIC report was issued at 11.00am (CMI 1896). The report was issued at 10.01 am. See Colonel P.J. Gallagher to CMI Committee, 9 August 2002.

71 *Transcript of Evidence*, CMI 1736. Colonel Gallagher qualified this point by saying that the vessel's departure 'would not have been treated as confirmed'; rather, that it 'is assessed that a vessel has departed', *Transcript of Evidence*, CMI 1910.

72 *Transcript of Evidence*, CMI 1898.

8.70 Elaborating on the reason for ASTJIC issuing an ‘immediate intelligence report’ to HQNORCOM, Colonel Gallagher said that as it was the weekend (20 October was a Saturday) ‘the way to get the attention of people out of normal working hours was to send them an immediate message’.<sup>73</sup>

8.71 Under the heading ‘Possible boat departure for CI’, the declassified version of the ASTJIC report states:

1. [DELETED] information provided by [DELETED] AFP [DELETED] indicates that an Abu Qussay boat departed [DELETED] the west coast of Java in the early AM hours of Friday 19 OCT 2001. The vessel is described as a small boat and may be carrying up to 400 passengers.
2. [DELETED] ASTJIC assess that the vessel could arrive from late afternoon today (SAT 20 OCT) onwards.<sup>74</sup>

8.72 The ASTJIC report went to a range of recipients, including HQNORCOM, CJTF 639 (ie. Brigadier Silverstone) and the Australian embassy in Jakarta.

8.73 At about midday HQNORCOM issued its own intelligence summary or INTSUM.<sup>75</sup> In the declassified review of the intelligence on SIEV X, the INTSUM is said to include the following assessment:

NORCOM INTSUM assesses there is a high probability of the vessel arriving vic [vicinity] 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.<sup>76</sup>

8.74 The INTSUM also noted that 400 passengers were on board a small vessel.<sup>77</sup> According to Rear Admiral Bonser of Coastwatch, HQNORCOM repeated the original Coastwatch advice conveyed that morning by telephone to ASTJIC.<sup>78</sup> It appears that the INTSUM also reflected discussions between HQNORCOM intelligence staff and Coastwatch analysts about the probability of SIEV X’s arrival and the level of confidence that could be placed on such an assessment.<sup>79</sup> Further, Colonel Gallagher told the Committee ‘that the NORCOM INTSUM on 20 October reflected the fact that they were concerned about overcrowding on the vessel, which is

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73 *Transcript of Evidence*, CMI 1906.

74 ASTJIC INTREP 171/01: Possible Boat Departure for CI, Answers to Questions on Notice, Defence, 20 September 2002, Attachment B.

75 *Transcript of Evidence*, CMI 1655.

76 SIEV X Chronology, Defence review of SIEV X intelligence, Attachment A, p.2. See also Answers to Questions on Notice, Defence, 20 September 2002, W76.

77 Answers to Questions on Notice, Defence, 20 September 2002, W76.

78 *Transcript of Evidence*, CMI 1655.

79 Answers to Questions on Notice, Defence, 20 September 2002, W81.

essentially the substance of the intelligence report that was put out by ASTJIC that morning',<sup>80</sup>

8.75 The Committee was initially puzzled, nonetheless, at the apparent omission of the AFP advice that the vessel might be at increased risk because of overcrowding. Subsequent evidence has revealed, however, that HQNORCOM never received this particular piece of information. When asked about the AFP officer's concern about the increased risk to the vessel's safety, Brigadier Silverstone (who doubled as CJTF 639 and Commander NORCOM) stated:

No such report was received by NORCOM from the AFP. On 20 October, Coastwatch advised HQNORCOM of the AFP report describing numbers embarked, a place and approximate time of departure and that some unauthorised arrivals had refused to board the SIEV due to overcrowding. *The advice did not include a report of concern for increased risk to the vessel's safety.* Due to previous conflicting reports, HQNORCOM assessed that the report, except for the departure date probably being correct, as having *low credibility*, with the requirement for confirmation of the remaining details [emphasis added].<sup>81</sup>

8.76 When combined with the ASTJIC intelligence report cited above, this statement indicates that Coastwatch failed to pass onto the ADF and Defence network the 'personal assessment' of the AFP officer, Ms Kylie Pratt, regarding the increased risk that the overcrowding posed for SIEV X. This casts a new light on the ADF's response to the SIEV X intelligence, particularly in relation to the question about whether a SOLAS alert was warranted. It also suggests that ASTJIC issued an 'immediate' intelligence report on the morning of 20 October out of concern for the sudden arrival of a new SIEV at Christmas Island, rather than concern for the vessel's safety. In the next chapter the Committee assesses the impact of Coastwatch's handling of the AFP intelligence on the SIEV X tragedy.

### **ASTJIC to Maritime Patrol Group**

8.77 The ASTJIC intelligence report also went to the 92 Wing Detachment at Learmonth in Western Australia, where the Maritime Patrol Group (MPG) P3 Orions were based for Operation Relex. This was the first occasion when the MPG heard of a 'small and overcrowded vessel' which is now known to be SIEV X.<sup>82</sup> The ASTJIC report was received while the surveillance flight for 20 October was airborne.<sup>83</sup>

8.78 The new information about SIEV X, however, was not passed to the P3 on task at the time. It was not until the midnight briefing of the aircrew for the following day's surveillance flight that the detail about a small and overcrowded vessel was

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80 *Transcript of Evidence*, CMI 1920.

81 Answers to Questions on Notice, Defence, 20 September 2002, W75.

82 *Transcript of Evidence*, CMI 2160.

83 *Transcript of Evidence*, CMI 2176.

provided to any of the MPG aircrews.<sup>84</sup> When asked to explain why the ASTJIC ‘immediate’ intelligence report was not transmitted to the P3 on patrol on the morning of 20 October, Air Commodore Byrne, the Commander of the MPG, said to the Committee:

The only thing I can think of is that there was nothing of any criticality in that intelligence report to bring to the attention of the crew, which was airborne.<sup>85</sup>

8.79 In subsequent evidence to the Committee, Air Commodore Byrne elaborated on the lack of ‘criticality’ in the ASTJIC report:

The information contained in the STJIC intelligence report of 20 October 2001 was not passed to the P-3C aircraft in the air at the time because the report was assessed as adding *nothing of immediate significance* [emphasis added] to the information already held at Maritime Patrol Group and by the crew flying at the time. The intelligence report described the vessel as ‘small and may be carrying up to 400 passengers’. Additionally, ASTJIC assessed that the vessel could arrive from late that afternoon onwards. There was no information received to suggest that any action other than routine intelligence reporting was warranted. Therefore, the report’s information was collated into the pre-flight intelligence report that afternoon, to brief the crew for the next flight.<sup>86</sup>

8.80 This was not the only instance on 20 October when the AFP intelligence was not passed onto key decision makers. Neither DIMIA nor the afternoon meeting of the People Smuggling Taskforce received the AFP intelligence. The Committee examines these apparent lapses in the communication chain in the next two sections.

### **Communication breakdown: DIMIA**

8.81 While the AFP advice was transmitted rapidly to Coastwatch and the key Defence agencies, it appears not to have reached DIMIA. When asked by the Committee if DIMIA’s Intelligence Analysis Section (IAS) had received the AFP information on 20 October, none of the DIMIA witnesses could recall seeing or knowing of it. In Ms Siegmund’s words, ‘in this instance we were not part of that intelligence loop’.<sup>87</sup>

8.82 DIMIA offered two possible explanations for why it was not in the ‘intelligence loop’ on this occasion. Both relate to operational considerations. While Ms Siegmund indicated that she would have expected that DIMIA’s intelligence

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84 *Transcript of Evidence*, CMI 2160.

85 *Transcript of Evidence*, CMI 2176. Air Commodore Byrne also noted that at the time the ASTJIC report was received at Learnmonth, the P3 was ‘three hours from off-task’. *Ibid.*

86 Answers to Questions on Notice, Defence, 20 September 2002, Question 39.

87 *Transcript of Evidence*, CMI 2012.

people would also have been telephoned the AFP advice at some stage during the weekend, she made the observation that:

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.<sup>88</sup>

8.83 Mr Killesteyn also suggested that the operational priority would have been to fast track the information to those responsible for surveillance and interception, and that this could have overshadowed the requirement to pass it onto DIMIA for analysis and reporting. In Mr Killesteyn's view:

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.<sup>89</sup>

8.84 The Committee notes two points in relation to this aspect of the SIEV X incident. First, both Ms Siegmund's and Mr Killesteyn's view of the operational importance of the AFP intelligence accords with Colonel Gallagher's evidence that it was of 'sufficient moment' to warrant fast tracking to the joint taskforce headquarters at NORCOM. The Committee discusses this issue in the next chapter.

8.85 Second, the Committee finds this instance of a breakdown in intelligence sharing to be odd for two reasons. First, DIMIA was the clearinghouse for intelligence on people smuggling and therefore the collection point for all relevant onshore and offshore intelligence. Second, the AFP officer who provided the 20 October report was a member of the Joint AFP-DIMIA People Smuggling Strike Team.<sup>90</sup> According to Ms Siegmund, 'there is a close relationship in terms of information sharing' between the Strike Team and IAS.<sup>91</sup>

8.86 The Committee considers that the communication breakdown in this instance might reflect not only operational exigencies but also problems with the processes and procedures in place for intelligence coordination across government agencies. The

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88 *Transcript of Evidence*, CMI 2012.

89 *Transcript of Evidence*, CMI 2024. Mr Killesteyn also said: '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.'

90 *Transcript of Evidence*, CMI 1961.

91 *Transcript of Evidence*, CMI 1997. AFP Commissioner Keelty also indicated to the Committee that AFP intelligence sourced in Indonesia went to DIMIA through the People Smuggling Strike Team. *Transcript of Evidence*, CMI 1943.

Committee returns to the issue of systemic problems with the intelligence system in chapter 9.

### **Afternoon meeting of the People Smuggling Taskforce**

8.87 The possibility of SIEV X arriving at Christmas Island over the next day or so seems to have been canvassed at the meeting of the PST in the afternoon of 20 October. The meeting started at 4.00pm. That is, the meeting occurred *after* the SIEV X survivors had been rescued.

8.88 After discussing the situation with SIEV 6, the meeting notes record, under the subheading 'Further arrivals':

Second boat expected at Christmas Island tomorrow. If arrives, assessment to be made whether possible to return larger vessel. Arunta to relieve possible overcrowding.<sup>92</sup>

8.89 Ms Halton thought it 'likely' that this passage referred to SIEV X.<sup>93</sup> She also explained that the comment about 'overcrowding' did not relate to passenger numbers on SIEV X but to the mounting pressure on accommodation facilities at Christmas Island. With intelligence reports forecasting possibly SIEV X and another boat arriving with 250 and over 500 passengers respectively, the PST meeting that day was focused on 'a huge accommodation problem'.<sup>94</sup> Consideration turned to the practicality of returning to Indonesia whichever of the two SIEVs turned out to be carrying the most passengers (ie. the 'larger vessel').<sup>95</sup>

8.90 Ms Halton also stressed that the discussion around the accommodation implications of SIEV X arriving was provisional, reflecting the unconfirmed status of its departure from Indonesia. Referring to the passage from the PST notes cited above, Ms Halton said to the Committee:

If you read that particular sentence, it goes on: 'if arrives, assessment to be made whether'. So we are planning prudently for things that may or may not happen. There is a greater probability with things [intelligence reports] that are multisource ... but here we are still saying 'if arrives'. There is no categorical assurance or understanding in our minds that it is absolutely on its way. It had not been spotted. The confirmation that we always relied on in terms of vessels was them actually being found by an aircraft. Our experience of however many SIEVs beforehand was that sometimes they

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92 PST Notes, 'People Smuggling Taskforce – High Level Group Meeting 4.00 PM Saturday, 20 October 2001.

93 *Transcript of Evidence*, CMI 2117.

94 *Transcript of Evidence*, CMI 2115, 2118-2120.

95 *Transcript of Evidence*, CMI 2117; see also CMI 2118-2120.

got unnervingly close to Ashmore or to Christmas Island before they were actually spotted.<sup>96</sup>

8.91 When asked about the AFP intelligence report of that day, Ms Halton told the Committee that neither she nor the PST meeting was made aware of it, even though an AFP officer and Rear Admiral Bonser attended the meeting.<sup>97</sup> She observed that had a report been received which raised the number of expected passengers on SIEV X from 250 to 400, it would have set ‘alarm bells ... ringing’ because of the acute accommodation situation on Christmas Island.<sup>98</sup> Ms Halton also said that the meeting received neither the Coastwatch OPSUM nor the any of the Defence intelligence reports for that day.<sup>99</sup>

8.92 The Committee has not been in a position to explore the reasons behind the omission of the content of the 20 October AFP intelligence at the PST meeting that afternoon. One possible explanation might be that the PST did not, according to Ms Halton, ‘sieve through intelligence’ at the level of detail contained in the AFP report.<sup>100</sup> Apart from the odd exception,<sup>101</sup> the taskforce received mainly high-level summaries of the intelligence situation;<sup>102</sup> other interdepartmental bodies handled operational intelligence.<sup>103</sup>

8.93 Another explanation might be that, as appears to have been the case on 18 October, the intelligence briefing came from DIMIA officers discussing relevant detail from the current DIMA Intelligence Note.<sup>104</sup> If this was so, the briefing would have reflected the DIMA Intelligence Note of 19 October (there were no DIMA

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96 *Transcript of Evidence*, CMI 2099-2100.

97 *Transcript of Evidence*, CMI 2099.

98 *Transcript of Evidence*, CMI 2115.

99 *Transcript of Evidence*, CMI 2117.

100 *Transcript of Evidence*, CMI 2100.

101 *Transcript of Evidence*, CMI 2096. Two exceptions included a report on an organiser who was no longer involved in people smuggling and a report on a vessel described as the ‘poison pill’ boat. The latter refers to intelligence that female passengers on the vessel had been given poison pills and told to threaten to swallow them if the RAN forced the vessel to turn back to Indonesia. The report proved to be unfounded. See DIMA Intelligence Note 50/2001, 10 September 2001, p.2; see also *Transcript of Evidence*, CMI 2035, 2096-2096.

102 Ms Halton said: ‘The task force got, basically, a high-level summary of what might be in prospect in terms of the numbers of people that would need to be managed, rather than a kind of categorical catalogue of every single possibility, every single people smuggler et cetera’. *Transcript of Evidence*, CMI 2100; see also CMI 2094-2095.

103 As discussed in chapter 2, these bodies are the Illegal Immigration Information Oversight Committee chaired by ONA, and the Operational Coordination Committee chaired by DIMIA.

104 *Transcript of Evidence*, CMI 2105.

Intelligence Notes for 20 or 21 October) which reported SIEV X as carrying up to 250 passengers.<sup>105</sup>

8.94 However plausible these explanations might be, the Committee finds it inexplicable that some elements of the AFP intelligence were not raised during the meeting. Given that the High Level Group was grappling with, in Ms Halton's words, 'a huge accommodation problem' on Christmas Island, it is hard to fathom why none of the representatives from Defence, Coastwatch and the AFP mentioned the new intelligence that the passenger numbers on SIEV X had risen from 250 to 400. Given also that the meeting was considering the question of returning a 'larger vessel' to Indonesia if required, it is odd that neither the small size of SIEV X nor the concern about its seaworthiness was raised.

8.95 It is possible that none of the officers from Defence, Coastwatch and AFP personally knew themselves of the new intelligence. However, this seems unlikely in relation to Coastwatch and Rear Admiral Bonser, as it was usually Coastwatch's role, according to Ms Halton, to run the intelligence briefings at the taskforce meetings.<sup>106</sup>

8.96 In the next chapter, the Committee assesses the impact of these apparent breakdowns in the intelligence chain – Coastwatch's omission of the reported increased risk to the vessel in its briefing to Defence, the failure to pass the AFP report to DIMIA and it not being mentioned at the PST meeting – on Australia's response to SIEV X.

## ***21 October***

8.97 A lull appears in the intelligence flow on 21 October. Both the Coastwatch OPSUM and the HQNORCOM INTSUM for the day reported no new information and repeated earlier reports on the boat's possible departure.<sup>107</sup>

8.98 In his advice to the Committee, Rear Admiral Smith restated his view of the 'unconfirmed' reports in the Coastwatch OPSUMs of 18 and 19 October, saying that 'again the reports of 20 and 21 October were inconclusive'.<sup>108</sup>

8.99 The Committee also notes that the previous day's AFP intelligence was again not canvassed at the PST meeting held late in the afternoon on 21 October.<sup>109</sup>

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105 DIMA Intelligence Note 81/2001, 19 October 2001, p.2.

106 *Transcript of Evidence*, CMI 2104.

107 SIEV X Chronology, Defence review of SIEV X intelligence, Attachment A, p.2; Attachment A, Answers to Questions on Notice, Coastwatch, 17 June 2002.

108 Rear Admiral Smith, 'Clarification of Evidence', letter to CMI, 22 May 2002, p.2.

109 *Transcript of Evidence*, CMI 2119.

## 22 October

8.100 The first concerns that SIEV X might be overdue surfaced in Australian intelligence circles on 22 October. The AFP contacted Coastwatch again with advice that the vessel had departed Java but on this occasion also assessed that it was overdue. Coastwatch passed this information to not only its regular contacts (ASTJIC and HQNORCOM) but also to the Rescue Coordination Centre (RCC) at the Australian Search and Rescue (AusSAR) organisation.<sup>110</sup> The RCC in turn transmitted an overdue message to Australian agencies and to its counterparts in Indonesia.

8.101 The situation concerning SIEV X was also debated at the PST meeting that afternoon.<sup>111</sup>

8.102 Coastwatch, AusSAR and HQNORCOM sent out messages based on the AFP advice during the course of the day. The Committee examines these three messages in the sections below, before turning to the PST meeting of 22 October.

### Coastwatch advice to other agencies

8.103 Rear Admiral Bonser outlined to the Committee the chain of reporting on the day:

On the 22nd, we received the information from AFP at 10.03. The assessment was made that the vessel was overdue and AFP were contacted about what information could or could not be conveyed. They requested a stay of the notification while they put together some suitable words. That was provided to us at 13.50. After they authorised release of that at 14.05, Coastwatch advised AusSAR using the words that were provided by AFP.<sup>112</sup>

8.104 AusSAR's records show that Coastwatch telephoned through this advice to the Rescue Coordination Centre (RCC) at approximately 2.40pm and then sent a fax with the AFP authorised release at 2.45pm.<sup>113</sup> The Coastwatch fax stated:

A number of sources are reporting that a vessel carrying an unknown number of potential illegal immigrants departed the West Coast of Java on Friday 19 October 2001 transiting the Sunda Strait[s] heading for Christmas Island. By our calculations the vessel is now overdue.<sup>114</sup>

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110 AusSAR is part of the Australian Maritime Safety Authority (AMSA).

111 *Transcript of Evidence*, CMI 2097-2098; PST Notes, 'People Smuggling Taskforce – High Level Group Meeting 22 October 2001'.

112 *Transcript of Evidence*, CMI 1655.

113 Answers to Questions on Notice, AMSA, 5 July 2002. The times on the RCC file notes are UTC or Universal Time Constant. As daylight saving had started, the times on the RCC files are 10 hours behind Australian Eastern Standard Time. See also *Transcript of Evidence*, CMI 1365.

114 Answers to Questions on Notice, AMSA, 5 July 2002.

8.105 Coastwatch also faxed ASTJIC and HQNORCOM, in addition to the standard addressees in Defence.<sup>115</sup> It appears that the Coastwatch OPSUM was sent some time later in the day. Rear Admiral Smith said that ‘Late on 22 October 2001, Coastwatch advised my headquarters via the CMSP OPSUM that the Abu Qussey vessel was now considered overdue’.<sup>116</sup>

8.106 Admiral Bonser told the Committee that Coastwatch viewed the latest AFP advice as ‘corroborating’ the earlier AFP report on 20 October of the vessel’s departure and ‘confirming’ that it was overdue.<sup>117</sup> He also said that the AFP’s advice of 22 October had included an assessment that SIEV X was overdue, a conclusion with which Coastwatch agreed based on its own calculations of the likely transit time.<sup>118</sup>

8.107 These comments need to be set, however, alongside the Coastwatch OPSUM for that day. The OPSUM not only contained more information than that faxed to AusSAR but it also to some extent qualified the overdue notice. According to the Defence review of SIEV intelligence, the OPSUM noted that it was not unusual for a SIEV to be overdue.<sup>119</sup> The OPSUM also suggested that the ‘delay could be due to poor condition of the boat and large numbers onboard or the use of an alternative route to avoid detection’.<sup>120</sup>

8.108 As is discussed more fully later in this chapter and in the next, the assessment and its positing of possible reasons for the vessel being overdue seems to have reflected some doubts within Coastwatch over the firmness of the AFP report and whether the vessel had departed.<sup>121</sup> In this regard, the Committee also notes the DIMA Intelligence Note of 22 October which, after discussing SIEV 6, stated:

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115 ‘The standard addressee list was from Coastwatch Canberra and it was sent to Commander Australian Theatre, Commander Joint Task Force 639, Maritime Commander Australia, Air Commander Australia, Commander Task Force 641, Commander Task Unit 646.2.2 – which is the ‘P3 world’ – Australian Theatre Joint Intelligence Centre, Task Group 639.0 and the 92 wing detachment at Learmonth, and for information to Australian Defence Headquarters Operations in Canberra, Headquarters Australian Theatre, Maritime Headquarters, Headquarters Air Command Air Operations and my Regional Coastwatch Base.’ *Transcript of Evidence*, CMI 1655.

116 Rear Admiral Smith, ‘Clarification of Evidence’, letter to CMI, 22 May 2002, p.2.

117 *Transcript of Evidence*, CMI 1643. One of those who attended the PST meeting of 22 October, Ms Katrina Edwards of PM&C, also noted that the latest intelligence ‘report seemed firmer than some’. *Transcript of Evidence*, CMI 1727.

118 *Transcript of Evidence*, CMI 1669.

119 SIEV X Chronology, Defence review of SIEV X intelligence, Attachment A, p.2.

120 Rear Admiral Smith, ‘Clarification of Evidence’, letter to CMI, 22 May 2002, p.2.

121 See Ms Katrina Edwards’ recollection of the matter at the PST meeting of 22 October, *Transcript of Evidence*, CMI 1706 and 1727. Her recollection is discussed later in this chapter and in chapter 9.

The other vessel believed to be heading for Christmas Island, organised by **Abu Qussay** and carrying up to **400 passengers** [original emphasis], has not yet been sighted but should be in the vicinity of Christmas Island if it was able to depart successfully from the Cilicap area on Friday morning.<sup>122</sup>

8.109 The qualification concerning SIEV X's departure from Cilicap – 'if it was able to depart' – contained in this note further hedged earlier DIMIA reports of the boat's 'reported' departure. This suggests that at this stage in DIMIA doubts were also circulating about the accuracy of earlier reports that SIEV X had left Indonesian territory for Australian waters.

### **AusSAR advice to Australian and Indonesian agencies**

8.110 After Coastwatch had contacted the AusSAR Rescue and Coordination Centre (RCC) – initially by telephone<sup>123</sup> and then fax – of the concerns about the overdue vessel, the RCC responded with a telephone call to Coastwatch. The RCC files record the conversation as follows:

**RCC:** Touching base to ensure Defence are aware and that this area is out of our SRR [search and rescue region].

**Coastwatch:** Yes – realise that – ensuring you are aware and we will keep you in the loop over the coming days.

**RCC:** Can we use your exact words in a fax to BASARNAS (SAR colleagues in Indonesia).

**Coastwatch:** Yes – exact words.

**RCC:** OK, thank you.<sup>124</sup>

8.111 This call occurred at 2.42pm. The RCC staff then did their own calculations to satisfy themselves that the vessel was potentially overdue.<sup>125</sup> At 3.16pm RCC sent a fax with the overdue message to both BASARNAS (the Indonesian search and rescue authority) and the Australian Embassy in Jakarta, to the Indonesian Embassy and

122 DIMA Intelligence Note 82/2001, 22 October 2001, p.1. Note that this report was made at 11.00 am. DIMIA advised the Committee that, 'From the report, it is apparent we had received AFP-sourced information on Monday morning that the vessel departed with all his [ie.Qussey's] passengers (400+) on one vessel rather than the two we had expected Qussay to use. DIMIA believes that other agencies had assumed that we knew of the sinking.' See Answers to Questions on Notice, DIMIA, 20 September 2002.

123 The RCC files record summarised this initial conversation: 'Coastwatch intell[igence] wants me to advise you of a suspected over due SIEV'. *Transcript of Evidence*, CMI 1875; RCC file Aus/2001/7534.1, Answers to Questions on Notice, AMSA, 5 July 2002.

124 *Transcript of Evidence*, CMI 1876; RCC file Aus/2001/7534.2, Answers to Questions on Notice, AMSA, 5 July 2002.

125 RCC file Aus/ /7534, Answers to Questions on Notice, AMSA, 5 July 2002.

Coastwatch in Canberra and to Maritime Headquarters Australia and Headquarters Australian Theatre. The fax stated:

1. RCC Australia has been advised that a vessel carrying an unknown number of persons departed the West Coast of Java on Friday 19 October 2001 transiting the Sunda Strait[s] heading for Christmas Island. This vessel has not yet arrived and concerns have been expressed for its safety.
2. Passed for information and action as considered necessary.<sup>126</sup>

8.112 No further contact occurred between the RCC and Indonesian authorities in relation to SIEV X.

8.113 At 3.46pm, in response to the RCC fax, Headquarters Australian Theatre (HCAST) telephoned the RCC to check that no new information had come in since the earlier Coastwatch fax of 2.45pm. The nature of that telephone call was recorded as follows:

**HCAST:** Just got your fax. What is your source?

**RCC:** Coastwatch.

**HCAST:** We already have a large search for this vessel for surveillance matters.

**RCC:** SAR [search and rescue]?

**HCAST:** No. Only surveillance.<sup>127</sup>

8.114 In Mr Davidson's recollection of the telephone call, the reason behind HCAST contacting the RCC was due to a difference in wording between the Coastwatch and RCC faxes. Unlike the original Coastwatch fax, the RCC one mentioned in relation to the overdue vessel that 'concerns have been expressed for its safety'. Mr Davidson ventured the opinion that 'Defence were trying to confirm whether there was something different or more knowledge that they did not have'.<sup>128</sup> He thought that the new phrase possibly came from RCC conversations with Coastwatch or the RCC staff itself, as there was no new information on which the phrase might have been based.

8.115 Given that the RCC files record only the one conversation cited above between the RCC and Coastwatch, it seems fair to conclude that the phrase originated within the RCC itself.

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126 RCC ref: Y1022196, Answers to Questions on Notice, AMSA, 5 July 2002.

127 *Transcript of Evidence*, CMI 1873-1874; RCC file [no detail], Answers to Questions on Notice, AMSA, 5 July 2002.

128 *Transcript of Evidence*, CMI 1878.

8.116 The Committee notes that AusSAR received only *part* of the information (the estimated departure date and suspected overdue status) that was circulating within the intelligence system and operational commands about the SIEV X's state. Mr Davidson said to the Committee:

The nature of the number of people on board the vessel was unknown, the departure point was unknown, the calculations that were undertaken were based upon assumptions being made by Coastwatch and then confirmed by the RCC and, on that basis, BASARNAS was advised of the information.<sup>129</sup>

8.117 This is the second instance during the 17-23 October period when Coastwatch passed on only part of the information available on SIEV X to other Australian agencies (the first instance occurred, as discussed above, on 20 October).

8.118 It remains unclear to the Committee why Coastwatch did not convey to AusSAR the remaining, and arguably critical, elements of the AFP advice – namely that the vessel was thought to have 400 people on board, that it was considered to be overcrowded and that, on one view of the situation at least, the vessel was at risk. Constraints on the sharing of intelligence sourced from another agency may have limited the extent to which Coastwatch was able to pass on to AusSAR sensitive information of this kind. However, if there were concerns about compromising security, it seems that this could have been easily handled with carefully chosen words that would have alerted recipients to concerns about the risk to the vessel without exposing intelligence sources or methods.

### **NORCOM INTSUM 22 October**

8.119 On the same day that three agencies (AFP, Coastwatch and AusSAR RCC) calculated that SIEV X was overdue and sent messages to that effect, HQNORCOM issued an INTSUM that reached a rather different conclusion. According to the declassified Defence review of the intelligence on SIEV X, the daily NORCOM INTSUM concluded:

NORCOM INTSUM assesses the vessel has *returned* [emphasis added] to the Java coast because of the unfavourable weather and overcrowding, however, that if weather conditions improved, there was a low probability of the vessel arriving at Christmas Island after 24 Oct 01.<sup>130</sup>

8.120 In elaborating on this INTSUM, HQNORCOM emphasised that weather conditions were the main factor that determined the assessment. Brigadier Silverstone, Commander NORCOM, stated:

Weather had been an important factor in previous SIEV movements. The prevailing weather conditions and sea state at the time would certainly have made a transit from Indonesia to Christmas Island difficult for any small

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129 *Transcript of Evidence*, CMI 1370.

130 Defence review of SIEV X intelligence, Attachment A, p.3.

vessel. It was assessed that, if the vessel had departed as reported, it would likely return to the Indonesian coastline to seek shelter once encountered adverse conditions. It was further assessed that the crew would not risk a passage (and their lives) if the vessel was insufficiently seaworthy to make a passage in the prevailing weather conditions.<sup>131</sup>

8.121 As it transpired, it appears that SIEV X did shelter in the lee of an island due to bad weather at about 9.00am on 18 October, before continuing on its way.<sup>132</sup>

8.122 Brigadier Silverstone also stated that '[t]he probability of arrival at Christmas Island was reduced to low on the basis that the crew would probably await more favourable weather conditions'.<sup>133</sup> The level of 'low probability' given to SIEV X meant that HQNORCOM assessed the likelihood of it arriving at Christmas Island as less than 50 per cent.<sup>134</sup>

8.123 Although weather conditions would have been a major consideration for the vessel's crew, it appears that HQNORCOM played down or overlooked recent intelligence assessments that pointed to other 'push factors' that would have influenced those in charge of SIEV X. DIMA Intelligence Notes on 17, 18 and 19 October concentrated on the expected 'surge' in boat and people arrivals. In particular, the intelligence assessments highlighted the pressures on people smugglers behind the surge. For example, on 18 October DIMIA stated:

8.124 All current major organisers in Indonesia reportedly have clients and boats and are ready to move to alleviate both their financial difficulties and the management problems of keeping large pools of potential clients in Indonesia for extended periods of time.<sup>135</sup> The impending wet season, which was only weeks away, was an additional factor impelling boat organisers to move quickly. The cumulative pressures or push factors bearing on organisers at the time led DIMIA's intelligence analysts to conclude:

The need to get people (and boats) away has built to such a point that all the major organisers and their clients are ready to move, no matter what the consequences.<sup>136</sup>

8.125 Nonetheless, by this stage HQNORCOM was not alone in thinking that SIEV X was probably no longer bound for Christmas Island. As the next section will show, the PST meeting of 22 October also had strong doubts that the vessel was in transit towards Australian waters.

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131 Answers to Questions on Notice, Defence, 20 September 2002, W82.

132 DIMA Intelligence Note 83/2001, 23 October 2001, p.2.

133 Answers to Questions on Notice, Defence, 20 September 2002, W82.

134 Answers to Questions on Notice, Defence, 20 September 2002, W64.

135 DIMA Intelligence Note 80/2001, 18 October 2001, p.3.

136 DIMA Intelligence Note 80/2001, 18 October 2001, p.3.

## Afternoon meeting of the PST

8.126 Shortly after Coastwatch contacted AusSAR, the PST met and discussed the matter of SIEV X.<sup>137</sup> The notes of the meeting record the discussion in the following single line:

Not spotted yet, missing, grossly overloaded, no jetsam spotted, no reports from relatives.<sup>138</sup>

8.127 The evidence to the Committee shows that the tenor of the discussion at the meeting was somewhat different to the meaning apparent in the overdue messages sent out that day by various agencies. It also shows that the notes of the meeting, like those for the meeting on 18 October, are ‘cryptic’ insofar as they do not convey the real sense of the debate that occurred over SIEV X.

8.128 During the meeting, the discussion appears to have been as much about whether SIEV X could still be considered a ‘possible arrival’ as about it being unseaworthy and overdue. Ms Halton, who chaired the meeting, said of the debate about SIEV X: ‘The context was, “Did it leave? Is it really on the water?”’<sup>139</sup>

8.129 The discussion involved primarily DIMIA and Coastwatch, as the two agencies most familiar with not only the intelligence on SIEV X but also boat arrivals in general. According to Ms Halton, the DIMIA representatives indicated to the meeting ‘that they were now starting to think that the boat was not on the water’ (ie. not in transit).<sup>140</sup> She explained the reasons for DIMIA reaching this conclusion:

The DIMIA people advised that, if a vessel had departed and had not arrived – that is, if some tragedy had befallen it – they tended to get phone calls from relatives, because the relatives in Australia knew that the vessel had left. They reported that they had not had any reporting. There was a report that no jetsam had been spotted. In fact, the conversation turned on whether in fact it existed, whether it had returned to Indonesia or what have you. My memory is that the balance of view at that point – we now know that, tragically, this was not the case – was that the vessel was not on the water.  
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137 The PST meeting started around 3.15pm, *Transcript of Evidence*, CMI 1728. It should be noted that these notes mis-attribute SIEV X as ‘SIEV 8’. See the following correspondence to the Committee on the matter: Mr J Whalan, PM & C, 21 June 2002; Rear Admiral R Gates, 21 June 2002; and Minister for Defence, undated, received 25 June 2002.

138 PST Notes, ‘People Smuggling Taskforce – High Level Group Meeting 22 October 2001. Ms Katrina Edwards of PM&C told the Committee that it was seen as significant that ‘there had been no calls from relatives [in Australia], who are often well briefed on when to expect an arrival’. *Transcript of Evidence*, CMI 1706.

139 *Transcript of Evidence*, CMI 2124.

140 *Transcript of Evidence*, CMI 2098.

That it was not en route to Christmas Island. This [assessment] was as a consequence of the DIMIA experience [of vessels that were overdue].<sup>141</sup>

8.130 The thrust of Ms Halton's recollection of the discussion was corroborated by Mr Vince McMahon, First Assistant Secretary, DIMIA. Mr McMahon said that, from DIMIA's perspective, none of the usual indicators used to verify a boat in transit had been detected.<sup>142</sup>

8.131 Likewise, Ms Halton indicated that the absence of any 'jetsam' or flotsam suggested to Coastwatch that the vessel had not sunk,<sup>143</sup> leading the meeting to conclude that, on balance, the boat had probably not left Indonesian waters, if it existed all.

8.132 It is in that sense that the PST meeting notes seem to have recorded SIEV X as 'missing': it had disappeared from view, rather than was considered to be missing at sea. In Ms Halton's words, 'the conversation on the 22<sup>nd</sup> ... was actually a discussion about whether in fact this boat existed'.<sup>144</sup>

8.133 Ms Halton also said that the meeting had discussed the possibility that, if in the event SIEV X had been in transit, it now might be in distress and facing a safety of life at sea (SOLAS) situation.<sup>145</sup> However, the absence of any sightings of flotsam and any telephone calls from relatives inclined those present to discount this contingency. Ms Halton said that:

... in assessing whether there was an issue at sea, on balance the advice seemed to be that if there was a vessel out there in distress there would have been phone calls from relatives and something would have been said.<sup>146</sup>

8.134 Although 'the view of the people who do this intelligence work was in fact that there was not a safety of lives at sea issue',<sup>147</sup> the discussion went to the question of whether the Australian Maritime Safety Authority (AMSA) should be notified of the situation concerning SIEV X. Ms Halton said:

I think there was an agreement that someone should ring AMSA. I think the basis of the discussion was that there was not necessarily a need for an alert, because the intelligence people thought that there was not likely to be an

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141 *Transcript of Evidence*, CMI 2098.

142 *Transcript of Evidence*, CMI 2028.

143 *Transcript of Evidence*, CMI 2098.

144 *Transcript of Evidence*, CMI 2097.

145 *Transcript of Evidence*, 2123-2125

146 *Transcript of Evidence*, CMI 2123.

147 *Transcript of Evidence*, CMI 2125.

issue. Nonetheless, there was a phone call to AMSA. The phone call to AMSA then elucidated the fact that an alert had already been issued.<sup>148</sup>

8.135 Ms Halton's record of the key points of the discussion about SIEV X – on the significance that the vessel had not been sighted and that no telephone calls from relatives had been received and thus the conclusion that it was not a matter for alarm – was also corroborated by another senior officer present at the meeting. Ms Katrina Edwards, First Assistant Secretary, PM & C, told the Committee that, while the intelligence on the vessel appeared 'firmer than some', Coastwatch appeared uncertain about the vessel. Ms Edwards remarked:

My recollection is that Coastwatch was seeking to test the assessment of whether or not it had in fact departed.<sup>149</sup>

8.136 Ms Edwards also said that the meeting agreed that, owing to the uncertainty surrounding the vessel, there appeared to be insufficient grounds for contacting AMSA/AusSAR.<sup>150</sup>

8.137 In light of the doubts over the veracity of intelligence on SIEV X's departure, the decision on the part of the PST meeting to contact AusSAR appears to have been a prudential step, one that is hard to reconcile with claims that the meeting was indifferent to or ignored the vessel's situation.

8.138 In the next chapter, the Committee returns to the discussion at the PST meeting in the context of its assessment of the handling of the SIEV X intelligence.

## **23 October**

8.139 On 23 October, four days after it had foundered, the first reports of SIEV X's sinking filtered into intelligence and decision making circles in Canberra. An AFP federal agent phoned Ms Halton at 2.00 a.m. to say that a boat had sunk.<sup>151</sup> At some point in the day ASTJIC provided similar advice to Coastwatch.<sup>152</sup> Later on, CNN reported the sinking of a vessel and rescue of 45 survivors.

8.140 The DIMA Intelligence Note of the day, issued at 2.00 p.m., identified the sunken vessel as that belonging to Abu Qussey. It reported, among other things, that the vessel was 'approximately 60NM [nautical miles] south of the Sunda Strait' when it began to take water before capsizing.<sup>153</sup>

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148 *Transcript of Evidence*, CMI 2141.

149 *Transcript of Evidence*, CMI 1706.

150 *Transcript of Evidence*, CMI 1706.

151 *Transcript of Evidence*, CMI 2115.

152 SIEV X Chronology, Defence review of SIEV X intelligence, Attachment A, p.3.

153 DIMA Intelligence Note 83/2001, 23 October 2001, p.2.

8.141 That afternoon at 3.15 p.m., the High Level Group meeting of the PST was briefed (it is thought by the AFP based on a cable from the Jakarta embassy)<sup>154</sup> in detail about the vessel's transit before it sank and was told that 352 people had drowned.

## **24 October**

8.142 Based on the evidence received by the Committee, the intelligence on SIEV X appears to have dried up after 23 October. The only significant mention of it in the material before the Committee appears in an e-mail message originating from DIMIA on 24 October.

8.143 The message contains 'preliminary details' about the size of the vessel ('reportedly 3 x 18 metres'), its transit, sinking and the nationalities of those on board.<sup>155</sup>

8.144 One point to note is that the message says that SIEV X 'capsized on 19 October between Java and Sumatra',<sup>156</sup> which seems to contradict the previous day's DIMA Intelligence Note which suggested that the vessel sank 60nm south of Java.

## **Surveillance and SIEV X**

8.145 As mentioned earlier in the report, extensive maritime surveillance, stretching across the 'air-sea gap' in the northern approaches to Australia, was operating almost daily throughout Operation Relex. Rear Admiral Bonser observed:

The whole general area is being covered by what is probably the most comprehensive surveillance that I have seen in some 30 years service.<sup>157</sup>

8.146 Despite its comprehensiveness, the surveillance operation did not pick up SIEV X. Rear Admiral Smith told the Committee: 'None of our surveillance that we had operating – aircraft or ships – had detected this vessel'.<sup>158</sup>

8.147 This section discusses the surveillance that took place during the critical period of SIEV X's transit, foundering and the rescue of survivors, that is, 18 to 20 October. It examines the relevant surveillance area in general and then details the surveillance patterns and results for the key period.

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154 *Transcript of Evidence*, CMI 1706. See also *Transcript of Evidence*, CMI 2128.

155 PM & C e-mail traffic.

156 PM & C e-mail traffic.

157 *Transcript of Evidence*, CMI 1638.

158 *Transcript of Evidence*, CMI 676.

## *Surveillance operations and patrol areas*

8.148 At the time of the SIEV X incident, surveillance was operating in three patrol routes and maritime patrol areas: North of Christmas Island; South of Bali, Lombok and Sumbawa Islands; and the approaches to the Kimberley region of the WA coast.<sup>159</sup> In the division of labour under Relex, the ADF was responsible for patrolling the first and second areas, while Coastwatch concentrated on the third area.

8.149 These three areas reflected the concept of operations guiding Operation Relex in general. The first two areas in particular covered the two key corridors or axes through which the ADF expected SIEVs to transit towards Australian waters. As Rear Admiral Ritchie outlined:

...back in October, there were two main channels of arrival that we were concerned about: the channel which came from Sumatra, the western end of Java, down through the Sunda Strait and into Christmas Island; and the channel which came, generally, through Kupang, Roti and very quickly across the intervening distance down into Ashmore Island.<sup>160</sup>

8.150 Within both of these areas, surveillance involved aircraft and surface vessels. The air surveillance was performed primarily by RAAF P3C Orion reconnaissance planes and also ship-borne helicopters. It provided the outer ring of surveillance while RAN ships sat back in so-called 'focal areas' or likely interception zones closer to Christmas Island and Ashmore Island.<sup>161</sup>

8.151 The relevant area in the case of SIEV X was that to the north of Christmas Island. The ADF referred to it as area 'Charlie'. It was divided into four quadrants: Charlie-Northwest (C-NW), Charlie-Northeast (C-NE), Charlie-Southwest (C-SW) and Charlie-Southeast (C-SE). Area Charlie encompassed a 36,400 square nautical mile (nm) surveillance zone.

8.152 It should be noted that its northern boundary was circumscribed by the instruction for aircraft not to fly within a 24 nm buffer zone from the Indonesian archipelagic baseline. This was designed to prevent RAAF aircraft infringing Indonesian airspace.<sup>162</sup>

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159 Attachment B, 'Surveillance in the Christmas Island Area 18-20 Oct 01', in the declassified summary of the Defence review of SIEV X intelligence, Minister of Defence to CMI, undated, received 4 July 2002, p.1.

160 *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 4 June 2002, p.152.

161 *Transcript of Evidence*, CMI 488; *Transcript of Evidence*, Estimates, Senate Foreign Affairs, Defence and Trade Legislation Committee, 4 June 2002, p.162.

162 See Attachment A, 'SIEV X', p.2 and B, 'Surveillance in the Christmas Island Area 18-20 Oct 01', p.1.

8.153 The command and control arrangements for the surveillance operation were explained to the Committee by Air Commodore Byrne, the Commander of the Maritime Patrol Group (MPG):

Aircraft conducting Operation Relex surveillance are under the command of Headquarters Air Command and the operational control of Commander NORCOM whilst airborne. In addition, aircraft come under tactical control of RAN ships deployed on Operation Relex while in the search area.<sup>163</sup>

### ***Surveillance 18-20 October***

8.154 During the three-day period of SIEV X's ill-fated transit the ADF continued its scheduled aerial surveillance of area Charlie. According to the ADF:

In fact normal surveillance was carried out in the surveillance area, including 100% coverage of the northern reaches, on both 18<sup>th</sup> and 19<sup>th</sup> of October 2001. On the 19<sup>th</sup> of October, the day the vessel is believed to have sunk, an additional flight was flown in the evening to compensate for the unserviceability of HMAS ARUNTA's helicopter. The flight's coverage was limited by adverse weather.<sup>164</sup>

8.155 The ADF review of the surveillance findings on these three days also noted: 'Surveillance on these days did not detect any vessel in distress, nor any distress calls on international distress frequencies which are constantly monitored'.<sup>165</sup>

8.156 This point should be put, however, in context. Evidence from both Coastwatch and AMSA indicated that it was rare for SIEVs to carry radios<sup>166</sup> or equipment such as emergency position beacons.<sup>167</sup> The Committee notes that this would not exclude the possibility, of course, of a vessel so equipped issuing an alert to other shipping and surveillance authorities of a vessel found in distress.

8.157 The review also noted some of the factors that hindered the surveillance operation:

While the surveillance operations associated with border protection are accurately described as comprehensive – they do not, as some have assumed, provide minute by minute, 24 hours a day scrutiny of the surveillance areas.

A number of factors impact on efficiency of the operations including weather (which impacts both on aircraft and sensor, ie radar and infra-red

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163 *Transcript of Evidence*, CMI 2154, see also 2163.

164 Attachment A, 'SIEV X', p.2.

165 Attachment A, 'SIEV X', p.2. See also Air Commodore Byrne, *Transcript of Evidence*, CMI 2154-2155.

166 *Transcript of Evidence*, CMI 1632.

167 *Transcript of Evidence*, CMI 1375.

performance), the veracity of intelligence and the availability of assets – in particular the serviceability of aircraft and aircrew hours.<sup>168</sup>

8.158 Air Commodore Byrne also pointed to the constraints facing aircrews searching for wooden-based vessels such as SIEVs. In Air Commodore Byrne's words, 'radar is not brilliant; it loses a lot of effectiveness, particularly against wooden hulled vessels in high sea states'.<sup>169</sup>

8.159 At the request of the office of the Minister of Defence, the ADF reviewed the flight data from the P3 patrols over 18-20 October. The following summarises the findings of that review. Maps of the surveillance area and flight path patterns for the period are at the end of the chapter.

## 18 October

8.160 On 18 October (the day SIEV X set sail to Christmas Island), a P3 flew out of Learmonth (WA) at 7.55am,<sup>170</sup> arrived in area Charlie at 9.35am, patrolled for 4 hours 31 minutes, departed the area at 2.11pm and returned to Learmonth at 5.52pm.

8.161 At this stage, the P3 aircrews were searching for two possible SIEVs,<sup>171</sup> based on the intelligence reports discussed earlier in this chapter.

8.162 Due to atmospheric conditions, 'the aircraft's APS115 radar was detecting wooden fishing vessels of 12-20m length at about 12nm thus dictating a search track separation of 24nm'.<sup>172</sup> For this flight the Infra-Red Detection System (IRDS) achieved detection ranges of 1nm for the same type of 'surface contacts'.<sup>173</sup>

8.163 In the aircrew's assessment, the flight achieved 100 per cent surveillance. 25 contacts were located, 21 of which were visually identified as two merchant vessels and 19 fishing vessels. The flight detected four other radar contacts but could not visually confirm these as they were outside the search zone and in the 24nm 'no-go' buffer zone.<sup>174</sup>

## 19 October morning patrol flight

8.164 This flight departed Learmonth at 3.48am, arrived on task at 5.30am, patrolled for 5 hours 14 minutes, departed area Charlie at 10.44am and returned to Learmonth at 14.28pm. While it was on task SIEV X appears to have still been transiting to Christmas Island.

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168 Attachment A, 'SIEV X', p.1.

169 *Transcript of Evidence*, CMI 2177.

170 Times are in Timezone Golf, ie, the local time in area Charlie.

171 *Transcript of Evidence*, CMI 2165.

172 Attachment B, 'Surveillance in the Christmas Island Area 18-20 Oct 01', p.1.

173 Attachment B, 'Surveillance in the Christmas Island Area 18-20 Oct 01', p.1.

174 Attachment B, 'Surveillance in the Christmas Island Area 18-20 Oct 01', p.2.

8.165 Weather conditions impacted on the surveillance performance. Intermittent rain in the northwest region (the area that some consider likely to be the most proximate to where SIEV X foundered) reduced visibility to five nm, while atmospheric conditions degraded both radar and IRDS. The P3 flew 20nm 'sweeps' or search tracks, managed 100 per cent surveillance of area Charlie but with 75 per cent detection probability in the northern areas and 80 percent in the southern. IRDS achieved identification ranges of 1.5nm against 'smaller surface contacts'.<sup>175</sup>

8.166 Early in the flight the P3 detected SIEV 6. A further 37 contacts were made, with visual identification of eight merchant vessels and 22 fishing vessels. Seven additional but unidentified contacts were also made, two of which were outside the search area to the east and three of which were within the buffer zone.

### **19 October afternoon/evening patrol flight**

8.167 As mentioned above, this unplanned flight was made owing to problems with the helicopter on *Arunta*. It departed Learmonth at 3.05pm, arrived on task at 4.44pm, patrolled for 4 hours 31 minutes, departed 9.15pm and returned to base at 0.52am 20 October.

8.168 As SIEV 6 had been found during the morning patrol, the afternoon flight was searching for the 'second vessel' reported as a possible arrival in the contemporaneous intelligence.<sup>176</sup>

8.169 Weather affected the detection performance for this flight more than the other patrols over 18-20 October. According to the ADF:

This flight was notable in that the weather was generally poor and aircrew spent considerable time avoiding storms, particularly in the western quadrant. The need to conduct weather avoidance manoeuvres led to the aircraft reaching its endurance before completing patrol of its designated area.<sup>177</sup>

8.170 Visibility was six nm due to haze. Radar range for 12-20m wooden fishing vessels varied because of the weather, achieving only seven nm in poor conditions but up to 12 nm in better conditions. IRDS achieved two nm. These factors dictated a search track separation of 24nm. Air Commodore Byrne, who was a member of the aircrew on this flight, told the Committee that the weather forced the crew to compress the track spacing. He said that 'the wind velocity was high and there was a lot of rain. That makes radar detection performance less than ideal'.<sup>178</sup>

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175 Attachment B, 'Surveillance in the Christmas Island Area 18-20 Oct 01', p.2.

176 *Transcript of Evidence*, CMI 2165.

177 Attachment B, 'Surveillance in the Christmas Island Area 18-20 Oct 01', p.3.

178 *Transcript of Evidence*, CMI 2170.

8.171 Flight surveillance achieved 95 per cent in C-SW except for a 30nm x 10nm impenetrable storm and 95 per cent in C-SE before the P3 reached its 'prudent limit of endurance'.

8.172 Eight contacts were detected on radar, six of which were visually identified as fishing vessels. Three of the visually identified vessels were close to the line demarcating C-NE and C-SE. The other three identified vessels were to the west of C-SW, that is, outside the designated search area. One of the remaining radar contacts was also outside the search area but was not investigated. The other radar contact was in C-NW but fuel constraints and tasking instructions from *Arunta* to concentrate patrolling on the southern sectors prevented the P3 from diverting north to make a visual identification of this contact.<sup>179</sup>

8.173 As this flight occurred when the survivors and wreckage of SIEV X were in the water, the Committee questioned Air Commodore Byrne on whether the radar on the P3 would have been capable of detecting flotsam from the vessel. Air Commodore Byrne observed: 'I would say that in the weather that was present in the area that night it would have been impossible to pick up flotsam or jetsam' with radar.<sup>180</sup> In other words, it is unlikely that either of the two unconfirmed radar contacts was the wreckage of SIEV X.

8.174 Members of the Committee were also concerned to understand the reasons why this flight, unlike the other patrols during 18-20 October, concentrated on the southern search area, at a time when the SIEV X survivors might have been in an area closer to the northern sectors of Area Charlie. When asked to explain why the afternoon flight of 19 October did not patrol as far north as other flights, Air Commodore Byrne said:

... we were tasked by the *Arunta* when we first came on task with searching a sweep from east to west, 10 nautical miles to the south of the area. So we actually initially searched to the south of the area, which obviously takes time. We also had very bad weather. We were deviating around thunderstorms and rain cells for the full 4½ hours on task, and that takes up time and effort. We also deviated out to the west of the area. You will notice on the radar contacts and fishing contacts that were picked up just outside the area, to the west of the area. We were 45 minutes outside the area visually identifying those in the dead of night with infra-red detection gear. That actually involves overflying each contact at 300 feet and looking for hot spots to try and identify suspected illegal entry vessels by multiple hot spots, for example. ... Each contact has to be flown over directly, and that takes time.<sup>181</sup>

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179 *Transcript of Evidence*, CMI 2171. See also Attachment B, 'Surveillance in the Christmas Island Area 18-20 Oct 01', p.3.

180 *Transcript of Evidence*, CMI 2173.

181 *Transcript of Evidence*, CMI 2169-2170.

8.175 The reason for patrolling intensively the southern sectors in precedence to the north reflected, in Air Commodore Byrne's view, an assessment that the south was the 'high probability area' for detecting the second of the two expected possible boat arrivals. As one (SIEV 6) of the two vessels had been detected in the morning, operational commanders would have reasoned that if the second boat was en route to Christmas Island it would probably have transited the northern area after the morning P3 patrol, making it more likely to be in the southern area during the afternoon. In Air Commodore Byrne's view, the Relix commanders:

... were expecting two vessels that day. They had found one in the morning in the south of the area and they wanted to make sure that they sanitised the south of the area before the next flight, which was not coming on until dawn the next day. If indeed they had not sanitised the south of the area, and if there had been something there, it would have reached Christmas Island before the next aircraft came on task at dawn the next day. So the tactical priority was to ensure that there was nothing in the southern part of the area. That is the reality of tasking priorities.<sup>182</sup>

8.176 Air Commodore Byrne went on to say:

But I also highlight that we were not restricted from searching the north of the area, and indeed we were tasked as a next priority with searching the north-west then the north-east. We never made it there because we ran low on fuel. It was just the luck of the game – going around all these thunderstorms in the area.<sup>183</sup>

8.177 He also emphasised that, in his opinion, the focus on patrolling the southern sectors of Area Charlie was a sound tactical decision:

If I were an operational planner I would start by concentrating in the south of the area to make sure that nothing got through in the seven or eight hours subsequent when there was no aircraft on task, whilst there could have been a vessel transiting from north to south.<sup>184</sup>

## **20 October**

8.178 On the day the SIEV X survivors were rescued, a P3 departed Learmonth at 4.00am, arrived on task at 5.35am, patrolled for 5 hours 11 minutes, departed at 10.46am and returned to Learmonth at 2.33pm. In other words, it would seem that the survivors were still in the water during this flight's patrol time in area Charlie.

8.179 The P3 achieved 100 per cent coverage of C-SW and C-NW, 90 per cent of C-NE and 45 per cent of C-SE. 21 contacts were made with visual identification of 18 fishing vessels and 3 merchant vessels. Two further radar contacts fell within the

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182 *Transcript of Evidence*, CMI 2170.

183 *Transcript of Evidence*, CMI 2170.

184 *Transcript of Evidence*, CMI 2178.

buffer zone and therefore were not identified. Shortage of fuel prevented visual identification of a further two radar contacts late in the flight.<sup>185</sup>

8.180 In summing up the surveillance operation during the 18 to 20 October period and the sinking of SIEV X, Air Commodore Byrne said to the Committee:

It was a terrible tragedy but unfortunately we had no safety of life at sea indications and really did not know that it had happened until the 23rd, based upon all of the information that we had at hand.<sup>186</sup>

8.181 In the next chapter, the Committee discusses the relationship between intelligence and surveillance during Operation Relex and how it affected the decisions taken towards SIEV X.

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185 Attachment B, 'Surveillance in the Christmas Island Area 18-20 Oct 01', p.3.

186 *Transcript of Evidence*, CMI 2178.

