



COMMONWEALTH OF AUSTRALIA

SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE

Reference: Consular services

CANBERRA

Monday, 24 February 1997

OFFICIAL HANSARD REPORT

CANBERRA

SENATE
FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE

Members:

Senator Forshaw (Chair)

Senator Ellison	Senator Stott Despoja
Senator Chris Evans	Senator Troeth
Senator Hogg	Senator West
Senator Sandy Macdonald	

Participating Members

Senator Bolkus	Senator Eggleston
Senator Bob Brown	Senator Faulkner
Senator Brownhill	Senator Harradine
Senator Chapman	Senator Margetts
Senator Cook	Senator Schacht
	Senator Troeth

Referred by the Senate for inquiry into and report on:

1. The appropriateness and effectiveness of the Australian Government's provision of consular assistance to Australians abroad, taking into account the principles of international law and practice which provide the framework for such assistance, including
 - (a) issues and problems in dealing with difficult and complex cases, particularly:
 - (i) deaths of Australians in criminal and possibly criminal circumstances, for example, the cases of David Wilson, Kellie Wilkinson, Ben Maresh;
 - (ii) foreign judicial proceedings involving Australians, such as the cases of James Peng and Robert Bowra;
 - (iii) custody issues involving Australian children; and
 - (iv) the extent of the Government's responsibility for providing legal assistance to Australians involved in judicial proceedings overseas;
 - (b) the provision of other consular assistance including that to Australians in foreign jails, in cases of missing Australians and in cases of Australians in

need of support overseas, such as short-term loans and medical assistance;
and

(c) provision of timely and accurate consular travel advice to Australian
travellers or intending travellers.

2. Measures that could be taken by the Australian Government to improve the
handling of consular matters.

WITNESSES

**LAMPHEE, Mr Graham Edwin, Area Deputy Manager, International
Operations Branch, Department of Social Security, GPO Box 1507R,
Hobart, Tasmania 7001 445**

**RYAN, Mr Paul, 42 Mackerras Crescent, Theodore, Australian Capital
Territory 452**

**SCHRAMM, Mr David Jeffrey, Director International, Australian Federal
Police, PO Box 401, Canberra City, Australian Capital Territory 2601 . . 426**

**SMALL, Mr Dale Albion, Manager United Nations & International Support,
Australian Federal Police, PO Box 401, Canberra City, Australian
Capital Territory 2601 426**

SENATE
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Consular services

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Present

Senator Forshaw (Chair)

Senator Hogg Senator West

Senator Troeth

The committee met at 10.20 a.m.

Senator Forshaw took the chair.

SCHRAMM, Mr David Jeffrey, Director International, Australian Federal Police, PO Box 401, Canberra City, Australian Capital Territory 2601

SMALL, Mr Dale Albion, Manager United Nations & International Support, Australian Federal Police, PO Box 401, Canberra City, Australian Capital Territory 2601

CHAIR—I declare open this public meeting of the Senate Foreign Affairs, Defence and Trade References Committee, which is inquiring into the Australian government's provision of consular assistance. The committee prefers that all evidence be given in public but if at any stage you wish to give any part of your evidence in private, you may ask to do so and the committee will consider that request. You will not be required to comment on the reasons for certain policy decisions, or the advice which you have tended in the formulation of policy, nor will you be asked to express a personal opinion on matters of policy.

The committee has before it a submission from the Australian Federal Police dated 27 November 1996. Firstly, are there any alterations or additions that you wish to make to that written submission?

Mr Schramm—Yes, Mr Chairman. There is one matter on page 2. Under the subheading of Kellie Wilkinson, there is a date that needs to be inserted. The sentence with the correct dates—this is line 2 of the paragraph—now reads: International liaison team which travelled to Cambodia from 18 April to 25 August 1994 . . . and then it continues. Thank you.

CHAIR—That alteration has been noted.

Resolved:

That the committee authorises the publication of the submission.

CHAIR—I now invite you to make some opening comments and then we will proceed to questions from members of the committee.

Mr Schramm—Thank you. The AFP, as the primary law enforcement agency of the Commonwealth, has responsibility for the provision of assistance and advice to all Commonwealth departments on law enforcement issues. In the case of the Department of Foreign Affairs and Trade, such advice is provided in a range of areas, including law enforcement input to the development of foreign policy, and the investigation of suspected criminal activity against the Department of Foreign Affairs and Trade. These are generally matters which are referred to the AFP for investigation because they are considered by the Department of Foreign Affairs and Trade to require police investigation.

We are also involved in the protection against information fraud or, as it is

probably better known, the unauthorised release of information. In this regard, the AFP has recently seconded an officer to the diplomatic security and the counter measures branch of the Department of Foreign Affairs and Trade, to assist in this regard.

We also provide assistance at those posts where the AFP has liaison officers located. The relationship in this area is governed by specific agreed guidelines. The provision of consular assistance clearly is a matter for the Department of Foreign Affairs and Trade. However, the AFP recognises that consular officers may not always have the technical expertise in law enforcement to make judgments relating to Australians who may disappear, be kidnapped or, indeed, be killed while overseas.

It should be stressed that the AFP has neither the authority nor the jurisdiction to conduct investigations outside of Australia. Apart from providing technical advice, the extent of AFP assistance is normally limited to liaison with the relevant host country law enforcement agency. Generally, this is restricted to attempting to influence the agency to conduct an investigation in a manner which meets Australia's interests.

Problems associated with Australians who encounter difficulties overseas are often complex and solutions acceptable to all parties are inevitably difficult to find. If the AFP can contribute in the future to the successful resolution of these types of incidents, we stand ready to assist. If there are some questions you would like to ask, we would be more than happy to attempt to answer them.

CHAIR—Does the AFP ever get involved in a matter overseas without first a request from the Department of Foreign Affairs and Trade? I am talking about a matter which would come within the purview of the consular services.

Mr Schramm—No.

CHAIR—In the case involving the death of Ben Maresh, Mr Sam Maresh stated that when Mrs Maresh phoned the Australian Federal Police to get information about what had happened to her son, she was referred back to the department, and further claimed that when she rang the department she was referred back to the AFP. The argument being put was that neither the AFP nor the department had any jurisdiction over the issue. Can you expand upon that complaint and comment as to whether it was true and, if so, what happened?

Mr Schramm—Yes, Mrs Maresh did contact the AFP liaison officer and what is stated is correct. She was referred to the Department of Foreign Affairs consular area for information. I am not able to comment on what happened from the point of view of the Department of Foreign Affairs. Certainly that was the standard response that we would give to anybody. We are not normally in possession of the facts. Unless we have been specifically contacted by the consular officers in the post or from the consular area here in Canberra, we would not become involved in issues of Australians who may be in distress

or, as was the case in this instance, killed.

Events that subsequently flowed meant, of course, that the AFP did become involved to a limited degree in providing assistance to the consular area. We contacted the police and requested details of the investigation that had been undertaken. The details of that investigation were in turn passed on to Foreign Affairs and, as the committee may be aware, we became further involved at the direct request of the former Minister for Foreign Affairs and Trade in doing a review of the investigation which had been undertaken by the Indonesian authorities. Our liaison officer played no part in the actual investigation.

CHAIR—What was the information that Mrs Maresh was seeking from the AFP or was it just a general request?

Mr Schramm—As I understand it, she was seeking information about her son and for that reason it was referred on to the appropriate area.

CHAIR—Do you know whether she had contacted the department before she contacted the AFP?

Mr Schramm—I do not.

CHAIR—Why was the AFP asked to become involved? I note that you have commented that the then minister made certain arrangements in that regard. I would assume that there are cases where people are killed overseas, and it may be in suspicious circumstances or it is not clear just what has happened, and the AFP would not get involved. What is the rationale for being involved in some and not in others?

Mr Schramm—I think it can be best explained in these terms: the death in the hotel fire of Ben Maresh gave rise to obvious concerns by the family in that they had certain suspicions about the circumstances of the death and that they were not satisfied that the death was by accident. They had raised these concerns in a range of areas, including with the minister. There had been some discussion between the department and the AFP over the issue, as to how we might be able to best assist in trying to reach the truth. It was as a result of this that we said that we would be happy to use our experience to try and do an assessment of the investigation so that a better judgement could be made as to whether any diplomatic approaches should be made with a view to having the Indonesian authorities conduct further inquiries.

As a result of that, the then Minister for Foreign Affairs and Trade wrote to the then Minister for Justice who requested that the AFP undertake a review to examine whether, in our view, there were matters that were capable of investigation, which had not been investigated, but which would give grounds for the government to consider making an official request for the Indonesian authorities to open the case.

CHAIR—What was your conclusion?

Mr Schramm—Our conclusion was that the investigation was conducted in a manner whereby possible available evidence as to the cause of death was not available—had that incidence occurred in Australia, it most likely would have been available, and I speak here particularly of forensic examination—and that, in the absence of any direct evidence, there were no grounds for us to seek to have the matter reopened. Certainly, the family was concerned about suspicions that they had of motives for murder. Our review indicated that, whilst there was considerable innuendo and discussion around these sorts of issues, there was no evidence.

Senator TROETH—Both Mr Maresh and Mrs Maresh have stated that during that review the AFP neglected to interview several crucial witnesses.

Mr Schramm—We interviewed all of the witnesses we could gain access to and, bear in mind, we were restricted to talking to people who were available.

Senator TROETH—So there were witnesses who were not available or to whom you did not have access?

Mr Schramm—There were some, yes. But we were satisfied that those persons would be unlikely to present any new evidence. For example, one of the people was the fireman. He had already given evidence before the coronial inquiry and his evidence was on record. The others were possible areas for follow up but none of them could be regarded as crucial and the central issue being that none of these would assist in determining the circumstances by which the death occurred. There was always innuendo, and there may have been scope for pursuing the issue of motivation, if there was any, but the crucial issue related to the circumstances under which the fire occurred. None of the witnesses we were able to find would have had any information in relation to it.

Senator TROETH—At that time, did the Maresh family approach the AFP with those concerns about further witnesses?

Mr Schramm—The Maresh family were interviewed at some length at the commencement of the inquiry and again at a later stage. When the report was completed, we contacted the Maresh family and sought to give them the opportunity to discuss with us the outcome of our review. They declined to do so.

Senator TROETH—So the reproach was made by your people in Indonesia?

Mr Schramm—Yes. At the end of the report, the investigating officer made contact.

Senator TROETH—Did the Maresh family give a reason for declining to contribute?

Mr Schramm—No. Mrs Maresh indicated that she was not happy with the result of the inquiry and that she did not want to pursue it further with the AFP.

Senator TROETH—Robert Maresh has stated that he had evidence from three eyewitnesses of the incidents which we are talking about. He did not give the names of them in his statement. Did he pass that information on to the AFP?

Mr Schramm—I would have to check the report, Senator. I am sorry, I do not have that information at my fingertips.

Senator TROETH—If you find that he did pass on that information, could I have a written answer from you on why you did not then interview those witnesses? It may be to do with your earlier answer.

Mr Schramm—If I can clarify that, we certainly did not interview any witnesses in Indonesia. We did not make contact with any witnesses in Indonesia because we were unable to do so from a jurisdictional point of view.

Senator TROETH—Were you able to pass that information on to the Kupang police?

Mr Schramm—The answer to that is no. We did not pass any specific information to the Kupang police. We did have further contact with the Kupang police to clarify some minor matters from the copy of their investigation report which they gave us. Once again, we did the review and provided our outcome to the minister for his consideration.

Senator TROETH—Are you restricted with the passing on of information to the local police because of jurisdictional arrangements?

Mr Schramm—No. If we had information that we believed might assist an overseas enforcement agency in the course of their duties, there is no restriction on us passing on that information.

Senator TROETH—So you did not pass it on because you believed that it could not be corroborated or that it was of no use to them?

Mr Schramm—I would have to take that question on notice. I am not exactly clear on my recall of the sequence of events.

Senator TROETH—Could you provide the committee with a written answer on that question?

Mr Schramm—We will do that.

Senator WEST—On page 5 of your submission, you acknowledge that the foreign affairs department, while having responsibility for consular assistance, may not have expertise in law enforcement matters. Can you expand on that comment?

Mr Schramm—Certainly. In instances where consular officers are provided to make judgments on whether or not what they consider to be the relevant interests of Australian nationals have been fully met, there are occasions where they may wish to be satisfied that an investigation has been undertaken. They may seek our assistance by asking whether we are in a position to check with the local authorities.

They may not always be in a position to get the information through the more formal channels. Therefore, they may seek our assistance, particularly where we have police liaison personnel to ascertain additional facts or to provide advice as to the extent of a reply from a government, to be satisfied that what has been told is the totality of what could be found out. We may be in a position to recommend that they adopt another line of approach in order to elicit more information. It is more a case of our being able to use our law enforcement experience to steer them in the right direction.

Senator WEST—There is a difference between law enforcement experience and legal knowledge.

Mr Schramm—Indeed.

Senator WEST—Whereabouts do you have liaison officers? Or do you not want to precisely indicate?

Mr Schramm—No, it is public knowledge. Within Asia, we have liaison officers based in Islamabad, Singapore, Kuala Lumpur, Bangkok, Hong Kong, Manila and Jakarta. We also have liaison officers in London, in the United States and in South America.

Senator WEST—Do they build up very close relations with the local law enforcement agencies?

Mr Schramm—Our role is very much liaising with the local law enforcement agencies with a view to establishing a relationship of confidence so that we can exchange intelligence and have inquiries undertaken on behalf of Australian law enforcement authorities in the host country. In many instances we develop quite close relations with these agencies. As such, when our consular colleagues have reason to access law enforcement—which in many instances, particularly in the case of a fatality, they will need to do—wherever possible we would make sure that they see the right people and that they get that access as quickly as possible.

Senator WEST—Are you able to compare law enforcement in overseas countries with that of Australia? Do we have different standards? Do we have different appreciations of the worth of a human being's life and the way people are treated?

Mr Schramm—I think the standards of law enforcement should be viewed in terms of the standards of many other things around the world. They vary greatly, depending on the level of sophistication of the country, the level of development, the sorts of resources which are allocated to it and the population which it serves. There are huge differences around the world. I think it is fair to say that, in the area of law enforcement, the traditional values that we in Australia have come to recognise as the norm do not exist in many countries.

Unfortunately, a lot of people, particularly young people, who go overseas do not recognise or do not choose to find out that they will not receive the same type of treatment that they would necessarily expect in Australia. I am not identifying any particular country, but the standards of law enforcement vary greatly. In some countries law enforcement is not held in good public esteem. It is fair to say that, in many countries, the public do not trust law enforcement.

In terms of the standards of investigation, I think two factors should be borne in mind. Firstly, it depends on the country. Secondly, it depends on the location in the country. If it is a remote area of the country, you could not expect the level of expertise and thoroughness that might occur in an investigation in a city area. In terms of identifying with the event in Kupang, I think that is a reasonable example. It is a relatively remote area.

Senator WEST—Is the relationship between the AFP and DFAT for AFP expertise working well? Or do you think there are ways in which the knowledge and expertise of the AFP, particularly in investigative and law enforcement matters, could be increased or expanded upon?

Mr Schramm—Let me say at the outset that the relationship between the Department of Foreign Affairs and Trade and the AFP is very good. It has largely been built up by our association through our overseas liaison posts. Many of our officers who have served overseas have come into contact and have had personal relationships. So a fairly natural exchange of information occurs across many areas.

As far as the assistance in consular matters is concerned, it is a very difficult call to sort out what threshold level you place for calling in AFP expertise. Inevitably situations vary so much—from country to country, and depending on what the case may be. It is fair to say that, in recent years, the relationship has got closer as we have seen the mutual value of each other's expertise. In recent years we have worked more closely directly in consular matters than we would have in the years gone by.

Senator WEST—Whereabouts are the liaison officers based in the overseas—

Mr Schramm—They are based in the embassy responsible to the head of mission. So they form very much a part of the embassy or high commission.

Senator HOGG—Who do they get their orders or instructions from?

Mr Schramm—The liaison officers operate under agreed guidelines between the Secretary of the Department of Foreign Affairs and Trade and the Commissioner of the Australian Federal Police. Operationally, liaison officers are responsible to the Commissioner of Police but from a day to day point of view, like all Australians attached to the mission, they are responsible to the head of mission. Whilst that on one hand may sound like one has two masters, it is not a problem. The head of mission is kept across the activities of the AFP. If he or she at any time had difficulty with the work being performed by the AFP then we would certainly hear about it and accommodate it. It has worked very well.

Senator HOGG—You spoke of guidelines—do you have a copy of the guidelines?

Mr Schramm—Yes I do. If the committee would like a copy of those I can make them available.

CHAIR—That would be of assistance, thank you.

Senator WEST—You say in the last paragraph of page 5:

The AFP stands ready to provide any requested assistance to DFAT in order to protect the lives and/or family interests of Australian nationals overseas. The AFP is also prepared to provide such law enforcement input as may be considered necessary by DFAT in the future development of guidelines relating to the provision of consular assistance.

Are you quite happy with the current guidelines?

Mr Schramm—There are no specific guidelines governing the area of consular assistance. The guidelines which exist relate to the relationship between AFP's law enforcement interests internationally and the consular interests internationally. That is primarily there to ensure that there is no conflict of interest between, for example, our investigating the activities of an Australian national who we may suspect of committing criminal activities overseas and the consular role should that person come into custody, for example. That is, we do not go along to an Australian national who is a prisoner in goal and say, 'Hello, I am from the embassy; can I help you?' We clearly identify that we are police officers in this type of thing. The guidelines are meant to protect the respective interests.

CHAIR—I might just identify the document that has been tendered. It is titled 'Australian Federal Police liaison officers—guidelines on role, functions and lines of responsibility of liaison officers'. That is now part of the record. Senator West may like to

have a look at it.

Senator WEST—I am not quite that much of a speed reader. There is almost a potential for a conflict of interest, is there not? If you can see someone who should be coming back to Australia to answer some lengthy court proceedings or maybe answer some court proceedings over in the country, and DFAT is attempting to ensure that the person gets all due—it must lead to some interesting tensions.

Mr Schramm—Indeed there are potential conflicts, and that is of course why we have guidelines. We try to apply a fair degree of common sense with those as well. I have to say, from an AFP point of view—I believe I can also speak for the Department of Foreign Affairs and Trade—we have managed to avoid any conflict to date, and I trust we will in the future also.

Senator WEST—It is a very interesting area to have to ponder, I would think.

CHAIR—We will move on to the David Wilson case.

Senator HOGG—Page 2 of your submission says that the AFP provided an international liaison team. How many were in the team?

Mr Small—From the Australian perspective, there were two members on the team at any one time—a member from the consular area of DFAT and a member of the Australian Federal Police. They were then joined up with members from the metropolitan police and the French. We were never made clear of their actual titles and positions.

Senator HOGG—Were they resident in Cambodia at the time?

Mr Small—The officers were resident in Cambodia during the incident of the Wilson and Kellie-Anne Wilkinson matter.

Senator HOGG—So they would have been familiar with the environment?

Mr Small—They were resident during the incident but were not residents of Cambodia.

Senator HOGG—That is what I wanted to establish. In evidence to the committee, David Purcell stated that at a meeting with the AFP it was suggested that DFAT should not have been dealing with the family, that it should have been a police matter and that DFAT made it more political and more difficult to understand. Could you comment on this statement, particularly on whether the AFP would have been better placed to deal with the family in a hostage situation?

Mr Small—In this situation we must refer to what the terms of reference of the Australian Federal Police were at the time they were involved in this incident. The terms

were to go to Cambodia to again assist DFAT or the embassy in police technical matters and to monitor the negotiations being carried out by the Royal Cambodian Armed Forces in the investigation. Our role was not there as a hostage negotiation team but merely to put our expertise to what the Cambodians were doing and relate that back to DFAT so that it could then make whatever decisions it wished to based on that information.

Senator HOGG—So yours was primarily and solely the role of advising DFAT.

Mr Small—That is correct.

Senator HOGG—There was no interaction with the Royal Cambodian Armed Forces, or anyone else for that matter?

Mr Small—There certainly was interaction with the Royal Cambodian Armed Forces but it merely related to questioning or ascertaining what actions they were taking and reporting those back to DFAT. If necessary, we reported to DFAT any decisions or anything that was being done within the investigation that we thought were perhaps detrimental to the overall investigation so DFAT could then make political decisions on how they approach the Cambodian government.

CHAIR—What do you mean by investigation? I assume you are talking about the period when it was well-known that David Wilson was hostage, along with two other people, and there was a reasonable understanding or idea as to where they were located. I am not quite sure what you mean by the word ‘investigation’.

Mr Small—In the initial stages, we were involved purely in the hostage negotiation side; we were there to assist DFAT in hostage negotiation. As the events transpired, the terms of reference were slightly broadened to ascertain what investigations were going to be carried out in relation to any of the pieces of information coming in as to the likelihood of death or not of David and the other hostages.

Senator HOGG—Who gave you the terms of reference?

Mr Small—DFAT.

Senator HOGG—Do you know precisely what those terms of reference were?

Mr Small—To provide special advice and assistance to the Department of Foreign Affairs in hostage negotiation and, later, to provide assistance in technical advice in the investigation.

Senator HOGG—Were the people in the liaison team expert in hostage situations?

Mr Small—Yes, they were, from the perspective of both the British police and the AFP.

Senator HOGG—What sort of relationship was there with other missions over there from the AFP perspective? Was there any or was it all just through the Australian mission?

Mr Small—It was very good. The British police officers, the Australian police officers and the DFAT consular members from Australia worked extremely well together. The members of the French contingent worked not necessarily in the same sharing and open manner.

CHAIR—Who were the officers from the AFP who were in Cambodia during the—I will use the term the Wilkinson case?

Mr Small—In the Wilkinson case you had Superintendent Kirk and Constable Anderson.

CHAIR—Were they also there during the David Wilson situation?

Mr Small—They were there at the time of the initial announcement that there had been an Australian taken. They stayed for a couple of weeks at the initial stage and they were then replaced.

CHAIR—By whom?

Mr Small—By Superintendent Col Rowley.

CHAIR—Do you feel that it would have been worth while keeping the same personnel there during both situations?

Mr Small—No, we did not think it was a good idea. If you look at the history of Superintendent Kirk, by that stage he had been out of Australia for some time working in Thailand, in Somalia, in Cambodia and in Mozambique. He had been away from the country for some time. He was suffering certain illnesses by that stage and we made the decision that for his own wellbeing it was necessary for him to return to Australia.

CHAIR—The reason I ask that question is that there was some evidence from a couple of journalists who appeared before the committee. They were somewhat critical of the role of the people in Cambodia from the consulate and the AFP, in so far as people were being replaced. They felt that they would just get to know people and get an understanding of what was happening and then they would have to start all over again. I may have not adequately summarised their evidence but I think that is the gist of it. Can you comment upon that situation? I might say this is also a criticism put forward by the

Wilson family members. They say they had this difficulty, both here and in Cambodia, of dealing with different people at different times and of a lack of continuity in that respect.

Mr Small—We will look, first of all, at the Kellie-Anne Wilkinson matter. During that particular incident we did, in fact, keep the team together because they were only coming from Australia. There were two Australian police officers there and they remained during that particular incident.

In relation to the Wilson matter, again looking for the safety of the members themselves in an environment such as that, the decision was made that they did need, for their own sake, to be moved in and out of Cambodia reasonably rapidly. We were working on about a six-week rotation basis. But what we were doing on the Wilson matter which we were not doing on the Kellie-Anne Wilkinson matter was working with other countries. The continuity was always there because we would not replace our people at the same time as, for example, the British replaced theirs. You always had somebody with continuity and with contact in the country at any one time.

CHAIR—You indicated earlier that you were obviously liaising with the consular officers in Cambodia—I am referring to the Wilson case. That also, of course, was a military situation in that the Royal Cambodian Armed Forces had surrounded the Khmer Rouge camp and were shelling it, depending upon which analysis of the situation is correct, but at least there was some activity going on. What role or liaison did you have and did DFAT have with any military expertise?

Mr Small—Again, we will look at the situation. Originally when the Wilson matter was announced, Superintendent Kirk was in Cambodia. At that stage, he remained within Phnom Penh and travelled occasionally to the outer areas of Kampot. When Col Rowley arrived, he again started off his term in Phnom Penh and then the decision was made to move that consular group closer to the scene of where the kidnapping had occurred in Kampot. At that stage, our contact on a day-to-day basis with the embassy was non-existent. What we were doing at that stage, because we had no direct communication with Phnom Penh, was sending all of our information that we received during any given period back to Canberra which was then forwarded back to Phnom Penh. Because of a communication problem we could not use the satellite phone to get direct contact into Phnom Penh, so we were doing daily, and sometimes tri-daily, communique back to Canberra.

CHAIR—It may be more a question for the department—and I can refresh my memory on this before they appear again next—but were there any personnel either within the existing consular staff or who went over there after the hostage crisis started that had an expertise in military or defence matters? As you are aware, there has been a lot of evidence or statements made as to the impact of the shelling and/or the role of the Cambodian army and how that affected the crisis. We sent over the AFP representatives. Was there any military expertise from Australia available in Cambodia at the time?

Mr Small—Yes, there was. At the embassy there is a defence liaison officer. As I understand it, he did produce at some stage during the crisis a report back to DFAT in relation to the military perspective.

CHAIR—Thank you. Senator Troeth.

Senator TROETH—Given that you were proffering advice to Department of Foreign Affairs and Trade on the way to handle the hostage negotiation, do you have any comments on the way in which it was subsequently handled by the department?

Mr Small—Senator, could you give me a little bit more? That is a fairly broad question. In relation to what part of the—

Senator TROETH—Let us say the negotiations with the people who were holding David Wilson captive and the department's negotiations with the Cambodian government?

Mr Small—I think you have to look at the whole question in a very holistic way to start understanding what the department was dealing with and what we were dealing with and what the Cambodian government itself was dealing with. You have got a country that is extremely Third World in its economic conditions. Its communication systems throughout the country, to say the least, are archaic. Receiving accurate information from the scene of any incident within Cambodia at any centralised area was extremely difficult. My comment certainly would be that, from my own perspective, the negotiations done by DFAT were done within the realms of possibility that were there and facing them at that time.

Senator TROETH—The Wilson family has indicated that they believe that Australian officials, including the AFP officer in Cambodia, were being kept in the dark by Cambodian officials during the hostage crisis. Was the AFP satisfied with the level of information received or being supplied by Cambodian officials?

Mr Small—Again, I would preface this answer the same as I did the last time. Within the bounds of the communications system, even within the small area around Kampot, you could go to one area and get one answer and go to another area and get another answer. We did not at any time disbelieve the information being given by any of the Cambodian officials because we believed that that was the information they had within their own area of expertise to give us. As far as being able to say whether it was an accurate answer to any of our questions, I do not believe that it was. But I preface that by saying that I do not know that any officer in the Cambodian situation would have been in possession of all the facts.

Senator TROETH—So you would say, then, that it was not possible for you to know any more than the information that you were being given by the Cambodian officials?

Mr Small—That is correct.

Senator TROETH—You mentioned the problem of communication and the fact that everything was relayed to Canberra and then relayed again. Did that pose problems for your post during the crisis?

Mr Small—No, it did not. The communications system we had set up, particularly with Robert Hamilton in Canberra—I think he is now the head of the consular area—was excellent. He made himself available basically 24 hours a day. With any phone calls or communication we needed to have action on, we could ring him directly and that action would be taken.

Senator TROETH—I take on board your earlier comments about receiving two statements and that both of them could be correct and perhaps neither would necessarily be so. The Wilson family maintain that the Australian Federal Police knew that General Rin was lying about his knowledge of the deaths of the hostages at the time that he defected. Would the AFP have believed that General Rin was lying, or would that be a matter of hindsight?

Mr Small—I think it would be a matter of hindsight. But also, without our having had an ability—remember we talked about the jurisdictional ability—to interview General Rin and ascertain from him information that we may or may not have had and to check the accuracy of that information, it is a very difficult question for me to answer.

Senator TROETH—Would you apply the same general comments that you have been making about the level of military activity around Mount Voar, which was on one hand stated to be limited and was on the other hand stated to be much more intense than either yourselves or the Department of Foreign Affairs have stated?

Mr Small—I read in the *Hansard* the comments of one of the Wilson group. I attended the Phnom Voar area, in particular General Paet's camp, and I made the statement to the family and I will make the statement here: there was no evidence that I saw within that immediate area of where the hostage killings occurred of any serious military action.

Senator TROETH—One of your officers, Chris Eaton, allegedly said to Tim Wilson that the military action seriously disrupted the negotiations. Tim stated that on page 138 of the transcript.

Mr Small—I would have to take that on notice. I have not spoken to Chris Eaton about that particular matter.

Senator TROETH—The committee would be grateful if you checked that out. I also would like to bring to your attention a particular comment by the Australian

journalists who made a submission to us. They stated that they had approached an AFP officer, George Fraser, to notify him of their intention to drive in a dangerous area and asked whether he had any advice for them. According to the journalists, Mr Fraser denied that he was an Australian official. Are you aware of that?

Mr Small—Again, I would have to take that on notice. Consular member Fraser was not in Cambodia during my period.

Senator TROETH—If you would look at the transcript, I would be interested in any further comments you have to make on that. Do you have any comments to make about the activities of the media during the hostage crisis?

Mr Small—The media that I came in contact with in Cambodia I found to be totally disregarding the safety of both themselves and the sensitivity of the investigation. They were certainly going into areas that were classified as being extremely dangerous. They were interviewing and interfering in the general process. Certainly, from what we have been told, they were making certain payments to Cambodian officials to allow them to go into these areas. Some of the reports I saw were total fabrications of the actual events. For example, on one occasion back here on Australian TV you supposedly saw the site of Paet's camp. I have been to Paet's camp and the view that you saw was not of that camp.

Senator TROETH—The journalists have maintained in their submission and their comments to us that they were forced to adopt some of these measures by the fact that they were shut out of any knowledge of the progress of negotiations, even at the most basic level. In your opinion, how should journalists and Australian authorities in any country in the future be handled? What should the policy be?

Mr Small—If we had adopted the police line in relation to the handling of journalists in a hostage investigation or hostage situation, we normally involve them at the very beginning and we keep them well informed of the situation. Basically, we call on their professional standards to make sure that certain information is not released if that is going to be detrimental to the particular event. I cannot make comment as to whether that was the case from the Australian officials in Cambodia, or here, because I was not involved in that part of the process.

Senator TROETH—So relations with the media were largely handled by the Department of Foreign Affairs and Trade, not by the Australian Federal Police?

Mr Small—That is correct. As I said, in the latter part of the Wilson matter we were in Kampot, which was well away from the governmental negotiating area in Phnom Penh.

Senator TROETH—What do you imagine would be the lessons that your

department has learnt from this particular case for future AFP methods in any similar hostage case?

Mr Small—If there is a lesson to be learnt it is to be able to be involved in the situation from its initial stage so that we have all active information from the very beginning, so that we are not arriving in a foreign country trying to ascertain what the true position is.

Senator TROETH—So you were not involved from the beginning? I think you have given us the dates.

Mr Small—We were involved fairly soon after the event but not in an official capacity. The only reason that we were involved at all was that Bill Kirk still happened to be in the country finishing off the Kellie-Anne Wilkinson matter. He was brought in for a quick briefing and a quick question and answer session with the Department of Foreign Affairs and Trade as to who he thought might be the relevant people to speak to within the Cambodian government to further this particular issue.

Mr Schramm—In terms of the lessons that are to be learnt, and clearly there are always lessons to be learnt from these sorts of experiences, the situation inevitably is different, regrettably. This instance is probably a classic because not only are you dealing in another country but you are dealing in a country where the rule of law is not working and where you are obliged to accept information from a range of sources. The best you can do is make reasoned judgments about that information and try to take action from that.

If we had another situation of this type, it is highly likely that it will also occur yet again in a politically unstable country where there will be factional interests, where you will have individual interests overriding the personal interests of the people. It will most likely be an area about which we have virtually no prior intelligence. Therefore, any judgments that will be made will have to be made against available information. So, whilst there are lessons to be learned, the difficulty is how one translates that into, as it were, best practice for the future.

I think we would in future, if we were involved, probably adopt a longer-term approach to the situation. In these situations, one tends to live day-to-day. Possibly, if we were doing it again, we would be forced to say, 'Hostage situations in these sorts of instances may well run for months. Therefore, what strategy is it best for us to adopt if it is going to be a longer-term resolution?' Then you have the capacity to talk about developing intelligence over the period, of analysing that intelligence and of providing the intelligence support that is needed, so that if you are six months down the track and find yourself in the same situation, the judgments you are making are made against best available assessed intelligence. If there is a lesson to be learned, that is probably one of them.

CHAIR—Did the AFP play a role in the more recent kidnappings in Sudan and Somalia? There was Ms Worthington, wasn't there, and another Australian?

Mr Schramm—No direct involvement, no.

Senator TROETH—Given what you have just said, and the likelihood that there will be future hostage cases in exactly the sorts of countries that you have mentioned where there are unstable political environments, is the AFP instituting any guidelines to adopt the sort of long-term strategy about which you were talking?

Mr Small—I would like to say something on this question. It is very difficult to come up with a set of guidelines. Look at the two events in Cambodia. From the intelligence that we gained, Kellie-Anne Wilkinson was taken just as pure accident—she happened to be in the wrong place at the wrong time, and so she was taken. Basically, the sophistication of the kidnappers on that occasion was such that they did not know what to do with the hostage, so she was killed.

But the Wilson kidnapping seemed, again from intelligence, to be a bit more sophisticated in that they seemed to be targeting a certain train and, whether they knew that there were foreigners on that train or not, their intention was to take hostages. Whether by chance or not, they took the three foreigners. But their sophistication in that particular situation was greater than in the first case. This time, they were using the bartering tool and they were trying to get goods for services, or goods for the return of the hostages. Therefore, the guidelines on the first one would be totally different from the guidelines on the second.

Senator TROETH—I am not talking about inflexible guidelines that you would apply to every case regardless. But Mr Schramm raised the possibility of a long-term strategy. I presume there would be some objectives or outlines in that strategy which would enable you to apply those to future cases. What I was asking was if there have been moves within the AFP to start looking at that and start its evolution?

Mr Schramm—The answer is no, we have not, at this stage of the game. But I agree with you—there is considerable merit in looking at perhaps that type of thing. I am not too sure just how far one could develop that. It is more a case of a framework strategy that you would be looking at so you could say, 'In a given situation, these would be some of the considerations that one needs to address in deciding whether or not a particular course of action may be taken.' I think it is a good idea.

Senator WEST—You were talking about the behaviour of the media. Could you differentiate between different media from different countries?

Mr Small—Having seen the list of names that appeared before you, I can say that those particular named personnel were not the journalists I had contact with in Kampot.

The ones we had difficulty with were more freelance ones and ones working for some of the Cambodian and/or Thai papers. They were the ones that definitely gave us a great deal of difficulty.

On the whole, we had no problems with Australian journalists. The ABC was there, I spoke to them and we had open and agreed conversations about what should be done and what should not be done, from our perspective and their perspective. But we had a great deal of difficulty with some of the more freelance and more sensationalist journalism.

Mr Schramm—Could I add that there is a difference in investigative journalism and, of course, there is a considerable gap in acting on behalf of an Australian government. The big difference is called ‘accountability’. In Australia, we have very good relations with the press. In situations where lives are at risk there are agreed positions where the press are provided with the right briefings and cooperate in terms of the sort of information that is released publicly. Those rules do not apply when one is overseas and many of the journalists who operate overseas are very much used to working to their own devices, because that is all that they have. So it was a somewhat unique situation that was faced in this particular incident.

CHAIR—One of the criticisms that has been made by the Wilson family and by others is that all of the negotiations were left to the Cambodians and that this was an agreed approach by the three governments. It has been suggested that there may have been other avenues explored to negotiate with the hostages, either through NGO representatives or through any one of a number of middlemen, whether in the Cambodian army or wherever.

Do you have any comment to make about that criticism? I suppose there is also the question of whether there is any scope for either the AFP or the combined Australian presence in these situations to, as it were, negotiate either officially or unofficially? That may be asking you to give away secrets, which you are not able to do.

Mr Schramm—I can try and answer from a general policy perspective and Mr Small may want to make some comment about the individual incident because he was much closer to it. The manner in which these sorts of negotiations are undertaken inevitably falls under the government umbrella of the host country. Whilst one is in a position to perhaps influence that to a degree, it is very difficult to make a judgment as to what is the best way to do things. I can quite understand the family having a viewpoint on this. Given that, inevitably, one is operating under the umbrella of another government, you are always going to be, to a degree, restricted in what you can do. If it does not meet the particular interests of the local government, it is very difficult to do anything else.

Mr Small—Those particular matters, of NGOs and the use of NGOs—and, in particular, the NGO that dealt with the American girl who was taken prior to Kellie-Anne

Wilkinson—were approached. I also understand that there were Buddhist monks who were also approached. Those suggestions certainly had been made to the Cambodian authorities and the Cambodian authorities had, as best they could, tried to influence those particular groups to make inquiries. As I understand it, certain inquiries were made by the Buddhist monks. However, the end result was that nothing of any concrete nature really came out of those attempts.

CHAIR—As there are no further questions, I thank Mr Schramm and Mr Small for coming along this morning, giving evidence and answering questions. If you could respond to the questions that you have taken on notice as soon as possible that would be appreciated. We will now have a short break while we organise the teleconferencing.

[11.30 a.m.]

LAMPHEE, Mr Graham Edwin, Area Deputy Manager, International Operations Branch, Department of Social Security, GPO Box 1507R, Hobart, Tasmania 7001

CHAIR—Welcome. This part of today's hearing is being conducted by teleconference. The committee prefers that all evidence be given in public—and at the present time the committee hearing is open to the public—however, if at any time you wish to speak give evidence in private, you may ask to do so and the committee will consider that request.

You will not be required to comment on the reasons for certain policy decisions or the advice that you may have tendered in the formulation of policy or to express a personal opinion on matters of policy. That is a position that is always applied to public servants and officers of departments who appear before us.

Mr Lamphee—Sure.

CHAIR—We have a submission before us from the Department of Social Security dated 19 November 1996. We will formally receive that in a moment but, firstly, are there any additions or alterations that you would like to make to the written submission?

Mr Lamphee—No, there is not. I would just like to explain what my responsibilities are in relation to this particular aspect of the work. I am the area deputy manager of the international operations branch which is administratively responsible for the payment of long-term Australian pensioners overseas and for the administration of social security agreements with a number of foreign countries.

CHAIR—Thank you. Is it the wish of the committee that the submission be made public? There being no objection, it is so ordered. I invite you to make an opening statement, and following that we will proceed to questions from members of the committee.

Mr Lamphee—I have some general comments. The legislation associated with the administration of the payments overseas is quite complex. From time to time there are circumstances which make it most difficult to administer, and from time to time there are delays in the delivery of the pension cheques overseas for a variety of reasons—whether they be mail strikes or seasonal peaks in luggage and material that is being sent overseas, together with the occasional hiccups in the actual payments.

Finally, I think it is important to note that we have got a duty of care and are covered quite clearly by the privacy provisions in terms of dealing with our clients overseas. Other than that, the statement that the department has made has quite a lot of detail in relation to responding to the request.

CHAIR—In the department's submission it states that there is a feasibility study being undertaken into possibly using direct credit arrangements. Could you indicate where that is up to and when it is likely to be completed and the likelihood of implementation.

Mr Lamphee—Yes. The department is examining the direct credit option. At the moment, it has received one proposal from the Reserve Bank and is also considering a second proposal from an overseas bank in relation to the costs and the service delivery levels that these overseas banks can provide. I anticipate that sometime at the end of this calendar year direct deposit will be available to the 48,000-plus overseas pensioners. That would probably only cover about 65 per cent of the overseas payments. There are still many countries which cannot accommodate any direct credit payments.

CHAIR—Did you say 65 per cent?

Mr Lamphee—I said 65 per cent.

CHAIR—Is there a large number of unclaimed or returned cheques or payments because of people moving addresses or something else happening to them? Could you expand upon whether that is an issue?

Mr Lamphee—Yes. In the department's submission we indicated that about 60,000 pensioners travel overseas each year. About 5,000 of those leave Australia permanently. I do not know the figures for those people who are only temporarily overseas. From here in Hobart, we issue slightly in excess of 600,000 cheques each year. We place stops on about 4,300 of those cheques, for a variety of reasons. Some of them would be because the customers have passed on and we are trying to stop future payments to their home addresses. That gives you some idea of the long-term payments we make overseas. I am not in a position to be able to give you the numbers for changed arrangements for short-termers overseas, because many of them would be travelling.

CHAIR—I have one other question which is more specific to a particular case about which evidence has been given to us. You mentioned privacy considerations. Evidence has been given to us by the family of a gentleman who died—rather sadly and tragically—overseas. That individual was a schizophrenic and, as the evidence has been given to us, it is not uncommon for persons suffering from that complaint or other mental illnesses to leave Australia from time to time, wander off and get sick overseas.

It has been pointed out to us that the individuals concerned may make arrangements with the Department of Social Security for their payments to be made to them at a forwarding address but they do not necessarily tell their family what they are doing. Subsequently, problems arise and you run into this difficulty of the privacy considerations when the family may be seeking information about the whereabouts or whatever of the person concerned. Could you make some comment about the situation that I have just put to you and about how we may be able to get around some of these

difficulties?

Mr Lamphee—The Privacy Act has a fairly large effect on the information we can give out. We cannot give out client details to a third party unless, for instance, they have signed an authority for an agent to inquire. We can then only give that agent the information that we would give to the client in order to continue their payments. However, if there is a public interest involved in any particular case, there is an avenue for the department to release that information. But it has to be in exceptional circumstances.

CHAIR—If a recipient of such a payment—who is clearly on the department's records as suffering from such an illness—comes to the department and says: 'I am going overseas to such and such a country. I want you to forward my payments over there', would it be open to a departmental officer to make further inquiries? Is there scope for the officer to say: 'Hang on, this could well lead to a situation in the future,' particularly if there have been previous incidents?

Mr Lamphee—The medical evidence that the department has available to it in terms of it paying a disability support pension for the client or the customer would give us some indication. Obviously, the pensioner would have come to, say, a Social Security officer in Australia; he or she would have filled in the required forms, and would have completed all the documentation and left for overseas. We would just regard that as another customer going overseas. The circumstances would have to be extremely unusual, I would suggest, before we would be in a position to provide another authority or a next of kin with a warning, if you like, that this client was going overseas. There would have to be extremely exceptional circumstances.

CHAIR—I appreciate the difficulty, Mr Lamphee, and, of course, the evidence that has been put to us highlights the distress that occurs afterwards. It is not easy to resolve these issues.

Mr Lamphee—Sure. We would gather as much information and background as we possibly could to make a value judgment on whether we released the information in the public interest. I am suggesting that it would certainly go to a fairly senior officer of the department to give the okay in the final instance.

CHAIR—Thank you. Senator West would now like to ask some questions.

Senator WEST—Thank you. I would like to follow on from that line of questioning. You would know how many pensioners or recipients notify DSS that they are going overseas—

Mr Lamphee—Sure.

Senator WEST—Do you think that that is anywhere near an accurate number that

actually do go overseas?

Mr Lamphee—No. I think that there are probably others that go overseas that do not notify the department for a variety of reasons, particularly if they are short-term absences, such as going on a cruise or for a very short holiday period overseas. I am sure that there are quite a number of Australian pensioners who would not notify the department of their departure. I think that our submission indicates that we do a data matching check with the immigration records down the track about three months after people leave.

Senator WEST—So, that is how you catch up with those who are on sickness benefits, or things like that.

Mr Lamphee—That is correct.

Senator WEST—With regard to your response to DFAT's comments about the involvement of overseas posts and Social Security matters—and, as you know, DFAT has not indicated the number of inquiries made to overseas posts—has DFAT ever indicated that the level of inquiries is too high?

Mr Lamphee—Except in one particular circumstance. I believe that the DFAT submission was prepared towards the end of 1995, from memory. Earlier in that year we did have a problem with the issuing of a particular payment in April of that year—

Senator WEST—Yes. I remember it.

Mr Lamphee—You remember that one?

Senator WEST—Yes, I do. I was asked questions at estimates.

Mr Lamphee—That is correct. I would suggest that at that time the posts around the world would have had quite a deal of inquiry, but I think that in the last 12 or 18 months inquiry would not be at that level. I think those figures I gave earlier, which indicated that we put stops on 4,300 cheques—I am not suggesting they would be all the inquiries going to a DFAT post around the world—would give you some indication of the inquiry level that is possible to a DFAT post. And I think, also, that our submission indicates that places like the United Kingdom, Greece and Italy have large numbers of overseas pensioners. We have locally engaged staff in those posts to actually answer the inquiries.

Senator WEST—Right. Have you any indication of the level of complaints that you receive from overseas pensioners?

Mr Lamphee—No. We obviously receive complaints from time to time, whether

they be direct to the department here in Hobart or through ministerial and other avenues. But of the level of complaint in relation to the posts themselves I have no knowledge, not specifically about the post or about the service that those posts are providing.

Senator WEST—Right. You think everybody seems fairly happy with it?

Mr Lamphee—I think what happens is the actual post staff will, if they cannot answer the questions from their manual, ensure that the client rings us here in Hobart and we will give the customer the information.

Senator WEST—Right, I see.

Mr Lamphee—They act as the conduit, if you like, between the Australian living overseas and the office here in Hobart.

Senator TROETH—I note in your submission you talk about a feasibility study into the use of international direct credit being undertaken. Could you give us an idea what stage that study has reached and when it is likely to be completed?

Mr Lamphee—Yes, we have already received a proposal from the Reserve Bank and we are looking at another overseas bank to compare the costings, but I would anticipate that a decision on the direct credit arrangements will be made this calendar year. You would have to understand there will be a fairly large data collection exercise associated with that because we need details of the overseas bank accounts in order to direct credit. It would only cover about 65 per cent of the pensioners living overseas because there are still many countries who have not got direct credit facilities.

Senator TROETH—Right. So they would need to have at the minimum a bank account?

Mr Lamphee—Yes. They will need an account in those countries but it will still leave us with a fairly large number of pensioners resident overseas who will be getting some sort of cheque or other payment arranged by whoever the banking authority is that wins the contract.

Senator TROETH—What about people who can have access to ATMs overseas through having it paid into their account here in Australia—does that work well?

Mr Lamphee—Does it work well?

Senator TROETH—Yes.

Mr Lamphee—Some clients—certainly the short-term absences overseas—would be using that sort of facility. The long-term pensioners going overseas for longer than 12

months need to give us their home address because we pay them by cheque. We do not pay them through their Australian account except in some exceptional circumstances. We have only a few that we do pay through their Australian bank account at the moment.

Senator TROETH—When there is a change in legislation what arrangements do you have with DEFAT to advise consular staff?

Mr Lamphee—Normally we would put a briefing paper or briefing note out to the consular staff. We are looking at doing that electronically in future—and I think that is also mentioned in our submission—to actually get the information to the posts a lot more quickly than we perhaps do at the moment.

Senator TROETH—On what you have seen so far, are you happy with the level of response by the Department of Foreign Affairs and Trade and by consular staff when changes have to be implemented?

Mr Lamphee—Yes, I have seen no evidence to say that they have not been able to become au fait with some of those changes—some of them are quite complex. As I mentioned before I think it is important, rather than making the decisions at the post themselves, that they provide the pensioner or the prospective customer with the opportunity to ring here in Hobart. I mean the legislation can be quite complex.

Senator TROETH—Good, thanks for that.

Senator HOGG—Mr Lamphee, I refer you to page 5 of the submission and the second paragraph on that page. You talk about the common problem encountered by consular officers being the cancellation of benefits. Further down you give one of the reasons being that the person did not obtain a ‘departure certificate’. It is the departure certificate that I am interested in. Is that an informal arrangement or is it a formal document that the person intending to go overseas who is on a benefit can obtain?

Mr Lamphee—Yes, it is a formal document. The client or the pensioner will go to a regional office of the department anywhere in Australia, fill out the form and give us the details of their impending travel overseas. If they are going to go for longer than 12 months, there are different modules that need to be completed. Those modules are completed by the regional network with the client and the customer and they are sent here to the International Operations Branch in Hobart. If the period overseas is going to be less than 12 months, the regional officer retains the document. It is a formal document; it is signed by the customer.

Senator HOGG—Is this document available through travel agents as well?

Mr Lamphee—No, it is not; it is only through the Department of Social Security regional network.

Senator HOGG—Would it assist if it were available through travel agents?

Mr Lamphee—It could be. One of the areas that we are looking at at the moment is a re-engineering exercise to try to simplify some of the processes in relation to the pensioners that are travelling overseas. That could well be an option that the department may look at in the future.

Senator HOGG—It just seemed to me that the wider the publicity on this, the better it would be for your department.

Mr Lamphee—Sure.

Senator HOGG—What about the availability of this form through DFAT itself?

Mr Lamphee—Actually, the pensioner should complete it before they leave Australia. The idea is when they advise the department either through the teleservice centre network or through the regional office network, the pre-departure certificate and the various modules associated with that are completed. These are people living in Australia, going overseas, so that the DFAT post would not really need them.

Senator HOGG—Thank you.

CHAIR—There are no further questions, Mr Lamphee. I might just add that my experience of trying to use an automatic teller machine overseas last year was not all that successful.

Senator HOGG—You have got to have some money.

CHAIR—But I am sure, with technology the way it is, those small problems can be overcome. Are there any further comments you wish to add before we close this part of our hearing?

Mr Lamphee—No, I have no other further comments. As I mentioned at the start of the discussion, the department's submission covers the points that were raised in the DFAT paper.

CHAIR—Yes, it certainly does; the information in the written submission is both extensive and will be of valuable use for our report. I would like to thank you, Mr Lamphee, for your time this morning in speaking to the committee.

[11.53 a.m.]

RYAN, Mr Paul, 42 Mackerras Crescent, Theodore, Australian Capital Territory

CHAIR—I welcome Mr Ryan to the hearing this morning. In what capacity are you appearing before the committee?

Mr Ryan—In a private capacity.

CHAIR—Thank you. The committee prefers that all evidence be given to the hearing in public but if at any stage you wish to give any part of your evidence in private, you may make such a request and the committee will consider it. I now invite you to make some opening comments to the committee, following which we will proceed to questions.

Mr Ryan—The opening comments are along the lines of the case from the start?

CHAIR—You can make whatever comments you wish that are relevant to the terms of reference. I note you have not put in a written submission, so feel free to canvass whatever issues you would like to raise before us and we will take it from there.

Mr Ryan—The basis to this, of course, was that I was working in the consular section of the Department of Foreign Affairs and Trade at the time that the Maresh case came about, and being one of the case officers in the section I was handed that case to proceed with. Right up until recently when I was contacted by the officers of this area I did not believe that there was any concern with the case on the consular side of things, apart from Mrs Maresh's concerns about the handling by the AFP, or what she believed our handling should be on investigative matters in Indonesia by Australian authorities.

CHAIR—Have you read the evidence that has been given to the committee by the Maresh family?

Mr Ryan—Yes, I have.

CHAIR—We had further evidence this morning from officers of the Australian Federal Police in which, amongst other matters, they also made some comments on the Maresh case. You will have an opportunity to read the *Hansard* transcript from this morning's hearings. If there is anything further that you want to add you could write to us in due course. What was your position at the time of the death of Ben Maresh? What position did you hold within the department?

Mr Ryan—I was a consular officer in the consular section of the department in Canberra.

CHAIR—Based in Canberra?

Mr Ryan—Yes.

CHAIR—How long had you been with the department?

Mr Ryan—At that stage?

CHAIR—Yes.

Mr Ryan—Twenty-eight years.

CHAIR—Right, and how long had you been in the consular section?

Mr Ryan—In Canberra, approximately 12 months, but I had been serving overseas as a consul for about 10 to 12 years.

CHAIR—What sort of training is provided to consular officers and other DFAT officers to handle families, particularly families or relatives who may find themselves in distressing situations because of the death or kidnapping or illness or whatever of a family member overseas?

Mr Ryan—The basic training is as a vice-consul overseas or as a junior officer in the department where you would be working to a senior consular officer either at the post or the department. You do receive training at training courses given by experienced consular officers in the department and overseas. Of course, a lot of the knowledge that you pick up is through practical issues on the case itself, under direction as a junior officer and then you progress.

CHAIR—Were you assigned, specifically, in the Maresh case to be in contact with the family or take their calls?

Mr Ryan—Yes, and the reason I was assigned to it was that I was responsible for the Indonesian area. There were four of us at the same level who were all given geographical areas to look after and Indonesia was part of my geographical area so automatically I would be looking at the cases that happened in Indonesia.

CHAIR—Given the length of time you had been in the service, I assume that you had previous situations where you had to deal with families in not dissimilar situations.

Mr Ryan—Yes, there were numerous cases.

CHAIR—Okay. Mr Sam Maresh claims that he spoke to you on 8 April and alleges that you said to him that the department could not be of any assistance because the

death had occurred in a foreign country. Would you like to respond to that allegation?

Mr Ryan—Basically, I am amazed. On a daily basis I am talking to families in the same situation. Our first responsibility is to get any body of an Australia citizen that dies overseas back to Australia as expeditiously and discreetly as possible and then hand the body over to the family. We are doing this every day. His claim that I said we do not look after Australians that die overseas was rather strange. There is obviously a lot of emotion in there.

CHAIR—It would seem to be an amazing response. Can you recall that discussion and elaborate upon Mr Maresh's comments to you and so on?

Mr Ryan—I can recall most of it. Of course, this did happen about two years ago I believe, but I did receive a call initially from our embassy in Jakarta advising of the death of the Maresh boy. I spoke to Mrs Maresh, advising her of the incident. The son did call me. I recall him speaking to me on the phone and asking me what was to be done, and I said the first thing we can do is to get the body back to Australia. But very closely following that phone call arrangements were put in place by Mr Maresh, who had the body flown out through Darwin, in fact, very quickly after that phone call before we could make any arrangements for the body to be returned. It was done privately.

CHAIR—Mr Maresh also claims that you spoke to him by telephone later that day and stated that rather than the body be brought back to Australia, it should be cremated in Indonesia.

Mr Ryan—No, what we always do—and in this case there was no difference—I gave the family the option of cremation at the country or return of the body through quarantine back to Australia. The family always had that option. That was an option given to the Maresh family. But before we could make any movement at all, or any decision had been made by the family, the father had arranged for it to be privately brought back.

CHAIR—For what length of time was it placed in quarantine?

Mr Ryan—It does not go into quarantine. That in fact, is mentioned I notice by the Maresh brother. We arrange for it to be passed through quarantine in Australia through the Department of Health. We contact the Department of Health advising them of the body being returned to Australia and asking them for their clearance so that when the body does arrive in Australia it goes straight through.

CHAIR—So it is not actually retained.

Mr Ryan—It is not quarantined as such.

CHAIR—Is that a common sort of misunderstanding—that people think that if a

body is brought back it is to be kept in quarantine for a period of time?

Mr Ryan—No, I did not find that at all because the two options the family have is that they will arrange the transportation of the body back to Australia or the Department of Foreign Affairs would do so on their behalf. When we do so on their behalf, the embassy or the representative at that country makes initial arrangements for the embalment et cetera through the undertakers. When they give us a date and time of a flight, we contact Health in Australia for it to be processed immediately on arrival through quarantine. That is explained to the family at all times of a death.

CHAIR—Thank you.

Senator TROETH—Just going on with that and your discussions with Sam Maresh, he has also stated that you instructed his family not to talk to the media as that would jeopardise the chances of finding out exactly what had happened to Ben. Do you recall that conversation?

Mr Ryan—At no stage did I say that.

Senator TROETH—So you do deny that also?

Mr Ryan—We never say that.

Senator TROETH—So it is not the usual departmental practice to advise families not to talk to the media?

Mr Ryan—Not at all. If it is, I was not following it.

Senator TROETH—Right. I must put this question to you also, Mr Ryan. Sam Maresh believes you were obstructionist. Do you think the level of assistance provided to the Maresh family was adequate?

Mr Ryan—Yes, we offered to look after the body, in the same process we would look after any other body at all. There were steps taken by the Maresh family to have the body returned earlier so we did not get involved in that.

Senator TROETH—So that was their private decision to do that?

Mr Ryan—It was the father's decision at the Indonesian end to take those arrangements in hand through Darwin because he had contacts there, apparently. I was also advised by Mrs Maresh not to talk to any other member of the family, only her, and that is all I did do, apart from when the son rang us. I did not initiate any phone calls to any other member of the family.

Senator TROETH—So Sam Maresh initiated the phone calls to you on each occasion?

Mr Ryan—Indeed.

Senator TROETH—Right, thank you.

Senator HOGG—I have a further question. We had some evidence given to us some months ago now from, I think, the Funeral Directors Association. Their representative gave evidence regarding some of the difficulties that they run into with the return of bodies to Australia. One in particular was the costs that people have to meet. Of course, returns may be arranged privately as well. Would you like to comment on that situation? Do you come across cases frequently where there is a large cost involved and the family may not be able to meet that? What assistance, if any, does the department give in making those arrangements?

Mr Ryan—Those details are mentioned in most cases of death overseas. That is why I raised that particular point with the Maresh family of the cremation in Jakarta, which was an option, or the return of the body. When we do mention that, we point out that the cost of the return of a body is quite large, and that you have to pay for the coffin, embalming, et cetera. Depending on which country the body is coming back from, those costs vary quite considerably.

The option of cremation in the country is a private matter which they have, and it is a lot cheaper because you do not have the transportation and embalmment costs, et cetera. Those points are virtually always made to families where deaths occur overseas, but it is very much a private matter for that family to determine which way they want to go. The difference in costs is explained to them.

CHAIR—Finally, has there been any liaison between the department and the Funeral Directors Association—that may not be its correct name but the industry, if I can call it that—in trying to look at ways of handling some of these particular difficulties that may arise?

Mr Ryan—There is regular liaison, in fact, with the consular section of the department and funeral directors in Australia, who also liaise with funeral directors overseas—sometimes, of course, they are tied up in a business connection—in asking them what avenues there are to arrange probably cheaper methods, et cetera. But most of the time the countries that we deal with overseas have their own methods and procedures, and then it is entirely up to the family to make a decision.

It is very hard for us—and I am probably touching on departmental policy here—to negotiate for cheaper prices when it is a government body talking to a private firm. I would imagine that some private funeral directors could say, ‘Yes, we will do it at such and such a cost to the family, but the balance is borne by the department.’ I do not know

what Foreign Affairs would say to that!

CHAIR—I am not sure what the minister would think either.

Senator TROETH—I would like to clarify a couple of things. You are not working now for the Department of Foreign Affairs and Trade, Mr Ryan?

Mr Ryan—That is right. I took a redundancy package in October 1995.

Senator TROETH—And you are here because the committee approached you to clarify the events to which Mr Maresh alluded?

Mr Ryan—That is correct.

Senator TROETH—Thank you.

CHAIR—Thank you, Mr Ryan, for coming along this morning. As I said, we will forward to you a copy of the transcript of this morning's evidence given by the Australian Federal Police which did in part relate to the Maresh case. I do not think anything necessarily arises out of it that you may need to comment on, but you certainly are entitled to comment if there is something there that you did touch upon in your evidence.

Committee adjourned at 12.09 p.m.