
Joint Select Committee on the Christmas Island Tragedy

AFP Submission

April 2011

Introduction

The Australian Federal Police (AFP) response to the Suspect Illegal Entry Vessel (SIEV) 221 and subsequent investigation into the incident is known as Operation Pallarenda. Operation Pallarenda involved the AFP's International Deployment Group (IDG), Crime Program, Operations Coordination Centre (AOCC), Forensic and Data Centres (FDCs) and Health and Wellbeing Services. The AFP will be able to assist the Committee further through participation in public hearings and the provision of in-camera evidence.

Operational responses of all Commonwealth agencies involved in the response, relevant agency procedures, and inter-agency coordination

Overview

The AFP has been involved with local Australian Customs and Border Protection Service (ACBPS) members, other Commonwealth agencies and the Christmas Island community in both the immediate and extended responses to the incident. The responses included the initial response, the search, rescue and recovery operation, disaster victim identification, support to the WA Coroner and the AFP criminal investigation into SIEV 221 and the repatriation or burial in Australia of the deceased.

Initial response

Witnesses first saw SIEV 221 heading towards Rocky Point at approximately 5.40 am on Wednesday 15 December 2010. Around the same time the AFP AOCC in Canberra received information from a member of the public on Christmas Island and went about contacting AFP members on the Island and the Border Protection Command. When first seen the vessel was still under power but in heavy seas and strong winds. In response, Christmas Island police, Volunteer Marine Rescue (VMR) members, Customs officers and residents came to Rocky Point to provide whatever assistance they could from the shore under the direction of the AFP Officer in Charge (OIC).

This initial response involved attempting to throw life jackets and lines to the stricken people on SIEV 221 and in the surrounding water once it ran aground. This assistance continued until craft arrived from Naval and ACBPS vessels to provide on water rescue. At this time the AFP OIC and the Christmas Island Administrator declared a state of emergency. The Christmas Island Emergency Management Committee was convened to coordinate the ongoing search and rescue operation. The AFP OIC assumed overall control of the incident response. This first meeting worked through the initial requirements for providing medical assistance to the injured rescuers and survivors, recovering the bodies of victims, establishing a temporary morgue, investigating the incident and continuing with the search for survivors and victims.

As Territory Controller, the AFP OIC held the search and rescue responsibility from 8.00am on 15 December 2010 until it was handed over to the Australian Maritime Safety Authority (AMSA) later in the day. The AFP OIC was in regular contact throughout the day with AMSA Rescue Coordination Centre to review search coordination arrangements. As the nature of the search changed to focus on searching the debris at sea and the surrounding sea area, AMSA assumed control of the search and rescue from the AFP by agreement at 7.38pm on 15 December 2010. The AFP OIC maintained overall control of incident response.

Search, rescue and recovery operation

The AFP was immediately allocated the lead for Operation Pallarenda. An Operation Commander was identified and immediate action taken to deploy a Police Forward Commander (PFC) and additional resources to Christmas Island to assist in managing the rescue and recovery phases of the incident.

The PFC was on Christmas Island within 24 hours to lead all land based aspects of this incident including supporting the coronial investigation. AFP People Smuggling Strike Team (PSST) resources and Christmas Island police resources on island were seconded to support the Forward Command Post. The PFC brought with him 39 personnel including AFP Disaster Victim Identification (DVI) members, Western Australian Police (WAPOL) investigators, pathologists from Pathwest, WAPOL Forensic and Disaster Victim Identification (DVI) members, Search and Rescue members, Customs officials as well as counsellors.

The Senior WAPOL officer, a search and rescue specialist, was sworn in as an AFP special member that morning and appointed the Search and Rescue Mission Co-coordinator, replacing the AFP OIC in this role. He met with the Christmas Island Volunteer Marine Rescue and for the next three days coordinated the search for survivors, recovery of 2 further deceased persons, recovery of property and the location of the SIEV 221 motor underwater. He reported daily to the AFP PFC concerning all activities. Under his command, AFP members conducted shoreline searches for deceased people, debris and any other relevant material. AFP members also assisted local divers contracted to undertake searches at sea.

AMSA ceased its search on 17 December 2010 and handed control back to the AFP on Christmas Island. The recovery phase of the operation continued until Sunday 19 December 2010. At the completion of search, rescue and recovery operations 42 survivors, including the survivor who got ashore at Rocky Point and 3 Indonesian crew, were rescued and 30 deceased were recovered. The missing person list currently (14 April 2011) records 20 people missing based on witness accounts. All persons recorded missing are presumed dead.

From 16 December 2010 until 5 January 2011, the PFC managed:

- Support to Australian Maritime Safety Authority (AMSA) coordination of water based search and rescue;
- the WAPOL search and rescue team,
- the interviewing of survivors by AFP and WAPOL,
- the DVI process using Pathwest, AFP and WAPOL resources
- the people smuggling investigation, and
- the interviewing by AFP and WAPOL members of witnesses from Christmas Island (including police), Australian Customs Vessel Triton and HMAS Pirie.

Ongoing interagency coordination on Christmas Island by the PFC was maintained through regular meetings with:

- WAPOL, Department of Immigration and Citizenship (DIAC), CI Administrator, Department of Regional Australia to address progress of investigation, movement of survivors, welfare of survivors, and the DVI process and repatriation of bodies;
- WAPOL and VMR about the conduct of the ongoing search and rescue; and
- AFP and WAPOL investigators about coronial and people smuggling investigations.

Support to WA Coroner

The PFC also fulfilled a liaison function between AFP and the WA Coroner's Office until 29 December 2010, at which time a full time AFP representative was appointed for that purpose.

At the commencement of the criminal investigation, AFP investigators provided support to the WA coronial investigation in the form of witness and victim interviews and statement preparation whereby statements were compiled with a dual purpose in mind, and in some cases where the rules of evidence led to such a requirement, two separate statements were obtained from the same witness for coronial and criminal prosecution purposes respectively.

Identification of deceased victims

The AFP forensic personnel undertook the lead role in the DVI process shortly after arrival on Island after discussions with the WAPOL and the Western Australia State Coroner. DVI specialised equipment was airlifted from Darwin to Christmas Island on 17 December 2010.

The AFP approached the DVI process in line with the internationally accepted Interpol protocol and standards set out by the Australasian DVI Committee of the Australia New Zealand Policing Advisory Agency (ANZPAA).

On 17 December 2010 the WA Coroner issued a letter of expectation to the Western Australian Police advising of his jurisdictional requirements and specific directions regarding the Coronial Investigation. This included that internal post mortems were not required therefore bodies would not be moved to the State mortuary facilities (Pathwest) in Perth.

Initial directions from the WA Coroner that visual identification would be accepted as a means to identify a victim was subsequently reconsidered. The Coroner agreed to allow for the Interpol DVI standards for identification to be applied, that is the requirement in the first instance, for a primary identification of DNA, fingerprints or dental. Burials were to occur after consultation with the deceased's family. To help ease the trauma on families of victims, the AFP sought guidance from religious and community leaders in relation to addressing this issue in accordance with religious observances. The AFP also sought assistance from religious leaders to assist in locating Australian based relatives of deceased or missing persons and to maintain a communication link with the religious community via the Islamic Radio Network.

All 30 bodies were formally identified by the WA Coroner based on the DVI processes coordinated by the AFP. This was completed on 3 March 2011.

Criminal investigation

Following the initial search and rescue operation, a supplementary AFP investigations team was deployed to Christmas Island on Monday 21 December to oversight all aspects of the criminal investigation, provide liaison to the Coroner and WAPOL.

In addition to the PFC deployed to Christmas Island, an Investigation Manager and Case Officer were tasked with coordinating the criminal investigation, and providing assistance to the coronial investigation where appropriate.

Three alleged crew from SIEV 221 were arrested on 24 January 2011 and charged with facilitating the bringing to Australia a group of five or more persons, contrary to Section 233C of the *Migration Act 1958*. All three men appeared before the Perth Magistrates Court on 15 February 2011, at which time they were remanded in custody to reappear for a committal mention on 12 May 2011.

On 25 January 2011, the alleged main organiser of SIEV 221, an Iranian native who was granted Australian Citizenship in 2003, was detained by the Indonesian National Police for overstaying his Indonesian visa. On 28 January 2011, an arrest warrant was issued in Perth for this person for offences contrary to sections 233A and 233C of the *Migration Act 1958* relating to SIEVs 169 and 221.

Repatriation/burial of victims

On 24 December 2010 the WA Coroner advised the AFP that repatriation was a matter for the Commonwealth, given that Christmas Island is a Commonwealth Territory. The AFP appointed a Repatriation Commander to address the need to either bury the deceased within Australia or repatriate them. This role was complementary to the AFP's lead in respect to Disaster Victim Identification.

On 12 February 2011, all 30 deceased were transported from Christmas Island. 13 deceased still then unidentified were taken to Perth to be placed in the custody of the Coroner. 17 identified deceased were conveyed to Sydney. Logistically, this was the more efficient and cost effective manner to transport the 17 deceased, as eight were to be buried in Sydney and the remaining nine were to be flown to Iraq and Iran. On 15 February 2011, at the request of the next of kin, three Islamic Shiite and five Christian Protestant deceased were buried in Sydney according to their religious practices. On 23 February 2011, two deceased were repatriated to Tehran, Iran. On 4 March 2011, two deceased were repatriated to Baghdad, Iraq. On 11 March 2011, five deceased were repatriated to Baghdad, Iraq.

Once the 13 deceased located in Perth were formally identified the following repatriation occurred. On 15 March 2011, seven deceased were repatriated to Tehran, Iran. On 16 March 2011, six deceased were repatriated to Tehran, Iran.

Communication mechanisms, including between Commonwealth and State agencies;

In addition to participating in the whole of Government communication processes, the AFP stood up an Incident Coordination Centre (ICC) to support Operation Pallarenda. Communication lines were established between the PFC and the ICC for the purpose of taskings, reporting and operational support and coordination. Situation reports were distributed daily from the ICC to all Commonwealth and State.

The AFP FDC established a DVI Coordination Centre (attached to the ICC) to coordinate all DVI activities. The AFP Forensic and Data Centres established a DVI Reconciliation Centre in Perth which included personnel from the Western Australia Police Service.

AFP Forensic Operations (DVI) personnel liaised closely with the WA Police, WA Coroner's Office, Dept Immigration and Citizenship (DIAC), Dept of Foreign Affairs and Trade (DFAT), Embassy of Iran in Canberra, Australian Embassy in Tehran.

The Repatriation Commander liaised closely with DIAC, DFAT, WA Police, WA Coroner's Office, Australian Defence Organisation (Logistics), Christmas Island Administrator, Australian Quarantine Inspection Service (AQIS), Commonwealth Dept of Health and Aging (DHA), Islamic Community leaders in Sydney, Iraqi and Iranian Embassies in Canberra, Iraqi Consulate (Sydney), Australian Embassy in Tehran.

Relevant onshore emergency response capabilities on Christmas Island

The AFP OIC on Christmas Island is the Territory Controller under the Christmas Island Emergency Management Plan. The Christmas Island Emergency Management Committee meets monthly and conducts regular desk top and field exercises.

During the course of the response to the SIEV 221 incident on 15 December 2010 the AFP OIC considered the use of the AFP MV *Colin Winchester* but based on his assessment of the sea conditions at the time, he concluded that any attempt to launch the vessel would be unsuccessful and seriously risk the lives of the crew.

On 15 December 2010, the MV *Colin Winchester* was also the subject of AMSA limited use restrictions due to a number of deficiencies identified by AMSA. Nonetheless, AMSA had no objection to the vessel being used in an emergency situation, to protect life when no other options were available and subject to operating restrictions. Even if there were no restrictions on the use of the vessel on 15 December 2010, the sea conditions were such that the vessel could not have been utilised. Pending resolution of the defects to the *Winchester*, the IDG deployed an alternative vessel to Christmas Island. This vessel arrived on Christmas Island on 29 March 2011. The vessel will remain on Christmas Island for as long as necessary while a solution for the delivery of longer term maritime capability is explored.

The after-incident support provided to survivors

The AFP provided after-incident support to survivors in cooperation with DIAC during witness interviews and the DVI process. When interviewing survivors as witnesses, the AFP ensured that:

- the statement was obtained in the presence of an interpreter and friend;
- the interview was undertaken in private;
- the witness was given time to reflect and grieve if necessary.
- where appropriate an Ante Mortem (DVI) form was completed for a deceased relative or friend; and
- access to a DIAC psychologist was available if required.

Taking this approach meant that obtaining a witness statement took up to two days per person.

Where survivors were involved in visual identification of the deceased as part of the DVI process, the responsible personnel ensured that:

- the identification process was explained;
- only the deceased's face was visible;
- the survivor was accompanied by a friend, welfare officer, or psychologist during the process;
- the survivor was given time to grieve with the deceased as required;
- the survivor was asked for their preference as to where the deceased should be buried;
- an ante mortem (DNA) sample (Buccal swab) was taken where necessary.

The after-incident support provided to affected Christmas Island community members, Customs, Defence and other personnel

AFP deployed a Welfare Officer to Christmas Island as part of the contingent. Critical incident mental health support was provided to AFP members involved in the incident, either initially as first responders or as part of the investigations that followed. Psychological support and services was also offered to all the spouses and children of Christmas Island Police in the aftermath of the incident. The AFP welfare member was also available for local citizens if required.

Ongoing emotional and psychological support was provided by the Welfare Officer to AFP members and their families for a five week period on Christmas Island during the initial deployment. All departing AFP personnel were provided with support regarding trauma and debriefed either prior to leaving the island or upon return to Australia. Follow-up support was provided from the mainland after this time.

The AFP has arranged to provide 3 to 6 month follow-up assessments. All Christmas Island Police Station personnel were followed-up on a subsequent visit to the Island by an AFP psychologist and will continue to be monitored for a twelve month period following the incident.

The Repatriation Commander engaged (through the Christmas Island Administrator) the local Christmas Island community to establish the concerns and issues of the community regarding the deceased being held on the Island.

Having regard to [above], the effectiveness of the relevant administrative and operational procedures and arrangements of Commonwealth agencies in relation to the SIEV 221 incident and its management

The AFP utilised its existing procedures and relationships to deal with the different stages of this operation, adapting procedures to deal with new processes such as the repatriation and burial of victims. From an AFP perspective key procedures included the National Guideline on Major Incident Coordination, the Practical Guide on operating the Incident Coordination Centre and the emergency response arrangements on Christmas Island.

In line with its normal practice, the AFP has conducted post operational assessments of the response phase of Operation Pallarenda. While the AFP identified a number of areas where minor improvements could be made, none of these issues negatively impacted the AFP response to SIEV 221. The AFP would be able to provide further evidence in camera.

Being mindful of ongoing national security, disruption and law enforcement efforts and the investigations referred ... to consider appropriate information from the Australian Federal Police and the Australian Customs and Border Protection Service (including Border Protection Command) to determine, to the extent that it is possible, the likely point of origin of the vessel

AFP investigations have revealed that the vessel identified as SIEV 221 originated from Muara Angke, a harbour in north Jakarta. The vessel was navigated to the western end of Java where it collected the three crew members who later survived the incident at Christmas Island. A 4th crew member was already aboard. The vessel then continued travelling in a south westerly direction and when it was near Palau Panaitan, an island situated off the south west coast of Java, passengers were embarked from smaller boats during the night of 12 December 2010. SIEV 221 was then navigated to a point some 10 hours from Christmas Island where the 4th Crew member disembarked to a smaller boat and returned to Indonesia.