



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT SELECT COMMITTEE ON THE CHRISTMAS ISLAND
TRAGEDY

Incident of 15 December 2010

MONDAY, 6 JUNE 2011

CHRISTMAS ISLAND

BY AUTHORITY OF THE PARLIAMENT

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JOINT SELECT COMMITTEE ON THE CHRISTMAS ISLAND TRAGEDY

Monday, 6 June 2011

Members in attendance: Senators Cash, Crossin, Fielding, Hanson-Young and Marshall and Mr Champion, Mr Husic, Mr Keenan, Mrs Markus and Mr Perrett.

Terms of reference for the inquiry:

To inquire into and report on:

The incident of 15 December 2010 in which an irregular entry vessel foundered on rocks at Rocky Point on Christmas Island, including:

- (a) operational responses of all Commonwealth agencies involved in the response, relevant agency procedures, and inter-agency coordination;
- (b) communication mechanisms, including between Commonwealth and State agencies;
- (c) relevant onshore emergency response capabilities on Christmas Island;
- (d) the after-incident support provided to survivors;
- (e) the after-incident support provided to affected Christmas Island community members, Customs, Defence and other personnel;
- (f) having regard to (a) to (e), the effectiveness of the relevant administrative and operational procedures and arrangements of Commonwealth agencies in relation to the SIEV 221 incident and its management; and
- (g) being mindful of ongoing national security, disruption and law enforcement efforts and the investigations referred to below, 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.

The committee should have regard to and be mindful of independent parallel investigations into the incident including the investigation by the State Coroner of WA and investigations by the Australian Federal Police, and conduct its inquiry accordingly.

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GRANT, Mrs Marion, Deputy Chief Executive Officer, Australian Customs and Border Protection Service

LIVINGSTONE, Lieutenant Commander Mitchell Robert, Commanding Officer, HMAS *Pirie*, Navy, Australian Department of Defence

O'DONNELL, Mr Rodney, Director Enforcement Operations, Western Region, Australian Customs and Border Protection Service

PICKETT, Mr Myles William, District Manager, Christmas Island, Australian Customs and Border Protection Service

RYAN, Superintendent Gavan, International Deployment Group, Australian Federal Police

SAUNDERS, Mr Mathew David, Customs Supervisor, Australian Customs and Border Protection Service

STOKER, Captain Nicholas James Barnson, Commander Mine Warfare, Clearance Diving, Hydrographic, Meteorological and Patrol Force, Australian Defence Force

SWANN, Sergeant Peter, Officer in Charge, Christmas Island, Australian Federal Police

WATSON, Mr James, Manager, Australian Peace and Stability Operations Centre, Australian Federal Police

WHOWELL, Mr Peter, Manager, Government Relations, Australian Federal Police

Committee met at 13:00

CHAIR (Senator Marshall): I declare open this hearing of the Parliamentary Joint Select Committee on the Christmas Island tragedy. A second hearing will be held tomorrow at which Christmas Island residents will have an opportunity to provide evidence. To ensure the orderly and efficient conduct of the hearing, residents who wish to provide evidence to the committee should approach a member of the committee secretariat today.

I advise witnesses that although the committee prefers all evidence to be given in public, requests to give part or all of your evidence in camera will be considered. Evidence taken in camera may, however, subsequently be made public by order of the Senate or by order of this committee. I also remind witnesses that giving false or misleading evidence to the committee may constitute a contempt of the Senate.

Before the committee starts taking evidence, I advise that all witnesses appearing before this committee are protected by parliamentary privilege with respect to their evidence. This gives them special rights and immunities because people must be able to give evidence to committees without prejudice to themselves. Any act which disadvantages a witness as a result of evidence given before the Senate or any of its committees is treated as a breach of privilege. If anyone would like more information about parliamentary privilege please let a member of the secretariat know and they will be able to assist you.

If a witness objects to answering a question, the witness should state the ground upon which the objection is to be taken and the committee will determine whether it will insist on an answer, having regard to the ground that is

claimed. If the committee determines to pursue an answer, a witness may request that the answer be given in camera. A witness called to answer a question for the first time should state their full name and the capacity in which they appear, and witnesses should speak clearly into the microphones to assist the recording of proceedings.

Before we begin I would ask all participants in the inquiry, and those witnessing the inquiry, to either switch their mobile phones to silent or to switch them off. I now welcome representatives of the Australian Federal Police, the Australian Customs and Border Protection Service, and the Australian Defence Force, and thank them for joining us today. I note that the Senate has resolved that an officer of a department of the Commonwealth or a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy, and does not preclude questions asking for explanations of policies, or factual questions about when and how policies were adopted.

CHAIR: Mrs Grant, I understand that you will make some opening remarks to the committee on behalf of the three agencies and that will be followed by questions.

Mrs Grant: Thank you, Chair. On behalf of the Australian Federal Police, the Australian Defence Force and the Australian Customs and Border Protection Service, I thank the committee for providing us with this further opportunity to appear jointly to give evidence at today's hearing on Christmas Island.

As we expressed at our hearing in Canberra on 27 May, we reiterate our sadness over the tragic loss of life suffered at Christmas Island on 15 December 2010, and the bereavement of relatives, friends and the community. Customs, AFP and Defence express our sincere condolences and sympathies to the loved ones of those who died in the shipwreck of the vessel now known as Suspected Irregular Entry Vessel—SIEV—221. We acknowledge all those who risked their own lives to save the 42 survivors: all those on board ACV *Triton* and HMAS *Pirie*, and particularly the personnel who navigated their small vessels in such treacherous seas amongst the debris of the shipwreck and close to the very rocks that had destroyed SIEV221. They put the lives of those on board SIEV221 before their own. This was nothing short of heroic, and all these officers should be recognised for their professionalism and bravery. We also acknowledge the brave actions of the Christmas Island community, including our officers stationed here who, at great risk to themselves, supported the rescue efforts on the day and continued to work tirelessly in the days following the tragedy.

Today I have some of those officers with me. Further to the officers at the table we have Mr Myles Pickett, the district manager of our Indian Ocean territories office of the Customs and Border Protection Service. He plays a key role in coordinating back with our Customs national operations centre and the Australian Maritime Security Operations Centre back in Canberra. Myles was a part of the community rescue efforts on the cliff face at Rocky Point last year. Lieutenant Commander Mitchell Livingstone has introduced himself. He was the commanding officer of HMAS *Pirie* but he had also had on-scene command for the at-sea rescue on 15 December. Mr Mathew Saunders, the Customs and Border Protection enforcement commander on board the Australian Customs vessel—ACV—*Triton*, had operational command of that vessel, including the responsibility for the deployment and operations of the tenders and their crews during the on-water rescue efforts. Mr Rodney O'Donnell is also with us; he is the director of our enforcement operations, Western Australian region, with responsibility for the oversight of the Customs and Border Protection functions in the Indian Ocean territories. He deployed to Christmas Island on the night of 15 December to support recovery actions. We also have with us Sergeant Peter Swann, the AFP officer in charge on Christmas Island, who was also part of the community rescue efforts on the cliff face at Rocky Point. We have Superintendent Gavan Ryan, the police forward commander who was deployed to Christmas Island on the night of the tragedy to manage the post-incident operations. We have Captain Nicholas Stoker, Commander Mine Warfare, Clearance Diving, Hydrographic, Meteorological and Patrol Force, who is responsible for provision of mission-ready patrol boats and their crews, representing Navy. And we have Mr James Watson, Manager Australian Peace and Stability Operation's Centre, International Deployment Group, who was responsible for the provision of additional support arrangements on the day of the tragedy.

These officers will be able to give you a firsthand view of their operational responses on the day and their subsequent actions in the following days. The witnesses today will provide you with as much information as they can, while being mindful of the ongoing coronial and criminal proceedings. At our hearings in Canberra on 27 May the committee was asking us questions about the launch and recovery of the RHIBs and tenders from the mother ships. I am pleased to invite the committee, if it would assist you in your deliberations, to take the opportunity to be launched and recovered from one of the Armidale-class patrol boats that is here patrolling at Christmas Island at the moment. If there is an opportunity, the committee is very welcome to experience the launch and recovery procedures. Thank you.

CHAIR: Thank you for the invitation. The committee will give some consideration to that and we will let you know shortly. Is there someone who can outline to us terms of reference (b), which is communication mechanisms, including communications between Commonwealth and state agencies on the day? Is there someone who can take us through the first point of contact made with the vessel and then what actually happened in terms of bringing each agency in and when each agency got involved in the course of the rescue effort?

Mr Watson: I might ask Superintendent Ryan, who is the AFP member who took the overall responsibility for the post-incident activities, including the investigations, to see if he can assist the committee.

Supt Ryan: I have prepared a report for the Western Australian coroner. I can read that out to you. About a page of that report goes through in sequence what actually happened.

CHAIR: Has that report already been tendered in evidence to this committee?

Supt Ryan: Not that I am aware of.

CHAIR: Is it able to be?

Supt Ryan: Here?

CHAIR: Yes. Are you able to table the report you prepared for the coroner to this committee?

Supt Ryan: I will just check with the coroner, but I see no reason why you cannot have it.

CHAIR: If you could take that on notice, thank you.

Supt Ryan: The first notification of the incident occurred at about 05:40 in the morning from off-duty Customs officers et cetera. Then there was a chain of phone calls that occurred between various people that led to a number of people attending to the site of the tragedy. At about 06:00 hours Sergeant Peter Swann, who is the sergeant behind me, received a number of telephone calls from his members advising him that a SIEV was near the rocks off Christmas Island. Sergeant Swann then had a conversation with Les Jardine, a Customs on-call officer who advised that the Navy were being contacted to attend. At approximately 06:25 hours Sergeant Swann telephoned Christmas Island hospital and advised that there was a SIEV in the water and requested that the staff be on standby. At 06:29 Sergeant Swann had a further phone call with Les Jardine about the attendance of the Navy, and he advised that they were on their way from the Ethel Beach side of the island. At approximately 06:30 Sergeant Swann advised that he had arrived at Golden Bosun, which you will see today. There were a number of other police already in attendance as well as a lot of local volunteers from the volunteer marine rescue and just passers-by who came down to help. Sergeant Swann contacted the Navy Northern Command centre and advised that SIEV221 was foundering. There is a log in existence that goes through each particular of who contacted whom, which we can make available, I am sure. It goes through it in a time sequence. It is a combined log of AFP, Customs and anyone else that rang in on the day.

CHAIR: The committee would appreciate that, if it has not already been tendered into our evidence.

Supt Ryan: No, it has not. I should be able to download it tonight.

CHAIR: That is all right. As long as you can get it to the secretariat in due course, that will be fine.

Supt Ryan: Then the tragedy occurs in front of everyone and, by eight o'clock, Sergeant Swann meets with Brian Lacy, who will be here later in the day, and they declare basically a state of emergency and a lot of things flow out of that. The hospital is set up. There is a refrigerated container placed there for the storage of the deceased. A huge community effort is undertaken on that particular day, with every agency on island involved. Then it just escalates. We come in at one o'clock the next morning and it becomes bigger and bigger. I can go through that if you wish.

CHAIR: I think we will draw some of those issues out, most likely, in some questions. If not, we might put the question on notice to get some more specific detail on that.

Mr KEENAN: In terms of the officers who were present and responded to the tragedy, what support have they received after the incident?

Supt Ryan: From an AFP point of view, we had a psychologist fly on the plane with us, arriving at 1 am on the 16th. She remained here for a month debriefing all AFP plus a lot of other agencies and some members of the community. That is followed up, dependent upon the nature of what they saw and did not. I will be quite upfront: there are some very badly wounded souls with some terrible memories seared into their brains, and I do not think closure will ever occur. They were within two feet of grabbing someone and that person dies—that type of thing. It is a very big, ongoing process within the IDG. Coincidentally a psych had just left the island prior to this tragedy occurring, and the new one that came in was very familiar with everyone. We had a psychologist from Customs on the plane, who we hired and who came in on the 16th, and she treated Customs and Border Protection

Triton and *Pirie*, from memory, as well, during the initial three or four days of the event—very hard work. We provided separate accommodation so that there could be privacy for the psychologist and the patient, and a lot of ongoing treatment relative to the trauma, if I could put it that way.

Mr KEENAN: How many officers were there that responded at the time?

Supt Ryan: There were eight on Christmas Island, and all eight attended—that is AFP, but from Customs et cetera there would be many more, as well as off-duty people, people from the island, 50 to 60 people on the rocks trying to save people and tying rope to each other so that the person on the end, who was Peter, could reach out and try to grab people or pass various life jackets, that type of thing. I have not got an exact number who were at the actual scene—I could go away and find out by a process of elimination—but there were quite a lot.

Mr KEENAN: But there were eight officers on the island at the time?

Supt Ryan: Correct. There are eight uniformed community policing officers. We have a further 19 in the People Smuggling Strike Team, as we call them, who work out of the IDC up at North West Point, processing crew members. The majority of them came down as well. So you have the community police, who are here full time, and the People Smuggling Strike Team, who are here for, usually, six-week rotations. They all came down and assisted in one way or another, either there or they were sent up to Ethel Beach to recover the survivors who did not want to get back in the water, so there were quite traumatic scenes down there, and then to recover the deceased that were in the particular RHIBs and bring them in one way or the other.

Mr KEENAN: In terms of the response on the day—and this is not to suggest that anything went wrong or people did the wrong thing—with the benefit of hindsight, looking back, what lessons would the AFP take from the experience if a similar sort of incident were to occur in the future?

Supt Ryan: The biggest lesson I got was that the cruel sea won. It was such a dramatic day. There was a combination of events—the boat coming in without us knowing it was there. There are many lessons. In any event, any critical incident, there are always things you can do better. You could have called this person earlier or you could have notified that person earlier—that type of thing—but from my point of view the biggest lesson we learned was the power of the sea. One of the special members we have here actually runs a business, mainly of tourism—diving and fishing—and he thought he had seen it all, and he was gobsmacked. He just could not believe the power. That is probably it in a nutshell, for me.

Mr KEENAN: Chair, I do not have any further questions for the police.

CHAIR: Okay. Superintendent, when were you able to determine how many people were aboard vessel 221?

Supt Ryan: That took us weeks. We knew how many deceased we had and we knew how many survivors we had. There were 42 survivors and 30 deceased. The process of identifying who was actually missing was very complicated. In some cases a wife, a husband or a child could say, 'Mum and Dad are missing,' or 'This person is missing,' and it would be relatively simple, but then you would have other people who had been on the boat, had met a person for the first time when they got on the boat and had been given a false name by the person who was missing because they do not like to tell others their identity. So we basically had a huge spreadsheet of all the possibilities and then worked it through. There was a hotline established back to Tehran and Baghdad et cetera to try and match the information that we got from the hotline with the information we got from the survivors. It could take three or four days just to get a statement from a survivor because of the trauma. They might have had to do a visual identification and they might have had or not had documents. It became what I call an analytical job to get that information, assess it and then work it out. That has been done and that information has been supplied to the coroner. The officers are comfortable that they have the 20 names of the 20 missing people.

CHAIR: Okay.

Supt Ryan: We were always hopeful that we would recover more bodies, and we did extensive searches, with the local divers initially. They got two bodies for us and then we had the Western Australian police come over. They searched for days, and we thought that we would get some of them from where there are caves underneath the rocky point—you will see that and you can hear it when you stand there—but it looks as if there is a washing machine-like effect. It washes them out to sea and then it drops off and goes very deep. Once they are down they just do not come up.

Mr HUSIC: Superintendent, does the 30 deceased include the 20 presumed dead, or is that 30 that are identified as deceased with another 20 that are missing, presumed dead?

Supt Ryan: That is correct.

Mr PERRETT: Returning to Mr Keenan's question, in a way, and leaving aside all of the recommendations, the new equipment, the new life buoys that can be sent out and all of those things, in the same seas tomorrow and with the equipment you had on 15 December, what could you do—when you go over those scenarios—that could

save more lives? From the footage I saw, people seemed to have been incredibly courageous to go in and try and rescue these people, almost to the point of foolhardiness. From the footage I saw, the locals and people in the vessels and the like were incredibly brave. When you play it over, is there a moment when things might have changed?

Supt Ryan: No, not for me. I am not sure about the two commanders, because they had their vessels in there.

Mr PERRETT: I would like to throw it open to the panel, if I could, Chair.

Mr Saunders: From my point of view, we were at the absolute limit of what our ship could do, so in terms of procedures or equipment there is nothing really that could be any different. What we were working with was probably beyond what it was even built for and was especially above our operational procedures. I guess in a perfect world, if you had more tenders and there had been other boats in the area, they could have been deployed and with more RHIBS in the water we could have taken more people on board, but with what we had I cannot see any changes that would have made a difference.

CHAIR: Can we can be clear about that? With the weather, were you already above your operating guidelines?

Mr Saunders: Yes, to put it in perspective, in our operational procedures we have our limit which is a sea state 3 to 4. The sea state on the day was more 7 to 8, so it was well above it. Those procedures usually get put to the side when you are talking about saving a life at sea.

Mr PERRETT: To be clear, there are inherent dangers in going outside your guidelines, but because you are balancing that against the chance of saving someone's life, you are prepared to roll that dice in the hope of saving someone's life?

Mr Saunders: Exactly, and that is the thin line of risking your life to save someone else's. I think we were right on the edge of that and I am sure Mitch would find the same.

Lt Cmdr Livingstone: Yes, I agree with that entirely. Doing nothing is not an option. You cannot sit 300 yards away and watch it unfold. It certainly was a big decision for me to send the team in knowing that they were risking their lives. I did not force them to do that. Basically my instructions at Ethel Beach were: 'Get there as quickly as you can, make an assessment and do what you can.' I am not going to tell a fellow who is sitting a metre above a seven-metre wave a metre from a cliff face to keep going. If he feels unsafe or otherwise, I rely on his good judgment and training to pull back when he has found his limit. We were at those limits, but I was relying on their judgment to make the final decision that enough was enough.

Mr PERRETT: We saw foreshortened television footage. Where do you do this training—at Wet'n'Wild's rapids? Where do you learn to stay that close? How do you even get in a training scenario where you could experience something like that? It seemed beyond training scenarios.

Lt Cmdr Livingstone: We always train for worst-case scenarios. That was beyond our training worst-case scenario.

Mr PERRETT: You must have good insurance.

Lt Cmdr Livingstone: I think it is probably hard to get insurance!

Mr PERRETT: It was outside training scenarios. I have been white-water rafting and things like that but on a tame level; this seems crazy stuff.

Lt Cmdr Livingstone: Certainly, our limits are similar to Matt's. We have our normal operational limits if we are doing boardings or boat transfers for random purposes. With safety of life, you have to take your normal limits into consideration and the risk of losing one of yours to save someone else's. It is a judgment call.

Senator FIELDING: I saw the footage at our previous hearing and the officers have to be commended for putting their lives at risk in those seas. I had seen some other bits and pieces, but I did not realise how rough and aggressive the seas were. You definitely went beyond the call of duty and should all be commended for the rescue. I do not want to speak on behalf of other committee members, but I put that on the record. Please correct me if I have got this wrong: the first sighting was at roughly 05:40 am according to the records I have. The SIEV221 crashed on the rocks, according to some of the reports, at 06:29 or 06:34. Notification of distress was given at 06:25 am. Please confirm that those times are roughly right.

Mrs Grant: I can confirm those times are accurately reflected in the Customs and Border Protection internal review. The first sighting was at 05:40 am by an off-duty officer who was visiting the island. He advised his first sighting was 05:40 and made the first phone call to the Customs district office on Christmas Island. I am looking at page 20 of that report, which is part of our submission, to see when we recorded that the vessel was in distress.

Senator FIELDING: On page 21 you have got in paragraph 90:

Between 06:29 (G) and 06:35 (G) there were numerous reports received from authorities on Christmas Island (including the Christmas Island Chief of Police and Customs and Border Protection personnel) stating that the COI had impacted the rocks ...

I think that was the crash time. Then on the following page in paragraph 92 it says:

With notification of a distress, at 06:25 ...

So I am just trying to make sure I have got those three right.

Mr Saunders: I do not know if I can help but in my log at 06:35 I have got that, '*Pirie* advised us that the SIEV has no engines and is on the rocks.' Then at 06:40 we were told through *Pirie* again that—sorry, it was not until 06:55 that we had confirmation that there were people in the water. So the first indication was about 06:35, but I received that through *Pirie*, so I am guessing that you got it a bit earlier than us.

Senator FIELDING: I will get to the question now if I can. I was just trying to make sure I had that right. The seas were extremely rough. Something is reported at 05:40. I may be wrong in this but I would have assumed that would have been close to being in distress in those seas at 05:40. From what I can see, distress was signalled at 06:25. I could be reading this wrong. I may not have the right sequence of events, but on page 22 in paragraph 92 it says, 'With notification of distress, at 06:25,' or am I not reading that right? When was notification of distress given?

Mrs Grant: It was correct. At 05:40, our officer, Ross Martin, made the initial phone call, the initial sighting that brought it to the attention of the relevant authorities. Ross's evidence to the coroner was that the vessel was still under its own power, underway and making way at 05:40. So it was not until later in the morning that the vessel apparently lost its engine power. Once it lost its engine, that is when it turned into a distress situation. Prior to that the vessel, whilst it was in dangerous seas, was still able to make way, steer and progress through the ocean. That is why it is the later time, as reported in the document, that the vessel was seen to be in distress.

Mr PERRETT: Chair, can I clarify whether we have any indication of which bearing it had at 05:40.

Senator FIELDING: I think it was 500 to 600 metres away.

Mr PERRETT: No, which bearing did it have? Was it to the leeward side or do we not know?

Mrs Grant: Mr Martin advised the coroner that at one stage the vessel turned into a southerly direction towards the coast. That was before any of the response vessels were there to be able to corroborate that. He has actually drawn a map that shows from his sightings at 05:40 the direction that the vessel was travelling in. It made some turns. I think we could take that on notice if that drawing that Mr Martin did would help.

Senator FIELDING: My last question on that thread is: if the notice of distress was given at, say, 6 am for example, would there be any difference in the outcome? It is a very difficult question. It is just a thought that I had when I was reading through the logs. I thought I would ask the question: if the notice of distress was given at, say, six o'clock, would there have been difference to the outcome?

Mr Saunders: Can we just jump back one question?

Senator FIELDING: Yes, certainly.

Mr Saunders: Myles Pickett was actually on the rocks at the time and probably has the best recollection of its bearing and that type of thing. Myles, do you want to say what happened at about 05:40?

CHAIR: Mrs Grant, while we wait, you have taken on notice whether the map or the diagram could be made available to the committee. If it is, would you be able to put the time sequence of events on the diagram as well so we can actually understand what time it was doing what?

Mrs Grant: Yes.

CHAIR: Thank you. Mr Pickett?

Mr Pickett: I can probably answer that question. It was about 06:12 hours when it became obvious to the on-call officer, Les Jardine, that the vessel had lost power. We obviously had a high level of concern, given the conditions that this vessel was in, but that was heightened considerably once we realised that it was not under power and it was basically at the mercy of the water. At that point the on-call officer at 06:17 called CNOC to advise them of that development and from then on it became a lot more urgent.

Senator FIELDING: Maybe you want to take on notice about whether notice of distress being given at six would have changed the outlook. This is out of curiosity.

Mr Pickett: I think I can answer it adequately and we have gone through it in our heads 100 times.

Senator FIELDING: I know you have. I am sorry if I am going over old ground. I apologise for that. It must be very difficult. It is not an easy question at all.

Mr Pickett: This answers a little bit on behalf of Matt and Mitch here, but I was there as the vessel impacted the rocks. What was left of the vessel, the debris, and the people on the vessel remained very close to the rocks initially. It was not until we started getting a bit of water action that they started washing out far enough for the RHIBs, the rescue vessels, to actually do something about dragging them out of the water. I am almost in a way glad that the guys in the RHIBs did not get there until 10 minutes or so later, because they would have had to go, you know they would have had a go, and it could have ended up a lot worse.

Mr HUSIC: Was notice of distress received and how was it received for this vessel?

Mr Pickett: Probably perceived rather than received. The way it was foundering in the water—I arrived at 0614 and it was obvious to me then that it had no power, it was just spinning slowly.

Senator FIELDING: It says on page 92 'with notification of distress'. Who gave that notification of distress? I know it was perceived.

Mr Pickett: Who passed that notification up the line?

CHAIR: Let Senator Fielding ask his question and the officers can respond accordingly.

Mr Pickett: I believe that matches up with my log here. At 06:23:28 Les Jardine received a call from HQ Norcom. The duration of the call was one minute and three. I am fairly certain at that stage he would have passed the situation through in no uncertain terms. Prior to that he had also called our Customs National Operations Centre to tell them the same thing. I will go back and answer your question again. I really think that the extra few minutes of notification may have made things worse rather than better. It had given the survivors enough time to wash far enough out for the RHIBs to come in and get them, not safely but in a more safe fashion than if the RHIBs had attempted to come in closer where the waves were cresting. So, no, I do not think it would have made any difference.

CHAIR: Do any members need clarification on that timing issue, then?

Mr HUSIC: Mr Pickett, perceiving that vessel is in distress, does that trigger a series of responses or a posture from Customs or from Defence in a particular way? If there was a difference between 05:40 sighting versus 06:25 making the call that this vessel was in distress, how would that impact on the response?

Mr Pickett: I might leave that to Mitch

Lt Cmdr Livingstone: We initially prepared for a boarding of the SIEV. The information we got at 06:05 was were we aware of another SIEV to the north of Flying Fish Cove. We were not at that stage. So we simply made all the preparations. If they can see it, if it is in Flying Fish Cove, we obviously needed to be there for the boarding itself. As it unfolded, 20 minutes later it then became a distress, then mass SOLAS situation. Our response does not change. We always going into a boarding with a SOLAS in mind as the worst-case scenario. So preparations wise and speed of response does not change whether it is a vessel in that position or if it is a vessel foundering. If it is 10 miles out our response will change, our tactics will change, but it is that close to the rocks, 500 yards to the coast I guess is a better term, Australian territory, that sort of concept, our response to a boarding or a SOLAS is unchanged.

CHAIR: Senator Crossin?

Senator CROSSIN: Thanks, Chair. Look, I just want to begin by saying that I came up for the memorial service with Warren Snowdon, when it was here. Mr Pickett, I think you are right. In my 13 years of coming here to Christmas Island, I was shocked when I saw the footage on the TV before Christmas. I reiterated that at the memorial service. I just also want to back up Senator Fielding's comments that there is nothing but admiration and respect for the work that you have all done. I want you to be really clear about this. The message, particularly from me, in terms of the risks and the work that you undertook on that day, is that it was extremely admirable.

I want to wind forward to the future and just change tack a little bit here. Regarding the on-shore radar systems that Simon Crean has announced that will be implemented on the island, do you perceive that that will make a difference? Will it assist in any way to complement the work that you do? Are there enough of them? Should there be more of them put around the island?

Mrs Grant: I will commence the response and then I will hand over to the people who are more expert in the use of radar. One of the recommendations from the Customs and Border Protection internal review was expediting the trial of a land based radar. Our submission to the committee had the results, the progress, at the time we lodged that particular submission. The two sorts of radar that we are trialling on the island at the moment are not delivering the results that we had hoped and so, with the concurrence of the shire council, we need to

negotiate continued usage of the site here. That is work underway. If it is possible for us to continue with that site, we will try a different sort of radar equipment and extend the trial to the monsoon season. But a radar can only do what a radar can do. Perhaps I could turn to Mr Saunders and Lieutenant Commander Livingstone to give you their practical experience. Radar that we will be trailing from the land are similar to ship based radars—they have the same sorts of capability and limitations.

Mr Saunders: As Marion said, it is very similar to a ship based radar system. I cannot see that it is going to be much better. As you can imagine, if there is a vessel here at all times the actual capability is not increased a lot. Further to that, the big problem with the navigational radar is determining small, wooden boats in weather especially—things like rain squall and wave height really affect what you can see. The SIEVs are made of timber and they sit quite low in the water. They do not echo very well from a radar. From my experience, a lot of the times you see them visually—probably about seven or eight miles—before you sometimes even get them on the radar. I do not know if Mitch would agree with that, but I find that they do not—

Lt Cmdr Livingstone: Yes. We picked up SIEV251 the day before yesterday and we could see it at about five miles, which is our visual horizon from the bridge of the ship. We did not get it on our radars until two decimal, two miles, so you are on top of it before you can actually detect it. You have seen it well and truly before your radar does, and that was in relatively good conditions.

Mr HUSIC: Using a ship based radar?

Lt Cmdr Livingstone: Yes. We were doing the trials with the DSTO chaps at the start of last week. The results are encouraging. It is a complementary radar. The more pictures we get into the ship the more we can get a wi-fi feed into the platform. So we have our two radars and the DSTO radar, or the island based radar—different perspective, different height. It may or may not just pick up that contact. It is certainly not a silver bullet, but it is an additional, complementary tool for our situational awareness that we might be able to use. But, again, SIEV size contact in good weather, as we found 48 hours ago, is at 2½ miles at best on radar. You are visually seeing them before you are picking them up on any of your tricks.

Mrs MARKUS: Could you clarify the challenges visually in terms of that kind of weather, being able to identify—

Lt Cmdr Livingstone: Certainly. On the day that SIEV221 was in the vicinity, the rain squalls were probably the biggest factor. A lot of the time our visibility was limited to 200 yards. We were 300 yards off Rocky Point and we could not see Christmas Island; it is 670 metres high, a massive great thing in the middle of nowhere, and we could not see that island from 300 yards away, so that is an indication of how blind we were out there. I could see the RHIBs on the cliff face through our electro-optical camera—it can zoom in. So, in looking for a SIEV prior to that impact, 200 or 300 yards during the rain squalls, which were fairly prevalent, is your limit.

CHAIR: I just want to pick up on the radar question unless, Senator Crossin, you had—

Senator CROSSIN: I was just going to ask about the land-based radar that you are currently using, which is similar to what is used on the ships. Is there a different sort of radar system that might be useful, or not?

Mrs Grant: The DSTO expert has explained that we are using what is known as incoherent radar at the moment and we need to trial a coherent radar. I will give you the layperson's understanding. Apparently the transmission from the coherent radar is like a laser beam, very directed, and the incoherent is more diffuse—more like the light bulb, so to speak. When we commenced this trial to see what additional capability a radar would have for our surveillance and response capabilities here at the island, we used what would be commercially available radars, and DSTO had these two particular incoherent radars in stock and could immediately deploy them. The radars themselves are really important but the software that goes with them is even more important—you can tune the software to make sense of what you are picking up on the radar. So the DSTO trial that Lieutenant Commander Livingstone mentioned from last week was very much around finetuning the algorithms in the software, and that is very valuable work for the radar. So that will stand us in good stead for when we can acquire the coherent radar; it should send a stronger signal and then get a stronger return, in lay terms. We will have to go to the market to purchase that equipment, because it is more expensive and we will need to do a tender for that. So we have that in hand at the moment. We are determined to give the trial the best chance of succeeding, because we do see it as a layered approach to the task.

Senator CROSSIN: I have one other question I wanted to ask.

CHAIR: I will just have Mr Husic on the radar and then I will come back to you, Senator Crossin.

Mr HUSIC: I wanted to ask Lieutenant Commander Livingstone something. There is a simple logic that would seem to suggest that, where you are visually unable to detect vessels out, say, at the five-kilometre zone because of weather conditions, radar might be of benefit. But, taking on board that you have already identified the

limitations of ship based radar operating on that day, would a land based radar on that day have been of any assistance, given the conditions, in being able to detect the vessel where you were unable to sight it?

Lt Cmdr Livingstone: It is wood versus metal: metal will conduct heat very well but timber will not conduct heat very well, and it is the same with the electromagnetic emissions for radar. It will hit a wooden contact and just dissipate; that is if it can get through the weather. In this case, on the day, as the radar was emitting its spectrum it was getting interrupted by the rain and the cloud and the clutter and the wave height. The signature return on a wave was greater than on the wooden vessel itself, so we could not distinguish which was the vessel and which was the wave. The picture was just cluttered. That would be similar with the radar—

Mr HUSIC: Would the software help deal with that type of distinguishing between wave and vessel?

Lt Cmdr Livingstone: Potentially, yes.

Mrs Grant: That is what the trial is attempting: to work out if they can get more sophisticated algorithms to assist in that task.

Senator CROSSIN: The only other question I wanted to ask you is this. We have seen the Customs internal review and we have seen the review that Brian Lacy has done with the emergency management committee and plan. Are there any gaps in recommendations there? Are there any procedures, any equipment, any modifications, any improvements or any purchases that you have read about, that have been recommended or that you might have thought about in the last five months that you think are missing and that this committee should have its attention drawn to?

Mrs Grant: My colleagues are welcome to answer the question. Thinking in the context of a tragedy on Christmas Island, it may be a question that can better be answered by the department of regional Australia with responsibility for equipping Christmas Island to deal with these sorts of situations. I could defer that to my AFP colleagues here as the AFP on island do have responsibility for emergencies on island like their counterpart state and territory police commissioners on the mainland.

From a Customs and Border Protection-Defence combined approach through the Border Protection Command our assets are there to do maritime surveillance and response. If the vessels are near a safety of life at sea situation, they will of course go to the assistance as required under the International Maritime Organisation convention obligations. We equip our vessels for their primary task of surveillance and response. They are not equipped as search-and-rescue platforms as their primary role. We certainly have had some recommendations internally about some improvements to, say, life rings and things like that that we can accommodate on the vessels to improve a rescue situation in the future.

CHAIR: I am mindful in your response to Senator Crossin of some of the words from Mr Saunders earlier about how you were operating beyond the technical capability and capacity of what equipment you are currently using. Picking up on Senator Crossin's questioning, is there anything that would be able to then operate beyond those conditions where they were replicated?

Mr Saunders: A lot of our operating procedures are regulated by AMSA, the Australian Maritime Safety Authority. So things like that I mentioned like the sea state levels are sometimes put in place by AMSA and the same with a lot of the lifesaving equipment that we have on board. That is directed by AMSA. They put those things in place for the safety of the boat and for rescue. I guess it is hard for us to really change anything. It is more of an AMSA type thing. That is what we are bound by. The Navy is a little different. To answer your question, not anything that has been mentioned previously.

Mr CHAMPION: Further on the radar, on page 12 of the submission about radar at point 29 it says:

To date (early April 2011), no SIEVs have been detected, but, on two occasions after SIEVs were apprehended, a subsequent analysis of the raw radar data showed that each was seen by the radars even though the detection and tracking software was not able to identify the contacts as a vessel.

There is a view in the public that radar is this perfect system that can see all, catch all. My question is: is this radar we are setting up necessarily going to give us any further protection in those weather conditions or are we still going to have situations where you might have possible contacts but the software will not be able to detect whether it is a small wooden boat or just a wave? Are we still going to have that inherent problem with radar at the end of the day?

Lt Cmdr Livingstone: I think that is what the trial is trying to determine and there is coherent versus incoherent radar. Again that trial of incoherent radar will prove to a degree whether or not that is successful or otherwise. I say a different range of radars can only add to the overall picture. It may pick up something that our particular radars do not. With weather on the day it may depend on the radar. A different radar, a different frequency may penetrate the rain or the sea better. It is arguable.

Mr CHAMPION: But your picture will not be perfect at the end of all that, will it? You will still have to make judgments?

Lt Cmdr Livingstone: Yes. We very rarely get a perfect picture on good days. A lot of it you are assessing what you think it might be, historically what it may have been—a little speck on a radar can be a lot of things. It can be a wave or a metal merchant ship or a wooden hull. Experience will guide most of your judgment.

Mr CHAMPION: This might seem like a basic question, and it is in the submissions, but who is responsible—I do not know much about the laws of the sea—for a vessel once it has embarked? Who is responsible for the safety of those on board?

Lt Cmdr Livingstone: The master of the vessel is responsible at the end of the day for any kind of vessel and those embarked.

Mr CHAMPION: What happens if the master leaves or is rendered incapacitated or something like that? Who does it fall to then?

Lt Cmdr Livingstone: It devolves to his 2IC, if he has got one—his second or his first mate. Again, if they are not there, we work our way further down. If you have 20 people on a boat, whoever is in charge of those people will be in charge of the boat by default I would suggest.

Mr CHAMPION: Listening to Mr Pickett's submission where he said that in a way it was fortunate that they did not get the call sooner and that people had washed out from the rocks. We had some earlier evidence about people tying ropes to one another on the cliff face. It seems to me—and from the video we have seen—that all that required a great deal of bravery but also a great deal of risk was involved for those who are undertaking it. I take your point, Commander, that it depends a lot on people making judgments at the time. You asked your men to exercise their own judgment. How close were we, if things had been slightly different, to losing ADF personnel, police and Customs personnel? How high was the risk?

Lt Cmdr Livingstone: It is hard to quantify how close we were to a point of loss or not.

Mr CHAMPION: But it was dangerous, though, wasn't it?

Lt Cmdr Livingstone: Absolutely. There is no doubt about that.

Mr PERRETT: Chair, could I ask a question that informs—

CHAIR: Wait for the answer. I know you are excited, Mr Perrett, but just wait.

Mr CHAMPION: I have one more.

Mr PERRETT: It might inform that. Would you be recommending any of your personnel for bravery awards?

Lt Cmdr Livingstone: Absolutely. Yes.

Mr Saunders: Further to the conditions, one of the issues that both my tenders and Mitch's tenders had was sucking up debris. We sucked up a whole tarp into one of our engines. You can imagine if that had gone into both engines what could then occur if you lose complete power of your tender. Even just going on one engine, the guys really struggled to get out of the area. Besides the weather, there were these other factors at play that really could have affected the guys' capability and the loss of power and getting thrown onto the rocks as well.

Mr CHAMPION: The reason I ask is because I just think when there are people in the water the natural thing to do is to want to help. I am just a bit concerned that, when we get this evidence and say it is great that people were brave, it could have been a much worse in that we might have lost Australian lives in the process of rescuing.

Mr Pickett: From a land side perspective, I was really impressed how everyone on the cliff worked together and watched out for each other. Obviously it got incrementally more dangerous the closer you got to the edge, but even then you always felt there was someone watching out. The people behind us were yelling out that there was a big wave coming, so you sort of jumped down into a hole and held on and then once it had gone got back out again. I can only speak for myself: I felt that it was quite dangerous but I never felt like I was going to die. It could have been a random act—one of the lumps of wood could have landed on us, I suppose—but on the whole I personally felt that I was in control of my safety. Once again, I cannot speak for everyone. We stopped one young fellow from jumping in to help rescue somebody.

Mr CHAMPION: I think you have answered my question. Thanks.

Senator HANSON-YOUNG: I have a couple of questions, and they are a bit all over the place, so if you need to change the people at the table we can do that. I want to ask you about the distress call, the notification of distress. How is that notification different from the issue around mass safety at sea? Obviously, there have been

two different declarations made. Can you just explain the difference between them in terms of the actions taken for a distress call and actions taken when it becomes an incident involving loss of life at sea?

Lt Cmdr Livingstone: From our point of view, there is no difference. If there is a vessel in distress, whether it is 100 metres from the cliff face or it is foundering out to sea, all our preparations are about recovering people from the water who may be injured, hypothermic or stressed. How we recover them might differ; if they are incapacitated in any way, that might change how we are able to pull them from the water. So, from our point of view, the difference between a distress situation and a SOLAS situation is arguable. We treat them both the same.

Senator HANSON-YOUNG: The submission we have has the logs of the times when those different assessments were made. When it was thought that this was a safety of life at sea incident, do you think that assessment was actually made at 05:40 It is listed here as having been made at 06:39.

Lt Cmdr Livingstone: I think the vessel was underway at 05:40, when it was first observed. So the master, exercising good judgment, certainly could have altered course. It was particularly rough. If he had come around to the lee of Ethel Beach, if he had come to the east, he would have come around into calmer water. In that case, if he had altered course, it might have been a distress situation. But it might have been a mass SOLAS, which is what eventuated.

Senator HANSON-YOUNG: Just to clarify: at 05:40, you believe, the situation was not perceived to be a SOLAS incident?

Lt Cmdr Livingstone: A vessel underway—a vessel of that length—that is 500 yards from the cliffs can still steer and make its own way. It has the option or the ability to get out of that situation.

Senator HANSON-YOUNG: Regardless of how rough the weather conditions were?

Lt Cmdr Livingstone: Yes. At that range, 500 yards, he is out of the wash zone, which was at around the 200-yard mark at Rocky Point that day. He certainly has the ability to make the decision to alter course—away: he could have gone back to sea, he could have altered course to the north. Again, that is assuming that his engines are working, his steering is working and all those things.

Senator HANSON-YOUNG: So the declaration at 06:39 that it was an incident of safety of life at sea was the earliest time that declaration could have been made?

Lt Cmdr Livingstone: I am not sure what the initial driver was. I am not sure what the trigger was for finally declaring at that point that it was a distress or safety of life situation versus a vessel being seen off the cliffs.

Senator HANSON-YOUNG: Would anybody else be able to answer that?

Mrs Grant: I could just clarify that the internal review officer's report uses the terminology 'it became a distress situation'. Paragraph 89 reads:

At 06:22 ... Customs and Border Protection on Christmas Island reported to HQJTF639 that the COI—the contact of interest—

was 50m off Rocky Point, had lost its engines and was drifting towards the rocks.

That is when we determined that it was in distress, because it had lost its engine power and could not control its own destiny. Then, in terms of writing the report, it was when the vessel crashed and people were thrown into the sea that we used the terminology that it had become a SOLAS, safety of life at sea, situation.

Senator HANSON-YOUNG: Okay. So it was at 06:39, when the boat crashed onto the rocks? Before then it was not considered to be an issue of safety of life at sea, immediately before that it was a boat in distress and before that it was a sighting?

Lt Cmdr Livingstone: A vessel at sea, yes.

Senator HANSON-YOUNG: If we go backwards through what we have here in the internal review, at 06:39 it was declared that this was a mass safety of life at sea incident. Was that triggered by the boat hitting the rocks?

Lt Cmdr Livingstone: Yes.

Senator HANSON-YOUNG: If that was the point where it became an issue of safety of life at sea then, going back from there, it was a boat in distress between 06:12 and 06:22, I think is what you said; and then before that, at 05:40, it was simply as sighting of a SIEV. Is that right?

Mrs Grant: That is the correct backtracking of the events. We have undertaken to provide on notice annexe 2 of the internal review, which is a much more detailed chronology of each time and who rang which place. Once you have got that it will be easier to piece every moment together.

Senator HANSON-YOUNG: Thank you, I am sure that will be helpful. What I would like clarified is that at 5.40, at the initial sighting, there was no assumption made that this was a boat that was in distress or that there needed to be any perceived issues in terms of safety of life at sea.

Mrs Grant: I can clarify that at 05:40 it was a sighting of a vessel making way, underway, with its own power. That then triggered reporting that there had been a sighting, and then the usual responses to a sighting were put in place, but it went very quickly from a sighting into a safety of life at sea tragedy.

Senator HANSON-YOUNG: So the initial process that was put in place would be the same as if a boat had been sighted 12 nautical miles off Christmas Island? It would have been the same process that was initiated?

Mrs Grant: Yes, it was. The call of the sighting came through to the Customs National Operations Centre co-located with the AMSOC, which is part of Border Protection Command, and then their usual responses to that information were put in place. That is why the *Triton* and the *Pirie* were already responding—

Senator HANSON-YOUNG: As an interception as opposed to—

Lt Cmdr Livingstone: A SOLAS, yes.

Senator HANSON-YOUNG: Which is why you said before that you were planning to board the boat?

Lt Cmdr Livingstone: Yes. We set off with a boarding in mind on an intact vessel underway with people still on board.

Senator HANSON-YOUNG: How long would you have assumed at that stage that it would have taken you to reach the boat?

Lt Cmdr Livingstone: From the initial—

Senator HANSON-YOUNG: Yes, from the initial—

Lt Cmdr Livingstone: We were about five miles around to Rocky Point. It was quicker for my small boats to get there than us, by virtue of the area and the sea state. It was about a five-mile transit, and about four miles for the boats because they can cut corners. Again, the weather was the bigger factor there. Our maximum speed is 27 knots but we could not have achieved that if we tried in that weather, so perhaps a maximum of 24 knots. It was not a matter of getting the alarm at 06:05 and then just racing around the corner. I had boats in the water already; I was looking after another SIEV in Ethel Beach which I had people on.

Senator HANSON-YOUNG: Was that 220 or 219?

Lt Cmdr Livingstone: It was 220. So it was a matter of sorting what to do with that whilst we were making our way round, recovering the second boat, relaunching both those boats, with a different make-up of people on it, to then respond. All those factors certainly added to our physically getting *Pirie* around there. But getting *Pirie* there was not the issue; it was getting the boats there as fast as we could, because they are the ones that can effect a response. We can only sit 300 yards off the coast, which is too far away from the survivors, so we would have to get the boats around there as fast as we could.

Senator HANSON-YOUNG: How long would you have assumed that whole process, if it had not become a situation in distress, would have taken time-wise? Could you have reached them by 06:30 anyway?

Lt Cmdr Livingstone: No.

Mr Saunders: It was literally impossible because you are restricted on your speed in the weather. Whether it was a SOLAS or whether it was a normal boarding, our procedure, as Mitch has said, is pretty much the same. We will go there as quick as we can because we need to intercept the boat. So whether or not we got the call at 06:10 that it was in distress or at 06:35, the response was the same because we still get there as quickly as possible.

Senator HANSON-YOUNG: Mentally you were not prepared, I guess.

Mr Saunders: Mentally, that is right. I am sure Mitch would feel the same way—when you first get the report that it is near the rocks you start thinking, 'This isn't good, something is going to come out of this.' I just thought something bad is going to happen here, and then when we heard that it did not have engines we realised it was more serious. We did not have to wait to be told it was a SOLAS; you could work up to that.

Senator HANSON-YOUNG: I guess that was the point. Regardless of what may have been officially declared, your people had to manage their activities as if that was always a possibility. Is that right?

Mr Saunders: That is right. To get the boats in the water takes a certain amount of time. When you know that you are going to put the boats in the water, these things are happening already. While we were underway we were getting these things in place and I told my guys, 'It is near the rocks, we need to get in the water quickly because it could turn bad.' We had a sense of urgency anyway.

Senator HANSON-YOUNG: The SIEV220 was detected the day before, on 14 December. Is that right?

Lt Cmdr Livingstone: Yes.

Senator HANSON-YOUNG: They were at the time being held by *Pirie*. How did that work? Did you have those people on board *Pirie* or did you just have the SIEV with you? Can you explain what that means?

Lt Cmdr Livingstone: We got a report of the SIEV so we boarded the vessel. Again, the weather was particularly bad to the north of Flying Fish Cove. With *Triton* we had to escort the vessel into the lee of Christmas Island towards Ethel Beach where we could put the boats safely in the water and board. We could not have launched out the front in that situation. It was not an emergency so there was no need to exacerbate that risk. We boarded the vessel—there were only 11 people on board, which is quite small; it was a very quick process for us—and got those people ashore. To get approval for the destruction of the hulk of the SIEV if it was unseaworthy, which in this case it was, there is a process to be followed. Condition reports had to be filled out and sent off and then verbal approval was given to go and destroy that vessel.

The weather conditions were an issue. The vessel either had to be towed if it was unable to make its own way or we had to steam it—put a team on board, keep the engine and the pumps going and try to take it out to sea. In the seas we had at that stage, I was very lucky to take it anywhere—that is why it was at Ethel Beach. It was a 20-metre long wooden vessel with leaks and a dubious engine. I got four of my team on there and, like us, they could not see any further than 200 yards in the rain. They had no navigation equipment on board.

Senator HANSON-YOUNG: So you had four of your people on board?

Lt Cmdr Livingstone: Yes. Before we could disembark the arrivals we put our team on board to make sure—

Senator HANSON-YOUNG: Where were the arrivals?

Lt Cmdr Livingstone: They had been put ashore at Ethel Beach. They were in the hands of DIAC.

Senator HANSON-YOUNG: So they were actually on shore at Ethel Beach?

Lt Cmdr Livingstone: Yes. We just had the vessel itself.

Senator HANSON-YOUNG: They were not actually with you?

Lt Cmdr Livingstone: No. We had not off-loaded those on the evening of the—

Senator HANSON-YOUNG: It is just that physically, the 20-metre—

Lt Cmdr Livingstone: Yes, just the vessel.

Senator HANSON-YOUNG: Was SIEV220 bigger or smaller than SIEV221?

Lt Cmdr Livingstone: Both were very similar in size, design and structure.

Senator HANSON-YOUNG: So where was SIEV220 detected in the first instance?

Lt Cmdr Livingstone: North of Flying Fish Cove, about 600 or 700 yards off the coast—again, by someone observing from the coast.

Senator HANSON-YOUNG: Was that how it was originally detected?

Lt Cmdr Livingstone: Yes

Senator HANSON-YOUNG: Visually from the island?

Lt Cmdr Livingstone: Yes

Mr HUSIC: Who by?

Mr Pickett: From the police station's rear deck by one of the officers on duty at the time.

Senator HANSON-YOUNG: At Gaze Road?

Mr Pickett: Yes.

Senator HANSON-YOUNG: That boat had already got pretty close anyway. Was the weather still—

Lt Cmdr Livingstone: Very similar: six or seven metre swells, gale force winds. The reason we went out the front—and had we been to the north of Flying Fish Cove we probably would have intercepted or before that the 500-yard mark—was we had a slight defect on one of our shafts. To rectify that problem, we have got to stop a shaft, a propeller shaft, and put a man underneath it and then fix it.

Senator HANSON-YOUNG: This is all while it is in the water.

Lt Cmdr Livingstone: Yes. I do not want to do that because the weather from the westerly and north-westerly was pounding anywhere to the north. The threat had been reduced because of another arrival, so we took the opportunity to duck round to the lee of Ethel Beach just in the lee of Christmas Island to lock that shaft, put a float

underneath it to try and fix it. I just needed to clarify what the problem was; it wasn't going to stop me doing anything but I just needed to know what level of problem it was going to be.

Senator HANSON-YOUNG: Was that the same problem that was experienced—

Lt Cmdr Livingstone: No, it was a separate one.

Senator HANSON-YOUNG: That was a separate one. So you had that problem on the first day, the 14th, and then you realised you could get that fixed. The next day you had another engineering fault.

Lt Cmdr Livingstone: Yes.

Senator HANSON-YOUNG: Is that regular?

Lt Cmdr Livingstone: No, I think that is just a classic case—you do not have a reasonable major fault on a daily basis; it was just one of those things, unfortunately.

Senator HANSON-YOUNG: Were you at your best capacity in terms of the crew on board *Pirie* and then on *Triton*—I do not know how you structure your crews, but did you have all the people that you would have liked on board on board on both days?

Lt Cmdr Livingstone: Yes.

Mr Saunders: We had the other issue with people tied up because we had 108 asylum seekers on board at the same—

Senator HANSON-YOUNG: You had them on board. That was from 2—

Mr Saunders: 218 and 219 that we got at Ashmore Reef.

Senator HANSON-YOUNG: You were bringing them back.

Mr Saunders: Yes. We had probably four to five guys tied up with that as well.

Senator HANSON-YOUNG: They were on board, but you are saying their resources were managed over here.

Mr Saunders: Yes.

CHAIR: I want to move on. Senator Hanson-Young, I plan to continue on longer than planned with these witnesses, so we will get an opportunity to come back to you again. If we can now move through other members. Just before we do, I was wondering if Superintendent Ryan could come back to the table. Superintendent, you may not be able to answer this question because of your ongoing investigations, but I would appreciate it if you could tell the committee if your investigations have determined the reason for the engine failure of boat 221? Again, if it is problematic because of your investigation, that is fine but I just thought I should ask.

Supt Ryan: It is all right. It had a huge fuel drum on board. That, because of the sea state, went overboard and no fuel was going to the motor. There were people here, Miles and co, who could see the diesel in the sea and the crew constantly trying to start it until they flattened the battery. It died like a normal car battery. Once that happened, they had no power at all and it gradually came closer and closer to the—

CHAIR: So you believe there was no fuel.

Supt Ryan: Correct, and obviously the coroner will make a full finding on that, but multiple people saw that and that fuel washed up to the rescuers and made it even trickier on the rocks.

Mr KEENAN: With that, there is no suggestion that there was anything deliberate about the engine failure.

Supt Ryan: No survivor anywhere mentioned it. They said the crew were trying their hardest.

Mr KEENAN: With the posture of the vessels on the day, obviously because of the weather, was it the leeward side of the island?

Lt Cmdr Livingstone: Yes.

Mr KEENAN: And *Pirie* was obviously stationed here and *Triton* just happened to be here as it was ferrying people in. But now you would routinely have two patrol boats around the island, would you?

Lt Cmdr Livingstone: This is a bit of an anomaly. There is certainly one always here, and we will have a handover period of three or four hours in company. When you come out here, you are running low on fuel. You need fuel as a priority, so the vessel that has just arrived will go to fuel at Smith Point while the on-station vessel keeps an eye out. You then handover, refuel and one will depart.

Mr KEENAN: So you are still only retaining one patrol boat on the island.

Lt Cmdr Livingstone: Yes.

Mr KEENAN: Following up on Senator Hanson-Young's questions about the personnel you had on board that day, my understanding is it is very difficult to find a full complement of personnel for any of these patrol boats but on that day you did have a full complement of personnel?

Lt Cmdr Livingstone: Yes, we certainly had all we needed on the day.

Mr KEENAN: It is slightly different terminology though. When you say 'all we needed', did you have a full complement of personnel on a patrol boat?

Lt Cmdr Livingstone: My naval police coxswain was absent. He was getting a knee reconstruction. But certainly impact-wise it was not an issue.

Mr KEENAN: I have a final question for Mrs Grant, if you do not mind. With the annexes that we are waiting on from the report—the internal review that was provided—I understand that we are still waiting on that. I wonder if there is an ETA on when we will get those.

Mrs Grant: I understand that 10 June is the deadline for all questions on notice. I was just talking to my contact officer this morning about making the arrangements with the secretariat of your committee to say that annex 2, which is the chronology, is available now. With some of the other annexes, he was going to sit down with the secretariat and go through the type of documents they are to see precisely which ones you might have an interest in. Some are standard operating procedures for various aspects, which we are happy to provide, but before we killed another forest we wanted to work out what would be particularly pertinent to this inquiry.

Mr KEENAN: We will wait to hear.

CHAIR: Mr Perrett.

Mr PERRETT: My first question is to Mr Pickett. I was wondering whether there was an aural element to the sighting at 5.40 pm. Could the engine be heard underway? There was a suggestion that the engine was heard being repeatedly turned to start it. With the waves breaking, and being 200 to 500 metres out, what could be heard in terms of starting the engine and it being underway earlier, from 5.40 pm, when you said it appeared not to be underway? Was that a visual going in circles, as you said, or was there an aural element as well?

Mr Pickett: Certainly for me it was a visual—

Mr PERRETT: Visual only.

Mr Pickett: Yes. I could tell it had no power. I certainly could not hear an engine.

Mr PERRETT: Would it have been possible to hear, because of the waves breaking? Are there gaps between the waves?

Mr Pickett: There are gaps between the waves. It was quite windy as well.

Mr PERRETT: Ninety kilometre per hour winds, I think, was suggested.

Mr Pickett: Yes. By the time I got a visual on it, I knew it was not under power. I cannot recall hearing any noise from it. The screams of the people on board were quite easily heard.

Mr PERRETT: But there was a suggestion, which we just heard, that there was the sound of someone starting the engine.

Mr Pickett: I cannot say. I did not hear that.

Mr PERRETT: Could we maybe revisit that then? Was there a suggestion of seeing people trying to start it or hearing it like a car starting? I am sorry; I am not a boat person at all.

Supt Ryan: Neither am I. The answer I gave before was a combination of evidence that has been taken from multiple witnesses. Obviously some people further up would hear it underway and then, as it gets closer to the point of tragedy, they hear the 'click-click-click' and they see the fuel drum in the sea.

Mr PERRETT: This question is more to the officers in charge of the *Pirie* and the *Triton*. If the seas are coming from the north-west and the winds are coming from the north-west and you are in a 20-metre wooden vessel, what is safest: to head into the weather or to get to land as quickly as you can? If you are under power, what is the safest way with a vessel that is low in the water: to head into the wind or to have big waves coming at your back?

Lt Cmdr Livingstone: Certainly the options he would have had presented to him, to north of Flying Fish Cove, at Rocky Point—that cliff face—Flying Fish Cove is blown out completely. The jetty, you can see here, had waves coming over the top of it in those north-westerly and the westerly combined swells. In his case, certainly the turning into the sea, head onto the swell—

Mr PERRETT: If the captain was under power, with two or three days of this weather and heading towards Christmas Island—even though it would be best to go into the weather, but obviously there are other reasons for them to want to get to Christmas Island so they make a run for it, I guess—I assume he had charts or some knowledge that it is best to get on the leeward side of the island if you are under power? No charts have been found, or anything like that?

Lt Cmdr Livingstone: No, we generally find them with perhaps a handheld GPS—that is rare. Quite often they are just told head south for two days, then they will find land. That is about as much direction as they get. It is obviously a bit of a lottery. Any competent mariner would appreciate that if they had gone to the east—the weather was all pushing east, the wind and the swell—to the lee of Christmas Island, towards Ethel Beach, he would have been shielded from that 40-knot wind. Whether or not he appreciated that at the time, I would suggest he did not. It would have been a lot easier to head to the east because the sea would have been behind him, pushing him along. He would have wallowed to a degree, but he could then have got into the lee, been out of a lot of that swell and had a reduced wind.

Mr PERRETT: With six- to seven-metre swells—or four- to seven-metre, depending on what you are saying—this is not like a tinny where it shoots over the waves and the engine is out, or anything like that—it is taking water in the hollows?

Lt Cmdr Livingstone: Yes. You have very limited manoeuvrability, with probably one small propeller and one rudimentary rudder, so steering is limited. It is low freeboard, so the water will wash in and wash out, taking whatever it can with it. For the two days prior—the weather was like that for about five days—the journey south would have been fairly horrible. He would have been beam-on to the swell, so he would be tipping. As he was heading south the weather was hitting him from his starboard side, and with that wind and sea his focus would have been on getting to the island as quickly as possible. But when he got there, there was no beach on that coast—no neat, convenient, shallow beach he can wash up onto. Flying Fish Cove is blown out. The nearest beach is Ethel Beach, tucked around to the lee, and he may not have known it was there.

Mr PERRETT: Sorry, blown out as in, the sand has washed away?

Lt Cmdr Livingstone: No, as in the sea has taken the swell. These six-metre waves would wash up onto the beach down here at Flying Fish Cove.

Mr PERRETT: When you say 'beach', you mean 'rocks'?

Lt Cmdr Livingstone: Yes.

CHAIR: Mrs Grant, we are going to take a short break now and I intend to talk to you about changing the program for the rest of the afternoon.

Proceedings suspended from 14:27 to 14:42

CHAIR: We will recommence the hearing. Thank you for everyone's indulgence. The committee has decided that it wishes to proceed with questioning of the agencies in front of us at the moment, being the Australian Federal Police, the Australian Customs and Border Protection Service and the Australian Defence Force.

Mr HUSIC: I have two questions. The first, very quickly, is that given the preparation and the appearances before the coronial inquiry, is there anything new that you would want to update the committee on at any stage, having reflected or, potentially, received better data? Do you have any observations about what might better inform the work of the committee?

Mrs Grant: I do not think that there would be anything that the Australian Customs and Border Protection Service would wish to update in our submission. You would appreciate that we are covering fairly similar territory. I would need to seek advice from my colleague, Mr Watson, in relation to the Australian Federal Police.

Mr Watson: From the AFP perspective, clearly we are in the processes of undergoing the coronial. We are assisting the coroner in those processes and the coroner is looking very closely at the events, as you would expect. So we are going to be guided by recommendations, if the coroner makes those. The second aspect is that there are ongoing criminal proceedings. We are mindful of those matters running their course as well. But in terms of immediate recommendations and immediate actions that the AFP is looking at, clearly we look at staffing arrangements, we look at the skill sets of those that are here on island and, in the preparation of the statements by Superintendent Ryan to the coroner, there is an opportunity to look and observe and consider whether anything more could have been done on that day. Clearly the circumstances were such that, on the day, there was, from a community policing perspective, an enormous response, but the management of that response is something that the AFP will look at closely, following the coronial proceedings, identifying any lessons that might be learnt. We will take those lessons and implement them when we can.

Mr HUSIC: The second question I want to ask is for those people who have been stationed on the island for a reasonable period of time. I have looked through the Bureau of Meteorology stats for the days leading into and out of the incident. The only thing that is missing is more of a historical perspective. How would you have characterised the weather conditions on that day relative to what had been experienced normally for that time of year?

Sgt Swann: On the day, they were certainly the worst conditions that I had seen on the island in 18 months. The sea was just the angriest that I have seen here—the squalls, the lack of visibility. It could not have been a worse day for the SIEV to arrive and the sequence of events that occurred.

Mr HUSIC: I know you cannot really put much weight on this necessarily, but what about anecdotally, from the observations of others who had been here for a while? You said 18 months.

Sgt Swann: Anecdotally a lot of locals that I know that have been here for 10 or 15 years have stated that they were some of the worst conditions that they have ever seen.

Mrs MARKUS: I would like to ask some questions particularly around the support that was available. Already you have talked about having psychologists available immediately after and for some time, but with an incident like this often it can be several months, even up to two years, later that people need support. Could you talk just briefly about what is available now and ongoing for each department and locally?

Mr Pickett: Immediately after the incident, within 12 hours of the incident or something like that, we had people on the way. We had a counsellor up here. I have been in constant contact with her ever since. In fact, she rang me this morning to see how I felt about attending here. She has been excellent and I know she has also spoken to all the other people on my staff. She rings my wife to see how she is going—probably to ask sneaky questions about how I am going as well. Certainly from a Customs perspective we have been wrapped by the support that we have received.

Mrs MARKUS: Do you envisage that the length of time that that is going to be available will be beyond this point if required?

Mr Pickett: I have no doubt that if I sought further help there would be no hesitation in providing that. Certainly Marjorie, our counsellor, has said to call her at any time.

Mrs Grant: On behalf of the executive of the organisation, I can confirm that that professional help is available to our officers for as long as it is needed. Marjorie, the counsellor, has her client case load from our organisation, and she is progressively working through that. Some people are suggesting to her that they are feeling fine and that they probably do not need her to make those follow-up phone calls. As recently as yesterday one of our other officers said he really appreciated her calling him, because she has been ringing around thinking that the hearings may stir up memories for people. He said to her that he appreciated it but he was handling it well and she could cross him off her follow-up list and concentrate her efforts on those who still needed help. She has been reporting back, not by individual name because of privacy protection, that she feels some people are coping very well and other people need more intervention.

Our commitment to our officers is that that service will be provided indefinitely. I am imagining the numbers will tail off as we go through the process. That is for our people who are on island, their families, people on board the vessels, people who are in our Perth office now but had come to provide additional support on island, and some of our people in headquarters who were receiving the phone calls and making the arrangements for response vessels—a lot of officers just felt what more could they do but regretted the tragedy and wished they could have done more. All those issues are being worked through but I can assure you that the support is not time-limited.

Mrs MARKUS: Is that assistance to families available across all departments?

Sgt Swann: I can speak for myself and my team, and perhaps the superintendent will have more detail for you. Certainly AFP has had very good support on island. As was stated before, we had a psychologist here for a month. We have since had two follow-up visits. We have telephone contact regularly. It is probably the most support I have had following any incident I have attended in 29 years of policing.

Supt Ryan: The International Deployment Group has full-time psychologists based in Canberra, Brisbane and Perth. As you know, we go everywhere around the world—Afghanistan, Cyprus, Sudan, Timor, the Solomons. They travel the world debriefing officers. For the Solomons, it is a four-month, eight-month, 12-month debriefing process. For Afghanistan, which I just came out of prior to coming here, we were flown back halfway for a one-on-one process. It is a very structured process—you must attend and you must participate before you are given a clearance by a psych and allowed to be deployed again. Everyone is on a first name basis with them, and it is almost like a confessional. It is very relaxed and everyone is comfortable, because they see them so often. They

know everyone by their first name and they know all the problems; they know all the kids, and that type of thing. It is very practised within the AFP because of the deployments.

Lt Cmdr Livingstone: From a defence view, we have been very well served. At the initial time of the event we had the Customs counsellor come down. We sailed back to Darwin with two naval psychologists embarked, so there was a five-day session with all of us. There was a monthly screening, and we finished our three-monthly screening some time ago. That ongoing support is there whenever it is individually flagged or when I think they might need a bit of support. That is open to their families as well, and that will be available for the duration.

Mr CHAMPION: You talked before about the SIEVs: in your experience, what percentage would be unseaworthy? Be as generous or as critical as you like.

Lt Cmdr Livingstone: They are making it here, so if that is a definition of seaworthy—although it is the ones we find that have made it here. To our standards none of them are seaworthy. They meet absolutely zero standard of any kind of shipping register in the world, I suggest, other than in Indonesia and places like that, where they are the common vessels. By the standards we measure none of them are seaworthy.

Mr CHAMPION: What about their capacity to handle those sorts of conditions?

Lt Cmdr Livingstone: They are well and truly beyond their capacity. They are loaded up. The one we caught two days ago had 60 people in it. I would be reluctant to take 60 people on my vessel and it meets every tick of the box. They are overloaded, they are unseaworthy and not designed for over ocean transits. They are fishing boats, designed for coming out of your village and doing short transits with two or three of your mates and a couple of tonnes of fish, not 60, 70 or 100 people in a 35-metre vessel.

Mr CHAMPION: What is the crew members' experience?

Lt Cmdr Livingstone: It depends. Generally, the crew are very young and they are set up, I would suggest. The organisers are very clever, obviously, and they will find and exploit poverty in villages. For people like that—these fishermen—it is far more lucrative to smuggle people than to catch fish. So there is a ready market of crew. They do not entirely know what they are getting into. They are probably told all sorts of things like, 'We'll pay you once you get back, because there will be no problem when you get there. They will get turned around.' They are very naive, poorly educated and poverty is a big issue. The crew are expendable from the organiser's point of view.

Mr CHAMPION: And they are not experienced with—

Lt Cmdr Livingstone: They are very young. You might have a 19- or 20-year-old master, or who is purporting to be the master, and it will be his first open ocean voyage. They are being set up themselves; the masters of these vessels are not professional mariners by the standards which we think of. They are part of the package and are written off by these organisers.

Mr CHAMPION: And the directions they get are rudimentary?

Lt Cmdr Livingstone: Certainly, we get that fairly regularly; their directions are that if they depart from further east to head south for two days and they will hit Ashmore Reef, or if they depart from this direction they will hit Christmas Island.

Mr CHAMPION: You indicated that if the boat had got around Rocky Point and that even if it had got into Flying Fish Cove it still would have been a dangerous situation?

Lt Cmdr Livingstone: Certainly; the same churn and the wash zone that was being affected on Rocky Point was happening in Flying Fish Cove. They would have impacted on the phosphate gantry, or against the jetty or up on the rocky beach that is there. It would have been the same scene, just in a different location.

Senator FIELDING: I am interested to get a bit of a professional feeling about if weather conditions were the same again in a year's time, and if all the recommendations that have been proposed were in place, am I right in thinking it is highly likely that a boat could crash again, just because of the weather conditions—that it is no-one's fault per se? Would I be right in saying that? Obviously, there is the inherent risk of jumping in a boat and travelling in that type of vessel. I am just trying to work out if the weather conditions are very similar, and even with the recommendations in place, that there is the possibility, I still believe, of a boat crashing again. In other words, there is not much you can really do, is there, if, at the end of the day, people are going to jump in a boat, travel and hit seas as rough as they were on that particular day?

Mrs Grant: That is obviously hypothetical, and we have to consider the engine failing on this particular vessel. In a year's time would a vessel's engine fail again?

Senator FIELDING: But if a vessel had a failed engine again I would assume that you cannot really do much about it, can you?

Lt Cmdr Livingstone: Certainly from our point of view, I would not have put the *Pirie* in between the vessel and the rocks. Had I been given another 20 minutes then I would have had SIEV impacting the ship. If those conditions occurred again then physically you can get in the way or put an impediment there or try to turn the vessel back without being able to get on board. We are fairly limited in what we can do to prevent that impacting.

Mr CHAMPION: In the past, have boats come at this time of year and in this weather? Have they departed when these weather conditions have been present?

Lt Cmdr Livingstone: Certainly.

Mr CHAMPION: Loosely based on season?

Lt Cmdr Livingstone: They will go whenever they have got enough people in a vessel ready to go.

Senator FIELDING: This may be for the Federal Police, I do not know, but I assume that as Australia and other authorities have tried to tighten up on the people smuggling issue, are we being alerted less that a boat is on its way? I assumed that previously a lot of the time we would be alerted, they would ring that a boat is here or ring a couple of days out and say, 'I am on my way, pick us up' sort of thing. Is that happening less and less? What I am trying to work out is whether the risk is even higher now because people are ringing less to let you know they are coming and just hoping they are going to be picked up.

Supt Ryan: We get very few calls. I had better qualify my answer: I have never worked people-smuggling. As I understand it, there are very few calls from, say, Indonesia that there is a boat on the way. It was explained, I think in the first hearing, that a multifaceted thing happens. Information can come from local people to the Indonesian police. Whether that then gets to Australian officials so that they can be in a position to know that there are some coming is another matter. It is usually detection by Customs and Border Protection that we first know they are actually on the way.

Senator FIELDING: There is a perception, though, in Australia that some boats actually ring and tell us they are there, sort of thing. That was my impression, and reading some of the submissions you would not be able to get access to that was an impression I had as well, that sometimes they do ring.

Mrs Grant: That is correct, Senator. We were going through a phase quite some time ago now where it seemed to be the modus operandi that when you were, say, some way out, particularly from Christmas Island, you would make a call to say, 'We are in distress.' Then the reception party would be rolled out. We have not been getting those calls so much lately. When I say lately, probably within at least the last six to eight months. Perhaps that is the changing pattern in the organisers. As we were discussing in Canberra, each organiser has their own business methodologies and we had a view that some of those calls might have been part of the particular methodology. And we have had calls from vessels genuinely in distress. So naturally whenever we get such a call we treat it as a genuine distress.

CHAIR: I understand you can ring from anywhere with a satellite phone. I am no expert on those things. But how far out to sea from Christmas Island do you get Next G or 3G reception for a standard phone?

Mrs Grant: Can you answer this?

Lt Cmdr Livingstone: We can generally get Telstra reception, not to give a plug there, about 10 miles out to sea.

CHAIR: You are old school. What is that in kilometres?

Mr PERRETT: It is 16 kilometres.

Mrs Grant: With the calls that come from further afield, it has to be a satellite phone.

CHAIR: And on some boats they are obviously equipped with that and they might have GPS navigation systems too. But you have said that some boats simply come with nothing.

Lt Cmdr Livingstone: Absolutely. Some people are quite affluent and they will have laptops, satellite phones, mobile phones, GPS. A lot of stuff gets thrown over the side as we approach, so they can deny they had any aid to get here or whatever reason they use it for. We certainly do recover a certain amount of evidence that they know where they are coming via GPS, they have got phones and they can call if they need to, and laptops with all sorts of stuff on them on the planning side of it for how they are trying to get here.

Senator CROSSIN: I want to ask Mr Saunders some follow-up questions that might be useful to us to have on the *Hansard*. I think you said in trying to undertake this rescue operation that you yourselves were hampered by having a tarp get sucked up into one engine. I am assuming that is a tarpaulin that might have been on this boat and when it smashed up all the debris was then in the water.

Mr Saunders: That is correct.

Senator CROSSIN: What other problems were there? Were there large planks of wood floating around that inhibited your entry into the water?

Mr Saunders: Yes. From speaking to my coxswains, the debris was a big problem. With the jet engine, because it sucks water up through the engine and spurts it out the back, anything that gets sucked up can get stuck in the engine, so that is where the tarp fouled the jet. I think the diesel was a problem: it was slippery, so grabbing onto survivors was difficult. I know the guys had problems with life jackets: the ropes were caught on planks of wood, so when they were trying to pull people on board they had to cut the life jackets to get them on board. They have two engines, and once one engine is unserviceable that certainly diminishes the ability to go near the rocks, because you are underpowered. Both our boat and the *Pirie's* tender had the same problem.

Senator CROSSIN: I think it is an element of evidence that has not been put on the *Hansard* before, and I think it is another complicating factor that highlights how difficult the task must have been—not only the rocks and the weather but also the fact that you had this debris floating in the water and so on and so forth.

Mr Saunders: Yes.

Senator CROSSIN: My understanding is that there is a rip that operates some tens of metres out from Rocky Point.

Sgt Swann: I can give some anecdotal evidence on that. There is a tendency for anything that goes into the water along the front of Rocky Point and the front of the cove to head towards the east and drift out that way. You will quite often see lines of flotsam and jetsam—coconut palms or whatever—going out along that way.

Senator CROSSIN: So, if this boat had got into the rip, it could not have headed to Flying Fish Cove; it would have gone towards Ethel Beach. Was it too rough for a rip to be operating?

Sgt Swann: It is hard for me to comment on that. I do not know if my naval colleagues—

Lt Cmdr Livingstone: The rip would have been overtaken by the swell and the wind. Predominantly the weather would have blown it to the east—the swell and the wind. Certainly the rip would have had minimal effect if it were sitting on the edge.

Senator CROSSIN: When you are both moored at Ethel Beach, are you on board there or do you have a minimal crew there and the rest of the people on island—in that sort of weather, anyway?

Lt Cmdr Livingstone: No, at Ethel Beach there is no facility at this stage for us to anchor or come to a buoy, so we will stay underway with a full crew on board. In this case we had four people as a steaming party—basically a security party—in SIEV220. They will be underway, because there is no facility at the moment for them to anchor, moor or tie up there. So both vessels are underway. You cannot beach it because of quarantine issues and things like that.

Senator HANSON-YOUNG: I have a couple of questions. Why don't we go back to the issue about phone calls from the boat? Last week we were talking about the fact that there had been a 000 call from the boat but that that was about the same time as the initial sighting. I just want to clarify that that is the case.

Mrs Grant: We had had notification of the sighting of the vessel before the 000 calls came in.

Senator HANSON-YOUNG: So when did the 000 call come in?

Supt Ryan: I can answer that. I will answer it in two ways. There were calls believed to be made from SIEV221 and calls from people watching on—

Senator HANSON-YOUNG: I mean simply from SIEV221.

Supt Ryan: First of all these calls are received and logged by the Telstra 000 system in New South Wales and Victoria, so they go through. Of the six calls believed to be made from SIEV221, two were unsuccessful in being transferred to the Western Australia Police call centre. They were terminated by an unknown party prior to establishing a line connection to that call centre. These calls consisted of the first, logged at 05:50:02—so 10 to six—and the third call, logged at 05:55:51.

Senator HANSON-YOUNG: So they were unsuccessful?

Supt Ryan: Correct. One caller was successfully transferred to the WAPOL 000 centre. However, the caller terminated the call prior to being answered by the WAPOL 000 call centre operator. This was the fourth call. It was logged that 05:57:06. The remaining three calls were successfully transferred to the WAPOL 000 call centre and answered by WAPOL 000 call centre officers Senior Constable Moore and Senior Constable Thompson. These calls consisted of the second call logged at 05:50:59, the fifth call logged at 05:58:33, and the sixth call logged at 06:05:20. Officers answering these calls encountered problems gathering information from the caller due to background noise and language barriers. These calls were played at the coronial inquest. I was not present and I have not actually heard them myself.

Between the second and third call answered by WAPOL—WAPOL being the Western Australia Police—Sergeant Darryl Kaye contacted the WA Water Police at 06:04 am and the Australian Maritime Safety Authority (AMSA) Rescue Coordination Centre in Canberra at 06:05 am.

Then it goes on to say what those relevant agencies did et cetera. So there was great difficulty connecting and then language barriers.

Senator HANSON-YOUNG: Regarding those ones that were unsuccessful, did you have to go back as part of the review to find that they had happened? Is that how you know they happened? Because if they were not successful, they would not be registered, I would imagine.

Supt Ryan: No, they were registered. They are automatically registered at the 000 call centre and they are easily obtained.

Senator HANSON-YOUNG: But you would have had to go back and assess whether there had been any other calls from that number post the event.

Supt Ryan: Correct.

CHAIR: How do you know that they were from SIEV221?

Supt Ryan: I said the emergency calls were believed to have been made from SIEV221.

CHAIR: The ones that were not connected?

Supt Ryan: There were six that I have just referred to.

CHAIR: I would like to explore that a little further. Why would they believe that? Is it because they are from the general area here—could they tell that?—or are they just six calls that happen not to be connected so it is simply an assumption that they were from there, because that was what was happening at the time?

Mr PERRETT: We do not know the repeater station that they have come from—they do not have that data yet?

Supt Ryan: There would be data that would be able to be retrieved to give you the phone number. I do not know which person said it. I do not have that information. I have to get that information off Western Australia Police. I am reading from their report, because I was conscious that you had raised that before.

CHAIR: We probably do not need the evidence; it is just whether it is simply an assumption that the calls were made or you believe it with some certainty. I am just trying to categorise what the evidence is.

Supt Ryan: When I ring 000 my number will come up. I am surmising that when these came up they would be like an Indonesian SIM card coming up on the computer screen—that is why they would say 'emergency calls believed to have been made' from SIEV221.

Mr CHAMPION: When you say 'terminated', does the call terminate itself?

Supt Ryan: Yes.

Mr CHAMPION: Just a dropout.

Supt Ryan: Just a dropout, yes. There are various black spots on the island, as you will probably find in the next day or so.

Senator HANSON-YOUNG: Yes, right here, actually.

Supt Ryan: Yes, and in the hospital of all places, too.

Mr HUSIC: Can you confirm the document you were reading from—that you were quoting into *Hansard*?

Supt Ryan: It is called the *Coronial report concerning the deaths of 30 deceased persons and 20 missing persons believed drowned at Christmas Island on 15 December 2010*. It was prepared by Detective Senior Sergeant Stephen Foley for the Western Australian Coroner. The coroner, Mr Hope, asked both the AFP and the Western Australia Police to prepare reports. We were given that report when they prepared it and they were given ours. They are both tendered in evidence, as I understand it.

CHAIR: Superintendent, I think there may be a question on notice about whether you can actually give us that report. I think it is subject to permission from the coroner. Have we progressed?

Supt Ryan: I have rung my counterpart; I have a liaison officer, Superintendent Castlehow, in Western Australia. He was driving when I got on to him. He is going to contact Mr Hope tomorrow morning. His initial reaction was positive but it is up to Mr Hope.

CHAIR: All right. Thank you.

Senator HANSON-YOUNG: There are assumed to be six calls that came from the boat at the time that the boat was in distress. In your investigation, did any other phone calls come up that were made prior to that morning?

Supt Ryan: From the boat? No.

Senator HANSON-YOUNG: The reason I am asking is that there has been some suggestion that some of the people on the boat had actually called relatives that they had here on Christmas Island in the detention centres. Has that come up in your investigation?

Supt Ryan: Not to my knowledge, but I am not across every single statement. There are 420-odd statements. I can only say that I will ask my colleagues to take that on notice and check it.

Senator HANSON-YOUNG: I think it is important because if it is correct then somebody has from the boat called somebody at the island to say, 'Hey, we are on our way; we have left Indonesia.' I do not know how you possibly would have been able to monitor it, but it would confirm some of the statements that were given by survivors. I am surprised that perhaps that has not gone into your investigation, but you are saying that maybe it has and you just do not have that information. Is that right?

Supt Ryan: Yes, that is correct. The actual investigation for the coronial was handled by the Western Australian police and we assisted them. We took probably two-thirds of the statements for them. They ended up having all of the statements together—which have got as well; they have shared them with us.

Senator HANSON-YOUNG: My understanding is that it was the day before, the 14th.

Supt Ryan: So they would have been at sea when they rang. Okay.

Mrs Grant: Chair, could I request that before we start delving into the contents of witness statements that have been taken for the purpose of the coroner's inquest that we do get permission from the coroner. Those particular statements that we are talking about have not yet been tendered into evidence at the coronial. The way the proceedings have been occurring, the documents have been handed up as exhibits, document by document, rather than as complete sets of statements. So they are owned by the coroner at this stage. Some of the comments we have made reflecting evidence that has been provided have already been made in public hearings, which is why I do not have a concern about us reporting back on what is already in the public arena in the coroner's inquiry, but we have now had some direct references from the brief of evidence. We are seeking permission to provide that to you, and we would also need to get those permissions around individual witness statements.

CHAIR: Yes.

Mrs Grant: We could take it on notice to look for this information about any phone calls that may have been made.

Senator HANSON-YOUNG: I have just given you one. What I am asking for is if you could take on notice as to whether—other than the six that you have documented and given to us today—we know of any other phone calls that were made from that boat prior to that morning.

Mrs Grant: We do not actually have any record of phone calls being made from that boat, but we take your advice that you have been advised that people did ring. Perhaps not publicly, but, if you have any names, that would help us search through this 400-odd set of witness statements to narrow it down. We do have officers reading through all of those statements and such a comment does not seem to have emerged at this point.

Senator HANSON-YOUNG: All right; I am happy to have a discussion. I just want to go back to the issue of the personnel and experience that we had on both the *Pirie* and the *Triton* at the time. How many qualified divers were there on either vessel?

Mrs Grant: I can answer for the *Triton*. The Customs and Border Protection Service does not engage qualified divers. If we needed the service of a diver we would contract that in.

Lt Cmdr Livingstone: We did not have any Navy divers, as such. I think one or two of the lads are PADI divers but are not recognised by the Navy as divers.

Senator HANSON-YOUNG: Where did the divers who were able to retrieve the bodies that could be brought out come from?

Supt Ryan: The two bodies that were found the next day after the tragedy? Is that what you are referring to?

CHAIR: I think it is in relation to your evidence earlier about looking for the missing persons. I think you did refer to divers looking in a cave.

Supt Ryan: They were local divers hired by us. WAPOL was sending others but we wanted to get people in straight away.

Senator HANSON-YOUNG: My understanding was that they were local divers. I just wanted that confirmed. We will speak to the department of regional services about this as well, but what kind of support has been given to those divers since this incident? The men and women on both *Pirie* and *Triton* are trained for dealing with situations of high stress, dealing with casualties. It must have been a pretty unusual request for local divers, and I would imagine it would have been a hard thing for them to do to retrieve bodies.

Supt Ryan: It is a little unusual. We could not get the Western Australian divers there until the next day, and we wanted to start the process as quickly as we could. In answer to your question about counselling, I honestly do not know the answer to that in relation to those people. I know they were profusely thanked by the minister, Mr O'Connor, personally. He met them and thanked them. I can endeavour to find out if they received any counselling, but off the top of my head I cannot answer that.

Senator HANSON-YOUNG: Who would be the best person to ask that question of?

Mrs Grant: I think the administrator of the island might be in the best position to know what services were provided to the community.

Senator HANSON-YOUNG: The reason I am asking you, though, is that you contracted them to do this work.

Supt Ryan: Correct—through the harbourmaster.

CHAIR: Would they have been specifically asked to do it or would they have been aware of the need for divers and made contact themselves? Maybe you can take that on notice.

Supt Ryan: I will take it on notice. They knew what they were doing, though.

CHAIR: Was it a formal contractual arrangement, or just 'you will do this, working for us'. Again, I am not suggesting we should hold up important things because of public sector bureaucracy, because we lose both ways when we do that. I feel for the public sector in those circumstances, which we put them in more often than not. But I would not mind understanding the actual nature of the contractual arrangement, if you are prepared to take that on notice.

Supt Ryan: I would have to take that on notice. We had a Western Australian search and rescue coordinator come out on the plane with us, Sergeant Mack. He came to me and told me what he wanted to do, and I said, 'Yes, make it happen'. I will have to get back and find out the mechanics behind that.

Senator HANSON-YOUNG: What is the reasoning for not having divers as part of the make-up of the crew on *Triton* or *Pirie*?

Mrs Grant: The primary responsibility for the vessels assigned to Border Protection Command is surveillance and response for breaches of the Australian border for eight maritime threats. To deliver on that role divers are not required. We would need divers only if there were some emergency situation. As I said, at that point we would contract divers in to do any work for us. So, in the normal course of events, there is just no call for a diving function for, say, the *Triton*. I can ask my colleagues from Navy to comment on the construct of their crews.

Lt Cmdr Livingstone: Certainly, from a Navy point of view, to meet our mission we do not need Navy divers as such. There is a very discrete skill set that they have which we do not need; we have not found a need to use Navy divers. Major warships such as the Anzac- or Adelaide-class frigates, due to their complement of 180 people, will generally have a dive element because of their tasking. If they are going to the Gulf, they will have the divers. But, certainly for Operation Resolute and with the crew size that I have, I do not need someone with a discrete skill base as a diver more than I need a cook, a medic and things like that.

Senator HANSON-YOUNG: It actually does surprise me. You are sailing around on the seas. It is not the first time that we have seen SIEVs sink, unfortunately. If that is the decision, that is the decision. I do think it is surprising—the fact that we had to contract some local divers. I understand that in the community here everybody who was able to help helped, because that is what you do. I am surprised that, with the two professional outfits on the seas, that is not part of your standard make-up. Is that something that you would consider rethinking?

Mrs Grant: From a Customs and Border Protection point of view, it is not something that we need on board our vessels. As you have heard, diving is a particular skill set. It has quite an onerous set of competencies to be maintained. So, once you are qualified in our way of operating, there is the issue of how many diving hours you must maintain to keep your skills current. We just do not have the work for a diver to do, and we would not even be able to keep people competent to the standards if we did employ divers to come on board our vessels. There is just no mission requirement for a diver. Our primary purpose is surveillance and response, border protection and law enforcement against breaches of the border. So, if we are in the vicinity of a shipwreck, we are obliged to render assistance, but we are not setting out on every mission tasked as a rescue vessel, so we do not equip our

vessels to the standard of a rescue vessel and we do not put in crew with all the particular skill sets that might come in handy in a rescue situation. In the same way, merchant or commercial vessels plying the world—a cargo ship, an LNG ship or whatever—are fitted out for the task of carrying their cargoes around the world, but if they need to respond to a rescue situation then they do it to the best of their ability with what is available on their vessel. But we do not equip vessels with purpose A to be dedicated rescue vessels. From our point of view, there is just not a need for a diver or the expense and effort of trying to maintain diving skills. We just do not have the opportunities to keep a diver in currency.

Senator HANSON-YOUNG: From the perspective of Customs and Border Protection and, I guess, the AFP based here on the island, there is no-one even within the AFP who has these skill sets based on the island—is that correct?

Senator CROSSIN: While you are thinking about an answer to that: wouldn't local divers know the coastline? There are so many caves hidden under the crevices here that I would have thought local divers would have the best knowledge of where those caves are and how they behave.

Senator HANSON-YOUNG: That is true.

Mr Watson: Thank you, Senator Hanson-Young. In response to your question, that is precisely the circumstances. If the AFP did require the assistance of diving services, as we did on this day, they are available on island and we can use them. This really goes to the particular skill make-up, the currencies and competencies of the relatively small number of men and women who serve on island permanently and the kinds of skill sets that you want to maintain as a core competency of skill sets. As in the case with this particular tragedy, in the very first instance, because of the time frame that unfolded, we rely on the local community before we can get in the professional police divers to carry out those very difficult tasks.

Senator HANSON-YOUNG: I understand that in a normal circumstance where something needs to be found, sure, you would engage the local diver. My question is that local divers were asked to retrieve bodies. Without the training, without the professional support, to deal with that type of situation, I would imagine that some of these people would have seen the event unfold in the first instance. That it is a pretty harrowing thing to expect a local diver to do without the training and the experience is my point. What can we do to try and fill that gap?

Mr Watson: Senator, it goes back to this assessment of the particular skill sets and the particular needs for the relatively small number of men and women who are on the island and who serve as Christmas Island police. It is an assessment, granted, against the particular times when you might find that you need to have somebody with diving capability as against the rest of the time when it is not a skill that is in day-to-day use. The other part we will have to take on notice. I am not quite sure of the particular training of those divers and whether they had had experience in undertaking this sort of work or in search and recovery efforts in a previous life. We can certainly find that out and take that matter on notice.

Mr HUSIC: How many times prior to 15 December 2010 did Customs contract the assistance of divers for its work?

Mrs Grant: We contracted some divers a few years ago to dive on the hull of a commercial vessel in search of narcotics.

Mr HUSIC: The 12 months leading into 15 December. I would assume from that—

Mrs Grant: Not at all. I would say that probably from 1999 we have engaged divers about twice for narcotic related matters.

Senator HANSON-YOUNG: Christmas Island is renowned for its scuba diving. People from all over the world used to come here—but now they cannot get accommodation—because it has some of the best diving areas in the world. From an AFP perspective, if something went wrong during tourist activities, what would you do?

Mr Watson: We have search and rescue function on Christmas Island. That function revolves around assistance from the Volunteer Marine Rescue Service, who are also on island. The officer in charge of the station has particular roles in relation to issues of emergencies and so on. In terms of whether an AFP diver would assist, this is an issue that we could turn to see whether there are members within the Volunteer Marine Rescue Service who are available to assist Christmas Island Policing in respect of rescues, search and rescue at sea and so on, as we do have with our own capacity here as well.

Senator HANSON-YOUNG: But currently you got no-one on your team who is based here who has a diving certificate.

Mr Watson: We have no AFP divers on the island.

Mrs MARKUS: Mr Watson, you might want to take this on notice. Given that tomorrow we will be able to ask more questions of the Administrator and other people about what kind of support might have been available to

the divers in terms of psychological assessment and ongoing support, would there ever be the case that the AFP, given that you have contracted somebody, would provide that kind of psychological support and follow-up if it was unavailable elsewhere?

Mr Watson: I can say that the AFP psychologists are regular to the community. They know this community well. They know the members on the island well.

Mrs MARKUS: So the divers had an opportunity to access support.

Mr Watson: We will look into that and I will take that precise question on notice, if I could. But it is not something that the AFP would shy away from, if I could put it that way.

Mrs MARKUS: I appreciate that. Thank you.

Mr PERRETT: My question is to Sergeant Swann. While he is coming to the table, to Mr Watson, divers were PADI qualified to train? I see there is a flyer out in the foyer. Obviously there is a high standard to train people to PADI qualification and they have got all four levels out there, I note. So these would be very experienced divers we are talking about.

Mr Watson: I understand they are commercially qualified.

Mr PERRETT: To train people to PADI.

Mr Watson: Yes.

Mr PERRETT: Sergeant Swann, you have been in the AFP for nearly 30 years.

Sgt Swann: That is correct.

Mr PERRETT: You have been here 18 months, I think you said.

Sgt Swann: It is coming up to two years now but at the time of the incident, yes.

Mr PERRETT: Over that time there had been a significant increase in the number of refugee arrivals. My recollection of the media is that there were a couple of stories saying that the community here had a bit of compassion fatigue, feeling a bit harassed, a bit tired. How did your community behave on the day of 15 December: like a tired community that had had enough of people arriving?

Sgt Swann: No, not at all. Nothing short of total heroics on the shoreside of the incident.

Mr PERRETT: So they stepped up.

Sgt Swann: Everyone stepped up. I had a situation where we almost had too many people wanting to help. Between Myles and myself, once they saw us take a lead on the front groups they jumped in behind us to assist. There was certainly no shortage of people on the shoreline that day and people volunteering and wanting to know what they could do to assist.

Mr PERRETT: To the point where you had to stop them from putting their own lives in danger, I think was the suggestion from Mr Pickett. There was a young man who wanted to jump into the ocean.

Sgt Swann: Yes, there were a couple of people who we pulled back from the edge of the rocks. Both the Customs and police teams and numerous of the locals had life vests on, we had inflatable PFDs on us. It gave us the opportunity, I guess, to go a bit further than the locals who were not dressed that way.

Senator HANSON-YOUNG: I have a question about who the skipper on the boat was on the morning the tragedy happened. Is it your understanding that it was a different person from the skipper the boat left Indonesia with?

Mrs Grant: We understand that one of the crew members did depart SIEV221 presumably to return to Indonesia.

Senator HANSON-YOUNG: Is your understanding that that person would have been a more experienced skipper?

Mrs Grant: I really cannot comment on that. We do not know precisely who that person is, to the best of my knowledge.

Senator HANSON-YOUNG: The person who left?

Mrs Grant: I do not know the particulars about that person, so I cannot speculate on level of experience.

Senator HANSON-YOUNG: Was the person in charge of the boat on the morning of the crash very experienced? Were they an older Indonesian fisherman or a younger Indonesian fisherman? Where did they fit?

Supt Ryan: The person in charge, if I can put it that way, when the boat crashed was 60 years old. He had been a fisherman most of his life. Of course you can have experience in your home port but have virtually no

experience in the open sea. There was a person who got off who appeared to have more experience than the three who were left behind.

Senator HANSON-YOUNG: So you do believe that that is the case? That is your understanding?

Supt Ryan: Deducing that from evidence we have received, yes.

CHAIR: No-one else has indicated that they have further questions, so I thank you all for that marathon session. Your evidence has been particularly helpful to the committee's inquiry. I thank each of the agencies for the formal submissions they have made to us, for their previous presentations to this committee and also for their availability to and cooperation with the committee today. We may see some of you during the course of our physical inspections during our visit; otherwise, thank you.

Committee adjourned at 15:43