



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## **SENATE**

FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION  
COMMITTEE

ESTIMATES

**(Additional Estimates)**

WEDNESDAY, 16 FEBRUARY 2005

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE**

**FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE**

**Wednesday, 16 February 2005**

**Members:** Senator Sandy Macdonald (*Chair*), Senator Hutchins (*Deputy Chair*), Senators Ferguson, Mackay, Payne and Ridgeway

**Senators in attendance:** Senator Sandy Macdonald (*Chair*), Senators Bartlett, Bishop, Collins, Evans, Faulkner, Ferguson, Harradine, Heffernan, Hogg, Payne and Tchen

**Committee met at 9.06 a.m.**

**DEFENCE PORTFOLIO**

**In Attendance**

Senator Hill, Minister for Defence

**Department of Veterans' Affairs**

**Portfolio overview**

**Corporate and general matters**

**Outcome 1: Eligible veterans, serving and former defence force members, their war widows and widowers and dependants have access to appropriate income support and compensation in recognition of the effects of war and defence service**

**1.1: Means tested income support, pension and allowances**

**1.2: Compensation pensions, allowances et cetera**

**1.3: Veterans' Review Board**

**1.4: Defence Home Loans Scheme**

**1.5: Incapacity payments, non-economic lump sums through MCRS**

**1.6: Individual merit reviews of MCRS decisions**

**1.7: Incapacity payments, non-economic lump sums through MRCA**

**1.8: Individual merit reviews of MRCA decisions**

Mr Mark Sullivan, Secretary

Mr Ian Campbell, Deputy President

Mr Ken Douglas, Division Head, Health

Mr Barry Telford, Acting Division Head, Compensation and Support

Ms Peta Stevenson, Branch Head, Defence Links, Compensation and Support

Dr Keith Horsley, Director, Health Studies

Ms Carolyn Spiers, Branch Head, Veterans' Compensation, Compensation and Support

Mr Mark Johnson, Branch Head, Military Compensation, Compensation and Support

Mr Wayne Penniall, Branch Head, Aged and Community Care, Health

Mr Paul Pirani, Branch Head, Legal Service, Compensation and Support

Ms Jeanette Ricketts, Branch Head, Income Support

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**Outcome 2: Eligible veterans, serving and former defence force members, their war widows and widowers and dependants have access to health and other care services that promote and maintain self-sufficiency, wellbeing and quality of life**

**2.1: Arrangement for delivery of services**

**2.2: Counselling and referral services**

**2.3: Deliver medical, rehabilitation and other related services under the MCRS**

**2.4: Deliver medical, rehabilitation and other related services under the MRCA**

Mr Mark Sullivan, Secretary

Mr Ian Campbell, Deputy President

Mr Ken Douglas, Division Head, Health

Mr Roger Winzenberg, Branch Head, Health Services, Health

Mr Pablo Carpay, Branch Head, Younger Veterans, Health

Mr David Morton, Branch Head VVCS, Health

Mr Chris Harding, Branch Head, Hospitals and Business Development, Health

Ms Jo Schumann, Branch Head, Health Infrastructure, Health

Mr Wayne Penniall, Branch Head, Aged and Community Care, Health

Dr Keith Horsley, Director, Health Studies

Dr Graeme Killer, Principal Medical Adviser

**Outcome 3: The service and sacrifice of the men and women who served Australia and its allies in wars, conflicts and peace operations are acknowledged and commemorated**

**3.1: Commemorative activities**

**3.2: War cemeteries, memorials and postwar commemorations**

Mr Mark Sullivan, Secretary

Mr Ian Campbell, Deputy President

Ms Kerry Blackburn, Division Head, Corporate

Mr Ian Kelly, Branch Head, Commemorations, Corporate

Air Vice Marshal (Retired) Gary Beck, AO, Director, Office of Australian War Graves

Ms Katherine Upton, Deputy Director, Office of Australian War Graves

**Outcome 4: The veteran and defence communities have access to advice and information about benefits, entitlements and services**

**4.1: Communication and community support and development services to the veteran community and providers, including veterans' local support groups**

**4.2: Advice and information to members of the defence force community and providers related to the MCRS**

**4.2: Advice and information to members of the defence force community and providers related to the Military Rehabilitation and Compensation Act and related legislation**

Mr Mark Sullivan, Secretary

Mr Ian Campbell, Deputy President

Mr Ken Douglas, Division Head, Health

Ms Kerry Blackburn, Division Head, Corporate

Ms Carol Bates, Branch Head Strategic Support, Corporate

Mr Wayne Penniall, Branch Head, Housing and Aged Care, Health

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**Outcome 5: Serving and former defence force members and dependants have access to support services provided through joint arrangements between DVA and Defence****5.1: Joint Defence-DVA projects**

Mr Mark Sullivan, Secretary

Mr Ian Campbell, Deputy President

Mr Barry Telford, Acting Division Head, Compensation and Support

Ms Carolyn Spiers, Branch Head, Veterans' Compensation, Compensation and Support

Mr Mark Johnson, Branch Head, Military Compensation, Compensation and Support

Ms Peta Stevenson, Branch Head, Defence Links, Compensation and Support

Dr Keith Horsley, Director, Health Studies

**Output group 6: Provision of services to the Parliament, Ministerial services and the development of policy and internal operating regulations—attributed to outcomes 1 to 5**

Mr Mark Sullivan, Secretary

Mr Ian Campbell, Deputy President

Ms Kerry Blackburn, Division Head, Corporate

Mr Russell McLaughlin, Branch Head, People Services, Corporate

Mr Neil Bayles, Chief Finance Officer, Resources, Corporate

Ms Gail Urbanski, Branch Head, Parliamentary and Corporate Affairs, Corporate

Mr Paul Pirani, Branch Head, Legal Service, Compensation and Support

Mr Bob Hay, Chief Information Officer, Corporate

Ms Karin Malmberg, Director, Resources, Corporate

Mr Mark Harrigan, Acting Director, Resources, Corporate

**Australian War Memorial****Australians remember, interpret and understand the Australian experience of war and its enduring impact on Australian society**

Major General (Retired) Steve Gower, Director

Mr Mark Dawes, Assistant Director, Branch Head, Corporate Services Branch

Ms Helen Withnell, Assistant Director, Branch Head, Public Programs Branch

Ms Nola Anderson, Assistant Director, Branch Head, National Collections Branch

Ms Rhonda Adler, Chief Finance Officer

**Department of Defence****Portfolio overview and major corporate issues**

Mr Ric Smith, AO, PSM, Secretary of Defence

Vice Admiral Russ Shalders, AO, CSC, RAN, Acting Chief of the Defence Force

**Budget summary (financial statements and improvement initiatives)**

Mr Lloyd Bennett, Chief Finance Officer

Mr George Veitch, First Assistant Secretary Budgets and Financial Planning

Mr Graham Dunlop, First Assistant Secretary Financial Services

Mr Noel Dobbie, Acting Assistant Secretary Accounting Policy and Practices

Mr Jon Collings, Assistant Secretary Planning and Budgeting

**Capability development**

Lieutenant General David Hurley, AO, DSC, Chief Capability Development Group

Air Vice-Marshal Kerry Clarke, AM, Head Capability Systems

Dr Ralph Neumann, First Assistant Secretary Capability Investment and Resources

**Capital budget****Major capital equipment**

Dr Stephen Gumley, Chief Executive Officer Defence Materiel Organisation  
Mr Norman Gray, AM, Deputy Chief Executive Officer Defence Materiel Organisation  
Dr Ian Williams, Chief Finance Officer Defence Materiel Organisation  
Ms Mary Kelaher, Director-General Materiel People and Performance  
Air Commodore Clive Rossiter, Acting Head Aerospace Systems Division  
Ms Shireane McKinnie, Head Electronic and Weapon Systems  
Mr Peter Croser, Head Industry Division  
Rear Admiral Trevor Ruting, AM, CSC, RAN, Head Maritime Systems Division  
Mr Warren King, Program Manager Air Warfare Destroyer  
Mr Kim Gillis, Program Manager Amphibious Deployment and Sustainment  
Air Commodore John Harvey, Director-General New Air Combat Capability  
Ms Gillian Marks, Head General Counsel  
Mr Colin Sharp, AM, CSC, Head Land Systems  
Brigadier David McGahey, Director-General Materiel Information Systems, Chief Operating Officer Division  
Mr Mark Jenkin, Director-General Materiel Budget and Treasury, Chief Finance Division

**Major capital facilities projects**

Mr Alan Henderson, Deputy Secretary Corporate Services  
Mr Geoffrey Beck, Head of Infrastructure  
Ms Chris Bee, Assistant Secretary Strategic Planning and Estate Development  
Brigadier Peter Hutchinson, Director-General Infrastructure Asset Development  
Brigadier Jeff Davie, Director-General Regions and Bases  
Mr John Diercks, Assistant Secretary Technical Facilities Services

**Outcome 1: Command of operations in defence of Australia and its interests****Output 1.1: Command of operations****Output 1.2: Defence Force military operations and exercises****Output 1.3: Contribution to National Support Tasks**

Vice Admiral Russ Shalders, AO, CSC, RAN, Acting Chief of the Defence Force  
Major General Mark Evans, DSC, AM, Deputy Chief of Joint Operations  
Air Vice-Marshal Christopher Spence, AO, Commander Joint Logistics  
Air Commodore Kevin Paule, Strategic Operations Division

**Outcome 2: Navy capability for the defence of Australia and its interests****Output 2.1: Capability for major surface combatant operations****Output 2.2: Capability for naval aviation operations****Output 2.3: Capability for patrol boat operations****Output 2.4: Capability for submarine operations****Output 2.5: Capability for afloat support****Output 2.6: Capability for mine warfare****Output 2.7: Capability for amphibious lift**



**Output 2.8: Capability for hydrographic, meteorological and oceanographic operations**

Vice Admiral Chris Ritchie, AO, RAN, Chief of Navy

Rear Admiral Max Hancock, RAN, Deputy Chief of Navy

Mr Stephen Wearn, Director-General Navy Business Management

**Outcome 3: Army capability for the defence of Australia and its interests****Output 3.1: Capability for special forces operations****Output 3.2: Capability for medium combined arms operations****Output 3.3: Capability for light combined arms operations****Output 3.4: Capability for army aviation operations****Output 3.5: Capability for ground based air defence****Output 3.6: Capability for combat support operations****Output 3.7: Capability for regional surveillance****Output 3.8: Capability for operational logistic support to land forces****Output 3.9: Capability for motorised combined arms operations****Output 3.10: Capability for protective operations**

Lieutenant General Peter Leahy, AO, Chief of Army

Mr Lance Williamson, Director-General Corporate Management and Planning, Army

**Outcome 4: Air Force capability for the defence of Australia and its interests****Output 4.1: Capability for air combat operations****Output 4.2: Capability for combat support of air operations****Output 4.3: Capability for surveillance and response operations****Output 4.4: Capability for airlift operations**

Air Marshal Angus Houston, AO, AFC, Chief of Air Force

Ms Grace Carlisle, Assistant Secretary Resources Planning, Air Force

Air Commodore John Harvey, Director-General New Air Combat Capability

**Outcome 5: Strategic policy for the defence of Australia and its interests****Output 5.1: Strategic and international policy, activities and engagement****Output 5.2: Military strategy and capability analysis**

Mr Shane Carmody, Deputy Secretary Strategy

**Outcome 6: Intelligence for the defence of Australia and its interests****Output 6.1: Intelligence**

Mr Ron Bonighton, AM, Deputy Secretary Intelligence and Security

Major General Maurie McNarn, Director Defence Intelligence Organisation

Brigadier Steve Meekin, Director-General, Scientific and Technical Analysis, Defence Intelligence Organisation

Mr Ross Bain, Head Defence Security Authority

**Outcome 7: Superannuation and housing support services for current and retired defence personnel****Output 7.1: Superannuation support services for current and retired defence personnel****Output 7.2: Housing assistance for current and retired defence personnel****Output 7.3: Other administered revenue and expenses**

Mr Lloyd Bennett, Chief Finance Officer

Mr George Veitch, First Assistant Secretary Budgets and Financial Planning

Mr Jon Collings, Assistant Secretary Planning and Budgeting

**Business processes****Defence Science**

Dr Roger Lough, Chief Defence Scientist

Dr Ken Anderson, First Assistant Secretary Science Policy

**Inspector-General**

Mr Claude Neumann, Inspector-General

**Chief Information Officer**

Air Vice-Marshal John Monaghan, AM, Chief Information Officer

**Corporate Services**

Mr Alan Henderson, Deputy Secretary Corporate Services

Mr Geoffrey Beck, Head Infrastructure

Ms Chris Bee, Assistant Secretary Strategic Planning and Estate Development

Brigadier Peter Hutchinson, Director-General Infrastructure Asset Development

Mr Mark Cunliffe, Head Defence Legal

Air Commodore Simon Harvey, Director-General Australian Defence Force Legal Services

Dr David Lloyd, General Counsel, Defence Legal

**Coordination and Public Affairs**

Mr Michael Pezzullo, Head Coordination and Public Affairs

**People****Defence Personnel**

Rear Admiral Brian Adams, AO, RAN, Head Defence Personnel Executive

Mr Peter Sharp, First Assistant Secretary Personnel

**CHAIR**—I declare open this meeting of the Senate Foreign Affairs, Defence and Trade Legislation Committee. I welcome Senator Robert Hill, the Minister for Defence, the new secretary of the Department of Veterans' Affairs, Mr Mark Sullivan, and officers. We will begin with the Department of Veterans' Affairs, and that will be followed by the Defence organisation at 1 p.m.

The committee has before it particulars of proposed additional expenditure for the year ending 30 June 2005 and the portfolio additional statements for the Department of Veterans' Affairs. The committee will begin with a portfolio overview and then consider the outcomes. When written questions on notice are received, the chair will state for the record the name of the senator who submitted the questions. The questions will be forwarded to the department for an answer. The committee has resolved that Thursday, 31 March 2005 is the return date for answers to questions taken on notice at these hearings.

The committee notes that it still has not received all of the answers to questions submitted to departments and agencies on 2 December last year. Answers were due on 31 December. The prompt return of answers assists the committee to complete its scrutiny of the current year's estimates. Departments and agencies are encouraged to return the answers as soon as possible.

Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. I also remind witnesses that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. An officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy.

However, you may be asked to explain government policy, describe how it differs from alternative policies and provide information on the process by which a particular policy was selected. An officer shall be given a reasonable opportunity to refer questions asked of the officer to superior officers or the minister. Minister Hill, do you or any of the officers wish to make an opening statement?

**Senator Hill**—No.

[9.08 a.m.]

#### **Department of Veterans' Affairs**

**Senator MARK BISHOP**—I also welcome Mr Sullivan and officers from the department to this round of estimates. Before we go to questioning, arising out of the comments made by the chair, it is my understanding that there is a significant number of questions outstanding from both the budget estimates last June and the round of additional estimates last February. Why is that the case?

**Mr Sullivan**—Thanks, Senator. It is good to be here and I look forward to working with the committee. I guess it is one of the only times when you can sometimes beg forgiveness and indulgence. We do have outstanding questions. We actually have three outstanding questions relating to the February 2004 additional estimates, we have three outstanding questions in relation to the May estimates and we have 91 outstanding from December 2004 questions taken on notice. Why? The earlier questions largely did require a whole lot of data extraction across a number of years. I think it was decided to do them but I think we should have kept you, through the chair, up to date on where they were going.

We have now moved to a position where I believe that five of those six questions have recently gone to my minister's office—very recently. She is of the same view as me, that we should strive to get these things cleared up as soon as possible. We are at an advanced stage of the 91 questions from December. I know you would like to say 'When?' I can say soon. It will be my greatest endeavour to ensure that they are there. Again, the minister is very keen to assist in that. We will strive, in meeting the 31 March date, to reset what I understand has been a historically good record from the Department of Veterans' Affairs in answering questions. I hope that is a benchmark for me as well as for the department. We will get these questions to you in the very near future.

**Senator MARK BISHOP**—Thank you. I turn at the outset to the issue raised by ANAO in their report. In particular, I refer you to report No. 15, paragraphs 4.69 and 4.70 on page 85, where criticism is made of DVA's use of the special appropriation under the Compensation Act for administrative costs of \$1.5 million. That is, funds for a special purpose were taken, as I understand the ANAO report, for routine administrative overheads. What advice was sought prior to this money being used for administrative purposes? Who sought it and from whom?

**Mr Sullivan**—I will get Neil Bayles, the chief financial officer, to the table. The ANAO report refers to \$1.5 million as a maximum amount which in their view was illegally drawn down in 2001. Our view always was that we were not doing something that we were not allowed to do. I make the point that there was at least one newspaper which reported that some POWs were not paid, that we had swiped their money. I can assure this committee, as we assured the Australian people and the veteran community, that every veteran or dependant

of a veteran entitled to such a payment was paid. We have accepted the ANAO report. We have negotiated with the Department of Finance and Administration. The actual exposure was \$250,000, which has been agreed between us and Finance. We have repaid that \$250,000 to the consolidated revenue fund. We have corrected the mistake and accepted the ANAO report.

**Senator MARK BISHOP**—Before I go to Mr Bayles, Mr Sullivan, the figure that was identified in the report at paragraph 4.70 was \$1.5 million. You now say the figure was a quarter of a million dollars. What is the difference?

**Mr Sullivan**—The \$1.5 million was seen by ANAO as a maximum liability. They acknowledged to us—I cannot be certain that it was in the report—that the figure could range. What we have costed with Finance is how we used those funds for administrative expenses and we have agreed with Finance that \$250,000 was the extent of our usage of the funds for administrative purposes.

**Senator MARK BISHOP**—The ANAO report does not use the words ‘up to’. It says:

DVA drew \$1.5 million from the CRF under the Compensation Act Special Appropriation for the purpose of meeting its estimated departmental costs for the future administration of the compensation payments.

**Mr Sullivan**—We are consulting with ANAO to ensure that they are happy with what we have done. We understand that they will be.

**Senator MARK BISHOP**—Is ANAO’s report inaccurate?

**Mr Bayles**—There were two pieces of legislation which enabled the payments to prisoners of war of Japan and their widows, and civilian internees and their widows. One was a regulation under the Veterans’ Entitlements Act. That enabled the payments to those prisoners of war of Japan and their widows. There was another piece of legislation, which was for compensation for internment of Japanese—the Japanese internment act. That legislation provided the coverage for civilian internees and their widows. The appropriation that we are talking about here of \$1.5 million was included in an appropriation amount mentioned in section 13 of the Compensation (Japanese Internment) Act. We believed at the time that that piece of legislation provided the authority for us to spend \$1.5 million on administering the payments made under both of those pieces of legislation. We believed that at the time.

ANAO came to the view that it did not feel that the legislation was specific enough to authorise the expenditure of the \$1.5 million. However, it did indicate that a portion of that amount could be legitimately spent on the administration of the payments under the Veterans’ Entitlements Act for the prisoners of war of Japan and their widows, because of the construct of those regulations under the Veterans’ Entitlements Act. So only a portion of the \$1.5 million that was spent on administration of the payments to the civilian internees and their widows was what would be regarded as illegally drawn down. What we needed to do was assess what portion of the \$1.5 million was spent on administration of the payments for the civilian internees and their widows, as opposed to the administration effort that went into the payments for the prisoners of war of Japan and their widows. So we had to apportion the \$1.5 million.

**Senator MARK BISHOP**—You say that \$250,000 was illegally or improperly spent on the civil internees and the remainder was properly spent—

**Mr Bayles**—It was properly spent under the regulations.

**Senator MARK BISHOP**—on the POWs.

**Mr Bayles**—Yes, under the Veterans' Entitlements Act. So we needed to apportion the \$1.5 million.

**Senator MARK BISHOP**—When you spent the money originally—the \$1½ million—did you seek advice from DOFA at that time that it might be spent on either or both of those purposes?

**Mr Bayles**—The funds were approved to be drawn down by the department of finance at the time.

**Senator MARK BISHOP**—They approved at the time?

**Mr Bayles**—Yes. They approved the drawing down of those funds for departmental purposes.

**Senator MARK BISHOP**—You say, 'They approved the drawing down of those funds for departmental purposes.' Does that simply mean for the purposes of the acts—that is, for the payments to the internees or the POWs?

**Mr Bayles**—For both.

**Senator MARK BISHOP**—Or does it also extend to the associated administrative costs attached to payment of those moneys to those two groups of people?

**Mr Bayles**—They approved the amount of money to be drawn down for the administration of both sets of payments under both pieces of legislation.

**Mr Sullivan**—We shared a belief with Finance that what we were doing was okay.

**Mr Bayles**—ANAO's view was that the legislation itself was not explicit enough. We sought advice from the Australian Government Solicitor after we had been advised by ANAO that that was their view. This was only a year ago. We sought that advice. This Government Solicitor said it was arguable, but the better view was that it did not provide the legal coverage.

**Senator MARK BISHOP**—What you are saying, Mr Bayles, is that back at the time when the funds had to be expended for the two purposes DVA was in consultation with DOFA. DOFA signed off on the spending of the moneys for administrative purposes. That action was later reviewed by ANAO. They say the legislation was not that specific in purpose—there was a misspend—and you came to a negotiated outcome with DOFA to repay a quarter of a million of the alleged \$1.5 million overspend. Is that the sequence of things?

**Mr Bayles**—That is correct.

**Senator MARK BISHOP**—You also say, 'Latter advice from the Australian Government Solicitor confirms that.' It provides an arguable case for your own position.

**Mr Bayles**—Yes, that is right.

**Senator MARK BISHOP**—All right. What is the technical difference between the two acts with respect to admin funds being available from special appropriations—what is the difference?

**Mr Bayles**—I might need to seek the advice of our legal services.

**Senator MARK BISHOP**—Why is it that under one act you can spend money for the admin costs associated with payments and under the other act you apparently cannot?

**Mr Pirani**—The difference is that the terms of the special appropriation in section 199 of the Veterans' Entitlements Act were wider than the terms of the appropriation in section 13 of the compensation act dealing for the civilian interns. So we had previous legal advice from the Australian Government Solicitor concerning the scope of the section 199 power, and that indicated that, yes, departmental expenses could be used in certain circumstances from the 199 power, but it was a different one under the compensation act.

**Senator MARK BISHOP**—What were the funds that were arguably—arguably now—misspent, the \$1½ million, used for?

**Mr Bayles**—The funds were used to arrange the payments. They were spent on things like systems changes in order to make payments automatically to the prisoners of war of Japan that we had on our database. They were spent on a mail-out to those prisoners of war to tell them about the payment. They were spent on advertising and spent on staff effort investigating claims that we had received—a number of the claims from some of the dependants and some of the civilian internees required considerable investigation. They were not straightforward. There was a lack of documentation.

**Senator MARK BISHOP**—There was, yes; I remember that. When the government made the decision to make those \$25,000 grants and the others, there was obviously an estimate of the number of people, multiplied by \$25,000. Is it not normal that, when such a grant is going to be made to many thousands of people, as part of the appropriations there would be an amount set aside for the administrative purposes of paying the funds, or an addition to the routine budget of the department because they are essentially one-off payments? Did either of those things not occur?

**Mr Bayles**—The provision was made through the appropriation under the Compensation (Japanese Internment) Act. That was how the funds were provided. The government of the day's intention was perfectly clear: that amount of money was to be given to DVA to administer those payments under both acts. That was the mechanism that was chosen at the time.

**Senator MARK BISHOP**—So why did you even think you had to have recourse to the \$1½ million?

**Mr Bayles**—I did not catch your question, sorry.

**Senator MARK BISHOP**—Are you saying that in both acts, when the appropriation went through the parliament, there was an additional amount for the associated admin costs—in addition to the payments to the people?

**Mr Bayles**—Yes, that is correct. The amount that was appropriated under the Compensation (Japanese Internment) Act included the \$1.5 million.

**Mr Pirani**—The legal argument was that the terms of the appropriation in section 13 that included that extra \$1½ million did not make it clear that that was to be used for a departmental expense. That is what the legal argument was about. So the total amount in the

appropriation included the \$1.5 million that was estimated for the departmental expenses, but in the actual terms of the appropriation itself it was not split up between the amount that was estimated for the departmental expenses and the amount that was estimated for the administrative expenses to actually pay the \$25,000 lump sum payments. So Finance had agreed with the amount that had been estimated and it was included in that appropriation but, because the appropriation did not split it up, the legal advice that the ANAO obtained was that that cast some doubt on whether it complied with section 83 of the Constitution.

**Senator MARK BISHOP**—I understand where you are heading now. So that \$250,000 has been paid back?

**Mr Sullivan**—It has been repaid.

**Senator MARK BISHOP**—Do you need another appropriation for that or does that come out of running costs?

**Mr Sullivan**—At the moment we have taken a hit but we will probably ask for it back next year if we can.

**Senator MARK BISHOP**—I now turn to the second ANAO report, No. 21. There is a reference on page 121 to the three issues found wanting in the Defence Service Homes Insurance Scheme. What is the background to each of ANAO's criticisms, and what is being done by way of remedial action in respect of each of the three criticisms?

**Mr Sullivan**—I will pass in a moment to some experts. Basically, Defence Service Homes Insurance is quite a successful insurance scheme set up to assist veterans and others. They have accumulated, as they must, significant reserves. Those reserves have been traditionally invested through an investment company, UBS. I must say the investment strategy is a conservative one. It has seen those reserves build. The Australian National Audit Office, in a review of investment of funds, found that there were deficiencies in the risk management strategy and how current it was. There were some concerns about certain bank deposit investments not being authorised investments under regulation 22 of the FMA Act. I make the point that they now are because that regulation was amended in November 2004 to allow such deposits that were not allowed at the time of the audit. There were some concerns about records keeping. Again we, including DSHI, have moved to correct any problems where necessary. We have accepted the ANAO's report, and we believe that now we are clear with respect to the ANAO.

**Senator MARK BISHOP**—So you have accepted the recommendations and made—

**Mr Sullivan**—We have accepted their recommendations. Again this is an issue which was the subject of quite a lot of debate, but in the end the advice to us was to accept the audit conclusion. We did, and we have now attended to the matters raised. Some of them were simple. The issue of certain bank deposits can get highly technical as to the difference between a deposit in a bank or a deposit covered by a bank which has all the safety of a bank deposit. But the view was taken to accept the ANAO report and take action to redress all the issues raised by them, and that has been done. Mr Douglas and Mr Pirani can talk more about that.

**Senator MARK BISHOP**—Under 6.196 there are three dot points. You might be the appropriate person, Mr Douglas. Can you give me the background to each of those three criticisms and tell me what remedial action you have taken to make things right into the future? It is on page 121 of ANAO audit report No. 21 of 2004-05.

**Mr Douglas**—We believe we may have a different document. We have audit report No. 22, *Investment of public funds*.

**Senator MARK BISHOP**—I will come to that in a minute. Do you have No. 21?

**Mr Douglas**—No, because we believe this is the audit report that references the Defence Service Homes Insurance matters.

**Senator MARK BISHOP**—I can give you a copy of the extract I have from No. 21, and you might be able to answer questions. Is that okay?

**Mr Douglas**—Thank you. I might add while we are waiting for the copy that this was part of a cross-portfolio performance audit done by the ANAO in which these investments were discovered as part of a cross-portfolio audit of the investment of public funds. So we were not the only agency that was—

**Senator MARK BISHOP**—Sinning.

**Mr Douglas**—found to be apparently in breach of the FMA Act. I believe that there was some surprise all around in relation to this breach, hence—as the secretary mentioned—the relevant regulations being amended late last year.

**Senator MARK BISHOP**—Which other agencies were there?

**Mr Douglas**—From recollection, I think ATSIC was amongst the largest portfolios—in particular the Indigenous Land Fund.

**Senator MARK BISHOP**—Are you talking about the investment funds issue?

**Mr Douglas**—Correct.

**Senator MARK BISHOP**—I am not raising that at this moment. That is in No. 22.

**Mr Douglas**—We will wait for your reference.

**Senator MARK BISHOP**—If you look at the document you have just been given, Mr Douglas, you will see that down the bottom it is identified as coming from ANAO Audit Report No. 21 of 2004-05. I refer you to page 121, paragraph 6.196. My questioning will be about the three issues identified in that paragraph as to the areas of significance. My question is: what is the background to each of ANAO's criticisms and what remedial action, if any, has been taken to fix it for the future?

**Mr Douglas**—Seeing the document rings some bells for us. You will see that in paragraph 6.197 the ANAO makes the observation:

DSHS has made reasonable progress in resolving these issues.

Essentially there were findings in relation to the administrative practices in the administration of the scheme. We have, through a range of different measures, for example instructions to staff, training for staff and managers conferences, addressed issues in paragraph 6.196 such as:



- non-compliance with management's instructions to allow discounts on insurance premiums;
- lack of or untimely signing of a formal agreement by a policyholder when a cash settlement is offered. The signing of this agreement is considered to be standard industry practice ...

We have rectified those through a combination of those issues that I raised before. The other issue in the paragraph is:

- incorrect accounting for GST on cash settlements by not making or claiming a GST 'decreasing adjustment'.

We have had a major project under way for some time to improve the GST recording in accounts, and we believe that the action we have taken subsequent to the report has addressed the issues concerned.

**Senator MARK BISHOP**—Did you go back and refund the discounts that were not offered at first instance, which are mentioned in the first dot point?

**Mr Douglas**—I would have to take that on notice.

**Senator MARK BISHOP**—If you can, let us know in due course.

**Mr Sullivan**—I think it is a good time in a public hearing like this to say that of course DSHI offer some of the most competitive rates of insurance for veterans and their families of any insurance company in the country.

**Senator MARK BISHOP**—I am sure they do; I am not offering any criticism of the organisation.

**Mr Sullivan**—I know, but I just thought I should put in that it is a great insurance company to be insured with, if you can be.

**Senator MARK BISHOP**—Thank you, Mr Sullivan. Let us turn now to a more serious matter, which you have come prepared on, Mr Douglas, and that is the investment on the money market of \$56.6 million. There was some criticism there of a more serious nature by the ANAO. Could you explain the background, the rules which apply, how it is that there should be such a significant amount of cash service available and what is being done about it.

**Mr Douglas**—In terms of what is being done about it, I think we have put that on the record concerning the amendment that has now been made to the FMA Act and associated regulations. We have also written to our investment partner to remind them of the need to be compliant with the FMA Act and regulations at all times. In relation to the investment quantity and why it was that amount, my understanding is that DSHI maintains reserves in order to meet insurance claim needs and that the reserves it holds are consistent with what you would expect of standard industry operating practice. Like any insurance fund that has been operating for a number of years, it will have accumulated reserves and it will invest those for the benefit of policyholders. As the secretary has noted, one of the benefits of those investments is reflected in its very competitive low premiums for customers.

**Senator MARK BISHOP**—That is fine, but the ANAO report advises that the order of magnitude was some \$18.6 million in respect of the land fund. What was the order of magnitude of the error in respect of the funds held by the agency on behalf of DVA?

**Mr Douglas**—Of the \$58 million or so, roughly 97 per cent was noncompliant.

**Senator MARK BISHOP**—In what respect was it noncompliant? Was it just sitting in a cash account or what?

**Mr Douglas**—It was mainly invested in cash instruments.

**Senator MARK BISHOP**—And that decision was inconsistent with the investment policy of the organisation?

**Mr Douglas**—No, it was inconsistent with the FMA Act and underpinning regulations. They had not been made explicit to support an investment strategy in cash instruments. As I mentioned earlier, that came as a surprise to a number of people in a number of different locations.

**Senator MARK BISHOP**—Why did it come as a surprise—\$50 million being held in cash—

**Mr Douglas**—We should be clear here: the investment in the cash instruments was not seen as a surprise. The fact that an investment in a cash instrument was noncompliant with the FMA Act and underpinning regulations was a surprise. People were operating under a genuine belief that this was a legitimate investment strategy for public funds.

**Senator MARK BISHOP**—And that is why the act had to be amended later.

**Mr Douglas**—Correct—and the speed with which it has been amended is a reflection, as I think you will note, of the extent to which there was a genuine belief that this was an acceptable practice.

**Mr Sullivan**—This is the distinction between a cash instrument and holding money as cash in a bank. Holding it as cash in a bank would have been fine. A cash instrument backed by a bank is not fine—was not fine but is fine now.

**Senator MARK BISHOP**—I understand.

**Mr Sullivan**—It was a better return with the cash instrument.

**Senator MARK BISHOP**—It was probably half a percent higher—I understand. Do those earnings just go back into the fund for routine costs?

**Mr Douglas**—There is a combination of building on the reserves reflected in payments and claims and also reflected in competitive premiums.

**Senator MARK BISHOP**—You have answered the question. If you turn to page 19 of the PBS—

**Mr Douglas**—PBS or PAES?

**Senator MARK BISHOP**—Yes, PAES. Turn to outcome 1 and the second dot point there. It says \$140,000 is required to fund an increase in 'claims for compensation for detriment caused by defective administration'. What is that about and what did the cases involve?

**Mr Douglas**—I am delighted to say that there is another officer who I am sure will be able to answer those questions for you.

**CHAIR**—Do you want to do that now, Senator?

**Senator MARK BISHOP**—We may as well do it now because then I can move to the programs.

**Mr Pirani**—In the original estimates we had an amount of \$200,000. That was indicated on claims that we were aware of. They were mainly claims relating to double blind pensioners. Apparently in the mid-eighties we had published some material that seemed to indicate that they could not get service pension otherwise they were subject to the income and assets test. That information was incorrect. We got about \$240,000 worth of claims that we are dealing with at the moment from double blind pensioners who should have accessed service pension but did not due to information we provided that was faulty. That is one category. We have also got quite a few claims in relation to the Pension Bonus Scheme where the department has given out incorrect advice. Then we have a number of other ad hoc claims—I think that is the best way of describing them—through either some action the department took a long time ago or where it was felt that we gave out incorrect advice that prevented a person from putting in a claim. Those matters are being dealt with. I think up until about January we had spent about \$94,000 in relation to defective administration claims. We have in the order of another \$360,000 on our books.

**Senator MARK BISHOP**—Thank you. We might turn now to program 1, compensation, and have a few questions there. First of all I want to talk about BEST and TIP. Ms Spiers, the government made a commitment during the election campaign of \$9.2 million for these programs over the next four years.

**Ms Spiers**—That is correct.

**Senator MARK BISHOP**—What actual increase, if any, does this represent over the past four years? My memory is that both of the programs were about to come to an end.

**Ms Spiers**—I will first turn to the BEST program. Our funding previously for the BEST program was \$1.81 million and this increase we have apportioned to an additional \$1.7 million, giving us \$3.5 million. With the TIP, the funding was \$0.74 million and there will be an additional \$0.6 million.

**Senator MARK BISHOP**—So that is \$1.3 million and the other one is \$3.51 million. Are those increases just for the forthcoming financial year or are they of a similar increase in magnitude in the three out years?

**Ms Spiers**—It will be for the three out years. There is an undertaking that, because it is not recurring funding, in the last financial year we will have to review the program and seek further funding to maintain that level of funding.

**Senator MARK BISHOP**—My memory is that both of the funds were about to come to an end in the 2004-05 year.

**Ms Spiers**—I am not sure of that point. I think we had some standing funding but I might defer to the CFO on that point.

**Mr Bayles**—The funding for both BEST and TIP was ongoing funding. The base level of funding that has been referred to by Carolyn Spiers was ongoing funding; it was not to finish. The government has topped up that funding through the election commitments.

**Senator MARK BISHOP**—I understand. Are there any plans to amend the guidelines for either of these programs, Ms Spiers?

**Ms Spiers**—In what way?

**Senator MARK BISHOP**—You have increased the funding in BEST by \$1.7 million in the forthcoming year. As I understand your comments, that increase will be retained in the three out years.

**Ms Spiers**—That is correct.

**Senator MARK BISHOP**—Similarly, you have increased TIP by \$600,000, similarly to be increased for the next three years. So are you altering the guidelines in any way to allow different claims, extended claims, different provisions or different services—or are we exactly the same but more are going to get it?

**Ms Spiers**—There are a couple of issues here. First of all, under the existing grants program that we had for the previous few years, we did not have sufficient funding to meet demand. In addition, the election commitment was predicated on the basis of the need to have the ex-service community better informed about the new legislation, the MRC Act. So, in terms of seeking bids for funding under TIP or BEST for the current 2004-05 supplementary round, we are seeking that the grants be based on the focus of how to get out to MRCA clients. One of the areas we are seeing particularly with TIP is that further training packages are being developed where the pensions officer can focus on how they deal with all three acts at once, because they will have individual veterans walking in who potentially have periods of service relating to all three, and the pension advocates need to be in a position to give them accurate advice on how it all operates.

**Senator MARK BISHOP**—The new act, the MRCA, came into effect on 1 July. So it has now been in operation for eight months at the outside. And it only applies to injuries occurring in service after 1 July. How many claims have you had to date? You would not have had more than 20, would you?

**Mr Sullivan**—It is more than 20 but there is not a great volume. It is more than 20; it is about 100. It is not a large number.

**Senator MARK BISHOP**—You have had about 100 so far, have you?

**Mr Sullivan**—Do not hold me to that. I will just agree with you: it is not a large number but it is not as low as 20.

**Senator MARK BISHOP**—The other two acts have been in existence for many years.

**Ms Spiers**—Yes.

**Senator MARK BISHOP**—What I heard you say was that you are essentially using the extra funding for education purposes and training packages for advocates?

**Ms Spiers**—That is for the TIP. The guidelines for BEST grants are still in terms of providing the equipment, as the current guidelines specify. When I made that reference to training programs, it was in the context of TIP. The BEST grants program still uses the current guidelines in focusing on providing paid support services, equipment and general support.

**Senator MARK BISHOP**—So the guidelines on BEST will not change—you will just be able to spend more money?

**Ms Spiers**—As I have said, the election commitment was that there would be some focus on the new legislation, so we are looking at organisations that can take account of all three acts, in effect. You are right in saying that the bulk of our business is still with the two older acts.

**Senator MARK BISHOP**—Let me just pin this down now so we can move on. The BEST program is still essentially going to be for provision of equipment, services, hardware and software. Whilst the funds have almost doubled, the guidelines have not changed—and it is not proposed to change them?

**Ms Spiers**—Not in any significant way, no. If we receive any applications that are outside the guidelines, we would have to look to see if there was a need to review the guidelines. As regards the process, we are in a supplementary funding round for 2004-05, so we really have not had any opportunity to review those guidelines.

**Senator MARK BISHOP**—And the increase in TIP is really under the generic headings of education and the development of training packages around the interaction of the three acts?

**Ms Spiers**—And welfare services. In speaking with the TIP state coordinators late last year, they also wanted to focus on the welfare element, which is under the banner of TIP.

**Senator MARK BISHOP**—What problems did they identify?

**Ms Spiers**—Nothing specific that I could explain to you today. It is just that they are very conscious that, under the TIP banner, they have two roles: the pension advocacy role and the welfare role. I got the sense from the state coordinators that did mention this that they were trying to ensure that they had adequate information to ensure they could advise people of access to welfare services as appropriate.

**Senator MARK BISHOP**—Does the department have any plans to amend the TIP guidelines at the moment?

**Ms Spiers**—Not at this moment.

**Senator MARK BISHOP**—When will applications for the next round of grants be made and when will the money start flowing to the ESOs?

**Ms Spiers**—Because we have had some additional funding in the current 2004-05 year—particularly for BEST—we had a supplementary funding round for BEST just before Christmas. We are expecting the outcome and we are analysing the applications as we speak. We are expecting the money to flow from that supplementary round in April this year. Basically, it is then back to back with the true 2005-06 funding round—which starts around March, from memory—where we will seek applications. The ex-service community is aware that we have this back-to-back issue so that we can deliver some funds from the government election commitment this financial year.

**Senator MARK BISHOP**—Understood—thank you, Ms Spiers. Mr Sullivan, in the top paragraph of page 58 of the annual report, under the heading ‘VEA s.24 (Special Rate Pension) Decision-Making’, the second last sentence says:

The Repatriation Commission issued Guidelines and Instructions to assist delegates in this area.

It is talking about raising the level of officer responsible for determining special rate applications. Can you tell me how these guidelines differ from previous guidelines? I am talking about the new guidelines for the special rate applications.

**Ms Spiers**—The additional guidelines in the section 24 investigation work were to recognise that the department was achieving excellent work with regard to its time taken to process, but the focus was on making sure that we made the best decision at the first possible instance. In that sense, we wanted our decision makers to focus on the quality of their decision making. In terms of those guidelines, we have moved to a two-tier approach for any above general rate investigations. Where the disability pension rate has been assessed at 70 per cent—so we potentially have an above general rate issue—the claims assessor will do the investigation for the above general rate aspect of that decision, put together their proposed decision concerning liability and pension assessment and a senior delegate at the APS 6 level will then make the decision.

We have found this approach very beneficial in a number of ways. The senior claims assessor is very much taking on a mentoring role with the claims assessors, and any areas where the senior claims assessor feels there are deficiencies in investigation or issues that have not been fully covered or documented in the proposed decision are referred back to the claims assessor for further work. In essence, you would be aware of a previous commission advisory on the operation of section 24. There is no amendment to that at all. It is to do with how we handle investigations and decisions of section 24 procedurally.

**Senator MARK BISHOP**—But you do have new guidelines?

**Ms Spiers**—In terms of the procedural side of it, not—a commission advisory on the operation of section 24.

**Senator MARK BISHOP**—Please say that again.

**Ms Spiers**—You would be aware that previously the Repatriation Commission had issued an advisory on how the tests within section 24 operated.

**Senator MARK BISHOP**—Yes.

**Ms Spiers**—That has not changed. When we mention guidelines there, we are talking about the procedural aspects of how a claims assessor investigates and determines the claim, not the substantive tests of section 24.

**Senator MARK BISHOP**—I understand. The substantive tests of section 24 remain; you are just doing it now essentially in a two-tiered process, with an opportunity for the senior person to seek further advice from the claims assessor.

**Ms Spiers**—Yes.

**Senator MARK BISHOP**—Has that change in practice resulted from any changes to any guidelines, directions or personnel manuals or has it simply been implemented by the department?

**Ms Spiers**—I was not actually in the chair at the time it happened, but there was a change in the delegations at the time that we moved to this two-tiered structure so that it was clear that the delegation to determine an above general rate case, which includes section 25, 24 and EDA cases, was handled at the senior claims level.

**Senator MARK BISHOP**—Where there has been a change in any of the published guidelines, directives or manuals of the VEA, could you take it on notice to provide me with a copy of that in due course, please?

**Ms Spiers**—Certainly.

**Senator MARK BISHOP**—I think the annual report refers to a significant reduction in the number of claims accepted. My memory is that they went from around 2,000 down to about 1,600 last year. In what area of disability did this reduction occur?

**Ms Spiers**—Which part of the annual report are you referring to—which page?

**Senator MARK BISHOP**—I was originally referring to page 58. There has been a significant reduction in the number of special rates claims being accepted or admitted or approved in the last 12 months. My memory is that the figure has gone from about 2,000 per annum down to around 1,600 per annum. I am asking in what area of disability this reduction occurred.

**Ms Spiers**—I would not have that information with me. Is it possible to take that on notice?

**Senator MARK BISHOP**—No. I do not think that is an overly difficult question. That is a reduction in total of the order of 25 per cent. Your officers would have identified that trend. I certainly picked it up from the public documentation.

**Ms Spiers**—But, as I understand your question, it is not the outcome you are focusing on; it is the conditions that led to the outcome.

**Senator MARK BISHOP**—No. We know the outcome. The outcome is a reduction in the number of applications being accepted for the special rate. Special rate can be granted for mental disability and it can be granted for a range of physical disabilities.

**Ms Spiers**—That is correct.

**Senator MARK BISHOP**—It is my observation of the figures that the reduction is overwhelmingly in the area of applications for special rate based on mental disability. I am asking you, essentially, to confirm or deny that.

**Ms Spiers**—I can neither confirm nor deny. I would like to seek some further analysis of the statistics before we can provide you with that answer.

**Senator MARK BISHOP**—Ms Spiers, are you not aware of the reduction in numbers of approvals of the special rate?

**Mr Sullivan**—There is quite a discussion in the annual report about the general application rates coming through, which have reduced, and the outcome rates having reduced by some 11 per cent in line with the application rate. There is then an analysis in there of where—

**Senator MARK BISHOP**—Where is that, Mr Sullivan?

**Mr Sullivan**—Page 63, page 64, page 65 and then page 67. Page 67 I think is where you see that this year saw 1,799 grants at special rate made, compared to 2,418 last year, partly due to a decrease in the number of special rate grants paid to veterans who saw service in Vietnam. We can look and see what more we can—

**Senator MARK BISHOP**—That is the figure I am talking about. You have reduced it from potentially 2,400 to 1,800. There has been a change in the assessment process. I am inquiring whether there is a linkage between the two. That is the first point. Secondly, it is my understanding that the reduction in the number of claims allowed is significantly higher on the mental disability applications side than on the physical disability applications side. I am asking you to confirm that or to point out to me where I am wrong.

**Mr Sullivan**—My understanding is that there has not yet been seen to be a change in the acceptance of the above special rate claims due to the delegation change, which is the linkage that you have made. We believe we are seeing higher quality decisions but we are not seeing much change in decision making. I do not have to hand an immediate analysis of what it means in terms of our special rate claims allowed moving from 2,418 to 1,799, how much of that is due to an application rate decline and how much of that is to do with the Vietnam group moving through a bit further. I will get the analysis, but I would be surprised if you actually saw that we were seeing a reduction in mental related claims versus physical related claims. I think you might find it quite different.

**Senator MARK BISHOP**—Could you take that on notice and do the analysis of the reasons for the decline in the number of successful applications. Could you also give me a response as to whether it is physical, mental or otherwise.

**Ms Spiers**—Yes.

**Senator MARK BISHOP**—Ms Spiers, for what proportion of special rate applications were referrals made to a doctor or specialist of DVA's choice?

**Ms Spiers**—Is your question in terms of the medical investigations?

**Senator MARK BISHOP**—Medical reports and medical investigations.

**Ms Spiers**—I would not have the information to hand. We do not record that sort of data on our claims processing systems in a way that we are able to easily extract.

**Mr Sullivan**—I think we have the referred doctor but not whether we selected them.

**Senator MARK BISHOP**—I accept that you would not have that to hand. Could you take that question on notice and let me have a response in due course.

**Ms Spiers**—If we are able, yes.

**Senator MARK BISHOP**—Also, how many such referrals were made in the year 2002-03.



**Ms Spiers**—It is definitely our practice that if the claimant is being treated by a specialist then we would seek a report from that specialist in the first instance. I do not know whether that assists you in your question at all.

**Senator MARK BISHOP**—If the claimant is being treated by a specialist, you would seek a report from the specialist. No, I am asking you: when a claimant makes an application, do you in addition seek that the claimant be referred to a specialist or doctor of DVA's choice? That is what I am seeking.

**Ms Spiers**—We will take that on notice.

**Senator MARK BISHOP**—In terms of applications for special rate can you take on notice as well, of the numbers referred to in the annual report, how many claims involved decisions for intermediate rate or temporary incapacity rather than for permanent incapacity. I am trying to find out whether there is any trend towards interim assessments rather than final decisions.

**Ms Spiers**—I point out that the intermediate rate is not an interim assessment. It is saying that the individual has the capacity to work more than eight and up to 20 hours a week. There is the distinction between that and the special rate where you have correctly pointed out total—

**Senator MARK BISHOP**—You are correct to say that; I accept that. Of the special rate claims rejected, how many were overturned on internal review, how many were appealed to the VRB and how many were appealed to the AAT? You will find that I have asked that question before, so you will have the system there. Can we also know the outcomes of those appeals?

I want to turn now to the deseal-reseal project. I understand it is essentially a matter for Defence as it relates to personnel who were in the ADF at the time. It is being handled by Senator Hill but some processing and administrative responsibilities are going to be imposed on the DVA in due course. Can the DVA put on record the precise nature of the government's decision on the SHOAMP study? The press reports indicated that a recommendation would be taken to cabinet prior to Christmas and a decision made. I have not seen anything official since that time. Can you bring us up to date—is there is a resolution?

**Mr Sullivan**—Senator, as you are aware, the study of health outcomes in aircraft maintenance personnel, or SHOAMP, was released by the Chief of Air Force on 26 October 2004. This study helped answer longstanding questions concerning the health of a number of personnel involved in the Royal Australian Air Force's F111 deseal-reseal program. The government has released a media statement in response to that report. I will get you the date and a copy of that media statement. The media statement says that a lump sum benefit will be offered to those who have suffered exposure. It is proposed that the benefit not distinguish between military, public servants and civilians. The lump sum benefit will be in addition to the rights of individuals under the various state and Commonwealth compensation schemes. Defence and DVA are finalising arrangements to give effect to the government's offer. The government has also announced that funds are being made available to the Department of Veterans' Affairs to provide a cancer and health screening and disease prevention program for those involved in the deseal-reseal program—\$2.1 million has been committed over five years to the screening program.

The important thing is that anyone who believes they have an injury or an illness relating to their service and who was engaged in any activities around the F111 reseal-deseal program should lodge a claim under the Veterans' Entitlement Act or the Safety, Rehabilitation and Compensation Act. If they are a Queensland civilian contractor they should lodge that claim with Queensland WorkCover.

The government has said that it is committed to a lump sum payment in respect of those exposed but that those exposed should seek compensation under the appropriate compensation scheme for them, which for the military at that time is the Veterans' Entitlements Act. For other public servants it is the Safety, Rehabilitation and Compensation Act and for Queensland civilian contractors it is Queensland WorkCover.

**Senator MARK BISHOP**—I got that. There was some discussion around whether the government might be intending to go down the path of exercising its discretion under the act. You are not saying that at all?

**Mr Sullivan**—No.

**Senator MARK BISHOP**—Applicants who are aggrieved can apply for the lump sum payment under the scheme relevant to them.

**Mr Sullivan**—No, the lump sum payment will be a Commonwealth funded lump sum payment. We are working with Defence on advising ministers as to how that scheme will operate. That will be forthcoming from the Department of Defence and the Department of Veterans' Affairs. People will be told how to access the lump sum payment. The lump sum payment is not a substitution for the compensation scheme that people are entitled to claim under.

**Senator MARK BISHOP**—The lump sum decision is in addition to the existing statutory rights that individuals might have.

**Mr Sullivan**—That is right.

**Senator MARK BISHOP**—That answers my question on the exercise of the discretion. Have the lump sums been agreed yet?

**Mr Sullivan**—No, not yet. That is what we are working on with Defence in providing advice to ministers on.

**Senator MARK BISHOP**—I am starting to receive correspondence on this, as you probably are. When do you think your advice will be ready to go to the relevant ministers?

**Mr Sullivan**—I think we are reasonably well advanced. Clearly, ministers will need to make some judgments and decisions but the commitment has always been from ministers that they wish to have this determined as quickly as possible, so nothing is holding it up.

**Senator MARK BISHOP**—You refer to applicants who were in service or of service, and I know what that means. I was lobbied by a person or persons in Queensland whose family members have come down with the same physical symptoms or disease. They allege that the work suits or overalls that their husband or partner used whilst in the tank absorbed the material. It went through the washing machine, remained in the washing machine and infected other clothes of other family members and they have come down with similar or identical

problems to their husband or partner. Do the government's proposals go to affected family members?

**Mr Sullivan**—An exposure test will be developed for people. At this stage and looking at the results of the health study, I would expect that people whose exposure was limited to the potential residue on laundry items would not be covered.

**Ms Spiers**—SHOAMP specifically covered the people who had the primary exposure. It did not cover those who are possibly claiming secondary exposure.

**Senator MARK BISHOP**—The study addresses primary exposure.

**Ms Spiers**—The people who were physically involved in the deseal-reseal process. It does not address any secondary exposure.

**Mr Sullivan**—It goes as far as auxiliary workers around the project but not beyond that.

**Senator MARK BISHOP**—How many people do we think are affected?

**Ms Spiers**—The figures that we are using to determine the numbers affected come from a number of sources. The original board of inquiry had estimated that potentially 400-odd people would be affected. When the interim health care scheme was set up the numbers were slightly higher—up in the 600 range. In putting together this material—we are relying on information from our colleagues in Defence—it seems that about 400 or so primary people were exposed in the deseal-reseal process. The numbers are a little less clear for those who were involved in ancillary work around the deseal-reseal program.

**Senator MARK BISHOP**—It could be up to another 200 who are in the classification of auxiliary?

**Ms Spiers**—And possibly a few more, depending on how that is classified.

**Senator MARK BISHOP**—Applicants in due course will apply for the lump sum payment, and they have to the right to retain a statutory application as well. Is there any decision made by government in terms of civil applications?

**Mr Sullivan**—What sort of a decision could a government take?

**Senator MARK BISHOP**—To either use that as a trade-off or a set-off or to not process lump sum applications if a person is pursuing a civil case against the Commonwealth.

**Mr Sullivan**—No, the lump sum scheme would not be able to inhibit a person's right to take civil action. There are of course provisions within the legislation already where, if a person took civil action and, in a settlement or in a decision of the court, was offered elements of compensation which would otherwise be covered in entitlements under our enactment, there would be offsetting provisions, but nothing new. There would be offsets.

**Senator MARK BISHOP**—Do applicants have to go through any process of proof? Do they have to prove a medical or scientific link, or is having participated in the deseal-reseal work back in those days sufficient?

**Ms Spiers**—Is this in relation to the lump sum?

**Senator MARK BISHOP**—Yes.

**Ms Spiers**—That is some of the detail still to be sorted out.

**Senator MARK BISHOP**—All right. I now want to talk about the DFISA, Defence Forces Income Support Allowance. Mr Campbell, can you confirm that DFISA might be zero where rent assistance is paid to the applicant?

**Mr Campbell**—I think Ms Ricketts might be able to.

**Ms Ricketts**—It is possible for someone who has a disability pension payment made by DVA being taken into account under the Social Security Act who is also paying rent and is subject to the new rent test to not receive any DFISA. Yes, that is possible.

**Senator MARK BISHOP**—Is that because rent assistance still includes the disability pension as income at Centrelink?

**Ms Ricketts**—That is exactly correct.

**Senator MARK BISHOP**—Do you know how many people in receipt of DFISA also receive rent assistance?

**Ms Ricketts**—That is not easily obtainable. The information about the composition of the payment made by Centrelink—that is, the primary social security payment—contains that information about whether the primary payment contains an element of rent assistance in it. The DFISA payment does not contain any rent assistance.

**Senator MARK BISHOP**—It is the interaction of the two payments.

**Ms Ricketts**—Yes. That would be a question for Centrelink to answer. They may well have the composition of the primary payment for DFISA recipients.

**Senator MARK BISHOP**—Because DFISA is paid by Centrelink.

**Ms Ricketts**—No, DFISA is paid by DVA. But the primary payment, which includes the rent component, is paid by Centrelink for these people.

**Senator MARK BISHOP**—So, if I want to know how many people in receipt of DFISA also receive rent assistance, that question should go to Centrelink?

**Ms Ricketts**—Yes, or FaCS.

**Senator MARK BISHOP**—Did the department do any costings on excluding the disability pension from the rent assistance tests for both the Social Security Act and the VEA when the government was doing its work?

**Mr Campbell**—At the time this was calculated, there were a number of options costed but it is going back 12 to 15 months so I cannot recall the details of any of the particular options that were not taken up.

**Senator MARK BISHOP**—Can you take that on notice?

**Mr Campbell**—I can take the question on notice but the advice that we gave to ministers at that time is subject to the confidentiality of advice from officials to ministers.

**Senator MARK BISHOP**—That is fine. I refer you, Mr Sullivan, to the answer to question No. 2842 in the Senate, where it was revealed that there is an increasing number of ADF personnel being medically discharged for what is known as sleep apnoea. The numbers have gone up from one or two per year, going back four or five years, to, in the most recent figures in the table you have provided, up to 10 per year.

**Mr Sullivan**—As a cause of discharge or as a claim for a pension? Cause of discharge is a Defence matter.

**Senator MARK BISHOP**—The answer given was:

The number of Air Force members medically discharged primarily or solely because of a sleep disorder for each year since 1996 are:

1997—0

1998—0

1999—1

2000—0

2001—1

2002—0

2003—3

The answer goes on to state that in 2003 there were 10 Army members medically discharged primarily or solely because of a sleep disorder.

**Mr Sullivan**—A medical discharge is an issue for Defence. If they claim from us compensation in respect of that, we would then go through the process of determining whether that was related to their service. But you would need to ask Defence what their views are as to why, if it is true, increased numbers of service personnel are being discharged on that basis.

**Senator MARK BISHOP**—I accept that point, Mr Sullivan. I will ask you this question: how many claims for compensation have been (a) made and (b) accepted for sleep apnoea or any other sleep disorder in recent years under both the VEA and the MCRS. That is within your area.

**Mr Sullivan**—We will have to take that on notice.

**Senator MARK BISHOP**—Mr Campbell may be able to answer this: is there a statement of principle for such claims? If the answer is in the affirmative, what sort of service could cause such a disability?

**Mr Campbell**—The advice I am getting from the back is that we do not know. I do not know whether Dr Horsley knows the answer to the question.

**Dr Horsley**—Sleep apnoea can be both a condition on its own and a symptom of other things. I would like to take on notice the question about whether or not there is a statement of principle for sleep apnoea. My recollection is that there is but I would like to feel more confident in my answer by taking it on notice.

**Senator MARK BISHOP**—I am surprised by that answer. I thought sleep apnoea was an inherent condition relating to excess weight, blockage of ear, nose and throat, disordered sleep patterns, excess alcohol—those sorts of things which cause an interruption to blood flow and then sleep. Is that not correct?

**Dr Horsley**—You are well informed. That is absolutely correct. If a person were to put in a claim for sleep apnoea then it may be, for example, that they show underlying substance

abuse, in which case the claims assessor is trained to go to the underlying cause of pathology. If, for example, they show signs of alcohol abuse which is contended to be due to service then they would investigate whether the underlying alcohol abuse is a result of that. But in some cases, sleep apnoea occurs without known cause, in which case it may constitute a disease in its own right, for which there was consideration given to making a statement of principle. I think there is but I would need to check to be absolutely certain.

**Senator MARK BISHOP**—Could you take that on notice and provide us with an answer. Also, if there is a statement of principle, you might provide that on notice.

**Dr Horsley**—Yes.

**Senator MARK BISHOP**—Thank you. The annual report, in the fourth paragraph on page 50, under the heading ‘Data matching’, states:

Fact of death file matching this year resulted in 872 possible discrepancies being provided to the state offices for investigation. Of these, 620 have been confirmed as deceased DVA clients whose death had not been recorded at the time of the data match.

There are a large number of incorrectly recorded deaths and resultant overpayments. Why are there so many and what is being done to improve the information from families or the various registrar-generals?

**Ms Ricketts**—One of the difficulties for us for death recording or notification of death is where the veteran is single and there may not be a partner or a close family member who understands the need to advise Veterans’ Affairs. In recent years, the registrars of births, deaths and marriages have put all their records on electronic services. That has enabled us to do regular data matching with these services. The initial runs produced some significant findings. We have continued to do regular checking electronically with registrars of births, deaths and marriages. Those numbers have dropped off considerably since we have been doing the regular checking. It is an ongoing program now to monitor deaths of people. Essentially, the ones that we pick up are where there is no partner to notify of the death.

**Senator MARK BISHOP**—So those large-scale figures referred to there—

**Ms Ricketts**—That was a clean-up exercise, I guess you could say. Prior to that, everything had to be done manually and it was a very slow and tedious process. We did it by looking at obituaries and notices of deaths in newspapers. We do not need to do that anymore. It is a much more effective and efficient way of handling the matter.

**Senator MARK BISHOP**—Off the top of your head, do you know the value of the overpayments raised?

**Ms Ricketts**—No, I do not. I do not have that information to hand.

**Mr Campbell**—If you look in the annual report at the next paragraph to the one you were referring to, it talks about these exercises raising \$567,404. So the average for those cases, for that group, is a bit less than \$1,000.

**Senator MARK BISHOP**—So you recovered \$567,404, of which \$2,000 was waived. Thank you for that. When is it likely that the government will respond to the Senate finance and public administration committee report on admin review and health administration? Are you aware if that is in the pipeline?

**Mr Sullivan**—I am not.

**Mr Campbell**—This is the report you have raised in a previous hearing, isn't it?

**Mr Sullivan**—I think we are consulting with the VRB and our legal area. It should be very soon.

**Senator MARK BISHOP**—Thank you. Turning to the MRCA, do you know how many claims for compensation for death have been lodged since 1 July? Do we have more accurate figures available?

**Mr Johnson**—As at 31 January there had been 281 claims lodged for liability for injury, disease, death or damage to medical aids.

**Senator MARK BISHOP**—And how many of that 281 were for deaths?

**Mr Johnson**—There were three death benefit claims.

**Senator MARK BISHOP**—Okay—

**CHAIR**—I will interrupt you there, Senator Bishop, and we might take a short break. Before we do, there will be a slight change in the order of batting this morning and this afternoon because there is an indication that Senator Bishop will be completing his questions at 11.30. If that is the case, the Department of Defence will be called between 11.30 and 12. The minister has a commitment that he cannot avoid between 12 and one. To allow him to have lunch, the committee will plan to meet again at 1.30 to continue with Defence. So if you can be aware of that, Senator Bishop, for your colleagues to ask questions between 11.30 and 12, obviously—

**Senator MARK BISHOP**—I think I will probably go until 12 now.

**CHAIR**—You will be going until 12 now?

**Senator MARK BISHOP**—Yes. I said that at the beginning of proceedings.

**CHAIR**—Well, my decision has been changed, if that is the case. If you wish to continue until 12 o'clock, which was the original plan, then we should leave that, but I think you have to give an indication now, before we break.

**Senator MARK BISHOP**—I have gone a bit slower than I thought I would. I will be here till 12.

**CHAIR**—Okay; I retract what I said. I hope the secretary noted that. We will go until 12 o'clock with Veterans' Affairs; we will take break between 12 and one, when the Minister has a commitment. Unfortunately, Minister, under the arrangements, we will be starting again at one. I am sorry you will not get your five-minute lunch. We will go until smoko this afternoon with Defence and then proceed into the evening with Defence. That is the position.

**Proceedings suspended from 10.32 a.m. to 10.46 a.m.**

**CHAIR**—Mr Sullivan, if you are happy I think we might continue without the minister. He will be back shortly.

**Senator MARK BISHOP**—Mr Johnson, just briefly, what is the feedback from veterans, ex-service organisations and the service community on the new scheme? What issues are emerging that might require attention?

**Mr Johnson**—We actually have not had a terrific lot of feedback from the ex-service community. As you noted earlier, there has to be service from 1 July, so most of the claimants have been either reservists or serving members. But feedback from individuals has been very positive so far.

**Senator MARK BISHOP**—Let us turn to the AFP and the Solomon Islands. What coverage was there for the Australian Protective Services officer killed in the Solomons?

**Mr Campbell**—The Solomons peacekeeping service has been declared a peacekeeping service under section 68(1) of the VEA.

**Senator MARK BISHOP**—Was that done prior to the men being deployed there?

**Mr Campbell**—The instrument would have been prepared and the date of signing may then have varied a bit, but it was at the time that they went. It was made in July last year.

**Senator MARK BISHOP**—So that APS officer who was killed was a peacekeeper and he was covered under the VEA?

**Mr Campbell**—Yes, the same as a peacekeeping server. So it would be for the same entitlements that an ADF person would have had before 1 July.

**Senator MARK BISHOP**—Yes. Under the VEA, not under the new—

**Mr Campbell**—That is right.

**Senator MARK BISHOP**—And of course the government of the day would have to keep putting them under the VEA, because they are specifically excluded from the MRC Act, aren't they?

**Mr Campbell**—Yes, pending the development of a specific statutory scheme for police, peacekeepers et cetera, if it is decided to do that.

**Senator MARK BISHOP**—Has that decision been made?

**Mr Campbell**—No. The VEA is open for them until something else is in place, if ever it comes about.

**Senator MARK BISHOP**—Mr Campbell or Mr Sullivan, is any consideration being given to making an ex gratia payment to his fiancée or parents?

**Mr Campbell**—We are not aware of that, but that would not be something that would come under our area of responsibility. We have responsibility for the VEA. If there is an ex gratia payment, it would not come through us.

**Senator MARK BISHOP**—I would like to talk briefly about beryllium. What is the position with respect to exposure to beryllium and the statement of principles? Do the SOPs cover off exposure as yet?

**Ms Spiers**—There is a beryllium exposure factor in malignant neoplasm of the lung, but there is not a specific statement of principle for berylliosis, which is the disease that potentially can arise from beryllium exposure.

**Senator MARK BISHOP**—The RMA does the SOPs, doesn't it?

**Ms Spiers**—The Repatriation Medical Authority does that.



**Senator MARK BISHOP**—Have they been asked to do any work on a statement of principle?

**Ms Spiers**—Not that I am aware of.

**Senator MARK BISHOP**—How many claims for compensation have been received over time in which it has been accepted as a causal factor?

**Ms Spiers**—If you give me one moment I will check with my colleagues.

**Mr Campbell**—While Ms Spiers is checking: she will give you figures under both the VEA and the SRCA. We have had claims under both schemes.

**Senator MARK BISHOP**—How many claims have been lodged, how many have accepted and how have been many rejected under both schemes, Mr Johnson?

**Mr Johnson**—You will have to bear with me, I have got to do some counting. Under the SRCA there have been eight claims, including one death claim, and three have been accepted. Actually, the death claim was accepted as a disability claim before a death claim. One is being considered now and four have been disallowed. Under the VEA there have been three claims. One has been accepted and two have been rejected. One of the rejects was because no incapacity was found. Can I add: this is the information we have been able to get from our system by doing some searching under beryllium and looking at notes. There may be some other cases which, because it was recorded as the disease that they had, we have not been able to find.

**Senator MARK BISHOP**—So that is what the system has thrown up to date.

**Mr Johnson**—Yes, by doing a word search and looking at notes searches and that sort of thing.

**Senator MARK BISHOP**—Do we have any idea of the estimated total number likely to have been affected by exposure?

**Mr Sullivan**—That is impossible to find out. Beryllium is a very commonly-occurring metal. So are you talking about how many people have been involved in jason pistols or are you taking about beryllium generally in the Defence Force? It is a very difficult thing to do. We have identified—I think it is now on the public record—the sorts of ships where—

**Senator MARK BISHOP**—This is from ship cleaning, this is maintenance—

**Mr Sullivan**—No, these are beryllium claims generally across the services. They are not generally related to the use of jason pistols on Navy ships.

**Senator MARK BISHOP**—Is that right?

**Mr Johnson**—Only two of the claims that I was referring to were from Navy personnel. The others were from Army and RAAF.

**Senator MARK BISHOP**—And that was for general exposure.

**Mr Johnson**—It was because of exposure to beryllium, yes. That was what was claimed.

**Senator MARK BISHOP**—It would be your department that would have the detail on the total number of claims.

**Mr Sullivan**—Claims yes, exposure numbers no. Defence would have them, if they could estimate them. If you narrow it down to personnel involved in ships where beryllium rods in jason pistols were used, it is probably achievable. Defence personnel potentially exposed to any beryllium is very difficult.

**Senator MARK BISHOP**—Has DVA commissioned any medical research on this issue in more recent times?

**Mr Campbell**—No.

**Senator MARK BISHOP**—Is there any intention to do so?

**Mr Campbell**—Not at this stage.

**Mr Sullivan**—The thing that we have done, Senator, as you know, is that we have set up inquiry lines for people who are concerned. Any serving or former members of the Defence Force can contact that inquiry line and we are certainly taking phone calls.

**Senator MARK BISHOP**—Is that operational yet?

**Mr Sullivan**—Yes.

**Senator MARK BISHOP**—The minister's release was on 9 February. So it has been set up?

**Mr Sullivan**—The inquiry line was operational straightaway, basically, and it is already taking calls. It has taken quite a few calls.

**Senator MARK BISHOP**—Do you have any idea how many calls it has taken?

**Mr Sullivan**—Between 450 and 500.

**Senator MARK BISHOP**—So there is a fair bit of interest out there.

**Mr Sullivan**—Yes.

**Senator MARK BISHOP**—And it has only been operational since the ninth?

**Mr Sullivan**—It was actually operational on 27 January, I think. As soon as the publicity started it was important for us to get involved.

**Senator MARK BISHOP**—Do you anticipate a significant increase in the number of claims now?

**Mr Sullivan**—The point we are making—and Mr Johnson made the point to you in the VEA analysis—is: if you believe you are suffering an incapacity and you have in your mind that it is linked to your service, make a claim. You do not need to come to us and say, 'I believe I have suffered from beryllium exposure,' if you believe you may have a chest complaint or some form of incapacity. If you are covered by the VEA, of course the requirement of the VEA is to establish an incapacity. If you are well but you feel you may have been, on a ship or in another place, exposed to beryllium, if your coverage is to VEA it is necessary that you do understand that a claim is dependent on an incapacity being found.

Under some other compensation schemes, including SRCA, you could say, 'I've been exposed to beryllium,' and have it agreed without an incapacity. And if something happened to you later on you would do it. The important thing to know is that, if any ex-serviceman or

ex-servicewoman is suffering an incapacity—whether or not they believe it is from beryllium—which in their mind or in their doctor’s view or in their advocate’s view or in anyone else’s view is connected to their service, they should come to see us.

**Senator MARK BISHOP**—Put your claim in and let it be processed?

**Mr Sullivan**—Yes.

**Senator MARK BISHOP**—Thank you. We might turn now to program 2 and page 46 of the PAES. We will have a look at the table there under the heading, ‘Veterans’ hospital and health services’. When we look at the variations over on the right-hand side we see that there is a combined underspend of almost \$95 million for ‘other health care expenses’. Firstly, what specific areas does this category include? What is ‘other health care’ expenses about?

**Mr Campbell**—‘the other health care is 36 million. Is that the figure you are looking at?’

**Senator MARK BISHOP**—Yes, it is.

**Mr Campbell**—\$519 million was the budget estimate and \$482 million was the final.

**Senator MARK BISHOP**—The underspend was \$36 million, but the total underspend in the health care area is of the order of \$95 million.

**Mr Douglas**—The other expenses included in that are for community nursing, dental services, non-institutional care, rehabilitation appliances, the Vietnam Veterans Counselling Service, in-home respite, carer and volunteer support, expenses of travelling for medical treatment, and home help.

**Senator MARK BISHOP**—Can you give the underspend for each of those components you have just outlined?

**Mr Douglas**—I will have to take that on notice. I can see how, on one viewing of this, you could call it an underspend. The difficulty here is that we are trying to estimate the extent to which usage of a service for a treatment might be required over the course of a year. It is not so much therefore an underspend as a refinement of our estimates based on patterns of usage. We continually monitor those patterns of usage through the course of the year and we revise our forecasts on the basis of those revised patterns of usage.

For example, with in-home respite, as veterans age and their partners pass away, there is no respite necessary. So it is not so much an underspend as a revision in our pattern of usage. The biggest categories of expenditure there are community nursing, dental services, non-institutional care, rehabilitation appliances and expenses of travelling for medical treatment.

**Senator MARK BISHOP**—I think you had about 10 headings there.

**Mr Douglas**—We will try and give you an estimate of where the revised expenditures have resulted in a shift downwards in those categories, to give you the summation for the \$30-odd million.

**Senator MARK BISHOP**—And in each subcomponent the reason for what I have called the underspend but which may well be something else.

**Mr Douglas**—I understand your question, Senator.

**Mr Campbell**—Senator, could I clarify a point. Under health, it is not a \$92 million underspend, to use your terminology; it is only \$45 million. Those figures under veteran health add up to a net figure of \$26 million; then there is \$32 million in pharmaceuticals and \$13 million in veteran home care.

**Senator MARK BISHOP**—I added \$36 million and \$26 million—

**Mr Campbell**—No, \$26 million is a subtotal of the three above it. So it is only \$45 million. I make the observation, to add to what Mr Douglas said, that this is a total appropriation of about \$4.3 billion. There are billing patterns and all sorts of things that come into this. It is, of course, demand driven. Over \$4.2 billion of this is a demand driven program, so we are actually estimating demand.

**Senator MARK BISHOP**—I understand the point.

**Mr Sullivan**—There is about a one per cent variation.

**Senator MARK BISHOP**—I have had this discussion with Mr Campbell before.

**Mr Campbell**—Being demand driven, we are actually trying to estimate demand.

**Senator MARK BISHOP**—Could you take the components and provide us with the reason for the variation, and you may as well do that for the treatment in public and private hospitals. Fourteen million dollars is a lot, but in a budget of almost \$1.69 billion it is not a great deal. Is any component of the savings due to changed guidelines?

**Mr Douglas**—No, Senator. That is a conditional ‘no’ until I go and do the detailed analysis that we have just agreed to do. As we have said, the bulk of this is our estimation of patterns of usage.

**Senator MARK BISHOP**—Can we turn to the partnering issue. Mr Campbell, you will remember that that was an issue over in the west two years ago, with the extension of services from Hollywood to hospitals in some of the outlying areas in Mandurah and Joondalup. I am starting to get correspondence from people in Queensland raising the same issue of travel time and costs associated with getting to Greenslopes. Consequently, the request is for the extension of some or all of those services to tier 1s in other Brisbane suburbs. Are you aware of that issue up there?

**Mr Campbell**—I am aware of the issue in the sense that it has been around for some years, as we have discussed at previous hearings. I am not aware of any increased concerns in Queensland. Probably the reason is that the Commonwealth contracts with Hollywood hospital and with Greenslopes expire at the end of this year and the beginning of next year—one in December this year and one in March next year. It has been decided that we are going to go out to the market for a tender across both of those metropolitan areas.

**Senator MARK BISHOP**—A tender for what?

**Mr Campbell**—In Queensland we already have tier 1 veteran partnering outside the metropolitan area—indeed, within the 20-kilometre zone that we have talked about before. So when we go in Queensland we will be going to the whole state. But the real point of your question was: what is happening with regard to that inner circle in both cities? My answer is

that we are going out to a tender process, to the market, in the next couple of months for both cities.

**Senator MARK BISHOP**—And the aim of the tender process is to see if there are other private hospitals able to offer that tier 1 service in the outer area.

**Mr Campbell**—It will be to test all hospitals, not only in the outer ring but also in the centre of cities as well.

**Senator MARK BISHOP**—Is it theoretically possible that the entire veterans shift could leave, for example, Hollywood and go elsewhere? I am not advocating it or saying that it should occur.

**Mr Sullivan**—The tender will appraise the market. Anyone who appraises the market in either sites could not contemplate them not being involved.

**Senator MARK BISHOP**—So that tender process might offer a solution to this issue in terms of tier 1 services outside the cities?

**Mr Campbell**—The tender process will be seeking hospitals' interest at prices to provide private hospital services to veterans and war widows within the cities. There can be no guarantee in the end that a hospital that a veteran wants to go to will get a contract, as the secretary just said, but I think it is envisaged that there will be more hospitals providing veteran partnering in those cities in the future than there is at the moment.

**Senator MARK BISHOP**—Does the tender process involve tendering outside Perth and Brisbane?

**Mr Campbell**—In Brisbane, yes, because their hospitals are coming due for renewal anyway, because we did their contracts some years ago. The timing is not the same in Perth because, as you will recall, their tier 1 hospitals, of which there are not many outside the Perth area, were done more recently.

**Senator MARK BISHOP**—Let us turn now to the gold card issue under the RPPS. Could you bring us up to date with any negotiations and progress, if any, in respect of dental and the gold card.

**Mr Douglas**—We have been in discussions with the Australian Dental Association, and some options are being prepared for the consideration of government.

**Senator MARK BISHOP**—Is it fair to say that the negotiation process has concluded with the Dental Association?

**Mr Douglas**—I think a point that I made at the last Senate estimates hearing is that we are not in a position to negotiate anything. We are in a position to consult widely with the industry and prepare some options. Decisions will be taken by government.

**Mr Sullivan**—We understand the Dental Association's views.

**Senator MARK BISHOP**—I thought you were a bit more coy last time, Mr Douglas, and that with the Dental Association there had not been any negotiations for some time.

**Mr Douglas**—We endeavour to maintain as constant and regular a dialogue as we can with all parts of the industry. That is the opening point. The issue with the Dental Association that I

indicated last time was that we had had a set of discussions with them and they had agreed to prepare some additional material for us. We were still waiting for that material. In the end that material was not forthcoming. As I think you would be aware, there was a significant communications campaign undertaken by the dentists. We have continued the development of material which would support examination of the prices paid for dentistry.

**Senator MARK BISHOP**—‘Support examination of the prices paid for dentistry.’ When did that examination process occur—October, November, December?

**Mr Douglas**—It is continuing. We are preparing a range of options, and we are continuing to refine those options.

**Senator MARK BISHOP**—When will we have a final position to recommend to Mrs Kelly?

**Mr Sullivan**—I think it is more of a cross-government issue for budget purposes. So it is within the budget timetable that you will see any decisions taken.

**Senator MARK BISHOP**—All right. I ask the same question with respect to specialists.

**Mr Douglas**—Specialists were granted a price increase of 15 per cent for consultations and 20 per cent for procedures effective 1 January this year. Silence is generally a fairly good indication that things are relatively okay. There were no hiccups that I can recall in relation to the 1 January implementation. Some of the feedback we are having is that this is not an issue that is being raised by the specialists in discussion with hospital operators. Apart from the small pockets of concern which probably go more to work force shortage issues, we have no particular issues. We are in discussion with anaesthetists. Anaesthetists were excluded from the decision announced by government in last year’s budget. That too will probably be a matter taken up in a budget context.

**Senator MARK BISHOP**—You used the word ‘pockets’. We still have problems in Tasmania—

**Mr Douglas**—We have problems in Tasmania for orthopaedic surgeons, neurosurgeons and urologists. For urologists the difficulty is primarily only in Hobart.

**Senator MARK BISHOP**—Do we have pocket problems elsewhere?

**Mr Douglas**—None quite as remarkable as in Tasmania.

**Senator MARK BISHOP**—Is the cause of the problems down in Tasmania the fact that specialists’ order books are full from other potential clients? Is that the issue?

**Mr Douglas**—That is primarily the issue. There is a shortage of specialists. In the whole of Tasmania, for example, there are three neurosurgeons. Those specialists have advised us that they will not be seeing DVA patients under our pricing regime in a private capacity. They are treating them in the public system but we have been advised that a number of those specialists have also withdrawn their services from Royal Hobart.

**Senator MARK BISHOP**—So we have a very particular problem in Tasmania where a small group of specialists are exploiting their market power.

**Mr Sullivan**—They are making market decisions. The supply is not there and so they are making choices.

**Senator MARK BISHOP**—I understand. There is a limited number down there and they are making choices. Whether it is an abuse of market power or not is subjective, I suppose. Is the government giving any consideration to developing a very particularised or specific solution to that problem that we are discussing down in Tasmania?

**Mr Douglas**—We are trying to look across a range of different potential solutions.

**Mr Sullivan**—We are certainly talking to the Tasmanian government about the issue that they face as much as we face. They have a general issue in their health system. As I say, some of the specialists have withdrawn their services from Royal Hobart Hospital generally. They have an issue to address in respect of specialist services in Tasmania. We have an issue to address in respect of veterans' access to specialist services in Tasmania, and it is something that we talk to them about.

**Senator MARK BISHOP**—Do you think there might be a solution found in the budget process, Mr Sullivan?

**Mr Sullivan**—I do not think it is a budget issue. I think it is more an issue—

**Senator MARK BISHOP**—It is a supply problem in terms of specialists.

**Mr Sullivan**—We have to work through the issue with Health and then see what happens.

**Senator MARK BISHOP**—Have you done any work on the number of specialists in these areas that you would require in a place like Tasmania to get more balance in the market?

**Mr Douglas**—Senator, we in Tasmania are a pretty small percentage of the total population. It is difficult to foresee with any certainty what sort of demand might exist for a range of different specialties. The answer to that is no.

**Senator MARK BISHOP**—I was only talking about the three specialties that you identified.

**Mr Douglas**—We have put in place arrangements which would cater for issues of high emergency, for example, patients who present in private facilities within very high triage categories. We are trying to work through each particular case as it comes to hand. You recently asked a question in the Senate in relation to some facts and figures on this material, and we are gathering that together to help answer that question.

**Senator MARK BISHOP**—On the fee structure in Tasmania—the fee structure that applies everywhere—has the 115 per cent fee level now been legislated?

**Mr Douglas**—It took effect from 1 January.

**Senator MARK BISHOP**—That is right. It went through last year. Is there any mechanism now in place to ensure that the gap with Medicare is maintained?

**Mr Winzenberg**—The government increased the general rebate from 85 per cent to 100 per cent and, at the same time, increased the rebate or the fee for general practitioners treating veterans to 115 per cent. In that sense, the relativity of the 15 per cent has been maintained.

**Senator MARK BISHOP**—But that is a new relativity.

**Mr Winzenberg**—That is correct.

**Senator MARK BISHOP**—If you go back prior to that decision, wasn't the relativity up around 30 per cent?

**Mr Winzenberg**—In terms of Medicare, a general practitioner received 100 per cent of the MBS for treating a veteran. As of 1 January, that has gone up to 115 per cent.

**Mr Douglas**—On top of that is the veteran access payment and that also increased on 1 January. So it has maintained that relativity between bulk-billing for general patients and payments made for DVA patients.

**Senator MARK BISHOP**—Do we have a figure, Mr Douglas, on how many specialists out of the total in Tasmania will not take the gold card?

**Mr Douglas**—We have a total across the country of some 366.

**Mr Winzenberg**—In relation to Tasmania, it is 21.

**Senator MARK BISHOP**—Do you have the figures on the other states?

**Mr Winzenberg**—Yes.

**Senator MARK BISHOP**—Could you give them to me.

**Mr Winzenberg**—For the ACT, it is 10; New South Wales, 143; Queensland, 126; South Australia, 17; Northern Territory, one; Tasmania, as I mentioned, 21; Victoria, 36; Western Australia, nine. There are three that are unknown.

**Senator MARK BISHOP**—Do you have figures broken up by specialist category?

**Mr Winzenberg**—I have those here, for the top 10, if you want them.

**Senator MARK BISHOP**—Okay.

**Mr Winzenberg**—Of the 366, 89 are orthopaedic surgeons. The second category is ophthalmologists, 49; the third category is urologists, 27; the fourth category is general surgeons, 25; the fifth category is neurosurgeons, 19; the sixth category is ear, nose and throat surgeons and plastic and reconstructive surgeons, both 17; the next category is psychiatrists, 14; the next category is consultant psychiatrists, 13; and the last grouping is dermatologists, 12.

**Senator MARK BISHOP**—Could you take on notice to provide those figures broken up by state.

**Mr Winzenberg**—Yes.

**Mr Campbell**—I would like to add to this issue about the 366 specialists that Mr Douglas and Mr Winzenberg mentioned. There are close to 20,000 specialists in Australia. Of course, we do not deal with some of those.

**Senator MARK BISHOP**—I was going to come to that issue.

**Mr Campbell**—The point is that 366 is not a large number out of the number of specialists that are out there.

**Senator MARK BISHOP**—You are correct to point that out, because my next question was going to be: how many specialists do you have on your books in each of those categories on a state-by-state basis who are providing?



**Mr Winzenberg**—As we mentioned before, we do not contract with the specialists. At any point in time, we do not know how many specialists are treating veterans other than when the bill comes into the HIC. In terms of numbers, there is a core grouping of around 3,000 specialists across the country that regularly treat veterans and there is another 2,000 to 3,000 who sporadically treat veterans.

**Mr Douglas**—I would also make the point that when we had a look at some of the 366, for example, we discovered that some of them were still continuing to treat veterans and we surmised that therefore they were honouring longstanding obligations that pre-existed, but they were not taking on new clients.

**Senator MARK BISHOP**—So you really have up to 6,000 specialists in the various categories who regularly engage with you by way of provision of bills.

**Mr Douglas**—And another pool of 10,000 which may at some stage or other be called upon.

**Senator MARK BISHOP**—Will your systems show up in the first category of the 3,000 across the country who regularly engage and then in the 2,000 to 3,000 who sporadically engage by way of provision of bill? Can you break that down into the category of specialisation those doctors are engaged in?

**Mr Winzenberg**—I think so, but I have to confirm that. It depends on the data holdings at the HIC.

**Senator MARK BISHOP**—If you could take that on notice and provide me with that information, that will give me a more accurate picture in terms of not only those not working but those who are working.

**Mr Winzenberg**—We have to put some definitions around that. If we said that a specialist that regularly sees a veteran is one that sees a veteran, say, three or four times a year, is that—

**Senator MARK BISHOP**—You will have to take some consultation inside and make an arbitrary decision on the definition. I understand that. Really, any preliminary analysis suggests not only that there is the obvious problem down in Tasmania but also that there is a significant problem in New South Wales and Queensland, and the rest of the country not of that scale.

**Mr Johnson**—If we generalise, if we have a problem it generally reflects a community problem. If you look at community problems and doctors, it is more regional; metropolitan is not so bad in most of the other states. There are areas in regional Australia where clearly our problem is just a reflection of a community problem in respect of a lack of specialists.

**Senator MARK BISHOP**—I suspect we have a problem in northern New South Wales and southern Queensland.

**Mr Douglas**—I suspect there are a number of different pockets of potential difficulty at any point in time depending on the specialty. The other observation I want to make is that it is also to be borne in mind that those top 10 are likely to be the 10 largest specialty groupings that are practising as well. The distribution of the numbers by state needs to take into account the total population of the veterans in each state, so you have to have a proportion-to-size dimension to this discussion as well.

**Senator MARK BISHOP**—Travelling back down to Tasmania, can you tell us how many veterans have been transported to the mainland, at what cost and for which specialties?

**Mr Douglas**—We are still preparing the answer to your question on notice in relation to that. We will have that for you in due course. As far as we know the number is seven, but we are checking that in the preparation of an answer to your detailed written question.

**Senator MARK BISHOP**—All right. I think the written question goes to costings as well.

**Mr Douglas**—Indeed it does.

**Senator MARK BISHOP**—I have had correspondence from a dental specialist who has been denied a \$100 theatre fee. His objection is that theatre charges could be as high as \$1,000 elsewhere and that that would be accepted under Medicare. What are the rules for theatre fees under gold card for dental specialists?

**Mr Winzenberg**—We need to know the context in which he is performing the surgery. We have rules where we pay facility fees for health professionals that operate in licensed premises and hospitals. We do not pay those where they operate in rooms. That sounds to me like a facility fee issue. We would probably need more detail, Senator.

**Senator MARK BISHOP**—He is in Queensland. He is an oral and maxillofacial surgeon. He is the one talking about the \$100 theatre fee and Medicare.

**Mr Winzenberg**—They are covered by the general increase in fees that came in on 1 January. So that surgeon would receive 120 per cent for the procedure. If he is operating in a hospital or on licensed premises then we normally pay a facility fee. That is consistent industry practice that the private health funds follow. If he is operating in his rooms or at an unlicensed facility then our standard policy is not to pay the facility fee.

**Senator MARK BISHOP**—You said earlier that the specialist increase had flowed through to all groups apart from anaesthetists and you were engaged in some sort of consultation or negotiation with them. Did it not apply to anaesthetists at their request? Why did it not apply to them?

**Mr Douglas**—They had a prior arrangement that had not extended to the remaining groups. There were two alternative payment regimes. Because they had had a more recent base fee adjustment and because of our desire to work through the issues associated with those two alternative payment regimes, it was decided not to make the payment at that stage.

**Senator MARK BISHOP**—Was that a joint agreement between yourselves and their—what is their organisation called?

**Mr Douglas**—No. It was a decision of government.

**Mr Winzenberg**—Their association is the Australian Society of Anaesthetists. We received a submission from them on a fee increase in September last year. That is what is being considered by government.

**Senator MARK BISHOP**—What has happened to that submission?

**Mr Winzenberg**—That is part of the budget process.

**Senator MARK BISHOP**—Are you engaged in any negotiations or consultations with the anaesthetists now?

**Mr Douglas**—I mentioned that to you earlier, Senator. Yes.

**Senator MARK BISHOP**—So that is resolved and going on as part of the budget process.

**Mr Douglas**—Correct.

**Senator MARK BISHOP**—Do we have figures on how many anaesthetists who once accepted the gold card no longer do so?

**Mr Winzenberg**—Nine. They are the 11th group.

**Senator MARK BISHOP**—Anaesthetists are 11?

**Mr Winzenberg**—Nine.

**Mr Douglas**—After the top 10, they are number 11.

**Senator MARK BISHOP**—Okay. I want to talk about home care, which is referred to as page 46 of the PAES. What is the basis of the calculation of the \$52 million promised by the government during the election?

**Mr Campbell**—What did you say, Senator?

**Senator MARK BISHOP**—During the election, the government made a commitment to increase home care spending by—

**Mr Campbell**—Are you talking about \$52 million over four years?

**Senator MARK BISHOP**—Yes.

**Mr Campbell**—Okay, because there is only \$13 million in each year.

**Senator MARK BISHOP**—It was \$52 million over four years, wasn't it?

**Mr Campbell**—That is right.

**Senator MARK BISHOP**—Seventy-two to 85 is 13.

**Mr Campbell**—That is right. So it is \$13 million a year for four years including this year as year 1.

**Senator MARK BISHOP**—What was the basis of that calculation? Was it increased demand? Changed demand? Are there different services, new guidelines or different regions?

**Mr Campbell**—It was a commitment made by the government in the lead-up to the election. We have then been asked to implement a program to spend an additional \$13 million per year. The department is not in a position to say how that \$52 million was calculated by the government in the run-up to the election.

**Senator MARK BISHOP**—Because you were not consulted.

**Mr Campbell**—It was done in the run-up to the election. That is something for the government that did it, not the department.

**Senator MARK BISHOP**—Subsequent to the election, the government has asked you to devise ways to spend the extra \$13 million per year.

**Mr Campbell**—It has asked us to work with a program that now has \$13 million a year more than it did.

**Mr Sullivan**—And we are not expecting an underspend.

**Senator MARK BISHOP**—Clearly not. When will the extra \$13 million start to flow?

**Mr Douglas**—It has been allocated already both to assessment agencies and to service providers.

**Senator MARK BISHOP**—What changes will we see coming on board?

**Mr Douglas**—You could expect to see a combination of both additional hours of service where warranted and additional demand being responded to.

**Senator MARK BISHOP**—What is the additional demand being responded to?

**Mr Douglas**—A growth in numbers of those who wish to access the program. It is a combination of service levels and service numbers.

**Senator MARK BISHOP**—Let us talk about service levels first. Are we going to increase the number of hours that a person can have assistance in their home?

**Mr Douglas**—No. We are going to respond to any increased demand for service relative to individual need. We have not changed the benchmark.

**Mr Campbell**—Perhaps I can help here. We now have a situation where our veterans and the widows of World War II veterans are increasing in age. An increase in age into your eighties and nineties comes with an increase in frailty and an increasing need for services. Mr Douglas is saying that we are working towards meeting needs. It is assumed that there will be an increased demand for services because of the increase in frailty of our veterans and their widows, not because we are unilaterally increasing the provision of services across the board. It is the former.

**Senator MARK BISHOP**—Mr Campbell, you and I have had many discussions about how the demand for services increases and the level of complexity associated with the level of demand also increases as persons become more aged and get into their eighties and nineties. You would have presumed that was going to occur over the next five to seven years anyway in your forward planning.

**Mr Campbell**—I would not be surprised that has occurred. The fact that the additional money has been provided means that we are able to meet that emerging demand.

**Senator MARK BISHOP**—So it was the level of services. What was the second point?

**Mr Douglas**—Additional numbers.

**Senator MARK BISHOP**—Why additional numbers? My recollection of the last discussion we had was that you had a formula established whereby funding for home care went on the basis of this formula. Are you now telling me that the number of people is going to increase?

**Mr Douglas**—No. I am saying that, as the population ages, as Mr Campbell has explained, the likely demand for this program is going to occur in two ways. Firstly, there will be more people who up until reaching this older age group may not have needed the program but now

do need the program; and, secondly, the increase in the levels of frailty may mean that, where they were in receipt of assistance under the program, the assistance they now require is going to be more intense. That is not universal. In other words, it is not going to apply to everybody in receipt of the program assistance. It is the combination of additional people requiring access to the program and additional services to be provided to those who age.

**Senator MARK BISHOP**—Would we not be anticipating that the total number of persons using the program would shortly be going into decline?

**Mr Douglas**—The issue relating to the formula that we spoke about at the last estimates was that the existing decision in relation to the program was at a fixed level, which varied according to the total size of the treatment population—that is, the gold and white card holders. Because that total population size was diminishing, the total funding for the program was also diminishing. This decision as a decision of government subsequent to the election is to recognise the increasing need for access to the program with regard to both the ageing and frailty of the population and the likelihood that there would be additional people of that declining population and an additional share might need access to the program as they age.

**Senator MARK BISHOP**—Within a generally declining population number.

**Mr Douglas**—Yes.

**Mr Sullivan**—We have talked on the factors of age, frailty and the fact that many of these people no longer have partners and have become single.

**Senator MARK BISHOP**—I understand where you are going. This figure of \$13 million per year: has the department been informed as to the basis upon which the government calculated it?

**Mr Douglas**—Mr Campbell has answered that question.

**Mr Campbell**—We have provided advice as to how we think it will be spent in the coming year. That is as far as I can go.

**Senator MARK BISHOP**—That was not my question.

**Mr Campbell**—I know it was not. I am telling you that because I have already answered your question. The fact is, no, we do not know how it was calculated.

**Senator MARK BISHOP**—All right. The war widows have asked a question concerning the 1½ hours per fortnight benchmark taken from the HACC program and whether that is appropriate for the older war widow population. Does the department have a view on that?

**Mr Douglas**—We have been doing some analysis on that and we have been trialling some alternatives to determine whether or not that is still appropriate. That work is still in progress.

**Senator MARK BISHOP**—When do you think that analysis will be concluded?

**Mr Douglas**—Probably towards the middle of this year.

**Senator MARK BISHOP**—If there is a perceived need to change, is that a departmental decision or does that have to go to the minister, Mrs Kelly?

**Mr Douglas**—Whatever change is made, the government has made it quite clear the amount of money that it is prepared to commit to this program, so we would still need to live within that program.

**Senator MARK BISHOP**—I see.

**Mr Douglas**—Some of the early indications, without getting the full formal analysis, would tend to suggest that the benchmark remains appropriate but that there may be different needs in relation to some people who need to exceed the benchmark. In other words, the general benchmark is okay but there will still be people who will present with needs greater than the benchmark.

**Senator MARK BISHOP**—Okay. I am advised that quinine has been withdrawn from the PBS. Is that correct and what was the reason?

**Mr Douglas**—No, Senator. We understand that the Therapeutic Goods Association has sought consideration by the Pharmaceutical Benefits Advisory Committee as to some factors which might be used to improve the level of advice that is given to consumers in relation to quinine as to its possible side effects. That consideration by the PBAC has not occurred.

**Mr Johnson**—If I could add to that. Quinine was listed on the PBS in September as a drug to treat disorders of the musculoskeletal system and as an anti-malarial. One of the common uses of quinine is for nocturnal cramps. Under both listings there was a warning to prescribers which included severe thrombocytopenia, a blood disorder, which has been reported with this drug. In light of that, the TGA, in the December edition of the PBS, deleted the indication for treating disorders of the musculoskeletal system, and we understand the matter is going to be referred to the Pharmaceutical Benefits Advisory Committee at their next meeting, and they will decide whether there is any further action to take—for example, making quinine available under an authority script.

**Dr Killer**—I think Roger summed it up fairly well. Quinine has been used historically particularly by older patients who suffer from night cramps. Quinine falls into a whole category of drugs—like chloroquine—used primarily for treating malaria but also, in certain circumstances, used for musculoskeletal cramps. It works very well in the treatment of malaria, but in terms of managing cramps there has always been a suspicion that some of the effects were psychological more than physiological. Despite this fact, cramps are common and a lot of patients have been taking quinine tablets on a regular basis—that is, most evenings. Because of the nature of the drug, recent evidence suggests it does have some negative effects on the bone marrow and affects certain aspects of the blood, particularly the platelets, which are important for the blood clotting.

As a result of this recent evidence, there are suggestions now that we should look at the role of quinine, particularly in relation to older people with cramps. I might add that we looked at this a number of years ago, and we found that stretching exercises, programmed by a physio, for people before they go to bed often works far better than taking quinine. I think Roger summed up where we are really at. I think the warning is out now on taking quinine, and the PBAC will clearly look at this at its next meeting to decide how and when it should be provided to patients and for what conditions.

**Senator MARK BISHOP**—So it has been taken off because—

**Dr Killer**—No, it has not been taken off; it is still there but there is a warning on it now. It will be reviewed at the next meeting and at that meeting they will decide. I do not think it will actually be taken off; it will either be put on restrictions, restricted to certain conditions, or be on authority—in other words, a doctor would have to ring in to the Health Insurance Commission or to PBAC to get approval for use.

**Senator MARK BISHOP**—I understand. The advice I was given was couched in the words I used but I now understand the correct situation. We might turn to outcome 3, dealing with commemorations.

[11.41 a.m.]

**CHAIR**—I welcome the new witnesses for outcome 3, ‘The service and sacrifice of the men and women who served Australia and its allies in wars, conflicts and peace operations are acknowledged and commemorated’.

**Senator MARK BISHOP**—Could we have a general discussion at the beginning about the commemoration budget allocated last May in addition to the \$7½ million announced by the Prime Minister during the election. Could you tell me where those funds are going to be allocated: to what programs, what commemorations, that sort of detail.

**Air Vice Marshal Beck**—I will refer to Ms Blackburn on the broader program issues.

**Ms Blackburn**—On the funding that is available for the significant anniversaries for this year, final decisions have yet to be taken on all the components but there have been announcements by the Prime Minister and references by the minister on a number of the elements. These include funding for Anzac Day services at Gallipoli, the likelihood of commemorative missions for VE Day and VP Day, and also activities within Australia, what we are calling the Salute to Veterans, which will centre around VP Day. There will be a number of other elements but the minister has yet to make final decisions on those.

**Senator MARK BISHOP**—So we have got three broad headings: Anzac Day and Gallipoli, missions to VE Day and VP Day, and then activities within Australia.

**Ms Blackburn**—Yes.

**Senator MARK BISHOP**—Can we have a break-up generally of the costings associated with each of those as yet?

**Ms Blackburn**—There have been some costings which the minister has to provide final sign-off for.

**Mr Sullivan**—I think we should take it on notice and we will get it back to you very quickly.

**Senator MARK BISHOP**—What I am looking for is the funds to be allocated for each of the commemoration programs. I am not seeking the nth level of detail in terms of \$25 for bottled water but a series of subheadings to identify where the funds are going to be spent.

**Mr Sullivan**—As they are ticked off we will get you that answer, and it may have a still to be determined number. We will get it to you when it is useful.

**Senator MARK BISHOP**—That is fine. How advanced is the programming for those events: Anzac Day and Gallipoli and the missions to VE Day and VP Day?

**Mr Sullivan**—Gallipoli is well advanced now, obviously. We are quite well advanced in respect of the VE celebrations in Europe. In respect of the Australian events, we have a steering committee in place and they are working hard at particularly the event around VP Day in Australia, in Canberra, and we are working closely with Defence on both that and a celebration that will occur in the West.

**Senator MARK BISHOP**—Air Vice Marshal, you might put a bit of flesh on the bones to the extent that you can in respect of each of those proposals. Do you mind doing that?

**Air Vice Marshal Beck**—Specifically for the 90th anniversary of Gallipoli there are a number of aspects to what we are planning. I suppose we are firstly attempting to cater for an increased visitation of, we think, somewhere between 16,000 and 18,000. We are still seeking approval—we do not have it yet—to enlarge the dawn service site. There is a meeting late this month where hopefully we will resolve that and get the work done next month. We are planning large seven-tier stands around the dawn site and increased stands around the Lone Pine site of about 4,500 seats, which would take some of the pressure off the cemetery. There is normal expenditure associated with the preparation of the services. There is extra expenditure associated with those items. There is also the main expenditure associated with the prelude to the dawn service—a special 90th anniversary event that we are planning.

**Senator MARK BISHOP**—Can you give me an overview of that special event?

**Air Vice Marshal Beck**—The purpose of the special event is to try and change the mood of the young people who are attending. Ten thousand to 15,000 Australians will be there overnight. I think they will primarily be there to celebrate our nationhood. The idea of the prelude event is to make them understand and educate them and to set the mood for the dawn service. This is something that has been missing in previous years, and we think this event will do that. Because of the nature of that we are repeating that at about 4.30 in the morning, when the official contingent arrives. That could be 300 to 500 people, including prime ministers. This prelude will be repeated from 11.00 until 11.45 on the evening of the 24th and then from 4.30 to 5.10 on the morning of 25 April.

**Senator MARK BISHOP**—What do you mean by a prelude?

**Air Vice Marshal Beck**—It is a series of items that together form a program. I will outline some of those items. There is a special poem being written and it will be performed live; there will be a string quartet accompanying a didgeridoo player from the Queensland Philharmonic Orchestra; there will be a DVD of a seven- or eight-minute documentary outlining the story of Gallipoli showing archival footage; and it will conclude with a son et lumiere, a sound and light show which is set to music—Adagio in G minor by Albinoni. You might be familiar with that; I am not. It comes from the movie *Gallipoli*, so it is well known by those who have recently seen that movie. That will be presented by a team from London and Germany. It will be a world-class event although it will only last about 10 minutes. That is all we can afford.

**Senator MARK BISHOP**—When you say a team from London and Germany, do you mean an orchestra?

**Mr Sullivan**—The engineers. It involves engineering.



**Air Vice Marshal Beck**—The lights director is coming from there. That was the nearest team we could get for this event.

**Senator MARK BISHOP**—I think I have seen in the press that the Prime Minister is attending Gallipoli this year.

**Air Vice Marshal Beck**—That is correct.

**Senator MARK BISHOP**—Are you taking a group of veterans again?

**Mr Sullivan**—It has not been finally decided yet. We expect that to be determined very soon.

**Senator MARK BISHOP**—So organisation is well advanced in terms of Gallipoli—there is a large official party, the Prime Minister is going and you are setting a mood change. Are security issues as prominent this year as they have been in previous years?

**Air Vice Marshal Beck**—Certainly. We have just come back from Turkey with a security team. We are very favourably impressed by the effort that the Turkish authorities have made both on security terms and in understanding the nature of the events we are conducting. If there has always been a failure it is that the two did not quite work well together. We think there is a far better understanding now of relating the security needs to the actual attendance numbers and the movement of crowds between the various sites. So we are very impressed with the result and we will certainly have a very high level of security at all of the services.

**Senator MARK BISHOP**—Has any work been done to widen the road or extend the car parks there?

**Air Vice Marshal Beck**—Yes, that is currently in progress. The 5½ kilometres of road up the coast 3½ kilometres south of Ariburnu and two kilometres north of Ariburnu are being widened, and that is ongoing right now.

**Senator MARK BISHOP**—Who is paying for that?

**Air Vice Marshal Beck**—The Turkish government is paying for that.

**Senator MARK BISHOP**—Is that proposal to charge an admittance fee to the park there forgotten and gone?

**Air Vice Marshal Beck**—Yes. The entrance fee that might be charged in future is for entry to the visitors centre, not to the park itself.

**Senator MARK BISHOP**—I see. Can we have a similar discussion on VE Day and VP Day, Air Vice Marshal?

**Mr Kelly**—As the secretary pointed out, we are fairly well advanced in planning what we will do for VE Day and VP Day. The arrangements for VE Day are very close to completion. They require tick-off from the minister, obviously, and we have not got to that point. I do not know that there is much more I can say about it at this point other than that the arrangements are advanced.

**Mr Sullivan**—We can say that there will be a veterans contingent going to VE Day and we are in the process now of looking at those nominations and making selections and going through the process of medicals.

**Senator MARK BISHOP**—Is it going to be in London or Europe?

**Mr Kelly**—It will be in Paris.

**Senator MARK BISHOP**—What is the date?

**Mr Kelly**—It is 8 May.

**Senator MARK BISHOP**—So that has got to be done quick smart. Is there any suggestion of erection of a memorial?

**Mr Sullivan**—No.

**Senator MARK BISHOP**—So it is a visitation led by a senior minister, I presume?

**Mr Sullivan**—The government will certainly have someone senior there.

**Senator MARK BISHOP**—And a group of veterans, which is in the process of selection, will be going. Is that going to be done in conjunction with the Allied powers who were victorious in World War II?

**Mr Sullivan**—This celebration is under the control of the French government. The French will coordinate the exercise. We would expect there would be contingents from many countries who participated in the liberation of Europe.

**Senator MARK BISHOP**—I see the French are now closer to the Germans than they have been for some time. Do the Germans come within that category of countries who participated in the liberation of Europe?

**Mr Sullivan**—I do not know what the German participation will be in VE Day.

**Senator MARK BISHOP**—What about VP Day?

**Mr Kelly**—We understand that the United States is organising a commemoration in Hawaii on 2 September, which is actually the anniversary of the signing of the surrender rather than the anniversary of the end of the war. So we are considering at this point having a veterans mission to attend those commemorations as well.

**Senator MARK BISHOP**—I have received two or three letters from people in Western Australia who have taken not offence but some umbrage at the title of VP Day. They think it should be VJ Day as opposed to VP Day because, as they properly put the argument, there were wars all the way to India, there was activity in the north-west of Australia and it was victory over the Japanese and not so much victory in the Pacific. Do you know the origins of VP Day?

**Mr Kelly**—I am not absolutely sure, but I understand that shortly after the end of the Second World War the government of the day either proclaimed or decided—I am not quite sure of the mechanism—that it would be VP Day as opposed to VJ Day. That has been accepted ever since and, to my knowledge, there has been no great public move to change that. It is fairly well accepted.

**Senator MARK BISHOP**—The concerns I have expressed may well reflect localised concerns in my own state. Coming back to outlays: can the department confirm Minister Vale's advice that allocations will be made to MPs to promote commemorations in their own electorates?

**Mr Sullivan**—We cannot confirm that yet.

**Senator MARK BISHOP**—Do you recall that Minister Vale made that announcement in Sydney during the election? Are you aware of that?

**Mr Sullivan**—I am not aware of it, but I do know that, in terms of the total commemoration effort, we are making submissions to our minister and through government and that has not yet been done.

**Senator MARK BISHOP**—Do you dispute what I say, that Minister Vale did make that announcement?

**Mr Sullivan**—I am not disputing that. I do not know of it, so I am not disputing it.

**Senator MARK BISHOP**—Mr Campbell?

**Mr Campbell**—I am probably in the fortunate position that, for that part of the election campaign, I was on leave overseas. Like the secretary, I am neither confirming nor denying, because neither of us are aware of it.

**Senator MARK BISHOP**—My understanding is that it was made to an RSL meeting in Sydney.

**Mr Campbell**—I suspect that, if the meeting you are referring to was the national congress, where the Prime Minister announced the additional \$7.8 million, I was not at that congress.

**Senator MARK BISHOP**—I was at that congress and heard the Prime Minister's speech. I am not referring to that. I am referring to specific advice that Minister Vale gave to an RSL meeting in Sydney during the election campaign. I have been trying to track it down ever since to find if there is an official position and have been unable to.

**Mr Sullivan**—I do not believe there is an official position that says this money will be provided in that way.

**Senator MARK BISHOP**—Is there a recommendation to the minister for money to be provided for MPs to allocate in electorates?

**Mr Sullivan**—The minister will consider the commemorations program. All I can say is that, the last time we had a major commemoration, there was some money provided to electorates.

**Senator MARK BISHOP**—There was; I remember that.

**Mr Sullivan**—I can say no more.

**Senator MARK BISHOP**—You can add no more?

**Mr Sullivan**—No.

**Senator MARK BISHOP**—When do you think you will get advice back from the recommendations you have made to the minister?

**Mr Sullivan**—As was said, in respect of two of these major events—Gallipoli and VE Day—we need formalisation very quickly.

**Senator MARK BISHOP**—No, I will make it more specific. When do you think you might get a response from the minister on a recommendation for allocation of funds to electorates for commemoration proceedings?

**Mr Sullivan**—I think the minister would be expected to announce details of the commemoration spending in a reasonably short time—in weeks, I would think.

**Senator MARK BISHOP**—After Gallipoli, are VE Day and VP Day regarded as equally significant or does the war in Europe have more prominence?

**Mr Sullivan**—I think for Australia VP Day is more significant in that, while many Australians did participate in the end of the war in Europe, by then most Australian service personnel were committed to the war in the Pacific. While the war in Europe ending was a great relief to Australia, the war that involved Australians in large numbers and that at times threatened Australia was continuing. Between VE Day and VP Day, we expect that there will be other events to commemorate along the way to VP Day.

**Senator MARK BISHOP**—I am trying to get a handle on the timing of when there might be an announcement on funding for functions in local commemorations.

**Mr Sullivan**—I think you will see those announcements reasonably soon. VP Day is very important in terms of the commemoration of the end of World War II.

**Senator MARK BISHOP**—What is the selection process for veterans to accompany the missions or delegations to both Europe or Japan? Do you simply ask the RSL to provide you with details? Is it done by the minister, MPs or what?

**Mr Kelly**—There is a laid down selection process which we have used pretty consistently in the time we have been doing these missions. Basically, the department identifies all the relevant units and ex-service organisations whose members would fit the criteria for a visit to a particular area. Usually, the repatriation commissioner then contacts all those organisations and asks for nominations. Nominations come back from those organisations. We ask for details of their medical condition and whether they are, *prima facie*, fit to travel. They are then considered. A shortlist is then compiled, using a number of criteria: fitness to travel being one, obviously; a balance between the type of service; the arms of the service, which are Navy, Army, Air Force and merchant navy; places they may have served; a mixture between officers and other ranks; and the type of experience they might have had. There are a number of things that go into the mix, then a selection is made by a committee within the department—including Dr Killer, because he has to advise on the medical conditions—and recommendations are made to the minister.

**CHAIR**—I think we are going to have to stop there, because the minister has to away to a very important meeting.

**Senator MARK BISHOP**—Air Vice Marshal Beck is going to be very disappointed at your decision because he was looking forward to answering some questions on Fromelles and he will not be able to answer them.

**CHAIR**—Perhaps you could put them on notice, Senator Bishop. Thank you, Mr Sullivan, and the men and women of your department.

**Proceedings suspended from 12.00 p.m. to 1.04 p.m.**

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**Department of Defence**

**CHAIR**—We now move to the consideration of particulars of proposed additional expenditure for the Department of Defence. I welcome back Senator Robert Hill, the Minister for Defence; Vice Admiral Shalders, the Acting Chief of the Defence Force; Mr Ric Smith, Secretary of Defence; and officers of the Defence organisation. The committee has before it the particulars of proposed additional expenditure for the year ending 30 June 2005 and the portfolio additional statements for the Defence portfolio.

The committee will now consider the estimates for the Department of Defence, beginning with the portfolio overview and major corporate issues. We will then move onto outputs, business processes and people. When officers are first called upon to answer a question, they should state clearly their names and positions. When written questions on notice are received, the chair will state for the record the name of the senator who submitted the questions, and the questions will be forwarded to the department for an answer.

The committee has resolved that Thursday, 31 March 2005 is the return date for answers to questions taken on notice at these hearings. Regarding questions on notice, the committee notes that the department's answers to the questions submitted on 2 December last year were received yesterday. Answers were due on 31 January. Prompt return of answers assists the committee to complete its scrutiny of the current year's estimates. Departments and agencies are encouraged to return the answers as soon as possible.

Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. I also remind witnesses that the giving of false or misleading evidence to the committee may constitute contempt of the Senate. An officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy. However, you may be asked to explain government policy, describe how it differs from alternative policies and provide information on the process by which a particular policy was selected. An officer shall be given every opportunity to refer questions asked of the officer to a superior officer or to the minister. The committee will adjourn for dinner between 6.30 and 7.30 and we will also probably take a smoko at 3.30. Minister, do you or Mr Smith have an opening statement?

**Senator Hill**—Mr Smith will make a statement concerning Defence accounting and auditing and then I will make a brief statement as well.

**Mr Smith**—As this is a committee concerned with financial issues, it may be appropriate for me to make a statement on matters relating to Defence's financial statements for the year 2003-04. As you are aware, in the past few years the chief finance officer and the secretary have signed off on our financial statements, and the Auditor-General has agreed, saying that they are true and fair, except for uncertainty about a number of items relating to certain areas. Last year, 2003-04, we were not able to do that. We were able to confirm that our cash provisions were correct, our revenue and expenditure were stated truly and fairly, and that quantities of specialist military equipment and explosive ordnance were all fairly stated. Those are important issues for me to be reassured about—and, I expect, for the committee too. We were not able to conclude an opinion on the statement as a whole, because of the levels of uncertainty in a number of areas. The Auditor-General reached the same view.

Those areas include the value of general stores inventory; the value of ordnance; the value of repairable items; the value of some of our land, buildings and infrastructure; and issues around the value placed on military and civilian leave. Notwithstanding this ‘no opinion’ finding, we of course remain an effective organisation. That fact was fully demonstrated yet again by the outstanding work done by our logisticians and warehouse managers in providing the necessary stores and equipment so quickly for the ADF deployment to Aceh between Christmas and New Year.

I should say that I did not take lightly the decision that I could not form an opinion on the accounts as a whole. Obviously I considered the standards against which our auditors were likely to work. I also took advice from our independently chaired defence audit committee and I consulted widely in the audit industry. The general view was that the correct course to take at this time was to decide that I could not form an opinion.

Interestingly, it was indicated to me that in earlier times it might have been possible in a situation like ours to reach a ‘true and fair except for’ conclusion and that in some other countries it might still be, but in today’s more rigorous audit environment that would not be acceptable, at least in Australia. It was certainly disappointing for me to have to reach that conclusion but I believe that any other conclusion would have been less than honest in terms of today’s financial reporting standards and also that it was best to get on the front foot on the issue.

When I came to Defence a little over two years ago, unbriefed on these issues, I thought the qualifications we had could probably be resolved simply by the application of new and greater effort and focus. We did apply that greater effort, but in doing so demonstrated that the problems are of very long standing, are underlying in nature and in only a few cases are capable of being fixed quickly.

I have said the problem lies in part in our failure to get fully to grips with the demands of accrual accounting. By that I mean two things. First, our management information systems were not designed to adequately meet some of the demands on them. Indeed, it was the upgrade of one of those systems, while eventually successful enough, that created in a short-term way some of the particular problems last year. Second, our internal financial reporting systems have not, until very recently, been appropriate for current requirements. From the beginning of this year, we are requiring all services and groups to report monthly on all balance sheet items—that is, assets and liabilities as well as cash. It is a very big ask of them but it is what is required. Given the scale of the assets and liabilities we have, setting up both the information systems and the management systems we need, with the training and business skills needed to support them, is a major undertaking with heavy demands on the whole organisation, including the services.

I do not disagree with the Auditor’s comment that the issues are more fundamental than the introduction of accrual accounting. I would, however, make two points. First, the problems have been identified because of audits undertaken against accrual accounting standards. Second, as the Auditor-General has said, the disciplines embodied in accrual accounting should help resolve them. I should add here that other defence ministries are facing very similar challenges. The US Defense Department cannot yet complete auditable statements and

the UK and Canadian ministries are both heavily qualified in some of the same areas as we are.

In tackling the issues detailed in the Auditor-General's report, and in trying to overcome the immediate problems of preparing acceptable financial statements and thus moving Defence up to the sorts of standards required of corporate Australia, we have both long- and short-term strategies. For the short term, we have nine remediation plans to address the particular areas of concern. For the long term, we have strategies for developing the systems required and for training more and more people—an enormous challenge in itself, given our size, geographic spread, operational tempo and the base we are working from.

Our work in this area is driven by me, as secretary, with close involvement from the chief financial officer and the CEO of DMO. We are assisted not only by our independently chaired defence audit committee but also by a financial statements project board, which includes the Vice Chief of the Defence Force and all the service chiefs, and which has been augmented by representatives of the Department of Finance and Administration and the private sector. Many hundreds of staff years are committed and all major accounting firms are involved at some point. We report frequently to our minister.

Yet the solution will not be quick or easy. I am told it would be unusual for a corporation of our size to move from a 'no opinion' finding back to an 'except for' finding in one year. And in doing so this year we may face greater challenges because of the introduction of the Australian equivalent of international financial reporting standards, called IFRS, which, as you will know from the financial press, the corporate sector is also finding very demanding and expensive. As well, of course, we continue to maintain a high-op tempo in our core business. But we will give it our best shot. We are aiming for real improvement.

I want to again emphasise the good news: our budget and cash management are in good shape—in fact, arguably better than ever—our controls in respect of specialist military equipment and ordnance remain up to the mark; and above all we remain effective in our business. Much of the focus of our accounting shortcomings has been in the area of inventory management. But the fact is that in all the operations we have done during my time in the Middle East, the Solomons and Sumatra, our logistics performance has been outstanding. In particular, our largest warehouse at Moorebank, which has been one of the areas of our organisation most affected by the audit criticisms, performed outstandingly in preparing relief supplies and providing other support for our deployment of people to Sumatra over the holiday period. So there is no doubt that we remain effective, if not completely efficient, in modern accounting terms. I will, of course, be happy to take questions on that at the appropriate time during the hearing.

**CHAIR**—Did you wish to say something further, Minister?

**Senator Hill**—Yes. I thought I might make a few brief comments in relation to a matter that has arisen from a television interview of a Mr Barton. In doing so, I remind the Senate committee that the debate last year was about abuse of prisoners in Iraq. This included abuse during or in association with interrogation. These abuses focused on the Abu Ghraib prison. I argued that Australian forces did not hold prisoners, that we were not equipped to do so and had made other arrangements if faced by that issue. I also said that we did not interrogate

prisoners. That was not a task that we had accepted. I also said we had little contact with the Abu Ghraib prison system, and when we had contact it was constructive and helpful.

The issue that has now arisen is the role of Australians in the Iraq Survey Group as it related to detainees. The ISG was, of course, the body put in place to paint the picture of Saddam Hussein's weapons of mass destruction capability and program. It did that through a number of means: the exploration of suspected sites, involving many inspections across Iraq; the analysis of literally millions of pages of documentation; and the interview of those who may have relevant information. This also occurred across Iraq and outside of Iraq. Those interviewed were predominantly persons not in custody but included a number of high-value detainees, some being held at Camp Cropper in Baghdad.

Australia made a contribution to the ISG from the outset. We had been involved in the previous UN teams that monitored and reported on Iraqi WMD and had built up considerable expertise in the area. Whilst the ISG numbered over a 1,000, Australia typically contributed between 10 and 15 persons. From the outset we decided we would not contribute in the area of interrogation of Iraqi prisoners. The concept of operations for ADF participation in the Iraq Survey Group, dated 30 April 2003, specifically provided that ASISC was not to participate in the interrogation of prisoners. The concept of operations drawn under the guidance of a CDF executive order was signed by Brigadier Meekin, who deployed as the senior Australian on the first rotation of Australia's contribution. Australia contributed three rotations, each commanded by a lieutenant colonel whose task was to command within the restraints of the concept of operations.

My advice of last May was that no Australian member of the ISG had been involved in the conduct of an interrogation of an Iraqi national. I was told that no Australian member of the ISG had been to Abu Ghraib prison. I was told that a small number of ADF members had been employed as debriefers but did not conduct interrogations.

I have been subsequently told that on some occasions subject material specialists attended debriefs. On occasions they asked questions, although this was unusual. Defence have stressed to me that debriefs were not interrogations; the major difference being a matter of consent. In an interview or ISG debrief the subject had the right to break off the interview at any time and could not be compelled to answer questions. The interviews must not be under duress. I have been told, and this has again been confirmed as late as yesterday, that debriefs at Camp Cropper, in which Australians were involved, all involved detainees who were compliant and willing participants in the debrief.

By contrast, an interrogation is a hostile, aggressive and systematic method of information gathering where various techniques are utilised to illicit information. The interrogator or interrogators will determine the most effective way to weaken the subject's will to resist and to not provide information. Thus, in an interrogation there is sometimes debate as to whether the interrogation has become abuse. This was certainly the case in some instances in relation to Abu Ghraib in Iraq. The Australian Army's official doctrine on interrogation is the interrogator's handbook. I am assured that the ADF has a clear understanding of the differences between debriefing and interrogation and, while working with the ISG, Australian contingent commanders were stringent in ensuring that no Australian member became involved in or exposed to interrogations. Defence has again confirmed that the debriefs at



Camp Cropper in which Australians were involved all involved detainees who were compliant and willing participants in the debrief.

**Senator BARTLETT**—Can we get a copy of that, as well?

**CHAIR**—I am sure we can.

**Senator FAULKNER**—I would like to follow up on a number of the issues that were raised in your opening statement, Senator Hill. I think it might be useful if we had a factual base to do that. Can I establish at the outset what the employment arrangements were for Mr Rod Barton over this recent period? Obviously, we are speaking here of 2002, 2003 and 2004. It would be useful to get some clarity around that.

**Senator Hill**—I will ask Mr Pezzullo to come forward and detail that. There were a number of different contracts.

**Mr Pezzullo**—You asked a question in relation to Mr Barton's employment arrangements.

**Senator FAULKNER**—I did.

**Mr Pezzullo**—Mr Barton was employed in the context of his ISG—Iraq Survey Group—deployment as a non-ongoing employee, as it is termed under the Public Service Act, on three separate contracts that were not completely continuous, because he went in and out of employment arrangements, and they started on 8 December 2003. That employment relationship was with a particular line division in Defence.

**Senator FAULKNER**—So 8 December 2003 was the commencement of three non-consecutive contracts.

**Mr Pezzullo**—That is right.

**Senator FAULKNER**—Can you give us the dates of the three contracts?

**Mr Pezzullo**—I would have to get the precise dates for you.

**Senator FAULKNER**—I would appreciate that. You are suggesting that the status does not change, but that it is not continuous.

**Mr Smith**—Briefly, one concluded in March, the second was in September 2004 and the third was in October 2004. We will get you the precise dates.

**Senator FAULKNER**—Mr Pezzullo, was it the same contracting area of the department that dealt with these three employment contracts?

**Mr Pezzullo**—Yes, he had an employment relationship with the International Policy Division of the strategy group of the Department of Defence. They engaged him for the purposes of public sector employment. They negotiated the salary and other terms and conditions and administered the contracts.

**Mr Smith**—I can give you those dates. Mr Barton was employed, as we said, three times. The first time was 8 December 2003 to 23 March 2004. The second time was 29 August 2004 to 17 September 2004. The third time was 2 October 2004 to 11 October 2004.

**Senator FAULKNER**—Are these three periods of employment governed by three separate contracts?

**Mr Pezzullo**—Three separate contracts were entered into. On the first occasion, as I read the contract file, the officer returned early ahead of an agreed employment period. Subsequently, when his services were re-engaged, he entered into a new contract using a standard form—a non-ongoing employment contract, as it is called in the Commonwealth Public Service more generally—and attached to that are supplementary auxiliary documents such as duty statements, statements of administrative details et cetera.

**Senator FAULKNER**—I appreciate he is a non-ongoing temporary employee but subject, obviously, as a public servant, to all provisions of the Public Service Act.

**Mr Pezzullo**—The only distinction is for the duration of employment—a non-ongoing employee for the purposes of the act, as the name suggests, is there for a specified time period but, other than that, they are Australian public servants.

**Senator FAULKNER**—In relation to these contracts, you mentioned that appended to contracts are duty statements and other material.

**Mr Pezzullo**—And other auxiliary administrative details.

**Senator FAULKNER**—What are the auxiliary administrative details?

**Mr Pezzullo**—The terms and conditions. There would be documents on file attached to the contracts pertaining to travel arrangements to get there and back—basically governing a person's employment—which a normal public servant would have on permanent file and a non-ongoing one has to re-engage against every time they are so employed.

**Senator FAULKNER**—Did the duty statements change across the three periods for which Mr Smith has given us the dates or were they in fact the same?

**Mr Pezzullo**—They were similar. The first one, as I recall it, had slightly more depth. There might have been five or six line entries and they made reference to, for instance, planning and strategic advice to the ISG as well as the interviewing of persons. The latter contracts, as I recall them, are sparser but pretty much in the same field. I make reference there to the duty statements.

**Senator FAULKNER**—Pardon?

**Mr Pezzullo**—In saying that the detail was thinned down, I am referring explicitly to the duty statements, which I think your question went to.

**Mr Smith**—I should also clarify here that for the first period of the contract—December 2003 to March 2004—Mr Barton was in Iraq. For the second contract, he was initially in London at a conference and then in Iraq. For the third contract he was in Washington and New York talking to the ISG team.

**Senator FAULKNER**—I appreciate that, Mr Smith, and thank you for that elaboration. Can I go to the issue of 'interviewing'. I use that word because it is the word that has been used by a witness. I think we know what we are talking about. Did the duty statements contain duties in relation to interviewing of prisoners or detainees?

**Mr Pezzullo**—Yes. I think in relation to Mr Barton—and I extend through the committee my apologies about detailing some of the personal employment conditions. I will not go to

issues such a salary et cetera but I think it is now a matter of public interest as to what his duties are—

**Senator FAULKNER**—At this stage the question I have asked you is a specific one in relation to—

**Mr Pezzullo**—His duty statement.

**Senator FAULKNER**—It is a specific one in relation to duty statements and specifically in relation to interviewing. If you care to table the whole duty statement, that is fine.

**Mr Pezzullo**—I will confine myself to your question. I have got clarity about the direction of your question. The relevant duty statement section is bullet point 3, and I shall quote:

- Direct, plan and assist where appropriate in the interviewing of scientific and high value Iraqi personnel.

Subject to my confirming this later, that is appended to the first contract.

**Senator FAULKNER**—Would it be true to say it is not relevant to the other contracts because of the locational issues that Mr Smith has identified?

**Mr Pezzullo**—And, as the secretary intimated, the latter contracts pertained more to high-level discussions and dialogue and basically the finalisation work involved in wrapping up the ISG's principal report.

**Senator FAULKNER**—So part of Mr Barton's duties in Iraq was interviewing scientific and high-profile—

**Mr Pezzullo**—High-value Iraqis.

**Senator FAULKNER**—Let us be clear: interviewing scientific and high-value Iraqis.

**Mr Pezzullo**—Iraqi personnel.

**Senator FAULKNER**—Iraqi personnel. Does that include prisoners?

**Mr Pezzullo**—The word 'prisoner' is not mentioned.

**Senator FAULKNER**—Can someone—

**Mr Pezzullo**—Sorry, I thought you were asking me a question about the text itself. In terms of the nomenclature—the minister touched on this in his statement—there is a category of personnel who are of interest to the general intelligence community, and I will confine myself to obviously an unclassified set of remarks here, but particularly to the ISG. It is a term well known across the intelligence community. There are high-value detainees. The minister used that phraseology: HVDs, high-value detainees. High-value detainees are essentially members of the former Saddam Hussein regime who either were of interest to the Western intelligence and other communities in relation to their status or role in the decision-making apparatus of the previous regime—and that includes Hussein's security and intelligence bureaucracy—or specifically had a role in the weapons of mass destruction program as the ISG was tasked to ascertain. I am not going to the issue of whether or not the weapons were there; that is not part of my remarks here. HVDs are a known term. I can only assume, and I have not spoken to the contract drafter, that the reference to high-value Iraqi personnel is an unclassified contractual documentary attempt to capture that concept.

**Senator FAULKNER**—I do not think we should make any assumptions, Mr Pezzullo.

**Mr Pezzullo**—It certainly tallies with the behaviour on the ground of the ISG.

**Senator FAULKNER**—You may well be right, but I am just trying to deal here with the facts. Senator Hill, I wonder when you became aware that that was part of Mr Rod Barton's duty statement for the first contracted period of some 4½ months, I think it was, in Iraq.

**Senator Hill**—I do not think that I had seen Mr Barton's contract before the last few days.

**Senator FAULKNER**—Were you aware that part of Mr Barton's duties in Iraq included interviewing scientific and high-value Iraqi personnel?

**Senator Hill**—Firstly, I think that a duty statement does not necessarily mean that you will be conducting all those tasks. It basically sets out what might be specific functions that you undertake. I say that because, as I understand what Mr Barton said, during this period he was only involved in one interview. As I said, I do not think that I have ever seen that contract. I do not think I would see that contract—subsequent to the *Four Corners* interview or in association with the *Four Corners* interview.

**Senator FAULKNER**—So you have only learnt this in the last couple of days?

**Senator Hill**—I am not even sure that I actually knew that Mr Barton had been deployed. That would require a considerable search to work that out.

**Senator FAULKNER**—In your opening statement, Senator Hill, I think you gave figures about the number of Australians working with the ISG. You used the figures. I took a note that you said there were 10 to 15 persons at any one time. I appreciate this would change. I think I have quoted you accurately, but you can correct me if I am wrong. Is that right?

**Senator Hill**—That is what I said. It is my understanding that each of our rotations was of that order—

**Senator FAULKNER**—That is what you said, and fair enough. I appreciate that this would obviously wax and wane a little within those sorts of parameters, depending on the nature of the tours of duty and so forth.

**Senator Hill**—The initial contingent was 12.

**Senator FAULKNER**—That certainly fits the figures you gave of 10 to 15. Anyway, Mr Barton had included in his duty statement the fact that he would be interviewing scientific and high-value Iraqi personnel. How many of those Australians in this 10 to 15 that you have identified as working with the ISG had a similar duty statement?

**Senator Hill**—I will ask Mr Pezzullo. Most were serving either ADF personnel or Australian government officials, so I would not have expected that they would have a similar contract to that of Mr Barton. There were a few outside specialists that we contracted, one of whom was Mr Barton.

**Senator FAULKNER**—I am asking you, Minister. You did not know about Mr Barton's duty statement. We will go to Mr Pezzullo in a moment. Are you aware of any other Australians who have similar duty statements? You are not, I gather.

**Senator Hill**—I have not seen the duty statements of others.

**Senator FAULKNER**—You are the one who is standing up in parliament making these grand claims that are starting to look very transparently thin. Let us ask Mr Pezzullo if anyone else had a similar duty statement.

**Mr Pezzullo**—I am aware of at least one other non-ongoing employee—someone who would have been contracted in some capacity. I have not looked at the detail of that person's employment contract. As the minister intimates, the bulk of the contingent has been ADF officers or Australian government officials. They are permanently employed. They have a range of duties pertaining to their day job, if you like. The mission that they are then tasked to go off and do is then governed by the operational concept and the instructions developed pursuant to that operational concept that the minister described.

As an example, just taking the military members of the contingents—1, 2 and 3—all of those members would have been under the military discipline and command of the contingent commander, who would have issued orders, directions and instructions pursuant to the brigadier's overall guidance. Similarly, the Australian public servants, who came from different agencies, would have been tasked by the brigadier within that general construct to undertake work relevant to the ISG. It would be like the sorts of circumstances we have at the moment—we would have people deployed all over the place. They are not given a specific duty statement because it is part of their normal duties to be employed on a full-time basis. In the case of a non-ongoing employee, a temporary contractor, you need to specify those kinds of things because it is relevant to the employment contract that they have.

**Senator FAULKNER**—What we have now identified is that there is Mr Barton and at least one other Australian who has a similar duty statement. Would it be the same?

**Mr Pezzullo**—Possibly, Senator. I would want to check that.

**Senator Hill**—We have not checked that at all.

**Senator FAULKNER**—That is the evidence we have just heard.

**Senator Hill**—No, it is not what he said. You tend not to listen to what is said.

**Senator FAULKNER**—I actually listen very carefully, Senator Hill. I sometimes take with a grain of salt what you say because you did not know about these duty statements at all—

**Senator Hill**—You are not reporting it accurately.

**Senator FAULKNER**—until apparently minutes ago. But we have only been sitting here taking evidence for something like 15 or 20 minutes and we have already established that one of Mr Barton's duties was interviewing scientific and high-value Iraqi personnel. We have now established, in Mr Pezzullo's words, that at least one other Australian was doing that and had that as a duty.

**Senator Hill**—No, he has not at all.

**Senator FAULKNER**—We have established that at least one other Australian has that in their duty statement.

**Senator Hill**—No, we have not.

**Senator FAULKNER**—We have. Senator, you are not listening to what is going on.

**Senator Hill**—I thought Mr Pezzullo said he had not seen the other duty statement.

**Senator FAULKNER**—You had better check a copy of the *Hansard*. Mr Pezzullo has told us that at least—

**Senator Hill**—He says he has not seen any other duty statement. Why don't you listen?

**Senator FAULKNER**—Mr Pezzullo, haven't you indicated to this committee that you are aware of one other Australian who has a similar statement included in their statement of duties?

**Mr Pezzullo**—No, what I think the *Hansard* would show that I said, Senator—and it obviously can be checked—is that I am aware of at least one other case of a short duration or non-ongoing employment situation. I said that I had not looked behind that employment construct. I make the assumption, because it is required, whether you are going off to do intelligence in Iraq or coming to fill in in my office for a week as a clerical officer, that you would have to engage in a series of specified duties which are spelt out. So I make the assumption that if it is a properly constructed non-ongoing employment contract it would have a statement of duties.

**Senator FAULKNER**—How quickly can we find whether the assumption that at least one other Australian has that in their statement of duties is accurate? Can we establish that quickly, please? We should not deal with assumptions; we should deal with facts.

**Senator Hill**—Mr Pezzullo says we could have that information for you after dinner.

**Senator FAULKNER**—After dinner?

**Senator Hill**—That is what he said.

**Senator FAULKNER**—There are probably one or two people listening back at the department who could do a bit better than that.

**Mr Pezzullo**—I do not want to overpromise, Senator.

**Senator FAULKNER**—I would be very surprised if Defence was not a great deal more efficient than that. What else is in the duty statement of Mr Barton?

**Mr Pezzullo**—You asked a specific question around interviewing.

**Senator FAULKNER**—That is right. Now I am asking another question, which is: what else is in the duty statement?

**Mr Pezzullo**—The balance of the duty statement reads as follows—and again I repeat my earlier apology through the airwaves to Mr Barton:

Duties:

Be a member of the Iraq Survey Group senior advisory group.

Operate as a command team leader of the Iraq WMD elimination mission.

Direct WMD related efforts as required.

Direct the analysis and targeting of exploitation operations.

Direct, plan, assist where appropriate in the interviewing of scientific and high-value Iraqi personnel.

If needed, assist in the conduct of exploitation operations in the field.

Prepare planning documents, mission assessments, recommendations and other similar documents as required.

In each of those references, in terms of explanation of what they meant within the ISG context, is quite a detailed scope note on methodology contained at the front of the publicly released report of the Iraq Survey Group released in late September 2004. Some of those terms, which are terms of art, are explained.

**Senator CHRIS EVANS**—Could you perhaps table that public note about the broader objectives of the ISG, Mr Pezzullo?

**Mr Pezzullo**—Are you asking about the comprehensive report of the ISG?

**Senator CHRIS EVANS**—No, the terms of reference for the group. I was just coming to that issue because clearly there is one, potentially two, officers who had specific duty statements that dealt with their role in interviewing detainees of interest in the course of the ISG's work.

**Senator Hill**—I do not know whether the second one—

**Senator CHRIS EVANS**—I said one, potentially two—

**Senator Hill**—Okay.

**Senator CHRIS EVANS**—We are going to get information about whether the second one does. We have established that one does; Mr Pezzullo just read that to us. So we have got that. You said that the other officers were generally ADF or other permanent public servants, and they would have general duty statements in Australia but they did not have particular contract duty statements.

**Mr Pezzullo**—That is right. Their duty statement pertains to their employment back home, and then they are tasked to do a particular mission.

**Senator CHRIS EVANS**—That really raises the question of what was the role of the ISG. I seem to recall the minister talking at great length in the parliament and the public about the great role Australia was playing in the ISG, and I thought one of its key mission objectives was to debrief/interview Iraqi scientific personnel as to their knowledge of the WMD project. Am I correct in that assumption?

**Senator Hill**—In my introductory comments I said it was to paint the picture of Saddam Hussein's weapons of mass destruction capability and his program, and it sought to do that through a number of different means. One was the exploitation of sites, both in and out of the country; second was the analysis of documentation; and third was interviewing individuals who might be able to provide information. I think that you might recall that, during the course of the ISG, I have said before on a number of occasions that the emphasis moved more towards the latter. Obviously when the sites had been exploited and considerable progress had been made in analysing the documentation, speaking to individuals who might have been involved—scientists and the like—received greater emphasis than earlier in the program.

**Senator CHRIS EVANS**—That is right, Minister, and I think you are on the public record on those issues over a long a period of time. But I am just trying to establish that a key objective of the ISG, and therefore the Australian participants, was the debriefing/interviewing of those who might have knowledge of Iraqi WMD capabilities. Is that correct?

**Senator Hill**—I do not think that is the objective of the ISG. I am saying that that is one of the tools or techniques of the ISG to develop the picture of Saddam Hussein's weapons of mass destruction capability.

**Senator CHRIS EVANS**—So when we committed Australian personnel to the ISG, we were aware of their general objective and that this would be one of the tools that the ISG would use that Australian personnel would be involved with.

**Mr Pezzullo**—That debriefing would be a tool?

**Senator CHRIS EVANS**—That interviewing of Iraqi scientific personnel would be part of the work of the ISG.

**Mr Pezzullo**—That was one of their tools.

**Senator CHRIS EVANS**—I presume, therefore, the implicit duty statement of those officers we sent, in addition to those on specific contracts, was to be involved in that work.

**Mr Pezzullo**—They obviously had different skill sets. You mix and match your skill sets. Some were operational and coordination staff who helped run headquarter type processes but some of them were analytical staff, who in the trade were known as SMEs or subject matter experts. They assisted in debriefing and interviewing by providing perspective and background knowledge—in the case of people like Mr Barton, going back many years, it was valued knowledge—to assist the debriefers and the interviewers, who were not necessarily specialists in this field either in terms of the former regime or the kinds of weapons systems or biological and chemical weapons that were thought to have been developed. The subject matter experts were analytical assistants, if you like, who assisted with perspective, interpretation and analysis of the material that was coming through the debriefing process.

**Senator CHRIS EVANS**—In addition to what is publicly available about the role of the ISG, the government's commitment and now the duty statement of this particular officer, were there any other instructions or guidelines provided to Australian personnel seconded to the ISG or involved with the ISG about their duties, behaviours or protocols to be followed?

**Mr Pezzullo**—I think the minister covered that in his opening statement.

**Senator CHRIS EVANS**—I think he made some reference to it. I am just trying to get to the detail of that.

**Senator Hill**—I did. I said that a concept of operations was developed before the deployment of Australian personnel to the ISG, which basically set out the role and other matters, including some restrictions on how they could do their business. One of those restrictions I specifically said was that they were not to participate in interrogations. I can read the brief but perhaps somebody who helped develop it might like to run through the operational tasks.

**Senator CHRIS EVANS**—I was going to ask if someone could describe that document and whether it was the only document that was issued to staff.

**Senator Hill**—I will give you the flavour of it. Specified tasks for the Australian contingent are as follows: assist in the identification of WMD, their delivery means and associated technology; collect battlefield intelligence on captured and abandoned Iraqi



equipment that may relate to WMD; share technical intelligence with UK and US forces in the ISG; ensure that the government of Australia is informed et cetera; arrange for the recovery of selected items of material; coordinate reach-back arrangements for harnessing the support of other agencies.

**Senator HOGG**—Were the instructions to our people any different from those of the other nations involved?

**Senator Hill**—I do not know that.

**Senator CHRIS EVANS**—You read out a selected list of instructions. It did not include anything to do with interviewing, debriefing or interrogation. Is that because the document does not cover that or you chose not to read that bit out?

**Senator Hill**—It does not under the specified operational tasks. When it says that a task is to assist in the identification of WMD, their delivery means and associated technology, it may well be included within that. For example, it does not also say ‘analyse documents’.

**Senator CHRIS EVANS**—I think I have seen you quoted as having said that the officers were instructed not to be involved in interrogations. I assumed therefore from your public comments that that would be in that document. Is that in that document?

**Senator Hill**—Yes, that is in the document.

**Senator CHRIS EVANS**—So why didn’t you read that bit out?

**Senator Hill**—I just said it to you. I said that it includes some restrictions, not in the specified operational tasks but under another part it includes restrictions. One is that the Australian personnel are not to participate in interrogation.

**Senator CHRIS EVANS**—Are there other restrictions?

**Senator Hill**—Yes. I do not know that I would actually call it a restriction but the second one is that the commitment is for a period of approximately six to eight months but that this could be extended. The third is that the Australian contingent should not operate without ISG force protection measures being implemented.

**Senator CHRIS EVANS**—Are you prepared to table for the committee that document?

**Senator Hill**—Table the whole document? I would have to take advice. It is classified secret and it makes reference to our allies as well, so I would need to take advice on that.

**Senator CHRIS EVANS**—Perhaps you could take advice and advise us whether you are prepared to table that document or a version that has the classified material removed. Obviously it would be helpful for the committee. The difficulty with someone reading out certain extracts from a document is that one is never quite sure one has got the whole flavour.

**Senator Hill**—Yes, I know. There may be some elements that are not relevant to this inquiry that might need to be deleted.

**Senator CHRIS EVANS**—I do not think I have ever got a defence department document without at least a couple of black lines, Senator Hill—not officially anyway.

**Senator Hill**—I think we should have Brigadier Meekin at the table, seeing he wrote the document.

**Senator CHRIS EVANS**—I am perfectly happy to have Brigadier Meekin here.

**Senator Hill**—There is a second reference to interrogation under the heading of ‘Background’. It says that the government of Australia is determined that we will contribute a contingent of 12 personnel. It says the personnel will not be involved in the interrogation of Iraqi prisoners but will concentrate their efforts in the discovery and exploitation of WMD as part of the sensitive site exploration and the full accounting and subsequent elimination of Iraq’s WMD. I think that is the only reference, but Brigadier Meekin can correct me if I am wrong.

**Senator CHRIS EVANS**—Brigadier Meekin, are you able to help us on whether there is any other material that would cover the question of debriefing, interview, interrogation, behaviour by Australian personnel involved with the ISG inside Iraq?

**Brig. Meekin**—Certainly. My role in this has been previously covered. That document was prepared by me in April, some weeks before we deployed from Australia. At that stage it was not certain what the precise details would be of the Iraq Survey Group, so it was prepared in advance to provide general guidance, understanding that we would have clearer guidance, particularly the definition of tasks that individuals would fulfil, once we got to the Middle East. I had also, in the run-up to that period, been in consultation with our allies in the United States to get further definition or an understanding of what the tasks would be.

The guidance that I received was very clear that we were not to be involved in interrogation. That guidance was reflected in the document as mentioned and it was subsequently verbally issued by me to my subordinate contingent commander. He briefed that in what we would term in the military his orders group to his contingent. The specific details regarding conduct of interviews were not covered, but interrogation was explicitly ruled out both of enemy prisoners of war and black-list detainees, subsequently known as high-value detainees.

**Senator CHRIS EVANS**—So the question of interrogation was specifically ruled out in the guidance you provided to your officers deploying, but the question of interviewing and debriefing was not?

**Brig. Meekin**—Interviewing and debriefing were not explicitly ruled out, largely on the basis that part of the role, the mission, as one might describe it, of the Iraq Survey Group was obviously to find out about the weapons programs of the former regime. One of the methods was through the interviewing of former senior officials of those weapons programs. Indeed, some of the publicly released ISG documents mention that as a key part of the strategy.

**Senator CHRIS EVANS**—So you knew when you formed that guidance that it was likely that Australian officers would be involved in that process?

**Brig. Meekin**—In the interviewing process?

**Senator CHRIS EVANS**—Yes.

**Brig. Meekin**—That is correct, but not all would be involved. A very small number of subject matter experts with a deep understanding of perhaps biological or chemical weapons were the ones most likely to be involved.

**Senator CHRIS EVANS**—Were there any subsequent instructions issued to provide guidance for those staff? Obviously there was a rotating group of personnel and we were in-country for a fair period of time. I think we still have people there, haven't we, as part of the ISG group?

**Brig. Meekin**—We still have some people in Iraq but not with the ISG—with its successor organisation. Yes, Senator, guidance—direction, if you like—was provided to all contingent commanders. The guidance was, first, that original concept of operations that I prepared before deployment and, second, through instructions from their superior headquarters, Headquarters Joint Task Force 633, the senior Australian headquarters in Iraq, located in Baghdad. Also, on at least one occasion I issued a direction to a contingent commander reminding him of the responsibilities and prohibitions. That was in the post Abu Ghraib environment, if I could call it that. I understand that other instructions were issued by other headquarters in the chain of command.

**Senator CHRIS EVANS**—Can you tell us why you felt the need to speak to someone about reinforcing the prohibitions?

**Brig. Meekin**—Interrogation is a contentious business, particularly having regard to the most recent publicity. Interrogation in the Australian Army is only ever conducted by properly trained personnel. There were none of those personnel in the contingents. It is a subject that some people might find interesting. It is also something that, as I said, is contentious, so we did not want people who were not trained to be involved in something that they had no need to be involved in.

**Senator CHRIS EVANS**—Given that you had issued general instructions or general guidance, what is the correct term for this document that we are discussing?

**Brig. Meekin**—The original document that the minister referred to was the concept of operations, otherwise known as a 'con ops'.

**Senator CHRIS EVANS**—Given the con ops that was issued why did you find it necessary to speak to an officer to reinforce that prohibition? Were you concerned about how Australians were conducting themselves?

**Brig. Meekin**—I would put it in the context of after care. He was a new contingent commander who had deployed to Iraq. It was simply a matter of reminding that person once he was there, bearing in mind that, in the strict military sense, I had no control. He was not in my command chain but he had come from the same organisation that I had worked in. I felt it was important that it should be reiterated.

**Senator CHRIS EVANS**—What caused you to feel the need to reiterate it? Were you concerned that he might have been involved in interrogation procedures or not?

**Brig. Meekin**—I had no concerns whatsoever that he might have been concerned but it was in the post Abu Ghraib environment of exposes of misconduct and the like, and it was perhaps more to ensure that he was confident that the guidance was clear.

**Mr Pezzullo**—Senator, I can add some contemporaneous knowledge that is reflected in my own recollection and notes. At the time when I was appointed by the secretary and the CDF to conduct my fact-finding review that we subsequently discussed in estimates on 17 June, I

spoke to both Brigadier Meekin—he had returned by this stage and was back in DIO as a branch head—and to Commander CJTF 633, the commander of the Australian forces on the ground, to reiterate to them whether they had issued, out of prudence, absolute clarification, given the statements that were being made by the government and the interest that the public had generally in the matter, so that the instruction in this area was absolutely unambiguous. Both Brigadiers Meekin and Hutchinson confirmed to me, in my capacity as head of the fact-finding inquiry, that through the period May and June they had reinforced those instructions, not out of any particular concern about behaviour or conduct on the part of subordinates but just out of a sense of prudence and, as you would expect in that kind of environment, cautionary checking by senior officers. They had done it independently and in advance of my inquiry but they certainly confirmed to me that they had done it.

**Senator CHRIS EVANS**—Was there any other instruction subsequent to the CONOPS prior to the Australian contingent departing for Iraq that amended, emphasised, added to or subtracted from those general instructions?

**Mr Pezzullo**—The answer is yes. I am happy to answer; I have got the details on that. Each contingent commander deployed with instructions that he promulgated to his troops and to public servants. It was up to each contingent commander to translate the higher intent down the line, as is the tradition and form in the Australian military. Most of them did it by word because they were reasonably small parties. They literally gathered them in rooms—that was certainly the experience with team 1. I might just dwell on team 2 a little bit, perhaps pre-empting your interest. Team 2 covered the period that Mr Barton was deployed. I have either spoken to someone or received confirmation in the light of Mr Barton's claims about interrogation. I have rechecked the facts that I originally checked with Brigadiers Meekin and Hutchinson back in June last year.

I would prefer not to specify names, if you do not mind, but team 2 was led by a lieutenant colonel of the Australian Army. I think that was the form that we established last June when we last went down this path. The head of team 2, an Army lieutenant colonel, deployed to the area with his team in mid-November, so it predated Mr Barton, and returned to Australia in mid-May. By that time Mr Barton had returned. He did a personal briefing, plus he did a reiteration through his chain of command. He advises that the deployment was to be within the intent of the concept of operations, and remember the CDF's higher intent, which is much higher than Brigadier Meekin's, with all due respect, who had issued a general instruction in relation to detention, interrogation and capture type issues that the standard operating procedures were to be that Australian Iraq Survey Contingent members were not to be involved in interrogations, were only to be involved in debriefs of Iraqi personnel voluntarily offering information and were to be involved in these debriefs in their capacity as subject matter experts—we have talked about those analysts before—providing technical advice in their area of expertise to the individual running the debrief.

In any instances where the use of techniques that placed detainees under any formal duress were involved, the personnel of this team—these are comparable instructions; I have checked them all—were to remove themselves from the situation and advise the contingent commander, name deleted, immediately. Personnel were also required as a matter of standard operating practice to advise the commander of the contingent on a daily basis of the following

day's activity to give him visibility of what was going on. He also had a day job. He was the coordinating ops chief of the headquarters but he also had national command responsibilities, which is what I am going to here. This would include any involvement or proposed involvement in debriefing activities, where the above guidance was reiterated.

Out of an abundance of caution I have rechecked these facts this very morning with the relevant contingent commander, who happened to be in Canberra. I wanted to make absolutely sure that this was not a dim and distant memory but reflected his practice. Indeed, he has confirmed that fact. Given that Mr Barton was a non-ongoing employee and in a sense somewhat in a special category—Rod has had a long and illustrious career in this field, was well known to the senior UN, US and UK analysts and strategists in this area and in a civil service sense was more senior to the contingent commander—I asked the contingent commander about the nature of his relationship with Mr Barton. He said it was a very open and friendly one. He recalls having roughly daily contact with him in terms of what he was doing. That may have slipped a couple of days here and there depending on time and space constraints: Rod was going one way and the contingent commander was going another way. If I could place this on the record, with the indulgence of the committee, I specifically asked, because I was concerned in relation to the guidance that had been promulgated, why it was the case that now there was a direct allegation that Mr Barton had been involved in an interrogation.

I will read into evidence, if you do not mind, the notes that I have taken and which have been certified by the contingent commander. He does recall having had a conversation with Mr Barton after an interview that Mr Barton had participated in with a senior former Iraq regime figure at the Camp Cropper facility. To the best of the contingent commander's recollection, he thinks the interview was with Dr Rihab Taha—although that would need to be checked and obviously Mr Barton would know who he spoke to—the former head of Iraq's biological weapons program. She is reasonably well-known in international security circles as the Dr Germ of Iraq. However, the contingent commander cannot be certain of this. Mr Barton said he was involved in the interview on the basis of his knowledge and relationship with the individual from his time as a UN weapons inspector.

The contingent commander was at pains to stress that, whether it was Rihab Taha or the other person, Rod made the point that they had a relationship going back to UNSCOM days. The contingent commander specifically recalls Mr Barton discussing the relaxed and casual nature of this interview and that Mr Barton had not raised any concerns at the time regarding the conduct of the interview or over the treatment of the individual in question. I asked the contingent commander this very morning whether he had a diary note or a more specific recollection of how contemporaneous this discussion would have been with Mr Barton. He cannot quite recall, but given his pattern of near daily contact it would have been reasonably close to the date specified in Mr Barton's return as the date upon which the interview was held, which was 30 December 2003.

**Senator CHRIS EVANS**—I need to take that in, but you are trying to give us evidence on behalf of an unnamed officer of a conversation that he recalls with Mr Barton. I am worried about the third- or fourth-hand nature of that evidence. It is not a criticism, I am just trying to come to terms with the fact that you had a chat with a bloke who remembers that he might

have had a chat a year or two ago with a bloke who might have said he was in an interview with a person that we are not sure about. I am a bit worried about the hearsay nature of what we are dealing with.

**Mr Pezzullo**—In terms of the nature of the checking that I have undertaken, this matter did come up and no doubt we will later get to what Mr Barton said in his various iterations of that statement to Australian government officials over the period of March through to June last year. But when I, as the head of the fact-finding inquiry, looked at this very specific area—because specific advice had been given to the minister in May about the activities, behaviour and conduct of the ISG Australian contingent—what is being put into evidence here today, in terms of the CONOPS, the high-level CDF intent being translated by Brigadier Meekin into operational level instructions and tactical level instructions being cascaded down by the contingent commanders certainly rings true with my research back in June. What does not ring true against the facts that were put forward in the *Four Corners* program on Monday night was how an interrogation could then have been conducted against what I understood, and what I advised the senior hierarchy of my department and through them the minister, in terms of the facts that I found last year. So I have gone back and rechecked some checking that I did last June, and I have done it even more forensically this time, because it concerned me that it was at odds with what I understood to be the case up until last Monday night.

**Senator FAULKNER**—Let us follow that through. The last time we discussed these sorts of matters in this committee, you would recall that the department tabled a copy of a pro forma for ADF personnel.

**Mr Pezzullo**—Yes, I do.

**Senator FAULKNER**—I do not have the figures, I remember it was some 400-odd people. No doubt that with your close attention to detail you will remind me if it was 450 or 460 or something like that.

**Mr Pezzullo**—The total catchment of people who had gone through the area of operations was in the low thousands. You might recall that you had that discussion.

**Senator FAULKNER**—Yes, but how many people filled in the forms?

**Mr Pezzullo**—I will need to get back to you on that.

**Senator FAULKNER**—Oh, you do not know that? I am pleased to hear that.

**Mr Pezzullo**—31 May is a long time ago.

**Senator FAULKNER**—Just checking.

**Senator CHRIS EVANS**—I will not remind him of the figure, it will embarrass him—392 is my recollection.

**Mr Pezzullo**—I was not sitting here at that time.

**Senator FAULKNER**—However many it was, my recollection is that with some 14 or 15 there was a follow-up response by interview with proper procedures put around those interviews.

**Mr Pezzullo**—That is roughly right. I would have to look up my list.

**Senator FAULKNER**—Was this lieutenant colonel that you have referred to one of those 15 who were interviewed?

**Mr Pezzullo**—Who filled in a form originally in May?

**Senator FAULKNER**—He must have filled in a form.

**Mr Pezzullo**—Yes, he certainly was required to fill in a questionnaire.

**Senator FAULKNER**—And you have checked the questionnaire, of course.

**Mr Pezzullo**—Back in May. I have checked his return and I did not reinterview him, and I did not need to reinterview him in June having had the discussion with Brigadier Meekin about how he promulgated his instructions down to his contingent commanders.

**Senator FAULKNER**—But this recent foray that you have entered into with the lieutenant colonel, you would have put the same procedures around that reinterview as you would have with the other 15, I assume.

**Mr Pezzullo**—There is a note taken. He sighted the note. He signed the note.

**Senator FAULKNER**—With the same procedures.

**Mr Pezzullo**—When you say the same procedures, a reinterview consists of me—going back to last June’s activities—or one of my staff taking a detailed note and having the officer sign the note. I will now place this note on the survey return database that we have back in the department that reflects the May survey as amended by the June reinterviews.

**Senator FAULKNER**—So did Mr Barton fill out one of your forms?

**Mr Pezzullo**—In May?

**Senator FAULKNER**—Yes.

**Mr Pezzullo**—Yes, he did on 25 May.

**Senator FAULKNER**—There were questions about potential contact with PW and civilian detainees. What did Mr Barton say?

**Mr Pezzullo**—Let me just reach for his form—I happen to have it here.

**Senator FAULKNER**—I thought you might.

**Mr Pezzullo**—The specific question on the form.

**Senator FAULKNER**—I am asking whether he indicated that he had contact with prisoners or detainees.

**Mr Pezzullo**—Mr Barton’s answer in the May form is yes.

**Senator FAULKNER**—As a result of that was he subject to one of your follow-on or knock-on interviews?

**Mr Pezzullo**—Yes, I specifically asked as the head of the Iraq detainee fact finding team to have him reinterviewed. Rod, by that stage, from memory was in one of these periods when he was between those contracts we talked about. He was a private citizen. He came forward very willingly and was very willing to talk. I conducted the interview personally.

**Senator CHRIS EVANS**—Perhaps we ought to refer to him as Mr Barton.

**Mr Smith**—I should just clarify that, in being asked had he had contact with any PWs or civilian detainees, he said yes. In answer to the question, ‘Was this part of your duties?’ Mr Barton said yes. To the question, ‘If so, what was the nature of your contact with these personnel?’ he replied, ‘Interview’ and ‘during inspection of detention centre’.

**Senator FAULKNER**—Because of the nature of the responses that Mr Smith and you have provided to us, this meant that there was a follow-up interview.

**Mr Pezzullo**—Not specifically because of those three responses but on the second page—some of this you would have seen broadcast on the *Four Corners* program the other night; some of it you did not—when I was doing the analytical work with my staff and they were going through all the survey returns they were drawing things to my attention. There were some statements in there that caused me to think, ‘There are some issues here that maybe could be usefully reengaged upon,’ and I asked Mr Barton to come in and he did.

**Senator FAULKNER**—What are those issues? You refer to the *Four Corners* program—what in the *Four Corners* program?

**Mr Pezzullo**—I will go to his May return and that will cover the issue as I sweep through it. He had indicated that he had conducted an interview. I have to say that did not ring any alarm bells for me because a number of persons, pursuant to what you heard in the minister’s statement, what you have heard in my evidence and what you have heard in Brigadier Meekin’s evidence, were conducting either direct interviews or assisting in a debriefing process, so that did not cause me any concern.

In response to the question, ‘Did you hear about or observe any mistreatment of Iraqi PWs or civilian detainees while you were in the MEAO?’—that is, the Middle East Area of Operations—he stated:

I did not observe any mistreatment of detainees at Camp Cropper. However, I was concerned about the size of the cells many detainees were kept in ...

He nominated a figure of two metres by 1.5 metres. On the amount of exercise permitted—and he nominated a time period there of only two half-hour periods per day—and solitary confinement he expressed concerns to the officer in charge. I think I saw Mr Barton say that on Monday night on the program. He had heard from a colleague from another country of mistreatment issues, particularly pertaining to arrests, and he made reference in this return to having seen what he called mugshots of persons who had abrasions about the face. He also made other responses in his return, one of which was also presented on the program the other night, with reference to raising the matters when he returned to his command.

**Senator FAULKNER**—Let us go into those. What were the others?

**Mr Pezzullo**—Taking all those things together, that was one of the more detailed and concerning returns that I had read. To answer your original question, that is why I asked to see him.

**Senator FAULKNER**—What were the other responses on the form in relation to contact with other personnel?

**Mr Pezzullo**—Under ‘Do you have any other information that you would consider relevant?’ he made reference to two Red Cross inspections that were then quite well known—



the ICRC had promulgated this—of Camp Cropper. He referred to the fact that he had been aware that these visits had been conducted—they were public visits—and he gave me his views on the Red Cross's findings and whether the Red Cross was going to follow up with those findings.

**Senator Hill**—I do not think you completed his answer in relation to the photographs of detainees—the two mugshots.

**Mr Pezzullo**—Sorry, Minister, I was summarising quickly.

**Senator Hill**—Also you did not say what he understood the Red Cross concerns to be.

**Mr Pezzullo**—I might read those fully into the evidence.

**Senator FAULKNER**—That is fine. Before you do, why don't we table the thing? Is that all right, Minister?

**Senator CHRIS EVANS**—We have got the form and you are reading the answers. It seems to us that we might as well have it.

**Senator FAULKNER**—It seems a selective reading is silly, because you are concerned about it yourself. I think that concern is fair enough. Let us just have it tabled and get on with it.

**Senator Hill**—I do not think there are any privacy issues.

**Senator CHRIS EVANS**—We have the pro forma and you are reading the answers.

**Mr Smith**—Not now that Mr Barton has said the same things publicly.

**Senator FAULKNER**—Sorry?

**Mr Smith**—The question was, 'Are there any privacy issues?' I said, 'Not now Mr Barton has said the same things publicly.'

**Senator Hill**—It has a service number.

**Mr Pezzullo**—We might take the phone number off.

**Mr Smith**—Personal details—those sorts of things.

**Mr Pezzullo**—It has a number which I know to be the home number. It has his APS service number.

**Senator FAULKNER**—There was a reporting question in the questionnaire, wasn't there?

**Mr Pezzullo**—Yes.

**Senator FAULKNER**—What number was that?

**Mr Pezzullo**—2.7.

**Senator FAULKNER**—What was that question again?

**Mr Pezzullo**—Shall I read in the mugshot stuff first? Shall we dispose of that?

**Senator FAULKNER**—If you would like to, by all means, Mr Pezzullo.

**Mr Pezzullo**—I was skating over each paragraph, trying to summarise it for you. It said:

I also saw mugshots of two detainees who were photographed shortly after their arrest and who clearly had abrasions about the face. When the officer in charge of the detention centre was asked why he responded that these injuries were incurred during the detainees' resistance to arrest.

To answer your question about a reporting question at 2.7, he said:

I expressed my concerns about the possible abuse of detainees to Australian government officials on my return to Australia at the end of March 2004 and recommended that Australia should not be involved in the interview process.

If we are going to table it, should I go through the full Red Cross stuff?

**Senator FAULKNER**—No. What I want to know is the reporting question, 2.7. Why don't we read that?

**Mr Pezzullo**—I just read that in full. Those three lines that I just read are the full quotation.

**Senator Hill**—I think you should do the Red Cross as well. Otherwise, people do not know what he is complaining of.

**Mr Pezzullo**—He was asked, 'In terms of 3.1, do you have any other information that you would consider relevant?' He said:

During my time at the ISG I was aware of two Red Cross inspections at Camp Cropper in mid-January and early February 2004. The visits were only about two weeks apart and the head of the detention centre explained that this was because the Red Cross was unhappy about some aspects of the camp. Their concerns included the amount of exercise allowed detainees and the practice of giving rewards, eg phone contact with families, reading or writing material and small luxuries, in return for information. The second visit was to see if these concerns had been addressed. I do not know whether the Red Cross was satisfied.

**Senator FAULKNER**—Right. So now, having had all that read into the record—and thank you for that—are we now in a position to table that for the benefit of the committee so that we can address the issues that are raised?

**Senator Hill**—I believe so, subject to taking out the personal details.

**Senator FAULKNER**—Sure. I agree with that.

**Senator Hill**—In relation to others who put in returns, if you ask that they be tabled I would ask the agreement of the individual concerned. As Mr Barton has already gone public on these issues—

**Senator FAULKNER**—I merely asked whether the lieutenant colonel that we heard the hearsay evidence from had filled in one of the original forms. I have certainly not requested that it be tabled. None of my colleagues on the committee have. It might be useful to table this one. It might save a little bit of time.

**Mr Pezzullo**—We will do that privacy work on it.

**Senator FAULKNER**—I agree. That is appropriate and that ought to be done. Then we can come back to its content.

**Senator CHRIS EVANS**—I understood you said that the answer to 2.7, Mr Pezzullo, was that he raised concerns with government officials.

**Mr Pezzullo**—I will read it again, perhaps a little more slowly:

I expressed my concerns about the possible abuse of detainees to Australian government officials on my return to Australia at the end of March 2004 and recommended that Australia should not be involved in the interview process.

**Senator FAULKNER**—When was that received in Defence?

**Mr Pezzullo**—It was filled in on 25 May. You might remember that in evidence on either 31 May or 1 June there was a discussion about the methodology employed for this survey. From memory, the Senate received a tabled copy of the blank pro forma. A team of officers in the Strategic Operations Division had worked through the month of May—I cannot quite remember the dates—and they had surveyed every officer and other rank, and indeed civilians, as you can see from here, who had gone through the MEAO, and all of that had been thrown into a database that we then re-examined as one of the early tasks of my inquiry.

**Senator FAULKNER**—Mr Pezzullo, when did this come into your hands? You have been given the responsibility by CDF and Mr Smith for effectively compiling all this material.

**Mr Pezzullo**—Yes. I think we all recall the circumstances. At the end of the hearings on 1 June the secretary, supported by CDF, made certain statements about the fact that they really needed to re-examine all of this material—

**Senator FAULKNER**—I am not asking you a question about that. I know that history. I want to know: when did this particular document come into your hands?

**Mr Pezzullo**—I will just finish the sentence, because I was thinking it through as you asked me. I was appointed on 2 June. The first full working day with the team in place was 3 June. I know from my notes—and subsequent discussion will no doubt come of Mr Barton's follow-up record—that I spoke to him on 9 June. So it would clearly have been the time between 3 June, when we started full-time work, and 9 June. It was in that six-day period.

**Senator FAULKNER**—When you read these words, 'I expressed my concerns about the possible abuse of the detainees to Australian government officials,' et cetera, no doubt you would have been concerned about that?

**Mr Pezzullo**—As I said earlier in evidence, and I will not go back over the methodology of my report to the secretary and the CDF and through them to the minister, I was tasked to look at all of the evidence that was known to Defence up until, obviously, when I started work—3 June—and in particular to look at what kind of advice had been given to government. That clearly is material.

**Senator FAULKNER**—Yes, but you have just read a paragraph which indicates that these concerns were expressed to Australian government officials. What was the next step in trying to get to the bottom of who the officials were, when this occurred and what the advice was? Without going to the substance of that, I am just trying to understand the process.

**Senator Hill**—Excuse me for a moment, Mr Chairman. I assume that now we have started on this subject that will be the business of the afternoon, in which case we could send this mass of officials away and tell them to come back at some other time.

**Senator FAULKNER**—I would say, Chair, that is a reasonable thing. It may not have been the committee's intention but it was rather governed by the opening statement that Senator Hill made.

**Senator PAYNE**—You were just here for entertainment, Senator Faulkner.

**Senator FAULKNER**—It would be extraordinary for the committee to ignore your opening statement, Senator Hill.

**Senator Hill**—I am flattered.

**Senator FAULKNER**—It is without any shadow of doubt the flimsiest opening statement I have ever heard.

**Senator Hill**—I am flattered that it was so interesting.

**Senator FAULKNER**—But, given you made it, it is our chance to have a look at it.

**Senator CHRIS EVANS**—I am sure that, given the quality of the show, Minister, they would rather stay here than go back to work.

**CHAIR**—I will take some guidance from you, Senator Faulkner. How do you feel? Do you wish to make a decision, perhaps, when we break for smoko at 3.30—or can you give us some guidance now as to how your questioning might develop?

**Senator FAULKNER**—I think Senator Hill makes a reasonable point that, given that his opening statement has anticipated some questions from the committee on this and we are now dealing with it, it is going to take some time to deal with these matters. In a quiet aside to my leader, Senator Evans, I am assured that we are not likely to conclude this before 6.30 at the earliest.

**CHAIR**—Very good. I think the officials can take their lead from that.

**Senator FAULKNER**—I, of course, am not that longwinded myself.

**CHAIR**—No. We know all about you, Senator Faulkner.

**Senator PAYNE**—Delusional, perhaps, but not longwinded.

**Senator CHRIS EVANS**—My advice was based on my assessment of Senator Faulkner's past performance.

**Senator FAULKNER**—I think it is reasonable to say that we will be able to deal with this till the dinner break. We will try and give Mr Smith and his officials the best advice we can a little later in the afternoon about requirements so we do not affect other witnesses' utility in the evening. We will obviously be as sensible and reasonable as we can about that. We will try and give you a bit of advice later in the afternoon.

**Mr Smith**—Thank you.

**CHAIR**—Thank you, Senator Faulkner. I think you have your steer, Minister.

**Senator Hill**—I think all officials other than those who have an interest in this particular matter can retire.

**Senator FAULKNER**—That is what we were saying.

**Senator Hill**—I was asked to table my opening statement, which I can now do.

**Senator FAULKNER**—That is good of you, Minister. We have already received a copy of it.

**Senator Hill**—I would find it extraordinary if you have.

**Senator FAULKNER**—I do not know how. It came about 10 minutes ago.

**CHAIR**—Thank you, Senator.

**Senator FAULKNER**—It did.

**Senator Hill**—I have not tabled it.

**Senator FAULKNER**—It does not matter. It just shows you how efficient your—

**Senator Hill**—I do not know what document you have got.

**Senator FAULKNER**—We will ignore the one we have received and deal with the one that is in your hands. I think you are underestimating the efficiency of Hansard.

**Senator Hill**—If it is a *Hansard* one, that is fine.

**Senator FAULKNER**—What I was trying to establish a moment ago was what happens as a result of the reporting detail—and I have not got the full detail of it—that commences, ‘I expressed my concerns about the possible abuse of detainees’ and so forth. What happens as a result those comments being contained in the documentation? I am dealing here with the process issues.

**Mr Pezzullo**—Because of my personal role in June are you asking me about how I then evaluated that information in June or are you asking contemporaneously what did or did not happen in March?

**Senator FAULKNER**—No. I do know anything about March at the moment. No doubt you will tell us about March. I am asking what process was put into place and what you did about this comment?

**Mr Pezzullo**—What I did.

**Senator Hill**—As a result of reading this report.

**Senator FAULKNER**—Putting two and two together, I am assuming Mr Barton’s comments were made in March: ‘Mr Barton discusses with officials in March.’ I am assuming that from what you are saying. But let us not deal with assumptions; let us try and deal with the facts.

**Mr Pezzullo**—So you are asking me the process I then pursued. Having read the whole survey—as I said, I had staff screening out all the various returns to look for precisely this kind of information, either about alleged abuse, knowledge of abuse or references in terms of the briefing of the government or government officials—some time between 3 June and 9 June, it must have during that time bracket by definition, I asked to see Mr Barton and then he came into Russell and I interviewed him personally.

**Senator CHRIS EVANS**—On what date did you interview him?

**Mr Pezzullo**—On 9 June.

**Senator FAULKNER**—And did you go to the detail of all the elements of—

**Mr Pezzullo**—In fact that was precisely the methodology I employed. As I recalled my discussion with Mr Barton, I remembered having a very minor relationship with him when I was a very junior officer in the DIO in the late 1980s and I established the fact that we must have bumped past each other in the corridor at that time. I asked him about his time and his experience there and I thanked him for coming in. I said, ‘I would specifically like to go through the survey return that I now have before me, point by point, because there are elements of it that I would like to re-engage on.’ And when I checked my notebook the other night, it does follow quite precisely the paragraph by paragraph flow of the 25 May survey return.

**Senator CHRIS EVANS**—Are you telling me there is no record of interview?

**Mr Pezzullo**—Yes, there is. I have notes and then I constructed a record of interview, which Mr Barton subsequently signed.

**Senator CHRIS EVANS**—So why are you referring to the notebook? Maybe it is better if you just answer the question, Mr Pezzullo.

**Mr Pezzullo**—I thought I was.

**Senator CHRIS EVANS**—I think you are anticipating the next one a bit. You referred immediately to your notebook. I thought we had an official record of interview.

**Mr Pezzullo**—Yes, we do.

**Senator CHRIS EVANS**—So why wouldn’t we be referring to that as the primary source?

**Mr Pezzullo**—Senator Faulkner asked me whether we went through the document and I said I applied precisely that methodology in the discussion I had with Mr Barton. The evidence I have to support that statement is that when I checked my handwritten notes, which then became the basis of a written interview that we will no doubt come to and which I do not want to anticipate, they in fact track the survey return quite precisely.

**Senator CHRIS EVANS**—So you have a record of interview which was checked and approved by Mr Barton?

**Mr Pezzullo**—Yes; he has countersigned it. He has signed it and I have the original—his handwritten, signed version—on file, and there are other file copies in the various fact-finding team files as well as in ministerial submissions and other places too, but no doubt we will come to that.

**Senator CHRIS EVANS**—What date did Mr Barton sign the record of interview?

**Mr Pezzullo**—He signed the document on 18 June.

**Senator FAULKNER**—With or without amendment?

**Mr Pezzullo**—With amendment. He made some amendments, which were returned to me. I had a staff member going backwards and forwards. As I recall it, and I checked the file the other night, he signed a statement with some amendments in red pen and he made an annotation at the bottom to the effect of: ‘This is a true and proper record of what I said, except in one respect.’ He did not think that it recorded properly the fact that he had put certain information to me about his contact with the Australian officials in March. That was not a matter that I wanted to leave unattended, so I asked the staff member who in effect was

managing the case to go back to him and to have him clear some additional paragraphs that related to what he told Australian officials in March. He then—it must have been later the same afternoon, because it is also dated 18 June—signed off on those additional paragraphs.

**Senator CHRIS EVANS**—So we have two versions; we have a—

**Mr Pezzullo**—Not two versions; we have a version that deals with his time in Iraq, if you like, and then he added on two paragraphs. I drafted some words that I took out of my notebook and he agreed to them with some amendments, and they are supplementary to the record. So the two activities taken together are one record. I want to be completely transparent about this: he was dissatisfied about the lack of an annotation to the effect that he had told Australian officials. I had put to him that that was covered in his May return. He quite promptly put to me, ‘Well, but you’ve given me a statement about my time in Iraq. For the sake of the complete record, I would like some paragraphs to be on the record in relation to what I said to Australian officials when I came back—as I recall, this hand amendment and the recommendation I made to them.’ I thought, ‘That’s a pretty fair point,’ so I sent the staff officer back with the additional paragraphs, and he agreed to those.

**Senator FAULKNER**—Is it possible to have the final and full statement tabled?

**Senator CHRIS EVANS**—The record of interview.

**Mr Pezzullo**—I would counsel no at this stage because it is classified, and it is classified for reasons pertaining to some additional information that Mr Barton gave me on 9 June.

**Senator FAULKNER**—Does the initial—

**Mr Pezzullo**—You know it is a—

**Senator FAULKNER**—Let me ask the question in this way: does the additional classified material that has resulted in the classification of this document relate to the matters pertaining to this paragraph 2.7—in other words, reporting?

**Mr Pezzullo**—No, I classified it according to the guidelines we have on security classification markings, because of the nature of the information that Mr Barton disclosed.

**Senator FAULKNER**—So can you read then to the committee what appears to be those two additional paragraphs?

**Mr Pezzullo**—I will take some guidance on that.

**Senator FAULKNER**—These are the ones that were added in as a result of the tick-tacking between Mr Pezzullo and Mr Barton.

**Mr Pezzullo**—I just need to get the two paragraphs that were agreed between Mr Barton and me on 18 June that pertained to 2.7—is that what you are asking me? Is that right?

**Senator FAULKNER**—That is my assumption, on your evidence. But if I am wrong in saying they do not pertain—

**Mr Pezzullo**—No, you are right.

**Senator FAULKNER**—you can correct me. I am just doing the best I can following the show!

**Mr Pezzullo**—I might just show it to my secretary and my minister and I will leave them to make that call.

**Senator FAULKNER**—I have heard from you that those paragraphs do not pertain to the classification. That is why I am asking the question. If they related to classified material, I would not ask for them to be read out.

**Senator Hill**—Sorry, I find it a bit confusing too. Mr Pezzullo, these are the two additional paragraphs that—

**Mr Pezzullo**—That dealt with what he had told Australian officials.

**Senator Hill**—were not included in the first document you prepared and that he wished to have included—

**Mr Pezzullo**—That is right.

**Senator Hill**—in this document.

**Mr Pezzullo**—That he subsequently agreed to later in the afternoon.

**Senator Hill**—Do they relate to the matters that you classified under the guidelines? No. I do not see any reason why they should not be put in.

**Mr Pezzullo**—I will need to caveat it by the fact that they are contested recollections, in fairness to the officers.

**Senator Hill**—They name individuals but I don't—

**Senator FAULKNER**—I assumed that because we know what it goes to, because Mr Pezzullo has told us. It goes to the discussions with Australian government officials that I deduce occurred in March, from the other evidence that we have received, but we will get to that at some other point. We are making slow progress. I just wondered whether it could be read into the record.

**Senator Hill**—Unless it relates to the classification then I have no objection.

**Mr Smith**—There is stuff in square brackets that confuses the flow of it, but go on.

**Senator CHRIS EVANS**—It couldn't be any more confusing than what we have done already.

**Mr Pezzullo**—My apologies, Senator, if you found my previous evidence confusing. I will read the paragraph. What I might do, unless there is a real requirement for it, is to delete references to names. I want to establish that before I start reading it.

**Senator FAULKNER**—I am asking you to read it because I want to know what the names are, so I do not want you to delete the names.

**Senator Hill**—Where the names should not be disclosed for some operational or security reason, they should not be disclosed. But if it is a matter of reporting to a departmental official, I do not see any reason to object to that.

**Senator CHRIS EVANS**—Particularly if it is evidence already given on public television.



**Senator FAULKNER**—Which is the assumption, I must say, we are all making on this side of the table. We are assuming that we have already heard the name, courtesy of good old Auntie.

**Mr Pezzullo**—I will try to follow all those injunctions.

**CHAIR**—In fairness, Mr Pezzullo, if you are concerned about it I think you should be given some time to satisfy yourself. Obviously you are a little concerned.

**Mr Pezzullo**—I am clear in my mind, thank you, Chair.

**Senator FAULKNER**—It is not a question of Mr Pezzullo satisfying himself anyway, with respect, Chair. It is the minister who has made that decision.

**Mr Pezzullo**—It was helpful to me to have that exchange, Senator, because we are about to get into identification of persons. I am clear in my mind; I thank you for that, Chair. I will read the relevant paragraphs.

**Senator FAULKNER**—Thank you!

**Mr Pezzullo**—It reads as follows:

Mr Barton raised his concerns about the possible abuse of detainees to Australian government officials on his return to Australia at the end of March 2004 and recommended, due to his belief that Iraqis were being mistreated, that Australia should not be involved in the interview process. He advised a senior officer of the department and a senior military officer at one meeting and he recalled that he mentioned the mistreatment during a lengthy roundtable discussion at [another agency, not a defence agency], in early April, at which officers of [that agency] were present at various times.

I will interpolate here and say that Mr Barton and I agreed—he certainly countersigned it in this way—that the paragraph I am about to read to you is in italics and it records me testing those recollections with the relevant officers that I am about to either identify or describe. Mr Barton has seen my notes and he signed his name against them. I quote:

However, when contacted, [the military officer] advised that when Mr Barton returned early to Australia he had had a meeting with senior officers in a division of Defence which [the military officer] had attended.

Then another officer who the military officer recalls as having been at the meeting annotates, by way of interpolation, that Mr Barton did not recall meeting this third officer, and I confirmed in a later telephone conversation with this other officer that the meeting had not taken place. I will need to come back and explain that square bracket because it is poorly interpolated. With respect to the meeting that the military officer describes, I quote:

The meeting was with [the senior officer]—

the first assistant secretary—

in her office. The meeting was focused on the work he had undertaken with the ISG, his reasons for leaving early and his recommendations for the provision of further support to the ISG, all of which were outlined in his letter of resignation to [the first assistant secretary]. The detention issue was neither mentioned in the letter of resignation nor raised as a major item at the meeting. Mr Barton mentioned that, as part of the process of gathering information, however the ISG was involved in interviews with Iraqis. He said he had personal concerns about the conditions—for example, the size of cells in which the detainees were held—and had heard from British colleagues of mistreatment. For that reason and

with no further detail he recommended that Australia not offer to become involved in the detention process. As it was our policy position that we were not considering involvement in a detention process, his recommendation was accepted and noted without further comment and the meeting moved onto other issues.

That italicised paragraph that I have just read is the recollection of the one officer, a military officer, who does recall mention around those issues as I have described.

**Senator FAULKNER**—God knows how *Hansard* are going to record that! I will be interested to read it some time in the future. Am I correct in understanding that Mr Barton spoke to an official, which I gather is a first assistant secretary?

**Mr Pezzullo**—I described her as the first assistant secretary.

**Senator FAULKNER**—Who is the first assistant secretary? Is that the same name that was mentioned on *Four Corners*?

**Mr Pezzullo**—I think you will find that there were not too many female first assistant secretaries—

**Mr Smith**—Yes, it is.

**Senator FAULKNER**—Right.

**Senator CHRIS EVANS**—It is not hard to figure out. The number of female first assistant secretaries in Defence is fairly limited.

**Mr Pezzullo**—I feel more comfortable with a more senior officer having put that name down.

**Senator FAULKNER**—Was it Ms Rowling?

**Mr Pezzullo**—Yes.

**Senator FAULKNER**—I think we actually knew that by watching the television. There was a meeting with Ms Rowling or a meeting saying he had a meeting with Ms Rowling.

**Mr Pezzullo**—Yes, it was a meeting with Ms Rowling attended by a third person.

**Senator FAULKNER**—Who is the third person?

**Mr Pezzullo**—The Air Force group captain that I have been describing.

**Senator FAULKNER**—What is the date of that meeting?

**Mr Pezzullo**—It was 31 March.

**Senator CHRIS EVANS**—That is the day after he gets back.

**Mr Pezzullo**—Possibly two or three. I would have to check when he physically got back.

**Senator CHRIS EVANS**—I thought he left Iraq on the 30th.

**Mr Pezzullo**—According to the program, when they showed his diary I noticed he was transiting Singapore from memory on the 24th or the 25th.

**Senator FAULKNER**—Then there is a round table that is held separately. We will come back to that meeting with Ms Rowling and the RAAF group captain on the 31st.

**Senator Hill**—This is his reflection of what he said to the officials which is not necessarily shared, but we will get to that.

**Senator FAULKNER**—Separately to that there was a round table.

**Mr Pezzullo**—Yes, in the description of Mr Barton's recollections, that is right.

**Senator FAULKNER**—What is the date of the round table?

**Mr Pezzullo**—Mr Barton advised early April.

**Senator FAULKNER**—Someone suggested it was not a major item at the meeting.

**Mr Pezzullo**—My apologies, Senator, I now need to chop back to the group captain's recollections. It is the group captain who advised that. We interpolated his statement back in. It would have been after 9 June. He advised back in June that he had that recollection but 'it was not raised as a major item'.

**Senator FAULKNER**—Was that at the meeting as opposed to the round table?

**Mr Pezzullo**—That is right.

**Senator FAULKNER**—When was the round table? All we know is that it was in early April.

**Mr Pezzullo**—The evidence I have was early April.

**Senator FAULKNER**—Do we know who attended the round table?

**Mr Pezzullo**—Senior officers of that agency were present at various times.

**Senator FAULKNER**—Did you talk to them about what was said?

**Mr Pezzullo**—I do not recall doing so.

**Senator FAULKNER**—Is that a no?

**Mr Pezzullo**—A no.

**Senator Hill**—I want to make it clear that Mr Pezzullo did not speak to other participants in the round table at the time that he was compiling this document.

**Senator FAULKNER**—We know that, but thank you for that.

**Senator Hill**—He may have spoken to them since.

**Senator FAULKNER**—I think he has spoken to the group captain since. We do not know yet. We have not heard any evidence as to whether he has spoken to Ms Rowling yet.

**Mr Pezzullo**—I can come to the group captain if you like now or later.

**Senator FAULKNER**—Later. In relation to the round table, have the other participants been identified?

**Mr Pezzullo**—The other participants were described in one case specifically. Then the rest were senior officers of the agency.

**Senator FAULKNER**—Mr Barton says he raised the issue there.

**Mr Pezzullo**—No. In my record of it, I wrote it in those terms. Mr Barton has amended it and this is the final record. He recalled that he mentioned the mistreatment.

**Senator FAULKNER**—So Mr Barton says he mentioned it there.

**Mr Pezzullo**—He recalled that he mentioned the mistreatment.

**Senator FAULKNER**—He recalled that he mentioned it there and there has been no check with other participants whether they have the same recollection.

**Senator Hill**—There was no check at that time.

**Mr Pezzullo**—Not in June.

**Senator FAULKNER**—Finally, there is the letter of resignation written by Mr Barton.

**Mr Pezzullo**—Yes.

**Senator FAULKNER**—Do you have a copy of the letter of resignation?

**Mr Pezzullo**—Yes, I do.

**Senator FAULKNER**—Who was the resignation letter directed to? Ms Rowling, I assume, from what you have said.

**Mr Pezzullo**—Yes. That goes back to the nature of the employment contract that we described earlier.

**Senator FAULKNER**—Yes. What is the date of the letter of resignation?

**Mr Pezzullo**—It is 29 March.

**Senator FAULKNER**—In 2004.

**Mr Pezzullo**—I am sorry; yes, it is 2004.

**Senator FAULKNER**—The issue that we are broadly canvassing is raised in the letter of resignation.

**Mr Pezzullo**—No.

**Mr Smith**—The letter of resignation was principally about WMD search and the approach being taken by the ISG. It did not go to these other issues.

**Senator FAULKNER**—So the significance of the letter of resignation or his resignation is because of his dissatisfaction about those broader WMD issues or prisoner abuse or what?

**Senator Hill**—No. It is the writing of the report. I do not think there is any reference to prisoner abuse.

**Mr Pezzullo**—No. It makes no reference to detainees at all. It is about the direction of the ISG and how it was shaping its conclusion-setting process—its report-writing process.

**Senator FAULKNER**—In your work, did you contemporaneously—at the time of the round table and the meeting with Ms Rowling and the group captain—talk to Ms Rowling around the time this information had been provided to you?

**Mr Pezzullo**—Yes. I spoke to Ms Rowling and to the group captain, and indeed to the third senior officer, who I have mentioned by way of interpolation. I must apologise; this got a bit messed up in the track changes and the scribbling that Mr Barton and I were doing on the note. There were three Defence officers, whose significance I probably should spell out because it is a bit unclear when you read the paragraph as I just did.

There is Ms Rowling, who I spoke to at the time on or about 11 June—I would need to check the report. There is the group captain, who sat in on the meeting. He was the group captain responsible for managing the employment relationship with Mr Barton. Then I needed to check with a third officer, because the group captain, in fact, thought—and I am sorry; this is becoming a little confusing but I will get out of the forest at the end of it—that detainee issues had been raised with a third senior officer, a slightly more junior SES officer of the department. But when I then rang Mr Barton back, he did not recall even having met with that officer. For completeness, I wanted everyone's perspectives. Four people's perspectives, in a sense, are recorded in the record that Mr Barton ended up signing. So there is a first assistant secretary; there is another civilian officer; there is a group captain, who is the one who recalls some mention along the lines that I described earlier; and then of course the other party to these conversations is Mr Barton.

**Senator FAULKNER**—Far and away the most senior of those people is obviously the FAS.

**Mr Pezzullo**—That is right.

**Senator FAULKNER**—What does the FAS do after this information is provided to her?

**Mr Pezzullo**—I can tell you, if you like, what she said to me at the time and which I have reconfirmed.

**Senator FAULKNER**—That would be helpful.

**Senator Hill**—What did she say at the time?

**Mr Pezzullo**—She said to me at the time that she had no recollection at all of the matter being raised, but she emphasised to me that it was a busy time and that she was willing to accept the group captain's characterisation of it. He seemed to have a clearer memory of it.

**Senator FAULKNER**—And the group captain's memory was that it was raised but not in a major way.

**Mr Pezzullo**—And he stressed that—I read the information out to you earlier—because of the focus of the meeting was the fact that Mr Barton had returned earlier, he was concerned about, if I can use this sort of catch phrase, the 'politics of the ISG process'. That is essentially what he was concerned about and that the meeting had been focused on that. But he did recall, and he continues to recall, some mention having been made along the lines that he described.

**Senator FAULKNER**—When were the discussions undertaken with the group captain and the FAS about their meeting with Mr Barton? What was the date of those?

**Mr Smith**—The discussion they had with Mr Barton was on 31 March.

**Senator FAULKNER**—I assume this is at least a couple of months later, obviously, given the time frames that we are talking about.

**Mr Smith**—The end of May.

**Mr Pezzullo**—Yes, just to be very precise about it—

**Senator CHRIS EVANS**—Just before you do that: the interview with Ms Rowling was 31 March. Are we talking about the roundtable or the interview with her?

**Mr Pezzullo**—The meeting with Ms Rowling was 31 March.

**Senator CHRIS EVANS**—And that included the group captain and the civilian.

**Mr Pezzullo**—Yes. It included the group captain and no other person.

**Senator FAULKNER**—I do not think the civilian is relevant.

**Mr Pezzullo**—There are differing recollections about whether it was one or two—

**Mr Smith**—About who was there; but anyway, that is not material.

**Mr Pezzullo**—Then to continue the chronology, you go from 31 March, which is the meeting with Ms Rowling. On 27 May to our review team, as part of the group captain's survey return he appended by way of an email to a senior officer of the Strategic Operations Division his recollection, for the first time on the search I was able to conduct. On 27 May—

**Senator FAULKNER**—Just stop there. Just explain that a little more, about the email.

**Mr Pezzullo**—We have talked about this several times, last year and again today, that during May the secretary and the CDF asked for a survey to be conducted—the questionnaire survey. The group captain was not technically caught in that survey net, because he had not deployed, as I understand it, so there is no return of his in the database. However, for the sake of completeness, he put an annotation into the database by way of an email to a senior officer of the Strategic Operations Division, because it was obviously pertinent by that stage; it was a worldwide issue of public interest, that he did recall that at that time, in late March, Mr Barton had come back, had had a meeting, again he thought with a more junior officer and again there are differing recollections, at which the detainee issue had been raised in terms of Mr Barton having heard of abuse—correction, I will be precise there: mistreatment is the phrase—and that Mr Barton had raised personal concerns about the conditions. The email particularised that down to size of cells. The group captain recalls Mr Barton raising, on the basis of that, a recommendation that Australia not offer to become involved in the detention process. In his email of 27 May, where the group captain was filling out the record as part of a more general Defence-wide process before my process, he observed, and this gets back to the italicised paragraph I read out to you before:

As it was our policy position that we were not considering involvement in the detention process, his recommendation—

Barton's—

was accepted and noted without further comment, and the meeting moved on to other issues.

So after my inquiry or fact-finding process stood up I had both Mr Barton's 25 May return, which we have talked about at some length at least. I also had to hand, not technically because it was in the survey database and I had not filled out a questionnaire, that email as well.

**Senator FAULKNER**—The group captain who recalls the issue being raised, but not necessarily as a major issue, was sufficiently aware of it to, by his own initiative—

**Mr Pezzullo**—I am not in a position to confirm that. I do not know whether the Strategic Operations Division officer requested it or the group captain volunteered it. I just do not know.

**Senator FAULKNER**—He has taken the initiative anyway to provide by email details of a meeting that took place involving Mr Barton and the FAS Ms Rowling on 31 March. On 27 May he has provided an email about that meeting covering issues such as abuse—

**Mr Pezzullo**—Mistreatment, sorry—I corrected myself.

**Senator FAULKNER**—Mistreatment, conditions, a recommendation that Australia not be involved, and accepting and noting that there was no further comment made. So, whether it was a major issue or not at the meeting, it was major enough for two months later the group captain to be able to provide that sort of detail to his superiors in the Strategic Operations Division.

**Mr Pezzullo**—It was certainly provided in those terms, yes.

**Senator Hill**—The ‘not be involved’ causes me some concern, because in his letter of resignation he recommends that Australia continue its broad support for the ISG but not at a senior level, whatever that means.

**Senator CHRIS EVANS**—I thought he was saying to not be involved in detainment.

**Senator Hill**—If you say that then that makes sense, because apparently the group captain then rationalised not progressing the matter because Australia was not involved in detainment.

**Senator CHRIS EVANS**—That is what I thought Mr Pezzullo’s evidence was.

**Senator Hill**—Okay.

**Senator FAULKNER**—What happens in relation to the FAS, Ms Rowling, here? Is this the end of the story? Are there any further inquiries as to why this just seemed to float into the ether at the time?

**Mr Pezzullo**—I will let the secretary answer the larger question—

**Senator FAULKNER**—That is a good idea.

**Mr Pezzullo**—But, just to complete my bit of it, I said to you before in evidence that I asked the group captain for his recollection. He forwarded the email, which we had already got. I spoke to him personally as a quick review. He stood by the email. And, as I said you, I spoke to Ms Rowling and she said: ‘Well, I don’t recall it. The group captain’s email is pretty detailed. I guess I have to live with that.’ And she accepted it.

**Senator CHRIS EVANS**—Can you tell me what the group captain’s role was at the time?

**Mr Pezzullo**—He was a line director in the division.

**Mr Smith**—He was a desk officer.

**Mr Pezzullo**—And he was a director.

**Mr Smith**—Yes, section head.

**Senator CHRIS EVANS**—So he was an Iraq desk officer.

**Mr Smith**—Iraq section head or something, I suppose, yes. A policy job.

**Senator FAULKNER**—So the situation in the broad, it seems to me, Mr Smith—tell me if I am characterising this wrongly—just focusing on this meeting that occurs on 31 March, is that there is a meeting that occurs that involves three people. The senior public servant who is present at first assistant secretary level does not recall this issue being raised. The group captain does and has sufficient recollection a couple of months later to be able to give a certain amount of details to his superiors in the strategic operations branch. Mr Barton, who is present, clearly has a strong recollection of the nature of the concerns that he has raised.

**Senator Hill**—I think he acknowledged mentioning it in passing.

**Senator FAULKNER**—Where does this leave us? I assume the responsible departmental officer in this instance is the senior officer, the FAS, and, as I say, this appears just to go into the ether. I might be wrong about that, but that is the impression that has been given, I think, and that is a fair impression that I have received at this committee hearing. But you can tell me if I am not being fair in saying that. What happens as a result of that? Are there any further investigations at a departmental level?

**Mr Smith**—I think that it is fair to say that in the days immediately following 31 March there was no follow-up to that. I think that was for three reasons. One, as has been said here and as Mr Barton said himself, he only mentioned this matter and he spoke about conditions and mistreatment, not about abuse. Secondly, of course, the meeting was about something else rather bigger and more important—the future directions of the ISG and what Mr Pezzullo has called the politics of it. That was reported to me. Thirdly, the point that Mr Barton was making was that, given his concerns about conditions and mistreatment, Australia should not be involved with the taking of detainees. Of course that is good advice, but we were not, so there was no action necessary on that point.

**Senator FAULKNER**—We are well aware of Mr Pezzullo's inquiries and, in a number of hearings now, we have received considerable detail about them, which is helpful. Are there any other departmental inquiries in this broad area that have been undertaken?

**Mr Smith**—Not that I am aware of, but let me say—

**Senator FAULKNER**—You would be aware of them if there had been any.

**Mr Smith**—Well, not that I can think of. But, while Mr Pezzullo thinks about that for me, let me say that this issue, having been brought to our attention through the survey in late May, and Mr Barton having then, as it were, amplified and recorded the sorts of concerns he had apparently had earlier but had only mentioned, we decided that we had better look further into that and that is why he was interviewed again in such detail on 9 June. In his 9 June interview he amplified it just a little further and then he signed off on that interview record on 18 June.

Then I reflected on that and decided that we should take action on that. He had now said more than he had said before. We had a basis for considering what action to take. This is new information, Senators, that was not provided on *Four Corners*. I duly considered which American authorities I should pass this information to. After consulting the minister, I decided to write to the United States Ambassador, Mr Tom Schieffer. I provided him with a copy of the record of Mr Barton's interview of 9 June, signed off on 18 June, and asked him to direct it to the appropriate American authorities for whatever action was necessary. Some time after that, in July or August, an agent from one of the United States armed forces investigatory



units was sent to Australia and he interviewed Mr Barton and took down the detail of what Mr Barton believed he had heard or heard about or been told about, and then took that back to his superiors, where they presumably fed it into the United States investigatory processes.

We had an informal message back from the agency concerned on, I think, 19 August. It confirmed that the interview had taken place, because, of course, I had not been involved in that. It confirmed that the interview with Mr Barton had taken place and we have had no further advice since then and nor would I necessarily expect to. I would not expect, if we were conducting an inquiry, that we would report back to a foreign power on what we were doing. But we did infer from the message that we received that the agent had been satisfied with the interview and that the US authorities would take action if they considered that appropriate.

**Senator FAULKNER**—How could you make that inference?

**Mr Smith**—Because I think he would have told us otherwise had he not been.

**Senator FAULKNER**—I am not suggesting it is an unfair inference but really, in the absence of any contact, you are making an assumption that it went satisfactorily.

**Mr Smith**—Yes, from the point of view of the interviewing authority.

**Senator FAULKNER**—When did you write to Mr Schieffer?

**Mr Smith**—On 29 June.

**Senator FAULKNER**—What specifically motivated you to do so?

**Mr Smith**—Because, having read the record of Mr Barton's 9 June interview, I said: I know the American authorities are very anxious to gather up all the evidence they can about this. It may be that Mr Barton can give them a lead on some aspect of their investigation that they have not otherwise had.

**Senator FAULKNER**—Did you read all 15 interviews of those that had been conducted under Mr Pezzullo's inquiry?

**Mr Smith**—No, I did not. I relied on Mr Pezzullo's judgment about the ones that were more significant.

**Senator FAULKNER**—Are you able to say to the committee how many interviews you did read?

**Mr Smith**—No. I cannot recall. I have seen them all, I have turned the pages of them all, I have scanned them all, but I did not—

**Senator FAULKNER**—Fair enough. There was certainly follow-up action from Mr Barton's interview, which you have indicated to us.

**Mr Smith**—Yes.

**Senator FAULKNER**—Was there any follow-up action from any of the other interviews you may have looked at?

**Mr Smith**—I think there was.

**Senator CHRIS EVANS**—Did you say there were eight that required follow-up?

**Mr Smith**—No. There was one other one.

**Senator FAULKNER**—Can you say to us, without identifying the individual involved, whether it was the same follow-up action—in other words, contact with the US Ambassador—or a different type of follow-up?

**Mr Pezzullo**—The secretary has asked me to respond. It was similar. I think, from memory, the ambassador was not in country, so that was similar correspondence but to the deputy chief of mission.

**Senator CHRIS EVANS**—What was the date of that correspondence?

**Mr Pezzullo**—I would have to get the date—around about the same time.

**Senator FAULKNER**—Mr Smith, can you say to the committee why in that second instance you were sufficiently concerned to take that action?

**Mr Pezzullo**—Can you ask the question again?

**Senator FAULKNER**—Mr Smith has indicated to the committee in relation to the matters in Mr Barton's record of interview that he felt follow-up action by way of letter to Mr Schieffer was warranted. I think we understand why it was warranted, because I think we have a broad understanding of what was contained, and soon, no doubt, we will have other material tabled—though it is taking a while, Mr Pezzullo. What I am asking in relation to this is if you can indicate to the committee why in the second instance the secretary had decided it was appropriate to refer issues or matters raised to the US Ambassador.

**Mr Pezzullo**—Or his deputy.

**Senator FAULKNER**—Or his deputy.

**Mr Pezzullo**—In the second case it was a similar instance of possible knowledge of mistreatment issues which, by late June or early July, could possibly be relevant to a whole range of US inquiries that were then either under way or about to get under way.

**Senator FAULKNER**—What sort of knowledge of mistreatment issues are we talking about?

**Mr Pezzullo**—Not of a kind as in Mr Barton's case, where he had specific concerns about an individual who, when he was in Iraq, had been told or had inferred that a person had died from a particular course of action and then, when he got back to Australia and read some media reporting in late May, had come to a different view. That is Mr Barton's concern.

**Senator FAULKNER**—We know it is not like that. My question was about what it was.

**Mr Pezzullo**—Yes, but for the persons who are listening who are not au fait, I am setting up a comparison because I need to compare it with something. It was not like that. It was not in relation to a specific incident around a particular individual. Sorry, I have answered you with a negative comparison.

**Senator FAULKNER**—That is what it is not. Now can we say what it is?

**Mr Pezzullo**—I would need to take some guidance on the nature on that. It was classified correspondence to the United States government.

**Senator CHRIS EVANS**—That is why we are asking. You have the secretary and the minister there. Do you want to take some guidance?

**Senator Hill**—I am not sure of the incident that is being referred to, so I would certainly want to reflect on it.

**Senator CHRIS EVANS**—You are not aware of this incident?

**Senator Hill**—I am not sure of the incident that is being referred to, and I would want to get detail on it and to reflect on it.

**Senator FAULKNER**—Regarding the two letters, Mr Smith—one to the US Ambassador and one to his deputy—did you determine to write and refer those matters of your own motion or after consultation with Minister Hill?

**Mr Smith**—I determined myself that this was something we probably should pass on. The question of the channel through which we passed it was something that I discussed with the minister. There were a number of different ways we could have done it. We decided to do it through the ambassador here. That is the issue that I canvassed with the minister, as I recall.

**Senator CHRIS EVANS**—So the Barton matter was the subject of a letter to Ambassador Schieffer on 29 June?

**Mr Smith**—Correct.

**Senator CHRIS EVANS**—You have taken on notice the date of the second letter to the deputy chief of mission, and Mr Pezzullo will get that to us when he can check the file. Did you discuss both letters with the minister?

**Mr Smith**—I refreshed myself in a lot of detail about the Barton case because I expected to you to inquire about it but not about the other case. If you give me a little time, I will.

**Senator CHRIS EVANS**—But you discussed with Senator Hill, obviously prior to the letter going, the nature of what should be done with the information you had that you determined you needed to pass on?

**Mr Smith**—Yes.

**Senator CHRIS EVANS**—Do you know the date you discussed that with Senator Hill?

**Mr Smith**—No. I think I put it in a submission and he responded or one of my colleagues put it in a submission and he responded—

**Senator CHRIS EVANS**—So it was not a discussion; it was actually a formal submission.

**Mr Smith**—Yes.

**Senator CHRIS EVANS**—What was the date of your submission to the minister?

**Mr Smith**—It was 23 June.

**Senator CHRIS EVANS**—And you got a formal response from the minister?

**Mr Smith**—Yes.

**Senator CHRIS EVANS**—What was the date of that?

**Senator Hill**—The 25th.

**Senator FAULKNER**—But what you are saying to the committee, as I understand it, Mr Smith, is that you considered these issues raised by Mr Barton in his record of interview to be

of such significance that they warranted the consideration of the United States Ambassador to Australia?

**Mr Smith**—Yes, I did, and that is because the main trigger for this was the point that Mr Barton mentioned on *Four Corners* on Monday night—namely, his concern about the circumstances of a man he had known in Iraq. I thought that Mr Barton might have something particular to offer in any investigation of that. That was the specific trigger.

**Senator FAULKNER**—It appears from what you have been able to tell us that you understand that Mr Barton has cooperated with an unnamed US agency.

**Mr Smith**—Yes.

**Senator FAULKNER**—Is there any reason that you are either unwilling or unable to name that agency? I think it would not be too hard to guess.

**Mr Smith**—It would be an investigating agency of the armed forces. It would not be an intelligence agency. But I do not know what its precise title was.

**Senator FAULKNER**—Right.

**Mr Smith**—It would not be an intelligence agency; I want to make that clear. It is the kind of investigation we would make of any comparable case—God forbid—that emerges in our case.

**Senator FAULKNER**—Are you aware whether there has been similar follow-up in the other case?

**Mr Smith**—I would have to refresh myself on the other case. I think I know what it is, but I am not going to guess at it here without checking the file.

**Senator FAULKNER**—I appreciate that. It is better that we have accurate information.

**Senator CHRIS EVANS**—Could I just go back. You mentioned the date of 18 June at the start of that. What happened on 18 June?

**Mr Smith**—18 June was when Mr Barton signed off on Mr Pezzullo's record of his interview.

**Senator CHRIS EVANS**—And Mr Pezzullo then provided that to you?

**Mr Smith**—Yes.

**Senator CHRIS EVANS**—And that was when you started to consider what the appropriate action was?

**Mr Smith**—Yes. I actually was aware of the interview and the main points in it before then, but not until Mr Barton had agreed that that was it did I think it was right to act. So the key dates are: 9 June, interview; 18 June, he signs off on it; 23 June, we advise the minister; 25 June, we get the minister's response; 29 June, I write to Ambassador Schieffer; 19 August, we get some feedback informally from the US agency concerned.

**Senator CHRIS EVANS**—Had you been made aware of Mr Barton's concerns or the issues surrounding the meetings in March et cetera prior to the May survey return?

**Mr Smith**—No. I was aware of his concerns about the ISG and its directions and so on, but I had not been told that he had mentioned the concerns about mistreatment.

**Senator CHRIS EVANS**—How did you know about his concerns about the ISG et cetera?

**Mr Smith**—Certainly Ms Rowling told me, and she may have shown me his letter of resignation.

**Senator CHRIS EVANS**—So Ms Rowling brought to your attention his concerns about the ISG and the potential political interference or whatever with its role?

**Mr Smith**—Yes.

**Senator CHRIS EVANS**—You are not sure whether that was in a minute or just in a conversation?

**Mr Smith**—No, I am not.

**Senator CHRIS EVANS**—Did you take any action as a result of that?

**Mr Smith**—On the ISG issue?

**Senator CHRIS EVANS**—Yes, as a result of that conversation or minute—did anything flow from that?

**Mr Smith**—With regard to the ISG, we talked about that and the significance of it. We then judged that, as we continued to have good representation in the ISG and we had confidence in our people, they would go on working the issues with integrity, as they did—to the point, of course, where Mr Barton himself, I am happy to say, went back to the ISG and helped conclude the report.

**Senator CHRIS EVANS**—But your evidence is that Ms Rowling did not raise with you the fact that Mr Barton had raised any other concerns about treatment of prisoners or conditions?

**Mr Smith**—I do not recall her doing so.

**ACTING CHAIR (Senator Ferguson)**—I think that might be a good spot to stop. The committee is suspended until 3.45 p.m.

**Senator FAULKNER**—Why don't we make it 20 minutes so they have a chance to get to the office and back?

**ACTING CHAIR**—Okay. We will resume at 10 to four.

**Proceedings suspended from 3.30 p.m. to 3.57 p.m.**

**ACTING CHAIR**—Can I clarify regarding the pro forma used in the interview with ADF personnel that was mentioned prior to the break—the response.

**Mr Pezzullo**—Senator, it is the pro forma as filled in by Mr Barton, less a couple of privacy details.

**ACTING CHAIR**—Okay, so we note that has been tabled. Does anybody want to make any additional comments before we continue with questioning?

**Mr Pezzullo**—Yes, Senator. In response to a line of questioning prior to the break, when I undertook to come back with some details, I wish to advise the committee of the following

matters. The matter referred to the United States Deputy Chief of Mission that I mentioned earlier relates to awareness on the part of an Australian officer of a possible US detention management practice that may have involved the administration of detainees not in accordance with recognised standards. As this might affect the relationship between the two governments it is not appropriate to put further details of this matter on the public record. I was asked explicitly about the date of that representation. The details are that I wrote to the Deputy Chief of Mission and the date of the letter was 6 July 2004.

Both the minister and the secretary drew my attention to another matter just before the break, lest there had been a misperception that I had left on the record. The May pro forma that you now have, which is Mr Barton's response, did not include one additional element that he disclosed to me on 9 June, which is reflected in his record of interview that he signed on 18 June. That reflects a matter that he had reflected on since filling in the May survey and that he had now decided that he had a concern about because of subsequent press reporting that he had read in the time since filling in his May return. So I do want to make the point that there is an additional element in the June record that is not in the May return.

**Senator FAULKNER**—Senator Evans, in an aside, just asked me, 'What does that mean?' It was a very good question. What does that mean?

**Mr Pezzullo**—I might have left the wrong impression and if I did I apologise to the committee. Other than the additional paragraphs that we have already discussed about knowledge imparted by Mr Barton on Australian officials and then some interpolated responses from those officials, the June record is different in one other respect. I think I might have left you with an impression that if you read the May return, you add a couple of paragraphs essentially related to Ms Rowling, the group captain and others then, hey-presto, you have the June record. That is not the case.

**Senator FAULKNER**—All right. Let us go into the other issue. What is the other issue? What is the other addition?

**Mr Pezzullo**—It relates to additional information first disclosed to the Department of Defence, namely in a reinterview with me, on 9 June—

**Senator FAULKNER**—By Mr Barton.

**Mr Pezzullo**—Yes, by Mr Barton. He indicated to me that he had reflected since filling in the survey return—and by that I refer to the document that you now have dated May. He decided that in relation to a particular matter which he originally had thought was suspicious at the time—and he makes references there to having been advised as to the cause of death of a particular person—he now had reason to believe that the causes of death, based on some media reporting that he had seen, and he very kindly sent me the relevant media article, might in fact have involved traumatic and violent action. That was disclosed to Defence for the first time on the 9th. It was a matter that he had reflected upon since filling in his—

**Senator CHRIS EVANS**—This would be best resolved, obviously, if we had a copy of the record of interview. I think you took that on notice. Have we had a decision on whether or not the department is prepared to make available to the committee the record of interview with Mr Barton?

**Mr Smith**—I believe that we should not, Senator, because there are other matters in it. But the material that we have given you there are the key points in it, as far as this area of inquiry is concerned. It is that latter one—his concern about whether he had knowledge of a death in custody—which, as I said before, was the trigger for me taking action with the United States government.

**Senator CHRIS EVANS**—Is it that issue that you do not want to—

**Mr Smith**—No. It is other things he said. But the gentleman whose death he was concerned about was Mr Azmirli, to whom he referred to on television. That is the correct spelling, isn't it?

**Mr Pezzullo**—That is right. Senator, can I be very clear about this. The additional matters that require a national security marking being attached to this document pertain to that paragraph but they are related to sensitive intelligence information that Mr Barton imparted during the course of the discussion—in other words, intelligence he was aware of in relation to this particular individual, which I am privy to and he was privy to.

**Senator CHRIS EVANS**—So that paragraph or that additional information is in fact the reason why you regard the record of the interview as classified.

**Mr Pezzullo**—That is the principal reason. There is some intelligence associated material connected with that paragraph that Mr Barton properly came across in the course of his duties and properly imparted to me in the course of my duties. We both have similar high clearances.

**Senator FAULKNER**—First of all, on the process issue: have we got any further on the duty statement issue yet?

**Mr Pezzullo**—I got a provisional report during the break. I think my estimate of the dinner break is looking like a good schedule estimate.

**Senator FAULKNER**—I see.

**Mr Pezzullo**—So it is looking good, Senator.

**Senator FAULKNER**—I thought you would be able to do a lot better than that.

**Mr Pezzullo**—I have been given an informal indication as to how many temporary non-ongoing contracts there are and which ones have duty statements specifically appended to them but, in advance actually seeing a report from the relevant division, I do not—

**Senator FAULKNER**—I appreciate you putting some effort into that. Can we go back to the issue related to the Deputy Chief of Mission, the matter that was passed from Secretary Mr Smith to the US Deputy Chief of Mission?

**Senator CHRIS EVANS**—I have to interrupt, it seems that Mr Pezzullo was the author of that letter, which intrigued me.

**Mr Smith**—That is right. Mr Pezzullo wrote to the DCM about that.

**Senator FAULKNER**—I see, so that went under Mr Pezzullo's submission. I misunderstood.

**Mr Pezzullo**—We have checked that signature block over the course of the break. Pursuant to the exchange of advice with the minister and his guidance the secretary said, ‘Get on with it and send the letter off.’

**Senator FAULKNER**—Right, so it has gone to the US Deputy Chief of Mission under your signature, Mr Pezzullo. Does that relate to certain US detention management practices?

**Mr Pezzullo**—Possible US detention management practices.

**Senator FAULKNER**—What was their nature?

**Mr Pezzullo**—It may have involved the administration of detainees not in accordance with recognised standards.

**Senator FAULKNER**—When did the information in relation to those possible US detention management practices first come to your knowledge?

**Mr Pezzullo**—I might seek some guidance, I have said that it might not be appropriate to put the full details on the public record.

**Senator Hill**—I think you can say when this was brought to your attention.

**Mr Pezzullo**—The matter was brought to my attention and that of another senior officer of the department on the morning of 17 June.

**Senator FAULKNER**—17 June?

**Mr Pezzullo**—The morning of 17 June.

**Senator CHRIS EVANS**—The day after Senator Hill went into the parliament.

**Mr Pezzullo**—I believe so, I think you will find the minister’s statement is the 16th.

**Mr Smith**—That is correct.

**Senator CHRIS EVANS**—And these were brought to your attention the morning after?

**Mr Pezzullo**—That is right, by the relevant officer.

**Senator FAULKNER**—What initiated that contact?

**Mr Pezzullo**—The officer concerned, who in all other respects had been cooperating with my fact-finding review, provided me with some advice that he wished to speak to someone who had relevant expertise and knowledge in the area. I arranged for that to be done. I was conscious that estimates were on later that day. I cannot quite recall the starting time. The senior officer then assessed that information and decided that it needed to come to me, as the ongoing head of the fact-finding review.

**Senator FAULKNER**—Was this officer who brought this to your attention a person who had had an opportunity to complete one of the questions pro forma?

**Mr Pezzullo**—Yes.

**Senator FAULKNER**—Was this one of the persons who had been subject to follow-up interview?

**Mr Pezzullo**—Yes.



**Senator FAULKNER**—Did the matters that were contained in the letter to the US Deputy Chief of Mission involve new or other material not contained within either the pro forma or the interview?

**Mr Pezzullo**—Yes.

**Senator FAULKNER**—It was new material?

**Mr Pezzullo**—Yes.

**Senator FAULKNER**—Were you able to establish why this had not come to you? Was this a process weakness in your inquiry?

**Mr Pezzullo**—No. Sorry, the answers to your two questions are: yes, I was able to establish that and no, it was not a process weakness in my view.

**Senator FAULKNER**—If you were able to establish that, can you share with us how this could have happened?

**Senator Hill**—I think all that it is appropriate to say is that the individual had not brought these matters previously to the attention of senior Defence officials. You could have a debate about why that was, but I do not think that is really appropriate to go into.

**Senator FAULKNER**—Had the—

**Senator Hill**—Can I just finish? Having brought this matter to the attention of senior Defence officials, and as it referred to possible US practices, Defence believed that the most appropriate action was to bring it to the senior political authority of the United States as they might wish to investigate it further.

**Senator FAULKNER**—Are we talking here of a civilian official or a uniformed officer?

**Mr Smith**—Uniformed officer.

**Senator FAULKNER**—Are you able to say what rank?

**Senator Hill**—I do not think we should pursue the matter any further. I agree that the information that we passed on, which of course would have to be tested, would be sensitive in terms of the relationship between the two governments. It is therefore not appropriate to put it on the record, but we are quite confident that the United States would have wished us to bring the matter to their attention and that is what we did.

**Senator FAULKNER**—It is you who have consistently assured people that the ADF and Australia have had a very limited knowledge of and contact with such issues such as US detention management practices not in accordance with recognised standards. Here we have a circumstance where we now know that there is a case not identified by what was previously described as Mr Pezzullo's 'exhaustive internal inquiries'. But we now know they are not exhaustive. We know there is at least one case that has fallen through the cracks, and it is of such significance that it is being referred to the US Deputy Chief of Mission here in Canberra.

**Senator Hill**—That is correct. But, as I said, it is untested. I do not think it in any way qualifies what we have said about the very limited contact that Australian officials had with these matters.

**Senator FAULKNER**—You say it is untested, Senator Hill. Does this mean that the status of the matter that was referred to the Deputy Chief of Mission was a rumour? Were no attempts made for officials in the department to satisfy themselves about the seriousness or significance of these matters before it was referred off? I find that very hard to believe.

**Senator Hill**—You might find it hard to believe but—

**Senator FAULKNER**—Well, I do.

**Senator Hill**—I know, but you have got a political objective. We believe that the correct process in this instance was to pass the information to the—

**Senator FAULKNER**—Without any testing at all?

**Senator Hill**—Yes, by taking it further to the American authorities, and that is what we did.

**Senator FAULKNER**—Did this particular matter come about as a result of any of the witness statements? I assume it did not.

**Mr Smith**—No, not directly.

**Senator FAULKNER**—What do you mean ‘not directly’?

**Mr Smith**—The officer came forward on that morning and said to someone else, ‘I have something else to say that might be important.’

**Senator CHRIS EVANS**—This was on 17 June.

**Mr Smith**—Yes.

**Senator CHRIS EVANS**—Why did he raise it on that particular day? Do we know? What was the trigger for this?

**Mr Smith**—I suppose he had reflected on it and—

**Senator CHRIS EVANS**—It was not because he had reflected on the minister’s statement to the parliament.

**Mr Smith**—Given the sensitivity of how he came to know about it, he was very cautious about who he was speaking to. He finally located an appropriate senior officer that he could tell this to.

**Senator Hill**—I do not think for a minute there was any linkage with the statement that I made.

**Senator CHRIS EVANS**—That may be true, Minister, it is just that the only thing I know that happened on 16 June—on my briefing notes—is that that was when you finally made a statement to the parliament. It was not a ministerial statement, but you did say something.

**Senator Hill**—This matter does not seem to flow from that.

**Senator CHRIS EVANS**—The next morning something happened. On the face of it, I accept you said it was not your statement. But this chap got up on 17 June and said, ‘I certainly want to tell someone about this.’ Given that according to Mr Pezzullo he filled in his survey form and he has not raised it before, I am trying to understand what happened.

**Senator Hill**—I do not know the answer to that.

**Mr Smith**—We cannot get inside his mind. He has bottled this up and then decided to come forward with it, and I think that is good.

**Senator CHRIS EVANS**—I was just wondering if he told you whether you had any understanding of what the trigger was. If you do not know, you do not know; that is fine.

**Mr Smith**—No, I do not know.

**Senator FAULKNER**—Of course you cannot get inside his mind, Mr Smith. I accept that absolutely. That is a perfectly reasonable thing to say. I do not expect you to and I do not think anyone does. However, I think it is reasonable to ask: was the signed staff-in-confidence question pro forma accurate from this particular officer?

**Mr Pezzullo**—It was incomplete.

**Senator FAULKNER**—It was obviously incomplete.

**Senator Hill**—Mr Pezzullo only knows what people tell him.

**Mr Smith**—Of course it is not the only case in which we learnt more from interviews or disclosures than was made available to us on the pro forma. Mr Barton's case is another of those.

**Senator CHRIS EVANS**—We also know that a few of the legal officers knew a bit more than we initially thought. We were able to drag that out.

**Senator FAULKNER**—In relation to Mr Barton's case, you determined that, after consideration, matters were serious enough for you to take a course of action which was to advise the US ambassador. You have indicated earlier in your evidence that you gave this some thought; you gave it due consideration. Here we have another case where it does not appear as if that same amount of consideration was undertaken. It was just decided to basically shoot it off, without any testing of what was said.

**Mr Smith**—How do you conclude that? I think we did deliberate on that and Mr Pezzullo sent a letter on 6 July. I do not see there is any substantial difference there.

**Mr Pezzullo**—To be clear, as the person who directly took both statements from both gentlemen—Mr Barton and the military officer in the other case. In the case of the deceased scientist, I did not test that to the extent of doing my own independent research, in a classified sense, into the background of this person. I took Mr Barton's statement as given to me, as amplified by a media report that he sent to me. I asked him, 'What triggered this off?' and he very kindly sent me the media report that same evening. I recorded it and then sent him a copy of that. I cannot remember that paragraph in detail, but I do not know that Mr Barton amended my description. He may have amended my description. The record that went to the American ambassador, under the secretary's letter, essentially was, 'We've been given this statement by Mr Barton, which is new and additional information, for you to attend to as you see fit.'

Similarly, in the case of the military officer, we asked him to detail this additional knowledge. We read it back to him and, as I recall, he attended the area that our team was in and he cleared it. There would be a countersigned copy somewhere in the file, as I recall, and

to use the parlance of before, we shot it off as well. I am trying to indicate that there is not a greater depth of testing in either case.

**Senator CHRIS EVANS**—Just so I am clear, Mr Pezzullo, on 17 June this unidentified military officer sought to convey some information to someone senior. He regarded the information as sensitive and wanted some reassurance about how it was to be handled. He ended up at your door. Is that a fair description of it?

**Mr Pezzullo**—Yes, that is broadly the case. I think I said earlier that an officer came forward indicating that he wished to speak to someone in a particular field who had some knowledge, depth and experience in related matters. I arranged for that to happen. That senior officer called me and said, ‘There is an account here that I have made scribbled notes of and I would like to get them typed up and sent over to you.’ I agreed to that. When that account was sent over to me I asked to see the military officer.

**Senator CHRIS EVANS**—Just so I have the time line right, what happened on 17 June? He was interviewed by the senior officer or was he interviewed by you?

**Mr Pezzullo**—That whole cycle that I have just described all happened in the one morning.

**Senator CHRIS EVANS**—It all happened on the morning of 17 June?

**Mr Pezzullo**—That is right, Senator.

**Senator CHRIS EVANS**—You had a big day.

**Mr Pezzullo**—They were long days.

**Senator CHRIS EVANS**—You spent the rest of the afternoon entertaining us so you obviously earned your money that day. I am not suggesting you do not earn your money every day.

**Senator Hill**—He does every day.

**Senator CHRIS EVANS**—I am sure he does. I do not question that for a minute. A senior officer had this person speak to him—

**Mr Pezzullo**—At my request.

**Senator CHRIS EVANS**—He made some notes and decided that it was something you ought to look at.

**Mr Pezzullo**—I believe my senior colleague had a third party attend. They took those notes.

**Senator CHRIS EVANS**—Two people interviewed the officer.

**Mr Pezzullo**—Yes, a senior officer and a more middle ranking officer.

**Senator CHRIS EVANS**—In the department?

**Mr Pezzullo**—In the same agency.

**Senator CHRIS EVANS**—In the department?

**Mr Pezzullo**—In an agency of the portfolio.

**Senator CHRIS EVANS**—They then sent him up the same day to you and you interviewed him—

**Mr Pezzullo**—The senior officer rang me and said, ‘Here is the guts of it; the broad outline of it. What should I do?’ I asked to see the military officer. I was quite familiar with his case. In a sense I went back over it.

**Senator CHRIS EVANS**—Familiar with his case in what way?

**Mr Pezzullo**—I was familiar with his involvement in detainee matters. As I said earlier, he was a person who had provided a survey return. The secretary or I mentioned earlier that he had had other opportunities during interviews—

**Senator CHRIS EVANS**—He was one of the 15 who had been interviewed?

**Mr Pezzullo**—Yes. I asked to see him. I then asked the senior officer to come over as well and to document that statement. We have a very strict process of reading back and re-engaging with interviewees.

**Senator CHRIS EVANS**—You and the senior officer interviewed this officer.

**Mr Pezzullo**—I cannot remember whether we did it again together. I suspect we did. I was then preparing myself and senior officers and others for estimates. I might have delegated the task of recording that outcome and providing advice further up the line. I think I probably delegated that to my senior colleague.

**Senator CHRIS EVANS**—The bottom line is that you spoke personally with the officer and he detailed his concerns to you. Subsequent to that there is a record of the interview conducted on that day which details his concerns.

**Mr Pezzullo**—Correct.

**Senator CHRIS EVANS**—Did that officer sign that record of interview on the same day or subsequently thereafter?

**Mr Pezzullo**—I would want to check my personal files but, as I recall, it was on the same day—the same morning, in fact.

**Senator CHRIS EVANS**—Essentially, you had a record of interview from this officer which raised serious concerns—

**Mr Pezzullo**—I have characterised it.

**Senator CHRIS EVANS**—Yes, you characterised it. I am not trying to verbal you.

**Mr Smith**—Potentially.

**Senator CHRIS EVANS**—You took it as a serious matter that needed to be dealt with properly so you had a proper record of interview and that was all completed on 17 June.

**Mr Pezzullo**—Yes.

**Senator CHRIS EVANS**—Then you gave consideration with the secretary to what you might do about it?

**Mr Smith**—The fact that Mr Pezzullo sent it to the American embassy rather than me doing it is not a measure of our treating it with any want of importance. I can check my diary, but I think I was overseas.

**Mr Pezzullo**—I think the secretary was either travelling or on leave.

**Senator Hill**—No, he was not on leave. He was working very hard.

**Senator CHRIS EVANS**—Was this the subject of a minute or correspondence to the minister as well?

**Mr Smith**—Almost certainly, yes.

**Mr Pezzullo**—It was the subject of formal advice.

**Senator CHRIS EVANS**—Do you have the dates for the formal advice to the minister and for his reply?

**Mr Pezzullo**—Unless the minister wants to detail internal advice, dates and processes to hand—

**Senator Hill**—I have not got any material on this particular matter, because I did not think it was relevant to today's hearing. So I will need to ask for time to get out those records and have a look at them.

**Senator CHRIS EVANS**—I appreciate that the minister did provide us with the dates of the advice to him and from him for the other case, so we would appreciate it if you could take that on notice for those dates. I am not asking for the subject of the advice—well, I know the subject matter. I am not asking for the detail of the advice other than for you to confirm that you referred it to the minister and he responded, and that you acted in accordance with that. But obviously that was prior to 6 July, because you wrote on 6 July.

**Mr Pezzullo**—Yes.

**Senator CHRIS EVANS**—Did the minister on both occasions accept the advice given to him or did he suggest an alternative route?

**Mr Pezzullo**—Part of your question goes to the advice that we provided on the second case. I think the minister has indicated that he wishes to review the papers. I might not answer that until he has had a chance to do that.

**Senator CHRIS EVANS**—I think you indicated on the first instance, Mr Smith, that it was your intention to refer the matter on. Did the minister just tick off on the decision you had taken or did you discuss an alternative course of action?

**Mr Smith**—It goes down to the advice we were given, but the minister had a view on how it should be handled and that was what we did. In both cases, the gist of his response was, 'Get on with it.'

**Senator CHRIS EVANS**—In summary, we now have two persons who were interviewed as part of the 15 that the survey unearthed that were of interest—

**Senator Hill**—We started with 3,000 and got down to two.

**Senator CHRIS EVANS**—Yes, but I am conscious that the advice we got when we last discussed this subject matter seemed to indicate that we had not got anything much back from

the survey. I just want to be clear: both of these issues that have now been referred on to other authorities were originated in concerns raised by personnel who were subjects of the interview process. In other words, these two are both two of the 15 who were interviewed as part of the review of contact with detainees in Iraq—is that right?

**Mr Pezzullo**—Yes, they were both the subject of reinterviews.

**Senator FAULKNER**—Mr Pezzullo, in relation to your appointment to lead the fact-finding and information team, is that being revoked? Is the task over?

**Mr Pezzullo**—The task, essentially, was completed. I cannot quite remember the date we stood down as such. There was obviously an archiving and record-keeping phase. I recall going back to my day job, as it were, as the then head of defence infrastructure—I would want to check the date—in the week following estimates, in any event.

**Senator FAULKNER**—In relation to the third element of your appointment, you were asked to advise the CDF and the secretary of the department immediately in the event that you had any concerns that any ADO personnel might have been involved in the mistreatment of detainees in Iraq. I am assuming there was no need to so advise, but I just want to be clear on that.

**Mr Pezzullo**—I do not have that particular term of reference in front of me, but you read it and as you read it I recalled it. I found no evidence or requirement to report back to the secretary and the CDF, and through them to the minister, on any such case.

**Senator FAULKNER**—When you say your work finished soon after estimates, was that the estimates round of June?

**Mr Pezzullo**—The extra hearing that we had was on 17 June.

**Senator FAULKNER**—Indeed. Given the nature of your work, are you able to define for the committee what is a debrief and what is an interrogation?

**Mr Pezzullo**—Yes, I could.

**Senator FAULKNER**—We will listen to that but, just before you do, I want to be clear: is there any such thing as an interview?

**Mr Pezzullo**—I am sorry; is there any such thing as an interview?

**Senator FAULKNER**—The terminology that has been used, it seems to me, officially or semiofficially is either a debrief or an interrogation, but if there is a third category of interview I did not want to not include that.

**Senator Hill**—Whilst Mr Pezzullo knows most things, I wonder whether the Chief of Army might be the more appropriate person to answer these questions. They seem to be issues of military definition.

**Mr Pezzullo**—In any event, at a general level I would not have anything to add to what the minister has indicated. He made a reference to a particular handbook before in terms of the Australian parlance.

**Senator FAULKNER**—That is very sage advice. That is fine.

**Senator CHRIS EVANS**—General Leahy, I think you are on!

**Mr Smith**—General Leahy will speak to what, for military people, constitutes interrogation. For lay folk like ourselves, this might constitute interrogation, but for General Leahy it does not.

**Senator FAULKNER**—I would call this a friendly discussion.

**Mr Smith**—A convivial exchange.

**Senator CHRIS EVANS**—I did remark to Vice Admiral Shalders that the CDF was out of the firing line and had gone to the Middle East—a softer tour of duty.

**Lt Gen. Leahy**—It did cross my mind that it was not enjoyable, so I am not sure what it is.

**Senator Hill**—A test of your right to withdraw. I think you might be in trouble.

**Lt Gen. Leahy**—There is not a clear definition of interviewing. We do see differences between interrogation and interviewing. They are both defined in our manuals. This is the interrogation handbook.

**Senator CHRIS EVANS**—The source of this is the interrogation handbook, is it?

**Lt Gen. Leahy**—Yes.

**Senator FAULKNER**—Just before you go on, ‘debrief’ is a different term but is it subject to different definition?

**Lt Gen. Leahy**—It would be. I am referring to the glossary in the interrogation handbook. There is no definition of debrief.

**Senator FAULKNER**—But there is a definition of interview?

**Lt Gen. Leahy**—There is a definition of interview.

**Senator FAULKNER**—And there is a definition of interrogation?

**Lt Gen. Leahy**—That is correct.

**Senator FAULKNER**—Are there any other definitions of a form of questioning?

**Lt Gen. Leahy**—There is a definition of a method which has, in brackets after it, interrogation. There is, again with the brackets, interrogation after a definition of something called pressures. Scanning through now I cannot see anything else that I would say—

**Senator FAULKNER**—Are those definitions long?

**Lt Gen. Leahy**—No. They are no at all. I have just seen another one: strategy with interrogation after it, subject with interrogation after it, and technique and interrogation. So there are a variety of things.

**Senator FAULKNER**—If they are not long, could you share them with the committee?

**Lt Gen. Leahy**—I would note that these are restricted but I think in the interests of where we are today, with the minister’s authority, I could release them.

**Senator Hill**—Yes.

**Lt Gen. Leahy**—I will now read to you the definition of interrogation:

The systematic extraction of information from an individual, either willing or unwilling.

I will now read to you the definition of interview:



The questioning of an individual who technically has the right to refuse questions and may leave at any time.

**Senator FAULKNER**—Technically has the right to refuse—

**Lt Gen. Leahy**—And may leave at any time, is what I read out. I will go back to it:  
... who technically has the right to refuse questions and may leave at any time.

**Senator CHRIS EVANS**—Do you take that to mean to include a prisoner? Obviously a prisoner cannot leave, as in free will to leave—

**Lt Gen. Leahy**—He is not going to be able to leave detention but he may be able to leave the interview.

**Senator CHRIS EVANS**—That is what I am trying to see, whether there is a distinction in your mind.

**Lt Gen. Leahy**—A clear distinction.

**Senator CHRIS EVANS**—That refers to the ability to leave an interview. In your view, it might apply to a prisoner or detainee in certain circumstances.

**Lt Gen. Leahy**—Yes.

**Senator FAULKNER**—What is the nomenclature that applies to those responsible for conducting questioning at Camp Cropper? I assume, first of all—you can correct me if I am wrong—that that would be an American.

**Lt Gen. Leahy**—You are correct, it would be an American terminology, and I am not familiar with their terminology so I would prefer not to speculate, because that is all I would be doing. As you have heard this afternoon, we were not involved with detainees and I can only speak with authority in relation to our own doctrine and pamphlets rather than American doctrine, pamphlets and practice.

**Mr Pezzullo**—Perhaps I could add to the Chief of Army's remarks. That distinction was critical to the research that I did and I can speak in some depth to the American nomenclature that was adopted by the joint interrogation and debriefing centre, otherwise known as the JIDC, at Camp Cropper.

**Senator FAULKNER**—If you can assist us, please do.

**Mr Pezzullo**—As the Chief of Army says, that was not an Australian.

**Senator FAULKNER**—What was the position given to the person who headed up the joint interrogation and debriefing centre?

**Mr Pezzullo**—The title of that position? I cannot remember offhand.

**Senator FAULKNER**—It would not be chief interrogator, by any chance?

**Mr Pezzullo**—It could have been officer in charge. I do not know.

**Senator FAULKNER**—Officer in charge of interrogation?

**Senator Hill**—Brigadier Meekin I am sure would know.

**Mr Pezzullo**—While the brigadier settles himself, the JIDC was an American run facility that ran both processes, indicating that there is a distinction between them.

**Senator Hill**—Who heads up the organisation?

**Brig. Meekin**—The joint interrogation and debriefing centre commander was known as the commander JIDC. Could I also point out that there are a number of JIDCs in Iraq and the JIDC that is being referred to in the context of Camp Cropper is not the JIDC that is referred to in the context of Abu Ghraib prison. There might well be other JIDCs in Iraq.

**Senator FAULKNER**—Are you able to assist us with what terminology or nomenclature is used in relation to those Americans undertaking questioning of detainees at Camp Cropper?

**Brig. Meekin**—The title was as a ‘debriefing’. They were members of the United States armed forces and indeed the armed forces of the United Kingdom.

**Senator FAULKNER**—Is that the same terminology that is used in other camps in Iraq?

**Brig. Meekin**—I cannot answer that question. I do not know the answer.

**Mr Pezzullo**—For the sake of completeness, I saw media reporting in relation to a number of these JIDCs, so called. The one at Abu Ghraib is the subject now of court proceedings in the United States, of course. I have seen references in the public, open press to interrogators and I have seen references to debriefers. To absolutely clarify, we did not deploy interrogators, persons who undertake the duties described by the Chief of Army earlier.

**Senator CHRIS EVANS**—I think at the hearing of the committee last year, you actually tabled a copy of the American interrogation laws of engagement.

**Mr Pezzullo**—I am not sure that the defence department tabled those documents.

**Senator CHRIS EVANS**—Where did we get those from?

**Mr Pezzullo**—I think you will find that Senator Brown asked questions on that matter on 31 May and 1 June, and I think he returned to it during the course of 17 June.

**Mr Smith**—Senator Brown tabled something that purported to be that.

**Brig. Meekin**—There is a document that purports to be that on the internet. I do not know where Senator Brown got his copy of it but, as I recall, I thought it was the copy that you can find on the internet.

**Senator CHRIS EVANS**—I suspect that is right. Were you able to verify whether that was accurate?

**Mr Pezzullo**—In what sense?

**Senator CHRIS EVANS**—Was there any attempt to verify whether the copy that Senator Brown provided to the committee was the one? We had this debate about interrogation techniques. I do not recall the detail. I am just trying to ascertain whether or not the defence department accepted the—

**Senator Hill**—My recollection was that we did not see that as official.

**Mr Pezzullo**—We did not. In this sense, we came across no evidence of having access to it officially. There is worldwide access to it now because, as I recall it—and my memory is a bit hazy—it was at the time of the leaking/unauthorised disclosure of the Taguba report, which was one of the first reports into the activities of the relevant military police and intelligence units that were down at Abu Ghraib. I thought—and I stand to be corrected—that the rules of

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engagement might have been associated with the disclosure of the Taguba report. That is a reference to Major General Taguba of the US Army.

**Senator FAULKNER**—We will go through this in more detail. Senator Hill, in your media briefing on Australia's contribution to global operations on Tuesday, 15 April 2003, which you would no doubt recall, you said:

The second point I wanted to make was in relation to the weapons of mass destruction. A very major job remains to search some hundreds of sites that have been listed, to interrogate those who may have information on Iraq's weapons of mass destruction and their weapons programs, to build our knowledge base of that program to again better, to ensure that for the future, that we don't face that threat.

Was the word 'interrogate' conforming to the sorts of definitions that General Leahy has given us, or was it more just sloppy language?

**Senator Hill**—I confess that laymen can use the two expressions interchangeably. I did not have any qualitative criteria in mind. Although in some of those I may have said the 'need to interrogate sites' or the 'need to interrogate witnesses', I think you will find that, overwhelmingly, I said that there was a need to seek further information from witnesses through interview. If you have done a search, which you apparently have not, I think you will find that is the case. We did a search and we only found one instance where I used the word 'interrogate' and many instances where I used the word 'interview', but it was not supposed to be a term of science.

**Senator FAULKNER**—It was not used in a technical sense?

**Senator Hill**—No.

**Senator FAULKNER**—That was just an error?

**Senator Hill**—No, it was not an error, it is a layman—

**Senator CHRIS EVANS**—The distinction has only become important to you during the last day or two.

**Senator Hill**—We had a light moment a minute ago as to whether you would call this process an interrogation. But, in terms of the role of interrogators as opposed to debriefers and the doctrine that surrounds it, as Brigadier Meekin has said, it is clearly distinguished and military people know the difference.

**Senator CHRIS EVANS**—There is no question that estimates is an interrogation because it is a systemic extraction from the unwilling!

**Senator Hill**—That is why I asked whether General Leahy had the right to withdraw.

**Senator CHRIS EVANS**—I think that is a very clear definition of the process we are going through at the moment.

**Mr Smith**—Senator, it does say willing or unwilling.

**Senator CHRIS EVANS**—I am glad to see you are willing, Mr Smith.

**Senator FAULKNER**—Is interrogation involuntary?

**Mr Pezzullo**—I can speak to that. I will not speak to Army doctrine. The Chief of Army is better qualified to speak to that than I am. Whilst most of these doctrinal publications tend to

be restricted for various reasons—they involve techniques and what not—the United States Department of Defense has actually declassified a fair amount of material, some material at least, in terms of the American standards and definitions. They did so in the June-July-August period when former Secretary of Defence Schlesinger was doing his work. Whether the defence department declassified it directly for that purpose I do not know, but it was around that time. It is quite clear when you look at that literature that interrogation is involuntary to the extent that you are trying to get information from a person who is resistant to your cause and giving you information and involves stress-duress techniques, putting people into stress positions—I am going off unclassified material here—managing diet, manipulating a person's sleep and exploiting them in various emotional ways. Basically, if you are a military or intelligence practitioner, you know the difference between interrogation, which is that, versus a walk-in person who wants to volunteer information. Maybe a regime has crumbled and they want to unburden themselves of various information.

In the case of what happened at Cropper, and again I go to the unclassified representation of what the Iraq Survey Group has described as their methodology, they had high-value detainees. I think I said this in evidence earlier. They were persons who were members of the regime, security apparatus, intelligence apparatus et cetera. They were detained because, after a conflict, they had been captured or apprehended or they had somehow come into the net of the multinational forces and they were being confined. When you look at the literature of the ISG's work, they make the point that detainees had a whole range of different motivations. Some were very willing to cooperate, because they were glad to see a regime had fallen. Others were, I guess, pining for the possible return of the regime. Others were worried about what they would tell the ISG staff in relation to future events—either their own prosecution or retribution from others. For that reason, the camp is run as a place of confinement. You see references to armed guards and the rest of it.

**Senator CHRIS EVANS**—Are you aware, Mr Pezzullo, whether high-value detainees detained by the US authorities inside Iraq had the legal right to refuse questions and to leave at any time?

**Mr Pezzullo**—We did not manage the detention process. What we do know—

**Senator CHRIS EVANS**—I am asking you whether the department knows the answer to that question.

**Mr Pezzullo**—I am coming to that. Through our involvement in the ISG—and Brigadier Meekin can speak to the tactical detail of this—we made it known to our international partners that we had certain standard operating procedures or instructions that were given to our people and that we would withdraw ourselves if the practice of interrogation was evidenced.

**Senator CHRIS EVANS**—That is all very fine, but I think we will make more progress if we just answer the question.

**Mr Pezzullo**—I am trying to, Senator.

**Senator CHRIS EVANS**—No, you are not answering the question. You are giving what seems to be some information you want to share with us. I do not want to prevent that, but what I asked you was: does the Department of Defence in Australia understand the legal

rights that were recognised by the US forces inside Iraq for those high-value detainees? Our definition of what is interview and what is interrogation seems to hinge a bit on whether they have the right to refuse questions and whether they may leave at any time.

**Mr Pezzullo**—The short answer to your question is yes. Prior to 28 June it was on a different legal basis; subsequent to 28 June—

**Senator Hill**—The question is about under US law. I do not think it is for us to answer on the detail of US law. What we are responsible for is the behaviour of Australians, and Brigadier Meekin, in his concept of operations, made it clear that they were not allowed to interrogate. Brigadier Meekin can speak for himself, but by that I understood they always had the right to withdraw. Ask Brigadier Meekin. But I do not think we can speak about American law or practices.

**Senator CHRIS EVANS**—I understand the distinction—

**Senator Hill**—I just do not think that is our role.

**Senator CHRIS EVANS**—I understand the distinction, but I do think it is pertinent to ask whether or not you know. For instance, if the officers are to make a decision about whether they are complying with Brigadier Meekin's broad instructions, they have to know the conditions under which the Americans are interviewing someone. They might be there just to help with the technical information. But all of that hinges on their understanding of the legal basis of the interview or interrogation.

**Senator Hill**—But if they—

**Senator CHRIS EVANS**—Otherwise, how could they make a judgment about whether or not they ought to withdraw?

**Senator Hill**—If our officials were of the view that they personally did not have the right to terminate an interview, they should not be associated with that process, because they were not allowed to involve themselves with interrogations. And my advice has been, throughout, that they did not. I think we did it this morning, but you should ask Brigadier Meekin. I was not there.

**Senator CHRIS EVANS**—I am happy for Brigadier Meekin to make a comment. I just wanted to be clear, though, that in exercising his instructions a key issue for any Australian officer involved would be the conditions under which the interview was taking place.

**Senator Hill**—Yes.

**Senator CHRIS EVANS**—And for that you have to understand what conditions the Americans had imposed for the conduct of the interview. I am assuming the Americans in most cases had the primary responsibility for the interviews. If that is not right then please correct me. But, clearly, to make a judgment to implement Brigadier Meekin's CONOPS, you actually have to understand the nature of the interview/interrogation that is occurring.

**Mr Pezzullo**—It is not appropriate to go the merit of the kinds of legal constructs, but, as a matter of public record, prior to 28 June last year detention and related activities were undertaken in Iraq on the basis of the occupation by the forces that had defeated the Iraq

regime. After 28 June, a new legal regime came into place, pursuant to UN resolutions and the rest of it.

**Senator CHRIS EVANS**—Yes, but for the intent of this—

**Mr Pezzullo**—That is just a description. I am not—

**Senator CHRIS EVANS**—For the intent of this conversation, therefore, we are dealing with the pre 28 June conditions—is that right? There is no suggestion that—

**Senator Hill**—Yes. But I think Brigadier Meekin should explain how he addressed the particular issue that Senator Evans is raising.

**Brig. Meekin**—The guidance that was provided to our people in Iraq—and this particularly applies to a small number of people who are subject matter experts—was that, in their involvement in an interview, it was to be a compliant situation. In other words, the interviewee had to agree to participate, there was to be no duress, it certainly was not to be an interrogation and, indeed, they were to withdraw from that situation if it was an interrogation or appeared to them to be an interrogation. Could I just pause for a moment, please?

**Mr Smith**—It is pertinent to say here, Senators, that in response to our survey of 27 May none of the respondents used the word ‘interrogation’ in relation to what they had seen or been part of. Mr Barton spoke to us only about ‘interviews’. The word ‘interrogation’ came up on the *Four Corners* program, but in his conversations with us as they are recorded he refers to ‘interview’.

**Senator FAULKNER**—Brigadier Meekin, you mentioned the small number involved in, I am going to use the word ‘questioning’ because it has no spin about it all. Call it an interview, interrogation; I am going to call it questioning. How many people were involved in this activity, the ‘small number’ you referred to?

**Senator Hill**—How many Australians were involved?

**Senator FAULKNER**—How many Australians. The brigadier has informed us that it is a small number. I am now asking what the small number is.

**Brig. Meekin**—I do not know the exact number, but it would be in the order of about seven or eight people.

**Senator FAULKNER**—Is that across the three rotations?

**Brig. Meekin**—That is across three rotations from 11 May 2003 through to October last year. It would be in the order of seven or eight, and those that were authorised to be involved were essentially subject matter experts, or specialists in their field.

**Senator FAULKNER**—So seven or eight in total, and that includes all three rotations. We know that one of those is Mr Barton, is that correct?

**Brig. Meekin**—That is correct.

**Senator FAULKNER**—We know, or Mr Pezzullo thinks he knows, that another one is another person who has a duty statement as a non-ongoing public servant, for want of a better description.

**Mr Pezzullo**—Subject to checking.

**Senator FAULKNER**—Yes, but you have given a very confident indication after the most recent break that this is likely to be the case. But let us leave that in abeyance, as we will know soon enough. Do these other personnel have duty statements too, Brigadier?

**Brig. Meekin**—A number of the people that were involved, subject matter experts, are either members of the ADF or members of the Australian Public Service, and as such they did not have a specific duty statement. They were assigned to a particular part of the Iraq Survey Group, and it is from that part that they received their instructions on what they were to do. They were to perform those instructions, provided that they were not in conflict with guidance that had previously been provided from documents such as my concept of operations, that we have previously mentioned, and subsequent guidance provided by contingent commanders. In other words, they were not to be involved in interrogation of enemy prisoners of war or high-value detainees.

**Senator FAULKNER**—In relation to these seven or eight, was this guidance that they received in written, verbal, or both written and verbal form?

**Brig. Meekin**—Most certainly verbal, I am not certain about written.

**Senator FAULKNER**—So we do not know whether they received hard copy of this advice at all?

**Brig. Meekin**—Which advice?

**Senator FAULKNER**—The guidance.

**Brig. Meekin**—The first contingent certainly saw the concept of operations. It was briefed to them in PowerPoint, and I recall a PowerPoint slide that in fact stated the restrictions on interrogation. It might be that subsequent contingents were briefed in the same manner, or were briefed without the benefit of having the words in front of them on a screen.

**Senator CHRIS EVANS**—Do you know if there was any other document following the concept of operations that gave those instructions or revised instructions?

**Brig. Meekin**—There was the PowerPoint slide that I mentioned in the case of the first contingent. I cannot speak for subsequent contingents, the contingent commanders—

**Senator CHRIS EVANS**—I am just trying to see if there was another document, order, guidance that addressed some of these issues subsequent to the concept of operations.

**Brig. Meekin**—My understanding is that around the middle of last year written guidance was provided by Headquarters Joint Operations Command.

**Senator FAULKNER**—Yes, but that is after the whole issue was sky-high publicly, isn't it?

**Brig. Meekin**—That is correct.

**Senator FAULKNER**—I am not devaluing that, and I am not suggesting that that is inappropriate, but it is pretty logical given the extraordinary public debate around the issue of abuse and mistreatment of Iraqi prisoners. I do not think that will come as a surprise. It is what happened before and why it happened that is significant.

**Mr Pezzullo**—I can probably assist there because I asked the same question as you can imagine in June. I questioned and interviewed Brigadier Meekin and I spoke to Brigadier Hutchinson. These were relatively small teams as the minister indicated. The standard process seemed to be that three different lieutenant colonels adopted slightly varying command procedures, but they seemed to all cluster in a room at the start of the deployment during what the military would call their force preparation time. They seemed to have a collective discussion about it with very clear enunciation either through PowerPoint slides or the reading out of orders in the commander's notebook. Perhaps Admiral Shalders or General Leahy might want to add to how a commander would go about that process at that kind of tactical level. You are talking a dozen people or so—10 or 15—with a reiteration: 'Every day we will stay in touch on what you are doing.' It is in that context that I read into evidence earlier the very clear recollections that, for instance, Lieutenant Colonel Harman has of the one and only interview as reported by Mr Barton that he had on 30 December. I think it is fair to say that these are not large formations or large battalion group structures where there are very comprehensive detailed signals.

**Senator CHRIS EVANS**—It is a simple question: was there a subsequent document?

**Mr Pezzullo**—I am responding by saying—

**Senator CHRIS EVANS**—The answer to that is no, is it?

**Mr Pezzullo**—But it is no with a context. It is fair to the commanders to lay out the context.

**Senator CHRIS EVANS**—I am just trying to be clear: was the original concept of operations updated, amended or replaced—yes or no?

**Mr Pezzullo**—I found no formal instructions that were of a comparable complexity in sophistication, but in fairness to those commanders I want to make it clear that they were not in any way not doing their duty. They just imparted it through—

**Senator CHRIS EVANS**—No-one has suggested that. I assume the concept of operations remained in force. What I am trying to ask is: was that amended or changed? If not, then it is still in force and it applies to—

**Senator Hill**—That is a question for Admiral Shalders. Did the concept of operations remain in place?

**Vice Adm. Shalders**—The concept of operations remained in force. The contingent commanders took that concept and applied it in slightly different and expanded ways. You heard in evidence this morning that the third rotation, for example, had slightly different words around the way they were told to do their job but the concept, the governing—

**Senator CHRIS EVANS**—Was there a document that updated that or changed that?

**Vice Adm. Shalders**—I do not know; I do know that the CO of that third contingent has told us how he—

**Senator Hill**—But did it change the concept of operations?

**Vice Adm. Shalders**—The concept remained the same.



**Senator Hill**—Do we know if any of the three contingent commanders documented their—what is the language you used?

**Vice Adm. Shalders**—The concept?

**Senator Hill**—No.

**Vice Adm. Shalders**—The SOP.

**Mr Pezzullo**—The standard operating procedures.

**Senator Hill**—Do we know whether they documented their standard operating procedures?

**Vice Adm. Shalders**—I do not know whether they did. We have their evidence of what their SOP, standard operating procedures, were but we do not have the documentary statement.

**Senator FAULKNER**—What I hear then is after that is that for the three rotations those personnel—and it is limited in number; it is a small number; it is seven or eight—who had some possible responsibility of being involved in the interviewing, debriefing or interrogation of prisoners were informed by—

**Senator Hill**—None of them had any responsibility.

**Senator FAULKNER**—let us use the word ‘interviewing’; I do not mind—those personnel involved in the interviewing of prisoners were provided at the commencement of their rotation with a PowerPoint presentation which indicated that interrogation was off limits. I am not being critical of that, but that is a pretty fair summation of what is provided. There is no evidence at all that there was any follow-up in writing or in any other form. I have got that right, haven’t I?

**Vice Adm. Shalders**—The only thing I would add to your summation is that I am not certain that it was given by PowerPoint on each occasion. I am certain that there would have been an orders group, as it is known, to get that information across to the contingent.

**Senator FAULKNER**—PowerPoint or equivalent.

**Vice Adm. Shalders**—A passing of orders.

**Senator FAULKNER**—I accept that, and I think you have made the point that there might be differences across the three rotations. I accept that, and we are lucky to have Brigadier Meekin with us who at least can be definitive about one of those rotations. I think the committee accepts that.

**Senator Hill**—We also know that these commanders had under their command a very small number of people.

**Senator CHRIS EVANS**—This all started with me trying to get an answer to a question, which I obviously have not asked very well, about whether that document instruction was amended or changed during the course of our involvement in Iraq. I think the answer is no.

**Senator Hill**—I think the answer is no.

**Brig. Meekin**—Senator, I signed the original document on 30 April 2003 and I have not amended the document, so it is extant as far as I am aware.

**Senator CHRIS EVANS**—Thank you, Brigadier. If I had asked the question better the first time, it might have saved us a lot of time.

**Senator FAULKNER**—We have heard all the theoretical positioning on this, and that is fair enough, but I listened closely to what Mr Pezzullo said in one of his earlier explanations and I came quickly to the conclusion that the person who would be in the best place to determine whether a detainee was subject to interview, debrief or interrogation was the person who was undertaking the debrief, interview or interrogation. You are nodding, Mr Smith.

**Mr Smith**—Or was present.

**Senator FAULKNER**—Or was present. Do you think that is fair?

**Mr Smith**—I think that is fair, and it is another reason why I believe that what Mr Barton witnessed was not an interrogation—because he did not leave.

**Senator CHRIS EVANS**—He did not leave or the prisoner did not leave?

**Mr Smith**—He did not leave. His instructions were that he was not to participate in an interrogation.

**Senator FAULKNER**—I have the benefit here of a transcript from the *Four Corners* program, which has been much spoken about at today's hearing, so if others can do it, I suspect I can do it, too. He says publicly, when asked:

An interview is between equals, and someone was brought to me in an orange jumpsuit with a guard with a gun standing behind him and, all right, you can call it what you wish, but I think it's misleading. I believe it was an interrogation." The Iraqis regarded it as interrogation, interrogations. The Americans I think regarded it as interrogation.

It wasn't just a simple interview ...

And the transcript goes on. I can assure you that is an accurate quoting of the transcript.

**Senator Hill**—Correct, but when he returned to Australia he referred to it as an interview.

**Senator FAULKNER**—You told me a few moments ago that when you, in the media briefing on Australia's contribution to global operations, used the word 'interrogation', that was fine for you, but now, in relation to Mr Barton, we have a different situation.

**Senator Hill**—I am not in Iraq operating under command. I am not operating under a concept—

**Senator FAULKNER**—No, but you are providing a media briefing.

**Senator Hill**—of operations that prohibits interrogation.

**Senator FAULKNER**—If I were you I would not depend on that flimsy response because you are in the same boat as Mr Barton.

**Senator Hill**—No, I am not.

**Senator FAULKNER**—If you should not have used the word 'interrogation', perhaps he should not have used the word 'interview'. But he has at least made it clear publicly that he thinks, to use his terminology:

An interview is between equals, and someone was brought to me in an orange jumpsuit with a guard with a gun standing behind him and, all right, you can call it what you wish, but I think it's misleading. I believe it was an interrogation.

They are his words on the public record. They are not mine.

**Mr Smith**—Firstly, it is interesting that he never said that to us. Secondly, perhaps we are deficient, Senator. We should have briefed Senator Hill a couple of years ago on this distinction but we were not deficient with regard to ISG members. They were briefed on the distinction.

**Senator FAULKNER**—You personally, Mr Smith—and I am not being critical; I think what you have said to the committee sounds perfectly reasonable—were so concerned about some of the issues that Mr Barton raised that you took a personal decision to refer them to the United States Ambassador to Australia. So let us not underplay the significance of this.

**Mr Smith**—And let me tell you I am not underplaying it in any sense, but the information that we passed to the United States ambassador had no connection with the interview with the person in the orange jumpsuit. The orange jumpsuit is interesting. I had not heard of that before. I had not seen it in any of the records we have here from Mr Barton or others. The mere fact that somebody turns up at an interview in an orange jumpsuit, accompanied by an armed guard, does not make the interview an interrogation. It might sound odd to us, but that is American operating procedure.

**Senator FAULKNER**—We have heard what an interrogation is by definition. I am absolutely certain that General Leahy has very faithfully read into the record the definition for us. We are not in a position to make a judgment whether this person—this Iraqi high-value detainee—subject to questioning from Mr Barton could have left the room. We know they could not have left the building. We know that, at least, don't we? We do at least accept that he could not have left Camp Cropper, that is for sure.

**Mr Pezzullo**—He could not have left the facility.

**Senator FAULKNER**—They could not have left the facility. Whether they could have left the room and the interview or not, I do not know.

**Senator Hill**—If they could not, then Mr Barton was behaving improperly.

**Senator CHRIS EVANS**—That is a 'shoot the messenger' response, Senator Hill, that I find really offensive. Your position is that it is not an interrogation because this officer did not leave the room. That is your position: it could not have been an interrogation because if it were he was in breach of his duty in failing to leave the room. That is nonsense.

**Senator Hill**—My position is that the small number of Australians working in this team had to work pursuant to orders. Those orders can be traced up to the highest authority in the Australian military, and the orders unambiguously state that they were not to participate in interrogations. I therefore assume that Mr Barton was not participating in interrogations because I assume he would be acting in accordance with the orders.

**Senator CHRIS EVANS**—But you also concede that the interrogation, interview or debrief is not done under the authority of the Australian Defence Force or under Mr Barton. It is under the US authority, as I understand it, that the interview, interrogation, debrief occurs.

He is an observer or a participant but not responsible for the process. He is not able to influence the process.

**Senator Hill**—You ask Brigadier Meekin. Brigadier Meekin had a lot of influence in the ISG. He might be too modest to say so. Australians in Iraq often were under a different set of rules of engagement than those from the United States or otherwise. But Australians working there, whether they be military or official, had to operate within our rules. These rules were clear, they were briefed to these individuals and I assume the individuals followed their instructions.

**Senator CHRIS EVANS**—Your position to us is that it cannot be an interrogation because he did not leave the room.

**Senator Hill**—I beg your pardon?

**Senator CHRIS EVANS**—That is farcical.

**Senator Hill**—I did not say that.

**Senator CHRIS EVANS**—Certainly, Mr Smith did.

**Mr Smith**—Had it been an interrogation he would have left the room, I expect, because they were his orders.

**Senator Hill**—This is Barton. He was not permitted to involve himself in interrogations.

**Senator CHRIS EVANS**—You are trying to shift the blame. If he says it is an interrogation he must be breaching his orders. This seems to be an attack on him rather than—

**Mr Smith**—Not at all. What is the issue of blame? I do not think I have said anything about blaming anyone.

**Senator CHRIS EVANS**—It seems to me that you are trying to imply that he has done the wrong thing—

**Mr Smith**—Not at all.

**Senator CHRIS EVANS**—if he did not leave the room.

**Mr Smith**—I am not aware that he has done the wrong thing. I am not suggesting that at all.

**Senator Hill**—We assume he did the right thing and therefore he was not involved in an interrogation.

**Senator CHRIS EVANS**—When I ask you what I think is the key question—were the Americans conducting an interrogation or an interview according to your definition?—you say, ‘I cannot help you with that; that is an American issue.’ We have Australian officials in the room but you cannot give me any information or any help as to whether the Americans were conducting interrogations or interviews. It seems to me that that is the key issue. How did they operate? What were their rules of engagement in terms of their interrogations or interview of prisoners at Camp Cropper?

**Senator Hill**—What they did was their business, but an Australian could not participate in a questioning process that was an interrogation. They were the orders that Australians had to operate under.

**Senator CHRIS EVANS**—But now we are dealing with a real-life situation where perhaps they were.

**Senator Hill**—Talk to Brigadier Meekin about the real-life situation.

**Senator CHRIS EVANS**—I am happy to. I asked this question before and you insisted that you could not help me. You could not tell me what the American rules—

**Senator Hill**—I do not know the American rules of engagement.

**Senator CHRIS EVANS**—No, but you were very clear that you were not going to tell me.

**Senator Hill**—I do not know them.

**Senator CHRIS EVANS**—I would be very surprised if Brigadier Meekin does not. It seems to me the key question is: what were the American guidelines for interviewing prisoners at Camp Cropper? That then leads us to a question about whether an Australian should or should not have stayed in the room.

**Senator Hill**—The question is how do you deal with these issues in practice. We have had it in other circumstances in Iraq. In relation to the ISG, how did you deal with these issues of different sets of rules?

**Brig. Meekin**—Regarding the JIDC, the attendance of Australians at Camp Cropper was fairly simple. The guidance was if it was an interrogation they were not to be involved; they were to withdraw and report that to their contingent commander. There were no reports of that. In regard to an interview, there were certain criteria. I mentioned them before: the individual was not to be under duress, the individual who was being interviewed had the right to terminate that.

**Senator FAULKNER**—Did Mr Barton have a contingent commander?

**Brig. Meekin**—Yes, he did.

**Senator FAULKNER**—Who was that?

**Brig. Meekin**—That was the commander of the second contingent. However, Mr Pezzullo has drawn the distinction, I believe, earlier that, Mr Barton's status—because of his seniority, the fact that he was on contract and requested on the basis of his previous experience by the United States government—was slightly different insofar as he was a senior subject matter expert. I might add—and he would probably state himself—that he knew a number of these senior figures that were detained at Camp Cropper.

**Senator FAULKNER**—So the concept of a contingent commander in the case of Mr Barton is not the same as it might be for, let us say, more junior ADF officers or civilians—particularly DIO personnel—who might be there. And I think you draw properly that distinction yourself. This is the real world we are talking about.

**Brig. Meekin**—There is that distinction but as an Australian national there were certain things that he needed to do and we had an obligation to provide for him, particularly in the area of force protection, reporting, ensuring his welfare and so on.

**Senator FAULKNER**—Mr Barton is a very senior figure, isn't he?

**Mr Pezzullo**—He is working closely with the head of the ISG, yes.

**Brig. Meekin**—And very highly reputed in his field.

**Senator FAULKNER**—Can I just finish with Brigadier Meekin? I want to be clear—

**Senator Hill**—That might be so but he was still under the same concept. Once he is an Australian contracted by Australia he is still under the same concept of operation.

**Mr Pezzullo**—He was certainly administered as a member of ASISC.

**Senator FAULKNER**—Yes, but in effect what Brigadier Meekin is saying to us is that, because of the seniority, because of his status and standing, which basically everyone acknowledges, the concept of reporting to a contingent commander in the case of someone and senior as Mr Barton loses some credibility.

**Senator Hill**—He would not need the same level of supervision, for example.

**Senator FAULKNER**—Of course. We are in furious agreement.

**Mr Pezzullo**—It would not be appropriate for me to not to remind the committee that, be that as it may, the fact is that the contingent commander did maintain daily contact with Mr Barton and explicitly has recalled a back briefing, as we sometimes call it in the defence area, of that particular interview. I will not go over that evidence; I have put that evidence in several hours ago. I sought that information—this is right down at a tactical level. I did not feel the need to go into this in June. In fairness to Mr Barton, I will come to the discussion we had during the course of settling his record because there is a germane point that goes to this and I should not sit here silently in relation to it. The point the senator makes is correct. A person who is in the higher orbit would not necessarily be under the same kind of discipline as a sergeant or a corporal. That is true, but nonetheless there was a back brief, and I read out the evidence of the lieutenant colonel.

**Senator CHRIS EVANS**—Before you go on, I would not mind finishing the line of questions if I could. Brigadier Meekin, I just want to nail this point. You said that the officer would be expected to behave differently in terms of their participation at Camp Cropper depending on whether it was an interrogation or an interview under the guidance provided by you. Do I take it from that that both interrogations and interviews were conducted at Camp Cropper to your knowledge?

**Brig. Meekin**—I have no personal knowledge that interrogations were conducted. The unit there was known as a JIDC—a joint interrogation and debriefing centre. They might well have conducted interrogations. I do not know that. The instructions to people were that they were to withdraw if an interrogation was being conducted or they became part of an interrogation. To the best of my knowledge, no Australians were exposed to interrogations at Camp Cropper.

**Senator CHRIS EVANS**—The bottom line is that you do not know whether interrogations on our definition—you made it clear that you cannot speak for the Americans; you do not know how they define it—as defined by General Leahy and the guidelines that apply to our forces were conducted at Camp Cropper? You just do not know.

**Brig. Meekin**—I have no personal knowledge of that.

**Senator CHRIS EVANS**—We do not actually know what the real practical exposure of people by Mr Barton was?

**Mr Pezzullo**—I need to go to the evidence I gave at about three o'clock. It is a matter of public record on an unclassified internet site that the Americans ran a joint interrogation and debriefing centre. I assume that they have that nomenclature because they are trying to distinguish or they have two different concepts that they are applying. General Leahy spoke to you earlier about the Australian standard. We do not know what standard was applied or pursued in terms of interrogations. We have no exposure to the best of our knowledge and through all the research that we have done on this topic on interrogations.

**Senator FAULKNER**—Senator Hill concludes his opening statement by saying, 'Defence has again confirmed that the debriefs at Camp Cropper in which Australians were involved all involved detainees who were compliant and were willing participants in the debrief.' Fair enough. Senator Hill has said that. Can you or Mr Smith confirm whether Defence so briefed Senator Hill that that is the case?

**Mr Pezzullo**—Yes, I can. That is the case. In other words, we have found evidence only of persons participating in interviews or, as they are sometimes called, debriefs.

**Senator FAULKNER**—Is there a suggestion that Mr Azmirli died as a result of his interrogation?

**Mr Pezzullo**—There is no suggestion in terms of anything that anyone has any direct knowledge of. I have stated in evidence that Mr Barton came to the view that this person may have died in untoward circumstances.

**Senator FAULKNER**—That is right.

**Mr Pezzullo**—But we do not know that.

**Senator FAULKNER**—Mr Barton has obviously regarded this matter as being of such seriousness that he had to take whatever action he could about Mr Azmirli's death from his interrogation. Senator Hill, in an opening statement—

**Senator Hill**—Taken it from what? He read something in a newspaper that he brought to the attention of Mr Pezzullo in June.

**Senator FAULKNER**—We just had it confirmed by Mr Pezzullo that Mr Barton was obviously very concerned that Dr Azmirli may well have died as a result of what occurred at his interrogation. We have just heard that from Mr Pezzullo.

**Mr Pezzullo**—Can you quote the words of the minister's statement.

**Senator FAULKNER**—I am not going to quote the minister. It is beyond comprehension to me that the minister could come to such a conclusion given what Mr Barton has said about the seriousness of his concerns about Dr Azmirli.

**Mr Smith**—We are not suggesting that Australians were in any way involved in anything to do with Dr Azmirli's interrogation, interview or anything else. He may have been at Camp Cropper, but we have no record to say that Australians were there. I do not know where he was.

**Senator FAULKNER**—Do we have a record to say that he was not?

**Mr Smith**—I do not have records saying that is not true. I have records of what we think are right.

**Senator FAULKNER**—I know that there are at least seven or eight Australians—we do not know the precise figure, and I accept that—who were involved in what you would want to have described as interviews and what others might suggest may be interrogations. That is what we do know.

**Mr Pezzullo**—If I might say so, Senator, several hours ago when I drew attention to this additional paragraph, and it was the matter raised with me on 9 June, I think I did make it clear that I did not seek independent verification of Mr Barton's claims. I sought to have them accurately recorded, and that is why I tested the record back with him. I sought the best evidence he had of the grounds of his suspicion and he very kindly forwarded to me that evening an *LA Times* article which, when you look at it, deals with an autopsy that had been conducted. But at no point did Mr Barton represent to me that any Australian was involved in this matter.

**Senator Hill**—But Mr Barton was not making claims either.

**Senator FAULKNER**—Mr Barton, I assume—tell me if it is wrong—was basing this on experiences, his observations, what he had seen occurring at Camp Cropper. Isn't that why he raised these issues?

**Mr Pezzullo**—He raised it with me, as I have said earlier, because he had reflected since his 25 May 2004 survey return. He had since read the media reports which I have referred to. Then he made it clear to me, and it is in the relevant part of the record that we jointly agreed, that something that he had heard about whilst he was at Camp Cropper he now had a different view about.

**Senator FAULKNER**—Yes. So that goes to his experiences, his understanding at Camp Cropper.

**Mr Pezzullo**—That is why the secretary wrote to the ambassador.

**Senator Hill**—I think that is unfair too.

**Senator FAULKNER**—What is unfair?

**Senator Hill**—That it goes to his experiences. As I understand it, he has no first-hand knowledge of what happened to this gentleman at all. As I further understand it, he makes no claims. But he did in effect put together a few pieces of information which he brought to Mr Pezzullo's attention. He obviously found it sufficiently worrying to bring to Defence's attention.

**Senator FAULKNER**—I am happy to use the word 'information', then, if that is more accurate than 'experiences'.

**Senator Hill**—We considered the proper process was to pass that on to the Americans because, as I understand it, there was an investigation taking place into this matter.

**CHAIR**—I will interrupt you, Senator Faulkner, if I may, to give Senator Bartlett a little run. He has been waiting four hours.



**Senator BARTLETT**—I have been constructively engaging myself in the meantime; it is okay. Thank you, Chair. There is one aspect in particular and it may have been covered whilst I have been at other committees during this period this afternoon. You have made it very clear, and again in the recent line of questioning, that Australian personnel were not to be present when interrogations took place. That was in their orders, as I understand it. That is correct, isn't it?

**Mr Smith**—Yes.

**Senator BARTLETT**—What is the reason for that? I presume you are not saying, 'We don't like people being interrogated and the government has a policy position that it should not happen.'

**Senator Hill**—There were a lot of jobs that we did not accept in Iraq. We send people with certain skill sets to carry out certain tasks. We chose not to be involved in interrogations. We did not send interrogators. It was very early in the day, but I think Brigadier Meekin was saying that the debriefer and interrogator have a different skill set; they do a different job. The community would understand the difference between an interview and an interrogation in these circumstances.

**Senator BARTLETT**—I appreciate that and I think they do, but I think it is part of where the public controversy has come from. It seems that perhaps Mr Barton has a different view of how you define these things, if he says that there were interrogations.

**Senator Hill**—Do you know why we chose not to involve ourselves in interrogation? Interrogation in the circumstances of a conflict can be an important contributor to the resolution of that conflict, as quickly and with the least damage as possible. But we were not involved in that; do you know why we chose that way?

**Brig. Meekin**—I am not absolutely certain, but it might be that we made a conscious decision that we wanted to contribute in a couple of areas. We had deep expertise in this country in some of the aspects of WMD and related weapon and delivery systems. We provided people with those skills. We have a limited number of interrogators and it might be that there were other activities and considerations that were beyond my responsibility or consideration that affected that. So, in summary, a conscious decision would have been taken on the basis of what we had available and where we thought we could make the most difference and the most significant contribution.

**Mr Pezzullo**—I could add to that, and if my memory is faulty I would defer to the acting chief. This question, you might remember, was the subject of extensive discussion at estimates, not in relation to the ISG but more generally in relation to the capture and detention of either enemy prisoners of war, as they are known in the parlance, or civilian detainees, and there are two different sets of obligations in relation to the Geneva convention. As I recall, the Chief of the Defence Force's intent, as expressed in the kinds of orders that Brigadier Meekin and all the other commanders put together, was that capture and detention were not something that we were to be involved in and there were high-level orders to that effect. On the run, I do not want to particularise that absolutely, but I think that is broadly right.

**Senator BARTLETT**—I can understand us saying that we do not want this to be the key role for our people there. We have got our tasks for them, this is what they do and they stay

out of the other. But to specifically say, ‘If you are somewhere and it turns into an interrogation you have got to get out of the room,’ in shorthand is what you were saying before, that if Mr Barton was somewhere where something became an interrogation he would leave the room.

**Mr Pezzullo**—Essentially, what I think I am saying, but I want to be corrected in terms of my own report and the ministerial advice and governmental decisions taken around that time, from memory the Chief of the Defence Force’s intent was that we were not to be involved in interrogation. Brigadier Meekin then reflected that down his column of activity and other commanders would have done the same. I think that is right, and if the facts are different, I guess I will have to correct that.

**Vice Adm. Shalders**—That is correct.

**Senator BARTLETT**—The minister in his opening statement gave a definition of interrogation as a ‘hostile, aggressive, systematic method of information gathering’. Certainly people can distinguish between that and a laid-back interview, but obviously there can be a blurring where one can move into another. It sends an indication that this government does not support people being interrogated by saying that it is something that we should not be involved in, as opposed to just saying that it is not part of our core business. I presume the government is comfortable with the fact that interrogation happens, obviously as long as it is done in accord with the Geneva convention.

**Senator Hill**—We have interrogators and we train in interrogation.

**Senator BARTLETT**—So you are not opposed in principle to interrogation having happened; it is just that our people have to be out of the room when it happens.

**Senator Hill**—As I said, in the right circumstances it can contribute to an earlier end to the conflict with less damage. But if we are getting into what is a legitimate interrogation, there is another set of rules there obviously.

**Senator BARTLETT**—I suppose the core aspect of what I am getting to—and I am getting to this in terms of the political debate, trying to be as objective about it as I can as somebody who opposed the war but supported our troops staying there, depending on what they are involved in—is: doesn’t it put our personnel in a fairly difficult position if they are working with people and participating in these activities? Obviously Mr Barton was involved in something that he felt was an interrogation. You said earlier that as part of their, I cannot remember the technical term, but the bits of paper that tell them what they can and cannot do—

**Mr Pezzullo**—The operational concept, and then the orders that flowed from that.

**Senator BARTLETT**—What they are allowed to do. Doesn’t that say not to carry out interrogations but to immediately run away as soon as something looks like it is an interrogation developing? Doesn’t that put an unnecessary constraint on what they are doing?

**Mr Smith**—I do not know that it is an unnecessary constraint. It does put some responsibility on the individual, but it is not different in nature from any situation in which we are working as part of a coalition where our rules of engagement differ from those of our

coalition partners, in which case our people do, as they did in Afghanistan and in the Iraq operation, put up their hand and say, 'Sorry—can't be in that.' That happens.

**Senator Hill**—It is one of the complexities of coalition operations, there is no doubt about that.

**Mr Pezzullo**—From memory, to assist with a comparison, I think the government has put on notice previously another example, in relation to aerial targeting, where so-called red cards are shown—where our nationals feel that the targeting is not consistent with Australian values, policy and indeed directions. In an interoperable alliance, you learn to live with that, you accommodate.

**Senator BARTLETT**—That is a good example, talking a bit about the message that comes from this now, what people feel about it. They are concerned about that more than they are about technical policy questions, and I appreciate there is some blurring there. That example of targets that we stay out of—I think the use of cluster bombs is another—is where we say, 'Well, that's not part of our rules of engagement.' That at once to me sends a message: some of our partners do this and we cannot stop them, but that is not stuff that we believe is acceptable.

**Senator Hill**—We do not have cluster bombs, so I do not think that is a good—

**Senator BARTLETT**—It is good we do not.

**Senator Hill**—That is not a good example, but there certainly were—

**Senator BARTLETT**—Or the targeting example.

**Senator Hill**—There certainly were distinctions in targeting, yes.

**Senator BARTLETT**—The message I am getting from these interrogation restrictions is a similar thing: our partners do it and that is their business, but we do not like it, so if they happen we have to run out of the room so we do not see anything we do not like.

**Senator Hill**—It is not so much—

**Senator BARTLETT**—I presume that is not what is happening, but that is the message that comes through.

**Senator Hill**—I would not put it in those terms. It is not so much that you do not see things that you do not like—

**Senator BARTLETT**—Or do not approve of, sorry.

**Senator Hill**—It is the same as our decision not to be involved in detention. We did not have the facilities or the capability, we did not send prison guards. In this instance we did not send interrogators. We did not send people with that skill set. They do a different job. But what it does mean is that the ADF, in setting up our contribution to the operation, has got to ensure that there are people with authority that can ensure that our separate rules of engagement are respected. So, in the case of the bombing targeting, we had people involved at the final decision making that had the right to put up the red card. In this instance we leave it to people such as Brigadier Meekin to ensure that our concept of operations is complied with, and he and his three commanders, the lieutenant colonels, are charged with ensuring that happens in practice. Here they have a command of only a handful of people, which should

make it a lot easier, and they are working and living in the same community, they are dealing with each other on a daily basis. So in some ways it should be easier to ensure that our rules are complied with in this instance more than in some others.

**Senator BARTLETT**—Part of why I am going to the message is that that is what is so significant, in a public sense, about this whole issue: what messages it sends to the public about what is acceptable and what is not. I am pulling it back to basics. This government, I presume, still unequivocally supports the Geneva convention in terms of the treatment of prisoners?

**Senator Hill**—That is correct.

**Senator BARTLETT**—And the government has not formed a view that, as an overarching principle, the interrogation of prisoners breaches that convention—that you can interrogate people validly under the convention?

**Senator Hill**—That is correct.

**Senator BARTLETT**—So the reason why we are not involved in interrogation is purely a matter of operational efficiency—for want of a better word. We do not have the right people there, we do not want them to be involved just for clarity of purpose—

**Senator Hill**—I said ‘skill sets’. I cannot remember this particular instance, but in developing Australia’s contribution we asked the Chief of Defence Force to bring to government a range of different tasks that he believed we could fulfil and make an important contribution. After appropriate debate, those particular tasks were settled upon, and contributing to the ISG was one of those tasks.

**Senator BARTLETT**—Just touching on that Geneva convention again—it is obviously one of the touchstones people go to—you were quoted last Sunday on AAP, via a spokesperson, saying that Australian troops are being trained using interrogation techniques that are in breach of the Geneva convention. This was the story about training—

**Senator Hill**—I did not say they were being trained in interrogation techniques. I said they were being trained to resist interrogation techniques that might go beyond the limits allowed by the Geneva convention—

**Senator BARTLETT**—Subjected to techniques.

**Senator Hill**—That is unfortunately the real world, that they may face that circumstance, and we would wish them to be best equipped to meet it in order to protect their own lives and the lives of their colleagues.

**Senator BARTLETT**—I was just wanting to clarify the content of that. So they were being subjected to techniques that would breach the convention; they were not being trained in how to carry them out.

**Senator Hill**—Oh, no. That is ‘no, no, no’, isn’t it?

**Lt Gen. Leahy**—It is an absolute no.

**Senator BARTLETT**—Subjecting our people, however unpleasantly, to experiences that are in breach of the convention is just a part of what they have to cope with.

**Senator Hill**—They might not like it at the time, but they appreciate the rigour of the training that they receive and I think it has helped keep them alive.

**Lt Gen. Leahy**—This is some of the most closely supervised training that occurs in the Australian Defence Force. It is to prepare our soldiers—those who are most at risk of capture on the battlefield—for what may face them. It prepares them for operations on the battlefield. They are all volunteers. At any stage of the training they are able to withdraw. The training is conducted under the supervision of medical officers, psychologists and senior military officers. It is very sophisticated and very powerfully supervised training. It is not taken lightly and it is a matter of preparing our people for the sorts of things they may encounter on the battlefield. It is to protect them but also to protect the soldiers that they may be giving information away on if they were to be interrogated by unscrupulous people.

**Senator BARTLETT**—Thank you for that. I was probably going off on a tangent from where we were, although I appreciate the extra information. That is probably all I wanted to cover in terms of the Barton stuff. Unless there is more the others have, we can actually move on in the program.

**CHAIR**—Senator Evans, have you got any more on this?

**Senator CHRIS EVANS**—I certainly do, Mr Chairman. I would hate to disappoint. Could I pick up this issue of the difference between interrogation and interview, in the sense of Mr Barton's response. I did not see the *Four Corners* report, because I was at estimates on Monday night. I have got a copy of the transcript and Mr Barton, in response to a question from Liz Jackson, made a comment. Ms Jackson's question, for the purpose of the record, was, 'What did you think when the Defence minister, Robert Hill, said that no Australians were involved in interrogations?' Mr Barton replied:

Well, I was quite annoyed about this. I immediately phoned up the department and reported that I was annoyed, that I'd provided testimony and that the Department's response was 'Well, we regard that you did interviews and not interrogations.'

Clearly Mr Barton ran into the sort of response that we have been hearing tonight—the distinction between interrogations and interviews, and then he took issue with that. He obviously, like me, fails to understand some of the distinctions that tend to be drawn. Can you tell me whether you have a record of that interaction with Mr Barton?

**Mr Pezzullo**—Yes. I can tell you that. Mr Barton did ring. He spoke to me in a reasonably rushed circumstance. I hope I was not overly abrupt. He did speak to one of my staffers, to whom I then spoke subsequently at 9.51 a.m. on 17 June.

**Senator CHRIS EVANS**—You had a big day on 17 June.

**Senator Hill**—That is maybe why he was rushed.

**Mr Pezzullo**—That was the same morning that I was coordinating another matter.

**Senator CHRIS EVANS**—You have just given us evidence on that. It was also the day that we had the extra estimates hearing. It all seems to have come together on 17 June, for whatever reason. Was there a full moon?

**Mr Pezzullo**—I would not know. I did not leave the building.

**Senator CHRIS EVANS**—I do not think I did either. So at 9.51 in the morning, obviously Mr Barton rang and, as we know, Senator Hill had made a statement in the parliament the day before, which is on the public record about—

**Mr Pezzullo**—Indeed. I am happy to go to the nature of that conversation. If Mr Barton has given a taped interview in relation to it, I would be very happy to speak to my side of the conversation.

**Senator CHRIS EVANS**—That is what I was going to come to. So you spoke to him on the morning of 17 June.

**Mr Pezzullo**—Yes.

**Senator Hill**—I would prefer him to have called me.

**Senator CHRIS EVANS**—I am sorry?

**Senator Hill**—If he is critical of me, I would have liked him to have called me.

**Senator CHRIS EVANS**—I suppose it is not unreasonable as Mr Pezzullo interviewed him on behalf of the department.

**Senator Hill**—I know all that.

**Senator CHRIS EVANS**—He is a responsible officer who—

**Senator Hill**—He is a very senior person. He did not have a departmental chain of command at that time.

**Senator CHRIS EVANS**—He was no longer employed by you at the time, as I understand it.

**Senator Hill**—No, so he could have comfortably called me.

**Senator CHRIS EVANS**—All right. I make no comment on that.

**Senator Hill**—Anyway, he called Mr—

**Senator CHRIS EVANS**—It is perfectly reasonable and rational for him to ring the officer who interviewed him about his concerns on a previous occasion, it seems to me.

**Senator Hill**—Yes, it is.

**Senator CHRIS EVANS**—Mr Pezzullo, can you give me your understanding of that conversation about Mr Barton's concerns.

**Mr Pezzullo**—I am reconstructing; I did not take a file note as such but I do have a record in my inquiry notebook. He was concerned and he did express some annoyance. The quote I have taken is that the statement, he felt—I need to say I am referring here to the minister's statement—did not reflect quite our discussions. I said, 'On what particular point?' I said, obviously, 'Rod' but I will call him Mr Barton for this purpose. He said, 'On this point of interrogations.' Frankly, I thought I gave him a slightly more elegant answer than what he has characterised on national TV so I might give the answer in my own words. He indicated to me that, as far as he was concerned, it had been an interrogation. This was important information for me because I had precisely been looking for Australian involvement in interrogations in clear breach of the CDF orders that we have been talking about.

I contended back to Mr Barton that, when I had gone through his 25 May return with him—and, as I said to you earlier in evidence, tracked his comments in my notebook—I did not miss a beat and nor did he when we talked about the interview of the senior Iraqi former regime official on 30 December. I said, ‘As far as I’m concerned, Mr Barton, if that had been an interrogation, that was material to what I needed to know so what I’d like to do now, on the morning of the 17th at 9.51, is I really need you to describe it to me because this is critical information. It may require amendment to advice. I’ve been researching this issue for the last few weeks, not having had a grounding in it but being well supported by plenty of subordinate staff and a whole lot of information. As I understood it, interrogations involved’—we had not been involved in them, but I knew from the handbook, from the doctrine and from reporting I had seen of American practices—‘things like stress positions, duress, coercion and the rest of it. My understanding is that, as a former—

**Senator CHRIS EVANS**—I am sorry; you understood that to be the Australian position?

**Mr Pezzullo**—No, my understanding was that interrogation involved the application of duress in different kinds of ways under strictly—

**Senator CHRIS EVANS**—You were under a false understanding about the meaning of the word interrogation.

**Mr Pezzullo**—No, I was under a very clear understanding.

**Senator CHRIS EVANS**—That is not the definition that General Leahy gave to us. You have suddenly changed the whole tenor of what an interrogation means.

**Senator Hill**—Please let him finish his answer and then you can have another debate.

**Mr Pezzullo**—So I was interested in having characterised back to me what his interpretation of this event was. I had read it as a debrief and an interview with a high value detainee. He had mentioned to me that the reason why he had spoken to this person, male or female I am not quite sure, is that it linked back to his knowledge of that person’s activities. He had been an eminent person in this field for many years and had come across this person many, many times. I did say, ‘Look, as far as I’m concerned, you have still continued to describe to me an interview, a debrief, and we have had other people who have reported through the May questionnaire returns that they had either done what you had done and talked to someone as an expert so they could validate answers or, more often, had partaken by sitting at the back of a room or watching through closed-circuit TV and assessed the answers because of their expertise.’ It is fair to say we probably agreed to disagree at that point. I was then concerned—we were wrapping up a whole lot of activities—to have his record, as we had been missing each other, finalised and that was done. I deliberately put back to him ‘interview’. I was very conscious about that; there was no trickery involved. I said to the staff member, ‘I want this cleared in terms of the notes I have provided but I want Mr Barton to make the amendments as he sees fit.’ He did not amend my word. He did not amend the term ‘interview’, which from his 25 May questionnaire is repeated in his 18 June statement of interview.

**Senator CHRIS EVANS**—Thanks for that, Mr Pezzullo, but you seem to have placed a whole different tenor on what constitutes an interrogation there compared with what you were accepting and what you were deferring to General Leahy earlier. You seem to have upped the

tempo about 300 per cent. I just want to be clear now: do you consider an interrogation to be as described by General Leahy or do you take it to be something far harsher that involves people being put in stress positions, put under duress et cetera?

**Mr Pezzullo**—No, I accept that an interrogation involves duress.

**Senator CHRIS EVANS**—But you also accept that the Australian definition of interrogation does not do that.

**Senator Hill**—No, that is not the Australian definition.

**Lt Gen. Leahy**—That is not what the Australian doctrine would say either.

**Senator CHRIS EVANS**—Sorry, General Leahy, I thought you said ‘systematic extraction from the witness who may be willing or unwilling’.

**Lt Gen. Leahy**—That is correct. It does not say that there will not be some form of duress. Unwilling participant—there may be some form of duress in that. We will be vigorous in pursuit of information but people will be treated humanely in accordance with domestic and international law—

**Senator CHRIS EVANS**—Where is this coming from?

**Lt Gen. Leahy**—This is more information in the doctrine—

**Senator CHRIS EVANS**—This was not in the definition you gave us.

**Lt Gen. Leahy**—No. I gave you a one-sentence definition. There is amplification in our doctrine.

**Senator CHRIS EVANS**—I am not trying to be smart but I certainly got the impression from what you said that that was your definition of interrogation. It certainly did not convey the sorts of connotations that we are now getting.

**Lt Gen. Leahy**—You have read that into that. It is not the case.

**Senator CHRIS EVANS**—I think it is by omission, probably because we did not ask you the next question. I am not imputing bad motives, but certainly I was left with the impression that it was a much more benign environment than you are now suggesting might apply in interrogation.

**Lt Gen. Leahy**—There are many methods of interrogation. There are many what I would loosely call ploys or practices. Frankly, I would prefer not to talk about them in detail here because they are techniques that could be used at any time. But they are at all times in accordance with domestic law, with international law and with the Geneva convention.

**Senator CHRIS EVANS**—All right. But when you read me the definition of interrogation—I do not have the full phrase here—I think it involved systematic extraction of information from a willing or unwilling—

**Lt Gen. Leahy**—I will read it to you again.

**Senator CHRIS EVANS**—Please.

**Lt Gen. Leahy**—It reads:

The systematic extraction of information from an individual, either willing or unwilling.



**Senator CHRIS EVANS**—I took ‘willing or unwilling’ to refer to them being in the room, subject to the interrogation, rather than—

**Lt Gen. Leahy**—There will be many methods of getting information from people and, as I have said, they are and will always be in accordance with domestic and international law as well as in accordance with the Geneva conventions.

**Senator CHRIS EVANS**—So what do you consider to be acceptable practice for an interrogation, without going into all the detail? You say you accept some form of duress on the witness.

**Lt Gen. Leahy**—If I could give you some examples. Our people are taught on very sophisticated courses. These are highly qualified individuals who have become interrogators. And we have at the end of the table Brigadier Meekin, who was a previous commanding officer of the school and who taught some of these courses. But I would prefer to put it in terms of things that we prohibit. An example of the things that we prohibit is physical assault of any kind. We prohibit the use of sleep deprivation—a whole range of things like that. As I say, I would rather not talk about these issues, because these are things that could be put into practice in the field and talking about them may give aid to the enemy.

**Mr Pezzullo**—If I can assist the proceedings here, the particular types of techniques, tactics and procedures that I was interested in, because they went to my remit, were what involvement we had had in—or had knowledge of or association with—the practices, frankly, being employed by the United States. They were the principal detaining force. On the public record, so not going to any classified US documentation, US doctrine has been refined. You will find that the United States disclosed certain documents on 22 June that reflect the revisions to interrogation tactics, techniques and methods by Secretary Rumsfeld. They have got a whole suite of techniques that they have put on the public record which include things like sleep deprivation, dietary management, emotional stress created by physical positioning of the body et cetera.

Senator Evans, if I could just be really clear about this, this was the heart and soul of what I was looking for. If I had found any evidence of that—directly observed involvement in the development of American techniques in that regard—it would have been the centrepiece of my report. This was not an incidental matter for me; this was front and centre. When I put it to Mr Barton that these were the kinds of things that you would find in an interrogation, he and I had a very gentle exchange of views that, frankly, he has played out again in the media. I think he probably characterised my reply in more of a summary form than what I recall talking about. But the test for me, because I was very focused on this matter, was whether it would have required me to change my report. So I put the word ‘interview’ back to Mr Barton. I did not physically go out on the 18th, out to I believe it was his place of residence, but I very clearly instructed the staff member. With the experience and the distinguished record that Mr Barton had, I am sure he would have been forensic enough to make this distinction clear. I contended back to him that he had briefed me on an interview, that he had returned a questionnaire on 25 May to the effect that it was an interview, that I had heard him talk to me in terms of it being an interview and I was satisfied that it was an interview. His chance to correct my draft record occurred on 18 June.

**Senator CHRIS EVANS**—But this is an argument about semantics, isn't it? From what I have read of the rest of his interview on *Four Corners* he makes it plain he did not witness people pulling fingernails out et cetera, but he does not accept your distinction about the difference between an interrogation and an interview—and, quite frankly, the minister has managed to get it wrong and I would have got it wrong. People can make their own judgment about a semantic argument.

**Mr Pezzullo**—In fairness to Mr Barton—

**Senator CHRIS EVANS**—He does not make any claims that you would describe as an interrogation.

**Mr Pezzullo**—he contends—

**Senator CHRIS EVANS**—He says that somebody was brought in in an orange jumpsuit with a guard with a gun standing behind him.

**Mr Pezzullo**—He contended to me on 17 June and, by implication, still continues to hold this view that there is an interchangeability between the words. I disagree with him. I do not recall him telling me about an orange suit and an armed guard.

**Senator FAULKNER**—Are you saying now that he contended there was an interchangeability between the words?

**Mr Pezzullo**—On the 17th he—I will not say accused—was certainly of the view that it is a semantic position—

**Senator CHRIS EVANS**—Yes, he thought the minister was being bit cute.

**Mr Pezzullo**—to interchange. I believe that I was not hearing evidence of an interrogation process which involved methods of duress at all.

**Senator FAULKNER**—So we now know after literally hours of dealing with this that he is using the words interchangeably.

**Mr Pezzullo**—In his mind, he disagreed with the distinction.

**Senator FAULKNER**—It would have been useful to know that hours ago.

**Mr Smith**—We do not know that he is. We are just surmising.

**Senator FAULKNER**—We just told that to Mr Pezzullo, who has just told us.

**Mr Smith**—We are just surmising. That is a reasonable surmise about what happened. It may have been that at the time he felt they were interviews and he came later to think they were interrogations—I do not know.

**Senator FAULKNER**—That has just put a big hole through the minister.

**Mr Smith**—This is what an interrogation is. It is in this manual. It is a very meaningful distinction to people like Brigadier Meekin.

**Senator FAULKNER**—But this we now find out after literally hours.

**Mr Smith**—It was quite a long time ago that we pointed out that definition.

**Senator FAULKNER**—After hours discussing this, we find out he is using the terms interchangeably, so we have this whole edifice built on the semantic difference.

**Mr Smith**—I do not know that he is.

**Senator Hill**—If he was using the terms interchangeably, he would not be so upset with the statement that I made.

**Senator CHRIS EVANS**—He was upset I suspect and as he claimed because he thought you were creating a false impression. You were denying Australian involvement which he had given evidence of. That is why he was upset.

**Senator Hill**—If he saw no distinction then he would not be upset.

**Senator CHRIS EVANS**—I think he was upset, and he said he was upset, because he thought the tenor of your statement to the parliament was misleading about Australian involvement. That is what he said very clearly in his interview. He was upset because he thought you had not told the full story.

**Senator Hill**—It was not what he had said earlier but, by that time, he had been involved in an interrogation—apparently, his one interview in Iraq.

**Senator FAULKNER**—Apart from the fact that we now know that he uses the terminology interchangeably and thus what was an incredibly flimsy edifice of this defence comes crashing down, we also know from having seen a television interview with Mr Barton that he is also honest enough to accept that he did not get everything right and that he made mistakes himself. He interpreted things in certain ways that may not have been right. He is a person who, on the surface of it, is credibly saying, ‘I’ve made some mistakes.’ I give him credit for that. He is not Robinson Crusoe. Frankly, we all have. It is just unusual for some to admit it. We also know, thanks to your evidence, Mr Pezzullo, that he uses this terminology interchangeably. That is helpful to know. It would have been useful to know hours ago.

**Senator Hill**—He is a person who was clearly very unhappy with the way that the ISG developed its report, the arguments, the analysis and the conclusions for quite a long period of time, so much so that he stayed until the end of the drafting of that report but he nevertheless resigned early and complained of the process that he had been a part of.

**Senator FAULKNER**—We have not dealt with any of that but we certainly know he was very upset about certain rigging and rorting of this report through the teleconferencing.

**Senator Hill**—Fortunately, he decided to come back on board and clearly contributed to the development of the final report. It seems that he is happy with that outcome.

**Senator FAULKNER**—He is happy with it because the final report basically debunks the whole false premise and lie, on the basis of which the government that you are a senior member of, Senator Hill, went to war in relation to the issue of weapons of mass destruction.

**Senator Hill**—No, he did not say it was a lie. He said that he makes mistakes himself—

**Senator FAULKNER**—Yes.

**Senator Hill**—and in relation to his specialty, which I think is biological weapons, the inspectors made a major mistake. They believed that the weapons had been disposed of, and it was not until 1995 that they found out, in fact, that Saddam had kept that capability, referring back to an earlier period. So it was not an issue of a lie; it was an issue of working out what the facts were. He is happy now that he believes that the final report adequately reflects the

real situation. That is the advantage. If you had not have sent the ISG, you may never have found that out.

**Senator FAULKNER**—Have you yet acknowledged, by the way, that Saddam Hussein had no weapons of mass destruction? Have we finally got to that point?

**Senator Hill**—I think there is no doubt that at least most of his arsenal was destroyed in the early 1990s, yet he wished to send an ambiguous message to the international community—I think both to his neighbours and to the Americans—that left open a view that he may have retained such capability.

**Senator FAULKNER**—And no weapons of mass destruction programs, which were the weasel words that you and the Prime Minister used.

**Senator Hill**—I did not think that Mr Barton's summary of that part of the report reflected what I read. What I read is that the conclusion was that Saddam still maintained these aspirations and had the capability to redevelop the program at a later time.

**Senator FAULKNER**—And the attempt at certain agencies to bodgy up the work of the ISG—do you now accept that?—such as the teleconferencing issues that Mr Barton described in the *Four Corners* interview.

**Senator Hill**—No, I do not accept that. That was a debate about whether the report of about March was to be a comprehensive report or whether it was to be a status report. Mr Barton, who, as I understand it, produced the 200-page draft, clearly believed it should be comprehensive. There were clearly others within the process that were still unsure of the conclusions that were being drawn and believed it was premature to reach those conclusions, and they won out. Mr Barton was unhappy with that fact. So the process continued but it reached a final report late last year, which Mr Barton now apparently is happy with.

**Senator FAULKNER**—We will explore that in other fora. And, of course, that the government, of which you are a senior member, took Australia to war on a grotesque lie—do you now accept that?

**Senator Hill**—No way at all. You can only act on the information that is available at the time. We in the government believe that the proliferation of weapons of mass destruction, particularly in the hands of those who have demonstrated a willingness to use those weapons, is a very threatening thing. As it seems, the ambiguity that Saddam Hussein retained for his own purposes meant that the international community could not have confidence that the weapons of mass destruction had been destroyed and the programs ended. In the end, after 12 years of trying to gain that confidence through other than military means, a coalition of states within the international community was prepared to take that risk no longer.

**Senator FAULKNER**—This is what happens when agencies rig these sorts of reports.

**Senator Hill**—When what?

**Senator FAULKNER**—I said: when agencies rig reports.

**Mr Smith**—For my part, I was happy that Mr Barton went back and joined this team because I think he did contribute to the result that they produced. It was a commendable one.

**Senator FAULKNER**—Tell me, in your final report, Mr Pezzullo—

**Senator Hill**—I do not accept that agencies rig reports. What you are implying is that agencies, presumably of the United States, fabricated a position to lead to a certain political conclusion.

**Senator FAULKNER**—Senator Hill, you accept very little.

**Senator Hill**—That might be the position of the Australian Labor Party; it certainly was the position of your previous leader that you supported, but I do not accept it.

**Senator FAULKNER**—You accept very little. Mr Pezzullo, in your report did you include the matters that have been subject to communication from the Department of Defence to both the US ambassador in Australia and the deputy chief of mission?

**Mr Pezzullo**—Did I include in my report those matters that were the subject of those two pieces of correspondence?

**Senator FAULKNER**—Yes.

**Mr Pezzullo**—In the case of the second matter, the letter to the deputy chief of mission, my report technically was closed on the morning of the 17th so that was advice to government by way of formal ministerial advice. In the case of the matters raised by Mr Barton, his record had not been completed by 18 June—that is true. However, the group captain's—I am just trying to think this through with precision—emailed advice to the Strategic Operations Division was swept up in a document known as 'the matrix', which was a time plot of reports of knowledge of detainee matters. There would have been a relevant entry in relation to the group captain's information because that was a completed document.

**Senator Hill**—I do not think the matters were referred to the Americans. Can we check on that.

**Mr Pezzullo**—No, the minister is right. The reference that is in one of the supporting folders is to the group captain's recollection that certain matters were raised but not of a major nature at a meeting—and we have gone over this ground before—in March. In a sense, that return and Mr Barton's 25 May return was then overtaken by my reinterview of him.

**Senator FAULKNER**—You presented your report to CDF and Mr Smith, didn't you?

**Mr Pezzullo**—Yes.

**Senator FAULKNER**—To what extent did your report to CDF and the secretary deal with these matters that we have been canvassing today that are included in the various statements and records of interview from Mr Barton?

**Mr Pezzullo**—The Barton record was not completed until the 18th, so it would not have been referred to in my report to the secretary and the CDF. From memory, it was the subject of advice in the middle of that week. I would need to check the details because, even though the record was not completed, it was of concern to the secretary and the CDF that my account of it should be known to the government. That is the best as I recall the time sequence.

**Senator FAULKNER**—Was there any follow-up at all of Mr Barton's statements about prisoners who had facial injuries, which might be consistent with softening up and interrogation? Was that specifically followed through in any—

**Mr Pezzullo**—That is one of the matters encompassed in the secretary's letter.

**Senator FAULKNER**—When you say the secretary's letter you mean the secretary's letter to the US ambassador.

**Mr Pezzullo**—The secretary's letter to the ambassador of 29 June that has previously been discussed.

**Senator FAULKNER**—Apart from that, was there any other follow-up or is that the only follow-up that you can identify?

**Mr Pezzullo**—I think the secretary has spoken to the issue of US follow-up and US advice to Australian officials about their follow-up. I think the secretary put some evidence down earlier in the day about that.

**Senator FAULKNER**—Did you make a judgment that this was something, given the nature of your own inquiries and the obvious limitations that you had in terms of the number of personnel involved and so forth, beyond the capacity of any Australian authorities to progress more than effectively really noting the fact?

**Mr Pezzullo**—I guess that was a matter between the secretary and the minister. It was a matter of which authority was competent, I guess, to pursue it.

**Mr Smith**—It was beyond the jurisdiction of any Australian authority, which is why of course we referred it to the United States where, anyway, we knew investigations were going on.

**Mr Pezzullo**—I recall that the minister's guidance was to the effect, as the secretary indicated earlier, that, 'We need to get this to the Americans as it may be relevant to ongoing inquiries.' Remember that this was late June or early July and there were streams of American inquiries going on which are publicly known and which continue to this day, I think.

**Senator FAULKNER**—Given that effectively two separate matters have been forwarded to the Americans—and you have indicated to the committee how they are being dealt with—it is my impression that you feel there is no requirement for Defence to establish whether the American authorities have come to a conclusion in relation to those matters. Is that where that is likely to stay or, if at some point responses have not been communicated to Defence given the nature of your correspondence, are you intending to request of those American officials some detail about what the outcomes might be?

**Mr Smith**—I have thought about that and I am not going to. I think there was some investigation of the circumstances of Dr Azmirli's death and I cannot recall offhand what the outcome of that was. More broadly, I think that if Mr Barton had been saying to us, 'I saw this. I have direct evidence of it. I am aware of it first-hand,' then I would have said, 'I think we'd better go back to the Americans.' But that is not what he is saying. We have recorded him here saying, 'He was not directly aware of and did not observe any mistreatment of Iraqi PWs or civilian detainees.' Thinking about it and putting myself in the place of the American authorities—and I do not know if this was their position—my position might have been, 'If we are going to take action on this, we would need to have first-hand evidence.' This is helpful colour. It might corroborate things, but it is not first-hand. I think that is what Australian authorities would have said.

**Senator FAULKNER**—While we have not gone into the detail of the second communication in any way, shape or form, is your broad approach likely to be the same there or is that a matter pending further consideration?

**Mr Smith**—It is a different kind of issue. I am sorry to frustrate you on that matter, but it is the kind of issue I think that would have been cranked into the investigations that the US were doing.

**Senator FAULKNER**—So is follow-up there an open question or not a relevant question?

**Mr Smith**—How would you characterise it? I do not think it needs any follow-up. I do not think there is any more we can say. I am sure there is not. I do not think—let us go back to what I first said—that there is anything more we can say, and we know the outcome of the various inquiries that were pertinent to this.

**Senator FAULKNER**—Are you able to say whether agencies, investigators or the relevant authorities, to use the broadest possible terminology, have followed through with the officer from whom that information emanated—the matters that relate to it? Are you at least able to say that? Do you know that and, if you do know it, are you able to say?

**Senator Hill**—The US agencies?

**Senator FAULKNER**—Yes.

**Senator Hill**—We know that they went to the trouble of sending an investigator to interview Mr Barton.

**Senator FAULKNER**—That is right.

**Senator Hill**—So they were clearly pursuing the issue.

**Senator FAULKNER**—I understand that, and we have heard evidence to that effect. I am now asking if Mr Smith is aware, or someone is aware, whether there has been a similar process in relation to the second complainant or the second issue.

**Senator Hill**—I do not think we have had any communication on the second issue, but there may not be a need for them to have contact with any individual in order to pursue that matter.

**Mr Pezzullo**—Senator, I could assist. My recollection, although I will check with a relevant senior officer, is that on that matter it was acknowledged that it had been passed to an appropriately senior level of the US government. That is as I recall. And I think that might have been a telephonic acknowledgement within a matter of a couple of days. I am going off recall here; this is not a matter that I had prepared for prior to coming here.

**Senator CHRIS EVANS**—Before we break for dinner, can I just clarify for my own mind the sequence of events. Mr Pezzullo, Mr Barton was interviewed on 9 June—

**Mr Pezzullo**—He was reinterviewed.

**Senator CHRIS EVANS**—He was reinterviewed on 9 June, and obviously he provided new information, a take on things that was germane to your broader task. As we know, the department had found itself in a bit of a difficult position with some of the lawyers knowing a bit more than they had originally indicated they knew about things et cetera—I do not want to

go over that ground. So, that was the climate in which you were scrambling to work out exactly what everyone knew, to be able to front up to the parliament and the—

**Mr Pezzullo**—That was a pretty rigorous step-through process.

**Senator CHRIS EVANS**—Yes. There was a lot of pressure around that time. There were short deadlines.

**Mr Pezzullo**—Sure.

**Senator CHRIS EVANS**—The secretary and the minister both made it very clear they wanted a—

**Mr Pezzullo**—I just wanted to clarify ‘scramble’, that is all.

**Mr Smith**—A dignified scramble!

**Senator CHRIS EVANS**—A dignified scramble, working long hours, trying to get the information together. I think it is fair to say the department was under some pressure at the time about that. The minister was under some pressure at the time about just what the department knew, particularly in relation to Abu Ghraib. That was occurring. So the interview with Mr Barton was obviously quite an important event in that context. You did a draft of the interview on 9 June. You said earlier that it took till the 18th—

**Mr Pezzullo**—Sorry, Senator; I do not necessarily want to be held to that date. I remember starting to draft some notes on the 9th. I have a recollection of dictating some notes and them possibly being returned to me several days later. I was clearing lots of things, tasking and commissioning lots of things simultaneously.

**Senator CHRIS EVANS**—But you had a significant interview with Mr Barton and we hear now, I think you used the phrase ‘we missed each other a couple of times’, and you did not finalise it till the 18th.

**Mr Pezzullo**—I cannot remember the circumstances of that.

**Senator CHRIS EVANS**—So you are not saying anything about why it did not get signed until the 18th?

**Mr Pezzullo**—I would really have to go to a deeper level than these notes.

**Senator CHRIS EVANS**—There was some toing-and-froing, because Mr Barton wanted an amendment for a start.

**Mr Pezzullo**—I remember there were some days involved in tracking down some of the Australian officials who had been referred to. As I recall, the 11th was a target deadline to get the overall report to the secretary and CDF. There were a whole lot of processes at around the same time.

**Senator CHRIS EVANS**—You did not have the finalised record of interview that Mr Barton signed until 18 June but, clearly, this has been a relatively important event in your overall task—the information that Mr Barton came forward with. Is that fair?

**Mr Pezzullo**—Yes. I have acknowledged that.

**Senator CHRIS EVANS**—I am not trying to verbal you. If that is not right, tell me. You were trying to meet other deadlines, including, I would have thought importantly, that the



minister was going to make a statement. I do not know whether that was pre-announced. He went into the parliament on 16 June and then we had the Senate estimates scheduled to resit on 17 June, so there were deadlines approaching where fuller and more comprehensive explanations of what people in this other department knew had to be produced. I am trying to understand, given that the interview was not signed off on until the 18th as a final agreed version, what information you provided to the secretary and/or the minister between the 9th and the 16th and 17th about the Barton interview. Are you saying to us that you did not raise it with them until you had the final record of interview?

**Mr Pezzullo**—I do not know that that would be the case. You are going to some fine detail of the advisory process. I would want to check some records pretty thoroughly.

**Senator CHRIS EVANS**—Perhaps you can take that on notice.

**Mr Pezzullo**—It was not back of mind in my mind. I would acknowledge that.

**Senator CHRIS EVANS**—I have a fairly straightforward question: did you raise the question of the Barton interview with senior officers prior to the completion of the record of interview on 18 June?

**Mr Pezzullo**—Do you mean of the outcome of the Barton interview in a sense? What he had said, do you mean?

**Senator CHRIS EVANS**—Yes, the subject matter.

**Mr Pezzullo**—I would be surprised if I had not done that, but I would want to check that pretty carefully.

**Senator CHRIS EVANS**—That is why I was putting it. It seems to me it would have been a germane issue.

**Mr Pezzullo**—I think the fairest answer I could give, sight unseen at this time, would be that it would surprise me, looking back in retrospect, that I had not done that but, equally, I was pretty busy and the rest of it. I would want to check.

**Senator CHRIS EVANS**—Could you also check whether that question was the subject of a minute to the secretary—by that I mean some sort of formal advice to the secretary—or the minister about Mr Barton's interview or the concerns that he had raised.

**Mr Pezzullo**—I will check my notes and the record of what happened with my version—and I want to stress this in fairness to Mr Barton—of the account. I want to check what happened with that after it was initially raised. I do not want to go into specifics of minutes.

**Senator CHRIS EVANS**—We know what happened afterwards. It seems on that 17 June a lot happened. It seems we had Mr Barton ring in upset about the minister's statement. We had the second case brought to your attention and, perhaps not as important as others, we had Senate estimates in the afternoon and the further examination of what the department knew about Abu Ghraib. The issue of Mr Barton had come to light before but, on 17 June, the second issue also came to light.

**Mr Pezzullo**—Yes.

**Senator CHRIS EVANS**—We understand why Mr Barton contacted the department on the 17th. You are not aware of what the trigger was for the other officer to raise his concerns on 17 June?

**Mr Pezzullo**—We have covered that somewhat in the evidence earlier. It is difficult to position oneself in the officer's mind. It was described to the senior colleague initially by the officer as something that had been playing on his mind and he felt it appropriate to disclose this prior to the minister and senior officers going forward to meet the Senate in committee that afternoon. It was more an issue around full disclosure prior to this kind of process. That is as I best recall the officer's commentary. What motivated him behind that commentary and why he had not come forward earlier, I would not want to speak to.

**Senator CHRIS EVANS**—I wonder whether the department have anything else they want to table before we break for dinner. I thought I saw one of the officers bring forward something we were waiting for. Is that right?

**Mr Pezzullo**—There is some documentation I would not mind looking at during dinner.

**Senator Hill**—With regard to the rest of the Defence officials, what do we say to them?

**CHAIR**—The program will proceed as planned after dinner, so we will expect the other officers of your department back here. Will there be some other questions on overview?

**Senator CHRIS EVANS**—Clearly, we are waiting on some answers and documents, so that might take a bit of time, but I do not think it will take long.

**Proceedings suspended from 6.31 p.m. to 7.34 p.m.**

**Senator Hill**—The Labor Party have given a list of subject matters that they want to pursue. We would propose to let officials go who are not involved in those subject matters.

**CHAIR**—I think that is a good idea, Minister. I have spoken to Senator Bishop. He is going to be asking questions on matters that are unrelated to the area that we are about to complete. He will give some advice shortly on that. He understands that it would be a good idea to be able to release officials who are not going to be questioned this evening.

**Senator MARK BISHOP**—I have one other issue that I want to raise, and it might assist if we deal with that straight after we complete this area. I refer to the Carnell report. I flagged with Senator Hill that I had some follow-up questions on the DIO intelligence link to East Timor.

**Senator Hill**—That is Mr Smith, isn't it?

**Senator MARK BISHOP**—Yes.

**Senator Hill**—He has to stay anyway. We will ask Mr Bonington to stay as well.

**CHAIR**—We will try to complete the Barton matter and then move on to that matter. Mr Pezzullo, did you want to add something?

**Mr Pezzullo**—Yes, Chair. I was asked prior to the dinner break about the issue of non-ongoing employees and their contractual arrangements. I will table the details of this; I will not read out every single position number. There were three non-ongoing employees other than Mr Rod Barton who were contracted to Defence to work with the Iraq Survey Group.

Their names are withheld on the document that I am about to table, for reasons of privacy. However, their duty statements were as shown in the document—and I have position numbers and duty statements listed on a single sheet of paper. Chair, may I table that document?

**CHAIR**—Yes, thank you.

**Senator Hill**—I will make an attempt to abbreviate the process. In two of the three instances, included within their duty statements was the possibility of being involved in processes of interview of detainees. Having said that, we do not believe that any of the three were involved in any interview. The first person was a subject matter expert, and he would have been the most likely. His return to Mr Pezzullo did not indicate involvement in any interviews. The second and third persons were involved in site exploitation. Logically, we do not believe that they would. Brigadier Meekin knows of the circumstances of one of them quite well and is also confident that that one had not been involved. So without being absolutely certain, we do not think any of the three were involved in an interview process of a detainee.

**Senator FAULKNER**—Let us go through that.

**Senator Hill**—Okay, I was just trying to help.

**Senator FAULKNER**—I do not think that necessarily helps, but thank you if you were trying to help. You would be able to confirm this for me, please, Mr Pezzullo: we can confirm that bullet point 3 of Mr Rod Barton's duty statement was 'to direct, plan and assist where appropriate the interviewing of scientific and high-value Iraqi personnel'.

**Mr Pezzullo**—Yes, Senator.

**Senator FAULKNER**—We know separately to that now that a second Australian on the Iraq Survey Group, identified not by name but by position number—No. 496736—had, as dot point 5 of their seven-point duty statement, the same: to 'direct, plan and assist where appropriate in the interviewing of scientific and high-value Iraqi personnel'.

**Mr Pezzullo**—Yes, I confirm that, Senator.

**Senator FAULKNER**—We know that, apart from Mr Barton and that other Australian, there is a third Australian, identified only by position number—No. 492785—whose duty statement, in bullet point 3, states 'assist in the interviewing of scientific and high-value Iraqi personnel'.

**Mr Pezzullo**—I confirm that, Senator.

**Senator FAULKNER**—So there are three Australians who have this duty specifically identified in their duty statement. When were these duty statements finalised?

**Mr Pezzullo**—I would have to check with the relevant division, namely, the International Policy Division. I would need to check the date of the engagement in each and every case because they were appended to the employment contract.

**Senator FAULKNER**—We know in the case of Mr Barton that it coincided with the first rotation?

**Mr Pezzullo**—No, in the case of Mr Barton it was—

**Senator FAULKNER**—The second rotation?

**Mr Pezzullo**—during the second rotation, and the contract is 8 December, from memory.

**Senator FAULKNER**—Do we know in relation to the other two, who have this identified duty in their duty statement, whether they were first, second or third rotation?

**Mr Pezzullo**—I might call on Brigadier Meekin to assist me with this. I do not have the deployment dates as cross-referenced to—

**Senator FAULKNER**—I am not going specifically to the dates; I was speaking broadly. That is why I have tried to leave it to rotations, if that is possible.

**Mr Pezzullo**—I might ask Brigadier Meekin to recall, based on his more detailed tactical knowledge, at least in rotational number terms, which rotation or rotations each of the positions relates to.

**Brig. Meekin**—The three individuals who filled those positions identified on the statement did not deploy at the same time as the contingent, so they overlapped. The person who filled the first duty statement deployed at about the same time as Rod Barton, and he deployed once only to Iraq. So he was there during the life of the second contingent. The second person and the third person both deployed during the life of the first contingent and completed their contract during the life of the second contingent.

**Senator FAULKNER**—Thank you for that information. I want to be clear in relation to the third person that you refer to, which is the third person on this sheet of paper. I note, in relation to that third individual, identified here as position No. 492788, that that Australian does not have a duty statement that goes to any capacity to direct, plan or assist with interviewing. That is correct, isn't it, Mr Pezzullo?

**Mr Pezzullo**—That is correct, and I make the assumption that that relates to the skill set.

**Senator FAULKNER**—I am not making any assumptions, but I appreciate that that sounds logical. So we have Mr Barton; we have another two. Can you, Mr Pezzullo, the brigadier or one of our other expert witnesses explain very briefly to the committee why Mr Barton and one of these other additional two Australians have a capacity to direct, plan and assist interviewing, whereas the third person is only authorised in the duty statement to assist in interviewing.

**Mr Pezzullo**—I might answer generally and then ask Brigadier Meekin to respond. When I looked at this question, it related to their seniority—their depth of experience and their knowledge of the target set of information that the ISG was after. That is to say, Barton plus the more senior officer there who were given responsibilities to direct, plan and assist. You ask why the other is differentiated by only assisting. I might get Brigadier Meekin to speak to that differentiation.

**Brig. Meekin**—To elaborate, the first position on the duty statement here was filled by a quite senior person with extensive experience working in international organisations. He would probably have been the equivalent of a first assistant secretary or an assistant secretary. The person who occupied the middle position, the second on the list you have before you, had retired from the Army as a major and had worked for Mr Butler in the UN special commission.

**Senator FAULKNER**—I think you have just indicated it is primarily a seniority issue—experience and seniority?

**Mr Pezzullo**—Yes.

**Senator FAULKNER**—That, again, is logical and stands to reason. Given that the three people I am referring to—Mr Barton and the two who have mention in their duty statements of the capacity, at a minimum, to interview scientific and high-value Iraqi personnel—are involved to some extent in the first and second rotations, can I ask you a question, Senator Hill. Given that there are now three specific duty statements that go to the issue of interviewing, do you stand by your statement that you were not aware of these elements of these Australians' duty statements that go to interviewing of scientific and high-value Iraqi personnel until very recently—literally a matter of days? This is not one person anymore.

**Senator Hill**—I am not sure whether it is a trick question but I do not recall ever seeing the duty statements of the individuals. I am not sure why I would.

**Senator FAULKNER**—You are the person who has been making the grand public statements about the interviewing of Iraqi detainees. What I want to know now is when you became aware that at least three Australians specifically had that responsibility mentioned in their duty statements.

**Senator Hill**—With respect to the duty statement that we were talking about this morning, I saw it in the last few days—the contract. In relation to these duty statements, the three that we are now talking about, I do not think I have ever seen those contracts. All I have seen is the document that Senator Faulkner has that I saw for the first time half an hour or so ago. Perhaps I should ask Mr Pezzullo whether I was ever forwarded any of this material.

**Mr Pezzullo**—Minister, as someone who has read, or in some cases created, just about every min sub on this topic in the last 18 months, that is certainly consistent with my recollection of every one of those pieces of advice.

**Senator FAULKNER**—With respect to those three non-ongoing employees—three public servants—out of how many were they in that total category in Iraq? There would not have been that many, because I think a lot of the people who were working with the ISG were on secondment from DIO, weren't they—a lot of the Australians working for the ISG?

**Brig. Meekin**—A lot of the Australians were seconded from DIO but not all. There were officers and enlisted men and women who came from other parts of the Army.

**Senator FAULKNER**—I appreciate that. A lot were seconded from DIO. There were officers and civilians working in Defence. I appreciate that. How many non-ongoing employees of Defence were there at the ISG?

**Mr Pezzullo**—The management relationship with the non-ongoing employees was with the International Policy Division. I am advised by that division, who have researched it in relation to the question I took on notice, that, of the three contingents, there were four non-ongoing employees in total—Mr Barton being one—plus the three who are described, although not named, in the document you have before you. That gives a total of four.

**Senator FAULKNER**—I assumed that was the sum total—the three that you have identified as a result of taking the question on notice and Mr Barton.

**Mr Pezzullo**—If that needs to be corrected, the relevant division will no doubt advise me.

**Senator FAULKNER**—That means that three out of four of the non-ongoing employees have a responsibility in relation to the interviewing of scientific and high-value Iraqi personnel in their duty statements.

**Mr Pezzullo**—That is the burden of my evidence.

**Senator FAULKNER**—That's right.

**Senator Hill**—I knew that we had two contracted, because they were very senior persons. One was a biological weapons expert we have been talking about today and one was a chemical weapons experts. Because we had been asked to put them on contract—maybe by the Americans or it might have been by Kay or Duelfer direct—I knew that there were two. I believe both of them had previously been employed by the Australian government. I do not think I knew of the other two and I do not really see any reason why I would have. I do not think in any instance I saw their duty statements because I would not have been involved in their contract.

**Senator FAULKNER**—That does not wash with me, because these people are public servants and I am assuming—but I do not want to assume anything; let us find out—that the duty statement is drafted in your own department. If that is not the case, let us find out where the duty statements for these four non-ongoing public servants were drafted.

**Senator Hill**—I assume they were drafted in the Department of Defence.

**Senator FAULKNER**—I assume that too, but let you and I not make an assumption.

**Senator Hill**—But I do not—

**Senator FAULKNER**—You are the one who is out there time and time again saying you do not know—

**Senator Hill**—Senator Faulkner, you will see from the annual report that—

**Senator FAULKNER**—and saying that Australia is not involved in interviewing or interrogating prisoners. But now we know that three non-ongoing employees have that responsibility.

**Senator Hill**—the Department of Defence contracts hundreds, if not thousands, of individual contractors a year, and I do not see any of those contracts. Why would I see those contracts?

**Senator FAULKNER**—I am asking now, Senator Hill, where the duty statements were drafted.

**Mr Pezzullo**—I can respond to that question. I have just consulted with the two senior officers of the department between whose groups the matter was managed. Officers of the International Policy Division of Strategy Group managed the employment relationship. Like any other public servant, under the Public Service Act ultimately they are employed by the secretary of the department and then he has delegates all through the department who engage persons on either permanent appointment or contract as the case may be. In the case of non-ongoing employees—and I am sure an executive from the personnel area will correct me the moment I make a mistake here—for the non-ongoing employees who are assigned particular

missions for particular times or who fill particular gaps for a particular period of time there is a form contract that no doubt can be modified by a delegate with the authorised power from the secretary. It is part of that employment relationship so that you can address performance management and remuneration issues and make sure people actually do the work they are contracted or obligated to do. There is a standard process of drafting a duty statement, which normally has to be signed off by an officer more senior than the appointed person. So an EL2's duty statement would be addressed by a branch head, and so on and so forth.

**Senator FAULKNER**—So were they drafted in the Department of Defence, Mr Pezzullo?

**Mr Pezzullo**—I have just described the process. The short answer is that the International Policy Division is a part of the Department of Defence.

**Senator FAULKNER**—Thank you. So they were drafted in the Department of Defence and they were drafted there somewhere around the time of the first and second rotations.

**Mr Pezzullo**—That would be consistent with Brigadier—

**Senator FAULKNER**—I am not asking for specific dates—I could; you could take that on notice—but we know the broad parameters of this.

**Mr Pezzullo**—That would be consistent with Brigadier Meekin's evidence about the time they deployed. I need to make the assumption that they are not retrospective contracts, and I doubt that they would be, because that would not be a proper administrative procedure.

**Senator FAULKNER**—So here are three out of four non-ongoing public servants in defence who have specific responsibilities in their duty statements about the interviewing of scientific and high-value Iraqi personnel, drafted and agreed at the time of the first and second rotations to Iraq and, Senator Hill, you are still maintaining that you do not know anything about that.

**Senator Hill**—It seems that one was involved in one interview.

**Senator FAULKNER**—We know that Mr Barton was involved in one interview, and again we are jumping to a courageous assumption that the others were not involved in interviews. But the point I am raising with you, Senator Hill, is the authority they had to conduct those interviews whether or not they were actually involved in it. They could have, it was in their duty statement.

**Senator Hill**—That is correct.

**Senator FAULKNER**—These are three public servants out of four in that category who had that responsibility clearly identified in their duty statement at a time when you were waxing lyrical about the fact that Australians were not involved in this sort of activity.

**Senator Hill**—Australians were not permitted to conduct or be involved in interrogations.

**Senator FAULKNER**—How do you respond to the fact that apparently you have had no knowledge that this responsibility is one of a limited number? In the case of one of these Australian officials, it is one responsibility out of seven identified; in the case of another it is one responsibility or duty out of five identified duties. Obviously, in the case of Mr Barton, it is one out of I do not know how many, I only know that it is the third responsibility. Perhaps Mr Pezzullo would be able to tell us that about his duty statement, I do not know. But I

imagine it is not a huge number. In relation to Mr Barton, how many duties did he have identified on his duty statement? The third one is in relation to interviewing scientific and high-value Iraqi personnel.

**Mr Pezzullo**—I have the three in front of me that you have. Looking at Mr Barton's one of several hours ago, at the moment I will say that it seems to run down the same seven points.

**Senator FAULKNER**—The duties, in other words, appear to be limited in the case of two of these officials, one of whom is Mr Barton, to one responsibility out of seven listed and, in the case of another official, one out of five listed.

**Senator Hill**—If I were drawing the contract I would include in the duty statements tasks that they might have to do. It does not mean that they will necessarily do them, or that it will be any set percentage of their work. It is interesting that, in the case of Mr Barton, I think he actually refers to himself as a strategic adviser. Clearly, his work principally concerned the development of the report, taking into account his specialty in relation to biological weapons. It is therefore not surprising that it was only on one occasion that he was involved in an interview. It would not have been surprising if it was on no occasion.

**Senator FAULKNER**—But the point is, it was completely anticipated.

**Senator Hill**—What tends to support what I am saying is that in the case of the other two who had that capability in their duty statement, it seems that on neither occasion were they involved in an interview.

**Senator FAULKNER**—It was anticipated, authorised and allowed.

**Senator Hill**—I must say I am having a lot of trouble understanding the point that Senator Faulkner is attempting to make.

**Senator FAULKNER**—I am saying to you that these interviews in relation to three of these four personnel, this capacity to interview scientific and high-value Iraqi personnel, was anticipated, authorised, drafted and proposed by your own department, even though you spent a hell of a lot of time running around saying that you knew nothing about it.

There has been a suggestion that Mr Barton was in some way involved—perhaps Mr Pezzullo is in the best position to answer this—in reorganising the way that some of the interrogators or interviewers did their work. Is that right? Can someone confirm that?

**Senator Hill**—I have not heard of that. I do not know where that has come from. Brigadier Meekin would be the best one to—

**Mr Pezzullo**—I am sorry, Senator—

**Senator FAULKNER**—I asked if it was true that Mr Barton had been responsible for reorganising the way that some of these interviews were conducted or the interviewers went about their responsibilities. Are we aware of that?

**Mr Pezzullo**—I will defer to Brigadier Meekin on any tactical knowledge he might have of that. There was no evidence that came forward, either in Mr Barton's survey return, which has been tabled, or in the reinterview that I did with him, to suggest that either way. He stated that he had conducted an interview, and also from his return you might see he conducted a



familiarisation visit to the relevant facility as part of his general leadership duties in the ISG. But perhaps Brigadier Meekin can address himself to your question.

**Brig. Meekin**—Senator, you might recall that Mr Barton, when he arrived in Iraq, arrived at a time when Dr Kay had effectively resigned. He was not returning to Iraq. His successor, Mr Charles Duelfer, had not yet arrived in Iraq. Mr Barton's extensive experience, along with a number of other senior officials from the United Kingdom and the United States, was called upon and effectively—in a collegial manner, I understand; I was not there at the time—they were called upon to set the direction of some of the ISG work. In that context Mr Barton would, along with other senior officials from the three countries, have determined some strategies—for example, perhaps, 'This week we need to do more interviewing of former senior figures in the BW program'—the biological warfare program. Therefore, the focus of that week's debriefing and interviewing activity was figures in the BW program as opposed to the chemical warfare or nuclear programs. That is not an exact example, but that would be indicative of the sorts of things he might have done in filling that void between the two senior representatives from the United States who led that part of the ISG.

**Senator FAULKNER**—So he had a leadership role in the interview/interrogation process.

**Brig. Meekin**—He filled a void. He was part of a collegial group that probably would have determined strategies for the interviewing of high-value detainees. I am surmising this. I was not there at the time, Senator.

**Senator FAULKNER**—No, but I appreciate your frankness. It seems to me to lend support to the authority of his concerns about the way these interviews were conducted.

**Senator Hill**—No, it does not at all—

**Senator FAULKNER**—I think it does. If he had that level of responsibility.

**Senator Hill**—It does not do that at all.

**Senator FAULKNER**—It does not suit you.

**Senator Hill**—Yes, but you just invent these things.

**Senator FAULKNER**—I am not inventing; I am asking what the role of Mr Barton was, and we just heard.

**Senator Hill**—We know that some time during the operation of the Iraq Survey Group they decided to place more emphasis on interviews and less emphasis on site exploitation. It might have been that Mr Barton was involved in that decision, I do not know. But it is hardly relevant to the issue that is before this committee.

**Senator FAULKNER**—What is the official name of Camp Cropper, Senator Hill?

**Senator Hill**—I have always known it as Camp Cropper. Brigadier?

**Brig. Meekin**—Senator, I have only ever known it as Camp Cropper.

**Senator Hill**—What is the official name?

**Senator FAULKNER**—I am asking.

**Brig. Meekin**—Camp Cropper might well be the official name. There are a number of facilities in the area of Camp Cropper that are named for US servicemen that were killed

during the conflict, and it might be that someone of the surname of Cropper was killed during the conflict. I do not know.

**Senator FAULKNER**—Is there any facility there that includes in its name or title ‘interrogation centre’?

**Mr Pezzullo**—As in my evidence earlier—I would want to check the geography of it, but I am pretty sure—the JIDC, the joint interrogation and debriefing centre, is within the confines of Camp Cropper.

**Senator FAULKNER**—Is that the only facility?

**Mr Pezzullo**—Within Camp Cropper? I have never been there. I assume it is larger than that.

**Senator FAULKNER**—No, the only facility there at Camp Cropper or in its environs that uses that terminology ‘interrogation centre’.

**Mr Pezzullo**—I am not familiar with anything other than the ISG JIDC.

**Brig. Meekin**—Could I go back to my earlier points from today. In Iraq there are a number of JIDCs, joint interrogation and debriefing centres. We have first-hand knowledge that there was one that was part of the Iraq Survey Group. It was assigned to the Iraq Survey Group and it was located at Camp Cropper. As to other units at Camp Cropper, certainly there would have been units providing security and housekeeping services. As to other activities, I have no knowledge.

**Senator FAULKNER**—Does the interviewing facility at Camp Cropper have a specific name or is that the name that Mr Pezzullo refers to?

**Mr Pezzullo**—My understanding is, as was described to me, that persons being interviewed are interviewed in a building either in the JIDC, next to the JIDC or close to the JIDC.

**Senator FAULKNER**—What is that called?

**Mr Pezzullo**—A building. I do not know.

**Senator FAULKNER**—It would not be called a building, I would not think; it would have a name.

**Mr Pezzullo**—I do not know. I did not research it to that depth. Sorry, Senator, you are right. But it might be called building A, B or C. I just do not know.

**Senator FAULKNER**—Or it might be called some sort of interrogation centre too, mightn’t it?

**Senator Hill**—Ask the brigadier.

**Senator FAULKNER**—I have. I am asking the witnesses.

**Brig. Meekin**—The location was known as Camp Cropper, for the larger facility, if you like. The unit there was the JIDC. If someone in the ISG was going out to Camp Cropper, they would say, ‘I’m going to Camp Cropper to conduct an interview,’ or, ‘I’m going to the JIDC.’

**Senator CHRIS EVANS**—Before the break, Mr Pezzullo, I asked you whether you could confirm what you did after the interview with Mr Barton on the 9th in terms of reporting the serious issues that he raised before you had the formal record of interview confirmed on the 18th. I just wondered whether you had anything further you could give us on that. You said you would have to check your notes. You may not have had time to do that in that very short period, but I am keen to get a sense of what you did when you became aware of this information—who you reported it to.

**Mr Pezzullo**—In the short time that I have had available, without having access to the electronic systems back at work, this is as best as I can reconstruct. As you know the interview occurred on the 9th, which I think was a Wednesday. I either dictated or drafted out in longhand the record of the interview. I believe that occurred on or about the 11th, which would have been a Friday. On or about the 12th or the 13th—probably the 13th; I will need to check the database—I would have circulated a draft record within defence.

**Senator CHRIS EVANS**—Who would you have circulated that to?

**Mr Pezzullo**—To very senior officers, reporting some new facts. We went over this evidence before the break so I will not go back into labyrinthine detail on it. As I had taken the record—and I acknowledge that Mr Barton had not contributed his views and moniker to it—most of it tallied with the return of 25 May. Then there was this new element that I went through prior to the dinner break about a sense of concern that Mr Barton now had, having read the US media report that I described earlier. That would have been circulated on or about—I am having a stab here, which I will correct, of course, in the appropriate manner if necessary—the 13th.

**Senator CHRIS EVANS**—About the 13th you circulated a draft of the interview—in what sort of format? You made it clear that Mr Barton had not signed off on it but it included his concerns, which he had raised with you. Obviously, it was not a draft for comment or for people to amend. It was more an email to alert them to the issues, I presume.

**Mr Pezzullo**—I will not go into the detail of our security systems. I have alluded to this as far as I wish to on the open record, but some of the elements Mr Barton characterised about the deceased person were intelligence-led information, and I go back to my evidence of several hours ago. I put it on the appropriate system. We have differing levels of information systems within Defence. I circulated it essentially, as I recall, as a Word document that you open when you get your email.

**Senator CHRIS EVANS**—Effectively, it was a summary rather than—

**Mr Pezzullo**—In effect, a note for file. I constructed it as a note for file, making clear in the covering sheet that Mr Barton's views had not yet been sought.

**Senator CHRIS EVANS**—You were drawing other officers' attention to what you thought was information that they ought to be alerted to. Is that a fair assessment?

**Mr Pezzullo**—Yes.

**Senator CHRIS EVANS**—That was circulated on or around the 13th, and you will get back to us if that is not right. In general terms, whom did that go to, in general terms? I do not want a whole list.

**Mr Pezzullo**—A range of senior officers.

**Senator CHRIS EVANS**—Given that you were reporting directly to the chief and the secretary on these matters, I presume that both of them would have received it.

**Mr Pezzullo**—I would want to check that too before I gave you an emphatic answer on that.

**Mr Smith**—I would not presume that I had been sent a draft. I do not recall it, but we will check it.

**Senator CHRIS EVANS**—I am not trying to verbal anyone. I know that Mr Pezzullo was working directly to your instructions. You had tasked him and were taking the issue very seriously. This is a development in that task. I accept that he would not normally necessarily send you everything he was alerted to in terms of intelligence and stuff that came to his attention but, given the context, I would suspect that you were keen to be told what was going on and a little annoyed that you had not been told about some of the other things, and Mr Pezzullo, being diligent, would have brought it to your attention.

**Mr Smith**—Certainly he was.

**Senator CHRIS EVANS**—You can confirm that for us.

**Mr Pezzullo**—Balanced against that I was conscious that both the chief and the secretary had day jobs as well. I do not know how I came down on the balance; I will have to check.

**Senator CHRIS EVANS**—Perhaps you can take that on notice for us. It went to senior officers and you will get back to us as to whether it went to the chief and the secretary. Otherwise it was people in the senior leadership of the defence department.

**Mr Pezzullo**—Senior relevant officers.

**Senator CHRIS EVANS**—What else did you do apart from that to bring it to people's attention?

**Mr Pezzullo**—As best as I have been able to check, not having access to my work diary but having access to my notebook, Monday the 14th was a public holiday. I remember giving the team a bit of a stand down. I do not think that at times they appreciate it quite in those terms. We regathered on the 15th. I think the parliament would have reconvened on the 15th. At that stage the report as such had been lodged and, as supplementary information came to light—and I have given you an example of that in earlier evidence—formal advice would have thereafter been submitted in the appropriate manner. You ask me: what did I do? I remember working. The minister has described this in his evidence of 17 June. The minister obviously did what he did with the report: he received it and absorbed it.

I remember being tasked by the minister's office—and we went through this last year—to prepare some supplementary material, at least in a draft, to assist the minister's deliberation of how he was going to report to parliament. Then, over the period of the 15th and the 16th, I would have assisted minister or his office with checking of facts and clearance of documents. I think that is right, Senator.

**Senator CHRIS EVANS**—Was the information regarding Mr Barton and his interview included in the draft that went to the minister?

**Mr Pezzullo**—No, it was not in the report that I lodged over the period of 11 June, and a couple of the folders went up on 13 June —the Friday and the Sunday. Are you asking me about the draft ‘Pezzullo version’ of the Barton—

**Senator CHRIS EVANS**—No, I am asking you about the subject information. Were the issues that Mr Barton had raised with you contained in the brief?

**Mr Pezzullo**—Yes, in one of the supplementary folders. A number of the matters that have been discussed today appeared in one of the supplementary folders.

**Senator CHRIS EVANS**—Do you know on what date that was forwarded or completed?

**Mr Pezzullo**—The folder I have just referred to?

**Senator CHRIS EVANS**—Yes.

**Mr Pezzullo**—Again, the admin staff will check this if I am wrong—I suspect it was 13 June. It may have been the public holiday, but I do not think so. Anyway, it was around that time. I am sorry; I am a bit hazy and I do not have access to the full working file.

**Senator CHRIS EVANS**—I appreciate that your plea to the internal communications system over the television has now resulted in somebody in your office scurrying around trying to check that. That is the advantage of going live.

**Senator Hill**—One of the drafts made as part of a very large document made reference to some of Barton’s concerns, but I do not think it included the more serious matter that was subsequently referred to the Americans. I think there was reference to his concern about the detention conditions—he said that himself in the interview, but it is consistent with one of the ICRC inspections—a concern about small spaces and that sort of thing. I believe there was reference to the photographs of two detainees who appeared to have been injured but with the explanation that he had been told that they were injured at the time of apprehension.

**Senator CHRIS EVANS**—Can I take you through that, to be clear. Are you saying that you remember that or have you refreshed your memory by looking at the file in recent days?

**Senator Hill**—My memory is not that good. I have refreshed my memory.

**Senator CHRIS EVANS**—I thought it was better than your normal memory. I do not say that yours is any worse than mine.

**Senator Hill**—One of the strengths of Mr Pezzullo is that he provides a great deal of detail and is very thorough, and that is a good thing. That is, as you have said, why the secretary wanted him to do this job.

**Senator CHRIS EVANS**—So you would be able to tell us on what date you received the supplementary folder report from Mr Pezzullo which alerted you to the Barton concerns?

**Senator Hill**—I would need to check that, but I suspect it was around the 14th.

**Mr Pezzullo**—The 14th would have been the latest. To be absolutely clear: we tried to get the bulk of the report up on the 11th. The secretary and the CDF signed a covering ministerial advice on the 11th and we worked pretty flat chat to make sure that all the supplementary documents were appended. I remember—I would have a log of it somewhere—indicating apologetically to the Chief of Staff that a couple of the folders might come up over the

weekend because the team was pretty flogged. So I would say it was on the 14th at the latest but probably the 13th—around that time, in any event.

**Senator Hill**—Without refreshing my memory I did not recall that. I did recall the issue that was subsequently brought to the attention of the Americans, which, although Mr Barton did not have first-hand knowledge of it, was quite a dramatic story. I think what he had was in the public arena at about the same time; nevertheless, when it first came to my attention, I thought it was quite dramatic.

**Senator CHRIS EVANS**—You, it seems, then got the report from Mr Pezzullo—the supplementary folder, as he refers to it—which includes reference to the concerns that Mr Barton had raised with Mr Pezzullo on the 9th, and you were made aware of it then. You have had a chance now to refresh your memory by looking at the files around this period. But you confirm that on the 14th you were presented with that information. I was not sure what you were saying then about your reaction to it. I got the sense you were thinking out loud about it. I wanted to be clear about what you were saying.

**Senator Hill**—I said that, without refreshing my memory, I did not recall reference to the matters that were contained therein; that it was just talked about. Without refreshing my memory, I did recall the issue that was subsequently referred to the United States. I remember that because it was the subject of a separate brief and it was also quite dramatic, even though it was not first-hand knowledge. But I do not believe that was included in the document that Mr Pezzullo is referring to.

**Senator CHRIS EVANS**—Can I be clear on this, because of your choice of words: are you saying that you know that that matter was not in the brief provided on the 14th?

**Senator Hill**—After refreshing my memory I could not find it, so I do not think—

**Mr Pezzullo**—I can speak about that, Senator, because in preparing for this hearing I have checked some of the key pieces of ministerial advice. I was hazy on my own personal movements and when I sent an email. In terms of the supplementary folder, it covered the ground as described by the minister. As to the new elements which, to use the minister's words, were dramatic but without necessarily reflecting first-hand knowledge and based on a concern arising out of an *LA Times* media article, we have checked the ministerial database, the tracking system that advises us when these things go to the minister. The advice was signed on the 16th but to be very precise about it, it is registered as having arrived in the minister's office at 9.30 a.m. on the 17th.

**Senator CHRIS EVANS**—So on the 16th you provided a separate piece of advice to the minister?

**Mr Pezzullo**—I did not sign that submission but I supported the relevant senior officer who did.

**Senator CHRIS EVANS**—Who signed off on that bit of advice?

**Mr Pezzullo**—A deputy secretary of the department.

**Senator CHRIS EVANS**—Who?

**Mr Pezzullo**—The deputy secretary for intelligence.

**Senator CHRIS EVANS**—Is that Mr Bonighton?

**Mr Pezzullo**—Yes.

**Senator CHRIS EVANS**—Mr Bonighton signed off on a piece of advice to the minister on 16 June which, in the minister's characterisation, contained the more explosive—or I am happy to use whatever phrase you prefer—

**Senator Hill**—Even though it was sourced from the *LA Times* it was nevertheless dramatic subject matter.

**Senator CHRIS EVANS**—The more dramatic material—is that a fair description?

**Senator Hill**—Yes.

**Mr Pezzullo**—It was a new element of, if you like, the burden of the Barton evidence.

**Senator CHRIS EVANS**—So on the 16th, Mr Bonighton, the deputy secretary for intelligence, sent advice to the minister which your records show he received on the morning—I think you said 9.30—of the 17th, with this new element on the matter. Could I go back a step, to understand what happened between the 14th, when you provided advice that did not include that material—according to the minister's evidence—and the 16th, when that material was included in the advice that Mr Bonighton sent.

**Mr Pezzullo**—That is one of the matters that I would need to re-examine in terms of looking at emails and talking to people to try to reconstruct that as best I can. My principal focus on the 14th, 15th, and the morning of the 16th was supporting the minister's office by responding to their queries in relation to materials that they were putting together for the parliament.

**Senator CHRIS EVANS**—I understand that—I am the first to concede that the pressure was on—but you can see how, from my point of view, I do not quite get it. You met with Mr Barton on the 9th. He and you discussed his concerns. You treated them seriously: the subject of a draft which you sent around senior officers on the 13th. On the 14th, you provided that information to the minister as part of his brief on Abu Ghraib and related matters for appearance before the parliament and the Senate estimates committee.

**Mr Pezzullo**—I want to be very precise; I do not want to have that mischaracterised. What the minister referred to earlier as being his recall of what was in the supplementary folder would have been drawn from documents that existed from late May. We know that Mr Barton put a return in in May and we know that the group captain put in a return relevant to Mr Barton's recollections in May. What was not formally submitted as advice, in part, as I recall it, and I have referred to this earlier, because there was a bit of toing-and-froing, not out of any conscious effort, between Mr Barton, my staff and me about getting the document signed off—Mr Bonighton's advice, as I recall it, referred to my version or, if you like, my draft of the relevant statement of record. Until Mr Barton signed it on the 18th—we had a discussion, some gentle and civilised toing-and-froing between Mr Barton and me, over the use of the word 'interview' and whatnot—I was not willing to accept my own record as being a definitive one, in fairness, reflective of his views—until I got his signed statement.

**Senator CHRIS EVANS**—I understand that aspect of it. I do not have any qualms about that and it was important that you and Mr Barton agreed on the record of interview, so I

understand that process. What I do not understand is what changed between the 14th and the 16th that required Mr Bonighton to provide separate and further advice to the minister, which apparently contained material that on the face of it—and again I am not trying to verbal anyone—maybe was not contained in the advice on the 14th, or was characterised differently. That is what I am trying to understand.

**Mr Smith**—The point here is that, working through all of the material that Mr Pezzullo had assembled, it was evident to us that, while the Senate estimates process for which we were preparing was one thing, there was something that needed action without waiting for that or without waiting for the minister's formal sign-off on the overall report. That is why we decided that we would go to the minister separately. He had the report—it was all there; it would have been by the 18th—but we would go to him to draw his attention to this and to say, 'We think we need to do some action on this.' Mr Bonighton did that after some discussion with us—CDF, me and Mr Pezzullo—about the right and proper way to handle this. Ron advised the minister on the 16th. I think I said earlier that I had put to the minister something on the 23rd. Again, it was Mr Bonighton who actually signed that on the 23rd and then I signed the letter to Ambassador Schieffer on the 29th.

**Mr Pezzullo**—I can add one element to that. The secretary's remarks just jugged a morsel of memory. Mr Bonighton had established by that stage that there was a matter possibly warranting action, subject to the minister's and the government's views. I think, from memory, the initial advice the secretary has described on the 16th put forward a proposal to go back to the United States authorities through CJTF 633. Then that submission went up. That is the one we have just described. The one the secretary has just referred to on the 23rd, from memory, said that on reflection after further discussion, including with theatre and the American authorities, it would probably be best on balance to put the matter to the United States ambassador. That is the advice that we described earlier that the secretary then received guidance from the minister on and he subsequently then wrote. As I recall, there was a difference between the two submissions because, in a sense, we escalated the level of representation—I guess you could best describe it—or proposed representation, I should say.

**Senator CHRIS EVANS**—I have a couple of queries about that. I know Mr Bonighton is in the room. I do not know whether it would be helpful if he were to come forward as well—he is the author of some of this—but it seems to me it is probably helpful.

**Senator Hill**—Join the party!

**Senator CHRIS EVANS**—Rather than have Mr Pezzullo describe his advice, he might prefer to describe it himself.

**Senator FAULKNER**—At least, I am sure he would do it a great deal more briefly.

**Mr Pezzullo**—Senator Faulkner has said worse to me over the years.

**Senator FAULKNER**—I thought it was pretty moderate in the circumstances.

**Senator CHRIS EVANS**—The standard response is: it takes one to know one. I just do not follow your evidence, Mr Smith, because you implied that this was pulled out as an issue because of the need to perhaps take some action separate from the minister's reporting. But in fact the minister had finalised his report either on the night of the 15th or on the morning of



the 16th because he delivered it to parliament on the 16th—I think a day later than we had first expected. Certainly he gave it on the 16th of June. He made a statement in the parliament with a lot of encouragement from me. So he gave a statement on the 16th and Mr Bonighton's advice was not sent to him until the 16th so the sense that somehow this was pulled out and given urgency does not seem to follow. You are already at the stage where the minister was going to report. He signed off on what he was going to sign off on. So I do not quite understand that concept. I still do not quite get what happened between the 14th, when the supplementary folder from Mr Pezzullo went forward with this information contained in it, and separate advice from Mr Bonighton on the 16th. Mr Bonighton, are you able to help us with a better understanding of that, or Mr Smith?

**Mr Smith**—I do not think putting the advice forward about what Mr Barton thought he had heard or had been told about would have changed at all or did change at all what was said in the minister's statement on the 16th.

**Senator CHRIS EVANS**—I was just going off what Mr Pezzullo said, which was the preparation of that material for that statement. I agree that that is a separate argument but I have not formed a view about that yet. No doubt we will want to have a look at that. I guess the question for you—or maybe it is better directed at Mr Bonighton—is: why did you provide separate advice to the minister on the 16th in addition to the advice provided by Mr Pezzullo as part of the overall reporting of Abu Ghraib prisoner abuse related matters?

**Mr Bonighton**—My role in this was happenstance in many ways in the sense that after the Queen's Birthday weekend I came in and, as the secretary said, this was all moving along very quickly. Mr Pezzullo was extremely busy doing all sorts of things associated with this. I was tasked to do the ministerial advice on this particular matter because it was seen as something different.

**Senator CHRIS EVANS**—Who tasked you for that?

**Mr Bonighton**—This was after discussion with the secretary and perhaps CDF, but certainly with the secretary.

**Senator CHRIS EVANS**—Do you know the date of that discussion?

**Mr Bonighton**—It was either the 15th or early on the 16th.

**Senator CHRIS EVANS**—And he tasked you to provide a separate piece of advice to the minister?

**Mr Bonighton**—Yes.

**Senator CHRIS EVANS**—On the subject of Mr Barton's evidence?

**Mr Bonighton**—Indeed.

**Senator CHRIS EVANS**—Is that a fair description?

**Mr Bonighton**—Yes.

**Senator CHRIS EVANS**—I thought was broader than that.

**Mr Bonighton**—It was on the revised statement that Mr Barton had made. The difficulty we had was that it was not finalised at that point, so I guess it was by way of preliminary

advice to the minister that this was shaping up and proposing a course of action in terms of how we were going to get this to the US.

**Senator CHRIS EVANS**—Obviously I do not want to ask you what you are not entitled to tell me about the advice, but you provided advice to the minister on the 16th, which canvassed how you dealt with the Barton evidence. Is that right?

**Mr Bonighton**—It was about what were proposing to do with it.

**Senator CHRIS EVANS**—Did you get advice back from the minister on that matter?

**Mr Bonighton**—No. I certainly did not see any advice back before we sent a second submission on 23 June, which then told the minister that Barton had agreed the wording of his statement and—I think as we have already heard—seeking the minister’s agreement to the way ahead, which was to refer this information to the US ambassador.

**Senator CHRIS EVANS**—So your evidence is that after you drafted the advice on the 16th you did not receive anything directly back from the minister before providing further advice on the 23rd. I do not want to verbal you on that. Was there some suggestion that there had been a conversation with the minister or his office? When I say ‘advice’ I do want to limit it to the minister having signed off on something. There might have been a discussion.

**Mr Bonighton**—I have no recollection of being involved in that. I knew there were things happening, obviously, on this topic, but I was not central to that.

**Senator CHRIS EVANS**—So the next thing you knew was that you decided to provide further advice on the 23rd. What prompted you to provide that?

**Mr Bonighton**—That was after further discussion with Mr Pezzullo, the secretary and, I think, CDF as well, because part of it was proposing again the way ahead.

**Mr Pezzullo**—I can add to that with a point that is relevant here. Mr Bonighton was in a position on 23 June that he was not in prior to that, and I have direct knowledge of this. By that stage we know that Mr Barton had agreed the wording of the statement, and we have been through other evidence about some of the revisions and the final settlement of that. My own notes remind me that in fact this happened on the 22nd, after I had followed up with Mr Barton as part of a follow-up action. I phoned him, as I recall. I certainly have a record of this phone number here. I sought his explicit permission about his cooperation, which I had no doubt that I would get, with any US investigative process that one would assume the US might be minded to take.

**Senator CHRIS EVANS**—So you rang Mr Barton when?

**Mr Pezzullo**—Let me just be clear. It was either the 22nd or—

**Senator CHRIS EVANS**—So this was following his call to you on the 17th where you had this disagreement about interrogation and interview?

**Mr Pezzullo**—We had an exchange. It was a civilised discussion.

**Senator Hill**—A chat.

**Senator CHRIS EVANS**—You say interrogation, I say interview, I know. You go to jail if it was an interrogation, you stay free if it was an interview.

**Mr Pezzullo**—To respond to the question: yes, there was the discussion on the 17th, which I have referred to, at 9.51. Then on the 21st, I rang Mr Barton. I think I said in evidence earlier that, in that week, I was cleaning up a whole lot of issues, consolidating records, making sure that actions were ongoing as required. I recall ringing him at 1745 hours on whatever day that was. We discussed, in some detail, the US approach. It was a Monday, I would say.

**Senator FAULKNER**—Could you stop there for a moment. Was the idea there that if there would be a lack of cooperation from Mr Barton you would have been able perhaps to brief the minister, or a decision might have been made that it was a pointless exercise? Or was it more just a courtesy?

**Mr Pezzullo**—It was a courtesy. I do not want to infer anything in my asking of the question of him or imply any disrespect to him, but as a courtesy—and this may be just thoroughness—I sought his permission. I do not think that Mr Barton would have said, ‘For a number of reasons, Mike, I would feel uncomfortable about that.’ That is not to say that we would not have gone forward with the advice that Mr Bonighton put, but I think that would have been an important caveat or proviso that one would have inserted into the document.

**Senator FAULKNER**—Could I stop you there for a moment and ask Mr Smith whether, in any sense, Mr Barton’s response to Mr Pezzullo’s call informed your decision to actually proceed with the reference to Mr Schieffer? Were you aware of it, first of all?

**Mr Smith**—I do not recall it, but I expect that Mr Pezzullo would have told me of it. I suppose if he had come back and said, ‘Look, Mr Barton would prefer that his name not be put before the American authorities,’ we would have had to think about that.

**Senator FAULKNER**—It would have been a consideration.

**Mr Smith**—I suppose it would have been, yes. I do not recall it now as being a significant factor, but I suppose it would have been.

**Senator CHRIS EVANS**—Mr Pezzullo, on 21 June at 1745 hours you ring Mr Barton and you have a chat about what you are proposing to do. Is that fair?

**Mr Pezzullo**—Yes. In fact, I think it might have been even a bit stronger than that, as I recall. My notes are not complete—this was not an insignificant issue in my mind at the time—but once the secretary had given his guidance, Mr Bonighton had provided formal advice. I think Mr Bonighton’s evidence was that we had not yet got a formal indication back from the minister, but I remember having discussions with his staff. Without prejudicing the minister’s capacity to take a decision, I think I would have said something like, ‘We do want to follow this through. It rings in an interesting fashion. We are likely to go to the Americans, subject to guidance. Would this be something that you would be cooperating with?’ So there was a sense of a commitment in there, and he came back saying, ‘Yes, absolutely no problem. Can we use your name?’ I said, ‘Yes, that is fine.’ That is the conversation of the 21st. I have got a note that I reconfirmed something—perhaps about the identification of a name—on 22 June at 1115 hours.

**Senator FAULKNER**—With Mr Barton?

**Mr Pezzullo**—Yes.

**Senator FAULKNER**—On your initiative?

**Mr Pezzullo**—I think in both cases, yes.

**Senator FAULKNER**—Did you have any further contact with him?

**Mr Pezzullo**—I asked myself that question because of the remarks that Mr Barton made on the TV the other night. I do not believe so. I have kept all of the matters pertaining to this in the one book, and Rod may correct this, but I think my last contact with him was on the 22nd of June at 1115 hours.

**Senator CHRIS EVANS**—And that second telephone call was to confirm the name of the deceased.

**Mr Pezzullo**—No. As I recall it, the second call was about the use of the name. He may have a different recollection of it.

**Senator CHRIS EVANS**—The name—

**Mr Pezzullo**—Of Barton's name. Of identifying him to the Americans in a record.

**Mr Smith**—That is: 'If we put your name forward it is possible that they will want to interview you. In that event, would you be willing?'

**Senator CHRIS EVANS**—That was not canvassed in the first conversation but it was canvassed in the second.

**Mr Pezzullo**—I might have left that first conversation in a state of confusion. I just wanted to reclarify.

**Senator CHRIS EVANS**—Mr Barton cooperated at all times with that approach, so you had no difficulty taking that forward.

**Mr Pezzullo**—Absolutely.

**Senator FAULKNER**—I assume there would be further departmental contact with Mr Barton prior to or around the time of the US agency—

**Mr Smith**—Investigator.

**Senator FAULKNER**—to get the right terminology, the US investigator, meeting with him?

**Mr Pezzullo**—I do not have direct knowledge of that. I am aware of some records and references in other records—

**Senator FAULKNER**—Can anyone confirm that?

**Mr Pezzullo**—I cannot help you with that.

**Senator FAULKNER**—Can anyone confirm it? It seems logical. I assume someone would not just knock on the door.

**Mr Smith**—I did not have any contact. Did you, Ron?

**Mr Bonighton**—I think International Policy handled that. The investigator made contact and I think the interview was helped along by international policy officers.

**Senator FAULKNER**—So as far as we are aware there was no other departmental contact.

**Mr Bonighton**—That is the only one I am aware of. That was on 19 August, I think, that he was actually interviewed. I think the minister was advised that that interview had occurred, a few days later.

**Senator FAULKNER**—Would that be briefed out of your section or out of the international division?

**Mr Bonighton**—It was briefed out of international.

**Mr Pezzullo**—Just to be clear, I might have misheard the preamble to your question. Are you asking about any contact with Mr Barton since my contact in June or did you specifically ask about around the time of his interview?

**Senator Hill**—He asked around the time of the interview.

**Senator FAULKNER**—I asked whether anyone was aware of any contact since then.

**Senator Hill**—You actually said ‘around the time of the interview’.

**Senator FAULKNER**—Did I? I was going to ask: after that, since then?

**Mr Pezzullo**—For the sake of completeness, if you are asking about since the contact that I can certainly speak to on 22 June, I have seen a record of a contact with Mr Barton that I did not partake in directly around about November. Mr Bonighton could speak to that.

**Senator Hill**—He was put on another contract in the meantime, so there is clearly—

**Mr Smith**—At the end of August we signed him up again.

**Senator FAULKNER**—Okay. Let us not worry about that, then. My intention was to ask about any further contacts since this time about the matters which we are canvassing at this hearing.

**Mr Pezzullo**—So we are talking about the Ambassador Schieffer letter, in a sense.

**Senator FAULKNER**—Or matters related.

**Senator CHRIS EVANS**—His concerns relating to Iraq.

**Mr Smith**—At some point he contacted Mr Bonighton. He had been interviewed and he contacted Mr Bonighton to ask if there had been any further developments in that matter. Is that correct?

**Mr Bonighton**—Yes.

**Senator FAULKNER**—Could you briefly outline that.

**Mr Bonighton**—We can move along from August when the investigator came and interviewed Mr Barton. Mr Barton called me on 12 November and asked whether anything further had been heard as a result of his interview. I undertook to check with other areas of the department and find out if anything had happened. I was able to then go back to him, which was on 25 November, to let him know about the informal report that has been referred to by the investigator as to his interview. That was the last contact I had.

**Senator CHRIS EVANS**—Was he satisfied with that?

**Mr Bonighton**—I do not think he was happy with the way that had gone, because once again we had the problem where the investigator, certainly from my understanding, believed

that he had no direct knowledge of the events. I think Mr Barton was hoping for something more positive than that to come out of the particular interview.

**Senator FAULKNER**—So what did he express to you, basically—frustration or concerns? Can you define it?

**Mr Bonighton**—Yes. I think he was concerned that something would come of it. At that time there were a number of investigations in the US into these sorts of abuses, and I think we talked about the fact that something could well come out of those. I certainly undertook to call him back if there was any further information that came directly from his statements, and that did not happen.

**Senator CHRIS EVANS**—Can I go back to the chronology. On the 21st and 22nd Mr Pezzullo has phone contact with Mr Barton regarding the referral of his concerns to US authorities.

**Mr Pezzullo**—That is 21 and 22 June.

**Senator CHRIS EVANS**—June, sorry. And I assume, therefore, you then briefed Mr Bonighton on the outcome of those conversations and that formed part of the basis of his submission to the minister on the 23rd—is that it?

**Mr Pezzullo**—Indeed. I would have been heavily consulted by Mr Bonighton in relation to that. It makes reference to me and my direct state of knowledge of Mr Barton's agreement to our record, for instance—and Mr Bonighton would not have invented that out of thin air, so obviously we had some contact.

**Mr Bonighton**—We did.

**Senator CHRIS EVANS**—So, Mr Bonighton, you had some contact with Mr Pezzullo following his conversations with Mr Barton, and you included in your submission to the minister the fact that Mr Barton was willing to have his name used and was happy to cooperate with US authorities.

**Mr Bonighton**—Yes, I believe so.

**Senator CHRIS EVANS**—You sent that off to the minister on the 23rd.

**Mr Bonighton**—Correct.

**Senator CHRIS EVANS**—And he replied, I think, on the 25th; that was the earlier evidence.

**Mr Bonighton**—Yes.

**Mr Pezzullo**—Just to assist Mr Bonighton, I think in my earlier evidence I couched it in the negative: 'he'd agreed with Mr Pezzullo the wording of a statement on these matters'. As I said earlier, had he resisted or not been happy about the use of his name I think that we would have couched that in the negative, as I remember. I say that only because it does not state as a positive affirmation that he was willing to have his name used, but I checked that and I was confident that he was okay with that.

**Senator FAULKNER**—Was this same approach extended to the uniformed officer, whom I cannot identify any better than that, who—

**Mr Pezzullo**—The answer to your question is yes.

**Senator FAULKNER**—I have not finished the question. You are anticipating what I am going to ask about the uniformed officer—

**Senator Hill**—A dangerous thing to do!

**Senator FAULKNER**—whose issues had been referred to the Deputy Chief of Mission.

**Mr Pezzullo**—In relation to the military officer's information that became the subject of a representation to the Deputy Chief of Mission of the United States government, the answer to your question is yes.

**Senator CHRIS EVANS**—And he also agreed to have his name used?

**Mr Pezzullo**—Senator Faulkner asked me if I extended the same courtesy and approach to him. Yes.

**Senator CHRIS EVANS**—Yes, I was just checking that the response from the officer was the same.

**Mr Pezzullo**—Yes.

**Senator CHRIS EVANS**—So, Mr Bonighton, on the 25th the minister agreed to the proposition, which was subsequently carried out, that the matter be referred via Mr Schieffer to US authorities?

**Mr Bonighton**—That is correct.

**Senator CHRIS EVANS**—Were you involved in the other one then as well, Mr Bonighton?

**Mr Bonighton**—When you say 'involved'—

**Senator CHRIS EVANS**—Sorry. Did you pick up responsibility for the other one as well? I know it went out under Mr Smith's—sorry, no—

**Mr Pezzullo**—I signed the letter.

**Senator CHRIS EVANS**—The one that went out under Mr Smith's signature, the first one; Mr Barton's, was in fact the matter that you had handled.

**Mr Bonighton**—That is correct.

**Senator CHRIS EVANS**—And Mr Pezzullo handled the other one.

**Mr Bonighton**—Yes, that is right. The actual handing over of the letter to the Deputy Chief of Mission was done at a meeting that Mr Pezzullo and I attended.

**Senator CHRIS EVANS**—I see; you actually formally delivered it?

**Mr Bonighton**—He was called over to receive the letter.

**Mr Pezzullo**—I met the embassy representative, as I recall it, at a conference table in Mr Bonighton's suite.

**Senator CHRIS EVANS**—Did you do that for Ambassador Schieffer's as well? Was it formally handed over in that way?

**Mr Bonighton**—Yes, it was.

**Mr Pezzullo**—I believe so but I do not have direct knowledge of that.

**Mr Bonighton**—Not to the ambassador himself; to the deputy chief of mission.

**Senator CHRIS EVANS**—So he was called over and you gave him a letter—

**Mr Smith**—‘Give the letter to your ambassador,’ or ‘Will you take it back and act upon it.’

**Mr Bonighton**—Correct.

**Senator FAULKNER**—Did you involve the department of foreign affairs in this at all?

**Mr Bonighton**—No.

**Senator FAULKNER**—This was completely handled within Defence?

**Mr Smith**—We advised the Secretary of the Department of the Prime Minister and Cabinet, did we not?

**Mr Pezzullo**—Both matters have been advised to the Secretary of the Department of the Prime Minister and Cabinet. In both cases, as I recall it, it was at the minister’s request, but I would not want to be precisely held to that.

**Senator CHRIS EVANS**—I would like to raise, Mr Smith, the matter of the denial of access to DIO’s database by Australian forces in East Timor. No doubt you have been made aware of the evidence of Mr Carnell during Prime Minister and Cabinet estimates on Monday night—

**Mr Smith**—Yes.

**Senator CHRIS EVANS**—when the minister kindly said that I ought to ask you about some of these matters.

**Mr Smith**—Yes.

**Senator CHRIS EVANS**—No doubt you have thanked him for that. Obviously, Mr Carnell’s report had the effect of overturning the advice of his predecessor, Mr Blick, and fundamentally changed—

**Mr Smith**—On one matter.

**Senator CHRIS EVANS**—On one matter, on the matter of whether the intelligence was cut off deliberately or not—but a key matter, I think you would agree. As I understand it from his evidence—

**Senator Hill**—It was a key matter.

**Senator CHRIS EVANS**—A key matter, yes.

**Senator Hill**—The other key matter—one that certainly disturbed me—was whether there was some attempt to censor the material that was going to East Timor, whether it was an attempt to keep important information away from those who were working in the field.

**Senator CHRIS EVANS**—I am not aware of the finding on that. I do not think Mr Carnell shared that with me.

**Senator Hill**—He did say that basically the mission in East Timor—and this is me paraphrasing; I have not got it in front of me—was not prejudiced by the fact that for a short



period of time this particular intelligence source was shut off. Anyway I do not think it matters. It certainly was an important issue.

**Senator CHRIS EVANS**—Mr Smith, I am sure you are prepared, so what have you done in response to Mr Carnell's report?

**Mr Smith**—For the information of the other senators do you want me to track over the sequence of events to put it in perspective? It will not take a moment.

**Senator CHRIS EVANS**—Sure.

**Mr Smith**—You will recall that in April last year, 2004, the minister released a report which had been completed in 2003 by the then Inspector-General of Intelligence and Security, Mr Bill Blick, into the claims that had been made by Lieutenant Colonel Lance Collins. Noting the wide-ranging nature of the claims made by Lieutenant Colonel Collins and the material gathered in the course of the redress of grievance process that had taken place in respect of him, the Chief of the Defence Force, General Cosgrove, considered it appropriate to offer all of the intelligence and security related documents rising out of the process to the current Inspector-General, Mr Ian Carnell.

After he had received those documents, Mr Carnell reviewed all the files relating to this matter in order to provide advice to the minister regarding matters possibly related to his jurisdiction. Mr Carnell wrote to the minister in May 2004 advising him his overall findings from this review were consistent with those of Mr Blick. You will recall that before that there was an exchange about whether it was appropriate for the Chief of the Defence Force to task him and so on, and that was resolved. In writing responding to the minister, as I said, Mr Carnell advised that his overall findings were consistent with those of Mr Blick, but he did, however, suggest that, while Mr Blick's investigation into Colonel Collins's claims that DIO had deliberately cut access to one of the intelligence bases in 1999 was comprehensive, it was nevertheless not exhaustive because evidence had not been obtained from three people who, it turned out, had had some involvement in those events. So Mr Carnell suggested that, given their immediate involvement, it would be desirable to attempt to obtain evidence from them pursuant to his act.

Senator Hill, of course, asked him to undertake such an inquiry. Mr Carnell reported the outcomes of this inquiry to Senator Hill on 30 November 2004. On 9 December 2004 Senator Hill released a statement about Mr Carnell's inquiry. You will recall he stated that Mr Carnell had found that access to this particular intelligence database had been deliberately turned off. He found that, at the time, there were security concerns, including the need to protect certain categories of intelligence and to establish reasonable limitation in the database on what particular groups of users could access. He found that the short-term loss of access did not seem to have been a critical deficiency in operational terms as the loss of access was not a cut in access to all intelligence but a cut to a particular database for a period of about 26 hours. He further found, you will recall, that the cut was not as a result of any instruction from the then Director of the DIO, Mr Frank Lewincamp.

**Senator CHRIS EVANS**—I am not sure that he gave me that much information, Mr Smith. I am not sure that Mr Carnell went to that detail.

**Mr Smith**—He did.

**Senator CHRIS EVANS**—No; he may have to you.

**Mr Smith**—Sorry.

**Senator CHRIS EVANS**—I am letting you know that when we got to the key question, or some of that information, he then—have you read the *Hansard*?

**Mr Smith**—Yes. I cannot recall whether he said that, but I think that was in Senator Hill's statement.

**Senator Hill**—It was in the statement.

**Mr Smith**—Anyway, I am glad to have clarified at least that. Mr Carnell also raised some concerns of an administrative nature—

**Senator Hill**—Which I took from his report.

**Mr Smith**—that had surfaced in the course of his investigation, and he recommended to the minister that those matters be referred to me for further advice. I provided that advice to the minister and have put in train certain actions to respond to Mr Carnell's concerns. I expect that those actions will be completed within the next few weeks, and certainly, I hope, within the next month—earlier if it can be—and that we will then be able to make a full statement about it. In the meantime, though, if I may, I do not want to detail what the actions are because they do lead fairly immediately to implicating particular people or groups of them and the issues about them are not entirely clear yet, pending the further action I have in train. I share the concern of everyone here to get this resolved as quickly as possible. Of course I am responsible but, in part, in some senses, I am a victim of it too because I acted on the advice of my organisation, supported by the advice of Mr Blick, on the question of the intelligence cut-off, and it turns out we were not entirely right.

**Senator CHRIS EVANS**—I accept that, Mr Smith. I am sure your letter to the *Australian* now does not look nearly as it did on 22 April.

**Mr Smith**—The vital point is still right. It was but one of several databases and not crucial on the spot. I think it is reassuring that the Commander of INTERFET, General Cosgrove, was able to say that, even if we were not exactly right on the origins of the cut.

**Senator CHRIS EVANS**—I have a slightly more serious view of it, I suspect, but nevertheless I accept the central tenet, which is that you acted on the advice of the Blick finding in making those statements and it now seems that Mr Blick's investigation was not as comprehensive as it might have been, and Mr Carnell has unearthed more information. I appreciate your saying there will be a report in a few weeks time, and the minister made it clear the other night that he will take advice as to whether he releases Mr Carnell's advice publicly, but I am trying to get a sense of what you are doing. This is following up Mr Carnell's concerns about the activities of officers or former officers in relation to the cut-off of that flow of intelligence—is that right?

**Mr Smith**—Broadly, that is right.

**Senator CHRIS EVANS**—Have you put somebody in charge of further investigation of those matters, or have you issued show cause letters or whatever the formal term is?

**Mr Smith**—I have some further investigation of the matters and the roles of individuals happening.

**Senator CHRIS EVANS**—Under what authority is that investigation occurring?

**Mr Smith**—I have plenty of authority myself to do it, but I will make that clear when we get to the conclusion of it.

**Senator Hill**—The type of action could lead to speculation on the types of penalties, potentially, and then speculation about names of individuals.

**Senator CHRIS EVANS**—I was more interested in the authority. I was not going to go to the individuals or those. I know the secretary has the power to investigate matters in the department. I guess I was thinking of the defence disciplinary and administrative procedures and what authority was being used. Have you appointed an inquiry officer under one of the powers of the act or not? That was the authority for the investigation I was after rather than—

**Mr Smith**—The people doing the work on this have the appropriate authority, and I will explain that to you when we get to a conclusion and can make a statement on it.

**Senator CHRIS EVANS**—Does that inquiry include inquiries into the question of why it did not become obvious that the cut of intelligence flow had been made deliberately?

**Mr Smith**—I hope that we get that advice.

**Senator CHRIS EVANS**—Because one of the most concerning aspects, from my point of view, or the first obvious concerning aspect, is the fact that intelligence was cut off. The second is that somehow inside Defence that story did not emerge for five years.

**Mr Smith**—Quite so.

**Senator CHRIS EVANS**—Therefore, one has a concern about whether there was an active cover-up of those matters. So you are pursuing both aspects of that?

**Mr Smith**—Yes.

**Senator CHRIS EVANS**—Did Mr Carnell make findings as to whether the resumption of access was dependent on certain exchange of undertakings being made with officers in the field?

**Mr Smith**—I will not go into the details of his finding on that. It will be for the minister to decide whether to release the report and, if so, whether to address that issue.

**Senator CHRIS EVANS**—Has any other action been taken other than the administrative inquiry arising out of Carnell? Are there any other processes or actions, apart from the investigation, that you have taken flowing from Mr Carnell's report?

**Mr Smith**—No. Not at this time.

**Senator CHRIS EVANS**—Are there potentially others that might flow after the investigation is complete, other than the question of whether someone has done something wrong and that sort of thing?

**Mr Smith**—Not other than that, no.

**Senator CHRIS EVANS**—There is no process—

**Mr Smith**—And I really do hope, frankly, that this brings this to an end. It has taken 2½ years during my time and several years before that. That is one reason why we are taking a lot of pain over what we are doing now. We want it to be the end of it.

**Senator CHRIS EVANS**—I am sure Collins's five years are also preying on his mind. So you hope to be able to provide a report to the minister on those matters, and the minister will then determine what he does with it. Is that the process for that aspect of it?

**Mr Smith**—Yes, though in some instances, if there were action arising, it would be for me to determine.

**Senator Hill**—My responsibility is more likely to be in relation to releasing the report than the sorts of matters you are interested in.

**Senator CHRIS EVANS**—But, in terms of the finding of the investigation and proposed action, that is a decision for the secretary?

**Senator Hill**—I do not think I would be involved in that.

**Senator CHRIS EVANS**—Other than in providing advice to you as to what he intends to do—that sort of thing?

**Senator Hill**—Yes.

**Senator CHRIS EVANS**—Okay. On the promise that it is all going to be resolved soon, Mr Smith, I think I will probably leave it there. Is Mr Lewincamp still employed inside Defence?

**Mr Smith**—Yes, certainly he is.

**Senator CHRIS EVANS**—Where has he gone to?

**Mr Smith**—He has taken up the position of Chief Operating Officer in the DMO, the Defence Materiel Organisation. They have a deputy CEO, who is Mr Norm Gray, and then there is a chief operating officer, who runs the government business side of DMO. Dr Gumley and I felt that Mr Lewincamp was very well suited to that. Of course, he has done 5½ years in DIO, but before that he had a good range of business experience in the department. As it were, he has returned to that.

**Senator CHRIS EVANS**—Is that a transfer or a promotion?

**Mr Smith**—That is a transfer.

**Senator CHRIS EVANS**—At the same level and salary?

**Mr Smith**—Same level, yes, and he goes on receiving the same salary as he had.

**Senator CHRIS EVANS**—Thanks for that.

**Proceedings suspended from 9.14 p.m. to 9.32 p.m.**

**CHAIR**—We will now move to the outputs. I understand that Senator Bishop wishes to ask questions on outcome 2, Navy capability for the defence of Australia and its interests.

**Senator MARK BISHOP**—The first issue that I want to talk about generally is the joint offshore protection command and the recent announcement by the government as to some new operating procedures, for want of a better description, for how the Navy is going to

conduct itself up there. I would like to get some background information that I am not aware of.

**Vice Adm. Ritchie**—I will pass the buck to the bloke who is going to run it.

**Vice Adm. Shalders**—If I could set the context here, the joint offshore protection command will come under my remit. It will be part of the Joint Operations Command. It will report, through me, to the Chief of the Defence Force.

**Senator MARK BISHOP**—Firstly, how many RAN vessels are currently involved in Australian sea patrols as part of the joint offshore protection command?

**Vice Adm. Shalders**—The joint offshore protection command is not yet in existence, so the provision of patrol boat support is under the existing arrangements. The arrangements are 1,800 patrol boat days each year.

**Senator HOGG**—Where is that primarily for? What region?

**Vice Adm. Shalders**—It is primarily in the north. The tasking is driven through the Coastwatch construct. Requests for assistance are passed from the client agencies through Coastwatch and back into the defence system. In future, that will be back through the joint offshore protection command.

**Senator MARK BISHOP**—When will the offshore protection command come into effect? What is the start date?

**Vice Adm. Shalders**—I believe that we will be in a position to say we have a joint offshore protection command by the middle of the year. A joint directive has very recently been signed to the initial commander of the JOPC, Rear Admiral Crane. That is a joint directive signed by the Chief of Defence Force and the Chief Executive Officer of the Australian Customs Service. I believe that was signed in early February.

**Senator MARK BISHOP**—Did you say Rear Admiral Crane?

**Vice Adm. Shalders**—Rear Admiral Crane, who is the current Director-General Coastwatch.

**Senator MARK BISHOP**—Will it be Rear Admiral Crane's job for the next four or five months to set up the joint offshore command so it is ready to be operational from June or July?

**Vice Adm. Shalders**—Yes, that is one of his principal early tasks under this directive that I just mentioned.

**Senator MARK BISHOP**—And he will retain his current senior position with Coastwatch.

**Vice Adm. Shalders**—Correct.

**Senator MARK BISHOP**—Has the decision yet been made as to what sort of patrol boat days will be involved in the new organisation per year?

**Vice Adm. Shalders**—It will remain at the current 1,800 days per year. While that allocation will remain, under the new patrol boat that is being delivered to the Navy there may

well be additional boat days available and that can be requested by the offshore protection command in a more seamless fashion than is the case at the moment.

**Senator MARK BISHOP**—One would assume there would be increased patrol boat days.

**Vice Adm. Shalders**—They will be more available. Whether they can be allocated to this task will depend on other activities that they might be involved in.

**Senator MARK BISHOP**—Fair comment. Can you put on the record the agreement, if there is such an agreement, between the government and the government of Indonesia for the placement of Indonesian officers on ships that are part of this offshore command?

**Vice Adm. Shalders**—There is no such agreement that I can put on the record. There is an understanding that that is where we should be aiming to head to, but there is no such agreement.

**Senator MARK BISHOP**—Are we going to be involved in negotiations between entities of the two governments to reflect the agreement that I have read in the press that Minister Hill has made announcements about?

**Vice Adm. Ritchie**—Minister Hill might want to speak to it but, as I understand it, we are currently having a discussion with the Indonesian navy which says it would be a good thing if Indonesian naval officers could come to sea in our patrol boats and see how we do business. We are progressing it at that level under the bilateral cooperative arrangements we have between the two navies.

**Senator MARK BISHOP**—It might be a question for you, Minister, to outline the nature of the agreement, if any, between our government and the government of Indonesia on this issue.

**Senator Hill**—If there is an agreement I would have got that from Navy.

**Vice Adm. Ritchie**—There is no particular government to government agreement. It is an initiative that is developed—

**Senator MARK BISHOP**—Is it an understanding or a protocol or what?

**Senator Hill**—We want to do it and we are progressing it, and I think the Indonesians are quite enthusiastic about it. We think it would be good in confidence building as well as building their capability in relation to fishing, smuggling, terrorism and that sort of thing. It is a capability that we would like to see built in Indonesia.

**Vice Adm. Ritchie**—I do not think that we are driving at a direction which says, ‘We will always have an Indonesian naval officer in every patrol boat,’ if that is where you are coming from.

**Senator MARK BISHOP**—Correct me if I am wrong but it was my understanding that the new offshore protection command would have powers up to 1,000 nautical miles from the Australian coast and that some concerns had been expressed by the governments of Indonesia and New Zealand. I am only addressing the concerns of the government of Indonesia. I am advised that Senator Hill announced, on 18 December, that Indonesian officers would be assigned as observers to Australian sea patrols. Is that correct or not correct?

**Vice Adm. Ritchie**—It is correct in the sense that we have an intent to put Indonesian officers in existing patrol boats. I am not sure that it is correct in the context of anybody having any power out to 1,000 nautical miles from the coast, which does not exist in any case.

**Senator Hill**—That has nothing to do with this other issue. The first issue is that we think the idea of giving the opportunity to Indonesian naval personnel from time to time to ride on our patrol boats is in our mutual interests and we are looking to progress that. In relation to the 1,000 nautical miles, Admiral Shalders might well want to talk about how the joint command will work within that area. My major interest has been in our requirement that shipping that comes within 1,000 nautical miles of the Australian coast is going to be required to indicate to us in the circumstances that it either intends to land at an Australian port or to transit Australian waters.

**Senator MARK BISHOP**—I understand that point. What I am trying to get some detail on—because it appears to me to be a bit nebulous—is this assigning of Indonesian naval officers to Australian patrol ships in our northern waters. I am hearing you say that it is about confidence building, cooperation and invitations to assist and there is no formal agreement, no formal protocol or no formal exchange.

**Senator Hill**—It has not reached a plan of operations, but we are wanting to do it and they have indicated that they would like to do it. It would be from time to time.

**Vice Adm. Ritchie**—We do lots of things like that.

**Senator HOGG**—Would you operate under an MOU in that circumstance? You would have to have some sort of memorandum of understanding, surely.

**Vice Adm. Ritchie**—No, you would not. We transfer people with other navies all over the place. Part of the initiatives of something that is known as the Western Pacific Naval Symposium, of which Indonesia and Australia are both members, is to encourage confidence building, and one of the ways of doing that is to exchange people from ship to ship. We do it with a lot of navies, but we do not have any particular MOUs or anything to do it under. It is an exchange of letters which says, ‘Do you want to do it?’

**Senator MARK BISHOP**—With every patrol ship that moves between our waters and those of Indonesia, would it be intended that such—

**Vice Adm. Ritchie**—No, it is not related to anything to do with JOPC or anything to do with the maritime identification zone. It is an initiative to build confidence between the Royal Australian Navy and the Indonesian Navy.

**Senator MARK BISHOP**—It is totally unrelated to the joint offshore protection command?

**Senator Hill**—Totally unrelated.

**Senator MARK BISHOP**—Has that always been the case?

**Senator Hill**—If we had not developed this concept of this new command, we would still be wanting to do the sea-riding exercises with Indonesia.

**Senator MARK BISHOP**—All right.

**Senator FAULKNER**—Can I ask something in this program very briefly? I have been contacted by a number of constituents about the timing of the *Kanimbla* deployment. This is obviously something that the senior naval officers at the table would be aware of. Was there an initial indication that the *Kanimbla* deployment would be in the order of six to eight weeks?

**Vice Adm. Ritchie**—The current deployment to Aceh?

**Senator Faulkner**—Yes, to Aceh.

**Senator Hill**—No, I don't think so.

**Vice Adm. Ritchie**—I do not think there was an indication of a timeline with respect to the ship itself.

**Vice Adm. Shalders**—I can perhaps help here. Our planning was done on the basis of a 90-day operation. In the case of *Kanimbla* and the assets that she carried, the expectation was that she may need to be deployed for that long.

**Senator FAULKNER**—I see.

**Vice Adm. Ritchie**—If they are to have an expectation, it ought to be that they can be deployed for up to six months, because that is the norm.

**Senator FAULKNER**—I think the Prime Minister made some public statements about timing of this particular deployment at the time, didn't he?

**Vice Adm. Ritchie**—He may have, but I am not aware of it.

**Senator Hill**—No, not in specific terms.

**Senator FAULKNER**—The word he used was 'weeks', not 'months'. That is what he said. I am quoting him directly.

**Senator Hill**—That is right. As you know we are starting now to draw down the assets that we sent. Part of the hospital was handed over today. We are pulling out the four Iroquois helicopters. Basically *Kanimbla* will stay until the engineers have finished their task and, whilst it is there for that purpose, it gives us the added opportunity to use the two Sea King helicopters—which I gather, with their longer range and heavier load, are particularly useful—and the landing craft.

**Senator FAULKNER**—All I am trying to nail down is what the end point is. That is what I am asking, because this has been raised with me by a number of constituents.

**Senator Hill**—I am surprised to hear that.

**Senator FAULKNER**—They know they will get action when they raise it with me—that I will raise it with you at estimates.

**Senator Hill**—They know they will get questions.

**Senator FAULKNER**—That is right; that is a fair comment. They know they will get questions and, given that you are the minister, they probably realise there will not be much action. But it is still probably a fair qualification when I think about it. You have convinced me.



**Senator Hill**—I thought you were going to generously say that that would probably result in action.

**Senator FAULKNER**—You have convinced me. Very quickly, if Vice Admiral Ritchie, Vice Admiral Shalders or someone can tell me: what is the expected end point of the current deployment of *Kanimbla* to Aceh?

**Senator Hill**—The remaining time, as the Prime Minister said, would be more in the vicinity of weeks than months.

**Senator FAULKNER**—Are we able to be more specific than that, Vice Admiral Ritchie?

**Vice Adm. Ritchie**—We can tie it, as I think the minister has said, to the deployment of engineers. When the decision is made to bring those engineers home then more than likely *Kanimbla* will be the ship that brings them home. I am not going to guess when the government is going to bring the engineers home.

**Senator FAULKNER**—I do not expect you to guess. I just wondered if there was some indicative planning that you might be able to share with us, that is all.

**Vice Adm. Shalders**—The only indicative planning that we can share at this stage is the 90-day likely duration of this operation. That 90 days was not the case for the Iroquois helicopters, as the minister has just said. Other assets are winding down as the host government, the Indonesian government, either replaces the capability or indicates that the capability is no longer required. In terms of the ship, I think it will be there probably the longest because of its linkage with the engineers, the Sea King helicopters and the landing craft, all of which are continuing to do a vital job. So at this stage the 90-day point is the best information we have, although that may change.

**Senator Hill**—We certainly do not want military assets to stay any longer than is necessary. We have indicated that by the fact that as soon as we can transition to a civilian alternative then we will do so.

**Senator FAULKNER**—Were the *Kanimbla* crew initially told the entire deployment would be some six to eight weeks only?

**Vice Adm. Ritchie**—To my knowledge, no. If they were told that, they were told incorrectly.

**Senator FAULKNER**—I accept that if they were told that they were misinformed. Would you mind double-checking that for us?

**Vice Adm. Ritchie**—At the time that they went we had really no idea how long the deployment would last for any of these units, I do not think, except that it would not be years.

**Senator FAULKNER**—If it would be possible, you might check that for me, because I have certainly been contacted by some concerned family members who strongly put this to me.

**Vice Adm. Ritchie**—We can do that on notice; we could not do it now.

**Senator FAULKNER**—I am sure you would be responsive to those concerns. It is not so much here I suspect a matter of the time, but there may be an issue of communication and information, and I think if there is it ought to be treated seriously.

**Vice Adm. Ritchie**—At the moment, the people on *Kanimbla* do not know when they are going to come back. That is a fair statement.

**Senator FAULKNER**—I appreciate that, and thank you for that information, but I am asking a different question now as to whether some of the crew may have been misinformed about the timing.

**Vice Adm. Ritchie**—We can find that out.

**Senator FAULKNER**—Thank you.

**Senator HOGG**—I have a question going back to the joint offshore protection command. What element of it will be within Defence—just the patrol boats, or will the responsibility for the whole of the operation lie within Defence?

**Vice Adm. Shalders**—The joint offshore protection command will come under my command—joint operations command—but it will continue to perform the civil surveillance functions that are currently performed by Coastwatch; hence the joint directive to the Chief Executive Officer of the Customs Service.

**Senator HOGG**—And the reporting of the new organisation in terms of expenditure will be through the Defence annual report and PBS?

**Vice Adm. Shalders**—It will be resourced by both host agencies, if I can put it that way. The patrol boats, the P3 flying hours that contribute and the other major combatants that might contribute will of course come through Defence, and the Bay class patrol boats and the Coastwatch assets, the flying assets, will be funded and resourced through Customs.

**Senator HOGG**—So is the additional cost to Defence known at this stage?

**Senator Hill**—It is not great.

**Vice Adm. Shalders**—It amounts to a few staff numbers.

**Senator HOGG**—That was my other question: what staff are involved?

**Vice Adm. Shalders**—It is not yet finalised. As I mentioned to Senator Bishop, part of Admiral Crane's job is to set up the implementation task. My expectation is that the staff numbers will be fewer than 20 on the Defence side.

**Senator HOGG**—I noticed that the Prime Minister's release mentions that additional funding of 5.6 will be allocated for the establishment of the joint command. So there will be a share of that, I presume, as well as the ongoing costs.

**Vice Adm. Shalders**—Most of the costs are being attributed against Defence. I think the costs referred to in the Prime Minister's statement are funds that are going to Customs.

**Senator MARK BISHOP**—Admiral Shalders, there was a report in the *Daily Telegraph* on 5 January as to allegations that a Mr Punzalan had faked undertakings and forged signatures in relation to critical safety inspections on the guided missile frigate HMAS *Sydney* between October 2003 and January 2004. Are you aware of those allegations?

**Vice Adm. Shalders**—I am aware of the allegations, but I am going to pass the question to the gentleman on my left.

**Vice Adm. Ritchie**—We are aware of that particular accusation. In fact, there was an ADI employee who made a complaint to the Defence inspector-general that that was the case. It was investigated and found that that had indeed happened—that some certificates had been falsified. The Director-General of Maritime Support liaised with ADI and ADI told him what corrective action they had taken as a result of that. The complainant was notified by the Director-General of Maritime Support that those investigations had been undertaken and that we were satisfied with ADI's admission of the fact and the sort of corrective action they had taken.

**Senator MARK BISHOP**—What was the nature of the falsification of the certificates and the improper behaviour by—

**Vice Adm. Ritchie**—They were welding certificates which were improperly signed by this particular employee.

**Senator MARK BISHOP**—Had the relevant welding occurred, or not occurred properly?

**Vice Adm. Ritchie**—The relevant welding had occurred; it is a matter of whether the welding had been properly certified that is in dispute. It had not been properly certified—put it that way.

**Senator MARK BISHOP**—It had not been properly certified. And ADI carried out an investigation to ensure that the work had been done properly?

**Vice Adm. Ritchie**—ADI carried out an investigation to ensure that the work was subsequently properly certified and hopefully to put in place procedures to try and prevent that sort of falsification of records again.

**Senator MARK BISHOP**—Getting away from the issue of certification, was there any suggestion that the work in question had not been done properly?

**Vice Adm. Ritchie**—Not to my knowledge, no.

**Senator HOGG**—What about quality assurance and these types of issues—what program do you have in place to ensure that proper quality assurance standards are met?

**Vice Adm. Ritchie**—It is a process of certification that these things have been done to the relevant standards. When ships come out of major work, or indeed come out of any work, they do not move anywhere until all of the relevant certificates are signed and agreed by the doer of the work, by the ship and by the Defence Materiel Organisation.

**Senator HOGG**—But in this case that was not picked up, which means that there was a fault in your processes. So I am asking what steps you have taken to ensure that your processes are tightened, because whilst this might not have been significant on this occasion, there may well be other occasions when it is significant and then there are consequences that people do not like flowing from that.

**Vice Adm. Ritchie**—All I can say to you is that these processes are followed. In this case it came to light because someone else said, 'That has been done incorrectly.' That has been investigated and I really cannot give you the detail, because I do not know it, of what agreements have been reached between the DMO and, in this case, Australian Defence Industries. Somebody here from DMO might know the answer.

**Senator HOGG**—We are seeing DMO tomorrow.

**Vice Adm. Ritchie**—I think you would be better off to ask the DMO on Friday.

**Senator Hill**—Now that you have raised it, I am sure they will have the answer for you.

**Senator HOGG**—I am sure they will; that is why I raised it. I am sure that will be a leading statement from them on Friday.

**Vice Adm. Ritchie**—But, if I could just say to you in a general sense, it is a lengthy business and it is a business that we take more and more seriously as time goes by. We have a naval technical regulatory system which is designed to put in place these sorts of things. It is exactly the sort of thing—it may well be going through your mind—that comes from the business of *Westralia* and the fire. We get to the point where we will not allow ships to move if we do not have certification that we are happy with. All processes sometimes have faults in them.

**Senator MARK BISHOP**—Admiral, I am a little bit unclear as to what has occurred. Someone informed you that false certificates had been issued and provided you with sufficient detail. You pursued it with the shipbuilder, ADI. They caused an investigation to occur and ADI then advised you that the substance of the allegation was correct and that they had instituted procedures so that you were satisfied that the work itself had been done properly, notwithstanding the fact that false certificates had been issued. Is that correct?

**Vice Adm. Ritchie**—As I understand it that is correct.

**Senator MARK BISHOP**—Did Navy or ADF cause to occur any independent review of ADI's work at first instance?

**Vice Adm. Ritchie**—I do not know the answer to that question. You would have to ask the DMO that on Friday. The agent here is the DMO. This is an issue between the Defence Materiel Organisation and ADI.

**Senator MARK BISHOP**—Questions about the work at first instance, quality assurance, review procedures, actions by ADI, review actions by Navy, all go to DMO?

**Vice Adm. Ritchie**—Yes.

**Senator MARK BISHOP**—Can we talk about the issue of the Navy rescue submarine, the *Remora*. How many rescue submarines such as the *Remora* are currently held by ADF?

**Vice Adm. Ritchie**—One.

**Senator MARK BISHOP**—Is the *Remora* currently operational?

**Vice Adm. Ritchie**—The *Remora* itself is operational. The device by which it is lowered into the ocean is called the LARS—the launch and recovery system—and it is nothing more than an A-frame that sits on the back of the ship and lowers this thing over the side. In the last major exercise, which occurred in December, an independent certification society expressed some doubt about the structural integrity of that particular device. On the advice of that particular certification authority, it has now been limited to certain sea conditions and use. So it is not unusable; it is just that it is not usable—

**Senator MARK BISHOP**—There is limited use?

**Vice Adm. Ritchie**—Yes. It is limited by the weather conditions.

**Senator MARK BISHOP**—That is the A-frame—

**Vice Adm. Ritchie**—The A-frame that sits on the back of the ship.

**Senator MARK BISHOP**—Does the A-frame have to be repaired or replaced?

**Vice Adm. Ritchie**—No, it does not have to be replaced. When we acquired this thing, an independent certification society said, ‘You can do this with it.’ We did that with it. The same society some years later said, ‘Hang on, those calculations might be wrong.’ The process that is being gone through now is to say, ‘Okay, let’s get an independent view as to whether they are right or wrong.’

**Senator Hill**—This was a new issue for you, too.

**Vice Adm. Ritchie**—Yes. It is only something that occurred because we were independently trying to verify this system through DNV, the certification society, in any case.

**Senator MARK BISHOP**—What are the limited seas in which the *Remora* can now operate?

**Vice Adm. Ritchie**—One-and-a-half metre waves. It is to do with the motion of the vessel.

**Senator MARK BISHOP**—Australian submarines, when they are out to sea, the overwhelming majority of their time would be in conditions in excess of 1½ metres, I take it?

**Vice Adm. Ritchie**—Most of the time they are submerged; there are no waves at all.

**Senator MARK BISHOP**—When they are on the surface?

**Vice Adm. Ritchie**—This is an annoying, frustrating and irritating thing and we need to resolve it, which we are working towards. But I would not like you to go away with the idea that the *Remora* can rescue submarines anywhere in the world from any depth. It cannot.

**Senator MARK BISHOP**—I was not going to say that but that is the discussion I want to have.

**Vice Adm. Ritchie**—Essentially it is limited to the continental shelf. So if you are out in the deep ocean, you are not going to recover people from a submarine with *Remora*.

**Senator MARK BISHOP**—How deep is the continental shelf?

**Vice Adm. Ritchie**—It is a couple of hundred metres. Historically, most submarine accidents occur in port confines and places like that.

**Senator MARK BISHOP**—Notwithstanding that, if you had an accident on the continental shelf up to that 200 metres, is the *Remora* in a satisfactory condition to be able to serve its purpose?

**Vice Adm. Ritchie**—At the moment, subject to that limitation, but I guess we would be saying that if there was a submarine on the bottom within a reachable depth, and we were still worried about figures as to the strength of the A-frame, we would probably be taking the chance and using it in any case. Other than this doubt about the structural integrity, which is almost an academic thing, the rest of the system is in perfect working order and the people

who run it, in case you were going to ask that next, know exactly what they are doing and I have every faith in their ability to operate it.

**Senator Hill**—So in an exercise, for example, we would stay within the 1½-metre limit. In an emergency, the emergency might override that. But there is unfinished business there. There is an issue that has to be resolved and there is a process in place to find a resolution.

**Senator HOGG**—Who is responsible for the rectification work? Is that the original designer or is it Navy?

**Senator Hill**—I think it is still at the stage of trying to determine whether there is problem or not.

**Vice Adm. Ritchie**—Whether it is right or it is wrong.

**Senator HOGG**—So there is no definite—

**Vice Adm. Ritchie**—There is no definite answer to that question. There is a view from the certification society that structurally the integrity of the thing is not what it might be cracked up to be in certain sea states.

**Senator MARK BISHOP**—What are the limits of the operation of the *Remora* in terms of sea depth? Is it to 200 metres?

**Vice Adm. Ritchie**—I would not say exactly that it was 200 metres but it is in the hundreds of metres.

**Senator MARK BISHOP**—Give or take. I am advised that the company Fraser Diving Australia, which was awarded the contract to operate the *Remora* in 2003, since that time has been unable to successfully mate the *Remora* with a submerged submarine in military exercises without the assistance of personnel from the Australian Submarine Corporation. Is that assertion correct?

**Vice Adm. Ritchie**—In late 2003, in an exercise called Black Carillon, they mated the *Remora* with the submarine. A lot has been made about other people who were brought in to assist with that particular event. There was an escape and rescue consultant—and I will not say who that was. There was another contractor that was brought in. Because at that time Fraser Diving was new to it, it was always expected that that would be the case. It was always expected that that would be the case no matter who had won the contract—clearly other than the people who had had the contract on a previous occasion.

**Senator MARK BISHOP**—It was expected there would be problems in the mating, whoever had the contract?

**Vice Adm. Ritchie**—No. People expected that they would need assistance from people who had done this before in other places. There is also an issue of trained operators. Trained operators for these things do not just sit in Perth waiting for *Remora* to be called into action. They work for other diving companies—other people who operate remotely operated vehicles—and they work all around the north and the west of this country. It was always envisaged, even with the previous contractor, that you would need to call in some of these people on a casual basis to help you operate this thing 24 hours a day. That is the way in which it works, and indeed it works quite well.

Since then, Fraser Diving have perhaps had the *Remora* in the water more often than it has ever been in the water in its life. There were some issues, some improvements that could be identified, as a result of Black Carillon 2003. There was a training plan put in place. That training plan has been carried through. There have been something like 86 matings, not with a submarine but with an exercise device that is used to simulate the hatch on the submarine. That was all to be proven again in Black Carillon at the end of 2004, and that is when we came up against the problem with the A-frame. So we have not actually done it with a submarine. Once we have resolved it with the A-frame, we will go back and do it again with a submarine.

**Senator MARK BISHOP**—And do it in the field.

**Vice Adm. Ritchie**—Yes.

**Senator MARK BISHOP**—So there has been lots of practice, lots of simulation and lots of training and that has all gone fine. Now the job is to do it in the ocean, so to speak. And that can only be done when the issue of the A-frame structure is repaired or it has been got on top of.

**Vice Adm. Ritchie**—It is only the issue of the A-frame, which is totally unrelated to Fraser Diving—it has nothing to do with them—that holds us back.

**Senator MARK BISHOP**—So what sort of time frame is it before you will be able to do the situation properly?

**Vice Adm. Ritchie**—It depends on the sort of academic argument about the strength of the A-frame but we would expect that in the course of the first half of this year we should be able to go back and try again.

**Senator MARK BISHOP**—Can you confirm that toxic metal contamination of the drinking water aboard the six Collins class submarines, caused by welding in the water pipes, has required the crews of those subs to drink bottled water for over the last two years? Is that correct?

**Vice Adm. Ritchie**—I certainly can.

**Senator MARK BISHOP**—Can you confirm that, as of 24 July last year, only HMAS *Sheean* was able to use its on-board water supply for drinking?

**Vice Adm. Ritchie**—I do not know about 24 July but, as of September last year, all submarines are now using the on-board water supply for drinking. An engineering modification has been fitted to the submarines to enable them to do that. The original defect, if you like, is accepted by the builder as a latent defect that in the due course of time they will have to resolve.

**Senator MARK BISHOP**—But you say the original defect has now been rectified in all subs?

**Vice Adm. Ritchie**—No. The original defect has not been rectified. There has been a modification put in place, if you like, that takes away the ill effect of the original defect. But the brazing of the pipes and all that sort of stuff that caused the cadmium to be released still exists. Effectively, there have been filters and things put into the water supply system.

**Senator MARK BISHOP**—Has any notation been placed on the individual health cards of the relevant personnel on the subs?

**Vice Adm. Ritchie**—With respect to the health of people, a sample of 40 of the longest-serving Collins submariners has been tested and was found to be within the normal limits for cadmium within the body, but nevertheless all of the people who served in the submarines during this period of time that this has been a problem have had their medical records annotated that that happened.

**Senator MARK BISHOP**—What is the process now to rectify the original problem? Is that to be done in routine servicing work or what?

**Vice Adm. Ritchie**—I do not know that the Australian Submarine Corporation have actually found a technical solution to that yet but, when they do, it would be done during normal refits.

**Senator MARK BISHOP**—What factors caused the running aground of HMAS *Ballarat* at Christmas Island? How did it happen?

**Vice Adm. Ritchie**—Contact with the ground.

**Senator MARK BISHOP**—Why did that occur?

**Senator HOGG**—I find that hard to believe when it falls away so quickly.

**Vice Adm. Ritchie**—I would say they ran into Christmas Island, not run aground on Christmas Island.

**Senator MARK BISHOP**—What did you say?

**Vice Adm. Ritchie**—They ran into it.

**Senator MARK BISHOP**—Didn't they see it or what?

**Vice Adm. Ritchie**—I would be reluctant to sit here and guess as to why that happened. The reason I say that is that there is a board of inquiry, which has already convened. It starts to take evidence in public in Melbourne on 21 February. That board of inquiry will tell us why this happened and, clearly, depending on why it happened, what we ought to do about it. For us to sit here and speculate as to why it happened—I know things have appeared in newspapers and all that sort of stuff—

**Senator MARK BISHOP**—You have an idea of what happened?

**Vice Adm. Ritchie**—I would be happy enough to say here that there was some form of mechanical failure that contributed to it. How that mechanical failure arose, I would not be prepared to speculate.

**Senator MARK BISHOP**—How long will the board of inquiry take?

**Vice Adm. Ritchie**—I think that they have allowed themselves a month. They started some time ago taking witness statements and all that sort of stuff and scoping the sorts of questions that they would need to ask when they sit in a formal hearing. But the whole process would take at least a month and it could take longer. Boards of inquiry never seem to be completed within the time frame that we originally estimate because people are always going off down different lines of investigation.



**Senator MARK BISHOP**—What was the extent of the damage to HMAS *Ballarat*?

**Vice Adm. Ritchie**—The damage appears to be—I say ‘appears’ and I will qualify that in a minute—confined to damage to the blades of the two propellers. Originally it was thought there might have been some damage to the rudder. We are less certain that that is the case. What actually happened is that the ship was at Christmas Island; as you know, that is where this happened. It was moved to the buoy at Christmas Island. We took some underwater photographs of what we could see underneath there. On the strength of those photographs we did some engineering trials and on the strength of those trials the ship went back to Fremantle under its own power. We then had a thought of putting it in a dock in Fremantle but we were able to get much better underwater photography in Fremantle that suggested that the ship could proceed on to Melbourne, where it was due to be docked in any case for normal maintenance work, so that is what has happened. The ship arrived in Melbourne I think on Monday. It probably went into the dock today, or will soon. Once there has been a thorough investigation we will be in a better position to say, ‘This is what the damage is.’ But on the face of it it appears to be limited to damage to the propellers.

**Senator HOGG**—If it is in for a routine service, how long will it be out of action?

**Vice Adm. Ritchie**—I do not honestly know, but I think it is there for a couple of months.

**Senator HOGG**—If they find there is a problem that needs to be fixed, it can be fixed within that period.

**Vice Adm. Ritchie**—We know the propellers have got to be fixed in any case.

**Senator MARK BISHOP**—And it was going in for routine service anyway, was it?

**Vice Adm. Ritchie**—Yes.

**Senator MARK BISHOP**—How long would it normally have been scheduled for to be in maintenance?

**Vice Adm. Ritchie**—Off the top of my head I could not tell you, but it would be a matter of six or seven weeks or something like that.

**Senator MARK BISHOP**—That concludes my questions for Navy. Thank you, Admiral.

[10.16 p.m.]

**CHAIR**—We move now to outcome 3, Army capability for the defence of Australia and its interests.

**Senator MARK BISHOP**—General Leahy, the first thing I want to talk about is the issue of the war graves or alleged war graves at Fromelles. I know you are aware that I did a speech on that issue in the parliament some days ago. You may not be aware that I also wrote to Minister Hill and attached to the correspondence to Minister Hill was a list of the 163 names of the Australians who some people believe have been missing. I also forwarded to Minister Hill photographs and aerial shots of the mass graves at Pheasant Wood and Manlaque Farm. In the light of that extensive new evidence that had not been made available to the ADF when this issue was last pursued some two or three years ago, does the department still hold to its view, as set out in the answer to question No. 1646, that the existence of such a mass grave is unlikely?

**Lt Gen. Leahy**—I am well aware of your speech. In fact, I have a copy of your speech to the Senate on 10 February, and I concur with the sentiments of the respect that we must hold for our war dead and the need to commemorate them. I have received this evening, after you mentioned it to me, a copy of your letter to the minister which contains the names. The photographs on the copy I have got are not quite legible. I am sure I can get better copies of that.

**Senator MARK BISHOP**—I can provide you with originals.

**Lt Gen. Leahy**—I have had a brief look at your letter and you would be aware that we have had a look at this matter over a period of time. Indeed, I hold a copy of a letter from the first secretary of our embassy in Paris, who has written off to the prefect of the region. These letters were from the period around about April 2004. What I would like to do is reconcile what may be the new evidence you have in your letter, and I have not had time to do that because I have only just received it. Then I think we would be in a better position to determine whether it is new evidence or the same evidence. I do note that in your letter it talks about Pheasant Wood and in the letter from the embassy in Paris it talks about Fromelles Wood. They did not know what Pheasant Wood meant, so I think we need to look at some of those sorts of issues.

The letter from the prefect of the Lille region said:

... you raised the issue of information, received by the Government of Australia from a citizen, about the possible existence of a common ... grave of Australian soldiers near the ... Wood. According to the information obtained from the town council and from an association of veterans of Fromelles, no common grave of Australian soldiers has been discovered recently nor is there likely to be one on the basis of historical knowledge.

I am quoting here from Monsieur Jean-Pierre Richer. So I think we need to reconcile these issues. I think you would be aware that it is the policy of the government and of Defence that, for us to investigate human remains, we need to make sure that there is strong circumstantial or physical evidence that they are of members of the Australian forces. It is the responsibility of the Australian Army to investigate those matters, and we have done that previously. But I think the best reply I can give you at the moment is to thank you for the letter, and I would certainly compliment you on your approach and on your respect for our war dead, and I think we need to do some more work on it.

**Senator MARK BISHOP**—Thank you, General. That is a very professional response. We might ask you to come back on Friday if that is convenient, if you have the time tomorrow to conclude your investigation. If not, it can be done another time.

**Senator Hill**—That is a bit tough, isn't it?

**Lt Gen. Leahy**—We will put our best efforts into an investigation but I would note the time differences between here and France and the fact that we would probably want to deal with the local authorities in France. I will see what I can do by Friday. I would very much like to come back to the Senate here, but I think it might be difficult.

**Senator MARK BISHOP**—General Leahy, you may not be aware but the additional evidence is evidence that was provided by the German Red Cross. They received that evidence from the German military authorities. The nature of the evidence is the 163 names of

the dead Australians who were buried in the trenches behind German lines with their names and their dog tags. It has been in the appropriate repository in the Red Cross in Germany for many years. It has now come into the public domain, has been sent to Australia and is the subject of new, published material by military historians who have an interest in this matter. I am not convinced that the local authorities in France have had access to that new information, hence the advice that you have received from the embassy over there, relying in turn on the local authorities, may well be dated and hence inaccurate.

**Lt Gen. Leahy**—I would like to test that in the light of this new information, and I do think it might take a little bit longer than 36 hours.

**Senator MARK BISHOP**—It probably will. It is better it does take longer if it is going to be done thoroughly. I extend an invitation to your investigating officer to contact my office and—

**Lt Gen. Leahy**—We would be pleased to.

**Senator MARK BISHOP**—we can take you through in some detail.

**Lt Gen. Leahy**—We certainly note your interest and it is something that is of interest to us in terms of not only military history but also the respect to our war dead.

**Senator MARK BISHOP**—Fine. We will talk again. Thank you, General.

**Senator FERGUSON**—Can I make a suggestion about the issue that has been raised in estimates by Senator Bishop. I think that, if it is an issue and there is a question put at estimates, an answer should also go to the secretariat so that it can be circulated to members of the committee.

**Senator MARK BISHOP**—Yes, I am happy with that.

**Senator FERGUSON**—I think it should go through the committee process.

**Lt Gen. Leahy**—Yes, senator.

**Senator MARK BISHOP**—And, General Leahy, I am not asking you or the department to come back to me in due course with a definite answer that, yes, there are war graves there. All I am suggesting is that there is additional new evidence—that seems to fit within the guidelines that you provided to me and you referred to earlier—that might warrant further investigation, including diaries of people who witnessed the burials.

**Lt Gen. Leahy**—Certainly, and let me assure you we will have a really good look at it.

**Senator MARK BISHOP**—That is fine.

**Senator FERGUSON**—Can I just follow on from what Senator Bishop said. Is this outside the domain of the War Graves Commission? Is it something that is totally separate?

**Lt Gen. Leahy**—The War Graves Commission looks after established war graves. It is the responsibility of Defence through Army to investigate matters like this. As I say, we like to make sure that there is strong circumstantial evidence or physical evidence that there is something to go and find.

**Senator MARK BISHOP**—War graves come in under commemoration sites, don't they?

**Lt Gen. Leahy**—Yes.

**Senator MARK BISHOP**—You do the investigatory work?

**Lt Gen. Leahy**—That is right.

**Senator MARK BISHOP**—Thank you, General, that is appreciated. I turn now to an issue relating to allegations of asbestos at Puckapunyal army base. Are you aware of that issue, General?

**Lt Gen. Leahy**—Yes.

**Senator MARK BISHOP**—Can you confirm the number of second-year army cadets from the academy in Canberra who were potentially exposed to asbestos in an area known as site 6 during a recent training exercise at Puckapunyal in Victoria. How many cadets were potentially affected?

**Lt Gen. Leahy**—Senator, I can confirm that some cadets—and I will need to read my briefing notes to try to determine the exact number—have been potentially exposed to asbestos in a location at Puckapunyal called site 6. They were evacuated from three buildings there following the discovery of some damaged panels. This was after the recent severe storms in Melbourne. That is really what brought it to our attention. We have sealed the contaminated buildings. We are working through the numbers of people who have been exposed. From a brief review of my notes here I am not sure I have the number of cadets involved, but I will seek to get that to you by the next sitting of this hearing, which will probably be on Friday.

We have worked with all the cadets. Those who have potentially been exposed have filled out documents recording the potential exposure and these documents have been placed on their permanent records and might be used for any future claims that could be there. The cadets have been provided with detailed briefs on asbestos exposure and the possible effects and ongoing procedures to monitor the potential exposure. We have dealt with the incident. We have rendered safe what was now unsafe because of the storm and other incidents there on that site. We will certainly make sure that we look after the cadets into the future.

**Senator MARK BISHOP**—Did you say that only three buildings were found to have the asbestos exposure?

**Lt Gen. Leahy**—I have said that the cadets were evacuated from three buildings at site 6. The remainder of the buildings have been pronounced safe following an inspection by the Corporate Support Infrastructure Group.

**Senator MARK BISHOP**—The other buildings were inspected?

**Lt Gen. Leahy**—That is correct.

**Senator MARK BISHOP**—Was there any knowledge prior to the storm of the potential problem with asbestos? Were there any warning signs?

**Lt Gen. Leahy**—I am not exactly sure. I am quite familiar with this site. In my younger days as a captain at the officer cadet school at Portsea I used to live in these things for lengthy periods of time. They are old buildings.

**Senator Hill**—Are you okay?

**Lt Gen. Leahy**—I am going to put something on my claim, I think. They are old buildings and a lot of old buildings all around the country, not only on Defence sites, contain asbestos. I would like to take that question on notice. Someone from CSIG will be able to answer that question directly on Friday. That is, did we know beforehand of the asbestos in the buildings?

**Senator MARK BISHOP**—To whom should that question go?

**Lt Gen. Leahy**—Corporate Support Infrastructure Group. I nominate Mr Alan Henderson, who would be delighted to answer that.

**Senator Hill**—They have a comprehensive asbestos management plan.

**Senator MARK BISHOP**—That is what I thought.

**Lt Gen. Leahy**—In quite a few of our buildings there are warnings about being careful and not walking on the roof because of asbestos. You will find that all around the country, not only in Defence but in many old factory sites and so on.

**Senator MARK BISHOP**—Army has been generally aware of the problem for some time?

**Lt Gen. Leahy**—We are aware of the problems of asbestos in the estate and we seek to manage that and to ensure our people are safe. What happened here seems to be related to a storm which damaged the buildings and disturbed whatever was there.

**Senator MARK BISHOP**—General, are you aware of whether any audit of that site has been done in more recent years as to the existence of asbestos or not?

**Lt Gen. Leahy**—No, I am not aware of that. Again, I think it is a question for the estate people.

**Senator MARK BISHOP**—All right. Similarly, is the question of whether there were warning signs and the like something for the estate people?

**Lt Gen. Leahy**—Yes, that is a question for the estate people.

**Senator MARK BISHOP**—The records have been annotated, they have been offered counselling and they have been advised of the problems. Okay, that is fine. Can we now turn to this issue of stolen weapons—a rocket launcher, a sniper rifle, two self-loading pistols and four rifles—on 24 December from the Holsworthy Army base. Can you confirm that those weapons were indeed stolen on 24 December or thereabouts?

**Lt Gen. Leahy**—On 24 December 2004?

**Senator MARK BISHOP**—Yes, that is my advice.

**Lt Gen. Leahy**—I am going to seek the assistance of Mr Claude Neumann on that.

**Mr Neumann**—I do not have information on that.

**Lt Gen. Leahy**—I have nothing in my recollection.

**Senator HOGG**—No, that is when it was reported.

**Senator MARK BISHOP**—It was reported in the *Age* on 24 December. The date of the theft was September 2002.

**Senator Hill**—I have recently answered a question on notice—I think from you—that updates that.

**Mr Smith**—You have not answered yet.

**Senator Hill**—I have answered it, but it has not been tabled yet because it has not gone back to him yet.

**Mr Smith**—I see.

**Senator HOGG**—So there is a question on notice, but we have not received the answer yet. Is that right?

**Senator Hill**—I have signed it off and it is in the ether.

**Senator MARK BISHOP**—I got about 100 questions early this morning from Defence.

**Senator Hill**—This is another one.

**Senator HOGG**—Is this in the box, Minister?

**Senator Hill**—This is in the box and it is an update of the lost weapons scenario. The good news is I think that basically most have been recovered. Quite often we find that it is an inventory accounting issue. In other instances, for some reason or other, they disappear and then are found.

**Lt Gen. Leahy**—Part of it is that weapons are also calculated by parts. It could be a pistol stock butt, a trigger mechanism or a locking mechanism and they tend to get a little misplaced and then we find bits and pieces and that equals a pistol. So it is very much in accounting, particularly in the stores and repair parts, but we treat the accounting for our weapons very carefully.

**Senator MARK BISHOP**—I am sure you do.

**Lt Gen. Leahy**—In terms of 24 December, I am not aware of that.

**Senator MARK BISHOP**—The report was on 24 December.

**Lt Gen. Leahy**—They relate to some losses in 2002, I think you said.

**Senator MARK BISHOP**—The report was in the *Age* on 24 December relating to loss or theft back in September 2002.

**Lt Gen. Leahy**—From what unit? I am sorry to inquire.

**Senator MARK BISHOP**—From Holsworthy Army base. The weapons include an 84-millimetre rocket launcher, a 50-calibre sniper rifle, two self-loading pistols and four rifles.

**Mr Neumann**—I actually think that is a mistake in the reporting. My vague recollection is that it was a Carl Gustaf. If it is the report I am thinking of—and I am not sure that it was from the *Age*—they assume that, because it was a Carl Gustaf and Carl Gustaf happens to be the manufacturer of the 84-millimetre rocket launcher, it was a rocket launcher. My vague recollection—and I will have to check it—is that it was actually something like a 6.5 millimetre and I think it was actually a civilian hunting rifle.

**Lt Gen. Leahy**—I would concur with that. That is also my recollection. I would be most surprised if we had lost what is an anti-armour weapon, about a metre long and weighing

about 15 kilograms. It is not something that you lose easily. My recollection is that it was a civilian hunting rifle—a Carl Gustav—and someone jumped to the conclusion that this was an 84-millimetre medium anti-armour weapon.

**Senator MARK BISHOP**—So you are denying it.

**Senator Hill**—I am providing an update which, together with answers previously given, I think will tell you exactly what our current position is in relation to lost weapons.

**Senator MARK BISHOP**—Do you think it would be possible for my office got to get answer tomorrow, now that you have signed off?

**Senator Hill**—If the system will allow that, yes.

**Mr Smith**—As quickly as we can.

**Senator MARK BISHOP**—That obviates the question tonight and, if necessary, I can come back on Friday if I have got the response.

**Mr Neumann**—In fact, Senator, it was actually the *Sydney Morning Herald* that referred to it. It talked about a Carl Gustaf rocket launcher and all the rest of it, and, according to military police records, the following went missing from an armoury at Holsworthy in September 2002: one Carl Gustaf 6.5x55 Swedish Mauser, a Winchester model 94 Klondike Commemorative 30-35 lever action and something that looks like a Czech weapon, a 1 x CZ550 7.62mm 308. They would not be military weapons.

**Lt General. Leahy**—They are not military weapons. They would have been private weapons held by soldiers who are required to both register their weapons with the unit and have them held in the unit armouries.

**Senator MARK BISHOP**—I see.

**Senator HOGG**—In which case, Mr Neumann, they would not be subject to investigation by military authorities, would they?

**Lt General. Leahy**—We would be interested in the fact that, if they were held in the unit armoury, they were in our care, and if they have gone missing—

**Senator HOGG**—Did they go missing from an armoury?

**Lt General. Leahy**—I can only assume that is why we are investigating them.

**Senator MARK BISHOP**—The press report says they went missing from the armoury.

**Senator Hill**—My vague memory is that the state police were investigating it and they were somewhat cross with us because they believed that we were not taking sufficient care—even though they were private weapons. The outcome I am not sure about.

**Lt General. Leahy**—I am not sure either. We will provide you with the information as soon as we can.

**Senator MARK BISHOP**—I presume armouries are locked at all times.

**Lt General. Leahy**—Armouries are very secure places. They are locked and alarmed, and these things should not happen.

**Senator MARK BISHOP**—You do not recall how it did happen.

**Lt General. Leahy**—No, I don't, Senator. I have got records here, but they only go back to 2003. For 2002 we will need to do some work.

**Senator MARK BISHOP**—All right. We will have a look at Senator Hill's answer tomorrow, and we may or may not have to pursue it on Friday or on notice. That is fine.

**Lt General. Leahy**—Perhaps while you are looking for the next question, Senator, I can update you on the asbestos and the number of cadets. There were 100 cadets at site 6, and we believe that 20 of those cadets were potentially exposed to asbestos.

**Senator MARK BISHOP**—Lucky fellows! There was a report in the *Northern Territory News* on Friday, 21 January this year, on page 1, under the heading 'Star wars planned for Northern Territory: secret early warning radar trials conducted'. Are you familiar with that, I am sure authoritative, news—

**Lt General. Leahy**—I am not but I am surprised that the *Northern Territory News* did not have a crocodile on the front page.

**Senator MARK BISHOP**—Is someone familiar with that news source?

**Mr Carmody**—I am not entirely familiar with the article, although I am very familiar with the missile defence program, which I presume the article was referring to.

**Senator MARK BISHOP**—The article states:

An early warning detection system for the American 'Son of Star Wars' missile defence program could be located in the Northern Territory. The *Northern Territory News* understands that secret radar trials were conducted in Bynoe Harbour, 30km southwest of Darwin, last April.

The trials, led by the Australian Defence Science and Technology Organisation, were held with U S military officials present. The group examined the potential of high-frequency radar to improve the detection of ballistic missiles at launch. The *Northern Territory News* has learned that a fisherman also escorted US officials to Bynoe Harbour about April.

And so on. What I am seeking to know is: were such tests conducted as outlined in the *Northern Territory News*?

**Mr Carmody**—My information is that DSTO did conduct some over-the-horizon radar trials in April 2004. Those were conducted in Australia and they were followed up by some trials in the United States in October 2004. They were about the potential utility of over-the-horizon radar in missile defence or in detecting objects. So in the broadest sense there was a trial, but I think the story probably goes a bit further than the trial itself.

**Senator MARK BISHOP**—Were you trialling the utility of the Jindalee operational radar network system?

**Mr Carmody**—Yes. It was part of a series of tests that DSTO undertook to look at the possible utility of over-the-horizon radar network.

**Senator MARK BISHOP**—Were US officials participating?

**Mr Carmody**—I understand that they observed the testing.

**Senator MARK BISHOP**—When did the tests occur?

**Mr Carmody**—There were some trials in April 2004, so it seems to tie in with the article.



**Senator MARK BISHOP**—I presume there are further trials going on all the time.

**Mr Carmody**—There is always a lot of testing going on with the over-the-horizon radar network so, yes, there would be.

**Senator MARK BISHOP**—Is the over-the-horizon radar system in any way linked to what is colloquially known as the star wars system?

**Mr Carmody**—It is not yet. To explain for a moment, there was a memorandum of understanding signed between the United States and Australia on cooperation on the US ballistic missile defence system in June last year. That was, if you like, a chapeau agreement, an overarching agreement. Underneath that agreement can be put a range of annexes to cooperate. The first annex that we are close to finalising under the MOU is the research, development and testing, evaluation annex. We are looking at trying to finalise that by about the middle of this year. That will enable future research and development projects.

The two elements that we are looking out for this year are the application of over-the-horizon radar technology to missile defence and the exploitation of some of the data and whether that would have value to missile defence. But let me say that I think the United States acknowledges that the Defence Science and Technology Organisation is a world leader in over-the-horizon radar technology. They are looking at this technology to see—and it is technology that we have developed over a long period of time—whether or not it could be applicable. If it is and if that annex is agreed—it is yet to be agreed—and becomes part of the testing structure or research and development then that could continue.

**Senator MARK BISHOP**—I presume their interest is in whether the radar stretches out so far that it can read the missiles from launch, or as they approach within the distance of the radar.

**Mr Carmody**—I am not sure of the technical detail, but I think it is fair to say that it is about whether the radar itself at some point can detect objects of that size moving. Whether that is in the launch phase, the boost phase or the time of flight I am not sure. That is something that I am sure the tests would work on.

**Senator HOGG**—Does this mean that the trial was using some real target? Was there any risk to the public in this?

**Mr Carmody**—I do not believe that was the case. With these trials—and I am certain that there were not any missiles being fired—it is normally towed objects and having objects pre-positioned, moving in a set pattern and then determining whether you can see them and with what fidelity. Whether you can determine where they are, how high they are, how quickly they are moving and those sorts of tests. It is that sort of testing that I understand was undertaken.

**Senator HOGG**—So why was the area around Darwin chosen? Is there any specific reason?

**Mr Carmody**—I am afraid I do not know that. I presume it was an area that was within the window of the over-the-horizon radar and that it was also selected because of the amount of traffic that might be moving through that system or the ability to be able to detect particular

movements. They might have wanted to operate in a particular way, and the Northern Territory was probably the best place.

**Senator HOGG**—It could also be using the facilities at RAAF *Darwin*.

**Mr Carmody**—It could well be.

**Senator MARK BISHOP**—Where is the primary location of the over-the-horizon radar network?

**Mr Carmody**—There are a couple of locations. There is the Alice Springs location—I am sorry but I do not have enough detail to give you a technical answer. I might have to ask my colleagues from DSTO to give you one.

**Senator Hill**—It is run out of Adelaide.

**Mr Carmody**—It is actually controlled from Adelaide.

**Senator Hill**—There are three radars: one in Queensland, one in Western Australia and—

**Senator HOGG**—One at Longreach—

**Senator Hill**—one in the Northern Territory, near Alice Springs.

**Senator HOGG**—And the other one is in Western Australia—

**Mr Carmody**—At Laverton.

**Senator MARK BISHOP**—We might turn to the statement, Mr Smith, that you read out at the beginning of proceedings. I would not want you to think that we have paid a lot of attention to Senator Hill's and none to yours.

**Mr Smith**—Unfortunately the CFO is not here, but I may be able to—

**Senator MARK BISHOP**—I wanted to ask both some general and detailed questions as to the problems that you are experiencing. There have been qualified audits issued every year for about four years. You indicated in your statement—I do not know if you said it, but I gained the impression—that it is going to take at least another two or three years before—

**Mr Smith**—I believe so.

**Senator MARK BISHOP**—you are on top of the problem. What are the problems? I do not mean to be rude in saying this but, if you are running Woolworths or BHP, they have thousands of operations and thousands of employees and they operate all around the world in thousands of sites. They can run their operations, do their valuations and know what their assets are worth and what their liabilities are.

**Mr Smith**—Since day one those organisations have grown up with very complex commercial accounting systems. As a public service department—and in the case of defence services as a public agency—we were never required to maintain the detail and sorts of records that would support accounts of this kind. So what is required of us is quite a revolution in a technical and structural sense and in the sense of the discipline we have to bring to bear and the skills we have to apply. We are asked to transition from being a government department, where we only did cash accounting through to 2000, to being a corporation with the same accounting standards, practices and disciplines as the ANZ Bank or BHP. It is a huge shift for us to make. For most government departments, which are very

small operations—some of them own no property; most own very little—and have relatively few assets and liabilities, you could do this, and most of them are getting there.

We are probably the biggest corporation in Australia: \$50-odd billion in assets; \$7 billion worth of liabilities; 90,000 people; 5,000 contracts a year, each one attracting a liability that has to be recorded; and billions of dollars worth of inventory. These things are going to be a huge challenge to get to where we have to be. The valuations is something that I think we can solve. It requires a big input of effort—about a half a million dollars worth of contract to get all of our property valued. We will be doing that and we will now be required to do it annually. We will, under the Australian—

**Senator MARK BISHOP**—You are going to be required to value your property annually?

**Mr Smith**—That is right.

**Senator MARK BISHOP**—Every year? On every site?

**Mr Smith**—Because then it becomes part of your balance sheet, you see.

**Senator MARK BISHOP**—Private interests do it every three years or every five years.

**Mr Smith**—The Australian equivalent of the International Financial Reporting Standards will require us to revalue all earthworks annually.

**Senator HOGG**—Is that a full valuation or a walk-by valuation?

**Mr Smith**—I cannot answer that.

**Senator HOGG**—No, I do not expect you to now. I am just flagging that with you.

**Mr Smith**—I will get an expert to tell you the nature of the valuation. We can solve that particular one and I believe we will solve it this year. The inventory issue—and I have some experts on that here—is massive. You see, we have these huge holdings of inventory. We are a just-in-case organisation. That is why we have such large amounts of inventory. Coles and Woolworths, they get it from the manufacturer, they put it in a warehouse, they take it to the shop and it is gone. Ours go in and out, in and out. Out for operations, back again. Out again for repairs, back again. Down to ADI for an upgrade, back again. There is this massive amount of inventory moving in and out, and every single movement has to be properly recorded. We keep everything, of course, from F111s—

**Senator MARK BISHOP**—Every movement has to be recorded?

**Mr Smith**—Of course, otherwise you do not know where the thing is.

**Senator MARK BISHOP**—You only care where it is one day of the year.

**Senator Hill**—There is one thing keeping a record of the asset, it is another thing keeping a record of its value—if you can work out what it is.

**Senator MARK BISHOP**—We are talking about its value.

**Mr Smith**—So we have 21—

**Senator MARK BISHOP**—You only care about the value on one day of the year.

**Mr Smith**—No. To do proper full balance sheet reporting you have to be able to state the value of these things monthly.

**Senator MARK BISHOP**—Turn it up! One day of the year.

**Mr Smith**—That is what BHP does.

**Senator MARK BISHOP**—No, they do not.

**Mr Smith**—Once you get a system in place—

**Senator MARK BISHOP**—BHP do not value their assets every month.

**Mr Smith**—Once you have got an electronic system in place you can tell the value of these things every month.

**Senator HOGG**—You can. That is right. You can if you want to. Look, I think it might be an appropriate time to adjourn before we pursue any more questions. I really think you should go away and think about what you are going to tell us, because I have done these estimates now for a period of nearly nine years and what you are saying to me just does not gel. What has been said to me on numerous occasions before—I have had it outlined at great length in estimates—is how Defence were taking steps to meet all these crises. Now, of course, here we are. Accrual accounting was supposed to be the saviour of Defence and everyone else and that does not seem to have occurred. I think we are now five years into accrual accounting and for four of those you have qualified accounts. The bell has been rung a long time ago. Defence have said that steps were being taken to address the issue of inventory, address the issue of personnel management and other issues—I cannot recall them off the top of my head. But if you go back and look fairly at the way that this has been treated over a long period of time, I think you will see that there was an expectation that Defence would have improved its situation. But, also, I thought that part of the reason for you coming on board was to help overcome some of these difficulties. So it raises a concern as to what you in your role as the Secretary of the department have been able to achieve to overcome the difficulties that you have identified by not being able to sign off on the accounts for the last financial year.

**Senator Hill**—But what I think you have to understand is that we are not dealing with a static situation. The high-jump bar continues to rise. I am not sure whether you have read the statement that the secretary put down at the beginning of today's estimates when he talks about new obligations that we will face for the first time this year. So we are not—

**Senator HOGG**—But we are not meeting the old obligations, with respect; that is the problem.

**Senator Hill**—In some instances we may be, but new problems have arisen and new requirements are needing to be met and we are not getting there at the moment. If you then move to the remediation program that is put in place, you will see it is both short term—addressing a whole range of specific project issues—and also long term, dealing with some of the systemic issues. I am looking forward to the advice that we will get from Ernst and Young at the end of this month, because we have asked Ernst and Young not only to help us with the specific projects but also to take an overview of the issues we face and how we will progress these challenges in the long term. An enormous effort has been put in, but it has been insufficient so far to meet the changing requirements of the auditors. Therefore we have been forced to do more.

**Mr Smith**—And very rigorous audits at that. I do not object to that; that is what is about. But, as I said in my statement, when I came here I thought that, with a lot more effort and focus, we would be able to knock these things off. In fact, it is structural issues in our management systems that depend on management systems that have not been in place.

**Senator HOGG**—Maybe on Friday, when we come back to the issue, you could have the chief finance officer and yourself equipped to give us specific aspects of this. If you have a prepared statement it will help us.

**Senator Hill**—We have put the summary statement down, but we are prepared to go through all the issues in as much detail as you would like.

**Senator HOGG**—I am just trying to help us out for Friday.

**Senator Hill**—If you set aside a couple of hours for it, I am more than happy to do it.

**Senator HOGG**—I am not trying to specify a time; I am just trying to help.

**Senator Hill**—It is complex, and to do it according to the standard that you seem to require will take time. If you want to know all the issues, exactly what the problems are and the remediation programs that we have put in place, we will take you through each of them.

**Senator MARK BISHOP**—All right.

**Senator HOGG**—That might be necessary.

**Senator Hill**—Do you want to start with that on Friday morning?

**Senator MARK BISHOP**—Yes. If you are making that offer—

**Senator Hill**—There is no more important issue that we are facing, and the secretary is putting in an enormous effort—

**Senator MARK BISHOP**—You are making a bona fide offer. There is a question of whether we do it on Friday or we set aside one night and we come back. I am also happy to do that. It is a lot of time. So we can either do it some time on Friday to start or put aside one night and do it in three or four hours.

**Senator FERGUSON**—Mr Chairman, we are dealing with supplementary estimates. We have full budget estimates in May. To think that we set aside two weeks in May, and we normally only set aside four or five days at this time of year for additional estimates—they are not supplementary. I think it is crazy to ask us as a legislation committee to meet again on another night when the parliament resumes if it cannot be covered in the time that is allotted. Maybe if so much time had not been wasted this afternoon, there would have been a lot more time to do the things that are important.

**Senator Hill**—That is right.

**Senator FERGUSON**—There was a lot of time wasted today.

**Senator Hill**—We spent all day on something that had nothing to with the supplementary estimates at all.

**Senator FERGUSON**—Nothing at all.

**Senator HOGG**—That is not right.

**Senator Hill**—It is right.

**Senator HOGG**—It is not right. The statement was tabled by the secretary of the department this afternoon, in conjunction with the annual report.

**Senator Hill**—But you and your colleagues decided to spend all day—

**Senator FERGUSON**—It took six hours.

**Senator HOGG**—Let's not get into that argument.

**Senator Hill**—on an issue that had nothing to do with estimates whatsoever.

**Senator HOGG**—That is not even a relevant argument at this hour of the night.

**CHAIR**—Order! It being very close to 11 o'clock, I think we might call it a day. Thank you very much, Minister. Thank you very much, Mr Smith, and thank you to your officers. We shall see some of you on Friday morning.

**Senator Hill**—So are we starting with the auditors on Friday morning?

**CHAIR**—Do you wish to start on auditing?

**Senator MARK BISHOP**—Yes.

**Committee adjourned at 10.59 p.m.**