

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE

**Question No. 171**

**Senator Brandis asked the following question at the hearing on 24 May 2012:**

1. What kind of Customs presence is on Cocos Keeling? How many officers are permanently stationed there?
2. What security procedures are in place when an unauthorised maritime vessel carrying asylum seekers arrives at Cocos Keeling Island?
3. On the 15 May 2012 there was an unauthorised boat arrival with 63 people on board. It arrived half a nautical mile off the coast of Cocos Keeling Island and was intercepted by the AFP.
  - a) Can you give a detailed description of the events of 15 May 2012 and explain how the AFP ended up intercepting this vessel rather than Border Protection Command?
  - b) Who initially detected the unauthorised boat?
  - c) What happened after the AFP officers intercepted the unauthorised boat?
  - d) What type of vessel did the AFP use?
  - e) Given the vessel used, do you believe the officers on the Cocos Island had significant maritime capabilities to safely perform the interception on behalf of the Border Protection Command?
  - f) Was a risk assessment completed by the AFP officers before they intercepted the vessel?
  - g) What happened to the unauthorised vessel after it had been intercepted? Has it been destroyed and by who?
  - h) Did the AFP officers who intercepted the boat have the passenger arrival cards that are usually given out by Customs officers upon boarding an unauthorised boat? Were they given to the passengers?
  - i) Did the AFP officers have appropriate protective gear and weapons with them at the time of the interception? Is it the same gear a Border Protection Command officer would use?
  - j) How did the AFP officers know the vessel was in the area and at what point were they first notified of the vessels presence in the area?
  - k) At what point did the officers notify Border Protection Command / DIAC about the illegal vessel interception?

**The answer to the honourable senator's question is as follows:**

1. The Australian Customs and Border Protection Service (Customs and Border Protection) has no ongoing permanent presence on Cocos (Keeling) Islands. Customs and Border Protection functions are performed by the Australian Federal Police (AFP), in their capacity as Acting Officers of Customs, under an agreement between the Customs and Border Protection and AFP. Up to 11 Customs and Border Protection officers have been on Cocos (Keeling) Islands since 15 June 2012 in response to the increase in Suspect Irregular Entry Vessel (SIEV) arrivals at that location. In addition, the ACV Hervey Bay crewed by up to 10 officers has been stationed at Cocos (Keeling) Islands since 23 July 2012.

2. The usual practice is that the first response to a SIEV is undertaken by AFP in their capacity as an Acting Officer of Customs. Since the deployment of Customs and Border Protection officers to Cocos (Keeling) Islands on 15 June 2012, they are leading the response to all SIEV arrivals on Cocos (Keeling) Islands which involves boarding vessels, bringing the irregular maritime arrivals ashore and detaining them until they are handed over to the Department of Immigration and Citizenship for transfer to Christmas Island.
- 3(a) The vessel was originally sighted by residents on Cocos (Keeling) Islands who reported the sighting to the AFP at 3.15pm local time (6.45 pm AEST) on 15 May 2012. This information was reported to the Customs and Border Protection National Operations Centre (CNOC). The AFP, in their capacity as Acting Officers of Customs under an agreement between the Customs and Border Protection and AFP, intercepted this vessel at 4 pm local time (7.30 pm AEST), as it was entering the lagoon of Cocos (Keeling) Islands. At approximately 4.55 pm local time (8.25 pm AEST), AFP Officers advised the CNOC that the people on board the vessel would be transferred to the Cocos Club on West Island within the hour.
- (b) It was observed by local residents at 3.15 pm hours local (6.45pm AEST) on 15 May 2012, who notified AFP stationed on Cocos Island.
- (c) The AFP 8.5 metre Rigid Hulled Inflatable Boat was used to intercept the SIEV. The irregular maritime arrivals were then transferred to the Department of Regional Australia vessel, the RJ Hawke and were brought ashore.
- (d) Refer to (c) above.
- (e) In this circumstance the AFP RHIB was suitable. The RHIB is restricted to remain within 12 nautical miles off-shore and is deployed depending upon weather conditions. This operation was also supported by the RJ Hawke.
- (f) The AFP officers are aware of when the RHIB can be used and continually assessed the risk of the situation which included not only risk to AFP members but also to other agencies including volunteers and the Irregular Maritime Arrivals. They also had the support of the RJ Hawke and the Harbour Master.
- (g) The unauthorised vessel was destroyed, pursuant to section 185B of the *Customs Act 1901* and *Customs Act 1901 (C.K.I)*, by On-Island Enterprises Pty Ltd on 31 May 2012.
- (h) No as passenger arrival cards are not used for Irregular Maritime Arrivals.
- (i) Yes the AFP officer who led the boarding had appropriate protective gear. The equipment is similar to that carried by officers assigned to Border Protection Command.
- (j) The vessel entered the lagoon through Port Refuge (between Horsburgh Island and Direction Island) travelling in the direction of Home Island. It was observed by local residents at 3.15 pm local (6.45 pm AEST) on 15 May 2012, who notified AFP stationed on Cocos Island.
- (k) The AFP notified Customs and Border Protection National Operations Centre (CNOC) at 4.55 pm local (8.25 pm AEST) on 15 May 2012. CNOC immediately advised Border Protection Command.