

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

Question No. 34

Senator Brandis asked the following question at the hearing on 18 October 2011:

Senator WRIGHT: Just turning to the second boat, this was the boat with 105 Hazaras aboard which went missing on or around 2nd or 3rd of October 2009. The home affairs minister, Brendan O'Connor, was reported in the *Sydney Morning Herald* on 25 May 2010 as saying that 'subsequent credible information' to Customs showed the boat's difficulties had been resolved. He later added:

... surveillance activities that day by border protection command did not detect a vessel in distress.

But since then, Customs and Border Protection has been quoted as saying:

... information Customs and Border Protection received about a vessel in distress on 3 October 2009 may have referred to this incident ... Customs and Border Protection advised the Australian Maritime Safety Authority ... of a possible distress situation, including possible vessel coordinates ... AMSA contacted ... the Indonesian National Search and Rescue Agency, who accepted responsibility for coordinating the search.

So my first question in relation to this vessel is: where did Customs get the information from that there was a boat in distress?

Mr Carmody: I do not know that I can go into specific detail of intelligence we receive, but it was a report about a possible vessel in distress. We did cover this in the estimates hearing in May of last year.

Senator WRIGHT: My understanding is that additional information has come to light, which is why I am asking these questions again. So there was a report that there was a boat in distress?

Mr Carmody: We received a level of intelligence that a vessel may have departed and be in distress. Then we provided that information to AMSA. Because the possible location was reported to be in the Indonesian search and rescue zone, AMSA then, as is normal practice, provided that information to BASARNAS, the Indonesian search and rescue authority. I am not quite sure of the sequence. Shortly after we got the initial evidence, we got a further source of intelligence that said that the vessel was no longer in distress. BASARNAS also reported back that they had been unable to locate a vessel in distress. Notwithstanding that, we continued a flight pattern just to make sure as best we could whether there was such a vessel in distress and that showed no evidence, there was no sighting of the vessel.

Senator WRIGHT: But it sounds from your answer that there was no firm evidence that the vessel had been located, so—

Mr Carmody: We never located a vessel—

Senator WRIGHT: the assumption was that because no vessel was found, there was not a vessel.

Mr Carmody: We do not know. The truth is that we just do not know. There were those reports. We pursued them. AMSA pursued them. We were never able to locate the vessel.

Senator WRIGHT: What date was that initial report made?

Mr Carmody: On 3 October 2009.

Senator WRIGHT: You have indicated that you do not feel at liberty to indicate who made that initial report.

Mr Carmody: That is right.

Senator WRIGHT: What degree of credibility was attached to the report?

Mr Carmody: It was sufficient for them to make the report for us. We take all these issues seriously because of the potential consequences. We judged it sufficient to raise it with AMSA and then judged it sufficient to raise it with BASARNAS. Notwithstanding BASARNAS's response that they were unable to locate any such vessel in distress, we did take the precaution of continuing to do a flying pattern to attempt to locate it.

Senator WRIGHT: What period of time was that over?

Mr Carmody: It was over a number of days, I think.

Senator WRIGHT: You are not quite sure but you think it was a number of days?

Mr Carmody: No, I do not have the exact detail of the flying time but it was a few days.

Senator WRIGHT: I might ask you to take that question on notice and then we can establish what period of time.

Mr Carmody: We will take that on notice.

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

Aerial surveillance of the northern approaches to Christmas Island and the area of the indicated possible position of the vessel was conducted over the period inclusive of 3 October 2009 to 5 October 2009. Over this time period two surveillance flights were conducted, neither flight reported sightings consistent with the description of the vessel in distress.

3 October 2009:

Duration of surveillance: 2hrs 5mins*

Search area size: 12,794 square nautical miles (approximately 43,938 km²)

5 October 2009:

Duration of surveillance: 4hrs 45mins*

Search area size: 29,623 square nautical miles (approximately 101,733 km²)

* Time given is the time spent flying the specified search area – transit time is not included.