



Australian Government
Joint Agency Task Force
Operation Sovereign Borders

30 July 2015

Chair
Senate Legal and Constitutional Affairs References Committee
Parliament House
CANBERRA ACT 2600

Sent via email legcon.sen@aph.gov.au

Dear Chair

I refer to the letter from the Committee Secretary dated 1 July 2015 regarding an inquiry by the Committee into the 'Payment of cash or other inducements by the Commonwealth of Australia in exchange for the turn back of asylum seeker boats'. In response to the Committee's invitation I make the following submission on behalf of the Operation Sovereign Borders Joint Agency Task Force.

I refer to the claim of public interest immunity made by Minister Dutton in relation to related matters in his letter to the Senate on 17 June 2015, tabled by Assistant Minister Cash. The Minister claimed that, relying on established public interest immunity, that this was material:

- the disclosure of which could reasonably be expected to cause damage to national security, defence, or international relations, including disclosure of documents or information obtained in confidence from other governments;
- relating to law enforcement or protection of public safety which would, or could reasonably be expected to:
 - prejudice the investigation of a possible breach of the law or the enforcement of the law in a particular instance;
 - endanger the life or physical safety of any person;
 - disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - prejudice the maintenance or enforcement of lawful methods for the protection of public safety.

Any information I provide publicly to assist the Committee will fall outside this claim of public interest immunity, having been determined by me, in consultation with the Minister for Immigration and Border Protection to be no longer operationally sensitive.

The Commander of the Operation Sovereign Borders Joint Agency Task Force has always been required to balance the public's right to know with the safety of all involved when it comes to the release of information. People smugglers use information about on-water procedures to instruct crew and passengers on how to limit the effectiveness of our procedures, for example, by disrupting lawful boardings. In some cases this has led people to sabotage their own vessel, putting their lives and the lives of Australian officials who attempt to save them at risk.

Public knowledge regarding our maritime operations may lead people to make dangerous assumptions about our maritime assets, and ill-informed judgements about voyage planning, including the selection of the route, crew and vessel. Passengers may be told by people smugglers not to be concerned by the poor state of their vessel, inexperience of their crew, or lack of provisions based on incorrect assumptions about how Australian assets will respond. Public acknowledgement of our techniques and procedures can foster these misconceptions, and has the very real potential to place responders, as well as passengers and crew, in danger.

However, I continue to review the potential release of information of public interest where it is no longer operationally sensitive. Consistent with these protocols, I am now able to present to the Committee additional information in relation to a recent assisted return.

I wish to again emphasise that the primary concern of Operation Sovereign Borders is, and has always been, safety of life at sea. There have been no deaths at sea by those attempting to reach Australia since December 2013, in comparison to over 1200 men, women and children who perished in the five years prior.

In late May 2015, a vessel was observed by, then, Border Protection Command assets north of Australia operating in poor weather conditions, which were rapidly deteriorating. The Master of the vessel indicated they were experiencing difficulty and requested assistance. Border Protection Command assets rendered immediate assistance in accordance with our international safety at life at sea obligations and assisted the safe return of the people to Indonesia.

I believe our actions to assist this vessel were necessary to preserve the safety of life of those on board. The officers on board the Border Protection Command vessels operated in dangerous sea conditions to render assistance to the distressed vessel.

The Joint Agency Task Force will continue to implement the Government's Operation Sovereign Borders policy as directed and will continue to work cooperatively with our neighbours in the region to thwart criminal people smugglers, stem illegal maritime flows, and to save lives at sea.

Yours sincerely

Major General Andrew Bottrell, CSC and Bar, DSM
Commander, Operation Sovereign Borders Joint Agency Task Force