

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 1**

Senator Ludwig (Written) asked:

On what date did the navy receive new orders concerning the turning around of suspected irregular entry vessels?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 2**

Senator Ludwig (Written) asked:

Who provided those orders?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 3**

Senator Ludwig (Written) asked:

Who provided input into their formulation?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 4**

Senator Ludwig (Written) asked:

What advice was gathering concerning those orders?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 5**

Senator Ludwig (Written) asked:

Who signed those orders?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 6**

Senator Ludwig (Written) asked:

Who whom were they issued?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 7**

Senator Ludwig (Written) asked:

Please provide a copy of those orders.

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 8**

Senator Ludwig (Written) asked:

Is Operation Relex II currently in place?

*Answer:*

No.



## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 9**

Senator Ludwig (Written) asked:

When were protocols issued for that operation?

*Answer:*

There have been no protocols issued for Operation Relex II.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 10**

Senator Ludwig (Written) asked:

Who provided those protocols?

*Answer:*

There have been no protocols issued for Operation Relex II.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 11**

Senator Ludwig (Written) asked:

What input was sought for those protocols?

*Answer:*

There have been no protocols issued for Operation Relex II.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 12**

Senator Ludwig (Written) asked:

Who provided advice for them?

*Answer:*

There have been no protocols issued for Operation Relex II.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 13**

Senator Ludwig (Written) asked:

Has long the operation been active?  
Is so, when?

*Answer:*

Operation Relex II is not currently in place.

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### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 14**

Senator Ludwig (Written) asked:

Please provide a copy of those protocols.

*Answer:*

There have been no protocols issued for Operation Relex II.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 15**

Senator Ludwig (Written) asked:

Have any vessels been rotated through Operation Sovereign Borders?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 16**

Senator Ludwig (Written) asked:

How many new vessels have been leased for the purpose of rotating them through the operation?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.



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### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 17**

Senator Ludwig (Written) asked:

How much money has been expended on rotating boats through the operation?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

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### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 18**

Senator Ludwig (Written) asked:

What is the average length of time a vessel is spending at sea as part of the operation?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

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### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 29**

Senator Ludwig (Written) asked:

Did any officer speak to the Minister's office before the decision was made?

*Answer:*

Yes.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 33**

Senator Ludwig (Written) asked:

What process was followed to make that decision?

*Answer:*

The Minister for Immigration and Border Protection was advised by the Commander JATF and the Secretary of DIBP. As the claim for PII was considered at the highest level, the Minister made the decision.

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 34**

Senator Ludwig (Written) asked:

What precedent was used?

*Answer:*

The Minister for Immigration and Border Protection was provided advice on the bases on which PII claims may be made.

It is not appropriate to discuss the content of that legal advice.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 36**

Senator Ludwig (Written) asked:

Who authorised the final decision on the immunity claim over the documents?

*Answer:*

The Minister for Immigration and Border Protection.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 37**

Senator Ludwig (Written) asked:

Did the department prepare advice to the Minister based on their assessment of the documents?

*Answer:*

The Minister for Immigration and Border Protection was made aware of the documents and advised on the bases on which PII claims may be made.

It is not appropriate to discuss the content of that advice.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 38**

Senator Ludwig (Written) asked:

Was the Minister briefed on the nature of the documents identified within scope of the Order for production of documents?

*Answer:*

Yes.



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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 39**

Senator Ludwig (Written) asked:

Was the Minister provided with a copy of the documents that were within scope of the order?

*Answer:*

The Minister for Immigration and Border Protection was made aware of the documents and the categories in which they fell.

## **QUESTION TAKEN ON NOTICE**

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 40**

Senator Ludwig (Written) asked:

How many briefs were provided to the Minister on the documents and the order?

*Answer:*

Given the short time frame, there were no formal submissions. Nonetheless, there were a series of discussions in which advice was provided to the Minister of Immigration and Border Protection.

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 41**

Senator Ludwig (Written) asked:

When was the Minister informed or briefed on the department's decision?

*Answer:*

The Minister for Immigration and Border Protection made the decision to claim Public Interest Immunity on 18 November 2013. Advice was provided to the Minister in his office in the days preceding the Minister's decision.

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 42**

Senator Ludwig (Written) asked:

On what date was the decision (on what was admissible and inadmissible) relayed to the Senate?

*Answer:*

On 18 November 2013, the Minister for Immigration and Border Protection provided a letter to the Senate Legal and Constitutional Affairs Committee communicating the decision in response to the Senate's order of 14 November 2013 for the tabling of documents.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 43**

Senator Ludwig (Written) asked:

Was Minister Morrison involved in the decision making process of claiming public interest immunity?

If Yes;

- a. Who was involved in the decision making process with Minister Morrison?
- b. When was this decision reached?
- c. Who was this decision communicated to and how (written or verbal)?

If No;

- a. When was Minister Morrison first made aware of the public interest immunity claim?
- b. From the time of notification, how often was Minister Morrison briefed on the public interest immunity claim?

*Answer:*

The Minister for Immigration and Border Protection, the Hon Scott Morrison MP was involved in the decision making process.

- a. The Commander JATF and the Secretary DIBP were involved in the decision making process.
- b. The Minister for Immigration and Border Protection made the decision on 18 November 2013.
- c. The decision by the Minister was communicated to the Chair of the Senate Legal and Constitutional Affairs Committee in a letter on 18 November 2013

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 46**

Senator Ludwig (Written) asked:

What is the exact definition of an ‘on-water activity’?

*Answer:*

An “on-water” activity is defined as:

- any operational activity relating to the Maritime domain.
- This relates to air and water activities concerning the attempt, transit and operational outcome of those attempting to reach Australia, which may include; but is not limited to: :
  - on-water response;
  - detection;
  - interception;
  - boarding;
  - transfer of vessel and/or people;
  - search and rescue activities;
  - surveillance;
  - intelligence; and
  - surface and aerial asset disposition, procedures, activities and the decision making in relation to any of the above.

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 51**

Senator Ludwig (Written) asked:

Does Operation Sovereign Borders or the Minister make a case-by-case basis for each and every request for information or question asked and assess it against the definitions of operational or on-water?

*Answer:*

Each request for information that is received by the Joint Agency Task Force (JATF) and any contributing agencies, is assessed individually.

The JATF prioritises operational security when facilitating these requests.

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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 52**

Senator Ludwig (Written) asked:

Who performs this work?

*Answer:*

Requests for information are directed to the work areas where the appropriate expertise to answer the questions reside. There are no staff members dedicated to assessing the releasability of information.



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#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 53**

Senator Ludwig (Written) asked:

What consultation occurs between OSB and the Minister in this regard?

*Answer:*

The Commander of the Joint Agency Task Force provides advice to the Minister regarding the disclosure of operational activity.

## **QUESTION TAKEN ON NOTICE**

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#### **REFERENCES COMMITTEE**

### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 64, 65, 66 and 67**

Senator Ludwig (Written) asked:

Can you please explain the expenditure relating to strengthening response capability for illegal maritime arrivals?

How much has been expended to date?

In what locations or regions has this occurred?

What metrics are you using to determine if this policy is effective?

How much of the funding is allocated to administrative tasks?

*Answer:*

The Australian Customs and Border Protection Service's (ACBPS) maritime surveillance, detection and response efforts are directed at eight maritime threats.

1. Illegal activity in protected areas
2. Marine pollution
3. Prohibited imports and exports
4. Illegal exploitation of natural resources
5. Illegal maritime arrivals
6. Compromise to biosecurity
7. Piracy, robbery and violence at sea
8. Maritime terrorism

Surveillance and response assets are deployed to generate maritime domain awareness against the eight maritime threats where possible concurrently, rather than a specific task such as Illegal Maritime Arrivals. The ACBPS annual report outlines the key performance indicators for Program 1.1 (Border Enforcement) (formerly Program 1.4 Civil Maritime Surveillance and Response).

It is not possible to disaggregate costs to attribute, in any accurate and meaningful way against distinct threats or response activities, including locations and regions of expenditure and separation of administrative and non-administrative costs.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 68**

Senator Ludwig (Written) asked:

When is DIBP first notified when a tow-back occurs?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 79**

Senator Ludwig (Written) asked:

Who provided advice to the Minister on the formulation of the review into the entry of Australian assets into Indonesian waters?

*Answer:*

Lieutenant General Angus Campbell, Commander Joint Agency Taskforce Operation Sovereign Borders, wrote to the Chief Executive Officer of the Australian Customs and Border Protection Service and the Chief of Defence Force, who have co-responsibility for Border Protection Command, requesting that they jointly review the circumstances leading to the passage of Australian vessels through Indonesian waters.

The Minister for Immigration and Border Protection was advised by Commander JATF.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 80**

Senator Ludwig (Written) asked:

Who determined the terms of references for the inquiry?

*Answer:*

The Terms of Reference for this review were agreed and then released on 21 January 2014 by the Australian Customs and Border Protection Service Chief Executive Officer Mr Michael Pezzullo and Acting Chief of the Australian Defence Force Air Marshall Mark Binskin.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 81 and 82**

Senator Ludwig (Written) asked:

Who determined that the period for the review will cover 1 December 2013 to 20 January 2014?

On what basis were these dates selected?

*Answer:*

The period for the review was outlined in the terms of reference for the joint review. The period for the review was determined by the period in which Australian vessels were assessed as having entered Indonesian waters during operations conducted in association with Operation Sovereign Borders.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 84 and 85**

Senator Ludwig (Written) asked:

What is the procedure within DIBP to ensure these incidents are recorded?

What details are recorded?

*Answer:*

The Australian Customs and Border Protection Service has a number of internal policies and procedures to ensure appropriate record keeping for operational activities. The level of detail recorded is appropriate to the circumstances of each incident.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 117**

Senator Ludwig (Written) asked:

How many on-water incidents have occurred since the start of OSB in September 2013?

*Answer:*

The Minister for Immigration and Border Protection has stated that all serious on-water incidents would be reported. To date, there have been two serious on-water incidents:

- The sinking of an Indonesian vessel with loss of life off Java on 26 September 2013.
- The inadvertent incursion into Indonesia's territorial sea by Border Protection Command assets between December 2013 and January 2014.



## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 118**

Senator Ludwig (Written) asked:

Does this number include non-SIEVs? If yes, how many are non-SIEVs?

*Answer:*

Operation Sovereign Borders only deals with SIEVs in regards to on-water operations. Other maritime threats are handled by Border Protection Command outside of their role in the Joint Agency Task Force.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 119**

Senator Ludwig (Written) asked:

Why is the information about on water incidents restricted to only publically accessible information?

*Answer:*

The Minister for Immigration and Border Protection detailed his public interest immunity claim in his letter to the Senate, tabled on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 120**

Senator Ludwig (Written) asked:

Who makes this decision?

*Answer:*

The Minister for Immigration and Border Protection.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 121**

Senator Ludwig (Written) asked:

When did these incidents occur and how many were there?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 122**

Senator Ludwig (Written) asked:

How did they occur?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 123**

Senator Ludwig (Written) asked:

How do Australian naval assets gauge their position in the water? Did this mechanism fail?  
How did it fail? Why did it fail?

*Answer:*

The Royal Australian Navy use a mixture of visual and/or radar terrestrial navigation techniques when able, otherwise use the Global Positioning System (GPS) which is a satellite based navigation system.

These questions are addressed in the ACBPS and Defence joint review in relation to Australian vessels which entered Indonesian waters.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 124**

Senator Ludwig (Written) asked:

Were Australian naval personnel aware they were in Indonesia territorial waters?

*Answer:*

This question is addressed in the ACBPS and Defence joint review in relation to Australian vessels which entered Indonesian waters.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 125**

Senator Ludwig (Written) asked:

Were Australian naval assets under engine power when they ‘inadvertently’ entered Indonesian waters? Or did they drift across the line?

*Answer:*

This question is addressed in the ACBPS and Defence joint review in relation to Australian vessels which entered Indonesian waters.



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### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 126**

Senator Ludwig (Written) asked:

Were Australian naval assets conducting towbacks at the time they inadvertently entered Indonesian waters?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 128**

Senator Ludwig (Written) asked:

Will the joint review by the CDF and CEO of Customs be released to the public?

*Answer:*

An unclassified version of the report was released on 19 February 2014.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 131**

Senator Ludwig (Written) asked:

How is the Government instructing the navy to deal with people smugglers and traffickers?

*Answer:*

This matter falls within the jurisdiction of the Deterrence and Disruption Task Group, led by the Australian Federal Police, within the Joint Agency Task Force. There is no navy involvement.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 134**

Senator Ludwig (Written) asked:

Are SIEVs intercepted inside or outside of Australia's EEZ?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 142**

Senator Ludwig (Written) asked:

Are there any guidelines or policy directions provided to Navy personnel regarding the conduct of tow-backs?

If so, what do these guidelines and/or policy directions entail?

What are these guidelines and/or policy directions based on?

How are navy personnel, SIEV crew members and passengers safety at sea ensured?

*Answer:*

This question falls within the public interest immunity claimed by the Minister of Immigration and Border Protection on 18 November 2013.

## QUESTION TAKEN ON NOTICE

### SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

#### REFERENCES COMMITTEE

#### A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014

#### Question No. 145 and 146

Senator Ludwig (Written) asked:

What Customs and Border Protection Assets are used? What are the costs involved with deploying these assets for OSB?

*Answer:*

The Australian Customs and Border Protection Service (ACBPS) provides Border Protection Command with the following assets for civil maritime surveillance and response;

- 14 aircraft: Ten Dash-8 surveillance aircraft, two Reims surveillance aircraft, and two Helicopters; and
- 10 vessels: comprising one *Cape Class* vessel, seven *Bay Class* vessels, and two contracted vessels (ACV *Ocean Protector*, the ACV *Triton*).

ACBPS maritime surveillance, detection and response efforts are directed at eight maritime threats.

1. Illegal activity in protected areas
2. Marine pollution
3. Prohibited imports and exports
4. Illegal exploitation of natural resources
5. Illegal maritime arrivals
6. Compromise to biosecurity
7. Piracy, robbery and violence at sea
8. Maritime terrorism

Surveillance and response assets are deployed to generate maritime domain awareness against the eight maritime threats, rather than a specific task such as Illegal Maritime Arrivals.

It is not possible to disaggregate costs to attribute in any accurate and meaningful way against distinct threats or response activities.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 147**

Senator Ludwig (Written) asked:

In light of recent allegations from Asylum Seekers reportedly towed back to Indonesia on the 6th January 2014, how are you ensuring that Navy Personnel are conducting their operations with professionalism and concern for the safety of all persons involved including navy personnel?

*Answer:*

As has been stated previously, personnel assigned to Border Protection operations continue to act with the highest levels of professional conduct in a demanding and difficult environment, consistently demonstrating great compassion and courage, often at great risk to their own safety.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 164**

Senator Ludwig (Written) asked:

If so, what is the legal justification for the lifeboats to enter Indonesian waters considering that vessels carrying Asylum Seekers are not considered as innocent passage?

*Answer:*

It is not appropriate to provide legal opinion to the Committee.



## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 167**

Senator Ludwig (Written) asked:

At Page 120 of the 2013 MYEFO document released by the treasurer last year there are a series of items with expenses and capital cost listed.

Can you provide a breakdown of the additional expenditure for the following organisations:

- a. Australian Federal Police
- b. Australian Secret Intelligence Service
- c. Australian Security Intelligence Organisation
- d. Australian Crime Commission

*Answer:*

The budgets of the 16 agencies are the responsibility of the individual agencies. They are not amalgamated into a single Operation Sovereign Borders budget.

This question should be directed to the Attorney-General's portfolio.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 168**

Senator Ludwig (Written) asked:

Can you provide a breakdown of the additional related capital cost for the following organisations:

- a. Australian Federal Police
- b. Australian Secret Intelligence Service
- c. Australian Security Intelligence Organisation
- d. Australian Crime Commission

*Answer:*

The budgets of the 16 agencies are the responsibility of the individual agencies. They are not amalgamated into a single Operation Sovereign Borders budget.

This question should be directed to the Attorney-General's portfolio.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 199**

Senator Ludwig (Written) asked:

Do they specify a role for the Prime Minister, or any other Minister including the Defence Minister?

*Answer:*

No.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 200**

Senator Ludwig (Written) asked:

Is there a role – in terms of directives, guidance or command – for staffers from the Minister for Immigration's office?

*Answer:*

No.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 202**

Senator Ludwig (Written) asked:

What, if any, are the protocols around that reporting?

*Answer:*

Reporting occurs between the Commander, Joint Agency Task Force and the Minister. No reporting occurs between military personnel and staff for the Minister for Immigration and Border Protection. Accordingly, no protocols are required.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

**Question No. 207, 208, 209.**

Senator Ludwig (Written) asked:

Minister, has a Memorandum of Understanding (MOU) been established between relevant agencies – PM&C, Immigration, AFP, Customs and Defence – for this taskforce?

If not, why not?

Is one being worked on?

*Answer:*

An MOU is in place for staff seconded to the Joint Agency Task Force.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 210.**

Senator Ludwig (Written) asked:

If yes, could you please copy a table of it?

*Answer:*

The MOU is still pending sign-off by all agencies. Once this has occurred, a copy may be tabled for the Committee's reference.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 218**

Senator Hanson-Young (Written) asked:

What is the process for and the criteria used to determine the release of information regarding a ‘serious incident’?

*Answer:*

There are no specific rules for the determination of what is a “serious incident”. This is determined on a case-by-case basis.



## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 219**

Senator Hanson-Young (Written) asked:

On the 20th of November 2013 it was reported that Australian authorities were involved in a rescue operation following the unsuccessful towing of a boat, which resulted in the bow of a boat being torn off, causing it to sink. What criteria was used to determine that this was not a 'serious incident' that warranted public disclosure?

*Answer:*

There are no specific rules for the determination of what is a "serious incident". This is determined on a case-by-case basis.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 222**

Senator Hanson-Young (Written) asked:

Do Australian authorities have the legal authority to intercept boats suspected of carrying asylum seekers in international waters?

*Answer:*

It is not appropriate to provide legal opinion to the Committee particularly on a hypothetical scenario.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 223**

Senator Hanson-Young (Written) asked:

Are Australian authorities legally allowed to force a boat to change course in international waters?

*Answer:*

It is not appropriate to provide legal opinion to the Committee particularly on a hypothetical scenario.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 225**

Senator Hanson-Young (Written) asked:

Why is information from the Australian Government about boat arrivals of greater value to people smugglers? What evidence is there to suggest that this is the case?

*Answer:*

Information released under the authority of the Australian Government has a higher degree of credibility than information that is unconfirmed. Authoritative information about boat arrivals allows smugglers to claim credit, enabling them to promote their business as well as obtaining any payments due to them on the arrival of their venture. The Australian Government knows, from information obtained from illegal maritime arrivals, that people smugglers can use a 'payment on arrival' system to attract clients.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 226**

Senator Hanson-Young (Written) asked:

How does disclosing to the Parliament details about the number of boat arrivals, the number of people who have arrived by boat, their ethnicity and demographics differ from the publishing of monthly detention statistics? What evidence has the JATF received to substantiate these claims?

*Answer:*

The information contained in detailed arrival information allows people smugglers to gain insights into potential new markets, and also runs the risk of encouraging chain migration, whereas monthly statistics are more general in nature.

The JATF relies on IMA interviews to garner information. While there are now fewer people to interview, there is no evidence to suggest our original understanding of the people smugglers' business model has changed.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 235**

Senator Hanson-Young (Written) asked:

Can you please explain why information about the incident on the 20th of November and subsequently on the 17th of January when Australia breached Indonesia's territorial waters hasn't been disclosed, but information was made publicly available about reports that the Australian Navy personnel fired shot while intercepting an asylum seeker boat? What is the difference between these events?

*Answer:*

The Government is consistent in the way information is released. While general comment is at times publically provided (for example: that no shots have been fired during the course of Operation Sovereign Borders; or that Australian vessels inadvertently entered Indonesian waters), for reasons detailed in Minister Morrison's public interest immunity claim to the Senate, details about on-water activities are not disclosed.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

##### **Question No. 252**

Senator Hanson-Young (Written) asked:

Can you please confirm what law currently covers the custody of individuals held by Australian authorities when in international waters?

*Answer:*

It is not appropriate to provide legal opinion to the Committee particularly on a hypothetical scenario.

## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 253**

Senator Hanson-Young (Written) asked:

What is the legal status of these individuals when they are held in custody?

*Answer:*

It is not appropriate to provide legal opinion to the Committee.



## **QUESTION TAKEN ON NOTICE**

### **SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

#### **REFERENCES COMMITTEE**

#### **A CLAIM OF PUBLIC INTEREST IMMUNITY RAISED OVER DOCUMENTS HEARING: 31 January 2014**

#### **Question No. 254**

Senator Ludwig (Written) asked:

How long are Australian authorities legally allowed to hold individuals in custody when in international waters?

*Answer:*

It is not appropriate to provide legal opinion to the Committee, particularly to a hypothetical scenario.