



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION
COMMITTEE

Consideration of Additional Estimates

THURSDAY, 21 FEBRUARY 2002

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SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE

Thursday, 21 February 2002

Members: Senators Bourne, Evans, Ferguson, Hogg, Sandy Macdonald and Payne

Senators in attendance: Senators Bartlett, Brandis, Collins, Conroy, Evans, Faulkner, Ferguson, Hogg, Knowles, Ludwig, Sandy Macdonald, Mason, McGauran, McKeirnan, Payne, Ray, Schacht and West

Committee met at 9.11 a.m.

DEFENCE PORTFOLIO

Consideration resumed from 20 February 2002.

In Attendance

Senator Robert Hill, Minister for Defence

Department of Defence

Portfolio overview and major corporate issues

Mr Mick Roche, Acting Secretary of the Department of Defence

Admiral Chris Barrie, AC, Chief of the Defence Force

Lieutenant General Des Mueller, AO, Vice Chief of the Defence Force

Mr Greg Harper, Chief Finance Officer

Budget summary and financial statements

Mr Greg Harper, Chief Finance Officer

Mr Rick Martin, Assistant Secretary Strategic Business Management

Improvement initiatives (Efficiencies, Commercial Support Program, management information systems)

Mr Greg Harper, Chief Finance Officer

Mr Rick Martin, Assistant Secretary Strategic Business Management

Commodore Syd Lemon, Director General Maritime Support

Capability development

Lieutenant General Des Mueller, AO, Vice Chief of the Defence Force

Major General David Hurley, DSC, Head Capability Systems

Rear Admiral Peter Clarke, AO, RAN, Head Knowledge Systems

Colonel Doug Stedman, Head Reserve Policy

Capital budget: major capital equipment and major capital facilities projects questions to Defence Materiel and Infrastructure

Major General Peter Haddad, AM, Commander Joint Logistics

Rear Admiral Kevin Scarce, CSC, RAN, Head Maritime Systems

Dr Ian Williams, Head Land Systems

Air Vice Marshal Ray Conroy, AM, Head Aerospace Systems

Air Commodore Jon Pike, AM, Director General Aerospace Materiel Management

Mr David Learmonth, Head Industry Division

Ms Shireane McKinnie, Head Electronic Systems

Air Vice Marshal Norman Gray, AM, Head Airborne Surveillance and Control

Ms Ann Thorpe, Executive Director Finance-Materiel

Mr Shane Carmody, Deputy Secretary Corporate Services

Mr Mike Scrafton, Head Infrastructure

Mr Ross Bain, Assistant Secretary, Estate Management

Responses to questions on notice from 2001–02 budget estimates hearing.

Defence outputs

Output 1: Defence operations

Rear Admiral Chris Ritchie, AO, Commander Australian Theatre

Mr Kevin Pippard, Director Business Management Headquarters Australian Theatre

Output 2: Navy capabilities

Vice Admiral David Shackleton, AO, RAN, Chief of Navy

Captain Bruce Haines, Acting Director General, Navy Business Management

Rear Admiral Kevin Scarce, CSC, RAN, Head Maritime Systems, Defence Materiel Organisation

Commodore Mike Deeks, RAN, Commander Australian Submarine Force Element Group

Output 3: Army capabilities

Lieutenant General Peter Cosgrove, AC, MC, Chief of Army

Major General Peter Leahy, AM, Deputy Chief of Army

Mr Lance Williamson, Director General Corporate Management Planning Army

Dr Ian Williams, Head Land Systems

Output 4: Air Force capabilities

Air Marshal Angus Houston, AM, Chief of Air Force

Mr George Veitch, Assistant Secretary Resources Planning Air Force

Air Vice Marshal Ray Conroy, AM, Head Aerospace Systems

Output 5: Strategic policy

Dr Richard Brabin-Smith, AO, Deputy Secretary Strategy

Air Vice Marshal Alan Titheridge, AO, Head Strategic Command

Mr Pat Carroll, Acting First Assistant Secretary Strategic and International Policy

Output 6: Intelligence.

Mr Frank Lewincamp, Acting Deputy Secretary Director Intelligence

Mr Ron Bonington, Director Defence Signals Directorate

Ms Margot McCarthy, Head, Defence Security Authority

Estate Management

Mr Ross Bain, Assistant Secretary, Estate Management

Public Affairs

Ms Jenny McKenry, Head, Public Affairs and Corporate Communication

David Spouse, Acting Director General Communication and Public Affairs

Major General Roger Powell, Inquiries Officer

Corporate Services

Mr Shane Carmody, Deputy Secretary Corporate Services
Mr Patrick Hannan, Head Information Systems Division
Mr Mike Scrafton, Head Infrastructure
Commodore Michael Smith, AM Director General Defence Legal Office

Defence Personnel

Rear Admiral Russ Shalders, CSC, RAN Head Personnel Executive
Mr Brendan Sargeant, Deputy Head, Defence Personnel Executive
Air Commodore Roxley McLennan, Director General Career Management Policy
Captain Tim Maddern, RAN Acting Director General Defence Health Service
Ms Bronwen Grey, Director Defence Equity Organisation
Group Captain Robert Cooper, Director Workforce Planning and Establishments
Colonel Mark Bornholt, AM, Director Defence Force Recruiting Organisation
Mr Jason Brown, Director General Safety Compensation and People Development

CHAIR—Welcome. Today the committee will continue its consideration of the Defence portfolio overview. 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 the deadline for the provision of answers to questions taken on notice at these hearing is Wednesday, 27 March 2002. 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. Minister, do you or any officer wish to make an opening statements?

Senator Hill—No.

Senator FAULKNER—I commence by following up an issue that I think we left hanging yesterday because I think Defence was going to seek some more advice. This was a question I raised in relation to the recording of phone calls—I am using this in the sense, as I explained yesterday, in the same way it would occur in emergency services or police departments—whether there was in fact recording of phone calls into and out of defence command centres and operational areas.

Adm. Barrie—The first point to be made about our command headquarters is the phone traffic is always supplemented by message traffic, which is the more formal way of passing orders and advice from one authority to another. Having said that, across the ADF, apart from the systems approach that was described by Mr Hannan yesterday—that is, the sort of accounting framework—all watchkeepers have logs of what occurs during their time on watch in those command headquarters. From time to time, details of phone calls are recorded in those logs. It would have to be said that where there is a high traffic incident and not enough people for that particular purpose, some of those logs only contain brief details of subject matter and who was called and so on.

Across the command structure, the actual recording of telephone traffic in and out of the headquarters is variable. In the maritime headquarters in Sydney there is a recording system; records are held for a year. That system has been in place for some time. In respect of Canberra, in the Australian Defence headquarters, we had a telephone recording system for watchkeepers up until the early 1990s. Since the move to the new structure, no particular recordings are made and no recording equipment is installed. So in that circumstance we have

to rely on the watchkeeper's log and the accounting systems. A similar situation prevails in Headquarters Australian Theatre and those subordinate headquarters.

Senator FAULKNER—Okay. And in terms of NORCOM?

Adm. Barrie—The same. Apart from the accounting method, you would be relying on the watchkeeper's log.

Senator FAULKNER—But there would not be physical recordings of—

Adm. Barrie—Not special recordings of those conversations.

Senator FAULKNER—But not routine recordings either?

Adm. Barrie—No.

Senator FAULKNER—Thanks for that information. In relation to the material that you have mentioned that might be relevant—you have probably considered this anyway—in relation to ongoing inquiries about the children overboard incident in the broad, I wondered if you could assure me that you would take all steps to ensure any relevant record, in whatever form, would be retained until all those inquiries are completed.

Adm. Barrie—That is the normal course and the expectation.

Senator FAULKNER—Thanks very much, Admiral, I appreciate that. I have a question that arises from General Powell's chronology—it is probably a question to the Chief of the Navy. No, it is probably a question to you, Admiral Barrie: if you go to page 2 of 13 in General Powell's report, the chronology, it is clearly an ADF question, as I look at it now. Could I ask you to go to this element of the chronology at 0635 hours, which says, 'Adelaide directed by CJTF to conduct a positive and assertive boarding'. One issue that I have not understood is whether that direction by the commander of the joint task force was a decision made by him.

Adm. Barrie—By the CJTF?

Senator FAULKNER—This is a direction to *Adelaide*. Was the commander operating under orders or other instructions in making that direction to HMAS *Adelaide*?

Adm. Barrie—In the first instance, I would have to say the CJTF's own view of that would be important. But, to go to the command structure in these operations, on each incident of a detection of a vessel approaching Australia, a direction was sought from government about the handling and management of each particular case because every case was different. And so the CJTF would have been in receipt of instructions from the Commander Australian Theatre and from me to him. In directing *Adelaide* to, at this stage, conduct a positive and assertive boarding, that would have been a direction given at a time where the CJTF was satisfied in his own mind that the legal frameworks and the rules of engagement frameworks had been satisfied and it was now appropriate to proceed with the operation.

Senator FAULKNER—Thank you for that, Admiral. What I am trying to understand, for the purposes of how this issue develops—and I think it would be useful background—is whether CJTF here is operating under orders in issuing that direction or whether this is a decision that he makes in his command. In other words, is he operating under orders or instructions or is this a direction that originates with him? I know it comes from him but does it originate with him?

Adm. Barrie—If I understand: was he specifically directed to conduct the boarding or did he make that decision at his own volition?

Senator FAULKNER—I did not say ‘specifically directed’ but, yes, were there directions?

Adm. Barrie—I cannot answer that question. The Commander Australian Theatre may be able to answer that question. I did not give a specific direction about that boarding.

Senator FAULKNER—Could we ask COMAST that, please?

Rear Adm. Ritchie—The answer to the question is that the Commander of the Joint Task Force was operating under a concept of operations which was approved by myself and by the CDF. He was operating under a set of rules of engagement which were agreed by the minister at the time. And as each specific incident unfolded, as the CDF has said, he would go back through the chain of command and he would seek particular direction in particular on: is there any direction that we wish to take with respect to this vessel, or the next vessel, that might be different to the norm?

The norm is that vessels are warned before they approach or as they approach the Australian contiguous zone, which is 24 miles from the coast, or 24 miles, in this case, from Ashmore Reef. Vessels are warned to leave the area, not to enter the Australian contiguous zone. Once they cross into the Australian contiguous zone, the CJTF has been told to board vessels and to escort them away from the contiguous zone. That has been done up to three times in many of the SIEVs that we have had. If we get to the point where we have done it three times that we have to get off once we get outside the contiguous zone under international law, we get off the vessel. If the vessel returns after about the third time, we have escorted it to some place where we have kept it under supervision until a decision is made as to the disposal of the people and the boat itself. I correct what I said: I said Ashmore; it is Christmas Island, obviously, that we are talking about in this particular instance.

On the morning of 7 October, the SIEV had been detected the previous afternoon—it was first sighted by a P3C that was on patrol. The *Adelaide* has been alerted. The *Adelaide* has closed the SIEV. The *Adelaide* has gone through a procedure during the night of warning the SIEV to turn away. The SIEV has continued to approach the Australian contiguous zone. And we get to a point where the CJTF—who would have been in communication with Rear Admiral Smith, the Maritime Commander—under his own initiative, acting on the concept of operations that he is well aware of, the experience that we have gained with the first three boats that we have had in this sort of exercise and the ROE that he has got, is quite entitled and indeed did direct the ship to then board once it was inside the Australian contiguous zone. That is what he did.

Senator FAULKNER—In relation to the chain of command here, would there be any contact on a decision to conduct a positive and assertive boarding with the People Smuggling Task Force, the IDC?

Rear Adm Ritchie—I believe not. The People Smuggling Task Force would have been aware that *Adelaide* had the vessel in close proximity and the People Smuggling Task Force was aware of and agreed with the concept that was being followed. What he was doing was nothing outside a standard operating procedure, if you like, with respect to this boat. I am not quite sure of the words that he used but the direction ‘to be firm in the boarding’ was really just a way of encouraging the ship to be exactly that. You need to take control of these vessels very quickly once you get on board, otherwise you lose the initiative and you have to get off again.

Senator FAULKNER—That is helpful. Thank you very much for that.

Adm Barrie—I will just add what I think is an important issue here. At no point does the People Smuggling Task Force command actions in the Australian Defence Force.

Senator FAULKNER—I appreciate that, Admiral, but I thought there may have been some consultation. Could you take on notice a question in relation to the events of Sunday, 7 October: what, if any, communication or contact did occur with the IDC, with the People Smuggling Task Force that is chaired in Prime Minister and Cabinet? I do not want to get bogged down with it now.

Adm Barrie—Yes.

Senator FAULKNER—Admiral Richie, I do not know if you were here last night when Brigadier Bornholt was giving evidence but he did indicate to the committee that he had informed Minister Reith's office about some details contained within a signal that was received from HMAS *Adelaide* and he indicated that that contact with the minister's office was made on 10 and 11 October. I wonder if you might, for the benefit of the committee, just indicate what occurred in the Defence chain of command with that particular signal which caused Brigadier Bornholt to communicate with the minister's office as he did on 10 and 11 October.

Rear Adm Ritchie—I had never seen that signal until last night.

Senator FAULKNER—I am sorry?

Rear Adm Ritchie—I had not ever seen that signal until last night.

Senator FAULKNER—You had not seen it until last night?

Rear Adm Ritchie—I am totally unaware of those events of which you speak—Bornholt talking to whoever Bornholt spoke to, as a result of that signal.

Senator FAULKNER—Brigadier Bornholt is perfectly capable of putting his own evidence and—

Senator Hill—We have done that.

Senator FAULKNER—I am just saying that my understanding of what he said was that he spoke to Mr Hampton and Mr Scrafton in the minister's office on 10 and 11 October and that this issue arose because of a signal that indicated that no women and children were in the water. I think that is a fair summation.

Senator Hill—Well, that signal did not say that there were no women and children in the water.

Senator FAULKNER—Well, it said, only men.

Senator Hill—The signal did not indicate that there were women and children in the water.

Senator FAULKNER—I have not read the *Hansard* but as I heard what was said I thought the signal indicated that there were only men in the water and, as I understood the sequence of events, it was because of that that the brigadier realised that photographs of women and children did not relate to the incident. It is not my task to recap the evidence but in the broad that was part of what the brigadier said. I was wondering if someone could assist me in terms of where that signal goes from HMAS *Adelaide*. I was asking you, Admiral, because I thought you were the right person to ask but I have that wrong, obviously. So someone might help me—whichever the appropriate person is.

Rear Adm. Ritchie—I can tell you where the signal went. It went from *Adelaide* to a number of addressees which basically have the same consequence. It went to the Maritime Commander and it went to the Headquarters Northern Command. They are the only addressees that are on that signal.

Senator FAULKNER—But do we know where it goes after that?

Rear Adm. Ritchie—I do not know where it went because, as I said, I was totally unaware of the existence of this signal until last night.

Senator FAULKNER—But does someone else know where it goes?

Rear Adm. Ritchie—We would have to find someone to answer the question. I indicated I do not know.

Senator FAULKNER—I appreciate that. I am just trying to understand what happens with the signal, that is all. Can you help me Admiral Barrie?

Adm. Barrie—I can help you to this extent. That signal would have gone to the addressees outlined by the Commander Australian Theatre. And without specific action by any of those addressees that is where it would have lay and that is the command chain. The copy that I understand Brigadier Bornholt obtained—I am not sure how that was transmitted to him but it is not evident from this message that it was sent to him formally.

Senator FAULKNER—I thought some of those issues might have been established, given the attention that this matter has received. But, anyway, no doubt we will get to the bottom of it in time. Admiral Ritchie, I hear what you say: you did not see a copy of that signal until last night. Fair enough. Were you ever informed of the information that was contained in the signal?

Rear Adm. Ritchie—I was never informed of the chronology in as much detail as is here. I was aware of the statements that Commander Banks had made with respect to what he saw on the video. I was aware of the statements that Commander Banks had made as to what he thought he said and what had happened at the time. I was aware of the two photographs that were published not being what they were said to be at the time, and I expressed my doubts about all of those events on two occasions to the Chief of the Defence Force, on 10 and 11 October.

Senator FAULKNER—If I could just take you to the bottom of page 34 in Ms Bryant's report. I do not know if you have a copy of it.

Rear Adm. Ritchie—No.

Senator FAULKNER—If I could just read the relevant sentence:

The statements made by Rear Admiral Smith and Ritchie suggest that Admiral Barrie was informed by telephone some time on 10 or 11 October that there was no evidence to support the original suggestion of children thrown overboard.

I appreciate you cannot answer for Rear Admiral Smith but, in relation to yourself, is that an accurate reflection of the situation?

Rear Adm. Ritchie—That is Ms Bryant's interpretation of the situation. What I told Ms Bryant, and I believe it was recorded in the statements that she gained from General Powell and the record of interview that I had with her, is that I told Admiral Barrie on the evening of the 10th that the photographs as shown on the television that night were not of the events that they purported to be. I had another conversation with Admiral Barrie on the morning of the

11th about the same subject matter, about attempts to get at the truth relating to *Adelaide*, about the need to produce statements, and Admiral Barrie has attested to that yesterday. I have a record of those two events but I have no direct record of saying to Admiral Barrie that this event never happened, but I have no doubt that I expressed words of that nature to Admiral Barrie.

Senator FAULKNER—Can you very briefly explain to the committee why you gave Admiral Barrie that information on 10 and 11 October? I must admit, I had previously assumed that one of the reasons is you might have sighted that signal.

Rear Adm. Ritchie—No.

Senator FAULKNER—I hear now that is not the case. What were the reasons? What was the evidentiary support?

Rear Adm. Ritchie—The reason I spoke to Admiral Barrie is that, as the Commander Australian Theatre, I work directly to Admiral Barrie so we are in regular communication about operations as they unfold. In particular, on the evening of the 10th I saw the *7.30 Report* and the photographs presented as being 7 October and, because I had seen the photographs with the much maligned captions, I knew in fact what those photographs were. So I said, ‘They are not of the event shown.’ On the morning of the 11th, I suspect that those photographs were probably in the press on the morning of the 11th, though I have no direct memory of that, but that is probably part of it, I was told by Brigadier Silverstone that the minister’s media adviser wished to directly question the commanding officer of HMAS *Adelaide* and I directed Brigadier Silverstone that that was not to happen.

Senator FAULKNER—Sorry, could you just repeat that. It is hard to hear what you are saying, Admiral.

Rear Adm. Ritchie—What I am saying is that on the morning of the 11th, Brigadier Silverstone in Darwin rang me up and he said that he had had requests for Mr Hampton to talk directly to the commanding officer of *Adelaide* with respect to the child thrown overboard incident. I said to him, ‘Mr Hampton is not to be given that access. The commanding officer of *Adelaide* is to be told to produce all the evidence he has and send it back through the chain of command.’ That then prompted me to ring the CDF and say to him, ‘This request has been made, I have denied it and this is what I’ve put in place,’ and he agreed with me that that was a reasonable way to proceed.

Senator FAULKNER—I do not think that Admiral Smith is with us at the estimates.

Rear Adm. Ritchie—No, he is not.

Senator FAULKNER—Thank you for that. Admiral Barrie, given that you had had that contact with Admiral Ritchie—of course, in Ms Bryant’s report we also read about contact with Admiral Smith in similar terms, though, given that Admiral Smith is not here I do not want to go any further—you would be aware of Ms Bryant’s reporting of this in her report. Is it fair to come to a conclusion that, within Defence, officers had drawn to the attention of their superiors concerns that they had, as quickly as possible? Is that a fair conclusion to draw?

Senator Hill—Are we talking about the photos or are we talking about the original issue?

Senator FAULKNER—I am talking about the evidence from Brigadier Bornholt who had concerns on 10 and 11 October and who went to Minister Reith’s office with those concerns that the photographs were clearly indicating it was males in the water. I am talking about Brigadier Bornholt and Air Marshal Houston.

Senator Hill—Well, that is not correct what you just said.

Senator FAULKNER—It is fair to say, is it not, Admiral, that in relation to Brigadier Bornholt's concerns of 10 and 11 October about inaccuracies he took immediate action to see that corrected?

Rear Adm. Barrie—I think the first thing to say is that that is my expectation: I have to go so far as to say that, if a commander in my organisation had a concern about something and did not raise it with me, I would fire him, because that is critical to effective decision making in the command centre.

Senator FAULKNER—I accept that. It is true that Brigadier Bornholt did that regarding those photographs on the 10th and 11th—he reported that to the committee yesterday. He goes to Mr Hampton and Mr Scafton really at the first available opportunity, doesn't he?

Adm. Barrie—That is right, although I would point out that Brigadier Bornholt is not in the command chain.

Senator FAULKNER—No, but he does it—and, nevertheless, he is a senior officer.

Senator Hill—He is in the communications chain.

Senator FAULKNER—Nevertheless, he is a senior officer in the Australian Army. With regard to Brigadier Bornholt and Air Marshall Houston it is also true, isn't it, Admiral Barrie, that the minute concerns occur again—in other words, when we have photos republished in the *Australian* on 7 November—there is the discussion, as you are aware, with the acting CDF. Brigadier Bornholt takes action immediately, doesn't he? He tries to ensure that information is presented accurately and properly. He does that, doesn't he?

Adm. Barrie—Yes.

Senator FAULKNER—And so does the acting CDF, Air Marshall Houston—who, as the acting senior uniformed officer of the Australian Defence Force, goes to primary sources when he hears about this and immediately contacts and informs the minister.

Adm. Barrie—That is correct.

Senator FAULKNER—That is what you would expect someone to do, is what you are saying.

Adm. Barrie—That is correct.

Senator Hill—Hang on, didn't the minister initiate that process? That was yesterday's evidence.

Senator FAULKNER—The answer to that is no, and you know that.

Senator Hill—He did. The Air Marshall said he was returning Reith's call.

Senator FAULKNER—Admiral Ritchie, on the basis of the evidence available to him, contacts you on 10 and 11 October about his concerns.

Adm. Barrie—That is correct.

Senator FAULKNER—You may recall that at the commencement of these hearings yesterday I said that, even though there had been some sloppiness—I think that is the word I used—I did feel that Defence did act quickly to try and correct the record.

Adm. Barrie—That is correct.

Senator FAULKNER—The problem we have is that we know that Admiral Ritchie and, it is reported, Admiral Smith bring these concerns to your attention on 10 and 11 October and very little, if anything, happens then. So the question to you is: what do you do? All the other officers have drawn their concerns to the attention of their superiors immediately. What do you do?

Adm. Barrie—The first thing I do is discuss with those officers their concerns. It is my recollection, certainly in respect of the Chief of the Navy and the Commander Australian Theatre, that those concerns were raised. I went through the logic of my approach, which was that the photographs do not tell the whole story here. It is my view that the Commanding Officer's initial report, which I conveyed to the government, in the absence of compelling evidence, ought to stand. If my commanders are absolutely, thoroughly convinced that I am wrong then I would expect them to come back to me and say, 'CDF, you are wrong.' That never happened.

Senator Hill—Because there is no evidence that they were wrong. The signal says that there were adults in the water. It does not say that there were no children in the water. Until you go back to the source—the crew of the *Adelaide* in particular—nobody will know for certain.

Senator FAULKNER—That is your view, Minister.

Senator Hill—It is obvious. The photos is a different issue, but the primary issue of how ministers could have been told by the Defence Force that there were children in the water and then, I think in Labor's view, be expected not to accept that advice, is extraordinary, and that has not been contradicted.

Senator FAULKNER—Admiral Barrie, you do understand that these photos were misrepresented right through the period of a federal election campaign—you do know that?

Adm. Barrie—I know there was a lot of confusion about photographs. I never saw photographs, as I said yesterday, but there was confusion about photographs. I cannot resile from the perspective that those photographs do not tell the whole story.

Senator Hill—There are 400 photographs.

Senator FAULKNER—My point is that senior officers in the ADF, right through this, immediately bring concerns to the attention of their superior. No doubt the select committee will look at this in greater detail. We are not going to look at it in very great detail today, because there are other pressing issues for this committee to examine in these estimates. We know what Brigadier Bornholt did, we know what Air Marshal Houston did, we know what Admiral Ritchie did, we read that Admiral Smith also took a similar approach, and you are told. They report this to the most senior officer in the ADF on 10 and 11 October. The issue is whether there is a responsibility for you, given this extraordinary misrepresentation, and at a very sensitive time, at least for those of us sitting at this side of the table. This misrepresentation continues and nothing is done about it: you do not go to the minister. The question is: when more junior officers to you bring this to your attention—the most senior officer of the ADF—why not?

Adm. Barrie—I think you are mistaken. I did have those discussions with the minister; I did convey to the minister what my advice to him was based on.

Senator CHRIS EVANS—You told him that the photographs did not represent the incident.

Adm. Barrie—When we had the discussion about the confusion over photographs, that was one set of issues. I cannot recollect in great detail when, but I said to the minister, ‘There are people who have doubts about that. But, my advice to you stands—that is, the report that was made to me on Sunday, 7 October is the report that I am giving you advice on.’

Senator FAULKNER—Which means that, basically, you ignored the advice of Admiral Smith and Admiral Ritchie at least, or you determined not to act upon it.

Adm. Barrie—They are not the words I would use. I took into account their advice, I went through with them my view on those proceedings, and nobody returned to say to me, ‘CDF, you are wrong.’

Senator FAULKNER—But you do appreciate, Admiral Barrie, here, that these photographs are presented as proof of the claims that kids were thrown overboard. You do appreciate that link?

Adm. Barrie—Of course I do.

Senator FAULKNER—If the proof is either fabricated or does not hold up in any way, surely that puts doubt on the original claims.

Senator Hill—No.

Senator FAULKNER—If the proof is a load of old codswallop, you would have to start questioning the claims.

Senator Hill—You would be better to say ‘evidence’, but what Senator Faulkner is not taking into account is the primary advice of the Defence Force to three ministers that there were children in the water, as recorded in the log of the task force commander. Isn’t that evidence also?

Senator FAULKNER—Admiral Ritchie, how do you bring this to the attention of CDF? You do not bring it to his attention formally—it is informal, is it?

Rear Adm. Ritchie—On two occasions I spoke to CDF on the issues, as I have said, on the telephone.

Senator FAULKNER—Do you consider that advice to the CDF formal or informal?

Rear Adm. Ritchie—By definition, it is not formal advice, but by the relationship that I hope that I have with the CDF, it is something that he will consider when he makes his decisions.

Senator FAULKNER—Could the signal, which you saw only yesterday for the first time, be tabled for the benefit of the committee, please? I appreciate you might need to have a look at that.

Senator Hill—I had better just let Admiral Barrie check if there is anything in it, from a security perspective—

Senator FAULKNER—I agree with that.

Senator Hill—You have to bear in mind that it is an attempted reconstruction of events; it is not a primary source. The primary source was on the day of the events. But, as an attempt to reconstruct and as far as it goes, I do not see any reason why it cannot be put in—but you had better check if there is any detail here in terms of security.

Senator FAULKNER—Admiral Barrie, when did you first see that signal?

Adm. Barrie—Yesterday.

Senator CHRIS EVANS—Rear Admiral Ritchie, could I just get clear in my mind what your involvement was with the debriefing? Both you and Admiral Barrie refer to the need to collect information and to end the confusion in your discussions very early on in the piece. I am just not clear, from reading the reports, on what happened then in terms of clearing up the confusion and what came back up the chain of command to clarify these doubts which obviously still concerned Admiral Barrie but which you seem to have been more firm on—in the sense that you had resolved on the 11th that it was not a question of doubt, particularly in relation to the photos, that in fact that they were just wrong. What other information then came forward in terms of the debriefing of those involved? Admiral Barrie talked about ‘insisting we get a file together’ et cetera? Can you tell me what your involvement was in that process?

Rear Adm. Ritchie—I directed that the statements that were taken be forwarded, and they were. The statements are, to an extent, generally of the nature that people did not see children thrown overboard, but there is one person who says that he thinks that he did—and those statements I believe are probably available through either of those two inquiries. All of that information has been collated, as indeed it has for every SIEV incident. All of that information has been held on board HMAS *Adelaide*, and they were asked some time ago to forward that to Australia—as you know, they are not in Australia at the moment—and the other parts of that information are held in Northern Command and that has been sent, I believe, to Maritime Command and the information is held there. All of that information exists and it sits there. In terms of pushing that information on—other than through the sorts of signals that we now see, that I was unaware of—after 11 October that information was not pushed forward.

Senator CHRIS EVANS—I will come to Admiral Barrie in a moment, because I think it is important that his version of this be on the record as well. There was concern, and senior officers reported to Admiral Barrie that in fact they thought the initial reports were not right, that the photographs were not right and did not depict the incident, and so there was a misrepresentation to the Australian public of what had occurred.

Senator Hill—The photograph maybe; but I do not think you can say that in relation to the initial report.

Senator CHRIS EVANS—I think it is established that the photographs are a misrepresentation of the events of the day, because they were not of that day—but I am not trying to lead the Rear Admiral into anything in particular. I just want to understand now, given that concern, given that you raised it with chiefs in the Defence Force and given your discussion with Admiral Barrie that ‘we need to get to the bottom of this and collect the appropriate information’, are you telling me then it just got filed and that was the end of it?

Rear Adm. Ritchie—It was looked at and it confirmed what I had told Admiral Barrie.

Senator CHRIS EVANS—So when did you look at it?

Rear Adm. Ritchie—On the afternoon of the 11th.

Senator CHRIS EVANS—So you got that information by the afternoon of the 11th?

Rear Adm. Ritchie—I had that information on the 11th. Other people, Smith I believe, had it on the 10th.

Senator CHRIS EVANS—Right.

Senator Hill—Have you got the 400 photos?

Rear Adm. Ritchie—No.

Senator Hill—Who has got those?

Rear Adm. Ritchie—I am only talking about the statements that were taken. The 400 photographs, to my knowledge—they may have left the ship by some other means—but they have not been formally sent out of the ship.

Senator CHRIS EVANS—Could you just describe for me what it is you had on the afternoon of the 11th?

Rear Adm. Ritchie—Statements from sailors concerning whether or not they saw people in the water.

Senator CHRIS EVANS—And what did you conclude from reading that evidence?

Rear Adm. Ritchie—My conclusion is that in probability children were not thrown in the water.

Senator CHRIS EVANS—And what did you do with that information?

Rear Adm. Ritchie—That is the sort of information that I have discussed with Admiral Barrie.

Senator CHRIS EVANS—So your discussion with Admiral Barrie came after you had actually reviewed the reports of the sailors as well, not just being informed there were doubts about the photos.

Rear Adm. Ritchie—The discussion about the photographs came before. A subsequent discussion with others is later.

Senator CHRIS EVANS—So it was a two-stage process and you had a second set of information before the second conversation?

Rear Adm. Ritchie—I do not have any formal record of the second conversation.

Senator JACINTA COLLINS—Admiral, did that include material in those statements regarding the issue of anyone who had access to information about what was occurring on the other side of the SIEV?

Rear Adm. Ritchie—We get to this point, because when doubts are raised, initially, a lot of credibility is put in the video. We know there is a video, taken on this electro-optical tracking system. The captain of the ship is asked to look at the video and he says, 'I have looked at the video and there is no real evidence there to suggest that children were thrown overboard.' He said there were people jumping off. He said there is perhaps a 13-year-old or 14-year-old who might have been pushed off but I can't see it.' But he says, 'There is perhaps evidence from sailors who were on the disengaged side', and by that he means the side that cannot be seen by the video camera. They will give evidence that they did see children in the water. When that evidence came back only one of those sailors said that he thinks there were children in the water. So the balance of those statements taken on the afternoon of the 10th is that most people did not see children physically being thrown into the water. One person says that he thinks that he did.

Senator CHRIS EVANS—Admiral Barrie, I suppose it was fair to let you respond to that but now you have had, I think you would agree, two conversations. The first conversation basically said the photos were not of the event. The second conversation came from your

chain of command and also went to the evidence of the sailors which you said yesterday. Your commanding officer was of the view that you stuck with but now you had debriefed—

Rear Adm. Ritchie—Can I interrupt. I have not said that I particularly told Admiral Barrie about the evidence of those sailors.

Senator CHRIS EVANS—I see.

Rear Adm. Ritchie—All I have said is that I have told Admiral Barrie of the opinion that I have formed of the overall issue.

Senator Hill—How many statements of sailors have you got?

Rear Adm. Ritchie—I have got them with me. I think there are about 10.

Senator Hill—Ten?

Rear Adm. Ritchie—Yes, I could check that.

Senator Hill—The sailor who said he saw the children in the water. Which side of the boat was he on?

Rear Adm. Ritchie—The fellow who said that he saw them in the water is the bloke who was operating this electro-optical device, so his view is through the viewfinder of the camera.

Senator FAULKNER—It is fair to say though your advice to CDF, if you sum it up, is on probability, children were not thrown overboard and the photographs are definitely of any such incident. Is that it in a nutshell, Admiral?

Rear Adm. Ritchie—In a nutshell, and probably in not a lot more detail than that.

Senator FAULKNER—Thank you for that. Back to you Admiral Barrie.

Senator BRANDIS—Senator Faulkner, can I ask a question of Admiral Ritchie?

Senator FAULKNER—Yes, surely as I had just started this question to Admiral Barrie—

Senator BRANDIS—Just on this point.

Senator FAULKNER—Fine.

Senator BRANDIS—Admiral Ritchie, your evidence has been, as I understood it, that of the approximately 10 statements from sailors that you reviewed there was one statement of a sailor who said he had or he thought he had seen children in the water. Is that right?

Rear Adm. Ritchie—That is correct.

Senator BRANDIS—Now, if a sailor says he believed he saw children in the water then the fact that the other approximately nine statements may not refer to that is entirely consistent with those witnesses simply not having seen what the one witness who did see the children in the water did see. Would you agree?

Rear Adm. Ritchie—That is possible.

Senator BRANDIS—It is more than possible, isn't it, Admiral Ritchie?

Rear Adm. Ritchie—I said that is possible.

Senator BRANDIS—If a person said, 'I saw something,' it does not contradict that evidence if a number of other people said, 'Well, I didn't see that thing.'

Rear Adm. Ritchie—And I am not disputing what you say. I am saying that is possible.

Senator BRANDIS—Thank you.

Senator FAULKNER—I was going to make the point to Admiral Barrie—I think this is fair, but I would like him to comment on it—that he relied throughout on initial advice but everyone else seemed to establish that that initial advice was massively flawed.

Senator Hill—No. It has been established that, in relation to the incident on the 7th, which is the key thing here, that it may be flawed. There is a difference. At least one sailor reports seeing children in the water. The Commander of the Task Force records that he is advised by the captain of the ship that there were children in the water. That information is passed on to three government ministers through Strategic Command. What Senator Faulkner is now asking is that all that be dismissed.

Senator FAULKNER—No, I am not. What Senator Faulkner is asking Admiral Barrie is that Admiral Barrie relies on his advice to the minister. I am sure Admiral Barrie would agree that his role as an adviser to the minister is absolutely critical. You would accept that, of course you would, Admiral, would you not?

Adm. Barrie—Of course.

Senator FAULKNER—Yes. He relies on his advice to Minister Reith on an initial report that it is soon established is not accurate.

Senator Hill—Well, that is not correct.

Senator FAULKNER—It is soon established and many others in the Defence chain of command established this quite quickly and report it to Admiral Barrie.

Senator Hill—At best, what is established is that there is some ambiguity—

Senator FAULKNER—I am not asking you, Minister, for the political spin.

Senator Hill—You are, again, attempting to put words into a witness's mouth to suit your purposes and those words do not reflect the evidence that has been put before this committee.

Senator FAULKNER—I think it does, with respect, and I think it also reflects the situation as it is outlined in two reports that have been tabled by the Prime Minister. Many senior officers in the ADF established that the initial reports or the initial evidence is flawed. This is the initial evidence that Admiral Barrie relies on throughout the period of an election campaign in relation to his advice to the minister. Okay. That is the problem, Minister. The initial advice is flawed.

Senator Hill—We do not know whether it is flawed. Seeing you are directing this today at best what is shown is some ambiguity.

Senator FAULKNER—The initial advice is flawed and Defence is reporting this to CDF from 10 October, including Admiral Ritchie, who is at the table.

Senator Hill—This is not a court. You are not trying to prove something on the balance of probabilities. What happened is that government was advised through the command structure that there were children in the water. That advice from the captain of the ship was recorded by the task force commander. It is at least corroborated, as you have heard today, by one sailor who said that he saw children in the water. At best, you could say, therefore, that after reviewing the statements of other sailors there may be some ambiguity.

Senator FAULKNER—That is your view. But my question goes to Admiral Barrie about relying on the initial reports only?

Senator Hill—I am just telling you.

Senator FAULKNER—When concerns are raised about initial reports, the whole of the Defence operation goes and has a good look at this and, pretty quickly—literally, within a couple of days—quite clearly comes to the conclusion that the situation is very different and the situation is misrepresented by the photographs. That goes right through the Defence chain of command, right through to CDF.

Senator Hill—But, because nine sailors did not see children in the water—a sailor claims to have seen children in the water—Senator Faulkner wants us to conclude that there were not children in the water. That does not validly flow from that at all. All you can say out of that is that nine sailors did not see children in the water, and one sailor claims he did.

Senator FAULKNER—Senator Hill, the evidence presented to the Australian people on this—

Senator Hill—Don't wag your finger at me.

Senator FAULKNER—was photographs of kids on the water to corroborate this false story about kids being thrown overboard.

Senator Hill—Photographs are a different issue. What Senator Faulkner is seeking to do, as he has for the last week, is blur the various events together to prove that there was a misrepresentation in relation to the Australian people being told that there were children in the water—

Senator FAULKNER—Everybody in Defence—

Senator Hill—and it does not flow. Ministers were clearly told through a legitimate chain of command that there were children in the water. We still have evidence before this committee from a sailor saying that he saw children in the water.

Senator CHRIS EVANS—Senator Hill, we have moved on. The world has moved on.

Senator Hill—He started this debate. Until evidence is taken from the primary sources, those who were there, it will be impossible to establish for certain whether or not there were children.

Senator FAULKNER—That is what Rear Admiral Ritchie just gave evidence on.

Senator Hill—Let's get the sailor, therefore, who said he saw it. But Senator Faulkner would not want the sailor who said he saw children in the water to be giving evidence, because that does not suit his political objectives.

CHAIR—Order! Senator Brandis has some questions

Senator FAULKNER—I was in the middle of my question, and I would like to press it. I am not going to be waylaid here by Senator Hill trying to give some pathetic political spin.

Senator BRANDIS—Come on, Senator Faulkner.

Senator FAULKNER—I am entitled to ask my question of Admiral Barrie, and I expect to get an answer. Senator Hill can run the government's discredited line all he likes at these hearings—frankly, it is the wrong forum for that, Minister—but everybody knows that the photographs were presented as proof that this incident took place. You cannot separate the photographs from the allegations that children were thrown overboard because—

Senator Hill—It is true.

Senator FAULKNER—when doubts were expressed about kids being thrown overboard, photographs were provided by the minister's office, publicly, as evidentiary support of that

claim. We know—and this is the problem, Minister Hill—that very shortly after 7 October, Defence realises this. They know the photographs do not represent kids who have been thrown overboard, therefore they know that the public evidence that has been provided to the Australian people at the most sensitive of times, the middle of an election campaign, is absolutely false—

Senator BRANDIS—Is this a political speech, Senator Faulkner?

Senator FAULKNER—and nothing is done to correct the record.

Senator BRANDIS—Point of order, Chair! You called on me to ask some questions, and I yielded to Senator Faulkner on the basis that he submitted to you that he wished to pursue a line of questioning. He did not pursue a line of questioning; he gave a political harangue. May I ask my questions?

CHAIR—You may ask your questions, Senator Brandis.

Senator BRANDIS—Rear Admiral Ritchie, I want to go back—

Senator CHRIS EVANS—Try not to lead the witness on this occasion, if you would not mind.

Senator BRANDIS—The asking of leading questions in this forum, Senator Evans, is perfectly admissible—it has been happening all week. Rear Admiral Ritchie, I want to go back to your evidence that, of the 10 witness statements that were taken, the evidence of one seaman was that he saw—

Senator Hill—I have now been told that there were 16 statements.

Senator BRANDIS—Sixteen statements. The evidence of one seaman was that he saw a child or children in the water. Did he say ‘a child’ or did he say ‘children’?

Rear Adm. Ritchie—He said:

During that time, I witnessed and recorded (video tape) SUNCs jumping off the SIEV by their own choice and I believe one child also went overboard. One male SUNC was also threatening to throw a small female child over board...

That is the relevant part of his statement.

Senator BRANDIS—You reviewed the 16 statements and, as I understood your evidence before, none of the other witnesses said they saw children in the water. Is that right?

Rear Adm. Ritchie—That is right.

Senator BRANDIS—You do not know, do you, from what vantage points or from what angles the vessel was being viewed by each of the 16 witnesses?

Rear Adm. Ritchie—No, I do not.

Senator BRANDIS—These events, presumably, were happening all around the vessel; on all sides of the vessel?

Rear Adm. Ritchie—On all sides of the illegal entry vessel, yes.

Senator BRANDIS—The proposition I am putting to you is that if a witness says he saw a child in the water, and if that evidence were to be accepted, that tends to establish that there was a child in the water. Does it not? If somebody says, ‘I saw it,’ then that tends to show that what he saw, he saw.

Senator Hill—No, you dismiss that; it does not suit the spin.

Senator BRANDIS—Would you agree, Admiral Ritchie?

Rear Adm. Ritchie—I would agree that if the sailor says that he saw somebody in the water then he certainly believes that he saw somebody in the water.

Senator BRANDIS—There is no reason to disbelieve him when he says, ‘This is what I saw,’ is there?

Rear Adm. Ritchie—No.

Senator BRANDIS—But if 15 other witnesses say, ‘We did not see a child in the water,’ that does not prove that there were no children in the water. What it proves is that they did not see the child that the other officer did see. Would you agree?

Rear Adm. Ritchie—Yes. That is possible.

Senator BRANDIS—If you accept that—

Senator FAULKNER—He said it was possible.

Senator BRANDIS—how could you possibly arrive at the conclusion that, on the balance of probabilities, there were no children in the water, when there was direct evidence from one witness that there was a child in the water?

Rear Adm. Ritchie—Because, as has been said many times in the last day in this committee, my business, certainly, is to look at the events of the operations that I command, and if I have any doubt as to the way in which they are being commanded or the way in which they are reported, to represent that. My contention is that—very simply put—that is what I did.

Senator BRANDIS—I understand what you did, and what I am doing is—

Rear Adm. Ritchie—I have never said that I said to the CDF, ‘This definitely did not happen.’ What I have said is that there is doubt about the fact that this happened.

Senator BRANDIS—What I am doing is to try to explore the process of reasoning which led to the advice you gave to Admiral Barrie. What I am putting to you is, even if you had direct evidence from a witness that there was a child in the water, that is not contradicted by the evidence of other witnesses to that event who merely say, ‘I did not see that child.’

Rear Adm. Ritchie—As a point of fact, I agree with you.

Senator BRANDIS—Thank you.

Senator MASON—You said that there was one child overboard, but I think you also said that that particular sailor saw someone threatening to be thrown overboard. Is that what you said?

Rear Adm. Ritchie—Yes.

Senator MASON—Would you just reiterate that, sir?

Rear Adm. Ritchie—Yes.

Senator Hill—Others did as well.

Rear Adm. Ritchie—He said:

During that time I witnessed and recorded (video tape)—

As I said, he was the operator of this electro-optical device—

SUNCs jumping off the SIEV by their own choice and I believe one child also went overboard. One male SUNC was also threatening to throw a small female child overboard ...

Senator MASON—And there is evidence from other witnesses about that?

Rear Adm. Ritchie—Most of the other witnesses talked to that particular point in some way or other.

Senator MASON—Thank you.

Senator BARTLETT—Obviously there were some people in the water, on the basis of these reports. Were they subsequently rescued by Navy personnel or did they climb back on the boat themselves?

Rear Adm. Ritchie—No. I think—I am not absolutely certain—they were almost all picked up by the Navy boats that were in the water. Nobody has spoken about the context here: what are we looking at and what are we seeing? What we are seeing is a group of people who are offering violence to themselves. That is the normal way they go about business. These are a group of people who are prepared to break up the boat which they are on, to use glass, wood or whatever as weapons to threaten people in boarding parties. We are seeing people who jump, or somehow or other get into the water, in order to place themselves in a situation where they believe that they have created a safety of life at sea incident, and that that will entitle them to some different treatment under our immigration laws.

What we have is a group of young sailors inexperienced in doing this sort of work. It is nasty business; it is not something that you would wish people to have to do every day, but it is their business, and they do it, and they do it well. Their primary concern when they get to this point is for the safety of these particular people. Even in the issue of the photographs, which have come under discussion, the titles that we all think are inappropriate are in fact titles that express the pride of those people in the fact that they have saved the lives of these other people.

Senator BARTLETT—I appreciate that.

Rear Adm. Ritchie—So let us not forget the context in which all of this takes place, and the emotion that is present in it.

Senator BARTLETT—I think it is a good point you make in terms of the lives that were saved as a result of actions of the personnel. If people were in the water as has been suggested, whether they jumped or whatever, and they were then rescued, as you say, surely if there was a child amongst them, that child would obviously have been rescued and taken aboard the *Adelaide*. We have heard that one person believes they saw a child in the water. Was anyone picked up—

Rear Adm. Ritchie—I do not know of any evidence to suggest that a child had been recovered from a boat but, again, people are jumping off these particular vessels, they are being picked up and passed back very quickly, so I do not know that you could say there would be a complete and accurate record of who went in and how they were got from the water and where they were put back.

Senator BARTLETT—I appreciate that, but we have one person who said that they believe they saw a child in the water. There is no record at all from anybody of a child being taken out of the water?

Rear Adm. Ritchie—I am certainly not aware of it. I will check and come back to you.

Senator JACINTA COLLINS—Is it possible that the child reported in this one statement is the 13- to 15-year-old youth?

Rear Adm. Ritchie—It is possible, but there is no evidence to suggest one way or another that it is or it isn't.

Senator JACINTA COLLINS—No. So the statement itself does not indicate that?

Rear Adm. Ritchie—The 13-year-old being pushed is, again, referred to by a number of people at various times.

Senator JACINTA COLLINS—Yes, and it is suggested through some of the reports that there can be differing subjective positions on whether a 13- or 15-year-old is a child or not.

Senator Hill—A 13-year-old sounds like a child to me. The 13-year-old was pushed?

Rear Adm. Ritchie—Yes.

Senator Hill—I did not realise that.

Senator JACINTA COLLINS—Minister, will you read the reports, please?

Senator Hill—I did not realise the 13-year-old was pushed in.

Rear Adm. Ritchie—Just to clarify that, I do not think that there is any conclusive proof that that did happen, but it is certainly reported by some of the people at that time, that they think that that happened.

Senator JACINTA COLLINS—The other question I have is to Admiral Barrie, just going back to some of the issues raised yesterday.

Senator Hill—We are finished with Admiral Ritchie?

Senator FAULKNER—No.

Senator JACINTA COLLINS—No, but it relates to Admiral Ritchie's evidence as well.

Senator Hill—You can go back to the front row.

Senator JACINTA COLLINS—Admiral Barrie, you indicated yesterday that you had received no information—this relates to Admiral Ritchie as well—that made you conclude that the initial report from the CO of the *Adelaide* was wrong.

Adm. Barrie—That is not quite true. What I said yesterday was that there was no compelling information to show that that initial report was not true.

Senator JACINTA COLLINS—We are both working on the basis that we do not have the *Hansard* yet, so please bear with me and correct me.

Adm. Barrie—That is actually important. As we have heard, there were doubts raised, but no compelling information at that time.

Senator JACINTA COLLINS—You also—correct me if I do not quite get this right—gave what is perhaps a military principle about how the initial report is often more reliable than that which is reappraised after events later unfold. Isn't there a critical difference in this case? That critical difference is that the CO of the *Adelaide* believes his report was misreported. Isn't that a critical difference in relation to that principle?

Adm. Barrie—I do not see it that way. You have to appreciate that I have been there; I know what the commanding officer is going through. The naval training system is focused on providing commanding officers with all the skills and ability to make snap decisions which

will affect the lives of the 200-odd crew on their ships. He is taking in a great deal of information and making his judgments, and he makes the report that this happened, having drawn all of that in and whatever. Until somebody can show me compelling evidence that he was mistaken in making that first report, I will stand by my advice.

Senator FAULKNER—But do you think he actually really said that children were thrown in the water?

Adm. Barrie—I do not know what he said. I know what was reported to me and that is what I have supported.

Senator FAULKNER—That is the point, you see, Admiral Barrie, isn't it—

Senator Hill—I think it was 'child' at that stage.

Senator FAULKNER—because it becomes absolutely clear that the commanding officer of the *Adelaide* said that he never said that children were thrown in the water. You have hit the nail on the head—'what was reported to you'. He tells us, or I think we know, that the confusion occurs somewhere in the chain of command. That is absolutely clear from General Powell's report, isn't it?

Senator Hill—But you are misrepresenting again.

Senator FAULKNER—I am not asking you, Senator Hill. I am not misrepresenting anything—

Senator Hill—But you do it constantly.

Senator FAULKNER—I am asking CDF a question because he talks about the CO of the *Adelaide*—fair enough. The commanding officer of the *Adelaide* never tells anybody that children were thrown overboard.

Senator Hill—The report is 'child'; subsequently it becomes 'children'.

Senator JACINTA COLLINS—You are missing the link, Minister.

Senator Hill—But that is not what has been recorded by the Joint Task Commander.

Senator JACINTA COLLINS—You read the reports.

Senator Hill—He telephones the Joint Task Commander and tells him; the Joint Task Commander records it. It is in the record.

Senator JACINTA COLLINS—Records it incorrectly, according to the commander.

Senator Hill—Oh, records it incorrectly!

Senator JACINTA COLLINS—Read the reports, Minister.

Senator FAULKNER—This is crucial, Admiral, though, isn't it? I was asking you: the commanding officer of the *Adelaide* has never said that children were thrown in the water, has he?

Adm. Barrie—I cannot positively answer that question because I have not asked him.

Senator Hill—The Joint Task Commander, a boss, records that the commander of the *Adelaide* advises him that there is a child in the water.

Senator FAULKNER—And the commanding officer of the *Adelaide*, as I read it and understand it—and I think this is fair—believes the problem occurs as a result of confusion in the chain of command. I think that is fair, isn't it, Admiral Barrie?

Senator Hill—Well, by the time it got to ministers it was children in the water, so there was clearly confusion in the line of communications.

Senator FAULKNER—If I were you, Senator Hill, I would not talk about ministers.

Senator Hill—Well, I would, because ministers are entitled to rely on the advice that they get from the chain of command. What else should they rely on?

Senator FAULKNER—But, Admiral Barrie, you are the one who says it is so important to go back to the source.

Adm. Barrie—That is right.

Senator FAULKNER—The source is not the commanding officer of the *Adelaide*. He never said it.

Senator Hill—You cannot say that.

Adm. Barrie—I do not know that, Senator.

Senator FAULKNER—You have not gone back to him, so how do you know? You say it is important to go back to the source. Why didn't you go back to him? It has been months.

Adm. Barrie—Because there is a chain of command, and I have accepted that initial report.

Senator FAULKNER—Can I ask you this, Admiral Barrie: what contact did you have with the Secretary of the Department of the Prime Minister and Cabinet on this issue?

Adm. Barrie—Over what period?

Senator FAULKNER—In relation to children overboard and associated events from 7 October through to 10 November.

Adm. Barrie—I cannot be absolutely confident but I would say, on the issues of 7 October, none.

Senator FAULKNER—What issues did you have contact with him about?

Adm. Barrie—I certainly had a conversation with him on the night of 8 October.

Senator FAULKNER—Could you indicate to us where that conversation took place, please?

Adm. Barrie—I was at home. I do not know where he was.

Senator FAULKNER—It was a telephone conversation?

Adm. Barrie—A telephone conversation. The issue of that conversation was the fact the vessel was foundering, that a lifesaving operation was taking place and that the commanding officer's priorities were now going to be well and truly placed on making sure no lives were lost.

Senator FAULKNER—So he rings you at home?

Adm. Barrie—I think he rang me.

Senator FAULKNER—I am just assuming that because you—

Adm. Barrie—I cannot be precise on that.

Senator FAULKNER—Any other matters discussed in that phone conversation?

Senator Hill—Relevant to this matter?

Senator FAULKNER—Relevant to this matter.

Adm. Barrie—No, I do not think so.

Senator FAULKNER—I think the admiral interpreted my question in that way. So that was on the evening of?

Adm. Barrie—On the evening of the 8th.

Senator FAULKNER—What is the next contact you had with the Secretary of Prime Minister and Cabinet on this matter?

Adm. Barrie—Again, I do not think there was any other contact.

Senator FAULKNER—Did you have a corridor conversation with—well, were you listening to Mr Moore-Wilton's evidence on Monday? You laugh; I suppose you think that is highly amusing.

Senator Hill—At this stage, there were a range of alarming international events developing and it would not surprise me at all if the CDF was speaking to the Secretary of PM&C.

Senator FAULKNER—That is why I am asking a serious question and expecting Admiral Barrie to provide me with a serious answer. I suspect even you, Minister, with your breadth of knowledge on this matter, a breadth of knowledge improved by all the clarifying statements that you have put out, really could not comment on the contact between Admiral Barrie and Mr Moore-Wilton.

Senator Hill—Do you recall any subsequent conversations with Mr Max Moore-Wilton, the Secretary of PM&C?

Adm. Barrie—I was seeing a lot of these figures quite frequently over the period. In going to the specifics of those incidents, I cannot precisely recall any conversation I had with him, but that is not a guarantee that I did not have a conversation with him.

Senator FAULKNER—What about at the secretary's committee or the secretary's security committee? I think they are separate. I do not know the actual title of that committee. What is it called?

Adm. Barrie—The Secretaries Committee on National Security.

Senator FAULKNER—Yes, the Secretaries Committee on National Security.

Senator Hill—Did SCONS meet at that time?

Adm. Barrie—Again, I cannot recall any specifics.

Senator FAULKNER—So the only conversation you can recall is the telephone contact on 8 October?

Adm. Barrie—Well, absolutely, because the nature of this operation had changed fundamentally from one of, if you like, a policy perspective to one of saving lives at sea.

Senator FAULKNER—Have you had any contact on this matter with the secretary in the last week?

Adm. Barrie—No.

Senator FAULKNER—The VCDF did. Did you raise any of the matters raised with you by either Rear Admiral Richie or Rear Admiral Smith with the Secretary of Defence, Dr Hawke?

Adm. Barrie—I would have to say that I would be surprised if I had not because the secretary of the department and I have a very close relationship.

Senator FAULKNER—Sure. Could you outline for the benefit of the committee when you did this and what the nature of those communications were?

Adm. Barrie—I would be pretty confident in saying that the communications would have been verbal. They would have been issues that we had discussed. We see each other pretty frequently, and almost every day when we are in the headquarters. But if you ask me to recall with precision what I said and when I said it, no, I cannot help you there.

Senator FAULKNER—What is your approach to this? Do you tend to take diary notes of these sorts of conversations? I am thinking here that obviously some of these conversations must lead to follow up and the like. I think everyone understands, and I certainly do, that you have informal discussions with the secretary of the department and you properly say—

Adm. Barrie—No, I do not take diary notes of those sorts of discussions.

Senator FAULKNER—Okay. What about when follow up or further action is required?

Adm. Barrie—If out of a conversation there is follow up required, I would generally make a note about that.

Senator FAULKNER—Are you able to help us about how well apprised the secretary was about these matters in the broad?

Adm. Barrie—Again, I would say that he would be well apprised. But you would have to ask him; I can only give my impression.

Senator Hill—Admiral Barrie can only give evidence on information he might have provided.

Senator FAULKNER—Yes, but, Admiral, you would be aware of briefing material going to Dr Hawke from the ADF.

Adm. Barrie—On operations?

Senator FAULKNER—No, formal briefing material if there were some.

Adm. Barrie—Yes, sometimes.

Senator FAULKNER—Was that taking place?

Adm. Barrie—Not to my certain knowledge. Again, you would have to ask Dr Hawke.

Senator FAULKNER—No, that is not actually right. I cannot ask Dr Hawke; he is not here. But I think if a briefing goes from the ADF to Dr Hawke, it is a reasonable question to direct to you or someone else in the ADF.

Senator Hill—We are going back to the beginning of October, and if it is necessary to refresh your memory through searches it is better to say that. The question is: do you recall briefing material from the Defence Force going to Dr Hawke on this issue?

Adm. Barrie—I am not aware of all the briefing material Dr Hawke gets from the ADF. I am also very conscious that Dr Hawke attends the Strategic Command Group, so he gets involved in a whole range of committee work and other things. As I said earlier, I would be very surprised if he was not in the picture.

Senator FAULKNER—In relation to the way that Defence works nowadays, if there were to be communications to the head of the Department of the Prime Minister and Cabinet, be it

on either an official, semi-official or even an informal basis, would that normally be conducted by Dr Hawke as the department secretary?

Adm. Barrie—That would be the customary way.

Senator Hill—But not always, is it?

Adm. Barrie—But not always.

Senator Hill—We have already had evidence, a few minutes ago, of a discussion where it seems that Mr Max Moore-Wilton rang Admiral Barrie about the critical situation that was developing in relation to the sinking of this vessel. So, from my limited observations, it seems to me that the communications could go from either or both to the Secretary of PM&C.

Senator FAULKNER—Yes.

Senator Hill—I am reminded of very recent times when the Acting CDF informed Mr Max Moore-Wilton of various events. So the communications do seem to go from both heads.

CHAIR—Order! Senator Faulkner, I am sorry to interrupt you but I did flag that we were going to break at 10.30 or thereabouts. I think we should have an adjournment.

Proceedings suspended from 10.32 a.m. to 11.00 a.m.

Senator FAULKNER—I am under some pressure to try and finish this line of questioning quickly so I am going to try and assist the committee in that regard. I have some follow-up questions and it may save some time if they are taken on notice, Admiral Barrie, but there are one or two I would like to progress briefly. The first goes to the question I raised with you about the telephone recordings, and I appreciated the full answer that you provided. I would like to use an example from General Powell's report, the one that is listed as '0802' in the chronology of General Powell on page 3 of 13. We do not have a colour copy of this report so, if anyone in Defence felt like running off a couple of colour copies of General Powell's report and sending them over, it would make us all terribly happy and positive. It says, 'CJTF relays this information' to Rear Admiral Smith, Maritime Commander.

Adm. Barrie—Which page is this, Senator?

Senator FAULKNER—It is 8.02 a.m. in General Powell's chronology, at the top of page 3 of 13.

Adm. Barrie—Oh, right, I have you. Sorry, I have two '0802's, and I was looking at the wrong one.

Senator FAULKNER—It goes back to the questions I was asking you before, which you provided answers on, in relation to recordings. I am not sure in what form this information was relayed, and I do not know if General Powell can assist us with that or not, but if that is a telephone conversation—and, as I say, General Powell may be able to confirm that for us—would your earlier evidence suggest that there would be actual recordings of this particular conversation because it is with the maritime commander?

Adm. Barrie—We will not know without searching. My initial impression is that it is likely Admiral Smith was probably at home and I think Brigadier Silverstone would have called him either from his headquarters or from his home. On that basis I think we would have to do a search, but it may not be.

Senator FAULKNER—I raised this one as an example only. If there are any recorded telephone conversations, recorded in their entirety, that would be germane to the work of the Senate select committee—

Adm. Barrie—We will certainly retrieve those.

Senator FAULKNER—I appreciate that. I was going to ask you whether you would be able to do that. It seems from your evidence that there may be one or two—I do not think there would be many examples of this—relevant exchanges. If that were the case, it would be helpful if Defence could provide them.

Senator Hill—Well, I—

Senator FAULKNER—Admiral Barrie has just agreed.

Senator Hill—Because Admiral Barrie is trying to be helpful.

Senator FAULKNER—And you are not trying to be helpful, so you are going to disagree because you want to cover up.

Senator WEST—You are covering up, Minister.

Senator FAULKNER—Admiral Barrie just agreed to do it, for heaven's sake, Minister. One of the problems here is the confusion in the chain of command. If it is possible for some of this material to explain how this confusion arose, or to assist us to get to the bottom of it, I think that would be in the public interest, don't you?

Senator Hill—Certainly. That is why I said that I would like to see a whole lot of the source material, because so many assumptions are being made on the basis of secondary evidence. I am not so sure about the concept of whether a record of telephone calls between various military officers should automatically be put before the committee without a case having been made out that it is of significance to the issue before the committee. Maybe I am being unduly sensitive on the matter. I presume there are all sorts of things said in these phone calls, and there may even be poor language used. I am not sure—

Senator FAULKNER—I can cope. I can remember an occasion when I once used poor language myself, Minister.

Senator Hill—I would be fairly confident to say that in the heat of the moment, when these officers are talking to each other, they do not have in mind that their telephone call six months later is going to be relayed to a Senate inquiry.

Senator WEST—Just put a few bleeps in.

Senator FAULKNER—Why do you think these things are recorded—not just for a Senate inquiry—and kept?

Senator Hill—There could be a range of different reasons.

Senator FAULKNER—Why do you think? Did you hear what Admiral Barrie said before?

Senator Hill—I have heard what Admiral Barrie said today and yesterday. They verify operational decisions. If a question arose as to what instruction had been given, and one of the parties was not available, reference could be made back to the telephone call to get it clarified. I can see a lot of practical reasons, in terms of a military operation, why it would be useful. But to provide evidence to a Senate committee months and months later, I am not sure that that was included within the list. The telephone calls may well actually assist the case in terms of demonstrating that the children were overboard. We just have to think whether it is the right sort of process to adopt before this committee.

Senator FAULKNER—Can I ask General Powell—I know he is going to leave us soon because he has another obligation—to provide a brief amount of evidence on this. In relation to this specific instance, General Powell, which is the ‘0802’ contact from CJTF on the top of page 3 of 13, you might indicate to us whether you know if that was a telephonic communication or not?

Major Gen. Powell—If you take that particular entry in the sequence of events, if you go to the-right hand column, you will note that it is a signal from HMAS *Adelaide*. It is a documented signal, of which there would be a copy, I am sure.

Senator FAULKNER—No, I did not come to that. I thought it was a statement by Brigadier Silverstone.

Major Gen. Powell—The one above. I am sorry, there are two ‘0802’s.

Senator FAULKNER—This is the one at the top of the page. It is in Brigadier Silverstone’s statement.

Major Gen. Powell—That is right.

Senator FAULKNER—He relays this information to Rear Admiral Smith, the Maritime Commander. I am just asking, in this instance, whether that was a telephone call.

Major Gen. Powell—I do not know. You would have to ask Brigadier Silverstone.

Senator FAULKNER—Well, you didn’t ask Brigadier Silverstone.

Major Gen. Powell—No. I am not sure how the conversation took place.

Senator FAULKNER—But, in terms of your inquiry, if that were a telephone call—if it were; there is a qualification there—and if Rear Admiral Smith was at maritime command—that is another qualification, I understand—then that communication would be recorded, would it not?

Major Gen. Powell—I cannot answer that. I do not know whether it would be recorded or not.

Senator FAULKNER—Can I ask that of Admiral Barrie?

Adm. Barrie—I would say that if they were at their headquarters it is likely to be recorded.

Senator FAULKNER—Were you aware, General Powell, when you did your report, for example, that such recordings were in existence?

Major Gen. Powell—I did not consider that important. What I was working from was the statements that were passed to me as a result of the questions that I put to each of the individuals I spoke to or asked to provide a written statement to assist me.

Senator FAULKNER—I do not want to concentrate on this particular element of the chronology, but in relation to events that took place around the incident that we have been discussing, it may be that such recordings might well be able to corroborate evidence or clarify what actually was said at any time.

Major Gen. Powell—Indeed it may. In the time frame that I had to complete my inquiry, and with the caveats that were spoken about earlier, I did not consider that it was relevant to look through any other records to corroborate the evidence of the witnesses.

Senator FAULKNER—Given the nature of your report and your findings, if there are further inquiries—which is a recommendation that you have made in a range of areas—would you agree that there may be some cases where such recordings would actually throw light on some communications that there is very little clarity about?

Major Gen. Powell—It is possible. It depends on the conversations' relevance and whether, indeed, the conversations are recorded and can be retrieved. Clearly, as CDF says, there could be the opportunity to do this and, if it is deemed appropriate, I guess it is a decision that will need to be taken down the track.

Senator FAULKNER—But you do accept that there is confusion in the chain of command here? I do not think you are in any doubt about that, are you, as a result of your report?

Major Gen. Powell—I have made the point quite clearly that I think we can improve the passage of information. I am not sure that I am reflecting poorly on the chain of command; I am reflecting poorly on the fact that the information in this particular case has not been handled in a way that clarity was considered more important than timeliness. That is the point I am making.

Senator FAULKNER—Yes.

Major Gen. Powell—There is always going to be a trade-off between the two, and in this particular case the desire for timeliness was overarching in terms of clarity.

Senator FAULKNER—Yes, but if you go to page 8 of your report, recommendation 28c states:

Commanders at the operational and tactical levels have great responsibilities in such circumstances. Vetting initial reports to ensure that verbally passed information is corroborated with follow-on written information, especially when strategic requirements dictate the urgency that the Government is placing on an event(s), needs greater focus.

Here we have a possible mechanism at some operational levels—I think not all, from what Admiral Barrie has been able to tell us, but at some—and there might be a very clear way of getting to the bottom of some of the confusion that exists, some of which has been significant in relation to the way these events developed.

Major Gen. Powell—What is your question, Senator?

Senator FAULKNER—I am asking: don't you believe that such recordings can clear some of this up if they are made at relevant operational centres?

Major Gen. Powell—I agree that it may clear some of the issues up but I do not know that it will help overcome the particular recommendation that you have singled out for comment there.

Senator FAULKNER—I am identifying some of the problems, and you have identified this problem in your own report. I think that is a finding of your report.

Major Gen. Powell—Indeed.

Senator FAULKNER—And I think it would be well accepted. It does seem to me, in relation to this, that there is a way, possibly—not in all instances, clearly, but in those operational centres where that information is available—of actually clearing some of it up. You are trying to ensure this does not occur again but you are the inquiries officer of the ADF. I am looking at it through that prism, if you like, because you have had a responsibility in relation to this particular matter to report. You have also recommended further reports,

effectively, and if there are further reports, and there is a Senate inquiry—of course, put that to one side—there is very much a likelihood, as Admiral Barrie has indicated to us, that further action will be taken at the Defence level. Well, here might be a way of looking very closely at and providing some clarity about some events about which there is not absolute clarity now, surely.

Major Gen. Powell—It may help. My point in making that recommendation was not necessarily about the recording of information, as you are inferring. My point in that recommendation is to do with the complexity of joint operations, of assigned forces, of a command chain that has a unity of purpose, and it is about the fact that information in quite complex and difficult circumstances needs to be passed with as great clarity as is possible. I am not sure that the point you are making is necessarily as relevant as you might see it in solving the problem.

Senator FAULKNER—I do not know how relevant it will be either—probably neither of us do, I accept that. Did you know the recordings actually existed?

Major Gen. Powell—I did not consider the need for checking to see whether recordings existed or not in the time frame that I had.

Senator FAULKNER—But did you know in a more generic sense that there were, at some operational centres, recordings of phone calls made?

Major Gen. Powell—I did not know specifically where or what recordings are made. I know a lot about operational headquarters and I do know that in certain circumstances, especially on a ship in some of the more senior operational headquarters, sometimes recordings are made, but in this particular instance that we are discussing I was not aware of what was recorded and what was not recorded.

Senator FAULKNER—Thanks for that. I repeat again, Admiral, I do hope that, if there is anything relevant here, it will be able to be made available, much in the spirit of what we were talking about yesterday. Thank you, General. Mr Chairman, before General Powell leaves the—

CHAIR—Have you finished with that line of questioning?

Senator FAULKNER—With that line of questioning to General Powell, yes, I have.

CHAIR—Senator Brandis has a question.

Senator FAULKNER—I might say that I am also sensitive to the fact, Mr Chairman, that General Powell has another engagement this afternoon.

CHAIR—Thank you, Senator Faulkner. Senator Brandis has some brief questions to General Powell.

Senator FAULKNER—That is why I wanted to bring him to the table now.

Senator BRANDIS—General Powell, do you have your report in front of you?

Major Gen. Powell—Yes.

Senator BRANDIS—Could you go to page 2, please? We have established that the left-hand column, under the heading 'Time', is not the time at the place of the incident but the time in Canberra. Is that right?

Major Gen. Powell—If you go to the front page, it says:

Unless otherwise specified, all times have been converted to Eastern Standard Time (Time Zone Kilo).

That is three hours ahead of Adelaide time.

Senator BRANDIS—These times are not the incident location times?

Major Gen. Powell—Correct.

Senator BRANDIS—On page 2, in the second last item, you record that the task force commander, Brigadier Silverstone, has a ‘clear and well documented phone call’ with the commanding officer of the HMAS *Adelaide*, Commander Banks. He ‘determines that the vessel has disabled steering, is dead in the water’ and is seven to eight nautical miles ‘south of the contiguous zone’. It says:

The SUNCS threaten mass exodus. Men in water, child thrown over the side.

As I read it, that is intended to convey that Banks said that to Silverstone during a telephone conversation at 7.50 daylight time.

Major Gen. Powell—He said it at 7.50 our time.

Senator BRANDIS—Yes, 7.50 our time.

Major Gen. Powell—That is here at that particular time of the year because it changed in late October to summertime.

Senator BRANDIS—I understand that.

Major Gen. Powell—This was a phone call or a conversation from Darwin, which is half-an-hour different from here.

Senator BRANDIS—The time only becomes important in a moment. We glean from that that Banks tells Silverstone, at that point in the sequence of events, that a child has been thrown overboard. Is that correct?

Major Gen. Powell—Yes, Senator.

Senator BRANDIS—Now go to page 3, please. In the first item, it says that Silverstone relays this information to Smith and that, we understand, to be an intended reference to the information that Silverstone has been given by Banks. Is that right?

Major Gen. Powell—Correct.

Senator BRANDIS—Now look at the next entry but one, at 8.39 our time. Would you care to read aloud what that says?

Major Gen. Powell—It says:

0839 Sunrise (at the position of ADELAIDE and SIEV 4)

Senator BRANDIS—I am not sure that this is being made very clear in these hearings, but the incident that Banks reported to Silverstone 49 minutes earlier from that point in the sequence of events was an incident that happened more than 49 minutes before sunrise. Is that correct?

Major Gen. Powell—That would be my understanding, yes.

Senator BRANDIS—That must be the case, mustn't it, General Powell?

Major Gen. Powell—Yes.

Senator BRANDIS—Could I have Admiral Ritchie, please?

Senator JACINTA COLLINS—While we are waiting for Admiral Ritchie, can I clarify a point in the area that Senator Brandis has referred to. In that reference on the earlier page, what does 'ADE' refer to in the right-hand column? It says:

Statement by Brigadier Silverstone dated 3 Dec 01. There is an unexplained difference in the timings as reported by ADE and those of ...

Major Gen. Powell—I would have to seek advice on that.

Senator JACINTA COLLINS—Thank you.

Major Gen. Powell—Does anyone know what ADE stands for? It stands for 'Adelaide'.

Senator JACINTA COLLINS—It is short for *Adelaide*, but it is just not consistent with how *Adelaide* is referred to elsewhere.

Major Gen. Powell—It is probably just to fit into the column there. It is probably the way it has typographically been put together.

Senator BRANDIS—Admiral Ritchie, you gave some evidence earlier in the morning about having reviewed 16 witness statements by seamen on the *Adelaide*, and you read to us from one of them that one of the seamen had seen a child in the water. Do you know what were the visibility conditions at the incident location approximately an hour before sunrise on 7 October 2001?

Rear Adm. Ritchie—I do not have it in front of me and I am not sure that it is in this report.

Senator BRANDIS—I am not directing you to a document, Admiral Ritchie. I am asking you: do you know what were the visibility conditions at the incident location an hour before sunrise?

Rear Adm. Ritchie—I can answer the question. As I said, I do not have it in front of me, but I have a recollection of having read that civil twilight at that time, which gives you reasonable visual conditions, had occurred some time before. It may well be that we can find that here for you in the course of the next 10 minutes or so. With respect to the sailor who reported that he saw a child thrown overboard, the visibility conditions would make no difference to his report.

Senator BRANDIS—I understand that, Admiral Ritchie. What I am concerned to know is this. Visibility conditions by definition are a question of degree or gradation between darkness and light. I think we would all agree that the darker it was, the more difficult it would be to see things; and the lighter it was, the obverse. What I am concerned to know in the first place is how much you knew about the actual visibility conditions an hour before sunrise and whether you had a clear perception in your mind as to how difficult it was to see at the time you assessed and then gave advice to Admiral Barrie in relation to the witness statements.

Rear Adm. Ritchie—I have in mind that I did not think that the conditions of light were a problem. That may be erroneous, but that is what I had in mind.

Senator BRANDIS—It may be erroneous, mightn't it, Admiral Ritchie. Because if it is an hour before sunrise and you have not made a specific inquiry to inform yourself about the visibility conditions, it was not really open to you to conclude, with respect, that light or the conditions of light would not be a problem, was it?

Rear Adm. Ritchie—And I have not, indeed, concluded that. What I have said is that the issue of light was not a consideration that I thought would affect what I said.

Senator BRANDIS—But why did you think that?

Senator FAULKNER—I like that. That is my favourite bit.

Senator BRANDIS—Excuse me, Senator Faulkner. You were listened to in silence by me and I insist on the same courtesy from you. Admiral Ritchie, why didn't you consider that that was a problem?

Senator FAULKNER—There you are, Senator Hill, you should not interrupt.

Rear Adm. Ritchie—Because I did not consider it was an issue.

Senator BRANDIS—But don't you think you ought to have done?

Rear Adm. Ritchie—No.

Senator BRANDIS—You gave advice to Admiral Barrie, the effect of which, as I understood your evidence this morning, was that it was probable that there were no children in the water, notwithstanding that one of the 16 witnesses whose statements you reviewed said he believed he had seen a child in the water, and the other 15 witnesses whose statements you reviewed gave no evidence of there being children in the water. This is a question of perception, Admiral Barrie; what people saw. Surely the visibility conditions are highly relevant to a question of perception and what people saw, wouldn't you agree?

Rear Adm. Ritchie—All right, I will read at random from the statements.

Senator BRANDIS—No, I do not want you to read at random from the statements, Admiral Ritchie. With respect, I would like to ask you—

Rear Adm. Ritchie—You are concerned with answers to questions of visibility. Let me answer the question.

Senator BRANDIS—Admiral Ritchie, I want you to answer my question, and my question is this: why did you not consider that the conditions of light were relevant?

Senator JACINTA COLLINS—Point of order, Chair. Will you please stop Senator Brandis from badgering the witness and allow the witness to answer the question as he sees fit. Senator Brandis is quite familiar with that point of order; he applied it yesterday.

Senator BRANDIS—Mr Chairman, I am not badgering the witness. I am asking a specific question, and I am asking for it to be answered.

Senator WEST—Even Senator Hill is laughing at that.

Senator BRANDIS—Why did you not consider—this is the question, Admiral Ritchie, please listen—

Senator CHRIS EVANS—You need to have a Bex and a good lie down.

Senator BRANDIS—The question is: why did you not consider that the visibility conditions were relevant?

Rear Adm. Ritchie—Because there is no suggestion in any of the witness statements that visibility impaired what they saw. They all say, 'I saw', 'I witnessed'; statements of that nature.

Senator BRANDIS—Well, they will only say that they saw what they saw, but that is not conclusive of the extent of visibility. One can see a car, for instance, coming through a fog and you would say, 'I saw the car.' You do not need to comment upon the visibility conditions

if you saw it. But what is relevant here, Admiral Ritchie, is not what was seen but what was not seen.

You formed a conclusion that there were probably no children in the water merely because all but one of the witnesses said nothing about it. Did it not occur to you that they might not have seen the child who one of the other seamen saw because it was dark?

Rear Adm. Ritchie—No, because I do not believe it was dark.

Senator BRANDIS—But you do not know, do you?

Rear Adm. Ritchie—I said ‘I do not believe it was dark’. I have not said I do not know that it was dark, or I have not said it was dark; I said ‘I do not believe it was dark’.

Senator BRANDIS—What we do know from the record, this is not in controversy, is that the incident which Commander Banks reported to Brigadier Silverstone took place at least 49 minutes before sunrise. Can I put it to you that you simply are unaware of what the visibility conditions and the condition of the light were at the incident location at least 49 minutes before sunrise?

Rear Adm. Ritchie—I said to you earlier in my statement—

Senator JACINTA COLLINS—I think the Bryant report indicates they both concurred it was daylight. I will find the reference for Senator Brandis.

Senator FAULKNER—Mind you, that is a discredited report.

Senator JACINTA COLLINS—That is true.

Rear Adm. Ritchie—I said earlier in my statement that I believe I have read that civil twilight had occurred and that visibility was reasonable. I cannot place my finger on it. If you allow me to find it, I think it will answer your question, Senator.

Senator BRANDIS—Admiral Ritchie, please let me reassure you. What I am doing is exploring the sufficiency of the reasons for the conclusion you offered to Admiral Barrie. I am not questioning your good faith or anything like that for a moment. What I am putting to you is that, on reflection, you simply were not sufficiently aware of the visibility conditions about an hour before sunrise to have any concluded view one way or another about those conditions.

Rear Adm. Ritchie—I had no concluded view about the conditions an hour before sunrise.

Senator BRANDIS—You would accept, as a matter of commonsense, that in the hour before sunrise it was darker than it would have been at sunrise?

Rear Adm. Ritchie—Yes.

Senator BRANDIS—But how much darker we do not know. For the record, could you affirm your agreement with that proposition.

Rear Adm. Ritchie—I agree with that, yes.

Senator BRANDIS—As a matter, again, of commonsense, the darker it is, the more difficult it is to see things and the more easily a witness of the scene may have not noticed or seen things that in fact were there, including, perhaps, a child in the water. Would you agree with that?

Rear Adm. Ritchie—I would agree with that.

Senator BRANDIS—Thank you.

Senator HOGG—I realise that Major General Powell has to go. I just want to turn to page 8 of 13 of your report. In the third box down, you note:

Mr Bloomfield receives direction from Ms Jenny McKenry ... to provide a brief to Mr Hampton on how the interview between CO ADELAIDE and Channel 10 occurred, including a paragraph outlining the PACC direction to all personnel in relation to Operation Relex and the media.

Did you pursue that issue yourself?

Major Gen. Powell—Could I ask you, please, Senator Hogg, to repeat the question and just refer to exactly what—

Senator HOGG—It is on page 8 of 13 of your report. It is the third box down. Did you inquire into that incident yourself or are you just simply reporting on the advice that you received from either Ms McKenry or Mr Bloomfield?

Major Gen. Powell—I am reporting on the advice I received.

Senator HOGG—So you did not go into the actual process as to how the call was first placed from Channel 10 to the CO on *Adelaide*?

Major Gen. Powell—No, I did not.

Senator HOGG—Thanks for answering that. Admiral Barrie, what are the circumstances by which external calls are placed to vessels that are on operation, such as the *Adelaide*?

Adm. Barrie—I cannot explain specifically, but my expectation would be that the Inmarsat system would have provided the ship's telephone number and the call would have been placed by Channel 10.

Senator HOGG—So the *Adelaide*'s number is readily available publicly?

Adm. Barrie—We would have to confirm this, but I think you can get ship's phone numbers from Inmarsat.

Senator HOGG—Is it a regular occurrence for reporters to ring either vessels or units of the Defence Force that are on active duty?

Adm. Barrie—I have never known the media to be reluctant to ring any unit of the Defence Force if they think there is a story.

Senator HOGG—All right. So do you find the fact that this happened quite extraordinary, in a sense?

Adm. Barrie—It is not a daily event, of course, but I do not find it extraordinary. All of us who are involved in operations have the same difficulty. The real issue is whether or not there is any engagement with the media when those calls are placed.

Senator FAULKNER—What about politicians, Admiral Barrie, ringing ships?

Adm. Barrie—I cannot recall, I think, a situation in which a politician ever rang a ship.

Senator FAULKNER—What about a member of a politician's staff?

Adm. Barrie—We have heard evidence already about that.

Senator Hill—Ministerial staff?

Adm. Barrie—You cannot say it does not happen. I do not know specifically.

Senator FAULKNER—I am talking about contacting a ship, ringing a ship directly. If a ministerial staffer or a prime ministerial staffer were to do so, would you treat that as a staff

contact or, as I understood the way Defence operated, would such a contact be considered to be on behalf of the minister?

Adm. Barrie—It would be so if the matter were arranging a ministerial visit or something like that. Of course, we would not have a problem with that. If the matter pertained to what I would call command of the ADF, I would have a very serious problem with that.

Senator HOGG—Just coming back to the point I raised, I am just trying to find out how Channel 10 got hold of the number—

Adm. Barrie—You would have to ask Channel 10.

Senator HOGG—I accept that. Would it be given out by the Defence department?

Adm. Barrie—No.

Senator HOGG—Would it be through PACC or some other group?

Adm. Barrie—No. My view is Channel 10 would ring the Inmarsat overseas telecommunications organisation and says, ‘I would like to talk to the *Adelaide*.’ And Inmarsat makes the call.

Senator Hill—Can families call ships?

Adm. Barrie—Yes.

Senator Hill—I understood, from the experience I have had, that those on ship occasionally get the chance to call out, so I was asking whether families can call in to the ships. It therefore might be that the numbers are fairly readily available through the whole—

Adm. Barrie—The international maritime satellite system operates like a mobile phone. If the ship’s Inmarsat terminal is switched on, Inmarsat can place the call.

Senator FAULKNER—But in your experience, Admiral Barrie, you know of no politician ever ringing a ship?

Adm. Barrie—Yes, that is my recollection.

Senator FAULKNER—You know of no Defence minister ever ringing a ship?

Adm. Barrie—That is also my recollection.

Senator FAULKNER—You know of no Prime Minister ever ringing a ship?

Adm. Barrie—That is my recollection, too.

Senator FAULKNER—Could I ask what naval ships were operating in association with the *Tampa* event, if any? I think I saw press speculation that the *Arunta* was, but I wanted to be clear on this. It may be better directed to Admiral Shackleton.

Adm. Barrie—He may be able to answer it. I think to cover the events of several days you would really have to—

Senator FAULKNER—Could I perhaps ask that of Admiral Shackleton then?

Vice Adm. Shackleton—Senator, I do not have all the details of that with me. We could get that for you.

Senator FAULKNER—I think it is true, Admiral, that at least the *Arunta* was; that was mentioned quite exhaustively in the press at the time.

Vice Adm. Shackleton—Yes, that is correct.

Senator FAULKNER—As the Chief of the Navy, Admiral Shackleton, do you know of any occasion when a minister has telephoned a ship?

Vice Adm. Shackleton—No, Senator, I do not.

Senator FAULKNER—A cabinet minister of any description?

Vice Adm. Shackleton—Not in my experience. I am not saying it has not happened, but it has certainly not come to my attention if it has.

Senator FAULKNER—A Prime Minister?

Vice Adm. Shackleton—Not to my knowledge.

Senator FAULKNER—In relation to the events surrounding the *Tampa*, as far as you are aware were all orders that were directed to the commanding officers of those vessels complied with?

Vice Adm. Shackleton—I have not got the detail with me, and I might ask for some assistance from Admiral Ritchie, but I cannot imagine why they would not have been complied with.

Senator FAULKNER—I cannot imagine either, but I just want to be satisfied.

Senator Hill—It seems an odd question.

Senator FAULKNER—I think it is a very important question. I would hope you would be, as I am, satisfied by the admiral's answer.

Senator Hill—I presume that it would not be asked unless Senator Faulkner had some evidence to the contrary. Do we want Admiral Ritchie to talk about the *Tampa*? Admiral Ritchie, do you know which vessels were involved in the *Tampa* incident?

Rear Adm. Ritchie—The vessels involved were *Arunta*, *Westralia* and, eventually, HMAS *Manoora*.

Senator FAULKNER—In the period from 20 August through to 10 November, would you be able to confirm that no politician directly phoned any of those three vessels?

Senator Hill—If you are not sure it is better to check the records.

Rear Adm. Ritchie—I cannot confirm that, but I have no knowledge of anybody having done so.

Senator FAULKNER—If it did happen—and I am not suggesting it did—we know from Admiral Barrie and Vice Admiral Shackleton that this would be highly unusual. Would you agree with that evidence, Admiral Ritchie?

Rear Adm. Ritchie—It would be unusual.

Senator FAULKNER—I hear what you say—you are not aware of any contact. Could I just ask—

Senator Hill—I would not be surprised if there were not occasions involving celebrations—

Rear Adm. Ritchie—I know of one instance—and I would need to check to correct this—where I think someone from the Prime Minister's staff rang *Manoora* in order to get some details so that a letter could be written to the captain congratulating him on his part in the activity.

Senator FAULKNER—But that was not one of the three ships that you mentioned.

Senator Hill—Yes.

Rear Adm. Ritchie—It was.

Senator FAULKNER—Did you say the *Arunta*, the Australia—

Senator Hill—The *Westralia* and the *Manoora*.

Senator FAULKNER—It is really hard to hear. *Westralia*, *Arunta* and the *Manoora*. Given what you have said, just in relation to those three vessels in the time period that I have mentioned, could you please take on notice, Admiral, as to whether there was any contact by ministers or ministerial staff, what the purpose of such contact was and what the result, if any, of any contact was?

Rear Adm. Ritchie—Okay.

Senator FAULKNER—In relation to the contact you just mentioned with the *Manoora*—

Rear Adm. Ritchie—I think the one that I just mentioned to you, if I read back from the *Hansard* of Monday the 18th, is correct. Commander Steffan King in the Department of the Prime Minister and Cabinet, contacted the commanding office of the *Manoora* by telephone to convey the Prime Minister's letter of commendation.

Senator FAULKNER—Thanks for providing that information; there is no need to get any more details. If you could, however, provide an answer to my question in that form I would appreciate it. Beyond that, has there been any contact with any of those vessels by the Secretary of the Department of the Prime Minister and Cabinet within the same time period? I will ask you to take that on notice too and I would appreciate an early response, if it is possible. Thank you very much.

Senator BRANDIS—Mr Chairman, Senator Mason and I have some questions of Admiral Shackleton.

CHAIR—Please proceed, Senator Brandis.

Senator BRANDIS—Admiral Shackleton, some time after the incident, I think it was the beginning of November, you had a conversation with Commander Banks of the *Adelaide*?

Vice Adm. Shackleton—I did.

Senator BRANDIS—In the course of that conversation he told you certain things about his assessment of the incident, as a result of which, or partly as a result of which, you decided to give a press briefing?

Vice Adm. Shackleton—That was not the reason I gave a press briefing. Commander Banks explained to me in some considerable detail the circumstances that he was in while the ship was dealing on the morning of 7 October in terms of the SUNCs and the SIEV.

Senator BRANDIS—During the course of your conversation with Commander Banks, there was reference to Commander Banks's communication with Brigadier Silverstone, which is recorded in the time chronology of the Powell report at 7.50 local time. Correct?

Vice Adm. Shackleton—That is correct.

Senator BRANDIS—What did he say to you, please?

Vice Adm. Shackleton—He said that at the time the call came through he was heavily engaged in the activity that he was in, very busy. He was concentrating on the safety of his

people in the ship, concentrating on the safety of the people in the boat that they were engaged with. The call came through, and he had to distract himself from what he was doing to take the call. He would probably frankly have preferred not to have had a phone call at that particular juncture. He took the call and he dealt with it and he went back to commanding his ship, driving it, steering it, giving people orders. And for him, I think, at that time any lapse in his concentration on the activities he was engaged in would frankly have not been welcome. Having said that, he said to me that he is fairly sure that he said to Brigadier Silverstone that there were people being thrown in the water or a child had been thrown in the water, but, in hindsight, he was now just a little bit ambivalent. My sense—

Senator BRANDIS—I am sorry—ambivalent about what?

Vice Adm. Shackleton—He was ambivalent about whether he had actually said to Brigadier Silverstone that a child had been thrown into the water. I discussed this with him a bit. When we talked it through I said, ‘Well, frankly, I would think that you probably said at the time what the brigadier wrote down in his notes, because the brigadier was in the comfort of an office that wasn’t rolling around, and people shouting and asking him to do all kinds of other things.’ I think he accepted that. I can understand, in hindsight, how he may question what he thinks he said. That is not unusual. It was very busy and it would have been quite traumatic in its own way. My sense is that the records by Brigadier Silverstone are probably more accurate than what the captain of the ship remembers, so I personally, like Admiral Barrie, have very little doubt that the captain of the ship said what Brigadier Silverstone recorded. Equally, I am not surprised that the captain of the ship subsequently has cause to thinking in some detail whether he actually said it or not. My view is that he almost certainly did say what Brigadier Silverstone wrote down.

Senator BRANDIS—Thank you, Admiral. Just one other last thing. You would have heard my questions to Admiral Ritchie about the conditions of the light. Can we find out through the Navy precisely what was the condition of the light at any given critical time at the incident location?

Vice Adm. Shackleton—We have all kinds of books, computers and God knows what else that helps us calculate what time sunrise, moon rise, or any other kind of rise you want, is going to be.

Senator BRANDIS—I really want the conditions of the light, though.

Vice Adm. Shackleton—We can get that information. But I think the other point—and Admiral Ritchie may want to embellish on this—is that the operator who was looking at the SIEV, and who I think is the one who reported that he saw somebody go over the side or be thrown over the side, was the electro-optics systems operator. That system is not sensitive to light conditions in the same way that normal light is—in other words, it is intended to work in conditions of darkness.

Senator BRANDIS—I see. Does it follow from that that the man who said he believed he saw a child in the water was using a device which, in effect, gave him night vision or vision in conditions of impaired visibility, whereas the other 15 of the witnesses who do not say they saw a child in the water were operating with the benefit of their unaided eyesight and would therefore have been affected by conditions of poor visibility or poor light?

Vice Adm. Shackleton—It is correct that the operator of the electro-optics system would have had better visibility, but I expect that the proximity of the other people to the vessel in

question would have made it reasonably easy also for them to see what they were doing. Admiral Ritchie has got some notes here. Perhaps you could ask Admiral Ritchie.

Senator BRANDIS—I will, Admiral Shackleton. Before I do, just in relation to that last observation of yours, no doubt the seamen were aware of what they were doing, but it does not follow from that that, particularly in the pre-sunrise, impaired light conditions, they would have been in as good a position to see exactly who was in the water as the seaman who did report a child in the water looking through the night vision device. Would you agree?

Vice Adm. Shackleton—It is quite possible, yes.

Senator BRANDIS—Thank you. I was going to give Admiral Ritchie the opportunity to elaborate, as he obviously wants to do, on his earlier answer.

Rear Adm. Ritchie—I said earlier that the issue of the light was not a concern for me when I was considering these matters and I would like to read into the record something written by Commander Banks. He says that sunrise took place at about 0515. He then says a few other things. And he says that:

At about 0530 I was surprised to witness several people bobbing in the water ... as they came clear of the SIEV's stern and into my field of view. I was now concerned about a mass exodus scenario designed to force me into a SOLAS situation.

What he is saying is that the incident that we are all fixated on took place 15 minutes after sunrise.

Senator BRANDIS—With respect, Admiral, may I put it to you he is not, and may I explain to you why he is not: because, as the time line in General Powell's report shows, the conversation between Banks and Silverstone, in which Banks reported the child in the water proposition to Silverstone—and this is not controversial—took place 49 minutes before sunrise at the incident location, and therefore the exodus to which you just refer, which is also taken up in the time line in the Powell report, is a later chain in this sequence of events. Whether Banks was right or whether he was wrong, it is not in controversy that Silverstone recorded Banks saying to him there was a child in the water 49 minutes before sunrise at the incident location.

Rear Adm. Ritchie—I think it is. I think that the times that are in Powell's reports and the times that are in Banks's report have not been reconciled. So there is doubt as to the time that these incidents took place.

Senator BRANDIS—In fairness to you, Admiral Ritchie, I accept that the propositions I have put to you do assume the accuracy of the time sequence in Powell's report, although given—as Admiral Shackleton has said—Brigadier Silverstone made a contemporaneous note of what he was told by Commander Banks, it would seem highly unlikely that that part of the time would not be a fixed and verifiable time and, of course, the time of sunrise cannot be controversial.

Rear Adm. Ritchie—I would also refer you to a further statement by Banks where he says:

I remained stationed on the starboard bridge wing. I had a full view of the events, as viewed from approximately 200 to 300 yards at an elevation of 12 metres.

He is clearly saying to us that there is was not an issue in terms of the light.

Senator BRANDIS—Admiral Ritchie, everybody remembers what they saw, and this is the point I was putting to you before. If you saw something, it is not really relevant for you

then to comment on the conditions of visibility in which you saw it, because what is relevant is whether you saw it or not. But the issue in this case is not what was seen but what was not seen; and, to that, the conditions of visibility are, I put it to you, a highly relevant consideration. I think you accepted that before.

Rear Adm. Ritchie—And I make the point that Banks says that the action took place after sunrise.

Senator BRANDIS—That is in controversy. And, as I put it to you—and I do not want to debate it back and forth—we have an independently verified and timed note by Silverstone as to the time at which the ‘child in the incident’ statement was made to him by Banks—and that is incontrovertibly at 49 minutes before sunrise. So that of which Banks spoke must have happened more than 49 minutes before sunrise. You are nodding. Are you assenting to that proposition?

Rear Adm. Ritchie—I agree Banks’s further testimony will be interesting.

Senator BRANDIS—Yes, it will. Thank you, Admiral Ritchie.

Senator JACINTA COLLINS—I have a question to Admiral Ritchie following this issue, but also one to Admiral Shackleton. Admiral Ritchie, have you seen Commander Banks’s statement?

Rear Adm. Ritchie—Yes, I have.

Senator JACINTA COLLINS—Can I take you to the Bryant report, which indicates that Commander Banks confirmed that the boarding took place in darkness but that it was early morning twilight, with good natural light conditions, at the time when the first SUNC jumped overboard. Do you recall that from the statement?

Rear Adm. Ritchie—I do. That is the passage that obviously I was referring to before when I said I could not put my finger on it about twilight. But it only points to the fact there is a confusion in the time line in all of these reports.

Senator Hill—Which is acknowledged.

Senator JACINTA COLLINS—I am coming further to that point, because there is about a four- or five page discussion in the Bryant report which deals precisely with this issue and concludes in the finding that both incidents clearly occurred during daylight hours. Is that your understanding of the matter?

Rear Adm. Ritchie—That is certainly my understanding of what happened.

Senator BRANDIS—But, Admiral Ritchie, would you also accept that that is plainly inconsistent with the minute-by-minute time line in the Powell report? If the Powell report is right then the propositions I put to you are right, and if it is wrong the propositions are wrong. But, nevertheless, there is a minute-by-minute reconstructed time line in the Powell report concerning which, no doubt, at the select committee General Powell will be asked many questions.

Rear Adm. Ritchie—I totally accept that. The only reason that I am making an issue of this is because you inferred from it that I had not given proper consideration to the conditions when I advised the CDF. What I am saying to you is that my recollection of events is that everything occurred in daylight, that light is not an issue. When I advised the CDF, I did that with that in mind. I might have been wrong, but that is the way that I thought about it and that is the way that I advised him.

Senator BRANDIS—I do not want to make a silly distinction; I think this is an important distinction. You were not, of course, a witness to these events, so it is not that you have a recollection that everything occurred in daylight. You have a recollection that when you expressed your conclusions to Admiral Barrie and you analysed the 16 witness statements, you assumed that everything happened in daylight so that visibility was not an issue. The line of questioning I am putting to you is to challenge whether or not that was an appropriate assumption to have made.

Rear Adm. Ritchie—Okay. I maintain it was appropriate. And I certainly was not giving him advice after having read Major General Powell's report. That comes much later, and that is where this confusion arises.

Senator BRANDIS—Thank you, Admiral Ritchie.

Senator FAULKNER—Can I follow this through, just so we are clear. The device that you have explained to us in technical terms has very effective night imaging—

Vice Adm. Shackleton—It has low light capabilities.

Senator FAULKNER—is the EOTS device?

Vice Adm. Shackleton—Yes.

Senator FAULKNER—And the EOTS device is also, in layman's language—and I am very much a layman on this—is also effectively capable of producing a video, including a time and other material that is attached to it?

Vice Adm. Shackleton—That is correct.

Senator FAULKNER—When we all use our layman's language we talk about the video, but that is the EOTS tape effectively, isn't it?

Vice Adm. Shackleton—That is correct.

Senator FAULKNER—I do not know if that is the right terminology, but it is layman's terminology. There is one seaman who reports a child in the water in the statement. That is correct, isn't it, Admiral Ritchie?

Rear Adm. Ritchie—That is correct.

Senator FAULKNER—What I would like to know is: is this seaman also the EOTS operator or an EOTS operator?

Rear Adm. Ritchie—I am of the belief that he is the EOTS operator throughout the period that we are talking about. Just let me check if his statement indicates that.

Senator FAULKNER—Thank you.

Rear Adm. Ritchie—In this statement he says—and I am reading what he says:

On Saturday 07 October 2001, I was on the Bridge manning EOTS ... During that time I witnessed and recorded—

Et cetera, what I said before. It does not indicate that he was relieved by anybody else, that anyone else took his position.

Senator FAULKNER—No. So Senator Brandis, who is of course a brilliant advocate and I am just a political hack, does not appear to have been able to draw the obvious conclusion here, that the device through which this seaman is seeing these events is the EOTS device—that is correct, isn't it, Admiral?

Rear Adm. Ritchie—That is correct.

Senator FAULKNER—And it is not only in this particular seaman that we actually have the advantage of seeing what he sees, because we have a tape, don't we, of at least some of this?

Senator Hill—On your argument he should have better vision than the others.

Rear Adm. Ritchie—I think there is something in his statement which is pertinent to that. He says that:

I was on the Bridge manning EOTS ...

So he clearly had access to the EOTS, but if he was on the bridge he clearly had access to the field of vision that he would have by turning around and looking through the bridge window.

Senator FAULKNER—Yes, of course. He is on the bridge manning EOTS. I do not think I have ever seen one of these EOTS machines—and I am not sure that I ever want to, to be honest with you—but I gather you can—

Senator Hill—You might see one before this process is finished.

Senator FAULKNER—I doubt it. I imagine that you can train it on something and leave it and look around in the light can you, Admiral Ritchie?

Rear Adm. Ritchie—And I think that is what he was probably doing. He was training it; but, given that he says he was on the bridge, I think you have to accept that he had other visual means available to him.

Senator FAULKNER—Sure.

Rear Adm. Ritchie—He does not distinguish in his statement whether he saw this on the tape or he saw it through the window.

Senator FAULKNER—I accept that, but you do not spend all your time looking through the lens, or whatever the technical term is, of this EOTS gadget. In relation to this event and the statement of the EOTS operator, we actually have the benefit of the EOTS recording, don't we?

Rear Adm. Ritchie—We do. We saw whatever he saw on the EOTS machine.

Senator FAULKNER—'We saw whatever he saw.'

Rear Adm. Ritchie—On the machine.

Senator FAULKNER—On the machine.

Rear Adm. Ritchie—We did not see what he saw through the window.

Senator FAULKNER—No, of course. But we know that what he saw on the machine did not include a child in the water. We do know that, don't we, Admiral?

Senator Hill—Sorry, what? We know that it was a phased picture—which tends to suggest that it was pretty dark, actually.

Senator FAULKNER—We know that the EOTS tape does not show a child in the water. That is right, isn't it, Admiral?

Rear Adm. Ritchie—I have seen the EOTS tape, and I think the best description of it is as described by someone else: it is inconclusive. I am not too sure that you can tell what actually happens by looking at the EOTS tape.

Senator FAULKNER—Let me put the question another way. Does the EOTS tape show a child in the water?

Rear Adm. Ritchie—Not specifically.

Senator FAULKNER—No, it does not show a child in the water, does it? It may be inconclusive. I mean, we have all seen a small part of this—

Senator Hill—If it was conclusive, there would not be so much debate here.

Senator FAULKNER—I think, quite clearly, the new approach of the government is dependent on one witness statement as opposed to all the other witness statements.

Senator BRANDIS—It is the statement of the witness who saw something, Senator Faulkner.

Senator FAULKNER—In relation to this witness statement—

Senator Hill—The one whose job it was to observe—

Senator FAULKNER—Yes, that is right. But in relation to this witness statement, we actually have the value of the EOTS tape.

Senator Hill—The tape does not conclusively corroborate his statement that he saw the child in the water. We know that.

Senator FAULKNER—We do. I am just making the point that the EOTS machine—

Senator Hill—We have established that a number of times.

Senator FAULKNER—We are well aware of the dependence that the government and the Prime Minister have on one seaman's statement in relation to this particular matter. He also happens to be the EOTS operator.

Senator Hill—We are more dependent on the report of the joint task force commander.

Senator FAULKNER—We also know that from the EOTS machine, or camera, or whatever it is called, the tape does not show a child in the water. That is the case, isn't it, Minister? For what it is worth.

Vice Adm. Shackleton—Senator, I think the difficulty with the EOTS is that it is a grey-scale film—

Senator FAULKNER—I have seen the television clips of this ad nauseam.

Vice Adm. Shackleton—and I think what you are seeing here is the difficulty that really, to some extent, confronts us. Vice Admiral Ritchie himself said it was inconclusive. When I looked at it, I thought it was more conclusive than that. So two people who ought to know what they are looking at had different opinions of it. I think in this instance I would be prepared to give some credibility to the sailor who operated it. He was more trained in this than either Admiral Ritchie or myself. So I am not trying to say that he is right or wrong. What I am saying is that it is a grey area—if you can excuse the pun.

Senator FAULKNER—There were 16 statements in total. You would not be suggesting that the statements of the other 15 sailors lack credibility?

Vice Adm. Shackleton—No. Nor would I want to discredit this individual who has made a statement in good faith.

Senator FAULKNER—I do not want to discredit the sailor, either. I make that very clear. I am merely pointing out the obvious to anyone who does not understand that there actually is

a physical record of what this sailor saw through this particular EOTS machine when he or she was looking through the EOTS machine. But what it points out again is that there is some ambiguity about all of this. I think that was your point, wasn't it, Senator Hill? You claim that there is ambiguity about this incident?

Senator Hill—Yes, I think there is.

Senator FAULKNER—Yes, I know you do.

Senator Hill—We have the report of the joint task force commander that records children in the water. We have a report from a sailor whose job it was to observe what was happening that there was a child in the water. We have got other reports that do not evidence children in the water—which means that they did not see it; it does not mean that there were not children in the water. Whether we will ever conclusively know the answer to that, I do not know. The important thing was that the government was told through the correct line of command that there were children in the water.

Senator FAULKNER—Anyway, given that you believe there is ambiguity about this, and the government claims there is ambiguity about this because of this one witness statement, perhaps you can explain how on 10 October photos were released by the government, they were subsequently published all around this country during a federal election campaign and they were completely misrepresented as proof of the original claims that you now say are ambiguous. Why was this misrepresentation allowed to stand all that time, right through to the election day, without correction? That is the issue I want to raise again with you, Admiral Barrie. That remains the problem of what you were told on the 10th and the 11th.

Senator Hill—It is probably more appropriate to ask me, as the question was: how did government reach that conclusion?

Senator FAULKNER—No, I am asking Admiral Barrie.

CHAIR—Before you answer that, you have now gone to another matter, Senator Faulkner, and Senator Brandis has a question he wishes to ask on the previous area of questioning.

Senator BRANDIS—Further to the question about the EOTS machine operator, Admiral Ritchie, your evidence—as I understand it, and I do not think that there is any dispute about this—is that the only one of the 16 witness statements which reported a child in the water was the witness statement prepared by the EOTS operator. Is that right?

Rear Adm. Ritchie—That is correct.

Senator BRANDIS—The EOTS operator was the one officer, of the 16 who gave witness statements, whose specific operational task at that time was to keep the scene under observation from the bridge of the *Adelaide*. That is right, too, isn't it?

Rear Adm. Ritchie—I think it is fair say that he certainly was tasked to keep the scene under observation.

Senator BRANDIS—The other 15 witness statements came from naval personnel who were participants in other aspects of the operation and their specific tasks were not to keep the whole scene under observation. That is so, too, isn't it?

Rear Adm. Ritchie—In a general sense, I think that that is probably true. I would need to check exactly what each person said he was doing.

Senator FAULKNER—The witness statements say that no kids were fished out of the water.

Senator BRANDIS—The video evidence from the EOTS machine—I think you have accepted and, indeed, Senator Faulkner has accepted—was not everything that that officer saw; it was merely what the EOTS machine recorded. That is so, isn't it?

Rear Adm. Ritchie—That is correct, yes.

Senator BRANDIS—Do we know whether everything that was visible when the EOTS machine was in operation was, in fact, on the video? In other words—I do not know anything about these machines either—was there a function where you could switch the video camera on and off at your discretion, and was it possible to look through the machine without necessarily recording on a video what was being observed?

Rear Adm. Ritchie—I do not know whether such a function exists, but I would be highly surprised if that had, in fact, happened.

Senator BRANDIS—If you do not know, then you do not know. I just wondered whether it is right to assume, as Senator Faulkner's questions do, that everything that was visible through the EOTS machine was recorded on the video. In other words, that the video was coextensive with what was seen through the machine. You just do not know; am I correct?

Rear Adm. Ritchie—I would make that assumption, but I do not know whether it is a correct assumption.

Senator MASON—I have just one question on that: does the bridge provide the best view of the whole scene, to use Senator Brandis's words?

Rear Adm. Ritchie—It depends on where the SIEV was, but I think that the commanding officer's position in this sort of event, fairly naturally, is on the bridge. He is the bloke who is positioning his own ship. Certainly, if I were him, I would be positioning it in a place where I had a fairly good vantage point. So I would say it probably is the best vantage point in the ship.

Senator BRANDIS—Commander Banks was on the bridge at the time too, was he not?

Rear Adm. Ritchie—Yes, he was.

Senator BRANDIS—So the two people who were on the bridge, the EOTS operator and Commander Banks, are the two people who said they saw a child in the water?

Rear Adm. Ritchie—Yes, that is true—

Senator BRANDIS—Thank you.

Rear Adm. Ritchie—but I also make the point that, if you want to go down that line, you really would need to check all of this. There is at least one statement here from someone who was tasked as a lookout on the bridge, and he did not see any child—

Senator BRANDIS—Might I venture to surmise that he does not say there were no children in the water; he says he did not see any children in the water?

Rear Adm. Ritchie—He does not say that he saw no children in the water.

Senator BRANDIS—Thank you.

Senator JACINTA COLLINS—On this issue of the EOTS machine, can we clarify exactly where on the ship the operator is?

Rear Adm. Ritchie—I know that he is on the bridge, because he says that in his statement. But whereabouts on the bridge, I do not know.

Senator JACINTA COLLINS—Is this the filming machine that is portable, not the filming machine that sits up higher than the bridge?

Rear Adm. Ritchie—No, it is the thing that sits up the top.

Senator JACINTA COLLINS—When I was on the HMAS *Adelaide*, and I operated what I thought was the EOTS machine, I was in the operations room; I was not on the bridge.

Rear Adm. Ritchie—You can operate it from the operations room or the bridge. This bloke says he was on the bridge.

Senator JACINTA COLLINS—For the whole period?

Rear Adm. Ritchie—That is what he says.

Senator JACINTA COLLINS—Thank you. As I indicated, I have operated this machine. It is not an easy machine to operate, is it?

Rear Adm. Ritchie—You have more experience than I do, if you have operated it.

Senator JACINTA COLLINS—Admiral Shackleton?

Vice Adm. Shackleton—We train people to operate the equipment. I am sorry we did not give you an operating course before you went.

Senator JACINTA COLLINS—But it is not an easy machine to operate, is it?

Vice Adm. Shackleton—I stand by what I said. We train people to operate it, to know how to use it in different circumstances and to interpret what the machine is telling them.

Senator JACINTA COLLINS—Who would have had closer visibility of the events: the people who were actually at the event, or someone who was operating the machine on the bridge—with the limitations that apply to what you can capture with the EOTS machine?

Vice Adm. Shackleton—It would depend on what level of zoom the operator was using the camera at—you know you can zoom in and out?

Senator JACINTA COLLINS—Yes.

Vice Adm. Shackleton—I think Admiral Ritchie said the ship was about 250 to 300 yards away from the other vessel. I would imagine the camera operator, for the most part, would have had a very good view of the other vessel. For those people on board the SIEV, or on the RIB that was in close proximity to it, their view would have been quite good as well.

Senator JACINTA COLLINS—The reason I asked this question is that, once you look at the footage that came off the EOTS machine, you get a pretty clear impression that the zoom was not that tight, don't you?

Vice-Adm. Shackleton—It was not a tight zoom, no.

Senator JACINTA COLLINS—I want to go to another issue with you, Admiral Shackleton, and that is your earlier comments about your understanding of Commander Banks's views of that very early communication, his initial communication, following your discussion.

Vice-Adm. Shackleton—Yes.

Senator JACINTA COLLINS—Can you repeat what you said to us earlier today on that issue?

Vice-Adm. Shackleton—As best I can. He described the circumstances in which he was conducting command of the ship and he took the call from Brigadier Silverstone. Brigadier Silverstone made some notes but Commander Banks said to me that he was now perhaps unsure whether he had said to Brigadier Silverstone that somebody—a child—had been thrown from the SIEV or not. I had a discussion with him about it in which I said that my expectation was that he would have said exactly what he thought was right at the time. Where I referred to the accuracy of recollection, it is that Brigadier Silverstone was not operating under anything like the same level of stress as Commander Banks was. I think I read elsewhere that Silverstone's telephone line was clear and he had no sense of not hearing properly what Banks was saying to him. So on the balance of all of that, I would assess that how Silverstone recollects it would be accurate.

Senator JACINTA COLLINS—On what date did you have this conversation with Commander Banks which led you to this conclusion?

Vice-Adm. Shackleton—This was on 8 November.

Senator JACINTA COLLINS—This was on the day when you then came away from that discussion and made this press statement:

Our advice was that there were people being threatened to be thrown in the water and I don't know what happened to the message after that.

Vice-Adm. Shackleton—Yes. That was the same day.

Senator JACINTA COLLINS—Well, that comment seems to conclude that you actually relied a bit more on what Commander Banks was saying, rather than what Brigadier Silverstone had put.

Vice-Adm. Shackleton—I think what I said to the media was a function of what I had seen on the tape. If you remember, I said that my view of the tape did not show people being thrown over the side, but others believe it to be more inconclusive. I had imperfect knowledge as to what had been said whilst I was away from the country so I made that statement, which was, in context, technically incorrect because the minister had been advised that people had been thrown over the side, which is why I issued a second statement.

Senator JACINTA COLLINS—Yes, but that statement in itself seems to corroborate the view that you accepted what Commander Banks said.

Vice-Adm. Shackleton—No. I think when I was talking to the media I was looking at the answer to their questions through my eyes, which had witnessed 10 or 15 minutes of tape in Commander Banks's cabin, because I stood there and watched the tape.

Senator JACINTA COLLINS—Yes, but what you said was:

Our advice was that there were people being threatened to be thrown in the water and I don't know what happened to the message after that.

Whilst that does not contradict the fact that the initial advice to the minister was that children had been thrown in the water, what you say here seems to indicate that you have accepted what Commander Banks indicated.

Vice-Adm. Shackleton—No, I did not. I made a mistake.

Senator JACINTA COLLINS—Okay, so you made an error at that point. Are you aware of the statement that Commander Banks made to Ms Bryant?

Vice-Adm. Shackleton—Could you refresh me on that?

Senator JACINTA COLLINS—The reason I raise it is that the information you provided us with earlier I do not believe is complete. I will read from page 10 of Ms Bryant's report. Towards the bottom of the page, it says:

Brigadier Silverstone suggested that as Commander Banks' statement was made on 11 October it may reflect the conclusion reached as a result of statements taken from members of his crew and reported by him on 10 October. Commander Banks, however, is confident that he was not influenced in that way.

Ms Bryant is saying that Commander Banks is confident that his statement of 11 October, which we have yet to see—and we can only rely on what Ms Bryant relays of that—is accurate. What Ms Bryant tells us about that statement is that Commander Banks is staying by his view that he only ever indicated his belief that they were threatening to throw children overboard, or possibly a child was being thrown, and that these recollections are confirmed, I think, by another officer on the ship who was present during the conversations.

Vice Adm. Shackleton—I think you have to go back to the day of the event. Commander Banks would have been under great stress.

Senator JACINTA COLLINS—Yes.

Vice Adm. Shackleton—He would have been operating in circumstances which would have demanded all of his attention. During that time he took a phone call from Brigadier Silverstone. The point that I am making is that Silverstone was probably in a better position to recollect what was actually said in that phone call.

Senator JACINTA COLLINS—All that concerns me, Admiral, is that your earlier comments seem to imply that Commander Banks accepted that uncertainty. I think Ms Bryant's report makes it quite clear that Commander Banks is still confident that he was not influenced in that way.

Vice Adm. Shackleton—We have a statement which says, and these are Banks's words: 'I cannot recollect the exact wording I used.'

Senator JACINTA COLLINS—Admiral, all I am saying to you is that we have very small pieces from a variety of different statements. I know from the report of Ms Bryant that she reports that Commander Banks is, however, confident that he was not influenced in that way. Little snippets from one statement as opposed to another are not going to satisfy this committee. We need to see the whole statements of all of the reports from Commander Banks to reach our own conclusions, I think, at this stage.

Senator Hill—You might seek to get the statements from everyone, including the statements that still have not come through to the headquarters. That is an issue that is going to have to be decided.

Senator JACINTA COLLINS—Precisely.

Senator Hill—Presumably, consent will then be needed from all the statement givers, but that all lies ahead. I am still looking forward to seeing the 400 photos.

Senator JACINTA COLLINS—They do not show you much.

Senator Hill—Don't they? It will be interesting to see what they do show.

Senator FAULKNER—Admiral Barrie, when did you read the crew statements from the *Adelaide*?

Adm. Barrie—The day before yesterday.

Senator FAULKNER—Why not until then?

Adm. Barrie—The assembly of the material was affected by the Powell report. As a consequence of realising that there were these other issues, when I returned I began to trawl through that sort of material to see if there was anything there. That was the first time I had seen them.

Senator FAULKNER—And those statements are pretty clear that no woman or child was hauled out of the water by the crew?

Adm. Barrie—Some of the statements are very clear on that point, but I go back to my judgment on that: I do not think there is compelling evidence that that did not occur.

Senator FAULKNER—But how, Admiral, did we find ourselves in a situation, given the advice that you had received on 10 and 11 October, given the efforts of senior Defence personnel to correct the record, in which this massive distortion continued right through the period of a federal election campaign?

Senator Hill—I think if that question is for anyone to answer, it is for me. I do not think that is a fair question to ask the admiral.

Senator FAULKNER—It is a fair question to ask Admiral Barrie. It is the nub of the issue.

Senator Hill—I am quite happy to spend all afternoon and all night on it.

Senator FAULKNER—I am not interested in your view; I am interested in CDF's view as the head of the ADF. I am not interested in the political spin from the minister. You and I have our political positions. I am interested in the view of the ADF as represented at the table by its chief.

Senator Hill—But, I am sorry, that is not something fairly within the knowledge of the admiral. What this committee can determine is: what were the communications? The consequences of those communications or otherwise is a conclusion that it might draw.

Senator FAULKNER—Minister, the admiral knows that the buck stops with the admiral. He knows that.

Senator Hill—Senator Faulkner can ask me the question of why the government did not act upon the advice relating to the photos. If he wants to ask me that, I will have a go at answering it. It is not fair for the admiral.

Senator FAULKNER—Admiral, you know that the buck stops with you.

Senator Hill—No. This is Faulkner intimidation—the last gasp before lunch. You are trying to get the last word.

Adm. Barrie—Can I try to help? I am not going to comment on any of the political issues here. I have never met a politician who would appreciate me doing so. The question goes to the heart of what would constitute compelling evidence that would make me change my judgment. The only compelling evidence that would persuade me would be a major reconstruction of what occurred.

CHAIR—On that answer, we will adjourn for lunch.

Proceedings suspended from 12.31 p.m. to 1.35 p.m.

CHAIR—Before we go on to questions of a general budget overview, moving from specific children overboard questions, I have two announcements. One is that we have

received some questions from Senator Ludwig to be placed on notice. The second is that tomorrow's hearing will not be held in this room—and, if all goes according to plan, that will be Department of Veterans' Affairs—but I cannot advise at this time where those meetings will be held. I hope to be able to do so by the close of play today.

Adm. Barrie—Mr Chairman, can I seek leave of the committee to table that communication that you asked to be provided to the committee? It has now been cleared by the department and is available.

CHAIR—Thank you, Admiral Barrie. The committee will receive that. Before I call on Senator Evans, I make a passing comment about the fact that we will be moving onto the outputs after the general budget overview questions. I want to say to Defence that, for those people who are no longer involved and are slipping away before I had this chance to say something, I acknowledge—I think the committee acknowledges—that we meet at a time of unparalleled commitment of all of you and I cannot imagine a time since the end of World War II that you have been extended as you are from your training establishments right through to the pointy end of our commitments with our ships in South-East Asia et cetera. The committee very much appreciates the fact that, although it is your job to be here and to answer our questions, we acknowledge the pressures that many of you are under and we thank you for that. So those of you who have to leave before the close of play, I just wanted to make that point to you. Senator Evans

Senator CHRIS EVANS—Thank you, Mr Chairman. I certainly endorse those remarks and I am glad that you made that statement. I will start by indicating to the officers at the table that I have not had any involvement in Defence estimates for three or four years so some of my questions might be part of the learning phase so I apologise for that and bear with me but, given the last day or so, I am sure it will be light relief anyway. Let us start with a discussion about the overall budget statement which is at page 4 of the overview. If someone could provide a bit more detail on the explanation. The key paragraph is:

The Government has reorganised the net additional cost of current operations. Notwithstanding this, there are likely to be some impacts on Defence capability in the near and medium term due to the need to reschedule some planned maintenance and upgrade programs.

I wonder if someone could just flesh that out for us, what that means and what has been identified as needing to be reordered in order to meet those cost pressures?

Mr Harper—Could you give me the reference that you are reading from please, Senator?

Senator CHRIS EVANS—It is page 4. It is the general caveat on the impact of implementing the Defence white paper and the obviously unexpected increased costs of current operations.

Mr Harper—The Defence organisation has a large budget. At the time of the budget, the government would have had a view in mind as to where the resources were to be deployed. The outputs which are indicated in the portfolio additional estimates statements include capability—Navy, Army, Air Force, intelligence capabilities and operations. As events have emerged since the budget, there has been a considerable increase in operational tempo which has meant that much of the defence effort has been diverted to operational matters. When that happens, it does have an impact on capability because people who might have been available to be trained to deliver a particular capability to be ready to enter an operation may already be involved in an operation. So there is an ongoing juggling of the use of the Defence resources.

Senator CHRIS EVANS—Thank you, I appreciate that. What I was trying to get from you was a flavour of what that juggling involves. Obviously it is having an impact, and you describe it:

... in the near and medium term due to the need to reschedule some planned maintenance and upgrade programs.

I was after some description in the broad of what sort of things we are talking about; what you have identified as being impacted by the current operations and, obviously, their financial impacts.

Mr Harper—An example would be the cancellation and postponement of a number of exercises which are undertaken to allow our people to be as well trained and equipped as they can be for contingencies.

Senator CHRIS EVANS—So a range of training operations are now no longer required because they are actually operational, I suspect.

Mr Harper—That is right. At page 25 of the document, if you look at the exercise program you will see that, while there have been a relatively small number of exercises added to the program since the portfolio budget statements, there is a much larger number of cancelled and postponed exercises, and there are others which have slipped to later in this financial year.

Senator CHRIS EVANS—I presume the new exercises are more designed to meet current and emerging needs than might have been anticipated—is that fair?

Mr Harper—I am not optimally placed to answer that, but I would imagine that.

Senator CHRIS EVANS—All right. What about ‘rescheduling of maintenance and upgrade programs’—what does that mean?

Senator Hill—Ships for example are largely engaged in operations at the moment and therefore away for longer periods than they would be in non-operational periods. This means that the more orderly scheduling of maintenance has had to be changed and a different form of maintenance if they are away for longer periods of time. It is the same sorts of consequences in relation to leave. It is really adapting the maintenance schedule to suit a period of heavy operational engagement rather than one in a different environment.

Senator CHRIS EVANS—Are there any other major impacts on the way Defence is likely to operate in the near and medium term as a result of those operations and their costs, other than the obvious ones we were talking about—the planned exercises which will no longer go ahead and obviously some of the consequential maintenance type issues.

Senator Hill—I can get the specialists to give you information here, or elsewhere, if you prefer. The equipment seems to be being constantly technically upgraded and therefore these upgrades have been largely planned to fit what were the scheduled maintenance periods. Now those scheduled maintenance periods are out of schedule, the pattern of various upgrades of weapons systems has changed. So there is some consequence in that regard as well.

Mr Roche—This is a very broad subject and the overall summary of the financial effects is on page 89. But, if there are a number of these adjustments being made to the existing allocations within these three services, it might be best to pick them up on the way as we go through, under each output.

Senator CHRIS EVANS—Thank you, Mr Roche. I will. I was just trying to get a global sense of the department's view about what those impacts were, and that has been helpful. But we will pick them up as we go through.

Senator Hill—As you can see, we have received some support in additional appropriations for the enhanced operational environment, but we have also managed to absorb significant proportions of the cost of that. That obviously has some consequences and challenges over a period of years to ensure that that does not detrimentally affect capability.

Senator CHRIS EVANS—I have another general question. Are those changes going to have an impact in terms of the Defence capability plan associated with the white paper? I know it is going to be redrafted. Is that going to be an impacting factor?

Senator Hill—It is not being redrafted. The white paper always talked about that plan being subject to modification and changing circumstances. Since the white paper, we have had the war against terrorism, the operations with illegal entrants, enhanced domestic security obligations and a number of other unexpected operations. These will require some modification to the plan, but not substantially. It has meant that some additional capabilities have had to be written in—such as the decision to have a second counter terrorism capability, and to further invest in intelligence. To some extent, this means that other aspects have to be modified around the edges—but it really is around the edges. There has been no decision to abandon any one of the critical components of that plan—or, I think I can fairly say, to even significantly modify it.

Senator CHRIS EVANS—I think the white paper included a proposition for an annual strategic review, and that is now under way. Is that right?

Senator Hill—That is absolutely right. We do an annual strategic review—which we are doing at the moment—and we tend to finish about September.

Senator CHRIS EVANS—There was not one in the first year though, was there?

Senator Hill—No. Well, you could argue that it occurred overnight, after 11 September. But this one will, in a considered way, take into account the changed terrorist environment—the same way as the United Kingdom, for example, is writing a new chapter to its strategic plan to deal with the changed world environment. But, in conjunction with that, we will be doing a review of the Defence capability plan. The idea is that about September, or October at the latest, we will have done both of those tasks.

Senator CHRIS EVANS—So there will be a rewrite of the strategic overview and a revision of the capability plan, and they will be released together?

Senator Hill—I would think so. We have not got to the stage of a communications plan for that.

Senator CHRIS EVANS—But there will be a formal redefinition of the capability plan—is that fair?

Senator Hill—I do not think that it is going to significantly change. I talk about fine tuning or modification around the edges. But to the extent that it will need to be updated to reflect the changed strategic environment, then we would do so.

Senator CHRIS EVANS—Thank you for that. As I was invited to discuss some of the more detailed financial estimates, can someone can take me through pages 7 and 8 which talk about the \$1,087 million in the additional estimates over and above the original budget. I think it is specified as \$343 million for new initiatives, \$257 million for foreign exchange

growth and \$487 million in funding for costs incurred in previous years. Can someone just take me through those items, and give me some further explanation of those?

Mr Harper—On page 8, there is a break down of those figures. At the top of page 8 you will see it says, ‘\$343m in net new initiatives directed by the government since the budget’, and they are listed there. Two dot points below that go to movements in price and exchange rates and some funding, which we may have picked up last year but did not, which we are now picking up this year. I am at the middle of the page there looking at the figures of \$169 million and \$79 million.

Senator CHRIS EVANS—I have taken the trouble to read the document; I can assure you that I have done that. There is \$320 million listed as the contribution for the coalition against terrorism and later on page 12 the document talks about \$180 million for operational costs and \$140 million for capital costs. I want to get an understanding of what those items mean. I do not mean to the last dollar, but what is the \$180 million going on? What are the \$140 million capital costs? What are these things for beyond what is described in the document?

Mr Harper—I probably should preface my comments by saying that these costs are the net additional costs. So they are already net of absorption of some costs by Defence against what we would have done had these operations not been required.

Senator CHRIS EVANS—I used to do the aged care budgets and the numbers were much smaller!

Senator Hill—It is a fair question; but it is not easy to answer because this is, in effect, a net additional cost.

Senator CHRIS EVANS—Where I have been asking about the expenditure, I just want to get some idea of what it is for. Is that pushing the envelope too far?

Senator Hill—If you are talking about operating costs, it is allowances for service personnel in warlike conditions—

Senator CHRIS EVANS—I want somebody to take me through that.

Senator Hill—It is the additional fuel costs of getting ships to the Middle East, it is additional costs associated with the four FA18 aircraft that we have in Diego Garcia and it is significant additional costs, obviously, in the deployment of the SAS to Afghanistan, because they basically took all of their equipment with them.

Senator CHRIS EVANS—I appreciate that information. I am interested in getting a bit of a feel for the size of those figures and what is driving the increase in costs. I said I did not want all of the detail, but I do want to understand that deploying the SAS to Afghanistan is costing us so many million a month and that is helping drive our costs. I am just after that sort of understanding of the Defence budget. As I say, I have actually read the document and that is why I am looking for a bit more detail.

Senator Hill—I do not think it appears in this document because this is based on the net additional costs. That becomes relevant to the net additional money that we are getting. I have seen attempts to break down the overall costs of these deployments in terms of both operations and capital and I am happy that we prepare a document for you in that regard, if you would like to do it that way. Otherwise we will just be talking in generalities.

Senator CHRIS EVANS—I am happy if the officers want to take the actual detail on notice, but I would like to develop a bit of an understanding of what is driving the costs. For instance, obviously the SAS soldiers—

Senator Hill—Admiral Barrie will have a go at explaining that.

Senator CHRIS EVANS—I would also like some explanation of what the pressures are and what is driving them.

Adm. Barrie—I think I may be able to help. Since we constructed the original budget for the year a great deal of operational demand has been placed on the ADF in addition to what we were experiencing on 1 July. In the context of the deployments into the Middle East, both land, sea and air, and for operations off Northern Australia there are a couple of perspectives which have become very serious drivers. One is the ongoing intensity of the use of the equipment. If you are looking at the fuel bill, the ammunition bill, the logistics bill for supporting those forces, they have grown quite significantly. The second element of additional cost comes from preparing rotation forces. For all the commitments that we have made, we have to spend significant resources preparing those forces that will replace the ones that are already in theatre. While some of that can be offset by the loss of other training and exercise opportunities, it is a very expensive undertaking.

Senator CHRIS EVANS—What drives the cost there, Admiral Barrie?

Adm. Barrie—A number of things: again, it is fuel, preparation, logistics, consumption of resources and those sorts of things.

Senator Hill—Intense training.

Adm. Barrie—That is in addition to allowances and all of the other sorts of support.

Senator CHRIS EVANS—Thanks for that. What about the \$140 million for capital costs? Is that for new purchases?

Adm. Barrie—There certainly would be some new purchases. For example, forces operating in Afghanistan require quite sophisticated cold weather clothing. That is the sort of support that we do not generally have available in the inventory. We have sourced the world's very best equipment.

Senator CHRIS EVANS—You had to go out and purchase that equipment new, did you?

Adm. Barrie—Yes, so that is one element. Secondly, there has been a whole range of additional capabilities and additional costs since the World Trade Center event.

Senator Hill—Additional equipment has been added to the ships to suit this new strategic environment.

Senator CHRIS EVANS—Can you give me an example of that sort of thing, Admiral? I just want to get the flavour of it.

Adm. Barrie—Yes. We have deployed LPAs into the Middle East. One LPA had a full suite of communications and other equipment; the other one did not. We needed to get both up to scratch so that they could undertake those missions.

Senator Hill—Another example is operability in coalition forces, plus the enhanced threat from chemical, biological or radiological weapons. The Admiral is a specialist, but it strikes me that the whole communications issue has been a factor: the need to be constantly upgrading to keep pace, particularly with our big and powerful partner.

Senator CHRIS EVANS—Thanks for that. That has been helpful. I would appreciate it, if you would not mind, Minister, getting that written document with a bit of an explanation. I do not want everything to the last cent, but an understanding of what is driving that cost. Anything you could provide would be useful, to broaden my understanding of what pressures

that is putting on Defence. Could I also ask about some of these other financial measures. We can have a chat about border protection later on. Is the Papua New Guinea defence force \$20 million to fund redundancies within the PNG defence force?

Mr Roche—It is to fund redundancies and a number of other measures, Senator.

Senator Hill—It is to support them in the restructure of the PNG defence force. It is funded through our Defence Force Corporation Program, but a significant part of it is to support redundancies.

Senator CHRIS EVANS—Do you have the details there, Mr Roche, or are you able to provide further information?

Mr Roche—I do not have the details of the exact break-up of it. I will see if I can find that for you, Senator.

Senator CHRIS EVANS—This is a payment that we make to the PNG government, rather than to the defence force or to the soldiers directly, is it?

Senator Hill—It is supporting the PNG government in achieving the reform program that it and we think is desirable in relation to the defence force.

Mr Harper—At the foot of page 36 there is some detail on what the \$20 million is for. It is described as:

... providing support to Papua New Guinea Government initiatives to reform and downsize the Papua New Guinea Defence Force; developing an effective personnel management database; improving financial management practices; and increasing joint Papua New Guinea Defence Force/ADF activities.

Senator CHRIS EVANS—Is this \$20 million part of a broader arrangement with the PNG government about management of their defence forces, or is this a one-off?

Mr Roche—This is specifically aimed at the reform of the PNGDF, Senator.

Senator CHRIS EVANS—Have we made contributions in the past towards the reform of the PNG defence forces?

Senator Hill—This is a one-off within an ongoing program.

Senator CHRIS EVANS—Are you going to be this helpful the whole estimates?

Senator Hill—I try to be helpful.

Mr Roche—I think there was an approval to provide a smaller amount in 2000. I think \$10 million was provided in the year 2000 for this purpose. Whether that was actually spent or this represents an increase on that, I cannot quite tell at this stage. My memory is that that \$10 million may have been held up.

Senator CHRIS EVANS—So you think we might have allocated \$10 million in the year 2000 and that was not spent, and now we are allocating \$20 million. Is that right?

Mr Carmody—Last year I was involved with support to the PNGDF so I might be able to add something here. There was some funding provided. We provided \$10 million towards the end of last year to feed the PNGDF.

Senator CHRIS EVANS—I hear you corrected to 'feed them'.

Mr Carmody—Yes, I am sorry. At the end of 2000, not at the end of 2001, to feed the PNGDF. The PNGDF had difficulty in food and logistics for some of their soldiers and the government determined, in an agreement with the PNG government, to establish contracts to

feed the PNGDF. So \$10 million was allocated to rations in northern bases. Around the same time, you might recall there was the eminent persons group, which was reviewing the PNG defence force. The Australian government provided some funding towards the eminent persons group, which was a Commonwealth secretariat-managed activity.

Senator CHRIS EVANS—All right. Then this year we have determined to help fund what is effectively a redundancy program. Is that right—the \$20 million?

Mr Carmody—Yes, that is correct. That is this year. This is part of a continuing series of activities with Papua-New Guinea. In the previous year the eminent persons group made some recommendations in terms of redundancies for the PNGDF to downsize the Papua-New Guinean defence force. For a range of reasons in Papua-New Guinea, that did not happen. If I understand this current initiative in an agreement between the Australian government and the Papua-New Guinean government, this is a new initiative aimed at achieving one of the same ends, which is downsizing the Papua-New Guinean defence force. It was a figure of about \$20 million. I think it was \$19 million-something.

Mr Roche—It flows on, I think, from the work of the eminent persons group. There has been a longstanding program of cooperation, as you would appreciate, with the PNGDF. But some events back in September 2000 certainly increased concerns about the PNGDF. There was a meeting of the Prime Minister with the PNG Prime Minister back in September 2000 to discuss reforms. That led to the amount of \$10 million being paid towards the end of 2000, but also to the eminent persons group work, which we provided some support for, and ultimately to the contribution of \$20 million this year.

The actual details of that—it is, as we said before, being used to reduce the size of the force to improve basic conditions for soldiers by addressing some equipment and infrastructure deficiencies. There is some back-payment of allowances due and so on. The money will be paid into a trust account and no disbursements will be made from that trust account until an action plan that is consistent with those overall objectives is agreed with the Australian High Commissioner and PNG. The actual disbursements will be monitored by an accounting firm.

Senator CHRIS EVANS—What are the instructions to the Australian High Commissioner in regard to the redundancies. Is there an agreed program?

Mr Roche—I think that the size of the reduction is still a bit sensitive, but there is a set of agreed parameters, which perhaps Admiral Barrie might be able to comment on.

Senator CHRIS EVANS—So where did the \$20 million come from? Why \$20 million, not \$40 million or \$5 million? What is the basis of this proposition?

Adm. Barrie—I might be able to help illuminate a little bit. The eminent persons group, when it brought forward its recommendations at the end of the year 2000, could foresee the requirement for reduction from about 4,150 personnel in PNGDF to about 1,900. Furthermore, I think the average age of people serving in the defence force was about 47. So, there was a need to create some opportunities for new recruitment and rejuvenation of the force. For all sorts of reasons that plan was not proceeded with, but I think it indicates the sort of magnitude of the change process required to try to get an effective PNG defence force. From my perspective, what the PNG government is trying to achieve here is the creation of a force for good in PNG, in its defence force, not a force that spends its time being nothing but trouble. The figure of the \$20 million—which is caveated on performance in a range of ways that I do not have the detail on, but there are certain performance criteria—was seen to be an appropriate level of support for the PNG government's plans.

Senator CHRIS EVANS—Where did that proposal come from? Was it out of Defence or was it out of Foreign Affairs or was it out of the Prime Minister's meeting? What was the origin of this?

Adm. Barrie—I think that there was a taskforce established by the government. The government took a report and the government made a decision that that was the level of support that it would provide.

Senator CHRIS EVANS—So it was a cabinet decision?

Adm. Barrie—It certainly went to the National Security Committee of the cabinet.

Senator CHRIS EVANS—I see on page 37, the Defence cooperation funding, that this is a variation of \$19.731 million, but there is \$10 million in this year's budget already, so the total for Papua New Guinea is going to be \$29 million. Is that \$10 million an ongoing food supplement or is it something else?

Mr Carmody—It is an ongoing Defence cooperation program with Papua New Guinea in training and cooperation. The food supplement was a one-off towards the end of 2000, when it was very clear that the PNG defence force was in dire straits.

Senator CHRIS EVANS—What is the more regular \$10 million expended on?

Mr Carmody—I have not got all of the details in front of me.

Senator CHRIS EVANS—Sorry, I am just trying to get a feel for it.

Mr Carmody—There is a range of advisers. There is training that is undertaken, logistics training, logistics support and support generally for the PNGDF.

Adm. Barrie—It is funding for training in Australia or PNG.

Senator CHRIS EVANS—So that is more in the nature of our ongoing military support for Papua New Guinea?

Adm. Barrie—Yes.

Senator CHRIS EVANS—Thank you for that.

Mr Roche—The portfolio budget statements proper, which were issued last year on page 51, if you have a copy, do actually go into some considerable detail. The break-up of that \$10 million is a provision of administrative support, which includes security services, office support, fuel, repairs and maintenance, \$1.2 million—

Senator CHRIS EVANS—That is fine, I understand that. I was really checking whether that was the ongoing—

Mr Roche—There are 17 ADF advisers. There is the pacific patrol boat project, personnel costs, exercises, and in country training, as the Admiral mentioned, for PNGDF people, in Australia.

Senator CHRIS EVANS—You have won me, I am happy.

Senator HOGG—Page 8 refers to the continued peace monitoring activities in Bougainville. What has caused the additional expenditure of \$10 million? Is it that there was no allocation, or there has been increased activity? I have just tried to trace it from this years PBS, and I cannot see it mentioned specifically in output 1.

Mr Harper—I understand that it was an amount where, when the original decision was made, we were not sure how long we would be involved there. As things have turned out, an

extra amount has been proposed to be appropriated for that reason. It is something for which there was not an ongoing provision.

Senator HOGG—I see there is nothing in the forward estimates for 2002-2003, 2003-2004 and so on. One can assume that this is something that is under constant review.

Mr Harper—I think that is right.

Adm. Barrie—That is certainly correct. The continuing commitment is kept under review, as events progress.

Senator HOGG—We have a commitment now, out until 30 June this year?

Mr Harper—Correct.

Senator HOGG—When will it next be reviewed?

Adm. Barrie—I think the current perspective is that we are trying to proceed now with a weapons disposal plan in Bougainville. If that can be moderately successful, and we can get agreement from the parties, there will no longer be a requirement for a contribution in Bougainville.

Senator HOGG—Thank you.

Senator CHRIS EVANS—Can someone just give me some explanation about the description on page 7, of the \$487 million as ‘recouping of funding for costs incurred last financial year’?

Mr Harper—If you go to the third dot point on page 8, there are three dash points there. The first of those refer to some expenditure, in late last financial year, which was brought forward. We had expected that we would be supplemented, conceivably through the finance minister’s advance, for those expenditures which we incurred. As it turned out, we did not quite run out of money, so we did not require to tap into that source of funding. But that is being brought to our account this year.

Senator CHRIS EVANS—What were those additional expenditures related to?

Mr Harper—They were related to the capital program.

Senator CHRIS EVANS—The capital program?

Mr Harper—Yes.

Senator CHRIS EVANS—This is not in relation to the increased effort in Timor and Afghanistan, then?

Mr Harper—It is largely a timing issue. When payments occurred, if the actual making of a payment occurred before 30 June, they were a payment last year. If they occurred, say, on 10 July, they are a payment this financial year. We had been expecting to receive the funding for that late last year. In the event, we are now receiving it this year.

Mr Roche—You can pick that up, Senator, on page 60, I think, where you can see that there have been some adjustments year on year in some of the projects. I think AEW and C was one of them. I think the P-3C update was also one that came forward a bit. There were just adjustments over the end of the year with projects.

Mr Harper—In the event, Senator, we did run down our cash holdings at the end of the year to quite a low level as a result of not having received the \$169 million in cash last year which we thought we might have received. To carry on, you asked about the \$487 million and

other components of the \$79 million referred to there which were Defence assets which were sold on our behalf by a unit within the Department of Finance and Administration. The \$79 million did not come to our books last year. It should have, and it is proposed here that it will.

Senator CHRIS EVANS—Why did it not come to your books?

Mr Harper—I believe, and it is probably not ultimately my place to say, that our Finance colleagues may have initially—and undoubtedly inadvertently—been inclined to put it into the consolidated fund rather than give us the receipts.

Senator CHRIS EVANS—So they not only would not give you the cash advance they had promised you; they were also not going to give you the proceeds of the sale of your own buildings?

Mr Harper—It is very hard, Senator.

Senator CHRIS EVANS—I hope Senator Hill has a better relationship with the new Minister for Finance and Administration.

Mr Harper—But, to be fair to my colleagues in Finance—

Senator WEST—Don't be too generous. They will take money off you at every opportunity. They are always taking money off.

Senator HOGG—Yes. We have set the record straight over a number of years about how miserable they are to you. Don't disrupt things now.

Mr Harper—Given that my comment was going to be out of order, Chair, I will move on to the last one which is the impact on our overseas purchases, where we are obviously exposed to a basket of other currencies and we have quite a large capital acquisition program sourced from overseas. That item is supplementation for movements in the exchange rate.

Senator CHRIS EVANS—So does that mean that you had to spend more than you expected in Australian dollars, and you have been supplemented for the exchange rate?

Mr Harper—That is correct, Senator.

Senator CHRIS EVANS—I thought that is what it meant. I just wanted a layman's explanation.

Mr Roche—All the contracts we have signed are signed at a certain rate. Generally, it is a US dollar rate but some of them have European currencies in them. All of them are signed at a certain US dollar rate, and on an annual basis the payments we are scheduled to make in any one year are adjusted back to that overseas exchange rate.

Senator CHRIS EVANS—Thank you for that. I think I understand the description of the \$343 million increase in the price to government of Defence outputs, but could you explain the \$744 million increase in equity injection?

Mr Harper—At page 53 of the additional estimates statement, there is a dot point listing that explains the \$744 million equity injection.

Senator CHRIS EVANS—I am after a more general description of how this works. I saw the items, and I just want to understand how that works in your books, and why it is described as such.

Mr Harper—Our appropriations come to us essentially in two dollops, one being the price for outputs and the other being equity injection. How is the price for outputs struck? In constructivist terms, we come up with an estimate of the costs we will incur through the year,

and we are paid a price which is going to be sufficient for us to cover those costs and allow us to repay—or to pay—a capital use charge on our assets. So through the price for outputs we are appropriated a sum of money which will allow us to show an operating result sufficient to allow us to pay back the government a capital use charge. That capital use charge is currently set at a value of 11 per cent of our assets. So the appropriation for output from the government for the price of our outputs is set at a level which will allow us to meet our costs and pay the capital use charge. Other extra funding which we get over and above that comes to us described as an equity injection.

Senator CHRIS EVANS—What is the reason for the differentiation?

Mr Harper—It is part of the introduction of accrual accounting and the model whereby—

Senator CHRIS EVANS—You have been talking to officers from other departments. They know, as soon as they say ‘accrual accounting’, that my eyes glaze over and I give up questioning because I do not have a clue about what they say next.

Mr Harper—I could elaborate, if you wish.

Senator CHRIS EVANS—I have had a full explanation of accrual accounting about three times. I am none the wiser. I should not tell you that, I suppose.

Senator WEST—No, tell them that you like it in simple language, that they have to translate it all.

Senator CHRIS EVANS—Is it expressed that way because this is not actually pertinent to your output per se; it is to do with other issues? Is that fair?

Mr Harper—It is pertinent to our output. Clearly our capital acquisitions, for example, are highly pertinent to our output. There is a sense in which, given that we are budgeted to achieve an operating result equal to our capital use charge, there is arguably an element of artificiality in the striking of the price for outputs. Unlike many other departments, it is less easy to see what a proper price is for our outputs.

Mr Roche—Broadly speaking, most of them go to the capital account. The ones that trick me up are the technical increase in equity injections associated with the net reduction in operating costs. They lose me at that point.

Senator CHRIS EVANS—I was just going to ask you to explain that to me, Mr Roche.

Senator Hill—Partially offset shortfalls in capital sales.

Mr Roche—That is right. It is a small part of the total.

Senator WEST—You are not getting lost by this accrual accounting, are you Minister? Are you on top of absolutely every cent of it?

Senator Hill—Yes, absolutely. Come and see me and I will give you a briefing!

Senator WEST—We will expect a private briefing from you.

Senator CHRIS EVANS—I think he has gained reassurance that I am not going to ask a question about it. On page 9 in your table 1.1, there is quite a large increase in administered revenues. Would you explain that movement to me. I could not find any further breakdown of administered revenue.

Mr Harper—There is an explanation of that at page 58. It relates to our military superannuation schemes where there have been changes in the projected liability and an

actuarial review. There is a move to biannual indexation of benefits—I believe it had been annual—and an actuarial review of the liability under those two schemes.

Senator CHRIS EVANS—Yes, I understood that.

Mr Harper—There is a standing appropriation which is the source of the revenue there. To the extent that it is cash that is received, this figure reflects an increase in liability, hence accrual expenses.

Senator CHRIS EVANS—The only breakdown I have found of administered revenues was that description of the changes to the superannuation schemes which, as you say, are explained by a change in indexation and an actuarial review. Are you telling me that all that expenditure is related to the military superannuation and compensation schemes?

Mr Harper—The vast bulk is.

Senator CHRIS EVANS—What else comes under that, in general terms? That means that, therefore, the vast bulk of that expenditure would also be expenditure incurred in meeting that schemes' commitments. Is that right?

Mr Harper—Correct, Senator.

Senator CHRIS EVANS—I will have a look at the annual report.

Mr Harper—Yes, which is where I was going; somewhere around notes 28 through 32 of last year's financial statements.

Senator CHRIS EVANS—I want to talk again about table 3.4. Revenue from government for outputs, I understand, represents the core government funding for Defence. It was the kind of distinction you were trying to make to me earlier about capital injections et cetera. The figures for 2002-03 and 2003-04 are less than those provided in the budget for those years. Is that correct?

Mr Harper—If you read across the line for the revenue from government for outputs, you would be correct: those numbers are lower than those that were there at budget time. But, if you were also to drop down to the third last line of that table and look at the equity injection line and the figures for 2002-03 and 2003-04, you would find that the increases in equity injection considerably exceeded the decreases in the revenue from government for outputs. The total amount of cash which the government has in its figures to appropriate to Defence is increasing over those years, and it has been increasing since the portfolio budget statement in May.

Senator CHRIS EVANS—Thanks for that. It probably means I should have pressed you harder on the earlier question of the capital injection delineation. Why, on the face of it, do the figures show that the forward estimates for revenue from government for outputs for Defence have been reduced in the out years?

Mr Harper—I will try to make this a comfortable explanation. We receive a certain level of cash from the government each year by way of appropriated revenues. There is a distinction drawn between revenue we receive as appropriation for the price of outputs and receipts that we get by way of equity injection. That distinction is somewhat artificial, in that the price for outputs is constructed by having regard to our costs and expected capital use charge payment, and what is left over—there is a real sense in which the equity injection line is almost a balancing item, in cash terms.

Senator CHRIS EVANS—Why have the figures for the out years been reduced since the budget, when produced for these additional estimates?

Mr Harper—The total amount of cash we would receive, were these bills to be passed, would have increased.

Senator CHRIS EVANS—That was not the question. I gather you have responsibility for the documents. You produced them in one way for the budget; are you telling me that there has been no change, but you have just decided to put them in different columns for the additional estimates?

Mr Harper—We would have revised the costs that we expected to incur so that the figures at budget time would have been sufficient to cover our then estimate of costs in an accrual sense—as opposed to capital, which is not a cost in an accrual sense—at budget time. Those figures have been revised. We have also revised the estimates somewhat for our own source revenues and the figures that have come out, have come out.

Senator CHRIS EVANS—I am just trying to understand what has changed, and why you express them differently—

Mr Harper—The budget was brought down in May. We produced our financial statements as at 30 June last year, after the budget was brought down. Those financial statements indicated what actually occurred in the previous financial year. We have done some rebasing of our budget to better align it with the audited statements that came out on 30 June.

Senator CHRIS EVANS—I understand that, but for a mug like me, reading what I am told is the headline rate for Defence, it looks like you are getting less in the out years than you were getting at budget time. Why is that, and what has driven that? I know you say to me, ‘I will come to this—the compensation is in the equity injection line.’ But why was I told in the budget papers that for 2002-03 it was going to be \$17.87 billion and now I am told it is going to be \$17.7 billion, when everything else on Defence tells me that the cost structures are going up and demand for services is going up? To a mug like me, your budget papers look as though you are going to get less money. You say to me that there is a capital injection and that was not there originally. I am happy to take that advice—I will have a look at that, and I will bring you to that in a minute. But then why would the government change the figures for the out years?

Mr Harper—I have not got the bit of paper in front of me where it is done, but at budget time we would have projected a certain result. When we did our audited financial statements the result that turned up was something different. In realigning our projections for this financial year with what actually happened last financial year, we did effect some changes to our budget figures—not in the overall amount—

Senator CHRIS EVANS—But you are telling me that you expect to get more but spend less. That is the effect of that paperwork—that you are going to spend less, because you budgeted for less for the cost of outputs for the next couple of financial years than you did originally. But you have reassured me that, because of the equity injection, you are going to get more. Is that reasonable?

Mr Harper—We expect to spend more in cash terms. In lay language, often one might say that buying an asset is a cost, or that one is spending or expensing. In accounting terms, buying an asset is swapping a cash asset for a non-cash asset—there is no change in your financial position, so there is no cost incurred. In accounting terms, the cost happens in the out years as the asset you have got, which is not cash, depreciates over time. I am saying that

we expect to spend more cash than we thought that we would be spending at budget time, but we may be incurring a different mix of expenses and investment decisions—capital decisions—than we did at budget time. So we have altered the mix.

Senator CHRIS EVANS—So, Mr Harper, when the government puts out its press release saying that the Defence budget is this figure for the year, what figure should I look to? Should I look to ‘Revenue from Government for Outputs’ or should I look to ‘Total Resourcing’? What do you say is a fair description of the budget for Defence? I do not mean the dollar amount, but what is the category that best describes the budget for Defence?

Mr Harper—The concept of a global cash budget is often used in Defence. The appropriations which the parliament is contemplating at the moment comprise ‘Revenue from Government for Outputs’ and ‘Equity Injection’.

Senator CHRIS EVANS—But, as I recall it, those are not the things we tend to see in the press releases, are they? They tend to use the ‘Revenue from Government for Outputs’ figure, don’t they?

Mr Harper—I am not particularly a connoisseur of those press releases—

Senator WEST—We are.

Mr Harper—but my impression is that the figure used would have been the sum of the two.

Senator CHRIS EVANS—So you think that a fair reflection of the Defence budget is a sum of the two items: ‘Revenue from Government for Outputs’ and ‘Equity Injections’?

Mr Harper—Yes. Just to elaborate on the answer I gave, and I apologise for making it more complicated than simple, what sometimes is done is to take away from the sum of those two concepts—the appropriations for outputs and the ‘Equity Injections’—the capital use charge, which is a component which is internal to the government sector. So frequently when people talk about the size of the Defence budget and government support to it, they take that off. That is also done partly to ensure some continuity with a few years back when the capital use charge concept was not in.

Senator CHRIS EVANS—I sense a degree of resentment about the capital use charge, Mr Harper.

Mr Harper—I was being as dispassionate as I could.

Senator CHRIS EVANS—So where is that figure expressed in the estimates or the budget papers?

Mr Harper—Where is which figure expressed?

Senator CHRIS EVANS—The figure that you thought was a summation of those three figures.

Mr Harper—It is probably not expressed in this document explicitly in those terms. The components are all there—so there is full disclosure—but the figures are not overtly expressed in those terms.

Senator CHRIS EVANS—I do not want to spend too much longer on this, but I just want to understand it. In order for the budget estimates to be framed, you would have had to have sought Finance and cabinet approval for increased capital injections in the out years, is that right?

Mr Harper—The figures for the out years, I guess, are under government contemplation at the moment. These are additional estimates figures where the impact of decisions taken with respect to 2001-02 have been flowed through to the out years, but the government is considering its 2002-03 and subsequent years budget over the next several months.

Senator CHRIS EVANS—I accept that these will be impacted on and altered by future budget decisions. But they have been changed between the budget and the additional estimates.

Mr Harper—Yes.

Senator CHRIS EVANS—I am just trying to understand why, what process has gone on for that to occur and what they represent.

Mr Harper—They largely represent the out year effects of decisions that have been taken in respect of the 2001-02 budget.

Senator CHRIS EVANS—For example?

Mr Harper—For example, there may be a delay in a payment for a particular project. The expenditure for that would be taken out of this year and added to the out year figures.

Senator CHRIS EVANS—That would be a capital injection rather than an output measure?

Mr Harper—From first principles, probably yes. But bearing in mind the way in which the output price and the capital injection have been constructed and the degree of artificiality—I think I might have used that word earlier—about that, it may not necessarily end up that way.

On the other side of the fence, if we expected to earn some own-source revenue this year and it ends up that we are now aware that we are only going to receive that receipt in the 2002-03 year, the money will have been taken out of 2001-02 and folded into the 2002-03 figures.

Senator CHRIS EVANS—What about revenue from government outputs, the reduction and the estimates for those? What is the explanation for the quite significant reduction in the next two out years for revenue from government for outputs?

Mr Harper—The figures there cover the estimated cost of our outputs in those years, pending the government's contemplation of our budget for those years.

Senator CHRIS EVANS—Yes. That is what I am trying to understand. In a time when there are increased pressures on Defence and increased commitments, why is it that the outputs for those two out years have been revised downwards since the budget?

Mr Harper—I think much of it has to do with the additional look we have had at our estimates since budget time, having regard to the actual result as audited at 30 June—at the end of last year—which post-dated the figures that we put into the then minister's portfolio budget statement in May.

Senator CHRIS EVANS—Are you able to give me an indication of what might have driven that revised downward estimate for the costs for the out years?

Mr Harper—I do not have that detail readily to hand, Senator.

Senator CHRIS EVANS—Would you mind taking that on notice?

Mr Harper—That is fine.

Senator CHRIS EVANS—I do not require a detailed breakdown. It is just that if there are major drivers, I would be interested in what they were.

Mr Harper—Yes.

Senator CHRIS EVANS—The only other question I wanted to ask as a general overview about financial matters was regarding the delays in the sale of property. There is a very large figure, even by Defence budget sizes, of \$561 million of asset sales that have been delayed. That obviously had quite an impact on the additional estimates measures. Could somebody explain to me what has happened there?

Mr Bain—In the receipts the revenue from properties is broken up into a number of categories: those that are to be paid to consolidated revenue and others to be retained by Defence. The ones for Defence, where the reduction is \$110 million, relate principally to planning delays. We are very much dependent upon local councils and state governments, and this has a direct impact on our timings for disposals. It principally also relates to properties in Sydney. The larger amount which is related to properties for consolidated revenue covers office buildings and a number of properties that are linked to living in accommodation reviews, given the new changes, and giving more choice to singles.

We need to await the outcome of those reviews before deciding whether, for example, those properties would be sold and leased back or simply sold. Some other properties are related to the outcome of the DIDS project. Once again, I suppose it is the same scenario. We would need to determine whether those properties will be retained for logistics functions and need to be leased back, or whether the properties would simply be sold. There are also some other smaller properties involved there.

Senator CHRIS EVANS—Is the \$110 million you mentioned in terms of return to Defence part of the \$561.8 million, or is that a separate figure?

Mr Bain—No, that is a separate figure.

Senator CHRIS EVANS—So there is \$110 million worth of delay of sales which would have gone back to the Defence budget and there is \$561 million which would have gone to consolidated revenue. Is that fair?

Mr Bain—That is correct.

Senator CHRIS EVANS—Where do I pick up the \$110 million?

Mr Bain—The \$110 million is a reduction from the \$178 million in the budget estimates. That is revised down now to \$68 million.

Senator CHRIS EVANS—Where do I find that in the book?

Mr Harper—There is a capital budget table at page 45.

Senator CHRIS EVANS—Is this the other capital receipts?

Mr Harper—Proceeds from sales of property, plant and equipment.

Senator CHRIS EVANS—That does not, on the face of it, immediately reflect the evidence I was just given. I am trying to understand that.

Mr Harper—Individual sales are not reflected there. They are aggregated figures.

Senator CHRIS EVANS—Where is the \$110 million reflected?

Mr Harper—At page 57 of the portfolio additional estimates statements.

Senator CHRIS EVANS—Not page 45?

Mr Harper—Page 45 shows the effect which is explained at page 57, the third italicised heading down the page. There is a reduction of \$824 million in receipts. You can see it broken out there: \$110 million Defence owned, \$562 million and \$152 million for non-receipt of funds which were budgeted to be received for the sale of information technology equipment.

Senator CHRIS EVANS—Have those information technology equipment sales been deferred or postponed?

Mr Harper—The information technology equipment sales have been deferred. Part of the issue there is that deferral of information technology sales leads to a reduction in value of the asset which you might sell, given that information technology equipment depreciates rapidly. So deferral in the sale of information technology equipment leads to a reduction in the receipt you will expect ever to get. A deferral in the sale of real estate still leaves you likely to receive something much like the return that you would have expected in the first year.

Senator CHRIS EVANS—So what are we saying now about next year's budget for proceeds from those sales?

Mr Harper—If we go back to page 45, which is an example of what we were speaking about earlier about how the out years in this document were constructed, the 2002-03 estimate is shown as \$868.814 million. If I were to go to the analogous page in the portfolio budget statement, I think I would find that that figure was considerably smaller. Indeed, at portfolio budget statement time that figure was \$307 million.

Senator CHRIS EVANS—On what page is that?

Mr Harper—Page 71 of the portfolio budget statement.

Senator CHRIS EVANS—So is there any real confidence that those sales will proceed in the next financial year, given the difficulties that have just been outlined?

Mr Bain—Yes, there is confidence that some of those sales will generally go ahead. Some of them are dependent upon other initiatives, as I said, so there is a timing factor there. There are risks associated with the other ones, where we have to rezone Commonwealth land for non-Commonwealth uses, but we will now factor that into the program for next year.

Senator CHRIS EVANS—Thanks for that.

Senator HOGG—How much is the sale of Randwick going to contribute? Is that factored in here?

Senator WEST—What is happening with Randwick?

Mr Bain—With the sale of Randwick, the revenue will commence next financial year, not this financial year.

Senator HOGG—That is what I am getting at. With that \$868 million in the 2002-03 year, I presume that is where the sale of Randwick is coming in—Bundock Street

Mr Bain—Yes, it will be one of the properties that contributes to that.

Senator HOGG—It is a major property. That is what I am getting at.

Mr Bain—It is a major property, but the revenue is spread over three or four years.

Senator CHRIS EVANS—I would like to ask a couple of overview questions—and I think this is the right place to do it—on guidelines on the acceptance of other employment

upon retirement or resignation from the Public Service, and the guidelines that relate to Defence personnel. I want to ask some general questions about what rules apply to Defence personnel taking up employment that might give rise to an actual or apparent conflict of interest, both for civilian and uniformed staff.

Mr Roche—There is a Defence instruction which applies to Defence staff. It is also intended to apply, where applicable, to civilian staff.

Senator CHRIS EVANS—Is that No. 2 of 1997?

Mr Roche—No, the one I have is dated February 2000.

Senator CHRIS EVANS—I obviously have the old one. Could you read into the *Hansard* the full title?

Mr Roche—It is *Defence Instructions (General)*—*PERS B/2/2000* of 1 February 2000, and it says ‘Notification of Post Separation Employment’.

Senator CHRIS EVANS—That governs conditions that apply to Defence uniformed personnel in terms of other employment upon retirement or resignation. Is that right?

Mr Roche—That is right, yes.

Senator CHRIS EVANS—And you said certain non-uniformed staff?

Mr Roche—The departmental admin instruction of 1/98, issued on 23 December 1998, basically says that this and other Defence Instructions (General) apply to civilian staff of the Department of Defence. Basically it says:

... there should be no doubt that civilian staff of the Department of Defence are expected to observe the provisions of DI(G) where those provisions are applicable or relevant to their duties or responsibilities ...

Senator CHRIS EVANS—The document then goes on to provide guidelines for retiring or resigning Defence employees on what they may or may not do in terms of employment that may have a potential conflict of interest?

Mr Roche—It sets out procedures for notification of post-separation employment. It talks about legal restrictions, notification procedures and so on.

Senator CHRIS EVANS—I would appreciate it if you could make a copy of that available to the committee today, Mr Roche, because I think I have the previous copy in front of me.

Mr Roche—I can do that. Also, in the Defence workplace relations manual, chapter 2 covers post-separation employment. That applies to employees of the department as well.

Senator CHRIS EVANS—Could you table that as well? I would appreciate that.

Mr Roche—I can do that.

Senator CHRIS EVANS—Can you just outline in general terms what sort of advice or restriction is put on employees who might have been operating at a relatively senior level and have had access to defence information. For instance, is there a restriction on the type of work they can take? Or is there a period from which they cannot work for certain organisations? What is the structure of the restriction?

Mr Roche—I might seek to defer to the experts here, but I believe that there are some legal restrictions. If we take service personnel—but accept that there are similar provisions applying to other personnel—the legal restrictions of section 70(2) of the Crimes Act prohibit a member from disclosing, without lawful authority or excuse, any fact or document which

comes to his knowledge or into his possession by virtue of his office at the time when he ceases to be a Commonwealth officer.

So basically, that prohibits you from disclosing or using information which comes into your control through your official employment. The notifications basically go to conflict of interest. The aim of the instruction is to state the notification of post-separation employment procedures that are expected to be followed by members taking up employment with organisations which have, or have the potential for, business associations with the ADF or with the Department of Defence. There is a process which involves notifying post-separation employment where there is a potential conflict of interest, and it lists a number of ways in which that conflict might occur. It states:

Post separation employment should not be detrimental to the interests of the ADF, or the Commonwealth, nor give the proposed employer an unfair competitive advantage.

It mentions the legal restrictions, and it then says:

When a member receives an offer of employment from a business or body described in paragraph 5— that is the one that applies to conflict of interest—

the member is encouraged to submit a letter of notification, through the chain of command, to the appropriate Service Deputy Chief.

That is intended to draw out the nature of any conflict of interest, the relationship that existed between the member and their official duties and the company over the preceding two years and so on. When that letter of notification is received, it goes through a process within the agency. And finally it says:

Where the Deputy Service Chief considers that no actual or potential conflict of interest is involved, the member is to be advised accordingly.

Senator CHRIS EVANS—So are there any limits on employment in terms of a one or two-year ban? I know that most departments have those issues, but Defence will have more than most.

Mr Roche—The figure of 12 months sticks in my mind for positions where there may possibly be a conflict of interest. I might just seek the assistance of an expert in this. There is no legislative provision which bans you from employment.

Senator Hill—It is a guidance, basically.

Mr Roche—There is a guidance here, that is right.

Senator Hill—I think it was one year.

Mr Roche—It was a guidance of one year, and I cannot find it quickly.

Senator Hill—The understanding seems to be one year.

Senator CHRIS EVANS—Someone told me that you had a two-year rule, and I was just checking whether that was right or not. I never said it with any great confidence.

Senator Hill—I think it was a one-year guidance.

Adm. Barrie—A year sticks in my mind, but I would really have to track it down.

Senator CHRIS EVANS—That is why I was hoping to actually get it on the record, rather than assert it and get it wrong.

Mr Roche—The two years that are mentioned here are the preceding two years, before the person leaves. That is the area in which there seems to be some possible sensitivity. I am sorry, I will have to provide you with that later.

Senator CHRIS EVANS—Perhaps if you could table the document anyway, and just take it on notice. If something is not contained in the document, I would appreciate advice. If it was in the document I could have a look, at my leisure, and see if I could find it. Thank you for that.

Senator WEST—It is probably worth commenting that Senator Ray, as a former defence minister, has never actually asked a question in defence estimates, in the whole time we have been in opposition.

Can I turn to the sale of the Sandline equipment at Tindal. This seems to be a fairly lengthy, ongoing issue, which has been pursued on previous occasions. Is there a body that can deal with Sandline equipment at Tindal?

Senator Hill—What is the question?

Senator WEST—There have been some articles in the media about it in recent times. How long has the equipment been at Tindal? Just refresh my memory, please.

Dr Brabin-Smith—I was just consulting Mr Carmody there, in the auditorium. He assured me that this issue belongs to me, but I do not have any briefing material on it. Sorry, I am unprepared on this matter.

Senator WEST—So, you are not aware of the *Courier Mail* article of 2 February or the *Northern Territory News* article of 5 February? Those ones, in particular, relate to the sale of some of the helicopters.

Senator Hill—I know a little about it. If you ask the question, I will see what I can do.

Senator WEST—I understand there were four helicopters there: two transport and two attack helicopters. Are the articles correct in saying that the two transport helicopters have been sold?

Senator Hill—Two helicopters that were deemed to be of civilian use were, as I recall, sold off, disposed of.

Senator WEST—Can you give some details of exactly what happened with the sale of these?

Senator Hill—I think they went to Africa.

Senator WEST—What dates?

Senator Hill—I do not know the dates. I would have to take that on notice.

Senator WEST—Can the questions you do not know the answer to please go on notice? I would like to know when they were sold.

Senator Hill—I think there have been questions answered on notice, but I will get you the information. You ask the question. If I can answer it, I will. Otherwise, I will get the information for you. Do you want the dates on which the two helicopters were removed?

Senator WEST—What exactly happened with the sale of these helicopters? What were the directions that Sandline were required, or should have been required, to follow, with the sale of equipment like this?

Senator Hill—I do not think there was any direction, because they were deemed to be civilian aircraft.

Senator WEST—So there was no necessity for the department's international policy division to be involved?

Senator Hill—Various parts of the department have been involved in the matter. Mr Roche says that the industry division had to confirm that they were civilian.

Senator WEST—The article mentions ammunition clips and implies that the correct procedures had not necessarily been followed and that 25 boxes of ammunition clips were included in the helicopters.

Senator Hill—No ammunition was sold off.

Senator WEST—What are ammunition clips used for?

Senator Hill—Are you talking about clips with ammunition or without ammunition?

Senator WEST—I am talking about clips without ammunition. Isn't a clip the device with which you can put ammunition in and then it is hot to trot?

Senator Hill—I do not know about being hot to trot—holding the ammunition.

Senator WEST—It becomes a bit more lethal.

Senator Hill—I know there was some debate about what had happened to those ammunition clips, but according to my memory they did not pass with the aircraft. But I will check that.

Senator WEST—Okay.

Senator CHRIS EVANS—Is there anyone who can help us at all. Generally, I do not like having discussions that say, 'From my memory,' and 'We will get back on that'. Is there an officer who can assist us?

Senator Hill—You can put all the questions on notice, if you like. I am just trying to be helpful.

Senator CHRIS EVANS—Rather than that, is there an officer here who can actually confirm whether or not ammunition clips were sold with the helicopter?

Senator Hill—No. I now remember why I know a bit about it: the person who wrote that article approached us for information and so we got the information together. Therefore, it is easily recovered.

Senator WEST—Okay, so can you find out if they were all accounted for. Are ammunition clips considered military equipment for the purposes of exporting equipment?

Senator Hill—I can tell you what I believe the answer is but, if you do not want my views, I will take it on notice.

Senator CHRIS EVANS—I am happy if you know; all we are worried about is if you have to put three or four caveats at the start of your answer. If you know the answer, that is fine and I am happy for you to give it.

Senator Hill—I do not give any answer without a qualification.

Senator WEST—We know that, Minister.

Senator Hill—I will take it on notice.

Senator WEST—What other equipment of Sandline's is still being held at Tindal?

Senator Hill—I understand that there are two helicopters, but we will take that question on notice.

Senator WEST—Okay. What other Sandline equipment has been sold?

Senator Hill—I do not think there is any other equipment, but I will take that on notice.

Senator CHRIS EVANS—I did not mean to undermine your confidence.

Senator Hill—Ammunition was destroyed. Senator West asked what has been sold.

Senator WEST—I would like to know what has been destroyed as well.

Senator Hill—Okay, I will find out. Ammunition was destroyed, but I will find out what else was.

Senator WEST—Thank you. Apart from the two attack helicopters—or the two military type helicopters—what else remains at Tindal?

Senator Hill—I will get that for you, but I think basically it is the two helicopters.

Senator WEST—There are pieces of paper flowing. I think the military is having a paper war.

Senator Hill—What is your next question?

Senator WEST—Has Sandline attempted to sell the attack helicopters?

Senator Hill—They cannot sell them without our agreement, and we are restricted in allowing them to sell military equipment.

Senator WEST—Yes, and the question I asked was: has Sandline attempted to sell those helicopters?

Senator Hill—If they cannot get possession of the helicopters, I cannot see much point in them attempting to sell them, but I will get a considered response for you.

Mr Roche—I do not know whether we can say whether they have attempted to sell them or not.

Senator Hill—That is what I am trying to say.

Senator WEST—Have they approached you because they have got a buyer or something like that?

Mr Roche—I do not believe that they have approached us for an export licence, if that is the question.

Senator Hill—No, it was not. It was 'Have they attempted to sell them?' and I said, 'We cannot answer that.' And I cannot see any point in them attempting to sell them.

Senator CHRIS EVANS—What are Defence's current plans for those two helicopters?

Senator Hill—I think they are in limbo.

Senator WEST—How long are you going to keep them there?

Senator Hill—Until someone decides what to do with them.

Senator WEST—I know that Tindal is fairly dry, but—

Senator Hill—If you have got some bright ideas, that would be appreciated—

Senator WEST—You are the minister. That is what you get paid the extra seven-and-six for.

Senator Hill—They would need an export licence to sell them. We are not inclined to give that export licence.

Senator WEST—That is fine. But are you going to keep them there for 10 or 20 years?

Senator Hill—I did not say 10 or 20 years.

Senator WEST—So there are no plans at this stage for their disposal.

Senator Hill—I think there are technical issues that would be involved in that, and that is why, I think, they are basically sitting there safely.

Senator CHRIS EVANS—I think that is what we are trying to get to the bottom of, Senator. We have had a bit of a flippant conversation but I think these are serious questions. We have got answers like ‘limbo’ and ‘oh, well’ and ‘you know’. It is a question about what the status of these helicopters is—who has ownership control and what is likely to happen to them. I think that is a fair summary of the sort of question Senator West was after answers to. At the moment we have not had any satisfactory response to any of those things.

Senator Hill—I am disappointed to hear that. What you have been told is that the civilian equipment has been disposed of and that that which is identified as military is in our safe custody.

Senator CHRIS EVANS—What we are asking you in terms of custody is what your intentions are to do with that: who is the effective owner and what plans are in place for disposing of that?

Senator Hill—I think the issue of who the owner is is not straightforward. Who has control is straightforward, and that is us.

Senator HOGG—Who benefits from the sale? Who gets the proceeds of the sale of the equipment?

Senator Hill—I think with the sale of the civilian helicopters the net proceeds went to the owner.

Senator WEST—Was Sandline the owner?

Senator HOGG—When you say ‘net proceeds’ I presume some charge has been deducted for the storage and costs involved in the sale.

Senator Hill—I think that that is correct. There is nobody here who is full bottle on it and if there are a series of detailed questions that you want answered we can either do it another day or you can put them on notice and we will get you a swift response.

Senator WEST—You said ammunition has been destroyed.

Senator Hill—The two issues that I was interested in were, firstly, that there was some public suggestion that the two helicopters that had been disposed of could have some military capability, and I received advice to the effect that that was not so. They were deemed by the experts to be civilian equipment. The second issue I was interested in was to satisfy myself that the military models were being retained. I was told that they were, even though it is unclear as to what the long-term picture is in that regard. Then there were some questions asked about munitions, and I was told that they had been destroyed. Then there was a further question asked about the ammunition clips without the ammunition, and I am not sure what

the answer to that was except that I think it was that they were not sold off with the two aircraft.

Senator WEST—That they were taken off them. Are there any weapons that are still being held at Tindal?

Senator Hill—I will get an answer on that.

Senator WEST—This is an issue that Senator Hogg and I have been pursuing since it went there—years.

Senator HOGG—Yonks.

Senator Hill—If you had let me know I would have made sure there was someone who was here today to answer your questions.

Senator WEST—I guess I made an assumption that because it had been in the media of recent times that might have prompted people to think—

Senator Hill—Not for an additional estimates.

Senator CHRIS EVANS—I am sure it is in your question time briefs.

Senator Hill—I do not think it is, actually. Perhaps it should be.

Senator HOGG—Is it possible to get the answer to some of these questions by the end of the evening?

Senator Hill—Yes.

Senator CHRIS EVANS—Mr Chairman, I know you were intending to have a break at 3.30 p.m., and I have just a few questions remaining on the overview, which really comes out of the annual report and goes to the question of capability targets. I want to ask some questions about that, before moving on to the program outcomes. I am not quite sure who I should be directing those to. Being new to the area, it struck me that the annual report was quite conclusive in saying that the defence forces had failed to meet many of their capability targets, and it listed those, and I am sure you are well aware of them. No doubt there are some pressures coming from extra activity—although I note the report was for 2000-01, which is probably prior to the Afghanistan deployment—and I wanted to have a bit of an understanding of that. On my reading of the report, that seemed to be partly blamed on a shortage of technical personnel, a higher than expected level of repairs needed and a shortage of fast jet pilots. Maybe you are the appropriate officer, Admiral Barrie: I just want to get your views about the failure to meet those capability targets and about how serious that is and what the implications are.

Adm. Barrie—In terms of the capability targets, there are a range of issues which are really set by the service chiefs in the context of the professional performance of the force. We have a general view of how much capability we ought to be able to deliver in a given set of circumstances. That does not mean to say that, because you fail to attract so many maintainers, you will not be able to provide ships, aeroplanes and other things for particular operations. But it does pertain, I think, to the longer term issue of defence capability: that is, having trained personnel; being able to build for the future; and those sorts of issues. So the process I go through once a quarter is to review the availability of assets to meet likely tasks and, in conjunction with the chiefs and the secretary, to satisfy myself that the Defence Force profile we have at hand is adequate for the expected range of tasks.

That goes up and down a bit—some ships get new defects that we did not know about and that sort of thing—but in the broad context we have been able to meet the requirement for the ADF to perform in operations and all likely strategic circumstances. There was one singular exception to that, as I am sure everyone will recall. That was in the lead-up to East Timor, and we lifted the readiness of a brigade level of capability, and that was because we did not like the look of the strategic circumstance.

Going to the particulars of the problem, that is where, in managing their forces, the output managers will have a view about how they are coping with trying to resolve the problem and the measures they have in hand to overcome any potential problems it creates.

Senator CHRIS EVANS—What do you say about whether we should be concerned about what seems to be the fairly widespread failure to meet those capability targets?

Adm. Barrie—I think we always have trouble with the recruitment and retention issue and trained personnel in the Defence Force. We have had the problem for the length of time I have been sitting here trying to explain it. You can have a view on one hand that, since we have never solved it, we would not have a Defence Force, but we all know that that is manifestly not true. On the other hand, we have never—to my recollection—been able to achieve 100 per cent satisfaction of that problem. Indeed, as I reflect on it over time my understanding is that in the Australian context all the government's levers are set to make that a difficult problem for us to solve. A government likes a situation of full employment; the Defence Force likes a situation of high unemployment, because that is when we get good recruits. So there is this difficulty all the time. To go to the detailed part of that answer, that ought to be put to the chiefs of the services, who are managing their personnel. Each of them will have a different view about shortages and effects and about what they are doing to overcome the consequences of those.

Senator CHRIS EVANS—I appreciate that, and I will raise some of those and some of those personnel issues.

Adm. Barrie—That is why we go through the quarterly process. We need to keep that under review.

Senator CHRIS EVANS—I suppose this is an outsider's perspective, but coming to the portfolio I read the annual report and then I knew that we probably had our greatest and most widespread commitment for many a year, and I just said, 'Hang on.' We could not meet our capability targets in a whole range of areas when things were not terribly stretched; we are now widely stretched—is that a cause for concern?

Adm. Barrie—Yes. I spoke earlier about the additional costs, and I talked about building rotation forces to replace those that are already committed. Let us take a hypothetical example: let us say we have all the available ships of the RAN deployed, and we have a whole bunch of engineering and maintenance sailors out there making ships work. A serious question for the Chief of Navy is where to get the people to replace those crews from, when he already knows he is 20 per cent short on people. I would not like to speak for him, but that then becomes a question of priorities and how he uses the remaining people he has, and how he can find more to come and join the force. Sometimes we need to go to government and say that we need to pay a short-term completion bonus in these particular categories, in order to keep people.

Senator CHRIS EVANS—What is your view about how the ADF is tracking in relation to its targets for 2001-02, or has that all been largely thrown out by—

Adm. Barrie—I think we are seriously struggling with that answer. There is a project under way in what I would call strategic work force planning. It is to try to satisfy ourselves about whether our database is accurately targeted on the requirement for military skills and talents in particular jobs and whether we have alternatives for being able to do those things—all those sorts of serious questions. It is a zero-based exercise, so that we can rebase our view of that question.

Senator FAULKNER—I have just had an opportunity to read the document you tabled after lunch. I struggled with it a little, in the sense that a bit of the language at the top was lost on me. I think this is dated 10 October: is that correct? I am only asking that, because it is not entirely clear to me.

Adm. Barrie—If I were to give you the accurate date, my reading of it is that it is about 9.36 p.m. on 10 October, our time.

Senator FAULKNER—Thank you. It is from HMAS *Adelaide*?

Adm. Barrie—Yes.

Senator FAULKNER—Could you just outline what the next two or three short lines mean? I am just struggling a bit with one or two of those acronyms.

Adm. Barrie—The subject is ‘Operation Relex’, and this is the chronological list of events.

Senator FAULKNER—I am looking at the short lines right at the top there.

Adm. Barrie—Those lines mean that the message is to the Maritime Commander, Australia—he is the action addressee—with copies sent, for information, to Maritime Headquarters Australia; to the Commander Joint Task Force 639; to the Commander Task Group 639.0; and to Headquarters Northern Command.

Senator FAULKNER—And what does ‘BT’ mean there?

Adm. Barrie—That ‘BT’ is the start of the text of the message.

Senator FAULKNER—Thank you for that. That was the part I struggled with. What I wanted to ask you in relation to this cable, if cable is the correct terminology here—

Adm. Barrie—We call it a message.

Senator FAULKNER—I take you to the third page of the message to 07055SG, which I think may have been quoted from earlier. It says:

SUNC on top of coach house dressing small child in life jacket and preparing to throw small child overboard . Child not thrown overboard. Child and father returned to the wheelhouse.

Shortly after, at 070626G, it says:

Male SUNCs in view of wheelhouse threaten to throw women and children overboard—this did not occur.

Adm. Barrie—Yes.

Senator FAULKNER—That is contained in this message. It is quite clear from Major General Powell’s report, as I read it, that he had access to this message. I think that is correct. I think that is pretty clear from his chronology. He bases reference and comment by an inquiry officer in his report—let us take, for example, on page 1 of 13, ‘HMAS ADELAIDE signal’. Is HMAS signal 13M/LAB the same document as this one? I am just using the first item in the chronology.

Adm. Barrie—That would certainly be my interpretation.

Senator FAULKNER—I thought that was the case and that is what I wanted to be clear about. Thank you for tabling the message. I believe you indicated to the committee that you have only recently seen the message. Would you be precise about when you did have an opportunity to see it?

Adm. Barrie—Yesterday, I think.

Senator FAULKNER—But at what stage yesterday?

Adm. Barrie—In these proceedings.

Senator FAULKNER—And did you read it during the proceedings or at the time you sighted it? Did you have a chance to read it?

Adm. Barrie—I did not go through it in detail, as I might have if I were in the office, but I skimmed it.

Senator FAULKNER—Had your attention been drawn to the two elements of the message that I have identified?

Adm. Barrie—I read that, yes.

Senator FAULKNER—So when you indicated to the committee that you did not believe there was any compelling evidence that corroborated the original report, did you say that with the benefit of having read this message?

Adm. Barrie—I briefly read that message yesterday. I did not think this message constituted that sort of compelling evidence. This message, to my mind, is like a lot of the other evidence and material in front of us.

Senator FAULKNER—But you have been at pains to say to this committee that we ought to go back to the source.

Adm. Barrie—Yes.

Senator FAULKNER—Isn't this message the primary source documentation?

Adm. Barrie—This message is a report of the chronology. As I said earlier in my evidence, it is my view that the sort of compelling evidence that would persuade me the initial report was wrong would have to be a major reconstruction of what occurred.

Let me explain why I have that view. Quite a long time ago, for example, but during my service in the RAN, we had a major collision off the coast of Australia between a destroyer and an aircraft carrier. There have been three royal commissions and three reconstructions and nobody still really knows what occurred. This is the situation in which we find ourselves. There is a great deal of confusion, there is a lot going on and it is my judgment that that CO's call—for which he has been trained—is the thing that must be supported in the absence of compelling evidence otherwise.

Senator FAULKNER—Do the short lines at the top of the message indicate to whom this message was circulated, as well?

Adm. Barrie—No, these are the authorities to whom the message was sent. It will not give you a clue about who might have read that message.

Senator FAULKNER—Are you or one of your officers able to provide us with a clue as to whom the message was circulated, with the benefit of the message in front of you?

Adm. Barrie—It would be possible to track where this message has been distributed, but it would take time.

Senator FAULKNER—Would you be able to provide that for us as soon as you can?

Adm. Barrie—Yes, although I do not know how long it would take.

Senator FAULKNER—Are you saying that it is not actually clear from the message itself?

Adm. Barrie—If you want to know who has had access to this message, it will take time. In each of those headquarters there would be distribution lists.

Senator FAULKNER—The two statements I read out are unambiguous and quite clear in the way they are put. You would agree with that?

Adm. Barrie—Yes.

Senator FAULKNER—At the precise time you mentioned, the distribution process of this message had begun.

Adm. Barrie—Yes. As of the time of the release of that message, it begins.

Senator FAULKNER—Exactly. Given what is contained in this message, I am surprised that the first opportunity you had to see it was yesterday.

Adm. Barrie—Yes.

Senator FAULKNER—We had a long night last night and we may have just as long a day today, and you have been busy at this estimates committee.

Senator Hill—I do not understand the question.

Senator FAULKNER—I have not asked it.

Senator Hill—That is not unusual. You are just expressing your surprise. You want your surprise recorded.

Senator FAULKNER—No. I am saying to the admiral that he has been here at the estimates committee, as have you, Senator Hill, and I. I was going to ask him whether he has now had adequate opportunity to examine closely what is contained in this message, given that he first sighted it yesterday. Minister, I was merely qualifying it because, as we are all aware, the admiral has been at the table for a number of hours.

Senator Hill—Have you studied it closely, Admiral?

Adm. Barrie—I have not studied that message carefully and considered it in the context you have put it. But the question whether I have read the message and whether it is in my mind as it might inform those earlier things I said to you, yes it is.

Senator FAULKNER—The context I put is your statement to us about compelling evidence. You have not looked at it in that context?

Adm. Barrie—I have read it. It is my impression right now, not having considered it in great deal, that it does not constitute that compelling evidence.

Senator Hill—The witness has said that three times now, Chair. It might not be the answer that Senator Faulkner wants to hear, but this practice of repeating the question over and over again in the hope that ultimately the witness will concede the point is not a healthy way to proceed. If there is another question that Senator Faulkner wants to ask, he should ask it. There is no point in repeating the same question over again.

Senator FAULKNER—For both senators and witnesses at the table, on matters as sensitive as this, there is no harm in trying to achieve absolute clarity. I do not think that is of disadvantage to—

Senator Hill—But this is not attempting to achieve clarity. This is a Faulkner technique to, in effect, press a witness to agree to the position that Senator Faulkner wishes to achieve. He does it by not only repeating the questions but also between repeating the questions stating what he believes is the appropriate outcome. For example, premising questions by saying, ‘I’m surprised at what you have been saying. I now put it to you again.’

Senator FAULKNER—Senator Hill, if and when the government that you are a member of is defeated, you can sit on this side of the table and ask the questions, and other lucky senators will get the opportunity to answer them. But at the moment that responsibility falls to opposition senators, although you have taken the remarkable course of action at this estimates committee to ask questions of officials at the table yourself. I have not drawn attention to that and do not intend to focus on it now. It is our responsibility on this side of the table to ask the questions. We are all entitled to frame the questions as we see fit. I try to make my questions as clear as possible to elicit the information that I am looking for.

Senator Hill—I do not think it is your right to ask the same question over and over again.

CHAIR—Senator Faulkner, ask your next question.

Senator FAULKNER—I am moving on. Thank you, Mr Chair. I was just explaining to the minister, who is interrupting the flow of questioning, why senators are entitled to ask questions in the form they see fit. How can anyone, Admiral Barrie, second-guess what is contained in this signal?

Adm. Barrie—This signal is not a reconstruction. This signal is a list of chronological events. To go to the heart of the problem: what is the information that would be needed in addition to this to be that? First of all, I would like to see track information, a radar reconstruction and a full list of witness statements from everyone on the *Adelaide*. As I said to you earlier, if you go back over the *Voyager* royal commissions where that sort of process was gone through, the net result is that we still do not know what actually happened.

Senator FAULKNER—You make the point that it is not a reconstruction. I understand that. It is—correct me if I am wrong—nevertheless a signal emanating from the *Adelaide* at a time that is contemporaneous with the issue about which there has been significant discussion at this estimates committee and in the public arena. It is nevertheless that, isn’t it? I want to be clear on that.

Adm. Barrie—This message was sent from the *Adelaide* at 9.36 p.m. our time, in October.

Senator FAULKNER—I accept the point you make about the *Voyager* incident. That is a fair point to make.

Adm. Barrie—If that major reconstruction, with supplementary material, was to show us definitively that the initial report was wrong, then I would regard that as compelling evidence.

Senator FAULKNER—My knowledge of the *Voyager* incident, which is not as intimate as yours, is that the government of the day did not put out photos which claimed to represent one particular version of events and leave them on the public record after they were known to be fraudulent. That is right, isn’t it?

Senator Hill—This, again, is what Senator Faulkner has sought to do for two days: blur together two separate incidents in order to influence an impression in relation to the first. The

photographs are not relevant to this message from the *Adelaide*; the point that he is trying to draw from the message is not related in itself to the issue of the photographs.

Senator FAULKNER—No, the point I am making—and Admiral Barrie might care to comment on this—is this: if you are going to depend on a reconstruction for most of the issues that come across the CDF's desk then we have got real problems. Admiral Barrie, I think you would agree with that, wouldn't you?

Adm. Barrie—Yes, I agree.

Senator FAULKNER—And there was urgency in this, urgency to correct the record. We do not have time for reconstructions or the like. Now, of course, in retrospect, there has been considerable examination of the issue and no doubt there will be some in the future. You have indicated yourself that you, in fact, will initiate further inquiries at the ADF level. That is good; that is fine.

Senator Hill—Chair, that is unfair as well. Senator Faulkner is doing it again. The implication in his question is that the original advice was wrong. He says that you need to correct the record. The admiral has already said that he has not seen evidence that would convince him that the initial advice was wrong. In fact, he said that, on the basis of what he has received, he would accept the initial advice. If Senator Faulkner separately distinguishes the photo issue and tells the admiral that he is speaking about the photo issue, he might have some basis for a question.

Senator FAULKNER—Senator Hill, my point is this: here we have a signal that comes from the *Adelaide* at and around the time of this incident that has caused so much controversy.

Senator Hill—It was subsequent to the incident of the 7th; it is three days after the incident.

Senator FAULKNER—That is right. Shortly after the incident. It is a message or a signal from HMAS *Adelaide*. The CDF says to the committee that he has not seen any compelling evidence that contradicts original reports. I think not only does this contradict original reports, but I suspect it is very close to being an original report.

Senator Hill—What are you arguing contradicts the original report?

Senator FAULKNER—I ask the CDF to comment on that.

Senator Hill—No. You put to him what you say contradicts the original report.

Senator FAULKNER—I am talking about the CDF's approach on this issue.

Senator Hill—But you are saying to him that this contradicts the original report. What contradicts the original report?

Senator FAULKNER—Ask the CDF—I do not want to put words into the CDF's mouth.

Senator Hill—You have been doing your best to do that for two days.

Senator FAULKNER—If you are not happy with the way that I am forming the question then the CDF can put it on the record himself; he is perfectly capable of doing that. He has had no objection to the way I have framed the questions. I do not want to ram words down Admiral Barrie's throat, believe it or not.

Senator Hill—You have been attempting to do that for two days.

Senator FAULKNER—I did ask Admiral Barrie a little earlier in this line of questioning whether my summation was fair enough. I think he did accept that on the record. But if there is a better way for him to put it, fine.

Senator Hill—Chair, the admiral has been asked the question as to how he took this signal which had just been brought to his attention into account in relation to the matter and he has answered it several times. It might not have been the answer that Senator Faulkner wants, but that does not give Senator Faulkner the right to continually repeat the question in an effort, in effect, to badger the witness.

CHAIR—I suppose it does not give Senator Faulkner the right to repeat the question, but it does give you the right to answer it the same way each time, which you have been doing.

Proceedings suspended from 3.44 p.m. to 4.13 p.m.

CHAIR—Before we resume questions, I advise the committee that the Defence Instructions (General) concerning the post-separation employment potential conflict of interest arrangements have been tabled to the committee. We will now move to questions.

Senator FAULKNER—Chair, I will just finalise that matter I was asking Admiral Barrie about before the break. Admiral Barrie, you do seem to set great store by what you have described as original reports. Is that the case?

Adm. Barrie—Regional reports?

Senator FAULKNER—Original.

Adm. Barrie—If I understand it, you are saying that my confidence in Commander Banks's call on 7 October as an original report on which I have relied falls into the same category as any other original report?

Senator FAULKNER—No.

Senator Hill—It depends what you mean by 'original report'.

Senator FAULKNER—Sure. I have understood you to be saying to the committee that you do rely very heavily on the original report. You defined that as being from Commander Banks.

Adm. Barrie—In this instance. Yes, that is correct.

Senator FAULKNER—What has not been clear to me is when you actually received that original report yourself.

Adm. Barrie—On the morning of 7 October.

Senator FAULKNER—And you received that from whom?

Adm. Barrie—Commander Australian Theatre.

Senator FAULKNER—We now know as a result of General Powell's report that there are differing views and we have heard a lot of evidence about this. Without putting emphasis on the differing views, it is fair to say there are differing views about that original contact between Commander Banks and Brigadier Silverstone—was it Brigadier Silverstone?

Adm. Barrie—Yes. Commander CJTF.

Senator FAULKNER—You would accept now that the two primary individuals or officers involved in that original report have conflicting views on what was said.

Adm. Barrie—I think there are some inconsistencies in their views of what was said.

Senator FAULKNER—But you say to us that you will continue to accept the original report unless you find compelling evidence that contradicts that original report.

Adm. Barrie—Yes.

Senator FAULKNER—And this is regardless of the fact that now we know there are disputed elements of the original report?

Adm. Barrie—Yes.

Senator FAULKNER—This is the point I was trying to get to before the break. In light of the other information that came to your attention—the comments of Rear Admiral Ritchie and Admiral Smith, for example—why does that original, that first report, which is I think a good way of describing it, remain so compelling in your mind?

Senator Hill—That is the question that I think the admiral has answered probably a dozen times, Mr Chairman.

CHAIR—Senator Faulkner is entitled to ask the question again and the admiral can answer in exactly the same way—or you can choose, Minister, not to answer it.

Senator Hill—Then Senator Faulkner will say that we are covering up. There has got to be a point when it becomes unreasonable. Senator Faulkner has not got the answer he wanted, so he just continues to ask it over and over again. I do not think that is good Senate practice.

CHAIR—I asked Senator Faulkner to frame his question.

Senator FAULKNER—Well, I have framed it—I have asked it. Senator Hill does not like it so he does not want Admiral Barrie to answer it. We would have moved on a mile if we had just got an answer.

Senator Hill—You have had an answer—many times.

Senator FAULKNER—That is your view. That is not my view.

Senator Hill—That is the point I am trying to make.

Senator FAULKNER—Well, that is your view.

Senator Hill—To repeat the question over and over again is not the way in which a committee like this should be functioning. It is Senator Faulkner's style to badger a witness until he gets the answer he wants, but that is not what this is all about. This is a committee that should be seeking information. No-one is on trial here. Senator Faulkner has asked his question, he has had the answer and he has repeated the question at least a dozen times. That is not good Senate practice. It is unfair to the witnesses. I am not saying that he cannot answer it, but it is my view that the committee ought to draw a line.

Adm. Barrie—Mr Chairman, I thought I had answered that question earlier today. The committee may well recall me talking about having been there, understanding full well what might be going on, and the difficulties under which the commanding officer would be operating. In conjunction with all the attributes of the naval training system—which equips commanding officers to make those calls accurately and with precision, given the 200 or so lives that serve under their command—it is my view that, in the absence of compelling evidence otherwise, the commanding officer's call is to be supported.

CHAIR—Thank you, Admiral Barrie. You made that point to me yesterday, and I think the committee understands it, but if Senator Faulkner wishes to continue asking that question, there is not a great deal I can do to prevent him.

Senator FAULKNER—Thank you, Mr Chairman. The signal that was tabled—would you say that that reflected the commanding officer's view? Is it a reflection of the commanding officer of *Adelaide*'s view in written form, on the date of that signal?

Adm. Barrie—No. I would say that message relates to a chronology. That signal needs to be correlated with all the other information we have in front of us. We already know that there are inconsistencies in time frames between, let us say, the CJTF and *Adelaide*. I have not done a reconstruction of those times and events and correlated them with General Powell's report, for example, but this signal purports to be a list of chronological events. I do not see an opinion in there, for example.

Senator PAYNE—Admiral Barrie, this signal forms part of the record, not an entire record.

Adm. Barrie—Of course it is part of the record.

Senator PAYNE—Thank you.

Senator FAULKNER—Nevertheless, if a signal like this comes from HMAS *Adelaide*, does it reflect the view of the commanding officer of the *Adelaide* at the time that that signal is dated?

Adm. Barrie—That reflects the CO's view, yes.

Senator Hill—As far as it goes.

Senator FAULKNER—So this reflects the commanding officer's view at what date again, 10 October?

Senator Hill—Of the matters as contained within it.

Senator FAULKNER—This reflects the commanding officer's view on 10 October, but you, Admiral, depend on a phone call, the contents of which are disputed by the two parties conducting the phone call, a couple of days earlier.

Adm. Barrie—Sorry, Mr Chairman, I draw quite a strong distinction between the commanding officer's view and what is called a chronology. A view is not a chronology.

Senator CHRIS EVANS—But that chronology includes commentary.

Adm. Barrie—It includes a report of events; it does not include any opinion that I can see.

Senator CHRIS EVANS—It includes a commentary that says quite clearly that no children were thrown overboard. It is not just '7.45, board vessel.' It then goes to provide quite detailed information that goes to the very heart of the issue we are debating.

Adm. Barrie—Can you draw my attention to where it says that?

Senator Hill—Where does it say 'no children thrown overboard'?

Adm. Barrie—I have not been able to detect it.

Senator CHRIS EVANS—I thought you and Senator Faulkner had a discussion about a couple of the references.

Senator Hill—Where does it say that?

Senator FAULKNER—I pointed to 070557G/ and 0706266G/, and I suspect that that is what Senator Evans is referring to. Because this would be repetitious, I do not want to go back over it again. If you wanted me to read it into the record, I would, but because I do not

like repeating questions or information, I will not do that. I think Admiral Barrie knows what we are speaking about.

Senator Hill—The signal is on the public record now, and it should stand for itself.

Senator FAULKNER—What it stands as is the view of the commanding officer of the *Adelaide* on 10 October 2001, according to Admiral Barrie.

Senator Hill—According to Senator Faulkner.

Senator FAULKNER—No, according to Admiral Barrie. He just told us that.

Senator Hill—We have not questioned the commanding officer.

Senator FAULKNER—Admiral Barrie has told us that such—

Senator Hill—You do not have to raise your voice.

Senator FAULKNER—a signal reflects the view of the commanding officer of the *Adelaide* at the time. That is what you said, Admiral Barrie; if that is not true, I really would appreciate it being clarified.

Senator Hill—I do not think that is exactly what he said at all.

Adm. Barrie—Mr Chairman, the commanding officer's view is not the commanding officer's chronology. This signal is about a chronology; it is not the commanding officer's view.

Senator CHRIS EVANS—Who is the author of the message?

Adm. Barrie—The commanding officer.

Senator CHRIS EVANS—When this message says, 'Male SUNCs in view of wheelhouse threaten to throw women and children overboard—this did not occur', it is the statement of a view and the message comes from the commander. You want us to maintain that it was not his view; am I correct?

Senator Hill—That is relation to a particular incident. We know that there was an incident where a child was held over the edge and apparently was withdrawn without it being dropped.

Senator CHRIS EVANS—Admiral Barrie, I think, is trying to suggest this is just chronology, but it seems to me that it is a summary of facts also. I am trying to confirm that the author is the very commander who you say your position relies upon. I think what Senator Faulkner is trying to put to you is that on 10 October, the commander sent a message which updated his information, the very reporting system you said you wanted to see happen, the debriefing of sailors, and that, at the conclusion of that, they sent a message which made the position of the commander very clear, and you want to ignore that.

Senator Hill—It is clear in what it says. It does not claim to be exhaustive.

Senator FAULKNER—It comes down to a standard of proof, Admiral Barrie.

Senator Hill—Until you interview the captain, the commanding officer—

Senator FAULKNER—This is the view of the commanding officer at the time. Admiral Barrie has told us that, but he has also said he depends on his original source, which was a phone call, the contents of which are disputed by both parties. The reason I ask these questions and stress this point is that here we have, on 10 October, the commander of the *Adelaide* putting down on paper, in black and white, what his position was at the time. This brings into question, in my view, Admiral Barrie's reliance on the original phone call. So the

original phone call, which is disputed, stands. Admiral Barrie does not actually say that. He says the original comments of the commanding officer of the *Adelaide* stand, but the commanding officer of the *Adelaide* is the author, to use Admiral Barrie's—

Adm. Barrie—He is responsible; he may not have drafted it.

Senator FAULKNER—Okay, but it would not have gone without his authorisation.

Adm. Barrie—I cannot answer that question, but he is responsible.

Senator FAULKNER—Well, you said he was the author a moment ago. All right. He is responsible for this going out on 10 October, and yet we are expected to believe that one disputed phone call. Your case, Admiral Barrie—not only your case, but the case of Mr Howard and the government—depends on one disputed phone call as opposed to a chronology in black and white from the CO of the *Adelaide* and as opposed to the information that is provided to you by Admiral Smith and Rear Admiral Ritchie. I mean, this is a very different standard of proof.

Senator BRANDIS—Point of order, Mr Chairman. These are not questions; this is a harangue to the witness. I wish to ask some questions in relation to this matter as well.

CHAIR—Ask your questions; it will be nice to have a question asked.

Senator FAULKNER—Frankly, Mr Chairman, it is proper that I complete this line of questioning—

Senator BRANDIS—But you are not asking questions, Senator Faulkner.

Senator FAULKNER—I am asking questions.

Senator BRANDIS—I will always yield to you if you are asking questions but, if you are haranguing the witness, it is only fair that other members of the committee who wish to ask questions be given the opportunity to do so.

Senator FAULKNER—I am sure most people would realise that you, Senator, ought to be the last person who talks about harangues.

CHAIR—Senator Faulkner, I call Senator Brandis.

Senator FAULKNER—In the interests of allowing all the committee members to ask their questions, I will come back to it. We will just delay the agony. Away you go, Senator Brandis.

Senator BRANDIS—Admiral Barrie, as I understand it, the document we are discussing is a document that was prepared some three days and 14 hours after the events it records. Is that so?

Adm. Barrie—None of us can be certain about that. It was certainly released as a message at that time, but I have no knowledge of when it was prepared.

Senator BRANDIS—As one reads it, it appears to be, on its face, a record of events.

Adm. Barrie—That is correct.

Senator BRANDIS—It does not, on its face, purport to be a record of observations.

Adm. Barrie—That would be my interpretation.

Senator BRANDIS—May I put to you and invite you to comment on the proposition that—

Senator WEST—Leading the witness!

Senator BRANDIS—Senator West, leading the witness in cross-examination is the way one conducts a cross-examination. Admiral Barrie, let me put to you—

Senator FAULKNER—We are in awe of you!

Senator BRANDIS—Let me put a proposition to you and invite you to comment on it. If a person, a witness to events, wishes to prepare a chronology of those events, that is a different task from preparing a sequence of observations as to all of the phenomena surrounding those events. Would you agree?

Adm. Barrie—I agree.

Senator BRANDIS—So if, for example, a child was observed in the water—but was not observed to be either thrown into the water or rescued from the water: merely observed in the water—that is not so much an event as an observed phenomenon. Would you agree?

Adm. Barrie—Yes. That is a fact.

Senator BRANDIS—It is a fact, and it would not naturally be appropriate to be recorded in a chronology of events.

Adm. Barrie—A fact, yes.

Senator BRANDIS—The only contemporaneous evidence we have of what was in Commander Banks's mind at the time these events took place, as I understand it, is the telephone conversation he had with Brigadier Silverstone.

Adm. Barrie—That is the only information we have. The other person who will know is Commander Banks, of course.

Senator BRANDIS—That is the only contemporaneous evidence we have. From the brief note of that telephone conversation that we have in the Powell report, it appears, albeit briefly, that Commander Banks was not recording a chain or sequence of events to Brigadier Silverstone but describing the situation as it appeared to him at the time, as it was unravelling.

Adm. Barrie—That is correct.

Senator BRANDIS—In the course of that conversation, one of the things he observed, according to Silverstone's note, was that there was a child in the water.

Adm. Barrie—Yes, that is correct.

Senator BRANDIS—Admiral Barrie, I will go to a slightly different topic. The seaman who was operating the visual device—I forget what the acronym for it is—in his witness statement said that he too believed there was a child in the water. It is quite clear, isn't it, that that was a different observation from the observation of somebody holding a child over the bridge or over the side of the ship and threatening to throw it into the water? That was reported as two separate incidents involving different people.

Adm. Barrie—It seems so, yes.

Senator Hill—But isn't the problem that Senator Faulkner wishes Admiral Barrie to draw from this supplementary document a different conclusion than the conclusion that Admiral Barrie is prepared to draw? Senator Faulkner has said that he thinks it is unreasonable that Admiral Barrie will not draw that conclusion. I cannot see how we can progress that further. It might not be the response that Senator Faulkner wants, but I do not think that simply badgering the witness with the same question over and over again is the way to progress the

matter. There is clearly a difference of view. Senator Faulkner believes Admiral Barrie should have seen this signal, which he saw for the first time yesterday, in a different light.

CHAIR—Perhaps Senator Faulkner will get tired of asking the question before Admiral Barrie get tired of answering it.

Senator FAULKNER—Perhaps Senator Faulkner can speak for himself.

Senator ROBERT RAY—I think what Senator Faulkner is trying to distinguish between is faith and evidence. Can I just ask Admiral Barrie this—and I apologise that I have not been here, for good reason, before. The phone call from Commander Banks to Brigadier Silverstone is in some dispute as to the words ‘child’ and ‘children’. I think we at least understand that. Does Brigadier Silverstone then ring you and report to you?

Adm. Barrie—No. Commander Australian Theatre rang me.

Senator ROBERT RAY—Hold on. So then there is another telephone call to who?

Adm. Barrie—The only thing I can attest to is that Commander Australian Theatre called me and made that report to me.

Senator ROBERT RAY—Surely you have a better knowledge than that. I am trying to find out how many phone calls—

Senator Hill—I do not think there is a dispute on ‘child’. I think it is undisputed that the call was ‘child’.

Senator ROBERT RAY—Look, Senator, I do not need your interference in this. I am only trying to establish how many phone calls it took for you to form your view that is not changed so far. I know it is the commander to Silverstone. I now need to know how many other links are in the chain—how many other phone calls are made—before the information is transmitted to you that you now have fixed in your mind as not yet challenged. I think that is fair. How many phone calls were there?

Adm. Barrie—I do not know.

Senator Hill—We went through the logical sequence yesterday.

Senator ROBERT RAY—It was about four though, wasn’t it? Who actually rang you? What is the name of the person who rang you?

Adm. Barrie—Admiral Ritchie, the Commander Australian Theatre.

Senator ROBERT RAY—Do we know who rang Admiral Ritchie with this information?

Adm. Barrie—I am sure he can speak for himself.

Senator ROBERT RAY—I just want to get this down, because the problem, Senator Hill, is that if it is relayed orally four or five times—which is not the military way of doing things: things are done in writing—little distortions can come in.

Senator Hill—And little distortions have come in. That is conceded.

Senator ROBERT RAY—Yes. Precisely.

Senator Hill—It has gone between Darwin and Canberra from ‘child’ to ‘children’.

Senator ROBERT RAY—Therefore we ask people not to rely as a matter of faith on the original claim but at least to question it to see whether those distortions occurred. Anyway, can we find out what the sequence of phone calls is?

Rear Adm. Ritchie—Silverstone is talking to Banks. Silverstone hangs up. Silverstone then rings Air Vice Marshal Titheridge, who is the Head Strategic Command. When he finishes that conversation Silverstone then rings his immediate superior in the chain, who is Rear Admiral Smith. Smith tells me. I tell the CDF and I think Titheridge also tells the CDF.

Senator ROBERT RAY—So it goes through a few telephone calls. That is my point. From that point, do you ever get in writing something from the commander of *Adelaide* that tells you children are thrown overboard?

Adm. Barrie—Not that I am aware of.

Senator ROBERT RAY—Do you ever, from 10, 11 or 7 October contact the commander of the *Adelaide* and ask him whether children were thrown overboard?

Adm. Barrie—Certainly not.

Senator ROBERT RAY—Why not?

Adm. Barrie—Because this is the chain of command and operation. It would be quite unusual for a CDF to be ringing the commander of the *Adelaide* in these circumstances. The fact of the matter is that everybody now says this is an urgent requirement. In those days this was not important to me. There were many, many other things on my plate.

Senator Hill—Senator Ray might have been absent earlier when Admiral Shackleton gave his evidence of his discussions with Commander Banks.

Senator ROBERT RAY—I can assure you I saw it on a very small screen, as you do on Webcast; this is like cinemascope in comparison.

Senator Hill—It is almost a record, I think.

Senator ROBERT RAY—I share Senator Faulkner's problem—and I am not going to go over it more than once—that you are basically saying you rely on what was first said but it has come through four or five other filters to get to you. That is the reliance I worry about. I do not say you should rely on the cable either, but I really think someone now, very shortly, this week, should actually contact—via the chain of command, not via you directly—and find out from the commander what happened.

Senator Hill—That is the debate we had with Admiral Shackleton.

Senator ROBERT RAY—Why don't we?

Senator Hill—He has had that discussion. It may well be that the Senate committee will want to call Commander Banks.

Senator ROBERT RAY—But the Prime Minister wants the truth to come out as early as possible, not to rely on a Senate select committee. I just cannot, for the life of me, work out why we cannot get to the bottom of the sequence of events that made it go, apparently, from 'child' to 'children', or whether it actually happened or not. We do not even know who signed off on that particular cable, do we? Was it the Commander of the *Adelaide*?

Adm. Barrie—I cannot say. He can speak for himself.

Senator ROBERT RAY—No, he cannot. He is not here. In the chain of command, he cannot necessarily speak for himself—you have to speak for the whole Defence Force here.

Adm. Barrie—Quite, and that is exactly what I am trying to do, Mr Chair. I am speaking for the Commanding Officer of the *Adelaide*, who was doing a very skillful job.

Senator ROBERT RAY—I am sure that is all true. No-one wants to belittle the job he was doing—but what you will have to rely on in this assertion of faith you are putting forward, is a message getting to you via at least four other people. You are telling me that that message is your belief of what happened. It never came in writing, like it normally does in Defence. It goes via NORCOM to Maritime Command to other people and then to you—verbally. And that, somehow, has to override something that comes in writing three days later that, clearly, on any reading, implies that no-one was thrown overboard.

Senator Hill—This is a legitimate debate. This is the debate that has been had and will be had. But that is not the purpose of this meeting. The purpose of this meeting is to give Admiral Barrie the opportunity to put his case, which he has done. He has explained why he gives credence to the original report which came through Silverstone, as the commander of the task force and recorded in writing from Silverstone, as the commander of the task force, and rapidly passed on to Sydney and to Canberra that there were children in the water.

Senator FAULKNER—That is what he has not done, Senator Hill. This is the point I think you miss, and the point that needs to be directed to Admiral Barrie.

CHAIR—Let's not have a debate about it, Senator Faulkner. Have you got a question?

Senator FAULKNER—Yes. My question to Admiral Barrie is this: why, Admiral Barrie, now, even now, when we have the chronology from the commanding officer of the *Adelaide*; you have contact from Admiral Ritchie on this issue, clarifying it; from Admiral Smith, clarifying it; you have heard the evidence of Brigadier Bornholdt; you have heard the evidence of the then Acting Chief of the Defence Force and the Chief of the Air Force; you have the report and findings of General Powell, and I could go on. But that was just to mention some of the evidentiary support that has come before this committee. You rely on the first evidence you receive on this, which is a fourth-hand disputed telephone call. What is the standard of proof?

Senator Hill—Senator Faulkner, if he wanted to ask that same question for a 12th time, could have put the evidence on the other side as well, but he has chosen not to. But there is no point in repeating the question over and over again. I think it is quite unfair to the witness. Mr Chairman, you are, in effect, saying that you have no power to rule that repetitive questions are out of order, and I have been reluctant to interfere, but I do not think it is fair that any witness be subjected to what is haranguing—that is repeating the question over and over again, in an effort to influence the witness to finally agree to the position that is being put by a senator who is putting an argument as part of his political objective. I think it would be better, if Admiral Barrie gets the same question over and over again, that he answers that that answer has been given.

CHAIR—It goes without saying, Senator Hill, I do not wish to get into a political argument with you either—

Senator FAULKNER—It will be directed to you then, Senator Hill.

CHAIR—but I think it is important that questions be asked. I know that Senator Ray has another question—a different question—and I call Senator Ray.

Senator ROBERT RAY—You mentioned how competent the commander of the *Adelaide* is. I take it there would not be any circumstances where he would have reported back down the chain of command if visibility was not sufficient to report accurately? Because we have had the question of visibility challenged by the junior counsel on my right!

Adm. Barrie—I know you have, yes. I think that question could only be fairly put to him, in terms of absolute confidence in the answer.

Senator ROBERT RAY—You have expressed an absolute confidence in him, which I share, and you talked about his training and his experience and all that. I am asking you whether a trained experienced officer would send a report back if visibility conditions were insufficient to make that report valid?

Senator Hill—But this is his commanding officer talking to him in real time, with all the background that we have been told by the Navy's leaders, as to what is occurring.

Senator ROBERT RAY—The assertion, Senator Hill, the snide inference that has been made at these hearings, is that people could have got it wrong because visibility was not good enough. Talk about walk both sides of the street in the coalition!

Senator Hill—You could argue that either way.

Senator ROBERT RAY—I am just asking whether the opposite may have been true: that visibility was good enough and a competent commander on a naval vessel would take that into account before they ever sent claims back to Australia. Otherwise they probably would have qualified it with 'poor visibility'.

Adm. Barrie—In all likelihood they would have qualified it but I think one must remember that, in producing his assessment of what is taking place, it may not just be visual evidence. It might also be electronic evidence and all of those sorts of things.

Senator ROBERT RAY—Yes, it could well be. I have just one final question. What is the visual device that was mentioned before?

Adm. Barrie—Electro-optical tracking statement.

Senator ROBERT RAY—Is there a record of that kept? We are not talking about a video camera, are we?

Rear Adm. Ritchie—Yes. The video we are talking about is that.

Senator ROBERT RAY—So, if you get enhanced vision through that we know exactly what that sailor saw because it is on video.

Adm. Barrie—Again, we have been through that. Without questioning the sailor himself, you will not know the basis on which he put his witness statements together and those sorts of things.

Senator ROBERT RAY—I agree with that.

Adm. Barrie—He is tasked with managing the sight but, of course, he is taking information from—

Senator ROBERT RAY—We cannot claim that he was in a better position than anyone else with enhanced visibility while he was taking videos.

Senator Hill—No, he was probably in a better position.

Senator ROBERT RAY—It does not show in the video.

Senator Hill—But it doesn't mean that the quality of the image reflects what he can see through the machine.

Senator ROBERT RAY—Doesn't it?

Senator Hill—Well, you get a record. It is never as good as what the visual image is, is it? It is a process.

Senator ROBERT RAY—You see what you see through the finder, Senator Hill, and that is what you record. You cannot have it both ways.

Senator Hill—Certainly, the photographs I take are never as good as—

Senator ROBERT RAY—Well, I would not mention photographs if I were you.

Senator BRANDIS—Admiral Barrie, are you aware of any contemporaneous report of these events—that is, reports made while they were happening—other than the commanding officer's telephone conversation with Silverstone at 7.50, Canberra time, as recorded in the Powell report?

Adm. Barrie—Are you asking whether that was the only information about the *Adelaide* that I was given?

Senator BRANDIS—No, that is not what I am asking. What I am asking is whether that was the only contemporaneous report—that is, report contemporaneous with the happening of these events, of which you are aware.

Adm. Barrie—It is the only report I received.

Senator BRANDIS—Thank you.

Senator CHRIS EVANS—Admiral Barrie, you indicated to us earlier that you thought the chain of command was very important and the reporting mechanism to come through that. I suppose that is why I find it a bit difficult that you cling to an earlier report of a commander when everybody else up the chain of command has provided alternative advice to you.

Adm. Barrie—It raises doubts about what took place. We then go through a discussion about those doubts and where I think I am coming from—

Senator Hill—We have done it several times.

Adm. Barrie—And no-one comes back to me and says 'CDF, you are wrong.'

Senator CHRIS EVANS—But you now know that the person acting in your job while you were away on 7 November actually provided advice to the government to the effect that those reports were wrong. In other words, the acting CDF did make that decision, acting with full authority, and formally advised the government.

Senator Hill—He formed a different conclusion.

Senator CHRIS EVANS—But even after the person who acted in your job did that and advised the government, you still cling to the earlier report, third hand, you got of the commander. That is what I cannot understand—the conflict with the chain of command. The chain of command process has occurred, there has been a review, people have looked at the messages et cetera: isn't that the chain of command working?

Adm. Barrie—I think this is a very important question. If the view is that my job here, as the Chief of the Defence Force, is simply to rubber stamp everything that comes across my desk, then, frankly, I am a waste of time and space. If my job is about being the principal military adviser to the government, then, frankly, I am entitled to my view of the information.

Senator CHRIS EVANS—All right. The second point I want to raise the view is that you said earlier that when you were made aware of some confusion about reports about the

incident, you asked for all the information collected and for it to be compiled together. Could you advise me what steps you took subsequently to have a look at that information?

Adm. Barrie—There are two perspectives. The first direction which I discussed with Commander Australian Theatre at the end of the week of 10-11 October was: while this is fresh in people's minds, witness statements are to be collected, the evidence is to be put together, in case there are further proceedings. And that, as far as I am concerned, was the end of the issue, that we were collecting the material. From that point onwards, this had no focus on in my life whatever.

Senator CHRIS EVANS—So you did not make any attempt to gain things such as the message et cetera?

Adm. Barrie—No. I had other things on my plate, as we all did.

Senator CHRIS EVANS—So even after it became an issue of public disquiet, even after the election, you made no attempt—

Adm. Barrie—After the election I commissioned Major General Powell to prepare a report to illuminate for me what were the sequence of events and what took place. And you will be aware that that was commissioned before anybody else did anything else.

Senator CHRIS EVANS—And, as I think you told us yesterday, you rejected his major recommendation?

Adm. Barrie—A finding.

Senator CHRIS EVANS—So, despite putting that process in place and overseeing the process, when you then got the answer from that process you reject that finding?

Adm. Barrie—That is right. I asked him quite carefully: did he have in this report any compelling evidence which would make me change my view? His answer was no.

Senator CHRIS EVANS—So the evidence you still rely on is the third-hand telephone conversation?

Senator Hill—Third-hand is not a fair way of portraying it.

Senator CHRIS EVANS—Admiral Barrie made it clear he had no primary contact with the commander.

Adm. Barrie—When General Powell delivered his report to me I asked him that question directly, and his answer was no.

Senator ROBERT RAY—Coming out of General Powell's report—and stop me if this has been asked and I will desist—there was an implied criticism of the way the minister's office—not Senator Hill's but the previous minister's office—was interrelating with the Defence Force. It seemed to be almost in code, although there was the one direct example of stopping the press secretary contacting the *Adelaide*. Is that how you read the report?

Senator Hill—There is a criticism of stopping?

Senator ROBERT RAY—The overt example used is stopping the press secretary ringing directly to, I think, the commander of the *Adelaide*. But through the report, on one or two other occasions—not directly, Senator Hill—there seemed to be an implication that there was too much interference, direct interference rather than through the chain of command, from the then minister's office into the Defence Force.

Senator Hill—I think that that is fair comment. And General Powell, as I recall, suggests part of the solution is to have a senior military officer in the minister's office to ensure that these things are properly understood.

Senator ROBERT RAY—That is an old aspiration that, if you want a bit of advice, Senator Hill, you will ignore.

Senator Hill—Certainly I have said that this report indicates that lessons should be learnt in terms of communications between the defence department and the minister's office.

Senator ROBERT RAY—So, to foreshorten this, can I have your assurance you are going to look at it in terms of your own relationship?

Senator Hill—I have said that.

Senator ROBERT RAY—I think it was caused by drift rather than calculation.

Senator Hill—You could see some of the problems. There were too many lines of communication on either side, and on each side there is not a lot of evidence that they were even talking to each other. For example, we have three sets of photographs: one that came to the minister's office from Public Affairs, another lot that came from the Strategic Command and the third lot I cannot recall where that came from. But it was clear that PACC did not know of the photos coming from Strategic Command and vice versa. I sort of sense that there was the same type of issue within the minister's office. By the time you mixed the two together there was clearly a lot of confusion.

Senator ROBERT RAY—That answer is encouraging, and I am very much pleased by it. But more on the question of photographs—and this is my last question for the day: is it your understanding or do you wish to deny that when the press secretary in Minister Reith's office was challenged on 11 October, his response to several journalists—not just one but several—was that he could not comment on the photographs because this was an operational matter.

Senator Hill—Could you say that again?

Senator ROBERT RAY—Journalists started to get a bit suspicious of the photographs by 11 October. I do not know why; I have no reason to know what they based that on. Having contacted Minister Reith's office, and Mr Hampton in particular, he said that he could not respond to their queries, because the photographs were of an operational matter.

Senator Hill—If he said that, I do not understand that. Firstly, the event had passed; secondly, if the minister's office has put out photographs and somebody is seeking clarification of what has been put out, that seems to have gone well beyond an operational matter. That is a matter of communications.

Senator ROBERT RAY—Having got the photographs, without captions, and having spread them all around Australia, using operational matters as an excuse is disappointing, to say the least—it is sometimes an extremely valid excuse but not on this occasion.

Senator Hill—I do not know whether that excuse, as you say, was used. To me, one of the problems was that there was obviously great confusion between these titles and captions and what the explanatory memorandum was and so forth. However, for one reason or another, on the evidence before me—and it is certainly the assertion of Reith's staff—the photographs that came to Reith's office that were ultimately released did not have the explanatory material that would have demonstrated that they were photographs of an event on the subsequent day.

Senator ROBERT RAY—What we do not know is whether they were requested in that form. If I am right and if the journalists are right—and if I am not I will withdraw—I would have thought that, if the excuse when challenged on this was that it was an operational matter, that tends to weaken the bona fides in regard to this massively.

Senator Hill—I do not know. I am not privy to exactly what was asked or what was answered in that regard but, if the questioner was seeking some further clarification of the photographs, then I would not have thought the line that it was an operational matter was appropriate justification to not provide that clarification.

Senator FAULKNER—Admiral Barrie, the Prime Minister has apparently tabled a statement today from the former Minister for Defence, Mr Reith. I do not know if you have seen that statement?

Adm. Barrie—I have not.

Senator FAULKNER—It goes to the issue that we have discussed at a little length at this estimates committee—the meeting between the Chief of the Air Force and Mr Reith, with Brigadier Bornholt also in the room. That statement includes these words—

Senator Hill—To be fair, if Senator Faulkner is going to ask questions on a statement that the Admiral has not seen, the Admiral should be given a copy of the statement.

Senator FAULKNER—I do not have a copy of the statement; I only have a report from the House of Representatives.

Senator Hill—So you were told that the statement includes the following?

Senator FAULKNER—Yes, but when you hear the question, Minister, I am sure you will be rather relaxed, because the question is a very good one, whether the statement is tabled or not. You can be confident of that. According to this story, Mr Reith says:

I thought the video should be reviewed, and I wanted some further advice on the investigation.

My question is simple: did Mr Reith seek further advice? Did he ask Defence to review the video and did he formally seek further advice on the investigation on or after 7 November, which was the date of the meeting?

Adm. Barrie—The question is, did he seek—

Senator FAULKNER—Did he seek further advice, in relation to the children overboard incident, or the photographs, or the video, which related to it?

Adm. Barrie—From me?

Senator FAULKNER—From Defence.

Adm. Barrie—I can certainly answer, I think, on my own cognisance—not that I can recall. Although, I did have a conversation with Minister Reith about the commissioning of the Powell inquiry, and seeking his cooperation with that. But I cannot speak for the rest of Defence because, frankly, I was not here.

Senator FAULKNER—That is a process question. Can someone just let me know, please.

Senator HILL—Sorry, the question is?

Senator FAULKNER—The question is: did the former minister, on or after 7 November 2001, ask Defence to review, or provide further advice, on the children overboard incident, the question of the video, or the photographs?

Senator HILL—After the 7th?

Senator FAULKNER—On or after the 7th, because that is when the Air Marshal had his telephonic meeting with the then minister.

Senator HILL—Air Marshal Houston, you were acting on what days, the 7th and the 8th?

Air Marshal Houston—I handed over to General Cosgrove on the morning of the 8th.

Senator HILL—So, you can speak for the 6th and the 7th?

Air Marshal Houston—Yes, I can.

Senator HILL—This is the head of the Defence Force. But you cannot ask us, unless you want to give us time, in relation to the balance of the department.

Senator FAULKNER—I thought this would be able to be provided, given the focus on these issues, and the fact that this would be a ministerial office request to Defence. I thought someone could actually assist.

Senator HILL—We have already seen that the communication both ways, travels through a range of different avenues.

Senator FAULKNER—That is your view. I am asking if there was a communication from the minister to Defence, initiating such inquiry. It is pretty simple. Someone really should be able to help on that.

Senator HILL—The Air Marshal can say what is within his knowledge.

Air Marshal Houston—I have not got a lot to add. You may recall from my statement yesterday I mentioned that, at the end, Minister Reith said, ‘we will have a look at releasing the video.’ After that, there was a process where his staff, I believe, went up to Sydney to have a look at the video, and that was it as far as my part was concerned. He did not ask for any further advice from me.

Senator FAULKNER—Thank you.

Senator HILL—We can try and trace down the line of communication with the staff, if you like.

Senator FAULKNER—Is the situation, Admiral Barrie, that you think this did not happen? Clearly, if there was a ministerial request, I do not imagine that would be too hard to turn up. I would be surprised if that was too hard to turn up. Is the situation that you do not think there was such a request, but you would inform the committee urgently, if—

Adm. Barrie—If we were able to turn that up, of course.

Senator FAULKNER—If that was found not to be correct.

Adm. Barrie—I do not know, because I was not here. So I cannot speak for what may have taken place. But, if there was either a formal or a verbal request, and we turned that up, we would inform the committee.

Senator FAULKNER—I wonder; is it possible that it went to the Department of Defence.?

Adm. Barrie—It may have done.

Senator FAULKNER—Can you help us with that at all, Mr Roche?

Mr Roche—I cannot, Senator. I was not acting secretary at the time.

Senator FAULKNER—I just wonder, General Cosgrove, if you are sitting there because you might be able to assist on this.

Lt Gen. Cosgrove—I was acting CDF on the 8th and 9th. I received no communication from the minister or the minister's office, and I had no discussions concerning the events around SIEV4.

Senator Hill—You are lucky.

Senator FAULKNER—Thank you. Can I ask another question going to the issue of ministerial requests? Did the minister or the minister's office request written advice from the ADF on the photographs released on 10 October—either on 10 October or at any time through to 10 November?

Adm. Barrie—On my cognisance, no. But Strategic Command and Public Affairs may have different information.

Air Vice Marshal Titheridge—There was no request, as far as I can recall, for any explanation of those photographs on or after 10 October.

Senator FAULKNER—I see. Admiral Barrie, on 7 November 2001 Mr Reith was asked by a journalist, 'Do you have a written report on the incident from the Navy?' And in answer to that he said:

I've had various written reports in various aspects of it. None have particularly specified a blow by blow description.

They are Mr Reith's words. I did not turn up any evidence of any written reports in either Major General Powell's report or Ms Bryant's report, and I wondered if that was the situation as you understood it?

Senator Hill—It depends what you mean by written reports, doesn't it? Are emails written reports? We have heard about emails with the minister's office yesterday. Are you excluding emails?

Senator FAULKNER—What I am asking is, did Defence provide—

Senator Hill—There does not seem to have been a formal brief covering the incident.

Senator FAULKNER—Was there any ministerial, or ministerial office, briefing provided to Minister Reith on the incident?

Senator Hill—Talking points?

Adm. Barrie—As far as I am aware, no.

Senator Hill—I think, Mr Chairman, if Senator Faulkner wants a more authoritative answer on that we would have to—

Senator FAULKNER—I hear the Admiral's answer but, if Admiral Barrie would prefer also to check the situation and come back to us—

Senator Hill—It really depends on what you mean in the question, because there does not seem to be—or nobody has suggested there was ever a formal written brief from the department to the minister reporting on the events and suggesting courses of action or whatever.

Senator FAULKNER—I agree. That does appear to be the case from reading the reports, but it does seem to conflict—

Senator Hill—It mainly seems to be emails, verbal communications from various parts of the department to various of Mr Reith's advisers? There are plenty.

Senator FAULKNER—Sure. It does seem to conflict with what former Minister Reith said at that doorstep.

Senator Hill—You can say that, but without asking him to what he was referring—

Senator FAULKNER—I cannot do that. If he would care to come to a committee meeting, we would ask him, but I think it is unlikely that he will be rushing through the door.

Senator Hill—We could pursue it from the Defence end as well and get up every form of communication there was with his office—another big job, I suppose—during this period of time, if that is what the committee is demanding.

Senator FAULKNER—No, the committee is not demanding that. I am asking about any ministerial or ministerial office briefings on 'children overboard', the photographs or the videos that went from Defence to the minister's office in the period from 7 October through to 10 November. That is it.

Adm. Barrie—In my recollection, I certainly provided no written advice.

Senator FAULKNER—Is it true, Admiral Barrie, in relation to questions directed to Defence on the corroboration of photographs—in other words, if a journalist were to ring Defence and ask for information about the photos that were provided and published—that Defence's standard answer right through this period was not to provide any comment at all, and that those requesting comment were referred to the minister's office?

Adm. Barrie—I cannot answer that question, but the head of public affairs could.

Ms McKenry—Senator, that is correct. There was a public affairs directive which accompanied Operation Relex. Within that—I think it was in paragraph 14—all media calls were to be handled by the media adviser to the minister.

Senator Hill—What directive was that?

Senator FAULKNER—It was a public affairs directive.

Senator ROBERT RAY—Can we ask Senator Faulkner to repetitively ask his question again, because Senator Hill did not hear the answer.

Senator FAULKNER—I have never made a habit of that, Senator Ray, and I do not want to start.

Senator Hill—Very humorous—just because I am going deaf.

Ms McKenry—There was a public affairs plan or directive that was prepared—as normally is the case for our operations, so it is not out of the ordinary—and it specified how public affairs was to be handled. Within that plan, there was a paragraph which talked about visual imagery, and that paragraph also talked about any media inquiries being directed to the media adviser to the then minister.

Senator FAULKNER—When was that directive developed?

Ms McKenry—From memory, it would have been developed in the dying days of August or in early September.

Senator FAULKNER—I see. Was that work generated in your branch?

Ms McKenry—It was work generated within the division, yes. It is not abnormal: whenever there is an operation, there is always a PA plan that includes a component about how to deal with the media, what footage will be taken, what stills will be taken and how they will be dealt with. It was to accompany Operation Relex; I think it was called Operation Gaberdine at the beginning.

Senator FAULKNER—I see. Would clause 14 of this directive—which is the one I am focusing on, if I hear correctly what you say—be a standard clause in such a directive?

Ms McKenry—It would depend on the operation and the situation. Usually the directive talks about imagery, stills and media contact.

Senator FAULKNER—Is it normally the case that such media contact is always directed to the minister's office?

Ms McKenry—It depends on the situation. It is not normally the case, but on some matters it was. On Operation Relex that was the case.

Senator FAULKNER—Who made the decision?

Ms McKenry—It was a decision that was made in consultation with the minister's office.

Senator FAULKNER—At the request of the minister's office?

Ms McKenry—Ultimately it was the request of the minister's office, yes.

Senator FAULKNER—Who made that request to your division?

Ms McKenry—The request came through the media adviser, Mr Hampton.

Senator FAULKNER—Did it go to you?

Ms McKenry—It came to both myself and Brigadier Bornholt for us to promulgate within the media plan. To be fair, too, it was discussed with people within the division certainly. And before it was released it was certainly a plan that was discussed with the relevant parties inside Defence.

Senator FAULKNER—But the situation here is that the minister's office requests that all media inquiries on Operation Relex be directed to the minister's office, and this is done by way of a clause in the directive at the request of the minister's office?

Ms McKenry—That is correct.

Senator FAULKNER—You said there were discussions between yourself, Brigadier Bornholt and the minister's office. Were those discussions with Mr Hampton?

Ms McKenry—That is correct.

Senator FAULKNER—Did the division have a view on this?

Ms McKenry—We had put to the minister's office that we were trying to get from the operation an ability to promote the skills of our people and we were concerned that in the course of the operation we would be able to do that. But basically, at the end of the day, the minister's office reserved the right, and we were able to comply with that right.

Senator FAULKNER—Yes, but what happened, of course, is that you had a lot of contact, didn't you, during the election campaign period from journalists asking questions about the photographs allegedly of kids who had been thrown overboard.

Ms McKenry—We had a number of inquiries, that is correct.

Senator FAULKNER—A lot of these inquiries went to the accuracy of the claims that these photographs were of children who had been thrown overboard. This was a public issue, of course. This was speculated upon publicly.

Ms McKenry—That is correct. But I do not believe it was our right to enter the public debate on that.

Senator FAULKNER—I am not suggesting it was. But you did not enter any debate on it, did you, because you had a directive not to?

Ms McKenry—No, we had a directive to deal with media inquiries through the minister's office. So we had that directive, that is correct.

Senator FAULKNER—That means if a journalist rings and wants to ask you or the brigadier questions about the veracity of photographs, you cannot respond to those inquiries, can you?

Senator Hill—These are photographs as released by the minister's office.

Ms McKenry—Yes, these photographs were released by the minister's office.

Senator FAULKNER—Yes, but when Defence is asked about them by an interested member of the public or a journalist, those inquiries go to you, don't they?

Ms McKenry—They go to the division, they go to our media room.

Senator FAULKNER—Yes, I do not mean to you personally; I mean to your division.

Ms McKenry—That is right.

Senator FAULKNER—I do not mean to you personally—to your division.

Ms McKenry—That is right.

Senator FAULKNER—But your division cannot, in this instance, give any advice beyond a directive that the minister's office must handle all such inquiries, and that is what happened, is it not?

Ms McKenry—The minister's office handled the inquiries, that is correct.

Senator FAULKNER—I played a very minor role in the election campaign myself and I remember journalists who questioned these matters ringing your division and getting a very clear message that you could not talk, that your division could not talk and that any request had to be shot through to the minister's office.

Ms McKenry—That is correct, Senator, and that was under the instruction of the minister's office. But I stress that the photographs had been released by the minister's office and, in the environment we were in, it was not our role to enter the debate. As you note in the reports before you, we had certainly provided advice to the minister's office about the photographs and what they in fact portrayed.

Senator FAULKNER—I understand that. Did you have the same level of knowledge about these photographs that Brigadier Bornholt had? I think I can ask you that question because you were here yesterday when the brigadier gave his evidence. I am not sure how the responsibilities work, but is it fair to say that you shared knowledge similar to that which the brigadier reflected in his evidence to the committee yesterday?

Ms McKenry—Certainly I viewed the photographs at virtually the same time as the brigadier on his system and saw them with their captions. So I had the same knowledge, that is correct.

Senator FAULKNER—Effectively you from the civilian, departmental side and the brigadier from the ADF side head up this division. That is right, is it not?

Ms McKenry—I head it up and I have a number of branches, that is correct.

Senator FAULKNER—You are ably assisted in your work by uniformed ADF officers and the brigadier is the senior officer.

Ms McKenry—Very ably by the brigadier, that is correct.

Senator FAULKNER—You both know about the situation in relation to the photographs when journalists ask you, but you do not or cannot answer these questions.

Ms McKenry—As I say, Senator, I believe that our responsibility was to inform the minister's office, through the staff, of what the photographs represented. Certainly there was an attempt to do so, to have that clarified on the 10th, the day they were released, by the brigadier, and certainly the next day he and I spoke with the senior adviser in the office and explained what the photographs did portray. I forwarded a copy of the material that we had with the photographs and captions to the office and we believe that we did all we could in that circumstance without entering the debate. It was not our role—

Senator FAULKNER—I accept it is not your role because of the directive, but you understand the problem, Ms McKenry. This directive, clause 14 of which you were asked to include in the directive by the minister's office, meant that the record could not be corrected at the Defence level.

Ms McKenry—As I say, Senator, I do not believe it was our role to enter the debate. The element within clause 14, the only element which was included at the request of the minister's office, was that media inquiries be directed to Mr Ross Hampton. The remainder about imagery—

Senator FAULKNER—And we all know what Mr Ross Hampton said to everyone.

Senator Hill—Well—

Senator FAULKNER—We do know, because it is pretty clear from both Major General Powell's and Ms Bryant's report.

Senator Hill—We are asking the witness questions.

Senator FAULKNER—It is a real fix, isn't it, Minister, when this happens?

Senator Hill—I would have thought it is more the rule than the exception that in relation to sensitive operations the request is to the department to refer media inquiries to the minister's office, and I would have thought that that was more the rule than the exception under the previous Labor government.

Senator FAULKNER—I do not know whether it is or it is not. But I know in this case it meant an extraordinary amount of public misinformation was allowed to go uncorrected for a very long period of time right through the period of a federal election—that I do know. So we heard from the brigadier yesterday, Ms McKenry, about what he did as a result of what he learnt on the 10th and 11th. He raised it with the minister's office. I think you are saying that it was both of you, effectively. I think that is what you are saying but I do not want to—

Ms McKenry—What I am saying is that when we were viewing the photographs and at the same time as we were viewing them we were told by the branch head for the media area that the director of media liaison had been told to release the photographs to the media without captions. At that point, having seen the photographs as they stood without captions, we both became concerned. I certainly became concerned about those photographs being in the public arena without captions.

Because Brigadier Bornholt was our liaison with the minister's office on Operation Relex I asked him to immediately advise the minister's office and the media adviser of the context of those photographs—that they were, in fact, of the activities of the 8th of October and not the 7th: they were from the day that the boat actually sank. So he attempted to do so. He attempted to do so twice and was unsuccessful in getting the message across. He contacted me by email that evening. I did not receive that till the next day but, certainly, I phoned him that evening, and we agreed that the next morning it was important that we contact the minister's office and speak to the senior adviser—which we did together in my room on the 11th. We told him—Brigadier Bornholt explained the context very much of the photographs and I offered to send the photographs that I had on my system across to the media adviser. I also, in discussion with the media adviser, offered to send a document saying how the events of the release of the photographs had occurred. And I set in train the process to have that prepared by the director of media liaison who, as it turned out that day, was on leave and he had to come in to do it.

After we had spoken to the senior adviser, Mr Scrafton, in the office, he phoned us back to explain to us that the material which he had received or which had been in the office did not have any captions at all. We were surprised by that. I then talked to the director of media liaison and tried to ascertain what material he sent across. We could not get it off his system but I was very keen to find out. He explained where he had sourced the material within the department. I asked one of those sources to provide me with what he had given to the director of media liaison. I received that, and it was exactly the same as the material that I had on my system—that is, it was photographs with titles and captions. So my belief was that that material in its entirety had gone across to the minister's office.

When I received the note from the director of media liaison, I made that available to Mr Scrafton. In that note the director of media liaison described that he had sent across the material he received. The discussion with him indicated that his belief was that he had sent across the photographs and the captions. That was my belief, and remained my belief, until I returned from leave in January. In the course of preparing his documentation to give evidence to Ms Bryant, the director of media liaison discovered, in trying to get his papers, that in fact he had no evidence of the email that had gone across to Mr Hampton, originally, on the 9th.

In the course of that preparation, he discovered that the email that had originally gone across to Mr Hampton did not in fact contain any captions, that it contained just the photographs with the titles, and that it did not leave from his system, that another officer actually sent the material.

Senator FAULKNER—Thanks for that. We know that the brigadier on two occasions, when he has doubts or concerns he brings this to the attention of his superiors. That is absolutely appropriate, and on one of those occasions it has received a little bit of publicity. So be it.

Senator Hill—Mr Chairman, I was just wondering whether we can send any of these witnesses home.

CHAIR—I do not think so, Minister.

Senator Hill—They have been sitting here for a long time. They have other obligations and I have no idea which parts of the department the committee is going to get to or not.

CHAIR—I understand your concerns, Minister Hill, but we do have the output areas and we do have a number of other general questions, I understand, from Senator Evans. I am sure that before the night is out, many of those outputs will have been covered.

Senator CHRIS EVANS—Could I also indicate that I will be happy to have a discussion involving Senator Hill at the dinner break about what areas we are going to concentrate on in the last period available to us. That would allow him to send home officers who are not likely to be required.

CHAIR—Thank you, Senator Evans.

Senator FAULKNER—I will not be very long here at all, Mr Chairman; I will try to be very quick. I was making a point about Brigadier Bornholt bringing concerns to the attention of his superiors. That is how it worked in the ADF, but what about your bureaucratic responsibilities? Did you draw the attention of any of your superiors in the department to these concerns that you clearly had?

Ms McKenry—On the morning of Thursday 11 October, I had a discussion with the secretary of the department about the photographs. I explained to him what had happened the day before, as I understood it, and that I was putting in train getting documentation about the processes that led to the release of the photos. So I did discuss it with Dr Hawke that morning, and certainly I forwarded to Dr Hawke a copy of the note that I also forwarded to Mr Scafton in the minister's office.

Senator FAULKNER—I see.

Ms McKenry—I also informed Dr Hawke that Brigadier Bornholt and I would be seeking to clarify the situation verbally over the phone.

Senator Hill—What was that? Seeking to clarify—

Ms McKenry—The situation regarding the photographs with Mr Scafton over the phone.

Senator FAULKNER—So you do make Dr Hawke, as secretary of the department, aware of this on 11 October?

Ms McKenry—That's correct.

Senator FAULKNER—Just to finalise this because we are under some pressure of time here—these matters will need to be explored in other forums—in your conversation, or discussions, with Dr Hawke were you quite clear in saying to Dr Hawke that the photographs that were published did not depict children who had been thrown overboard? Was that clear advice you were able to provide, because—

Ms McKenry—I explained to him that the photographs that had been released were photographs which were taken on the 8th—that is, the day that the SIEV had sunk.

Senator FAULKNER—In the interests of assisting the committee, Mr Chairman, I will accede to a colleague.

Senator WEST—Mr Chairman, may I ask some questions?

CHAIR—Yes, Senator West.

Senator WEST—On this list of chronological events for the 7 October 2001 boarding, there is a line which says, ‘1. The following list,’ and it continues on. If you go to the back page, you will see ‘2.’ That is just above the list of things that has been crossed out. That says, ‘A second chronology of the distress signal p.m. 07 October 01 and subsequent tow action, ICOI’—I have no idea what that means.

Senator Hill—But you are going to ask.

Senator WEST—I am going to ask a bigger question than that, Minister. Do you know what ICOI means? There is silence from the minister.

Senator Hill—I have to give it careful consideration. I have to look at it in context.

Senator WEST—The minister does not know, either. The second sentence says, ‘A third detailing the sinking on 08 October 01 will also be prepared.’ Were those two chronologies prepared?

Adm. Barrie—I do not know the answer to that question.

Senator WEST—I would like to have copies of those two chronologies, please.

Adm. Barrie—Is that a question on notice?

Senator WEST—Yes, but I would like the answer as soon as possible. I want to know whether second and third chronologies were prepared.

Adm. Barrie—I cannot answer the question because it was only yesterday that I became aware of this chronology. If there are, we will have a look at them.

Senator WEST—Is anyone else able to advise?

Senator Hill—We will pursue it and get a response as early as possible.

Senator CHRIS EVANS—Minister, even if it is not possible to get the documents, it should be possible for someone to tell us whether they exist.

Senator HOGG—If there were other chronologies, who were the authors?

Senator WEST—Was there a fourth and a fifth chronology, and whatever else?

Adm. Barrie—ICOI is ‘in the course of investigation’.

Senator WEST—Thank you. Has anyone seen those chronologies?

Adm. Barrie—I have a message in front of me here, which has just been given to me. It is not called a chronology, which is interesting, so I cannot say with any authority whether it is the chronology referred to in the first place.

Senator WEST—Was an outline, for want of another word, of the distress signal of the p.m. of 07 and the subsequent tow action ever sent?

Adm. Barrie—The title of this message is, ‘Distress event and subsequent loss at sea.’

Senator WEST—It says ‘A third detailing the sinking on 08 October 01 will also be prepared.’ Is it possible—

Adm. Barrie—We can look for it and if it is there we can provide it.

Senator WEST—I would like it.

Senator CHRIS EVANS—Just so I am clear, this signal refers to two others being prepared. It certainly implies that the second had been prepared and that the third was being

prepared. Could someone in the vast array of officers here today confirm for us whether those messages were created and sent?

Senator WEST—Who created them, and were they sent?

Adm. Barrie—We will look and get that information.

Senator WEST—Is it possible to have that information after dinner?

Adm. Barrie—It may be.

Senator CHRIS EVANS—Admiral, are you telling me that no-one in the room tonight can tell us whether they exist?

Adm. Barrie—I have said that I do not know whether they exist. I have also said to you that I have a message here which has not got a title on it called ‘chronology’. It may be the message referred to. I do not know.

Senator WEST—Where would it have been sent to?

Adm. Barrie—I do not know. How can I answer the question when I do not have the piece of material we are talking about?

Senator CHRIS EVANS—I am sure the committee will give you some indulgence to ask the officer who gave you that document what it is and whether it is the document referred to in the message. That would help progress the situation.

Adm. Barrie—Admiral Ritchie may have a view.

Senator CHRIS EVANS—Admiral Ritchie, I asked Admiral Barrie whether the officer who had handed him this document could help us because he was unsure whether it was the one referred to in the original message. Can you describe the message you handed him, and clarify for us whether it is one of those referred to in the document?

Rear Adm. Ritchie—That message came into my hands this morning along with a copy of the one that has already been tabled. My brief look at it would suggest that it is one of the two that are referred to in the first message. There is no indication in that message as to whether the third was ever received. We can go and find that out.

Senator CHRIS EVANS—Thank you. What is the reference for this second message?

Adm. Barrie—It is an *Adelaide* message of 11 0002 Z October 01.

Senator CHRIS EVANS—That means it was sent on 11 October?

Adm. Barrie—Yes.

Senator CHRIS EVANS—What time was that?

Adm. Barrie—Translating that into our time, it was about 10 o’clock in the morning.

Senator CHRIS EVANS—Who is it addressed to?

Adm. Barrie—This message is addressed for action to the Maritime Commander Australia and to the Commander Joint Task Force 639, and for information to Maritime Headquarters and Commander Task Group 639.0 and Task Group 639.0.

Senator CHRIS EVANS—Is there any reason why that cannot be made available to the committee?

Senator Hill—At the moment it has a restricted classification. It does not immediately strike me that there would be any security issues involved, but I will take advice on that.

Senator CHRIS EVANS—Minister, can you take advice over the dinner break and get back to us when we resume from dinner as to whether it can be made available to the committee?

Senator Hill—It seems to relate to the sinking event. I will seek advice.

Senator CHRIS EVANS—Admiral, you said that the document that you have just identified as the second message from the *Adelaide* did not refer to a third.

Senator Hill—I do not think you should necessarily assume this is the second as referred to in the first. It is the second we have here tonight.

Senator CHRIS EVANS—Yes, I meant it in that context rather than it being necessarily the second that *Adelaide* sent.

Adm. Barrie—I won't tell you something I don't know—

Senator CHRIS EVANS—The document we are referring to does not refer to a further message. Admiral Ritchie, are you able to tell us whether a third message was sent—as referred to in the first one?

Senator Hill—If we cannot get an authoritative answer now, we will pursue it to see whether we can get a more authoritative answer after the dinner break. In the meantime we can go on with something else.

Adm. Barrie—To answer your question, we need to check with the Maritime Commander as to whether his need was satisfied and whether that constitutes what he actually received.

Senator CHRIS EVANS—You will check?

Adm. Barrie—To go back to the original reference, if that satisfies what was intended to be sent there—if that is the Maritime Commander's judgment, that he is satisfied by that—that is what we will advise.

Senator CHRIS EVANS—And you will also be able to confirm whether a third message was sent?

Adm. Barrie—The Maritime Commander might well say to us, 'Look, he said he was going to send two messages; this is one message which does both jobs.' He might say, 'There is a third message' or he might say, 'I was expecting a third message and I didn't get it.'

Senator CHRIS EVANS—Okay, I am just trying to clarify it. I know you had a discussion about messages before with Senator Faulkner, but I want to get a feel for the number of such messages you would expect to get from the *Adelaide*. Are these daily or hourly occurrences, or are they only sent when there has been an event, as a summary?

Adm. Barrie—There is a huge amount of message traffic generated on a daily basis. Each ship has a whole range of messages that are sent. There is a system, of course, for computer management of the message system so that the ones relating to operations et cetera, can be separated from those that purport to logistics, and so on.

Senator CHRIS EVANS—So there is potential for there to have been a whole range of other messages sent from the *Adelaide* that were totally unrelated to this incident?

Adm. Barrie—A great bank of messages.

Senator CHRIS EVANS—Personnel matters and other sorts of things would also be conveyed by message, would they?

Adm. Barrie—Yes.

Senator HOGG—Is there a prioritising of those messages?

Adm. Barrie—Yes. They all have a precedence for handling and management.

Senator HOGG—Right, but are some a higher priority than others?

Adm. Barrie—Yes.

Senator JACINTA COLLINS—There is one other issue that arises out of this signal. Towards the middle of the first page it indicates, ‘Unable to identify master or crew’ and then on the third page, about three-quarters of the way down, it indicates, ‘Steering capability lost on SIEV4. Following investigation it appeared that steering had been sabotaged by SUNCs.’ Other messages might assist us here, so I would like to know at what stage Navy identified the difference between the SUNCs and the crew, if at any stage, to lead to the conclusion that it was the SUNCs, following investigation, who appeared to sabotage the steering.

Senator Hill—As opposed to the crew?

Senator JACINTA COLLINS—Yes.

Senator Hill—That is an obscure question.

Senator JACINTA COLLINS—This signal does not seem to answer my question.

Adm. Barrie—From my understanding, you are asking about the separation of the foreign crew from suspected unlawful people, and how that might relate to that particular report.

Senator JACINTA COLLINS—I am asking how we have moved from being unable to identify who the master and crew are to concluding that it was the SUNCs—

Senator Hill—Does the Navy have any further information on who sabotaged the steering? Is that the question?

Senator JACINTA COLLINS—Yes.

Senator Hill—We will see if we can get an answer on that.

Adm. Barrie—I just did not want you to think that this might be an easy question to answer.

Senator JACINTA COLLINS—No, I am not suggesting that at all, although it might be—Admiral Shackleton is at the table already.

Vice Adm. Shackleton—If you look about a third of the way down page 3, it says, ‘At 0745 GOLF’—which is the time zone—‘Boarding party in control SIEV4. BPO’—which is boarding party officer—‘took charge of a masterless and crewless vessel,’ which means there was not a crew on board.

Senator JACINTA COLLINS—Haven’t the Federal Police already reported that they have jailed, I think, in Perth—

Vice Adm. Shackleton—I do not know, but this message says there is no crew on board.

Senator JACINTA COLLINS—Okay.

Senator Hill—You cannot ask him what the Federal Police is saying—

Senator JACINTA COLLINS—If, after looking at the facts, that is your final position on it, that is fine. We will take that issue up with the Federal Police.

Adm. Barrie—Why I just made the observation I did is that I am aware in these circumstances that who is on board—what nationality, whether they are crew or whether they are these sorts of people—floats around all over the place.

Senator JACINTA COLLINS—The reference that Vice Admiral Shackleton refers to might simply be indicating that no-one is fessing up to being crew, at that point in time.

Adm. Barrie—Yes. It needs to be tested and we will come back with authoritative advice.

Senator CHRIS EVANS—I wanted to ask a couple of questions about progress on the Bushmaster project.

CHAIR—That is good—so we are moving on to Defence outputs, Senator Evans.

Senator CHRIS EVANS—I am sure Defence are aware of some concern about whether the Bushmaster project is going ahead, and about employment in Bendigo. I see there is also something in the paper, I think today, about the potential use overseas. I was more interested at this stage in just an update on—I know they are not referred to in the additional estimates; they were in the original budget papers—

Senator WEST—They are in the annual report.

Senator CHRIS EVANS—Yes. I know they are in the annual report et cetera, but given that there has been some public discussion about what is happening with it—

Senator Hill—If we were going to stick to the additional estimates we would have done something else for the last two days, so we will not make that fine point.

Senator WEST—We are also entitled to ask questions about the annual report, Minister.

Senator CHRIS EVANS—The annual report usually gets you out of most tight fixes.

CHAIR—Anyway, we are ready to go on to capabilities now.

Senator Hill—I think she is technically correct.

Senator WEST—I know it is technically correct. Page 225 in the annual report.

Senator CHRIS EVANS—I really meant that as an introduction to ask someone to give me a brief on where we are with the production of Bushmasters.

Senator Hill—I will respond from the political perspective and then the officials may well be able to fill in with further detail. This is a capability that is required by the Australian Army. It has a long history—it goes back to the time when ADI was in government hands—and it was for the development of what, in effect, was to be a unique vehicle.

The contract has run into significant difficulties, which I think everybody is aware of. From the government's perspective the difficulties relate to the capability of the company to meet the requirements on sustainability, on reliability, on noise and on price. From the government's point of view it is necessary to draw this process to a close. It is necessary, if we are going to continue in contract with the ADI, to actually get to the production of vehicles—because, of course, the production of vehicles has not started. There were several prototypes developed but production has not started because the company has not been able to meet the required standards.

There has been a process of negotiation with the company to determine whether it would be possible to agree to changes to the contract in terms of the number of vehicles and certain other characteristics to address the problem of price, and also whether the government would be prepared to accept some modification of some of the previously contracted specifications.

Those negotiations have not reached a final conclusion, but I have been advised they are well advanced. Officials tell me—and ADI tells me, in my discussions with them—they are confident that an amended contract can be reached. If that can occur, and if the vehicles can be produced within a reasonable time frame, the government is anxious that that should be the outcome.

I have said to officials that this project cannot simply be allowed to continue to roll along without a satisfactory outcome being achieved. So I am taking a personal interest in the issue, and I have said that officials have to give me a firm time line. If agreement cannot be reached within that time line, then the government has to look at what are then the appropriate actions that it should take.

Senator CHRIS EVANS—Sorry, I did not quite understand the reference to the number of vehicles. Your concerns seem to go to questions of capability, noise and performance. I did not quite understand why the number of vehicles would impact on those debates.

Senator Hill—ADI has said that it cannot, on reflection, produce the vehicles for the contracted price. The project obviously has a budget and, in consultation with Army, there has been a willingness, to some extent, to reduce the number of vehicles. General Cosgrove can give you the military perspective on this, but I think he would say that the absolute minimum number of vehicles necessary would be 300. That becomes relevant in trying to find a negotiated settlement that can enable the capability to be provided to Army within the budgeted price.

Senator CHRIS EVANS—I understand the original contract was for 341—is that right?

Senator Hill—I think originally it was hoped that just over 370 would be produced. Then it came back to 340 and, for the purposes of discussion with ADI, numbers as low as 300 have been raised.

Senator CHRIS EVANS—Have you received a time line as yet from the department about that matter?

Senator Hill—Not as firm as I would like, but it seems to me that it has really got to be resolved within the next couple of months. I have been told as late as this morning that I am going to get that firm time line.

Senator HOGG—How many original tenderers were there for the project?

Senator Hill—That goes back a long way.

Senator HOGG—I understand that, Minister.

Senator Hill—I remember reading about the history of it but there may be somebody who has got more detailed knowledge than I.

Mr Roche—We do not have the exact details with us, but my memory is that there were about five or six originally in the bidding and then two vehicles were trialled against each other.

Senator HOGG—The reason I raise that is, if this cannot be resolved with ADI, the department does not have the intention to go back and look at previous tenderers. The intention is to resolve it with ADI?

Senator Hill—The intention is to make every effort to resolve it, but those intentions have been there for a long time and what I have said is that it cannot be allowed to continue indefinitely.

Senator CHRIS EVANS—But you do remain committed to the Bushmaster at this stage, to try to resolve those difficulties.

Senator Hill—We are trying to resolve it within the concept of the Bushmaster.

Senator CHRIS EVANS—So you are not in the position of looking at other vehicles as a replacement?

Senator Hill—Not at this time, but if we are not going to be able to resolve it with ADI then we will have to look at other alternatives. From what I understand, the other alternatives are not easy either, in terms of price and capability—but we are not looking at those alternatives at the moment.

Senator HOGG—Will this prompt a review of the tender process, given the difficulties that this particular project has run into?

Senator Hill—We would like to say that the processes have been significantly improved since the time of this exercise. This one was complicated, I understand, by the unusual circumstance of the sale of ADI in the middle of it all.

Senator HOGG—That does not answer my question. I understand that things have moved on. Will there be a review?

Senator Hill—Sorry. The answer I was trying to give was that the review has already taken place and we believe the tender processes that we are implementing at the moment are more efficient. We are also seeking to avoid the development of these unique products with all the sustainability and other related issues.

Mr Roche—Senator, the different approach that you are looking for to tendering for this sort of equipment is the whole point of the acquisition reform program that we have been embarked on for the last 2½ years. Hopefully, we are seeing some results come out of that.

Senator Hill—The first big test would have been the Eurocopter. Although not everybody was happy with the outcome there, I think Mr Roche would say it was a much more efficient process. I guess the next big test will be the patrol boat process.

Senator CHRIS EVANS—Mr Chairman, I am happy to move on to the Super Seasprite helicopters.

CHAIR—Very good indeed. An expert on Super Seasprites.

Mr Roche—I know more about Super Seasprites than I wish to know.

CHAIR—You are the right man in the right position, because this is your area.

Senator CHRIS EVANS—I am not sure whether I should welcome that or not.

Senator Hill—Our version of the Super Seasprite is also a unique animal. What was the question?

Senator CHRIS EVANS—Basically, I was perplexed. I see in the additional budget statement that the total budget is \$1,017 million, and that \$696 million of this was spent to June 2001, with another \$84 million to be spent this year. But then the additional budget statement indicates the project is running three years late, and the first helicopter is not expected until August 2004. I was wondering why we had spent all the money, and we had not got the helicopter yet. I was just trying to understand why that was. I understand the note in the additional estimates, which goes to the difficulties with the supplier et cetera. But I am

trying to understand the financial statements as to why we basically will have paid close to 80 per cent of the contract, with the delivery of the first helicopter still two years away.

Mr Roche—Put bluntly, the contract is not the sort of contract that we would wish to draw up these days. The prime contractor has been left with a major subcontractor who walked from a contract to deliver the mission control system. That has posed enormous difficulties for them and it has taken them considerable time to find a replacement contractor. In the meantime, the progress payment arrangements that were in the contract meant that we were legally obliged to pay as various progress points were reached. The physical helicopter does in fact exist. I think that six copies of it, as I recall, are down at Nowra now, in the Kaman facility down there. They are useable as utility helicopters, but they are not useable for the original purpose for which they were bought.

Senator Hill—How many?

Air Vice Marshal Conroy—I think we have six, minister. They are physically being delivered, at Nowra, but they are not accepted by us.

Mr Roche—That is our decision, that we not use them. At this stage, the company is in breach of its contract, in our view. If we were to use them there would be, I think, a view about maybe constructive acceptance of the aircraft. It is the DMO view that the helicopters not be accepted at this stage, because they are not fit for the original purpose. We are concerned that we may prejudice our legal remedies if we go ahead and use these helicopters as utility helicopters. We have not ruled out the possibility of significant legal action here.

Senator CHRIS EVANS—I accept that you are being very frank about that with us. But, let me understand this: you told me that we paid 80 per cent of the total costs, in project payments, without getting anything that is useable. I have a duty to ask you—you said you would not like to that this way again, but clearly Defence has been in the business of purchasing for a long time—was the contract structured so that we had to pay without any performance criteria set against the contractor?

Air Vice Marshal Conroy—From memory, the contract is for 50 per cent earned value and 50 per cent milestone payments. The aircraft are built and they are in the process of being delivered; they physically exist. Their software is capable of what we call the utility role: flying around the place and training. Potentially it is possible for them even to do ship trials, but the radar is not integrated, the Link 11 datalink is not integrated and the missile is not integrated. These are the software capabilities that the original software subcontractor defaulted on us with. So what we have is a utility helicopter, but not an operational vehicle. The software subcontractor has been removed from the contract, and the prime contractor—and it is his responsibility to fix this up—has engaged two other software development companies, one of which is Australian. They are now under contract and they are now proceeding to develop the operational capability of the helicopter. Last week I had the branch head and the project director in the US doing a review of how things are going. For the moment, we would have to say that things are relatively promising in comparison to the performance of the previous software subcontractors.

Senator CHRIS EVANS—Mr Roche, you talked about the contractor being in breach of your agreement. What is the status of that? Are you prosecuting a breach in the courts or are you seeking a settlement on costs? You seem to be saying that it is awfully bad luck that the contractor went broke but we will pay them the money anyway. Quite frankly, it is an awful lot of money and, generally, we are not that generous in contractual negotiations. I am trying

to understand what action we are taking to protect the Commonwealth from this unfortunate event.

Mr Roche—Senator, it is obviously a less than desirable position to be in. We believe that we will get the helicopters and that they will be serviceable and useful. That is the work that has been going on with the new software contractor. The alternative of starting again is one that would add an enormous amount of time to the process. Our judgment is that we are more likely to get a result this way, rather than by basically suing the company and effectively terminating the contract. We are watching the company's financial viability very closely. We believe at this stage that the Commonwealth should eventually get the helicopters, albeit very late, but without any particular growth in costs.

Senator CHRIS EVANS—I was going to come to that. What does this mean for costs? Are we still purchasing 11?

Mr Roche—Yes.

Senator CHRIS EVANS—You have had six delivered, but you are not able to use them, or you have decided not to commission them, is that right?

Mr Roche—I have decided not to accept them. I will not accept them until I have confidence that the company will be able to deliver them with the mission control system.

Senator Hill—Was the contract 11 or 14?

Air Vice Marshal Conroy—The original requirement was for 14 but, when we got the tenders in, we found that the budget would only afford 11.

Senator Hill—So the contract is for 11.

Air Vice Marshal Conroy—The contract is for 11.

Senator CHRIS EVANS—Perhaps I could get an update. What are the implications now for costs and delivery? When are we going to see them and what does this mean for the cost position?

Air Vice Marshal Conroy—The delivery, on current schedules, will make the project 3½ years late.

Senator CHRIS EVANS—So that means they will be commissioned when?

Air Vice Marshal Conroy—I think December 2004.

Senator CHRIS EVANS—Is that for all of them or just the first one?

Air Vice Marshal Conroy—That is when we will accept them into service. I will have to check that date for you, Senator; I have it in some other documents. But December 2004, and that makes them 3½ years late. They should have been accepted into service in August 2001. As for the cost growth, we have a fixed-price contract. It has cost the contractor in a legal settlement with the defaulting software subcontractor. They have not passed, and they are not able to pass, those costs on to us.

Senator CHRIS EVANS—What do you mean it cost them with the subcontractor? They lost their case?

Air Vice Marshal Conroy—They came to a settlement. They have not disclosed the settlement, except to tell me that it has cost them money. They have reassured me that they are still committed to the project.

Senator CHRIS EVANS—Who is the contractor?

Air Vice Marshal Conroy—It is Kaman Aerospace International Corporation. They have not served on me any formal claims for a cost increase, nor would I suspect that they have grounds to do so.

Senator CHRIS EVANS—I would not think they would want to. On my calculation, we have paid them 80 per cent of the contract already, haven't we?

Air Vice Marshal Conroy—That is the nature of a milestone and earned value contract. Otherwise, it would cost us more. If we did not give them those progressive payments, they would have to borrow that money from a financial institution and they would just pass the costs onto us if we paid at the very end.

Senator CHRIS EVANS—While I am all very sympathetic to them, but you have a project that is that is 3½ years late, and we have paid them in advance. I am not a financial expert, but I would have thought we are carrying a bit of the burden, aren't we?

Mr Roche—It is fairly standard for Defence projects, Senator. We have done the same thing for ADI with the Bushmaster.

Senator Hill—That is not a good example!

Mr Roche—I know.

Senator CHRIS EVANS—You might want to rethink that! I know it might be fairly standard to have a fixed contract, but this is where someone does not deliver their side of the bargain. What you are saying to me is, we pay them, even if they do not deliver. I guess what I am trying to explore with you is what penalties are on them for failing to deliver.

Senator Hill—The other five helicopters are in our possession in the States?

Air Vice Marshal Conroy—No, they are in the contractor's possession. And the helicopters that are here in Australia are in the contractor's possession as well.

Senator Hill—Senator Evans might prefer to have the other five in Australia as well.

Senator CHRIS EVANS—Mr Roche's advice seems to be perfectly sensible to me, that he is not taking possession of them if they have not delivered what he has paid them for. I am just a bit concerned about us having paid them an advance and we are still waiting for the delivery of the goods. I suppose I was getting to the point of what financial penalties are there and what incentive is there for them to actually meet the contract.

Air Vice Marshal Conroy—Unfortunately, and it was well before our time of course, this contract did not contain any liquidated damages clauses. Where there have been other contracts that were late, we have exercised liquidated damages, but this contract did not have them.

Senator CHRIS EVANS—So there is no provision in the contract for you to take action against the contractor for late delivery or failure to deliver according to specifications?

Mr Roche—The normal contract law remedies, and that is precisely what we are looking at. But there are no liquidated damages per se, and it is simply a fact of Defence contracting that you are required to make progress payments and advance payments. If you do not get the mix of earned value and milestones exactly right—and I think we are getting a lot more subtle in the way we apply that; we are stopping people opening multiple packages under earned value—then you will have a fairly large amount outstanding of Commonwealth monies paid over. The alternative, if you do not do that, will be a significant mark-up in the price.

Senator CHRIS EVANS—I accept that, Mr Roche, but a contract is when both sides of the contract meet their obligations. I accept what you say about the normal contract, but what concerns me is the suggestion, which you put to me and which is reflected in your Budget statements, that they have not met their side of the bargain but we have let them keep the money anyway. And we go on paying them when they do not deliver on the goods. That seems to me an extraordinary proposition.

Mr Roche—No, we are looking at our legal remedies but the reality is that, in the absence of liquidated damages, the only remedy I have is to proceed against them for breach of contract. A possible outcome of that is that we may end up with substantial financial damages or we may be able to get our money back, but we will not end up with the helicopters and will have to start again. That is the dilemma we are in. We believe, at this stage that it is better to plug on. We have a fairly clear plan emerging of how they are going to handle the software deficiencies and, as I said earlier, while it is not ideal, it will deliver the helicopters faster than we can get them any other way.

Senator WEST—When does the cut-off point come? When do you cut your losses and say, ‘This is not being cost effective.’ Well, it is certainly not that, but there comes a time, surely, when you reach the point of no return where you are not going to get the helicopters in a reasonable time and all the systems that you have contracted for are way beyond obsolescence. When does that happen? When does the time come when you say, ‘Thus far and no further’?

Mr Roche—The critical point for us I think on this one was when Litton Systems withdrew as a major subcontractor. That was the point at which we lost all confidence, under the current arrangements, for the company to deliver the goods. It was at that stage that we started having some very serious discussions with them against the background of potential legal action on our part.

Senator HOGG—If I heard correctly, I understand that the issue of software is one of the major stumbling blocks, is that correct?

Mr Roche—It is pretty much the critical stumbling block.

Senator HOGG—Are you dealing with software that is being developed from the ground up or are you dealing with off-the-shelf software that is being modified to suit your particular needs? I have some fears I must express to you: if it is being developed from the ground up then the project may end up in more difficulties because some of these software developers sometimes have a history of not being able to develop, particularly in the military area, on time.

Mr Roche—The software is, unfortunately, unique. As the minister said earlier, the helicopter is a one-off for Australia. I share your concern about software and that is one of the things that we are changing in the DMO. We are putting a great deal of emphasis on more senior level understanding of software, software architecture and so on. We have put an enormous amount of effort into quality assurance and quality assessment of Computer Sciences Corporation Australia, who are taking over this subcontract. We believe, to the extent possible, that the company has the capability to actually deliver the product. That has been concluded following a pretty intensive examination, including with independent people.

Senator HOGG—I accept what you are saying, but my concern goes also to my encounter with the Jindalee project and the difficulties that were encountered there. I am sure that your difficulties are probably not of that proportion but nonetheless you have difficulties. What

point in time have you set yourself to make an assessment as to whether or not the software development has met at least a stage that you are satisfied with, or, if it has not reached that stage, that you will need to reassess the project in its entirety?

Mr Roche—Part and parcel of our agreeing to let this contract proceed—because we have to agree the change of major subcontractor—is conditional on us having full visibility of the software project and in particular of the software architecture, the development program and the testing program, and we are doing that.

Senator HOGG—Are you receiving ongoing reports on a monthly or a quarterly basis?

Mr Roche—As the software gets underway we are getting regular reports on a milestone basis. We understand the architecture and we understand what the testing program is. Alarm bells will start going off—

Senator HOGG—So you have your own internal assessment program—

Mr Roche—Yes.

Senator HOGG—which is saying that this is now progressing. Are they on a monthly or a bi-monthly reporting basis?

Air Vice Marshal Conroy—Our project teams have put in place an arrangement whereby the metrics of how this software development is going are being reported to them by the new developers, and they are far more sophisticated and competent than the previous ones. On top of that, in this financial year alone, we have programmed two formal review points: a software specification review, which is a specification review of these outstanding builds, on 15 March; and a preliminary design review, which is a total design review, on 30 May. Both of those have milestone payments attached of \$2 million each. So the payments are not made, unless the company fronts up with a totally satisfactory response to those formal reviews.

Senator CHRIS EVANS—But currently you have paid all the milestone payments as they have fallen due?

Air Vice Marshal Conroy—No, we have not. We ceased earned value payments to the Litton Corporation some 18 months ago. We have not been paying their bills at all.

Senator CHRIS EVANS—What is the \$80 million-odd in this year's budget for then?

Air Vice Marshal Conroy—That is assuming that success and progress are going to be made in accordance with our restructured schedule.

Senator CHRIS EVANS—You would pay them another \$84 million this year on more milestone payments. Is that right?

Air Vice Marshal Conroy—Are we talking about 2002-03, the forthcoming year? I have about \$18 million to be paid out this year. Most of those would be milestones to do with the physical construction of the aircraft.

Senator HOGG—Did you say \$18 million?

Air Vice Marshal Conroy—That is \$18 million outstanding. It must be 18 of that number that you have.

Senator HOGG—Eighteen million?

Air Vice Marshal Conroy—Yes.

Senator HOGG—You have mentioned two lots of two: on 15 March, and then again in May—the date eluded me.

Air Vice Marshal Conroy—May 30, yes.

Senator HOGG—So that is four of the 18. Have you already paid out 14 of that 18—

Air Vice Marshal Conroy—No.

Senator HOGG—or are there further payments after May?

Air Vice Marshal Conroy—The 84 is the total. Of that, 18 has yet to be paid, and they will either have to present earned value reports or achieve milestones in the physical construction of the aeroplanes or in the development of the software. They all have a restruct schedule and a restruct payment schedule to them.

Senator HOGG—That is 80, though, isn't it—84 million?

Air Vice Marshal Conroy—Yes, 84.

Senator HOGG—I was just confused. I thought you said 18 as opposed to 80, a further 80.

Air Vice Marshal Conroy—I have yet to pay them 18 of the 84 that we budgeted.

Senator CHRIS EVANS—Could you take on notice for me then, Air Vice-Marshal, to provide the committee with a list of payments made in relation to this contract, their dates and the anticipated payments and the dates on which they fall due, in relation to this contract?

Air Vice Marshal Conroy—I can provide you with a restruct schedule.

Senator CHRIS EVANS—Thank you.

Senator HOGG—And what the milestones are?

Air Vice Marshal Conroy—Yes.

Senator CHRIS EVANS—Mr Roach, you indicated some confidence that things were now back on track. I notice that the audit report of 21 January this year recorded 'not known' against the Seasprite helicopter acquisition under the headings of both 'Provisional acceptance date' and 'Planned acceptance into naval service date'. Is that an indication of the fact that they do not share your confidence or that there has been a change in the position since then?

Mr Roche—I do not think 'confidence' is a word that I would want to use too freely on this project.

Senator CHRIS EVANS—You are getting better at caveats than the minister.

Mr Roche—No, I think it probably just reflects the fact that, at that stage, we had not struck an agreement with the software subcontractor. That happened when?

Air Vice Marshal Conroy—That happened only recently.

Mr Roche—I think it happened after the audit. Until we had an agreement with the major subcontractor, in my view, we did not have a project date.

Senator CHRIS EVANS—While we are on the Seasprite, can I ask what is meant when you state that 'an in-service centre has been commissioned'? Is it that, prior to that, you have commissioned the service centre but you have not got the helicopters to service, as it were?

Air Vice Marshal Conroy—The in-service support centre is located at Albatross Aviation Technology Park, which is across the other side of the airfield to Naval Air Station, Nowra. It was opened on 29 September 1999. It is being readied to support the aircraft when it is accepted into service, and it will be fully operational by mid-this year. It is part of the projects; it has proceeded pretty close to schedule. We have outsourced the in-service support of this aircraft, and this is the facility in which the activity will be done.

Senator CHRIS EVANS—When you say that it has been commissioned, does that mean it is being staffed currently?

Air Vice Marshal Conroy—The contractors have ‘a staff’ there.

Senator CHRIS EVANS—What are they doing?

Air Vice Marshal Conroy—They are not charging me for it. They are preparing; they are sort of winding up for the start of operations.

Senator WEST—They are not very busy?

Air Vice Marshal Conroy—Not at the moment, but they have aspirations that we will allow them to start flying the aircraft in its utility configuration reasonably soon.

Senator WEST—I think it is pretty fair to say that we all have aspirations about what might happen, but—

Senator CHRIS EVANS—Let me get this clear: the centre is yours, is it not?

Air Vice Marshal Conroy—No, it belongs to Kaman, the company.

Senator CHRIS EVANS—It belongs to?

Air Vice Marshal Conroy—Kaman Aerospace.

Senator CHRIS EVANS—So they actually own the centre.

Air Vice Marshal Conroy—Yes.

Senator CHRIS EVANS—Is it on RAAF land, or is it just across the road?

Air Vice Marshal Conroy—It is across the road in the Albatross Aviation Technology Park, and I think—and I would have to check this—the local council provided incentives to build that.

Senator CHRIS EVANS—So you do not own the building, and the responsibility for the in-service centre staffing and costs is borne by the contractor?

Air Vice Marshal Conroy—That is correct, yes.

Senator CHRIS EVANS—So, as part of their contract, they have to provide this in-service centre?

Air Vice Marshal Conroy—Yes.

Senator CHRIS EVANS—So there is no Defence assets or costs associated with that operation?

Air Vice Marshal Conroy—If there are, they are minimal. I checked with my branch head a couple of days ago, and he assured me that that was the case—that we were not funding this at this stage.

Senator CHRIS EVANS—They are trying to pressure you to take acceptance of the helicopters as soon as possible, are they? Can I take that from what you said, Mr Roach?

Mr Roche—Yes, they are pressing us to take delivery of the helicopters for a variety of reasons. I guess that we can make use of the helicopters in the utility form, but not for four years. There is some merit in taking them earlier, and then we have the full capability. But I think the point at which I am confident that they will deliver and there will be a benefit in getting them into service early might probably coincide, and it will be later.

Senator HOGG—In the service centre, whilst it is run by an outside contractor, are there any service personnel implanted into the operation, as such, or attached to the operation?

Air Vice Marshal Conroy—I would have to check that.

Senator HOGG—In a liaison capacity?

Air Vice Marshal Conroy—I think it likely.

Senator HOGG—I think it would be likely too. I just wonder whether the cost of that personnel serving inside is being borne by the contractor, or is that still a Defence cost?

Air Vice Marshal Conroy—That would be a Defence cost.

Senator HOGG—I would expect so. How many Defence personnel are implanted in that operation? You obviously do not have the answer and so, if you would take that on notice, I would be pleased to get the answer.

Air Vice Marshal Conroy—But I do know that the Navy, for its own ‘members required in uniform’ purposes, does have uniformed people implanted with British Aerospace, BAE Systems Australia, which are doing a maintenance contract for the other naval aircraft on our side of the airfield. So it is fairly typical that they do that.

Senator HOGG—That is why I am asking.

Senator CHRIS EVANS—Mr Chairman, perhaps I can assist the committee and the officers present by indicating the sorts of areas that I still have to cover.

CHAIR—If you could give an indication, and that would be good.

Senator CHRIS EVANS—There are a couple of other capital project issues, but I think I will put those on notice because they are very short. That will allow people associated with capital projects to leave. I can only speak for myself. I will do that, and then other senators might indicate what they want to do. I have a number of questions on outputs. But at this stage I do not have any for output 4, Air Force, or output 5, strategic policy. I would like to do Intelligence and DSD at 6. I also have some personnel issues, but I think we will end up putting those on notice, given the time constraints. I am really interested in doing operations and Navy and Army and, under intelligence, having a bit of a chat with the DSD. That is my indication. As I say, other senators may have other issues.

Senator HOGG—Minister, I want to ask questions on the patrol boat tenders. I understand that there is landing craft and platform tenders for the *Manoora* and *Kanimbla*. Is that correct? I want to ask about that project. I want to ask about East Timor; I want an assessment on where we are at with our forces in East Timor and into the future. I have a little bit about recruitment and retention.

Senator Hill—Senator Evans said ‘operations’, which I assume includes East Timor?

Senator HOGG—Yes.

Senator Hill—We will keep general operations people here.

Senator HOGG—The other issue that I am interested in is DIDS. I want an update on DIDS.

Senator WEST—I want some security and intelligence vetting of personnel.

Senator Hill—Yes, we will keep the intelligence people. In personnel, I want an update on the separation figures broken down. It might have to go on notice, but I would like a breakdown of separation figures by force and reserves, full-time, but a breakdown of separation figures on gender as well. It would be a follow-on of some of those the Admiral was giving us before.

CHAIR—It has been indicated that the personnel people will remain.

Senator HOGG—There is one other issue, and I do not know whether any of the personnel involved are covered by those already indicated as being needed. From the annual report, I have a couple of brief questions about the external consultants and the advertising and marketing research that appears. It may well end up that, as a result of my questions, they will have to be taken on notice. But I will not know that until I get to ask the questions.

Senator Hill—It is administration, basically, consultants. Do we have somebody here on consultants?

Mr Roche—Particularly those on advertising and marketing that you want to talk about?

Senator HOGG—I just want to go through some of the figures here. They are not very conclusive.

Senator Hill—We have somebody. I think that means that two people can go home.

Senator CHRIS EVANS—I think that means that Air Force gets out lightly, as perhaps does strategic policy.

Proceedings suspended from 6.32 p.m. to 7.36 p.m.

CHAIR—I declare the meeting reopened. There was a matter that was raised by Senator West during the afternoon on Sandline. Dr Brabin-Smith is able to answer that now, so we might take that now before we continue.

Dr Brabin-Smith—I have been able to get some information on the matter that you raised, Senator West. Let me first say that the Sandline matter is not exactly a current issue, it is an old issue, and my staff are of the view that the journalist concerned—

Senator Hill—Why don't we just answer the questions that have been asked. We do not want a history, we do not want to talk about journalist. There was a series of questions. What are the answers?

Dr Brabin-Smith—What exactly happened with the sale of the helicopters was that the two MI8 helicopters were sold and exported from Australia, with the associated spare parts.

Senator Hill—Who got the proceeds?

Dr Brabin-Smith—Sandline and, I dare say, its agent.

Senator Hill—What happened to the ammunition clips?

Dr Brabin-Smith—The ammunition clips, which I think are more appropriately called ammunition links, are, as best I am aware, at Tindal—25 boxes of them. They were moved from one part of the airfield to another by the Air Force at the request of the Customs Service.

Senator Hill—What is happening with the two remaining aircraft?

Dr Brabin-Smith—They are still at Tindal in a building which the Air Force does not have a need to have access to.

Senator Hill—What is going to happen to them?

Dr Brabin-Smith—That is not clear, Minister. I have asked my staff to get back to me on what they think the options would be for the MI24s.

Senator Hill—Was the ammunition destroyed?

Dr Brabin-Smith—The ammunition was destroyed.

Senator Hill—Does that cover the questions?

CHAIR—Any further questions, Senator West, or are you happy?

Senator WEST—That covers the questions.

CHAIR—Thank you, Dr Brabin-Smith.

Adm. Barrie—Mr Chairman, I have a couple of amplifying things to read into *Hansard* as well. We were asked earlier whether there had been any contact made by ministers, ministers' staffs and the Secretary of PM and C with certain ships. I am now in receipt of advice from *Arunta*, *Westralia*, *Newcastle* and *Manoora*. With the exception of *Manoora*, there was no contact with any of the other ships. I should just read into a record the advice from *Manoora*:

Prime Minister Howard forwarded a letter addressed personally to myself as commanding officer, dated 11 October, with respect to our tasking from Christmas Island to Nauru in the weeks during September-October 01. A letter arrived on board during the third week of October. Prime Minister Howard's letter was also faxed to the ship on 12 October alongside in Sydney. Prime Minister Howard's fax was preceded by telephone calls from Commander Steffan King in PM&C and also a Mr Brendan Hammer, PM&C, on or about 11 October informing me that a fax would be forthcoming and requesting a fax contact to forward the same. The subject fax arrived on board on 12 October. Minister Reith also forwarded a letter addressed personally to myself as commanding officer, dated 5 October, with respect to our then tasking which arrived in the post on board *Manoora* also during the third week of October 01.

CHAIR—Thank you, Admiral.

Adm. Barrie—Secondly, questions were asked of Colonel Bornholt yesterday, I think. Firstly, the question: who was the contact in Strategic Command who conveyed the information to PACC staff that there was no evidence of women and children in the water? The answer is: the watchkeeper, Captain Bielenberg of the Australian Regular Army. The second question is: on what date did Brigadier Bornholt provide his written submission to General Powell? The answer is: on 6 December 2001.

CHAIR—Thank you, Admiral. Senator Hogg, were you going on to defence outputs now—output 1, defence operations?

Senator HOGG—No. As part of that overview, seeing we were covering a few capital projects, I was just going to cover the two that I raised. Mr Roche indicated that we would get answers.

CHAIR—Fire away.

Senator HOGG—The first question I want to pursue is in respect of the replacement for the patrol boats. Has there been an RFT in respect of the replacement?

Rear Adm. Scarce—There has. It was released in October last year.

Senator HOGG—And has that now closed?

Rear Adm. Scarce—It has.

Senator HOGG—When, roughly, did it close?

Rear Adm. Scarce—In the middle of November.

Senator HOGG—How many tenderers were there?

Rear Adm. Scarce—There were nine.

Senator HOGG—Were they all different tenderers or did some tenderers put in multiple tenders?

Rear Adm. Scarce—Some tenderers put in multiple tenders, but there were nine separate tenderers.

Senator HOGG—Has there been a short-listing of the tenderers at this stage?

Rear Adm. Scarce—No.

Senator HOGG—When will there be a short-listing of the tenderers?

Rear Adm. Scarce—Within the next two months.

Senator HOGG—Is there a specific cut-off date in mind that has been indicated to the tenderers?

Rear Adm. Scarce—There is no specific cut-off date to the tenderers at this stage.

Senator HOGG—So it is expected within two months. How many will be short-listed?

Rear Adm. Scarce—Hopefully, two to three.

Senator HOGG—When you say two to three, do you mean two to three tenders or tenderers?

Rear Adm. Scarce—Tenderers, but the first part of the process—

Senator HOGG—It could well be that a tenderer who is short-listed may still have two tenders in the pipeline?

Rear Adm. Scarce—Our plan is that we will make a presentation to government for either PFI or the traditional approach for the patrol boats, have that approved and then move to a short-listing.

Senator HOGG—Clarify that for me. When will that process cease? Is that the two months?

Rear Adm. Scarce—We expect to complete a short-listing of tenderers in the next two months.

Senator HOGG—Are you going to have that process with government—where they determine whether it is the traditional process or the private financing arrangement—determined before the two months is up?

Rear Adm. Scarce—That is correct.

Senator HOGG—Is there any intention, when you have short-listed, to have the successful tenderers on the shortlist mix and match, or will they be asked to stick strictly to their own original tender?

Rear Adm. Scarce—We plan to have the tenderers put forward their individual proposal—either PFI or traditional—only, in the shortlist.

Senator HOGG—But Defence will not sit back and try to pick the eyes out of the three best tenderers, and then ask those tenderers to resubmit tenders based on—

Rear Adm. Scarce—That is not our intent. No, we will stick with the tenders put forward.

Senator HOGG—Given that you are going to short-list within two months, when do you believe you will have finalised the selection of the successful tenderer?

Rear Adm. Scarce—Before the end of 2002.

Senator HOGG—Within the tender process, is there any specification on a requirement for Australian content, whether it be in terms of the hull, the infrastructure of the boat or the software and the like?

Rear Adm. Scarce—There is specification for AII. Off the top of my head I do not have it, but I will get back to you with that.

Senator HOGG—All right, take that on notice. The other thing is, if you are looking at a finalisation of the tender process by the end of 2002, when would you be looking at the commencement of the project?

Rear Adm. Scarce—In the first quarter of 2003.

Senator HOGG—With finalisation over what period of time?

Rear Adm. Scarce—We would hope to deliver the first boat near the end of 2004.

Senator HOGG—How does that impact on the existing craft? Will any of them need to have their lives extended to meet that timeframe?

Rear Adm. Scarce—The current state of Fremantle class patrol boats is being reviewed at this stage. The principal concern is the life of the hull. There will be vessels that are in a poor hull state, and we will be looking to take those vessels out of service first.

Senator HOGG—I saw something recently where some of these boats were going to be onsold or donated to near neighbours. Is that correct, or is that speculation?

Rear Adm. Scarce—I think that is speculation.

Senator HOGG—At this stage, what will be the fate of these boats, upon decommissioning?

Rear Adm. Scarce—They will be put into the disposal process and offered up for sale.

Senator HOGG—Some of them might not be fit to be sold, because of the hull problems, is that correct?

Rear Adm. Scarce—I am sure that will be the case.

Senator HOGG—Thank you very much for that. I will get an update, obviously, later in the year. How many boats are being looked at?

Rear Adm. Scarce—That depends on the tender, as we have not specified the number of boats in the RFP. We have asked tenderers to put forward proposals, having identified the areas that we want to survey and the number of days that we would want sea service.

Senator HOGG—Do you have a range, though—say, of between 15 and 20 boats—that you are looking at? Have you been able to give the tenderers some indication?

Rear Adm. Scarce—No, I have deliberately not given them an indication, because I would like to see what their view is on the number of vessels. We will model that with DSDO to make sure we can provide the concurrency in the number of days service at sea that we need.

Senator HOGG—Turning to the *Manoora* and *Kanimbla* for a moment, I understand there is a project to build landing craft, is that correct?

Rear Adm. Scarce—Amphibious water craft—that is correct.

Senator HOGG—That project is well under way, I understand.

Rear Adm. Scarce—It is.

Senator HOGG—Was there a tender process?

Rear Adm. Scarce—There was.

Senator HOGG—Can you recall how many tenderers there were?

Rear Adm. Scarce—I think it was in the region of 10, but I would need to confirm that.

Senator HOGG—That is not overly important to me, so do not pursue it any further. If there were 10, I presume there was a short list. What did the short list get down to?

Rear Adm. Scarce—No, we did not need to short-list in that particular activity. It was a \$50 million project. We ran an assessment, over two months, of the 10 proposals put forward.

Senator HOGG—There was no short-listing process.

Rear Adm. Scarce—No.

Senator HOGG—Was there any process during that tender process where, seeing you did not have a short list, you went back and asked tenderers to modify their tenders to suit certain specifications and certain needs that were not satisfactorily addressed in the tender process?

Rear Adm. Scarce—In all of these solicitations, we would go back and ask clarifying questions where the tenderer had not specifically answered the questions in the RFP. It does not require them to modify their proposals, it is merely a clarification process so that we can assess what has been put before us.

Senator HOGG—On what basis did the successful tenderer win the tender?

Rear Adm. Scarce—He was assessed by a group of Army, Navy and DMO personnel on the basis of the requirement and how that particular company would meet that requirement.

Senator HOGG—Was that related to the rate of movement of equipment from the *Manoora* and the *Kanimbla*?

Rear Adm. Scarce—Yes. Our requirement was expressed in terms of unloading and loading from the *Manoora* to ashore. We were seeking a 30 per cent improvement on the current LCM8s and the requirement in the RFP was expressed in those terms.

Senator HOGG—To achieve that, I understand there was a fairly innovative idea in the sense that there were platforms to be extended at the end of the *Manoora* and the *Kanimbla*. Is that correct?

Rear Adm. Scarce—There was one proposal that had a platform to interface between the stern of the LPAs and the bow of the landing craft, or the amphibious water craft.

Senator HOGG—Was that part of the successful tender?

Rear Adm. Scarce—It was.

Senator HOGG—Is it still part of the tender?

Rear Adm. Scarce—It is.

Senator HOGG—Has that part of the tender run into any difficulties in terms of proving itself to be a successful means of disembarking the equipment to go ashore?

Rear Adm. Scarce—It is an innovative solution and we are hydrodynamically testing that now.

Senator HOGG—When will that testing finish?

Rear Adm. Scarce—I think within the next two months.

Senator HOGG—If that test proves to be unsuccessful, will that have disadvantaged any of the other tenderers who may well have been in the tender process, seeing that this may well have given the particular successful tenderer at this stage a technical advantage?

Rear Adm. Scarce—The bid was successful because of its loading and unloading characteristics and the speed at which it could unload and load from the LPA. It offered better value for money in terms of through-life support, and its shallow draught enabled it to have a better beaching capability. I do not believe that the marriage of the stern to the bow was a predominant feature of the success of this particular bid.

Senator HOGG—I am just seeking some assurance that this is not going to be the determining factor over which the successful tenderer was successful against the others, and then find that the platform on which they are to be transferred does not pass all the tests that you require for stability and security in unloading the various vehicles.

Rear Adm. Scarce—If this is not successful—and that is why we are hydrodynamically testing it now—we would have a marriage similar to the other nine tenderers. I do not believe that, should we need to change that marriage, any of the other tenderers will be disadvantaged. The value for money that won the particular contractor was his ability to discourse the cargo, the supply support associated with that particular proposal and the through-life costs.

Senator HOGG—When will that test be completed?

Rear Adm. Scarce—In two months, I understand.

Senator HOGG—Obviously, then, at the June estimates, if I come back to you on this, you will be prepared to answer questions for me?

Rear Adm. Scarce—I will.

Senator HOGG—How many of those watercraft are going to be constructed as part of this project?

Rear Adm. Scarce—Five.

Senator HOGG—Is this the time to do DIDS? You are not DIDS as well?

Rear Adm. Scarce—No.

Senator HOGG—I just thought you might have been the appropriate person. We will do DIDS later.

[7.55 p.m.]

CHAIR—We will move now to output 1, Defence operations.

Senator CHRIS EVANS—At the outset could I say that, because of the pressures of time today, we are obviously not going to be able to cover a lot of the ground the committee would like to have covered on Defence operations, so I want to make it clear that if we do not get to some matters it is not a sign of lack of interest or—particular on my part—a lack of desire to get on top of things by abusing the estimates process and using it as a research exercise.

I also want to say, Minister, that there is also quite a deal of interest inside the parliament for information on the deployment of Australian troops in Afghanistan and Timor. One of the reasons I was going to use the estimates committee to explore some of those things was because I have had a lot of questions from members of parliament about deployments, rotations and what is going to happen. I wanted to raise with you a suggestion that you might like to consider making available some form of briefing in the next parliamentary fortnight for members and senators, not of a confidential nature but as an information briefing. As I said, there is a great deal of interest in the operations.

Senator Hill—I am happy to do that. As far as I know, I have not received requests from either the Joint Standing Committee on Foreign Affairs, Defence and Trade or the Senate committee.

Senator HOGG—The joint committee has not been constituted, Minister.

CHAIR—It has not been re-formed.

Senator Hill—That might explain why I have not received requests. The practice, I recall from the dim past, was that such briefings were given on a regular basis. It is a practice I would propose to continue. I do not much mind whether it is through the Senate or the joint committee, but I would respectfully request that committee to invite other parliamentarians or senators, as the case might be, bearing in mind the widespread community interest in the subject.

Senator CHRIS EVANS—I appreciate that. I meant to raise it with you privately but I have not had the chance. As you say, I think the interest goes wider than just the membership of the committees, so we could make that available to more people.

Senator Hill—I think our highly skilled and respected chairman of this committee is likely to be in one of those jobs, isn't he?

CHAIR—I am certainly on the joint committee, and Senator Ferguson is the chair of the joint committee.

Senator Hill—You are not on the Senate one anymore?

CHAIR—I am on the Senate legislation committee.

Senator HOGG—Minister, I do not think that that is a matter that has been raised at either the Senate references or legislation committee but has been the province of the joint committee, because it covers both houses.

Senator Hill—We would welcome invitations, because it is a major public commitment and we want the parliament to be well informed.

Senator CHRIS EVANS—Thanks for that, Minister. We will take that up with the joint committee as the way to facilitate that. I just want to ask a couple of questions, the first in relation to the Afghanistan deployment. I am seeking a short overview of what the assessment is on how long we are going to be committed there, what troop rotations are planned and what our ongoing commitment is likely to be.

Senator Hill—I will respond first and the Defence chiefs might want to add to it. If you are talking about in Afghanistan, we have special forces and I think it is fair to say the number of suitable targets for special forces would seem to be reducing. That does not suggest that all the Taliban or Al-Qaeda have been defeated but, in part, it reflects the fact that many have melded back into the communities. That also does not mean that there are no suitable targets left, because there are, but the environment does seem to be changing. In that circumstance, the government is considering the very question you have asked, which is how long we should propose that the forces, as we have them constituted there, should remain in Afghanistan. There are clearly going to be tasks for differently constituted forces over a long period of time, but they may not be as applicable to the training and skills of special forces.

Senator CHRIS EVANS—Do you mean in Afghanistan, or more generally?

Senator Hill—In Afghanistan. That question is currently before the government, and we are consulting with other partners in the coalition on their plans—as a part of a coalition, it is obviously important that we know what each other’s views are on these issues. We think they have done an excellent job. That is not only our view, it is the view of our partners in the coalition. The Australian forces in Afghanistan really are extremely highly regarded. We have said all along that it is very dangerous work and, as we have witnessed in the last week with the tragic loss of one of our people, it remains so. On the issue as to how long it is appropriate, that is something that is currently under debate. I think the Americans talk about it in terms of moving between phase four and phase five—or it might be between phases three and four, I cannot remember—that is, the offensive role and the stabilising role. I do not want to put a date on it, because we have not got to that stage, but we do recognise that there is an evolving situation and we are addressing that at the moment.

Senator CHRIS EVANS—What about in terms of rotation of troops?

Senator Hill—The next rotation is due about the end of March, isn’t it?

Adm. Barrie—At the end of March.

Senator CHRIS EVANS—And who is due to go up to Afghanistan?

Senator Hill—There are more special forces due to go.

Adm. Barrie—Another squadron of special forces.

Senator CHRIS EVANS—Another squadron of special forces. And what about the Air Force commitment in Diego Garcia? That is part of Operation Slipper too.

Senator Hill—We have the four Hornets in Diego Garcia.

Senator CHRIS EVANS—Is it true they have not been used?

Senator Hill—They are used full-time to the extent that they are there to guard coalition assets on the island—very valuable coalition assets. They are there on ‘ready’ 24 hours a day. Fortunately, they have not had to respond to an attack on coalition assets, but they have been regarded as having an important role in the whole coalition force structure. As the war moves on, we are addressing how long they should appropriately remain there.

Senator CHRIS EVANS—Are there any plans for them to be replaced?

Senator Hill—When is the next rotation? They have just been rotated.

Senator CHRIS EVANS—Is that just the crews?

Rear Adm. Ritchie—It is just the crews.

Senator Hill—Beyond that, do you want to go through the others?

Senator CHRIS EVANS—Yes. But only in that sort of detail, though.

Senator Hill—The 707 air refuellers have not been deployed, but there is still considerable demand for that capability. So on balance they are still likely to be deployed, subject to the aircraft being available at the time that issues such as basing and other logistical concerns are resolved. The P3 Orions have not been deployed and there is still not a basing arrangement for them. We are consulting with our coalition partners as to whether that is now a realistic likelihood in view, again, of where we are in this stage of the war against terrorism. In relation to the three ships that are being rotated at the moment, they are fulfilling a dual role. They are there as assets in the war against terrorism, but have also been doing a first-class job in relation to enforcing the Iraqi sanctions. Whether, and for how long, we will maintain three ships—because before the war we were only then operating one ship—is a matter that is being considered by government.

Senator CHRIS EVANS—Are they still formally regarded as being part of Operation Slipper or are they under Damask.

Adm. Barrie—They are deployed as part of Slipper.

Senator Hill—All three?

Adm. Barrie—Yes.

Senator CHRIS EVANS—Could someone explain for me—maybe you, Minister—what the chain of command in that blockade means in practice? There was an implication that it had been rotated but there was also a suggestion that US forces were no longer playing a major role. I just did not quite understand what that meant in terms of us taking the leadership or command of the blockade role. What does that mean in terms of our commitment; and what does it mean in terms of what the US has done as part of that?

Adm. Barrie—There are two separate issues and Admiral Ritchie might expand on this in a minute. My understanding is that the command of the multilateral interception force operation and the place where our ships are operating is rotated between contributing countries and, for a time, our senior person held that position. That is rotated between us and the United States Navy. I think at the moment they are exercising the command responsibilities. We have handed that over. In terms of the employment of ships, that does not change. The contribution we have made to the NIF operations is very significant and very much appreciated, mainly because it releases assets for other things across the totality of the allied force.

Senator CHRIS EVANS—So the US are still playing an active part in the blockade. The change of command rotates how regularly? I thought we had only just taken it over.

Rear Adm. Ritchie—It is intended to rotate on a monthly basis: one month us; one month the US. It is the tactical command at sea that we are talking about. The overall planning of the operation remains under US command.

Senator CHRIS EVANS—And US ships are still deployed as part of that command.

Rear Adm. Ritchie—Certainly. In fact we have, at times, exercised the command from a US ship.

Senator CHRIS EVANS—I see. Thank you for that.

Senator Hill—I think it really is quite noteworthy that an Australian was invited to command the tactical command of the task force from an American ship.

Senator CHRIS EVANS—I will ask briefly, because of the time pressures, about our commitment to East Timor and what the current thinking is about—

Senator Hill—Can I just finish what I was saying? It might be that parts of our existing force are withdrawn as the focus of the war against terrorism changes in the future. They may be replaced by other parts of our force that are more appropriate to another task.

Senator CHRIS EVANS—I think I understood that to be what you meant.

Senator Hill—What I was largely addressing was the war as it has been progressing in Afghanistan. All of these matters are currently under review.

Senator CHRIS EVANS—I suspected that if I was to ask you where you thought the war on terrorism was to be progressed in the future, Senator Hill, you would not answer, so I thought we would confine our discussion to Afghanistan. But if you want to enlarge on that, I am happy to hear from you.

Senator Hill—We know from our experiences that Al-Qaeda's network extends beyond Afghanistan and the conflict was one against terrorism. But in relation to the coalition generally, whilst it is committed to respond to this threat, it recognises that the response will differ from place to place, and it may not always be a military response.

Senator CHRIS EVANS—Thanks for that. I was interested in a bit of an update on East Timor on our expectations of maintenance of commitment and rotations.

Senator Hill—We will reduce our force to 1,250 by independence on about 20 May.

Adm. Barrie—On 20 May.

Senator Hill—That will maintain us at about 25 per cent of the total force, coming down to 5,000.

Senator HOGG—Will that reduction have any impact on the stability in the region?

Senator Hill—No. That has been requested. It is a UN decision—

Senator HOGG—I accept that.

Senator Hill—to reduce the size of the force as the new government of East Timor takes up its responsibilities. We are committed to support them in maintaining a stable environment. We believe that our contribution will be adequate.

Senator HOGG—I accept that, but will it have any impact on the stability? Can you express a view on that?

Senator Hill—What I am trying to say is that we are committed to a continuing stable environment, and we believe that the UN force of 5,000 and our contribution of a quarter of that force is adequate to meet that task. In the future, we would look for further gradual reduction obviously in conjunction with the views of the new government and the United Nations which is committed to support them.

Senator CHRIS EVANS—What expectation do you have for how long the 1,250 are going to have to be maintained?

Senator Hill—I think the UN is talking about the next mandate being about two years. I think they do it on a six-monthly basis, but they seem to be talking about another two-year

need for a force presence. But it is my expectation that the force will continue to be gradually reduced.

Senator CHRIS EVANS—So you would not see us maintaining that 1,250 over that full two years?

Senator Hill—No.

Senator CHRIS EVANS—Do you expect it will be significantly reduced during that period, or only marginally reduced?

Senator Hill—No. I think it gets quite tricky for our Defence planners, because they prefer to work in Australian components that are self-sufficient and that brings in size issues. But I would expect there to be certainly a further reduction over the period of two years.

Senator CHRIS EVANS—What about rotations?

Senator Hill—Rotations at the moment are continuing according to the normal schedule.

Rear Adm. Ritchie—The next battalion rotation takes place in April, and then six months after that.

Senator CHRIS EVANS—Which battalion is going up in April?

Rear Adm. Ritchie—The 3rd Battalion Royal Australian Regiment.

Senator CHRIS EVANS—Thanks for that. As I say, Senator Hill, I think the earlier suggestion might be helpful in the next fortnight, and I will take it up for the joint committee as a request to you.

Senator Hill—We are happy to do a briefing on the Defence perceptions of how the East Timor project is evolving.

Senator CHRIS EVANS—Thank you for that. Can I ask some questions regarding the costs of Operation Relex?

CHAIR—Go ahead, Senator.

Senator CHRIS EVANS—I am just trying to understand these additional estimates et cetera. The \$19 million referred to in the estimates is an additional cost, is that right?

Mr Harper—Yes, Senator.

Senator CHRIS EVANS—So is that extra \$19 million all attributed to Operation Relex?

Mr Harper—Yes.

Senator CHRIS EVANS—So what is the total cost in this financial year of Operation Relex?

Senator Hill—The total Defence Force contribution?

Senator CHRIS EVANS—Yes.

Senator Hill—In some ways it is a best guess, because how do you cost out existing assets and existing employees? But what sort of figure are we working on?

Rear Adm. Ritchie—I think the point is that that additional estimates cost is the total cost for the financial year, because when the budget estimates were put forward Relex did not exist.

Mr Roche—It is the total additional cost.

Rear Adm. Ritchie—That is the cost to us in the course of this financial year.

Senator Hill—Over and above other costs.

Senator CHRIS EVANS—But we have already discussed, I think, that a number of exercises have been cancelled and a number of other things rearranged and the whole budget includes money going in and money going out to meet the changing needs. Sure, you have allocated an extra \$19 million additional costs to meet some of the additional costs of Relex, but I assume you are not putting the case to me that that is the total cost of the operation. So I am after the figure of how much Relex is going to cost us in this financial year.

Senator Hill—How do you define your question? Do you want us to cost out expenditure that we would be expending on exercises and the like? What we have told you is—

Senator CHRIS EVANS—No. I am a very reasonable man as you know, Senator Hill. What I want to understand is how much Operation Relex costs us. I am happy for you put caveats on it or to give me whatever explanations are necessary to make sure that information is not misrepresented, but I am equally keen to get an idea of how much that operation is costing us. In the current process we are asked to approve an extra \$19 million. I would like to know what the extra \$19 million brings it up to. What is Relex costing us? All your other budget notes indicate you have rearranged other expenditure inside the allocated budget, which I can see, but it does not tell me anything about how much Relex is costing us.

Senator Hill—Not wanting to be evasive, but the problem as I was suggesting, is how you cost these things out when you are using existing resources. If they were not being used for this purpose, they would be being used for other purposes such as exercises. The figure that we have worked on, I think, is the net additional cost of about \$30 million of which we have got about \$20 million in extra funding through this additional appropriation process.

Senator CHRIS EVANS—So you are saying that the net additional cost is \$30 million for the financial year? Is that purely a Navy figure, or is this an ADF-wide figure?

Senator Hill—It is ADF-wide.

Senator CHRIS EVANS—Is the majority of that in the Navy?

Senator Hill—The P3 Orions have been doing more intensive work.

Adm. Barrie—There is P3 surveillance as well, the Navy commitment and there is also some Army commitment as well.

Senator CHRIS EVANS—I am happy to be corrected. If I am wrong, please tell me.

Adm. Barrie—It is an ADF-wide figure. I think it does include an allowance for the additional P3 support. It includes an allowance for the additional Navy steaming time and operations and it must include some element of the Army support that has also been provided.

Senator CHRIS EVANS—That is the net additional cost, you think, of about \$30 million for this financial year. But you must have costed the actual operation of Relex in terms of what the cost of that operation is. What is that figure?

Senator Hill—It depends on what you mean by that.

Senator CHRIS EVANS—What I mean is: how much is it costing you per annum this year to run Operation Relex?

Senator Hill—Do you want us to treat the ships that we are using as embedded costs?

Senator CHRIS EVANS—I am happy for you to say to me, ‘It is \$X million but \$27 million of that was already allocated for the cost of maintaining HMAS *Manoora* for the year’ but I would like to know what it costs to run Operation Relex. I would also like to know about Gaberdine—I would like someone to explain Gaberdine to me.

Senator Hill—I would like to give you a considered response to that because, in effect, I would have to define my answer because otherwise I think it becomes very misleading. The public concept is that if I say it has cost half a billion dollars they think we have had to fork out another half a billion dollars, which we have not.

Senator CHRIS EVANS—My difficulty, Senator Hill, is that this is the budget estimates. You applied for extra money to meet the extra costs. I think everyone is well aware that these are recurring extra costs on the public purse. But really, you are suggesting to me that we ought to consider these estimates without knowing what the costs of these operations are. I put it to you that that is not a very reasonable proposition. So I am happy for you to give as much detail as you need to to make it clear how those costs are calculated, but I do want to understand how much that operation is costing us.

Senator Hill—I understand that, but I do not have the definitions here. I have some estimates of figures, but without definitions I would not be happy to produce them. That is why I prefer to take it on notice and give you a written response that sets out exactly what the numbers mean.

Senator CHRIS EVANS—With respect, Senator Hill, I cannot imagine that you did not expect someone would ask you about the costs involved in the additional Defence activities this financial year. The additional estimates process is about getting approval for those additional estimates. There seems to be an expectation that somehow, in Defence, no-one will ask the question or no-one will take an interest. I am trying to indicate that that is not right—we do take an interest and we would like an explanation of what these costs are. As you say, there are some additional costs mentioned. But from every other figure I have seen about how much it costs, for instance, to get the SAS troops to Christmas Island et cetera—and I do not know whether any of these estimates are wild or not, but some of the figures have been quoted in the various papers—clearly \$30 million does not cover the cost of Relex. I do not think anyone seriously maintains that it does. So for us to have an answer that says \$30 million is clearly not an accurate response either.

Senator Hill—I think that Defence has done an exceptionally good job in keeping the additional costs down to an absolute minimum. I hear what you say about what I should have foreshadowed; I have concentrated on the additional money that has been sought through this process.

Senator CHRIS EVANS—The first question is: additional to what?

Senator Hill—It is additional to what was in the last budget.

Senator CHRIS EVANS—But the whole document makes it clear that what was in the last budget has not been used for what is in the last budget.

Senator Hill—I have told you how that has been broken down. If you have asked me to go further and try to give you a figure that applies to embedded costs, then I would want to define that precisely. I do not have that before me, and I would like to consider it before I publicly release it. That is the best I can do tonight.

Senator WEST—I am surprised, Minister. I thought you would have come prepared with that answer.

Senator Hill—Yes, I have just heard that. But I haven't, have I?

Senator CHRIS EVANS—The question about the cost of these exercises has been a matter of public debate for many months, so it does strike us as a bit surprising. It seems to me, from discussions amongst the officials at the table, that you do have that briefing note. Obviously it is a question for you as to whether you produce it. You clearly have the information available; it is a question of releasing it. I suggest to you that additional budget estimates is the time when senators and the parliament have the opportunity to examine such expenditures and to examine ministers about those expenditures. This is the opportunity; this is what the parliamentary process provides for. You may well want time to think about it, but this is perfectly within the committee's powers and should have been reasonably expected by you and Defence to be a question asked.

Senator Hill—I have to accept the pain of your disappointment. Both you and Senator West have expressed great disappointment in my inability to answer what you think is a reasonable question. I am prepared to get you a response as soon as possible.

Senator CHRIS EVANS—Can you give us a time for that? Forgive my cynicism, but I have come from health and aged care, where records have been set—

Senator WEST—We have been around this block before. You can get pregnant and deliver the child before Department of Health and Ageing give their answer.

Senator CHRIS EVANS—I have been known to wait a year and a half for an answer that says, 'We cannot assist you with an answer, Senator.'

Senator Hill—It is suggested to me that my answer will be sooner than aged care.

Senator WEST—We have to pass the supplementary appropriations.

Senator Hill—If you do not want to pass them, don't pass them. I will get a response as quickly as I can, but it is actually a very complicated question.

CHAIR—We have a return date, which is Wednesday 27 March 2002.

Senator WEST—I am a bit cynical about those return dates.

Senator FERGUSON—So were we, six or seven years ago. I was interested to hear Senator Evans say that these additional estimates are all about questioning additional expenditure. I have been here a day and a half and this is the first time I have heard any questions about additional expenditure. I have a question about additional costs in the Defence Force. Can anyone tell us the unexpected extra cost to the Defence Force of any wilful damage that was caused to the *Tobruk* or any other vessels used to apprehend unauthorised arrivals in Australia and transport them to Nauru or any other place? It has been reported that considerable damage was done to naval vessels. Sorry, Admiral, I am asking a monetary question.

Vice Adm. Shackleton—We would have to look at that. The damage was superficial—bending of doors, breaking of guardrails, damaging of toilets and those kinds of things. They were all within the capacity of the ship's staff to repair. I categorise them as minor but very annoying.

Senator FERGUSON—What vessels were damaged besides the *Tobruk*?

Vice Adm. Shackleton—I think *Manoora* had a number of instances where the ship's toilets were damaged and made unworkable, which the ship's staff had to clean up and restore to working order.

Senator FERGUSON—Has much of the damage been restored by the ship's staff?

Vice Adm. Shackleton—Yes.

Senator FERGUSON—Does it require additional expenditure by the Defence Force?

Vice Adm. Shackleton—I am not certain, but from my perspective I would not think so. As I say, it was of a minor nature but very much a nuisance.

Senator FERGUSON—It is just that reports have been made of damage to vessels and it is very difficult for us to determine whether it is major damage, minor damage or costly damage.

Vice Adm. Shackleton—The major damage in many respects was in the sense of the pride of the ship's company, because the people we were carrying took no care of the spaces they were occupying and introduced certain hygiene problems which our people had to clean up.

Senator FERGUSON—Would it be possible for you to take that on notice and get a costing for us?

Vice Adm. Shackleton—I can, but I don't—

Senator FERGUSON—Thank you.

Senator CHRIS EVANS—Can someone confirm for me that the initial cost of deployment of SAS troops to Christmas Island was \$20 million?

Senator Hill—The additional costs of SAS troops to Christmas Island—I cannot see how that could possibly be the total additional cost of the whole operation.

Senator CHRIS EVANS—Can you confirm for me reports that the cost of the deployment of SAS troops to Christmas Island was in the vicinity of \$20 million?

Rear Adm. Ritchie—As far as we are concerned, that is not at all valid.

Senator CHRIS EVANS—It is not at all valid?

Rear Adm. Ritchie—I do not have any report that says it is \$20 million, no. I cannot imagine why it would be as high as \$20 million.

Senator CHRIS EVANS—I understand that was the figure included in the documents tabled in the Federal Court in relation to these matters. Was that not a Defence estimate?

Rear Adm. Ritchie—We certainly did not estimate \$20 million, no.

Mr Roche—It may well have been a full cost figure, I do not know.

Senator Hill—I do not know how that figure is calculated, but if you want to ask us about the additional costs in that instance, we will do a calculation and let you know.

Senator CHRIS EVANS—I think we have established that the additional cost is not going to tell us anything about the cost, because, according to you, this all cost \$30 million for the year.

Senator Hill—Yes, but you want it both ways now.

Senator CHRIS EVANS—I am happy to have both figures. I made it clear I was happy to accept both figures with a full explanation. There is a report that papers filed in the Federal Court suggested that the cost of the SAS initial deployment was \$20 million. Is that not right?

Senator Hill—We do not think that is correct. The report was the total cost, or the additional cost?

Senator CHRIS EVANS—It is not defined. It was information I had as to cost. I am not going to die in a ditch over the figure, I am just asking for your response.

Senator Hill—As I understand it, we do not have a figure on the cost of deployment.

Rear Adm. Ritchie—We would need to define that figure. If we are talking about full cost, it is quite possible, when you are talking about salaries, inventory, training and all those sorts of things, to approach that sort of figure. But the additional cost is definitely not in the order of \$20 million.

Senator CHRIS EVANS—Could someone explain Operation Gaberdine? The description in the additional estimates talks about support to the Department of Immigration and Multicultural and Indigenous Affairs to manage an increase in unauthorised boat arrivals. I am interested in the extent of that project and the costs.

Adm. Barrie—I can certainly illuminate a little as to what Gaberdine itself was about. I think that was the internal operation in Defence to house, look after and provide temporary accommodation for unauthorised arrivals inside Australia.

Rear Adm. Ritchie—Gaberdine began on 22 August. The aim of the operation is to provide ADF support to management of an expected increase of boat arrivals. As part of that operation, defence facilities were identified for processing and temporary accommodation. HMAS *Coonawarra* in the Northern Territory has been prepared as a primary area for reception centre overflow. Accommodation has been established, the sewerage has been upgraded, and it has the capacity to accommodate 650 people. Singleton Army base in New South Wales has been the primary overflow area identified for an additional detention centre. Work at that site is complete. Activity has been curtailed pending any decision to use it. The current capacity of that establishment is 600 personnel. El Alamein, which is an Army camp in South Australia, has been identified as a contingency option in the event that very large numbers arrive over a short period. The capacity of that facility is 1,500. There are no illegal immigrants in any of those facilities at the moment.

Senator CHRIS EVANS—Is Gaberdine in addition to those other defence establishments that might have or had previously been involved in housing?

Rear Adm. Ritchie—Yes. That is additional since 22 August.

Senator CHRIS EVANS—Was that effectively a program to increase your capacity to make a contribution?

Rear Adm. Ritchie—It was to increase the department of immigration's capacity to hold people should they arrive.

Senator CHRIS EVANS—So something like the Curtin Air Base and its costs or whatever are not associated with Operation Gaberdine?

Rear Adm. Ritchie—No.

Senator CHRIS EVANS—How are they accounted for?

Rear Adm. Ritchie—They would be accounted for within the—

Adm. Barrie—I do not think we account for them, do we?

Senator CHRIS EVANS—You do not have a separate program for the existing involvement in—

Rear Adm. Ritchie—Not in the operations—

Adm. Barrie—In Curtin, I do not think we run it, so would be surprised if we had any cost accounting.

Rear Adm. Ritchie—Gaberdine is about those additional facilities.

Adm. Barrie—DIMIA runs it.

Senator CHRIS EVANS—The last time I was that Curtin you only had a couple of people doing maintenance. Have you still got some involvement at Curtin?

Adm. Barrie—We have a bare base there, but they have actually got a holding facility there.

Rear Adm. Ritchie—Gaberdine also extends, I should add, to some assistance that we provided in setting up accommodation in other places such as Christmas Island, Cocos (Keeling) Island, Manus and Nauru. The costs that we incurred in that came under—

Senator CHRIS EVANS—So that is part of the construction costs of putting extra facilities in at Manus Island and Christmas Island et cetera . What is the budget for Gaberdine for this financial year?

Rear Adm. Ritchie—The figure to output 1, which is operations, is in the order of \$3.5 million but it does not include the personnel costs or the DMO costs. So, again, in the nature of the figures we have offered you before, that is an additional cost to the operations program, if you like, it is not the full cost of the activity.

Senator CHRIS EVANS—So the other two categories were the personnel costs—

Rear Adm. Ritchie—And those incurred by the Defence Materiel Organisation.

Senator CHRIS EVANS—Are those expressed in the supplementary estimates? This is a program that came in after the budget. Are they reflected in the additional estimates?

Rear Adm. Ritchie—Those additional costs?

Senator CHRIS EVANS—Yes.

Rear Adm. Ritchie—In the additional \$19 million that was referred to earlier, Relex and Gaberdine were tied in there. So they are both together in that figure.

Senator CHRIS EVANS—So the \$19 million was not actually just for Relex. The extra \$19 million included at least \$3.5 million, maybe more, for Gaberdine, is that right?

Rear Adm. Ritchie—Yes.

Senator CHRIS EVANS—I think this highlights my difficulty in working out the cost of these things. Can someone tell me what the total cost of Gaberdine is, including the personnel and Defence Material costs?

Adm. Barrie—No, I cannot tell you here, but we can take it on notice in the same way as your question for Relex.

Senator CHRIS EVANS—Can you give me an indication, then, of whether their costs pushed the figure well beyond \$3.5 million, or are we talking about relatively small amounts?

Adm. Barrie—I will give you an opinion, Mr Chairman. I think it would be surprising if it pushed vastly beyond that figure. My recollection is that we are talking about getting some fencing, some tents and those sorts of things, which would be relatively absorbable.

Rear Adm. Ritchie—There will not be great personnel costs in there.

Senator CHRIS EVANS—But the \$3.5 million is part of the \$19 million you sought in additional estimates?

Rear Adm. Ritchie—The \$3.5 million is the cost that I have incurred this financial year for Gaberdine in my group.

Senator CHRIS EVANS—But the funds to pay for that come out of the \$19 million. Is that fair?

Rear Adm. Ritchie—That is fair.

Senator CHRIS EVANS—Is there a budget for the out-years for Gaberdine?

Rear Adm. Ritchie—No. Gaberdine is in fact static at the moment. We have done the work and the things are just sitting there.

Adm. Barrie—We hope not.

Senator CHRIS EVANS—There are no ongoing extra staff costs associated with those, or if there are they are very small. Is that right?

Rear Adm. Ritchie—No.

Senator CHRIS EVANS—So basically, you have just brought them up to scratch and left them there in case they are required. Is that fair?

Adm. Barrie—The capacity is in place, so it is dormant.

Senator CHRIS EVANS—We have had this debate about additional versus embedded costs. I have seen some estimates about how much it costs to keep something like the HMAS *Manoora* or *Tobruk* at sea. Is there a sort of daily figure you use for what it costs to have them at sea? It might cost more to keep them at shore.

Rear Adm. Ritchie—I do not know the answer to that question.

Mr Roche—I think we will have to take it on notice.

Senator CHRIS EVANS—Are the costs higher when they are operational, or when they are at sea?

Rear Adm. Ritchie—Without knowing which particular figures you are talking about, we are at a disadvantage.

Senator CHRIS EVANS—No, Rear Admiral Ritchie, I am at a disadvantage because you will not give me the figures. I do not think you can say that I have not asked you the right question, because I do not have the figures—in all fairness. If you give me the figures, I will ask you the right question.

Adm. Barrie—To help you a bit, there is a figure which is an average cost, but that depends very much on what the employment is, and so on.

Senator CHRIS EVANS—Is someone able to give me the average cost?

Adm. Barrie—I do not have it.

Mr Roche—We do not have it with us, Senator.

Rear Adm. Ritchie—There is a method of cost calculation to work out full cost and that sort of thing, which can be provided.

Senator WEST—You must be able to give some figures.

Senator Hill—When we give you our considered response to your earlier questions, implicitly we are going to have to provide that information.

Senator CHRIS EVANS—I see, Senator. This is another case where you will not give it to me, rather than you do not have it, is it?

Senator Hill—We, implicitly, will have to provide that information. We will have to work out—

Senator CHRIS EVANS—Let me be clear. Are you saying you have the figure and you will not provide it? I thought Admiral Ritchie was saying he was not sure he had it with him.

Mr Roche—We do not have a figure with us.

Rear Adm. Ritchie—I do not have it with me, no. If we are to give you the full cost of Relex, we will have to tell you what it cost per day to employ *Manoora*, because we will not be able to work it out otherwise.

Senator Hill—That is what I was trying to say.

Vice Adm. Shackleton—Perhaps I can help. There is a costing methodology that we use to cost out the full cost of a platform, be it an aircraft, ship, submarine or indeed a person, which takes into account the full cost of ownership to Defence. Sometimes we use that number to bill people when we make our assets and services available to other people. Then there is the lesser cost, which is the daily average cost, which is simply the salaries, the fuel consumption, the food consumption, the ammunition and such. That is what we use in other kinds of calculations. There is a manual for this in Defence and I would expect that could probably be made available in due course.

Senator CHRIS EVANS—Is it fair to say that ships cost more when they are at sea than when they are not? If that is wrong, tell me.

Adm. Barrie—I can speak about that figure from personal experience. About nine years ago there was a proposal in front of government to actually put a ship on either coast in what was called ‘a reduced activity period’, which meant alongside. The expectation was that we would be able to make some quite significant cost savings on operating ships, but we never achieved it. The reason was that we had to maintain the ships in some sort of operational capacity, so they went on consuming a lot of what they would ordinarily consume. The big difference about a ship at sea and a ship alongside is for fuel and maintenance and repair of operating equipment.

Senator CHRIS EVANS—On your costing basis, do you cost your ships as costing more while at sea and operational?

Adm. Barrie—Yes.

Senator CHRIS EVANS—Senator Hill is going to help me with those figures. Are there any other costs associated with the interception of illegal immigrants or the so-called ‘Pacific solution’ in the Defence budget, other than those represented by Operations Relex and Gaberdine?

Rear Adm. Ritchie—All the operational activity is covered under Operation Relex. All the building activity that took place is covered under Operation Gaberdine. I personally do not

know of any other activity within the Defence portfolio which is not included in those two operations. There are clearly activities outside the Defence portfolio.

Senator CHRIS EVANS—Thank you.

Mr Harper—What is described in the additional estimates statement is conduct of operations to protect Australia's northern and western boarders from unauthorised arrivals. It is a comprehensive figure for the net additional costs of activities that fall under that umbrella. This is on page 8, which indicates a figure of \$19 million, which we have been discussing. It is the net additional costs attributable to Defence's involvement in Relex or Gaberdine.

Senator CHRIS EVANS—Rear Admiral Ritchie provided me with the answer which I was after. Perhaps you could confirm this. I was trying to check it against which outputs and which programs those costs were associated. All page 8 tells me is how much extra you have been allocated in additional estimates to meet some of those costs. It does not tell me what programs, or what the expenditure is for.

Mr Harper—Perhaps I can help the committee there by turning to page 21 where you will see that the component of \$12 million out of \$19 million relating to price for outputs has been attributed to Output 1 Operations. The remainder of the \$19 million has been held against the capital budget, which, as we discussed earlier in the day, does not impact on price in this year. This is on page 21. In the second sentence it says that the increase relates to the new funding for deployments to deter boat arrivals. The new funding for deployment to deter unauthorised boat arrivals is \$12 million. That is the operating component of the \$19 million that we were discussing earlier. The remainder is in the capital program which is not attributed into the price for outputs at this stage. The reason being—

Senator CHRIS EVANS—We had this discussion before. I did not understand the reason the first time.

Mr Harper—Would it help if I repeated it?

Senator CHRIS EVANS—No. I have resolved to read the *Hansard*, so do not repeat it, Mr Harper. You explained why some went into the recurrent budget and some went into the capital budget, and I am going to read the *Hansard*. But the other \$7 million can be found in this capital?

Mr Harper—Correct. I have just had it pointed out to me that on page 53, where we describe the equity injection from government and why it increased, in the fourth dot point down you will see six, and in the joy of accounting, our 12 plus the six round up to 19.

Senator HOGG—I know that is how Defence add up; never one plus one makes two.

Senator CHRIS EVANS—My personal finances always add up to 17, unfortunately.

Mr Harper—I do not know that these are the right numbers, but if it were \$12.4 million and \$6.4 million, it is \$18.8 million rounded to \$19 million.

Senator CHRIS EVANS—I understand. And have you got a simple explanation for why the \$6 million goes into capital?

Mr Harper—No simpler than what I gave earlier.

Senator CHRIS EVANS—Okay.

Senator HOGG—Is there some sort of standard formula that you use to allocate it—as a percentage of the cost or something such as that?

Mr Harper—No, it is not done in that way. There is a logic to it, but I would not describe it as simple.

Senator WEST—Are you sure it is logical?

Mr Harper—I will reserve judgment on that.

Senator WEST—Because I have a thought in my mind that it is anything but logical.

Senator CHRIS EVANS—That is all I wanted to ask on that particular issue.

ACTING CHAIR (Senator Ferguson)—Then we will move on. Although, if I knew where we were up to, I would know where we could move on to.

Senator HOGG—Last time I looked, we were in operations.

ACTING CHAIR—So it is output two—is that what you are looking at?

Senator CHRIS EVANS—No, I have some more questions. I did not know of anyone else wanted a go. I was going to ask about the proposed MOU with Indonesia, and just ask what Defence saw as its involvement in that. Am I correct in doing this in operations? I was not absolutely sure.

Rear Adm. Ritchie—Yes, it is strategic.

Senator Hill—Ask wherever it is convenient to you. What is the question?

Senator CHRIS EVANS—I wanted to ask a couple of questions about the proposed MOU with Indonesia. Sorry, not the proposed one, the one the Prime Minister has signed, I think.

Senator Hill—Seeing Dr Brabin-Smith is here, he can answer the question.

Senator CHRIS EVANS—I first of all wanted to ask whether Defence was involved in the preparation of that memorandum of understanding. Were they consulted and involved in the development of that?

Senator Hill—I provided some input. At least, I hope my input was inputted.

Dr Brabin-Smith—I assure you, Minister, that it was. Let me pick up the point made by Senator Evans. You would be aware that the principal drafting of the text was carried out by the Indonesian ministry of foreign affairs. The draft found its way to Canberra and Defence was involved in looking closely at it and making some recommendations for the refinement of the text.

Senator CHRIS EVANS—Has an assessment been made of what the implications of this new MOU with Indonesia are for Defence?

Dr Brabin-Smith—The assessment is being made as we speak, as it were.

Senator Hill—What do you mean by that? I do not quite understand the question.

Senator CHRIS EVANS—It talks about cooperation and, among other things, participation in the war on terrorism, including agencies, and mentions the military in a couple of places. So I was interested in what the MOU means for Australia's Defence Force.

Senator Hill—In terms of our role and contribution?

Senator CHRIS EVANS—I am interested in what the MOU means for our contribution, our connection and our interaction with Indonesia in meeting the objectives of the MOU.

Senator Hill—The language stands for itself. It talks about the sharing of intelligence and, as I recall it, even some joint operations in relation to terrorist matters. The position of

Defence is that obviously we will contribute to ensure that Australia's maximises its contribution to the agreement. Exactly how we can best do that is currently being worked up.

Senator CHRIS EVANS—Has there been any analysis of how this will impact on the current exchange of information and/or other measures between the Indonesian military and the Australian military?

Senator Hill—It is really a framework agreement. How we contribute to the flesh upon the bones is what the department is working on at the moment.

Senator CHRIS EVANS—How will that commitment to the understanding be progressed? What is the decision making? Will there be another prime ministerial announcement about what it means in practice, or is it a process whereby each department negotiates?

Senator Hill—I do not know. Is this being coordinated through some interdepartmental process? Does PM&C coordinate it?

Dr Brabin-Smith—There always is coordination when there are substantive activities with other nations, so we would use standard consultative mechanisms—principally the Department of Foreign Affairs and Trade and Department of the Prime Minister and Cabinet—to make sure that what we would be proposing was consistent with the government's position overall.

Senator CHRIS EVANS—But those interdepartmental committees have not been established just yet?

Dr Brabin-Smith—It is not so much an interdepartmental committee but standard interdepartmental practice.

Senator CHRIS EVANS—I will rephrase the question: have there been any interdepartmental arrangements put in place for the implementation of the MOU that involve Defence?

Dr Brabin-Smith—We will use our standard practice for consultation with other portfolios and for making sure that recommendations to ministers one way or another are consistent with the views of other departments and, where they are not consistent, the differences are pointed out. In other words, we have standard practices for taking forward recommendations from officials to ministers, and we will use those standard practices.

Senator CHRIS EVANS—I accept that. I was really asking whether that process had started in relation to the MOU.

Dr Brabin-Smith—We have had some interdepartmental discussion, yes.

Senator Hill—What I would be expecting is advice in the form of a brief from my department as to the ways in which we could most effectively contribute to the MOU. I have not as yet received that brief, but I know that it would be the Prime Minister's wish that we keep the matter moving along.

Senator CHRIS EVANS—Have you formed any view yourself, Minister, about how the Defence end of that MOU will be implemented?

Senator Hill—At the superficial level, I think that is fairly obvious. It is the detail that needs to be developed.

Senator CHRIS EVANS—Would you see it involving the exchange of military personnel—training of each other's personnel in antiterrorist measures?

Senator Hill—That is the sort of detail that needs to be developed.

Senator CHRIS EVANS—As you would understand, on any fair reading of the memorandum of understanding one would describe it as broad.

Senator Hill—I called it a framework.

Senator CHRIS EVANS—That seems to be a reasonable description. I am trying to get a sense of what the government's thinking is as to what that means for Defence.

Senator Hill—That is fair enough, but I think your question is a touch premature. What we have said is that we are working on that detail at the moment. We know that it is necessary to progress it with reasonable haste. It is quite an important agreement in terms of the relationship with Indonesia and also the potential of Australia joining with Indonesia to combat terrorism. We want to make sure that it is most effective in its operation. How we contribute to achieving that goal is currently what is being developed.

Senator CHRIS EVANS—Perhaps you could answer a factual question: what is the extent and level of interaction between the Indonesian military and the Australian military at the moment? I obviously do not want the detail—just a summary view of the level of interaction and relationship currently.

Dr Brabin-Smith—Let me give you some examples. We have an English language instructor based in Indonesia. We have staff college student attachments in both Indonesia and Australia. There are Indonesian officers on secondment in Australia. We have an ADF Reserve officer on attachment at the Indonesian Navy training command, implementing matters relating to the training of junior officers. We have a team of three ADF personnel in Surabaya providing support to the Indonesian Nomad aircraft fleet. Beyond that, we have a project concerning the maintenance of the Nomad aircraft in addition to the three people I just mentioned. There are various training, study and policy visits and that kind of thing.

Senator CHRIS EVANS—Is any joint training planned? Are there any regular organised senior officer to officer contacts?

Dr Brabin-Smith—There are senior officer contacts. Within the last few months, there have been two meetings between the head of Strategic and International Policy Division in Australia and her equivalent in the ministry of defence in Indonesia. There is contact between the head of the Defence Intelligence Organisation and his equivalent in Indonesia. General Mueller and I went to Indonesia twice in 2000. Somehow we managed not to do this last year, which was a great pity but it just did not happen. There is a series of contacts of that sort. Some of these have a degree of regularity; others are more occasional.

Senator CHRIS EVANS—Are there any joint training or other exercises planned between Indonesian and Australian troops?

Dr Brabin-Smith—There is no combat training at all.

ACTING CHAIR—Senator West, did you have questions on that period?

Senator WEST—No.

ACTING CHAIR—That concludes output operations. Are there any questions on output 2: Navy capabilities?

Senator HOGG—I have one brief question for the Navy. My question goes to a report recently about near misses of two naval vessels. Can you confirm that, and tell me exactly what happened?

Vice Adm. Shackleton—I do not have all the details with me, but I think you are talking about an incident that happened some time ago between the Anzac frigate and the Huon class minehunter. Is that correct?

Senator HOGG—I am not sure myself. I remember seeing it in the media the other day—I think it has just surfaced in the media.

Vice Adm. Shackleton—The media is a bit slow, actually.

Senator HOGG—I know it is when it comes to Navy.

Vice Adm. Shackleton—It described it as a near miss but, frankly, we go as close as that just about every day of the week. The circumstances were that one of our Anzac frigates was in close company with one of our minehunters. There was some radio frequency interference from the Anzac frigate's radar with some of the equipment on board the minehunter, which caused some impact on its operation. There was no incident; we noted the problem and we have subsequently fixed it.

Senator HOGG—I have heard of an incident similar to that—some 12 months earlier, or thereabouts—on the coast off Indonesia. Is this one and the same incident, or was that a separate incident?

Vice Adm. Shackleton—I will have to check the physical location.

Senator HOGG—Please check that out. Are there any instances of other near collisions or collisions in the last 12 months?

Vice Adm. Shackleton—Let me go back to your first one. I have just been told that this was an Anzac on a Huon. That was in June 2000 during a transit to Singapore. The ships were 250 metres apart, which is a very comfortable distance for us. There was electromagnetic interference, and we subsequently fixed the problem.

Senator HOGG—The other incident I heard of—and the ships were never named in an inquiry conducted by the references committee—was that a similar incident occurred off the coast of Timor or off the north-west coast of Australia. My recollection is that it would have to have been within the last 12 or 18 months. Could you check on that? It just seems there might be a systemic problem there. If there is, I wonder if it has been eliminated.

Vice Adm. Shackleton—I would certainly worry if there was a systemic problem of collisions. Could your office give mine more details to help me to narrow down the area?

Senator HOGG—I will talk to you afterwards about it.

Vice Adm. Shackleton—I am very happy to provide the information.

Senator HOGG—I understand that. I will talk to you later.

ACTING CHAIR—Are there any further questions on Navy capabilities?

Senator CHRIS EVANS—I am afraid so! Admiral Shackleton, I want to ask about the Christmas Island incident and the various reports into it. I suppose by way of introduction I am having difficulty following the procedures that have been followed here and the numbers of inquiries and reports, so I thought perhaps the fairest way to start these questions was to ask you whether you wanted to provide an overview of what has occurred and where it has gone to.

Senator Hill—What incident are you referring to?

Senator CHRIS EVANS—The allegations about behaviour at Christmas Island of the sailors off the *Arunta* and the various investigations that Admiral Shackleton has ordered.

Senator Hill—I put out a press release recently.

Senator CHRIS EVANS—I read the press release.

Senator Hill—It said that Admiral Shackleton had reported to me that his what I would call an informal inquiry had been completed and, as a result of that, he had ordered an investigation under the Defence Disciplinary Regulations into particular allegations.

Senator CHRIS EVANS—I read the press release.

Senator Hill—His advice to me, which would seem reasonable, was that whilst that formal investigation was taking place the report of the informal inquiry should not be publicly released.

Senator CHRIS EVANS—That is fine. I was not intending to ask them to release the report.

Senator Hill—What else are you wanting to know?

Senator CHRIS EVANS—I want to know why we have had five inquiries. I would like to go through them and understand why we have had five different levels of investigation and whether these matters have been referred to the police—some of those sorts of issues. So they are process issues. I do not intend to canvass the incident or any of the sailors involved—or any of those things—if there is an ongoing inquiry. What I want to understand is what has been going on in terms of how it has been handled.

Senator Hill—You ask the questions, and I am sure Admiral Shackleton will answer.

Senator CHRIS EVANS—Do I take it that you do not want me to ask him? Do you want to give a chronology or introduce the subject?

Senator Hill—There is no reason for us to give an introductory statement. If there are questions that you want to ask in relation to it, and if we do not think it impinges upon the investigation that is taking place, we would answer them.

Senator CHRIS EVANS—All right, Senator Hill, we will do it that way, if you like. I do not quite understand your failure to cooperate.

Senator Hill—It is not a failure to cooperate; otherwise, we do not know what is expected of us. This is an opportunity for you to ask us questions.

Senator CHRIS EVANS—Thank you, Senator Hill. I will take that opportunity. Admiral Shackleton, could you tell me when the Navy was first made aware that there was an alleged incident involving Navy personnel on Christmas Island?

Vice Adm. Shackleton—The incident that you are referring to took place in early December. There was a media report in January which purported to be a report by another individual who had made some claims about the potential for a Navy cover-up. The Navy had investigated the incidents concerned but, when I looked into it, I felt that there was more that we could do. I sought the assistance of an Army colonel to conduct an independent investigation, which would report to me. He was supported by a Navy female commander and a lawyer. He conducted that report, which was presented to me in the time frame that was required. I then provided advice to the minister. In that advice, I said that the inquiry had been conducted satisfactorily. It demonstrated that, in many respects, the Navy had handled the problem properly but there were other areas that needed to be taken further. That was in part

with regard to the management and handling of evidence. I want to be sure that that has been done properly.

I have now instructed the maritime commander to conduct a further investigation of the incomplete components of that initial inquiry and to take either disciplinary or administrative action as appropriate with individuals or person who may be subject to action as a consequence. What I am saying is that, to a very large part, the action that was taken by the commanding officer of the ship was very appropriate, but there are other parts of it where I think there is more to be done.

Senator CHRIS EVANS—Admiral Shackleton, let me take you back a step then. I was not quite sure what you said. You said you were quite happy with the processes and the independent report by the Army colonel but, as a result, you still had to order another inquiry. My point did not seem to flow.

Vice Adm. Shackleton—He pointed out to me that there were deficiencies in the original action that was taken.

Senator CHRIS EVANS—Do they go to the question of process or to the question of the fact and offences?

Vice Adm. Shackleton—It goes to the question of facts and process.

Senator CHRIS EVANS—Let me take you back a step. The reports I have seen said, I think, that the incident occurred on 2 December, but when was Navy first aware of it?

Vice Adm. Shackleton—The Navy was aware of it at that time. The commanding officer of the ship was very clearly aware that there was a problem he had to deal with. He took the appropriate action pretty well in regard to that particular activity. I became involved when we were informed that there was a separate report that needed to be considered, which obliged me to conduct a separate investigation to satisfy myself that absolutely everything had been done the way it ought to be done.

Senator CHRIS EVANS—I will take you back a step. Is it your understanding that the naval commander of the *Arunta* conducted his own investigation and took what he thought to be appropriate action?

Vice Adm. Shackleton—He conducted his own inquiry and a trial. Some people were subject to Defence disciplinary action; others were subject to counselling.

Senator CHRIS EVANS—He conducted a trial—in accordance with Navy authorities, obviously—as captain of the ship?

Vice Adm. Shackleton—He conducted a trial for all of those offences that were within his jurisdiction.

Senator CHRIS EVANS—Did he or anybody else at that time report any matters for investigation by civil police?

Vice Adm. Shackleton—No, he did not, because what he tried was within his jurisdiction. Our subsequent validation of that has shown it to be correct.

Senator CHRIS EVANS—Were there other allegations or charges or events that did require attention by police authorities? I am not quite sure who has police authority on Christmas Island.

Vice Adm. Shackleton—I think there is a police contingent. Where necessary, maybe people will be dealt with by civil authorities if the alleged crime warrants it.

Senator CHRIS EVANS—My understanding that, under Navy procedures, if there is an allegation of sexual assault it is immediately referred to the civil authorities. Is that right?

Vice Adm. Shackleton—That is correct.

Senator CHRIS EVANS—Was that done on this occasion?

Vice Adm. Shackleton—In this instance it was not tried as assault. The processes that the commanding officer would have validated were correct, and he had the ability to deal with it administratively. The independent investigation found that he acted within his rights there.

Senator CHRIS EVANS—Just so I can be clear, Admiral: are you saying he had the ability to try allegations of sexual assault, or that he had the ability to try the allegations that were made to him?

Vice Adm. Shackleton—They were not allegations of sexual assault.

Senator CHRIS EVANS—That is what I thought. I just want to be clear about what you are saying about it rather than going off on a tangent.

Vice Adm. Shackleton—Our rules provide the ability to either refer that to civil police or to deal with it administratively. In this case, that was the appropriate course of action.

Senator CHRIS EVANS—Your advice is that your rules allow you to deal with it yourself in relation to sexual assault?

Vice Adm. Shackleton—No. If it is clearly sexual assault, we will find the best way to deal with it. If that means dealing with it through civil authorities, that is what we will do.

Senator CHRIS EVANS—I am just trying to be clear on your understanding of the Navy procedures. I understood that, if there was an allegation of sexual assault, it was required to be reported to the relevant civil police authorities. I am not saying you are wrong.

Vice Adm. Shackleton—Let me get Commodore Smith, who is a lawyer.

Senator Hill—This issue of civil law and military law is quite complex. As I understand it—and the expert will no doubt correct me—the case of assault is actionable under both. Therefore a judgment has to be made as to which of the two systems an allegation should be investigated and progressed. I presume there is some guidance within the military processes as to how that choice should be made, and I think we are about to be told whether that is correct.

Senator CHRIS EVANS—I think it is quite important that we get the proper advice on this rather than people's recollections.

Cdre Smith—The minister is correct in what he said. Reflecting back to when Admiral Shackleton was speaking, the incidence involving *Arunta*, as I recall, amounted to allegations of indecent behaviour, which is a lesser offence than sexual assault. Sexual assault of significance will automatically be referred, under agreements with civilian authorities, to the civil police to investigate. Indecent behaviour—minor touching or jostling; that sort of thing—would be dealt with as a disciplinary offence under the Defence Force Discipline Act. That was where the commanding officer of *Arunta* was working.

Senator CHRIS EVANS—Thank you, Commodore. It was certainly my understanding that we were using the term 'sexual assault'. With respect to Admiral Shackleton, I thought your interpretation was right about what had to happen in the case of a sexual assault. Is the evidence that there were no allegations or evidence of sexual assault in relation to this incident?

Cdre Smith—I understand so. I was away when the report was tendered. I have not seen it, but I understand there were no allegations of sexual assault involved in that incident.

Senator Hill—I am not quite sure that it is as straightforward as that. That leads to the issue of a definition of sexual assault.

Senator CHRIS EVANS—That was going to be my next question: is this a Navy definition?

Cdre Smith—No. The definitions of sexual assault are written down and are catalogued. They are quite serious. Sexual assault such as rape would be at the higher level.

Senator Hill—So the guidance is that described actions of sexual assault are referred to the civil police and non-listed sexual assaults are dealt with under the Defence disciplinary legislation?

Cdre Smith—Sexual assaults of all kinds, in my recollection, will be referred under agreements through the DPP, initially to civil authorities. They will be automatically referred to those authorities. They are the serious sexual offences as you would understand in the normal civil law.

Senator CHRIS EVANS—Let me clarify that. You moved from sexual assault to using the words ‘serious sexual assault’. I think we have to be clear about this. My understanding of it was that sexual assault was sexual assault, and that any sexual assault had to be referred. The degree of sexual assault or the severity is something the courts decide and rule on. I am probably the only non-lawyer at the table, but that was my understanding. You then slip into the term of ‘more serious sexual assault’.

Senator Hill—It sounds as though that is not the case. It is sexual assault, as listed in the guidance. I think we should obtain for the committee a copy of that provision, because I would like to see it as well.

Cdre Smith—I did not mean to introduce gradations of sexual assault; I sought to differentiate indecent behaviour.

Senator CHRIS EVANS—I have looked at this, and that is why I am asking the questions. The reports on the allegations in the newspapers used the term ‘sexual assault’. That is why I asked whether or not the civil authorities had been notified. I wanted to be very clear about whether or not they had been notified, how the Navy treated the allegation and what the allegation was.

Vice Adm. Shackleton—In this instance, the commanding officer was able to treat the incident as unacceptable behaviour.

Cdre Smith—We can certainly present the guidelines to the committee as well as other relevant information.

Senator Hill—I think we have to assume, therefore, that the judgment was made by the commanding officer that this allegation did not fall within the listed actions, because it was not referred to the civil police.

Senator CHRIS EVANS—I am happy if someone wants to give that evidence. That is the question I am asking.

Senator Hill—I am assuming that, because I am not the commanding officer. Thank goodness!

Senator CHRIS EVANS—That was why I wanted to make sure. I was a bit concerned that I had misled Admiral Shackleton.

Senator Hill—You may have. That is why I spoke to him. Unless you are going to start this discussion by putting down a definition of sexual assault, it can legally be quite tricky.

Senator CHRIS EVANS—I was not attempting to define it. That is why I was asking the Navy's definition and the Navy delineated.

Vice Adm. Shackleton—There are two elements: one is the way in which it was tried by the commanding officer on board the ship, which was done according to the extant rules which recognise the scale and scope of the issues; the other part is what we can provide, which is the way that we define these particular issues.

Senator CHRIS EVANS—So the commanding officer had an inquiry and a trial consistent with his command responsibilities.

Senator Hill—Would you call it a trial? Is that the right term?

Vice Adm. Shackleton—That is correct; it is a trial.

Senator CHRIS EVANS—It was the vice admiral's word, not mine.

Senator Hill—It has to be right then.

Vice Adm. Shackleton—It was properly constituted under law as a trial.

Senator CHRIS EVANS—And he took action against how many—

Vice Adm. Shackleton—I would prefer not to go into detail. Individuals who were affected in the charge were dealt with.

Senator CHRIS EVANS—I think it is important for an understanding of this to know how many and perhaps the punishment. I do not want to press you too much, but I would rather not go away with a figure of somewhere between one and 50.

Vice Adm. Shackleton—Would the minister be willing—

Senator Hill—My preference would be to have this matter run its full course and then there can be an appropriate public debate if Senator Evans thinks that it serves some worthwhile purpose. Because the matter is currently being investigated under the regulations, it seems to me that it is inappropriate to go into details of allegations.

Senator CHRIS EVANS—I am not asking for details of allegations. I am asking: as a result of the *Arunta's* trial, under Navy procedures, how many service personnel were disciplined? What is the number of personnel who were disciplined?

Vice Adm. Shackleton—Three.

Senator CHRIS EVANS—The first it came to your attention, Vice Admiral Shackleton, was when you were alerted to the press coverage of the incident, was it?

Vice Adm. Shackleton—That is correct.

Senator CHRIS EVANS—What is the first thing you did? Did you go back down the chain of command?

Vice Adm. Shackleton—When these things come to my attention, I naturally want to know what is going on, so I asked questions of the appropriate authorities and we collected the information we had available at our disposal. I did an assessment of what I saw and then instigated this further action.

Senator CHRIS EVANS—When you did that, were you in receipt of a report by the SIB—I am trying to find what ‘SIB’ stands for; that is how they are referred to in the press reports.

Vice Adm. Shackleton—That report came into my possession, yes.

Senator CHRIS EVANS—Who are the SIB? It is a special investigation branch, is it?

Vice Adm. Shackleton—It is a military police unit.

Senator CHRIS EVANS—Are they attached to the Navy in particular?

Vice Adm. Shackleton—No, there was a military police unit on board the ship as part of the Army detachment that were serving on board the ship while it was engaged in Operation Relex.

Senator CHRIS EVANS—How did they become involved if the Navy had conducted its own—were they dealing with soldiers at the same time?

Vice Adm. Shackleton—No, they were part of the ship’s company, for all intents and purposes, and they became involved in part of the investigation. The individual who wrote the report which you refer to was dissatisfied with part of that investigation, and somehow it found its way into the media at the same time as it arrived in Maritime Headquarters, which was the appropriate reviewing headquarters.

Senator CHRIS EVANS—Was that report done in accordance with procedure? Was it appropriate for them to compile that report?

Vice Adm. Shackleton—That report was written by an Army corporal who was a military policeman and authorised to write such reports—and did so and did so quite well.

Senator CHRIS EVANS—Was he involved in the trial process, or was it a separate process?

Vice Adm. Shackleton—He was involved in some way in the investigation process.

Senator CHRIS EVANS—But he did not form part of the prosecution, as it were, of the captain’s trial.

Vice Adm. Shackleton—No.

Senator CHRIS EVANS—Who does he report to?

Vice Adm. Shackleton—He reported at that stage to an Army officer who was also attached to the ship.

Senator CHRIS EVANS—And the report went up the line to Maritime Command.

Vice Adm. Shackleton—The report went to the commanding officer of the ship, and it also went to the maritime commander. Senator, if you could perhaps tell me where you are trying to get to, I can help you.

Senator CHRIS EVANS—I am just trying to understand the process. Obviously that report then came out and caused the publicity. I am trying to understand: was that a legitimate report and—

Vice Adm. Shackleton—It was a legitimate report. Its exposure into the media caused us to do a whole lot of stuff a lot more quickly than we might have done. It also put us on the back foot in terms of coming to grips with the problem.

Senator CHRIS EVANS—So that went through the normal channels. Whose desk would the report of the commanding officer and the SIB report have ended up on?

Vice Adm. Shackleton—What normally happens is the commanding officer would render a normal punishment return, on a monthly basis, of issues that he has had to deal with in a disciplinary sense. Depending on how serious and severe they might be, he would report them on occurrence so that the maritime commander is aware of the fact that he has got this problem he is dealing with, but for other issues he may not do that. In this instance he was talking to the maritime commander about it as it occurred, so the maritime commander knew that this was a live case, as it were. It was subsequently forwarded to Maritime Command, who, in his role, has the right of reviewing authority, which means that he can overturn punishments awarded by the commanding officer if he finds they are either too lenient or not severe enough.

Senator CHRIS EVANS—Had he got to do that before this thing blew up?

Vice Adm. Shackleton—No, the timing was quite bad, in that this thing arrived in the media at the same time it arrived on the desk of the staff officer who was going to deal with it.

Senator CHRIS EVANS—So in effect you took over the process—

Vice Adm. Shackleton—Yes, I did.

Senator CHRIS EVANS—So you ordered an inquiry under the Defence Inquiry Regulations?

Vice Adm. Shackleton—Yes, I did.

Senator CHRIS EVANS—There were two investigations as part of that, were there?

Vice Adm. Shackleton—There were two separate incidents. There was an incident on Christmas Island, which is the one we have just been talking about, and I became aware at the same time of an incident that was alleged to have occurred on the island of Diego Garcia. I initiated a separate inquiry as to the allegations for Diego Garcia, and that happened in parallel with the activities on Christmas Island.

Senator CHRIS EVANS—So you ordered both those investigations. Were they done by the same person?

Vice Adm. Shackleton—No. It was my intention that there be seen quite clearly no opportunity by anybody to remark on Navy having any kind of a cover-up, so I imposed on Chief of Air Force to provide me with a group captain—in the same way that I imposed on the Chief of Army to provide me with a colonel for the other one.

Senator CHRIS EVANS—So the group captain did the Diego Garcia one and the colonel did Christmas Island.

Vice Adm. Shackleton—Correct.

Senator CHRIS EVANS—When did you commission both those inquiries?

Vice Adm. Shackleton—They were commissioned at about the same time, which would have been, I think, mid January.

Senator CHRIS EVANS—I think you got some publicity at the time about setting 14 days for the Christmas Island one to report back et cetera.

Vice Adm. Shackleton—They were both given a fairly short fuse.

Senator CHRIS EVANS—Is that unusual?

Vice Adm. Shackleton—Not when you have got a problem like this to deal with. It is important to get the facts in front of you so you can deal with it.

Senator Hill—It was really to assist you to ascertain the facts, wasn't it?

Vice Adm. Shackleton—The Diego Garcia was allegations which had been unproven in any formal Defence Force discipline process. So in that case I wanted to be advised whether there were grounds to move with what you might call a more formal process. It is important to get your hands around the problem, to understand what you are dealing with. Before you launch off into a very formal, detailed and potentially expensive trial system, you need to understand the scope that you are in. Equally, you need to understand the scope that you have got to deal with, because it may well be a lot larger than you initially thought, or it may be a lot smaller than you thought.

Senator CHRIS EVANS—I appreciate that. So unlike the Christmas Island thing, where you had a process and line of authority—

Vice Adm. Shackleton—The Christmas Island one had in fact been a trial. There had been proper trial, punishment and legal proceedings conducted.

Senator CHRIS EVANS—I worded that inelegantly. What I was saying was that there you had a process to review which had been conducted in accordance with Navy rules, but with Diego Garcia all you had was allegations. Is that right? You did not have any record of trial or anything of that nature?

Vice Adm. Shackleton—Correct.

Senator CHRIS EVANS—When did each of these report to you?

Vice Adm. Shackleton—Both of these reports came to my desk in the first week of February.

Senator CHRIS EVANS—So you received them both about the same time?

Vice Adm. Shackleton—I did.

Senator CHRIS EVANS—And then there was a feature piece in one of the papers, talking about all these matters.

Vice Adm. Shackleton—I would prefer to have articles written on other subjects.

Senator CHRIS EVANS—Both those reports were made to you. Is it fair to say that the next public announcement about this was the minister's press release?

Vice Adm. Shackleton—I put together a comprehensive report to the minister and, as he described, he has received that and given a press release. I am now in the process of conducting a proper Defence Force disciplinary activity with the Diego Garcia matter. I am in the process of conducting a like-type activity with the unfinished business of Christmas Island. The maritime commander has been given instructions to use service police to investigate properly the Diego Garcia allegations, frame charges as necessary, conduct trials and follow up on that.

Senator CHRIS EVANS—So you have initiated a proper formal investigation of the Diego Garcia incident.

Vice Adm. Shackleton—Yes. What I am trying to do—and this is important—is to get it to closure. The maritime commander has been told to have this activity conducted properly,

and I have constrained his terms of reference so we know quite clearly what we are doing. I am expecting him to finish that business in the first half of March.

Senator CHRIS EVANS—Just so I understand the military process, what happens when he concludes? Does he report to you or is it a question of whether he can or cannot lay charges?

Vice Adm. Shackleton—He has the appropriate authority to lay charges to deal with almost any crime at any level that is within his jurisdiction—and I am expecting all these particular ones to be within his jurisdiction—and I am expecting him to report to me in a progress sense and bring it to conclusions.

Senator CHRIS EVANS—This isn't the group captain again, though, this is—

Vice Adm. Shackleton—No, the maritime commander, who is a rear admiral, has the authority to deal with this within his staff and his own organisation.

Senator CHRIS EVANS—How do you describe this latest step in the Christmas Island—

Vice Adm. Shackleton—This has now moved from the question of 'do we really have a problem?' to 'yes, we think we've got a problem'. So we go and properly investigate it, using military police who are trained investigators, form and frame charges against appropriate people, if they can be identified, and take any action which is appropriate to the charges.

Senator CHRIS EVANS—I do not want to know the details of the Christmas Island incident, but what is the nature of things you were investigating? You said at one stage that you were satisfied with the commanding officer's conduct of the trial et cetera.

Vice Adm. Shackleton—I would like to leave that alone if you would not mind. This is under active case management. I would not want to make things public which subsequently may not turn out to be correct.

Senator CHRIS EVANS—One of the allegations made in that initial report—I do not want to put it any higher than an allegation—was of a cover-up and destruction of evidence. I would like to know whether that is still a matter under active consideration or whether you have concluded inquiries into that matter.

Senator Hill—I think it would be better to wait till the process has been completed and then, if you are dissatisfied with how matters have been dealt with, the matter can be raised again. But if we start ruling things in, that implies that other things are ruled out, and I do not know if that is particularly helpful during an investigation.

Senator CHRIS EVANS—I would put a contrary view, Minister. I know you have had a hard couple of days, but everything I raise tonight is something you cannot do or find or you do not want to find. I would put to you that this is a question where—on the public record with some publicity—Navy has been accused of a cover-up. Now I would have thought it might have been in everyone's interest to clear the air a bit on this stuff. What we have had is another series of inquiries announced with no information.

Senator Hill—You do not want to assume guilt in these things.

Senator CHRIS EVANS—No.

Senator Hill—Then it is better to allow the proper disciplinary process to be completed and then if, you are unhappy, to have the political debate. You and I both know that this sort of stuff is sensationalised in the press. It got huge coverage during the Christmas break, way out of proportion to what it deserved. Seeking to rediscover the allegations in here tonight will

be similarly reported, which may be your wish, I do not know. I do not think it is going to constructively advance the process.

Senator CHRIS EVANS—I think at 20 to 10 after two days of Defence estimates, we are fairly safe.

Senator Hill—Not on this subject, no. Anyway, I was advised that the previous report should not be made public until the completion of the process. I thought that was sound advice. The disciplinary action—

Senator CHRIS EVANS—Sorry, whose advice was that to you, Senator?

Senator Hill—That was from the admiral. He informed me of the action he was taking under the disciplinary act. That process is now taking place. I would make a couple of points. Firstly, I think it would be helpful to the committee and Commodore Smith—and certainly to the minister—if we could get a one-pager that deals with this interrelationship of civil criminal law and military criminal law, particularly as it relates to sexual assault type allegations but also beyond that and the various steps. If it is decided to progress down the military chain, what are the various steps and reviews referred to tonight as a trial and then a review and then a capacity for a commanding officer to carry out an inquiry and then lead back into another disciplinary action? To an outsider it is really quite a complicated and awkward looking process.

Senator CHRIS EVANS—I suggest to you, Senator Hill, that as someone has done that in recent days and had a look at it, I am not sure it is going to help, but it will be very interesting to have a look at that. I have tried the same process myself recently to try and work it out. That is why I was asking Admiral Shackleton. I was not clear at the end.

Senator Hill—That is the first point I want to make. The second point I wanted to make—and you can go on with this line if you want to—is that, unfortunately, when there are instances of misbehaviour it reflects badly on the whole Navy. That is a great pity because, when we look at what we are expecting of the defence forces at the moment, it is a great deal. Overall they are doing a tremendous job. It is a matter of regret to me that the very few that do misbehave in terms of what are the standards of the Defence Force do so detrimentally affect the reputation of the whole.

Senator WEST—Minister, have you read the report and the recommendations of this committee into the HMAS *Swan* some considerable time ago? I think Admiral Barrie and I have very clear nightmares of some of these questions. I am interested to know if the recommendations and the changes that we made have been implemented, if they helped in any way or if the recommendations and changes arising out of that need further modification? Some of these definitions—

Senator Hill—I know the report, and I wanted to be satisfied—because these two cases were reported at about the same time—that there was no systemic problem. Admiral Shackleton's advice in part to me described the actions that the Navy had taken in response to the *Swan* inquiry. Furthermore, he recognised that there was an ongoing need to educate—

Senator WEST—Yes, that is what good working relations were set up to do.

Senator Hill—And he suggested a few other ways that he was going to put some new life into that project. Whilst I think that is an ongoing challenge, it is, to me, a little different from the allegations of misbehaviour that occurred in this instance.

Senator WEST—I am still interested in—

Senator Hill—The *Swan* inquiry was largely on discrimination.

Senator WEST—There was a variety of things in there.

Senator CHRIS EVANS—Senator Hill, I am not going to push this. I would just refer you and Admiral Shackleton to, one, the publicity over this issue; and, two, the quotes attributed to Admiral Shackleton about his desire to clear the air, to make these things public and to provide a public report within 14 days et cetera. These were reassurances given to the press who were interested in this that all this was going to be done. For us, today, not to be able to raise issues and not to be able to get any detail at all is against that backdrop. You know the great public debate that occurred and the HREOC Commissioner's involvement et cetera. There has been a whole range of public involvement in this issue. If the decision from Navy today is that no further information is going to be given—

Senator Hill—That is because two actions are being taken under the Defence Force Disciplinary Act. The reason that I issued that press release was to ensure that the public were informed that proper actions were being taken.

Senator CHRIS EVANS—Your difficulty is that it looks very much like Admiral Shackleton's press release from two months before which said exactly the same thing: there would be two inquiries. Not putting too fine a point on it, because I do not want to be critical of him, but it is just another set of inquiries. I have tried to tease it out to understand it myself.

Senator Hill—I have conceded that it is quite a long and complex process, much more complicated than under a civil process.

Senator CHRIS EVANS—I will leave it as your call, Minister.

Senator Hill—Okay.

Vice Adm. Shackleton—Perhaps I could say to you, Senator, that Navy will not cover up. We will accept the bad news and we will deal with it. The processes that we put in place right from the time that the antidiscriminatory laws were put into practice in this country, moving on through the various changes in legislation, the *Swan* incident and the good working relationships that Senator West referred to, have all been incorporated, embellished and improved by the Navy. As the Senator said, we have just a very small number of people who do not seem to get the message. Every time they do not get the message, they are going to keep getting it really hard until they do. I am also in the process of pushing forward another program to make sure that people understand what leadership and values mean. We will make sure that all of our training, all of our processes and everything we do in the Navy is aligned to have people understand what kind of behaviour is expected from them. Having said that, people are people and while I can say to you that I have zero tolerance of it, I would have to be a realist and say that I do not expect to get zero results in that sense, or zero problems. But when those problems do arise, we will have processes and procedures in place to deal with them.

Senator CHRIS EVANS—I appreciate that, Vice Admiral Shackleton. As I said, the reason I raised those concerns was that even I was having difficulty understanding the processes.

Vice Adm. Shackleton—I can understand your saying, 'Here is another investigation on an investigation, on an investigation.' The point is that I want to get the people who are involved in this and I do not want to just lash out and damage everybody just for the sake of dealing with a couple.

Senator CHRIS EVANS—I appreciate that. I said that I would not push it. There is a public context with this one that we all deal with. Mr Chairman, I think we have given Navy enough of a going over today. It would be remiss of us if we did not give Army a go.

CHAIR—Thank you, Vice Admiral Shackleton.

[9.51 p.m.]

CHAIR—We will now move to output 3, Army capabilities. Welcome, General Cosgrove. Please pass on the committee's condolences to the widow of the SAS soldier who lost his life in Afghanistan.

Lt Gen. Cosgrove—Thank you for the committee's condolences. I will convey them to the family personally early next week at what will be a private funeral for Sergeant Russell.

CHAIR—Thank you.

Senator WEST—I want to ask about the use of reservists. Will they be going to East Timor? As I understand it, units are going to East Timor already—or individuals are.

Senator Hill—There are reservists in East Timor now.

Senator WEST—Yes, in individual units, but will there be a unit of reservists going?

Senator Hill—Will there be a total company going?

Senator WEST—Yes.

Senator Hill—In all likelihood.

Senator WEST—In all likelihood? You have not set a number yet and you have not issued any call-up notices?

Senator Hill—I think it is about to occur. The general just has to assure me that the numbers that the government has committed to the time of independence—or certainly before the end of June—can be achieved whilst at the same time maintaining the four-company structure and extending the existing hospital commitment until August. I have a little difficulty in seeing how that can occur, but I am sure it can. Subject to that, the answer will be yes.

Senator WEST—A few of the things you have just said that you want clarification or confirmation on are some of the issues I wanted to pursue—such as the numbers involved and when they will be going. Will they also be used to provide security at CHOGM?

Lt Gen. Cosgrove—On the first question, with the minister's permission, the situation regarding numbers and the internal structure of the Australian contribution in East Timor remains somewhat as a dynamic. I have to point here to the fact that the United Nations, understandably through the building of a refreshed or a revised coalition in the UN force, itself moves the goalposts. What the minister refers to is the need to understand what it is that has been asked of Australia and then to respond appropriately. There are plans available with the minister and, as he said, when some of these other issues are worked out we will move swiftly to achieve the outcome.

Senator WEST—That brings me to CHOGM. Will reservists be called up for the provision of security at CHOGM?

Senator Hill—There is a very large number of ADF people involved in CHOGM, and I will be releasing a statement on that tomorrow. I would expect that there would be some reservists.

Lt Gen. Cosgrove—If I could just remark on the term, ‘called up’ that you used, Senator. They will not actually be called up. Just as for security duties concerned with the Olympics, they will be brought in on a period of full time service, rather than called up or called out, in the terms of the legislation.

Senator WEST—What is the length of full time service they are likely to be requested to undertake, as opposed to called up?

Lt Gen. Cosgrove—If I could characterise it in relation to the Olympics, it will not be as long as for the approximate period of the Olympics because, of course, the duties for CHOGM are shorter overall. So, if I could give you a guesstimate, a period of 10 days to two weeks would seem to be about the most we would expect of a large number of reservists, although some, of course, will do longer because of their involvement in the planning.

Senator WEST—If the reservists go to East Timor, what is the length of time they will go for?

Lt Gen. Cosgrove—With a caveat that the government has not yet indicated whether or not, in the structure—

Senator WEST—If they were to go, what would be—

Lt Gen. Cosgrove—If they were to go, it would be for a much longer period: of course the six months of the deployment and a period of leave to follow the deployment—so let us say that is seven months—plus as much time ahead of the deployment as we can get them together for the purposes of individual and collective training.

Senator Hill—So, it is really a very different thing, isn’t it?

Senator WEST—If they went to East Timor as a unit, would that be a ‘call up’ type situation, or would that again be—

Lt Gen. Cosgrove—Again, it would depend on the time. If the time is as lengthy as I have pointed out, then in order to activate the support provisions available, there would be a call up whereby—by understanding which reservists were volunteers and which would be embarrassed by such a call—we will call up those who are available for a protracted period. That will activate the support legislation.

Senator WEST—I see.

Senator Hill—In principle, I think it would be a good thing. I know that there are many reservists who would love to have this opportunity to contribute in that way.

Senator WEST—They like getting the ribbon.

Senator Hill—I beg your pardon?

Senator WEST—They like getting the ribbon, the medal.

Senator Hill—I did not actually have that in mind.

CHAIR—I think that is a little unfair.

Senator Hill—I think she is smiling, it is not—

Senator WEST—If the reservists go to East Timor, what will be their salary and conditions?

Lt Gen. Cosgrove—Again, if they do go, then they will be on precisely the same conditions of service attached to the nature of the service at the time. At the moment, it is

war-like service, which attracts certain conditions of service. Those reservists, for all intents and purposes, will be regarded as full-time soldiers. Which, indeed, at the time they will be.

Senator WEST—So, they will get the same long service leave?

Lt Gen. Cosgrove—They will not get those career-long conditions that attach to regulars. What they will get though, is the loading for leave that is accrued by their service. And that will be paid full time service leave.

Senator WEST—What about superannuation and military compensation entitlements?

Lt Gen. Cosgrove—No superannuation, but military compensation will be available for them if they should become eligible through injury or illness.

Senator WEST—No super? That is an interesting one, because they are not getting any salary from their other occupation, therefore they will not be making any contribution to the superannuation—

Lt Gen. Cosgrove—But, again hypothetically, we must remember that they will be subject to the employer support payment which will be a very substantial recompense to their employer and an inducement for their employer to come to the party.

Senator WEST—Is there any compulsion on the employer to come to the party?

Lt Gen. Cosgrove—Only the legislation that was supported by both sides of the parliament, as I understand it.

Senator WEST—Yes, but there is no compulsion in that for superannuation—for SGCs to be—

Lt Gen. Cosgrove—Not on the super side, no.

Senator WEST—Could you, on notice, give us a comparative table of the service conditions and entitlements for regulars versus reservists?

Lt Gen. Cosgrove—To clarify that, will we make that contingent on the government's decision?

Senator WEST—Yes, please. What will the CHOGM people be getting? Just their normal—will this be considered their normal exercise fortnight or whatever?

Lt Gen. Cosgrove—Depending on the length of time. They will certainly be on their tax-free money. We found that that incentive, together with the opportunity to serve, gave us many volunteers for the Olympics. We anticipate the same for CHOGM, although it is a lesser period.

Senator CHRIS EVANS—I have had a couple of queries from people making the claim that the offer was lower than what they got for the Olympics in terms of conditions, and that it was less attractive. These were calls to my office that did not go into a great deal of detail. That is one of the reasons why we are pursuing this line of questioning—because we have had a few people ring up and say that to us. Is that right or is it wrong?

Lt Gen. Cosgrove—It may be, in this regard. I would have to check if the period of time that reservists spent on the Olympics attracted one of the allowances that plugs in after 14 days. If they were not doing quite that length of time, there would be less money in the hand. Can I take that one on notice and roll it in with the answer to Senator West?

Senator CHRIS EVANS—Yes.

Senator WEST—Under this legislation for reservists, is the employer required to keep their positions open?

Lt Gen. Cosgrove—Yes.

Senator WEST—There is no intention to waive that for the reservists going to East Timor or CHOGM?

Lt Gen. Cosgrove—No. Again, if they go.

Senator WEST—To date you have had no difficulty with the take-up rate for CHOGM?

Lt Gen. Cosgrove—No. I do not have the details of how many have put their hands up for CHOGM, but I would say, knowing South Queensland, that it will be high.

Adm. Barrie—We would have a bit of a problem, if there is a problem, because CHOGM is actually on fairly shortly.

Senator WEST—That is exactly right; it is not far away.

Senator CHRIS EVANS—When there was an original request for Comcar drivers to go to CHOGM, they had no problems either about escaping Canberra to go up to Brisbane.

Senator WEST—That was going to be at a cooler time of the year. I do not know that they will be quite so enthusiastic if there are going to be cyclones around. So you have no problems with the targets, and you do not know because East Timor has not yet been ticked off—so you do not know on targets?

Lt Gen. Cosgrove—I think both the government and the military would like to get to the solution quickly. But as I did point out, the UN is moving the goalposts ever so slightly and we have to resolve that first.

Senator CHRIS EVANS—I have one question for General Cosgrove. As a Western Australian, I would get shot if I did not ask this question. It is about the SAS and Holsworthy. Can you give us a brief explanation of the status of that?

Lt Gen. Cosgrove—I missed the last part of your question.

Senator CHRIS EVANS—It is about the second SAS bit at Holsworthy, and whether they going to stay there or what.

Lt Gen. Cosgrove—Counter-terrorism.

Senator CHRIS EVANS—As I understand it, you have SAS people home-stationed at Swanbourne and at Holsworthy. There are queries about how long they are going to be there and whether it is intended to be part of a permanent operation.

Lt Gen. Cosgrove—The intent is to keep those soldiers from the SASR—who are presently fulfilling an east coast counterterrorist capability duty—over here only as long as it takes to raise and field, or to declare as capable, a second counterterrorist capability from 4th Battalion, Royal Australian Regiment. That counter-terrorist capability is presently under training and will be available roughly by mid-year.

Senator CHRIS EVANS—That quick? I assumed given the training that you put into the SAS Regiment that it might take a bit longer to get them up to that—

Lt Gen. Cosgrove—The issue here is that the SASR traditionally covers a fairly wide span of very specialised skills, one of which is counterterrorism. The soldiers we are presently training from 4RAR Commando will focus on the counterterrorist side and will be able to do

that very well, but will not be as capable across a wider range of special disciplines as the SASR.

Senator CHRIS EVANS—So the SASR who are part of that Holsworthy group could expect to be posted back when that is completed around the middle of the year?

Lt Gen. Cosgrove—That is right.

Senator CHRIS EVANS—Thanks for that. Mr Chairman, I have nothing else until we get to Intelligence as I want to talk to the DSD.

Senator PAYNE—Before General Cosgrove leaves, I wanted to say to him that because of the gap in the timing of estimates this is the first opportunity I have had to put on the public record my thanks—and, I think, the thanks of those other members of the Australian UN observer delegation to East Timor in 2001—for the support, assistance and the hospitality of the ADF for those of us who were in Sector West, based in Maliana. Particular thanks go to Geoff Singleman and the other members of AUSBATT. I think Mr Rudd would join me in thanking the ADF for that.

Lt Gen. Cosgrove—Thank you very much, Senator. I will certainly make sure the person you have mentioned receives your good wishes.

Senator PAYNE—Thank you.

CHAIR—Thank you, General Cosgrove.

[10.07 p.m.]

CHAIR—I believe we have avoided output 4 and output 5. We move now to output 6: Intelligence. You have had a long couple of days, Mr Lewincamp.

Mr Lewincamp—Mr Chairman, I should explain since you called my name that I have been in this job all of three days. Shane Carmody who has just left the job is sitting at the table so we will share the questions between us.

CHAIR—Thank you for your advice, Mr Lewincamp, but we feel we know all about you.

Mr Lewincamp—Ron Bonighton, the Director of the DSD is here also.

CHAIR—The committee has its favourites.

Senator CHRIS EVANS—I might like to note for the record that the minister is allowing officers who used to serve in a position to answer questions.

Senator WEST—It might be an interesting precedent for later on.

CHAIR—We look about for Mr Rod Corey but he is not on the list.

Senator Hill—Part of the cost of promotion is to have to cop this stuff.

Senator CHRIS EVANS—I want to have a discussion about the DSD and the rules of Sigint which come into their operations. I am not sure whether the officers saw the *Hansard* of the estimates committee with the inspector-general, but I tried to ascertain from him, in effect, an understanding of the difference between the old Sigint rules under the previous prelegislation regime and those that apply under the legislation. I think it is fair to say we did not quite get there. That is not to say that he did not know; it was partly my difficulty in understanding all the issues and also some misunderstandings about just exactly how the legislation replaced sections in respect of Sigint. So my objective tonight is to actually get a proper understanding of what changes have occurred.

I do not know whether Senator Abetz has had the opportunity to convey this to Senator Hill, but I asked Senator Abetz to take on notice a request from me while he was at the table during the examination of PM&C on Tuesday. I have been unable to get a copy of the old rules because they had been classified during the period they were in operation, but I had a copy of the new rules that apply under the legislation because they are not classified. I asked Senator Abetz to take on notice my request to you, Senator Hill, that the old classified rules be made public—or be made available. As you have been in here, I do not know whether he has had the opportunity to do that or whether you have received a brief on it. Sorry for the prologue, Chair, but the officers will understand. Part of my difficulty in trying to understand what the differences are between the old rules and the new rules is that no-one is allowed to tell me what the old rules were. It is pretty hard to do a comparison. The only description we have of the old rules was a document sent to the Channel 9 network by a former director of DSD which outlines some of the rules that govern DSD operations.

Senator Hill—Yes, I have received advice on that matter from the director of DSD. They advised that they should not be publicly released, but I am a little puzzled by the argument presented to me and I have asked DSD to obtain the view of the inspector-general on that subject. I may have missed your introduction regarding whether you asked the inspector-general his view on that subject.

Senator CHRIS EVANS—I did not ask him his view on the release and he would not have commented, I am sure—but I attempted to have the discussion with him about monitoring of the old rules. Part of his responsibility—

Senator Hill—I am doing my best. I have told you that the guidance is that I should not. I am prepared to send it back to the inspector-general because, to my layman's view, the document is now a historic document. It has been overtaken by the new rules, which have been published, so clearly the government has decided that, wherever possible, publishing these things is a good thing. Secondly, the new rules, albeit somewhat more briefly, basically largely reflect the old rules. So I am just a little puzzled as to the basis of the advice that I have received and I am prepared to explore it further.

Senator CHRIS EVANS—Thank you for that, Minister. I appreciate that advice and it is a view I share. All I was trying to say was that the inspector-general did not pass comment on whether it was appropriate. All he was able to do was say that they are currently classified and therefore he could not provide me with a copy. I discussed with him, though, the difficulties of this report and the inquiry he has now commissioned into the role of the DSD and matters related to the *Tampa* and related times, in that has to provide a report—which you said that, if possible, you would make public—which seeks to report on whether the DSD has complied with secret guidelines. The very nature of his report has to discuss the guidelines and whether they have been complied with, so it is an issue that will impact, in part, upon the value of the inspector-general's report if he cannot discuss the guidelines. That was the nature of my discussion with him, but obviously the decision about release is an issue for you.

Senator Hill—We are continuing to work on the issue.

Senator CHRIS EVANS—I appreciate that. Perhaps I can start with you, Mr Bonighton, in that your officers obviously made a summary of those old rules available to Channel 9 in written form. They are my only source of guidance on these things. Is that the only published information on the old rules?

Mr Bonighton—Yes, that is correct.

Senator CHRIS EVANS—Is it true to say that the rules were last amended prior to the legislation in 1998?

Mr Bonighton—That is correct.

Senator CHRIS EVANS—Were the changes made in 1998 substantial?

Mr Bonighton—The changes in 1998, from the 1994 original rules covered pretty much the same ground. What happened in 1998 was that the attempt was made to use the rules as more an operational handbook for our reporters and analysts. So it had a foreword which set out the principles underlying our attempts to preserve the privacy of Australians, and the reasons why we should be doing that. It also went into considerable detail as to how people should actually do their work and make sure that those privacy principles were maintained. That is why it is difficult for us to release, or to recommend release, because it does go to the workings of the organisation itself.

Senator CHRIS EVANS—Do you maintain that unlike in the letter that was sent to Channel 9, which tends to describe the guidelines, this is a much more detailed document?

Mr Bonighton—And that is the beauty about the Intelligence Services Act. What has happened is we have taken the collection part of our work—that is now legislated for—and set out quite clearly the general principles under which we are allowed to collect the communications of Australians. Then there is a separate guideline which gives us how to communicate that. So they are the guidelines that flow out of that legislation. That means we are now able to put that on the table in an unclassified way, because it does not go to the workings of the organisation.

Senator CHRIS EVANS—That is obviously a decision for the minister.

Mr Bonighton—Indeed.

Senator CHRIS EVANS—Apart from the way in which the documents are organised, in terms of the underlying principles what changes were made between the 1998 rules on Sigint and Australian persons, and the regime that is incorporated by the act and the rules under that act?

Mr Bonighton—They cover substantially the same ground. The grounds that are set out in the act are very similar to the grounds that are in 1998 rules, and, indeed, the examples that were given to Channel 9 are pretty much the same. Where it has changed most, I guess, is that there is now ministerial authority and direction required for our everyday work in a way that was not done before.

Senator CHRIS EVANS—I want to discuss both those issues with you. The documentation that your predecessor sent to Channel 9 seemed to have a more limited list of occasions on which DSD, or authorities, could be brought into play, as it were, in terms of national security and criminal activity et cetera, and the new regime seems to have a much longer list. Is that because the DSD letter only included some of the grounds, or has the number of grounds increased?

Mr Bonighton—The number of grounds is about the same. The phraseology has changed. I think the joint select committee on the Intelligence Services Act went into that very carefully indeed. In the new act there are offences to do with hacking, for instance, which were not really covered in the 1998 rules.

Senator CHRIS EVANS—In your mind, though, were there any other changes in scope, other than updating for new technology, which changed the emphasis or the authority?

Mr Bonighton—No, I believe the underlying principles have remained the same the whole way through. The ground covered has been substantially the same.

Senator CHRIS EVANS—Could I take you, then, to this question of ministerial authority. Could you describe for me the two regimes, pre and post the act, in terms of ministerial authority both for collection and communication?

Mr Bonighton—The ministerial authority required before the new regime involved less involvement by ministers. It was much more up to the director of DSD to decide when he should go to the minister to seek approval for certain activities. The general principle, I guess, was that if no activity was specifically ruled out—that is, was illegal—then we need not necessarily seek ministerial authority to do our basic work.

Senator CHRIS EVANS—Was that true of collection and communication of results?

Mr Bonighton—Yes, I think that is true.

Senator CHRIS EVANS—I think these things go to the cabinet national security committee, don't they, but did you operate, in those days, under a broad ministerial direction?

Mr Bonighton—No, we would go to the minister on a case by case basis. If there was something particularly sensitive—and this gets a little bit awkward—an example might be—

Senator CHRIS EVANS—It is so sensitive you cannot tell me an example, is that right?

Mr Bonighton—Not without shooting myself later, Senator. Perhaps if we were doing something with our ASIS colleagues, or some other agency, we would go to the minister. We would want the minister to know that we were doing something out of the ordinary.

Senator CHRIS EVANS—But, if you were dealing with something that was very much in the public eye or subject to public notoriety, would that be one of the occasions?

Mr Bonighton—It could be. We operate in a very formal regime. We only collect things if the national foreign intelligence assessments process says we should. That is finetuned through the National Intelligence Collection Requirements Committee, which is chaired by ONA. We would take that interest, go away and work out where we might be able to find something which would help fulfil that requirement, and then issue our reports in the normal way.

Senator CHRIS EVANS—But I am just trying to ascertain what, under the previous regime, would trigger your seeking ministerial approval. You say the grounds for collection are much more governed under the act now. Is it fair to say that you basically collected anything under the old regime?

Mr Bonighton—Not at all.

Senator Hill—The data is still in the raw—

Mr Bonighton—Indeed.

Senator CHRIS EVANS—That is why I am keen to get it on the record.

Mr Bonighton—Our focus has always been foreign intelligence collection. That is what we are about. The Australian end of our business is an infinitesimal part of what we do.

Senator CHRIS EVANS—That is obviously where our interest lies. What were your general operating procedures, pre the act, for dealing with conversations between a foreigner and an Australian citizen either resident in Australia or overseas, if there is a distinction?

Mr Bonighton—It would vary—again this gets a little bit awkward—depending on the types of communications that we might be coming up against.

Senator CHRIS EVANS—Maybe I can phrase the question the other way: what was the protective regime to protect communications to or from Australian citizens?

Mr Bonighton—If we came across a communication where an Australian was mentioned or talked about, and it was a completely foreign communication, we would, to the extent that it did not meet any of those five or six grounds—

Senator Hill—The protective regime is really the rules—the ethics of the operators, the rules and the inspector-general's supervisory role.

Senator CHRIS EVANS—Yes, but the rules are secret, Minister.

Senator Hill—Yes, I know, but they are not secret to the inspector-general.

Senator CHRIS EVANS—I knew they were in the rules. I am asking him to describe that regime for me so that I can have an understanding. As I cannot access the rules, I can only ask Mr Bonighton to describe in broad terms what those rules provided.

Senator Hill—If the current advice to me, which I have asked to be reconsidered, is that the rules should not be put on the public record, I think it is fairly hard to ask him to tell you how the rules operate.

Senator CHRIS EVANS—Except that his predecessor wrote to Channel 9 and allegedly described them and provided more detail than I have sought from Mr Bonighton tonight. I can, if you like, just take him through the letter to Channel 9, but I was just trying to get a broader understanding. If you think that the Senate committee is not entitled to the same information that the *Sunday* program is then I am happy to have that discussion. I think it is fair to say that I was not leading Mr Bonighton into any areas of sensitivity. I was trying to understand what protections there were for Australian citizens under the old regime, in general terms.

Senator Hill—The protections are as I have said.

Senator CHRIS EVANS—In the rules.

Senator Hill—There are rules, even if they are not being made publicly available. They are guidance to the officials. They obviously rely on the ethics and professionalism of the professionals. There was also a supervisory regime under the inspector-general.

Senator CHRIS EVANS—I understand that, Minister, and I think that is in part why your government legislated and put it on a more formal footing. You got bipartisan support for that because people thought that approach was a more secure and satisfactory way of dealing with it.

Senator Hill—And more transparent—

Senator CHRIS EVANS—Transparent, yes.

Senator Hill—and, I think, in accordance with current attitudes on these matters.

Senator CHRIS EVANS—So, consistent with that approach, I am seeking to ask some very broad questions about the old rules and the protections for Australian citizens.

Senator Hill—But we are still having this debate as to whether the old rules should still be protected. The current guidance that I have, which I am not going to unilaterally override without further internal debate, is that they should not be. If the guidance is that the rules

should not be put on the public record then obviously debate on how they operate seems to me to be equally inappropriate. I hope that might soon change.

Senator CHRIS EVANS—I do too, Minister. If you want to take an interest in it, that is fine. I am asking for Mr Bonighton to expand on a written communication provided to a television channel in, I think, 1989.

Senator Hill—Can I see that?

Senator CHRIS EVANS—I think you will see that I am not going to greater detail—in fact, I think I will probably go into less detail than that provides.

Senator Hill—Do we have a copy of that here?

Mr Bonighton—Yes we do, Minister.

Senator Hill—Do you think I am being unusually protective? Do you want to talk more?

Mr Bonighton—Not at all, Minister. I was going to suggest—

Senator Hill—Do you agree that this was put on the public record by the Defence Signals Directorate?

Mr Bonighton—It was put on the public record.

Senator Hill—So obviously that is not confidential.

Mr Bonighton—No, what Mr Brady, the previous director, was trying to do was to give the flavour of what the rules were all about because there had been really no publicity about those at all.

Senator Hill—The fact that there are rules and what they are designed to do?

Mr Bonighton—That is exactly so.

Senator Hill—You have already said that tonight.

Mr Bonighton—That is right. All I could really do, Senator Evans, is raise it up a bit higher and say that we go to extraordinary lengths to protect the names and the identities and the communications of Australians.

Senator Hill—This is really just on the system.

Senator CHRIS EVANS—But my question really went to what protections there were under that regime for the privacy of Australians communicating with foreigners or receiving communications from foreigners. What privacy regime was in place?

Senator Hill—I think the protections are only protections as such, as I stated. You tell them; you are the expert.

Mr Bonighton—Indeed, the rules set out quite clearly how we should protect the privacy of Australians.

Senator CHRIS EVANS—I said that the rules set that out, but I was trying to get a feel for what guidelines DSD got in relation to how it handled those communications affecting Australians.

Mr Bonighton—I think the Channel 9 document does give a pretty good flavour. We spend a lot of time getting a culture in the place. The worst thing for DSD is where we are accused of investigating or intercepting the communications of Australians in an unlawful way. That is about the worst thing that could happen to us.

Senator CHRIS EVANS—I accept that. No doubt part of your frustration is not being able to tell anybody what protections you provide when people like me are concerned about whether our communications are being monitored. You effectively say, ‘Trust me, but I can’t tell you.’

Mr Bonighton—We also have an inspector-general. I have heard the inspector-general described as having powers very much like a royal commissioner. That gets my attention.

Senator CHRIS EVANS—I am not questioning anyone’s integrity; I am trying to understand what differences occur between the two systems. One of the points you made to me—which I understand is one of the key points—was about ministerial authority. Maybe we can deal with that for a minute. You say to me that, under the old regime, the DSD director effectively could decide within the terms of the rules what was collected and how it was communicated. Is that fair?

Mr Bonighton—Yes, that is fair, as a general rule.

Senator CHRIS EVANS—Would the DSD director on occasion seek ministerial guidance?

Mr Bonighton—They would seek specific ministerial approval.

Senator CHRIS EVANS—And that would be for specific intelligence gathering or for a particular project or particular type of activity?

Mr Bonighton—Yes, that is a fair description.

Senator CHRIS EVANS—So the DSD director would put a request up the line to the minister, they would tick off on it and the DSD would then conduct those activities?

Mr Bonighton—That is correct.

Senator CHRIS EVANS—How regular were such ministerial approvals? Was that a regular thing or was it just a once in a blue moon type thing?

Mr Bonighton—Probably at least once a month we would go to the minister. All of those ministerial approvals were seen, certainly in recent times, by the inspector-general as well. He was checking that what we did matched with that approval.

Senator CHRIS EVANS—So it was not the sort of situation where once every 10 years you would say to the minister, ‘We’d like approval for all the communications intercepts affecting anything within 400 miles of Australia’?

Mr Bonighton—No.

Senator CHRIS EVANS—So it was much more specific?

Mr Bonighton—Yes, it was much more specific, and it would be for more out of the ordinary activities.

Senator CHRIS EVANS—By ‘out of the ordinary’, do you mean a different form of activity or a different target?

Mr Bonighton—It might be a one-off or, as I said, where it involved some other agency.

Senator CHRIS EVANS—Can you refresh my memory on what you were not allowed to collect in relation to Australian citizens?

Senator Hill—Just read the letter.

Senator CHRIS EVANS—I am happy for you to do that. As I say, I am not trying to push beyond the bounds of what is already public.

Mr Bonighton—We talk about priorities and we give the examples of what we can and cannot do. The rules prohibit the deliberate interception of communications between Australians in Australia, the dissemination of information relating to Australian persons gained accidentally during the course of routine collection of foreign communications or the reporting of the names of Australian persons mentioned in foreign communications. It goes on to say that there are some circumstances where we can do that. Mr Brady describes them as ‘special carefully defined circumstances, such as the commission of a serious criminal offence, a threat to the life or safety of Australian, or where an Australian is acting as the agent of a foreign power’.

Senator CHRIS EVANS—Would those specially defined circumstances be the sort of thing where one would seek ministerial approval?

Mr Bonighton—They would be in some cases. Certainly the director had the power to declare somebody the agent of a foreign power and had the authority to—

Senator CHRIS EVANS—The director could do that himself?

Mr Bonighton—Indeed. And I also believe his deputy could.

Senator CHRIS EVANS—So that was an occasion when he did not need to go to the minister, or was it one of those occasions when he might do it and run it past the minister as well?

Mr Bonighton—He would not need to go to the minister.

Senator CHRIS EVANS—I would have thought that was probably one of the most serious things.

Mr Bonighton—That is why I welcome the Intelligence Services Act. It is now up to the minister to decide those things.

Senator CHRIS EVANS—On the scale of things you described, I thought declaring someone agent of a foreign power was probably about as serious as it got.

Mr Bonighton—There is criminality as well. Deciding that there is a serious crime occurring is not without its pitfalls as well.

Senator CHRIS EVANS—But at least then you do not have the RDF after you as well. I have read the act, but how would you describe, in your own words, the ministerial authority provisions for both collection and dissemination?

Mr Bonighton—What happens now is that instead of talking about collection of communications, we talk about producing foreign intelligence on Australians. That is the way it is phrased. That has allowed that split in the unclassified nature of it to come forward. What happens now is that I have a number of ministerial directions that set out the classes of things I can do, and then for specific operations I go to the minister for an authorisation. That authorisation would last usually about six months.

Senator CHRIS EVANS—Is that for collections?

Mr Bonighton—Once we have approval to do that activity, then it is caught up in the act and in the rules that go with them. So we can only communicate intelligence in the way set out in the rules.

Senator CHRIS EVANS—So, despite the act and the rules under it, you still seek specific authorisations from the minister quite regularly?

Mr Bonighton—That is correct. We do have to do that. It is set out in the act when we have to do that.

Senator CHRIS EVANS—Are they in relation to special occurrences?

Mr Bonighton—They are mostly to do with Australian citizens.

Senator CHRIS EVANS—So the authorisation is largely targeted at—I have read the act but I would like to have it on the record—protections of Australian citizens? Is that fair?

Mr Bonighton—Correct.

Senator CHRIS EVANS—And the rest of your activity is effectively governed by the act and the rules, and you go about that without special authorisation?

Mr Bonighton—We would need direction from the minister on the classes of activities that we were going to conduct, whether or not they were to do with Australian citizens. Sections 8 and 9—

Senator CHRIS EVANS—So that class of activity is something beyond the rules that Peter Reith—

Mr Bonighton—No, it is not beyond the rules. It sets the basis for our whole activity which then must be communicated within those rules.

Senator CHRIS EVANS—I am just trying to understand. You have the rules which deal more with the issues of—

Mr Bonighton—Actually distributing intelligence.

Senator CHRIS EVANS—You have described for me the authorities relating to Australian citizens. What other authorities do you need in addition to these rules?

Mr Bonighton—That is a little bit difficult for me to answer. Basically, we need authorities for specific classes of collection that we might do, whether or not they are to do with Australian citizens. There is now a whole underpinning for our operation in a way that was not there before—a whole legislative and ministerial underpinning.

Senator CHRIS EVANS—But you still seek separate authority for special collections or for collections involving Australian citizens?

Mr Bonighton—Yes. Again, I emphasise: this is an infinitesimal part of our work.

Senator CHRIS EVANS—But it is obviously the part of your work that is of most interest to Australian citizens.

Mr Bonighton—And the joint select committee spent many hours on that.

Senator CHRIS EVANS—Yes, I have read their *Hansard*. Is there a difference under the new regime between Australians in Australia and Australians overseas? A couple of times you use different phrases, and I was not sure whether I should interpret meaning from that.

Mr Bonighton—Certainly the intent has remained the same at all times. Australians are Australians—they pop up anywhere, and we do not know where they are going to pop up.

Senator CHRIS EVANS—But the regime that governs your activity would be the same if it were a call between an Australian in Fiji and a Fijian national or a call between that same Australian resident in Australia with a Fiji national in Fiji? Are there different classifications?

Senator Hill—Don't put yourself in an embarrassing position. If you feel that any of these matters are going beyond what you are comfortable talking about, in accordance with longstanding Senate practice, you should not be shy in saying so.

Senator CHRIS EVANS—That was not my intention. I was really asking what the impact of the act was. It was an act interpretation question, not a question about how DSD operated. On my reading of the act, I was not clear whether or not the act treated the protections for Australian citizens in the same way if they were resident in Australia or if they were overseas. Is that a distinction or not?

Mr Bonighton—Again, I am a little bit uncomfortable with getting into the detail of our operations.

Senator CHRIS EVANS—I am only asking what the act does.

Mr Bonighton—Essentially, Australians are protected in the same whether they are overseas or in Australia—exactly the same. The intelligence is communicated with the aim of making sure their privacy is protected, unless it falls within those specific exempt areas.

Senator CHRIS EVANS—I do not want to go into any detail about this, but obviously you are aware that the inspector-general is going to have his own inquiry.

Mr Bonighton—Yes, and we welcome that. The inquiry has very wide terms. We have spent considerable time and effort making sure he has the information that he needs to satisfy that. I should say that we are not perfect. We have said that there was a breach during that period. We will see how that comes out. We will wait for Mr Blick—

Senator CHRIS EVANS—I do not intend asking about that.

Mr Bonighton—He is a very thorough person.

Senator CHRIS EVANS—I know Mr Crean received a briefing about it. Not that I was offered one on that occasion; I thought it best that I did not get briefed if I was going to have some public interest. Maybe when these issues are put to bed, I might ask the minister for a briefing. It just seemed to me that, in the current environment, it was best that I did not ask for that—for everyone's sake.

Senator WEST—I think my questions should go to Ms McCarthy. Ms McCarthy, thank you for the letter correcting the answer from the last estimates in June. Senator Hogg and I were asking how many charges had been laid against anybody as a result of the raids in September 2000—nearly 18 months ago. Following on from that, what has been the final wash-up there? We were told that charges were being developed in two cases.

Ms McCarthy—The administrative action in respect of the military member and the civilian member referred to in the last hearing is still in train. The issues involved are highly complex and every effort is being made to bring the matters to resolution. One of the actions relates to a possible failure to observe certain security obligations connected with the holding of high-level clearances. In respect of that member, a notice to show cause why the member's employment should not be terminated has been issued. The other action relates to a possible failure to observe certain security and privacy obligations and a probity matter. That member has yet to respond formally.

Senator WEST—So they have been served with administrative notices?

Ms McCarthy—Yes, with administrative notices and no criminal charges.

Senator WEST—What about AFP charges?

Ms McCarthy—No AFP charges in either case.

Senator WEST—Have they been advised of that?

Ms McCarthy—I am not sure if they have been formally advised, but they have been advised of the administrative action.

Senator WEST—When were they advised of the administrative action?

Ms McCarthy—In respect of the civilian member, it was on 28 September 2001 that they were advised of administrative action concerning a number of possible breaches of the Public Service Act. I do not have the exact date of the notification of the administrative breach of the military member. I can check on that for you, Senator.

Senator WEST—Thank you. I now turn to your annual report and it indicates that you have a backlog of cases in regard to vetting because of a limited number of case officers and other issues. What is happening with that particular issue of vetting?

Ms McCarthy—I will respond to that in respect of the two broad categories of vetting: positive vetting and negative vetting. In respect of positive vetting, which is the highest level of clearance and the most resource intensive, the number of case officers allocated for the task is being increased from 27 to 50. Those extra case officers are being recruited at the moment. In respect of negative vetting, which involves vetting from restricted up to the top secret level, there are business process improvements in train and recruiting is also taking place at the moment to bring on board extra vetting officers in all our state offices around Australia.

Senator WEST—Does the vetting that is taking place include vetting for those who are employed under the commercial support program?

Ms McCarthy—Yes.

Senator WEST—What is the delay in getting the vetting done?

Ms McCarthy—In respect of both Defence—

Senator WEST—In respect of both Defence and CSP employees and in terms of negative and positive.

Ms McCarthy—The delay relates to a growing backlog and an insufficient number of case officers to clear that backlog in the time that we would like.

Senator WEST—What is the length of time for the backlog?

Ms McCarthy—I do not have the backlog in the length of time, Senator. However, I do have the number of clearances. The time that a clearance takes depends very much on the individual clearance. A clearance can take anywhere from a couple of weeks to many months depending on the level of investigation required into the person's background.

Senator WEST—What sort of numbers are we looking at?

Ms McCarthy—In respect of positive vetting, there are 4,141 active PV holders; that gives you a sense of how many people currently have clearances. There are 451 initial clearances and 211 re-evaluations in progress. There are 845 re-evaluations due but not yet initiated.

Senator WEST—How long overdue are those evaluations?

Ms McCarthy—I do not have the figures for how long overdue the re-evaluations are.

Senator WEST—Can you take that on notice?

Ms McCarthy—Yes.

Senator WEST—With the negative vetting, what is the story there?

Ms McCarthy—There are 1,650 clearances currently in progress for Defence personnel.

Senator WEST—Does in progress mean that you are undertaking them?

Ms McCarthy—Yes. We are undertaking 722 for Defence industry. In terms of backlog, there are 10,969.

Senator WEST—There is a 10,969 backlog for negative vetting.

Ms McCarthy—That is initial cases waiting for allocation to a vetting officer and some re-evaluations that are due. In respect of Defence industry, there are 303 that have yet to be started.

Senator WEST—For the 303 yet to be started, where would these people be working? What sort of establishments would they be working in?

Ms McCarthy—If their work requires a security clearance, they would not yet be working. But in terms of the sorts of work that Defence industry does that might require a security classification, it could range from work in the information security area to professional service provider work in areas that handle classified information such that the professional service being provided requires the Defence industry contractor to come into contact with classified material.

Senator WEST—Are these 10,969 that are still waiting to be classified in the civilian commercial support area?

Ms McCarthy—No, there are 10,969 Defence personnel and 303 Defence Industry clearances yet to be started. So the backlog is much less in respect of Defence industry because there are fewer contractors than there are permanent Defence personnel.

Senator WEST—So you are telling me that Defence industry is the only CSPs that you worry about? What sort of vetting is done to see that people do not have criminal records and are not convicted paedophiles working in maintenance areas around married quarters or something like that?

Ms McCarthy—Security vetting is only carried out in respect of the need to access national security classified material. There are what we call ‘fit and proper person checks’ carried out for all civilians and military members entering Defence as permanent employees. But whether or not we conduct police checks or any other kind of checks on Defence contractors depends on whether they need to access classified material.

Senator WEST—Who undertakes the fit and proper checks?

Ms McCarthy—The recruitment areas of the Defence organisation carry that out.

Senator WEST—The recruitment area, as I understand it, is for signing up ADF personnel. Who carries out the fit and proper tests for CSP employees?

Ms McCarthy—Regional security officers around Australia.

Senator WEST—You are responsible for them?

Ms McCarthy—That is correct.

Senator WEST—What are their backlogs like?

Ms McCarthy—As I indicated, in terms of Defence industry, clearance is yet to be started. There are some 303.

Senator WEST—What about the fit and proper tests? What is the backlog there? What is happening there?

Ms McCarthy—Do you mean in respect of Defence industry?

Senator WEST—I mean in respect of CSPs.

Ms McCarthy—Senator, we do not make a distinction between CSP and Defence industry.

Senator WEST—What is the backlog for the fit and proper checks in regional areas in Defence industry, CSP or whatever you want to call it?

Ms McCarthy—The fit and proper check is in respect of Defence members being recruited. Any Defence industry contractor who requires a security clearance of any level undergoes a separate security checking process.

CHAIR—Before you go on, Senator West, we are getting very close to the cut-off time and there are a couple of things I want to say. The first is that I promised Senator Hogg that he could ask some questions on DIDS. Secondly, I think Senator Evans does not want to put any questions on notice.

Senator CHRIS EVANS—I will place some on notice, but I do not want to ask any more questions tonight.

CHAIR—Thank you for that. Senator West, I would like Senator Hogg to be starting his brief questions before 11 o'clock because he said he would take five minutes.

Senator WEST—I am endeavouring to finish, but I want to know if all CSP employees have any checking of their records. Even if it is a low-level security clearance, what checking is done of those people?

Ms McCarthy—I can only speak in respect of security clearances. Any Defence contractor who requires access to classified material undergoes security checking. I am unable to comment in any detail on any other form of checking that might be done. There would be checking, of course, in respect of competitive tendering in regards to the person's bona fides, but I cannot comment in detail other than on the matter of security clearances.

Senator WEST—Right. I want to know what has been the impact on the ADF of the 10,000 who have not had their security clearances. I am happy for you to take this on notice. What is the impact of that? How long is it going to take you to work that backlog down? I also want to know the process that you undertake for security checking and vetting in the regional offices for both military and CSP commercial support program people. How are those files kept? At any stage, are the AFP files given to the CSP employer of these people? Have there been any problems with this in the last couple of years?

Ms McCarthy—I am happy to take all that on notice.

CHAIR—Thank you, Senator West. Senator Hogg?

Senator WEST—I also had some questions that Ms McCarthy might like to give me some written comments on. They are in relation to some allegations in the media about an HMAS *Watson* Singaporean conference meeting. It is alleged in the media that a sanitised version of an AUSTEO document was verbally given to these people. I want to know the implications of that. The article links my name in it and I only know what is written there. I would appreciate, on notice, some sort of outline as to what you think took place or what is alleged to have taken place.

Ms McCarthy—We are only aware of an allegation in the newspaper.

Senator Hill—If you give us the question you want answered, we will get you an answer on notice.

Senator WEST—I would have to do that, wouldn't I?

Senator HOGG—I think my questions are for Major General Haddad.

CHAIR—I think you have a friend in court, Major General Haddad. Senator Hogg said he could not have you sit here for two days and not speak to you for five minutes. He has five minutes and that is all.

Senator HOGG—I do not think I will need five minutes. I just need an analysis of where the DIDS project is at this stage and where it is going to.

Major Gen. Haddad—The tenders for the second round of DIDS were released early in December last year. Tenders are due to close on 15 April this year. We will have a tender evaluation period of about three months and hopefully be in a position to do a source selection in July/August of this year, with contract negotiations following that period, and 2003 for implementation.

Senator HOGG—The obvious question is: what happened to the first round of tenders, given that the process was prolonged and there was no decision? What happened to those tenders in the first round?

Major Gen. Haddad—The tenderers who participated in the first round were invited to participate in the second round, and all elected to do so.

Senator HOGG—Was any compensation sought by the tenderers in the first round for the fact that they spent quite a substantial amount of money, I understand, to find that the process ended up going nowhere?

Major Gen. Haddad—Compensation was not sought, but in the second round the Commonwealth agreed to pay up to a million dollars, subject to verification, to each of the commercial tenderers to participate in the second round of the process.

Senator HOGG—I understand that on the last occasion there were six consortiums at the end of the process, to be considered for the outcome of the tender. One of those was an in-house bid, I understand. Is that in-house bid active again?

Major Gen. Haddad—Yes. The first time around there were five commercial bidders and one in-house option and that is the same this round—five commercial and one in-house.

Senator HOGG—Thank you. There is one other issue that needs to be clarified.

CHAIR—There is the matter that arose earlier.

Senator CHRIS EVANS—The minister and Admiral Barrie took on notice the question of that second message from the *Adelaide* about whether that was going to be made available.

Adm. Barrie—Mr Chairman, I seek leave of the committee to table the message in question; that is, HMAS *Adelaide*'s 110002Z Oct 01.

Senator WEST—Were you able to track down if they did a third?

Adm. Barrie—There was no third report.

CHAIR—Thank you for tabling the document.

Senator HOGG—I want to flag that there will be further questions in those other areas that I have flagged—the consultancies and the advertising—that will go on notice. There may

be questions that go on notice for Defence Force Recruiting as well, to get an update of retention and recruitment.

CHAIR—Thank you, Minister, Admiral Barrie, Mr Roche and officials. We will see you in June.

Committee adjourned at 11.03 p.m.