

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

Question No. 60

Senator Barnett asked the following question at the hearing on 19 October 2009:

Provide the Committee with a copy of the protocols Customs follows when there is an instance of a boarding.

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

Customs and Border Protection has well developed protocols for boarding vessels at sea. Much of this covers sensitive operational information and it would be inappropriate to publicly disclose the actual Standard Operating Procedures. The SOPs contain information which, if disclosed, could allow people involved in illegal or irregular activity to take steps to circumvent the protocols, however the following broad details can be provided.

Border Protection Command (BPC) uses an intelligence-based risk-led surveillance programme to detect and intercept suspected irregular entry vessels (SIEVs). BPC cannot intercept SIEVs before they enter the Australian Contiguous Zone.

BPC does not have the authority to intercept or board vessels in international waters for migration purposes. Vessels detected in international waters may be subject to surveillance to determine whether they pose a threat to maritime security should they enter Australian waters. Once inside Australian waters, vessels may be boarded using powers granted under domestic legislation. BPC's authority to act is dependent on the location of the unauthorised vessel and the nature of activities the vessel is suspected of engaging in. For example, fishing vessels can be boarded in the Australian Exclusive Economic Zone under the *Fisheries Management Act 1991*. It is important to note however, the power to board under the *Migration Act 1958* only applies when vessels enter the Australian Contiguous Zone.

At the time a SIEV is boarded, the boarding party will:

- secure the bridge and engine room of the vessel to bring the vessel under control and determine the seaworthiness of the vessel;
- assemble the people to a safe location on the vessel and provide humanitarian assistance as required;
- secure evidence associated with the vessel and its voyage; and
- inform the people onboard of the future intentions.

The boarding party may then detain the SIEV. In detaining the SIEV, the boarding party may also detain the people onboard. The boarding party will provide advice to the people on the SIEV regarding their detention and processing.