



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT SELECT COMMITTEE ON THE CHRISTMAS ISLAND TRAGEDY

Incident of 15 December 2010

FRIDAY, 27 MAY 2011

CANBERRA

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JOINT SELECT COMMITTEE ON THE CHRISTMAS ISLAND TRAGEDY

Friday, 27 May 2011

Members in attendance: Senators Cash, Fielding, Hanson-Young, Marshall and Mr Champion, Mr Husic, Mr Keenan, Mrs Markus and Mr Perrett

Terms of reference for the inquiry:

To inquire into and report on:

The incident of 15 December 2010 in which an irregular entry vessel foundered on rocks at Rocky Point on Christmas Island, including:

- (a) operational responses of all Commonwealth agencies involved in the response, relevant agency procedures, and inter-agency coordination;
- (b) communication mechanisms, including between Commonwealth and State agencies;
- (c) relevant onshore emergency response capabilities on Christmas Island;
- (d) the after-incident support provided to survivors;
- (e) the after-incident support provided to affected Christmas Island community members, Customs, Defence and other personnel;
- (f) having regard to (a) to (e), the effectiveness of the relevant administrative and operational procedures and arrangements of Commonwealth agencies in relation to the SIEV 221 incident and its management; and
- (g) being mindful of ongoing national security, disruption and law enforcement efforts and the investigations referred to below, to consider appropriate information from the Australian Federal Police and the Australian Customs and Border Protection Service (including Border Protection Command) to determine, to the extent that it is possible, the likely point of origin of the vessel.

The committee should have regard to and be mindful of independent parallel investigations into the incident including the investigation by the State Coroner of WA and investigations by the Australian Federal Police, and conduct its inquiry accordingly.<InsertTermsOfReference>

WITNESSES

BARRETT, Rear Admiral Timothy William, Commander, Border Protection Command, Australian Customs and Border Protection Service.....	49
BROWN, Air Commodore James Michael, Commander, Surveillance and Response Group, Australian Defence Force	41
BROWN, Air Commodore James Michael, Commander, Surveillance and Response Group, Australian Defence Force	49
CLEMENT, Mr Noel, Head of Australian Services, Australian Red Cross	1
COLVIN, Mr Andrew, Deputy Commissioner Operations, Australian Federal Police	41
COLVIN, Mr Andrew, Deputy Commissioner Operations, Australian Federal Police	49
DIMASI, Ms Michelle, Director, Asylum Seekers Christmas Island	4
GRANT, Mrs Marion, Deputy Chief Executive Officer, Australian Customs and Border Protection Service	41
GRANT, Mrs Marion, Deputy Chief Executive Officer, Australian Customs and Border Protection Service	49
HUDSON MILLER, Ms Rosemary, Chairperson, Coalition for Asylum Seekers, Refugees and Detainees	12
HURLEY, Lieutenant General David, Vice Chief, Australian Defence Force	41
HURLEY, Lieutenant General David, Vice Chief, Australian Defence Force	49
JONES, Ms Kate, National Program Coordinator, International Tracing Services, Australian Red Cross.....	1
KELLEY, Ms Roxanne, Acting Deputy Chief Executive Officer, Australian Customs and Border Protection Service	49
KELLY, Mr Greg, First Assistant Secretary, Detention Operations Division, Department of Immigration and Citizenship	29
LYNCH-MAGOR, Ms Fiona, Acting First Assistant Secretary, Infrastructure and Services Management Division, Department of Immigration and Citizenship	29
MACKIN, Ms Janet, Assistant Secretary, Irregular Maritime Arrivals, Department of Immigration and Citizenship	29
MOORHOUSE, Mr John, Deputy Secretary, Immigration Detention Services Group, Department of Immigration and Citizenship	29
MOSS, Ms Belinda Jane, Assistant Secretary, Territories West, Territories Division, Department of Regional Australia, Regional Development and Local Government	17
PERRY, Mr Nigel Antony, National Director, Maritime Operations Support Division, Australian Border Protection Service	49
RICHARDS, Mr Peter, Assistant Secretary, Detention Operations East Branch, Department of Immigration and Citizenship	29

WITNESSES—continuing

WATSON, Ms Judyth, Member of Executive and Manager Committee, Coalition for Asylum Seekers, Refugees and Detainees.....	12
YATES, Mr Julian, First Assistant Secretary, Territories, Department of Regional Australia, Regional Development and Local Government.....	17

CLEMENT, Mr Noel, Head of Australian Services, Australian Red Cross

JONES, Ms Kate, National Program Coordinator, International Tracing Services, Australian Red Cross

Evidence from Ms Jones was taken via teleconference—

Committee met at 08:59

CHAIR (Senator Marshall): I declare open this hearing of the Parliamentary Joint Select Committee on the Christmas Island Tragedy. I advise witnesses that although the committee prefers all evidence to be given in public, requests to give all or part of your evidence in camera will be considered. Evidence taken in camera may, however, subsequently be made public by order of the Senate or this committee. I also remind witnesses that giving false or misleading evidence to the committee may constitute a contempt of the Senate. Before the committee starts taking evidence, I advise that all witnesses appearing before the committee are protected by parliamentary privilege with respect to their evidence. This gives them special rights and immunities because people must be able to give evidence to committees without prejudice to themselves. Any act which disadvantages a witness as a result of evidence given before the Senate or any of its committees is treated as a breach of privilege. If a witness objects to answering a question, the witness should state the ground upon which the objection is to be taken and the committee will determine whether it will insist on an answer having regard to the ground that is claimed. If the committee determines to pursue an answer, a witness may request that the answer be given in camera. A witness called to answer a question for the first time should state their full name and the capacity in which they appear and witnesses should speak clearly into the microphones to assist the recording of proceedings. Before we begin, I ask participants, senators and members to switch their mobile phones off or to silent.

I welcome our first witnesses from the Australian Red Cross. We have received your submission. It was a confidential submission at your request and the committee has accepted it as a confidential submission. I understand you are prepared to make a statement on the public record for the committee's benefit and I now invite you to do so and then we will go into camera and we will conduct some questions.

Mr Clement: Thank you for the opportunity to speak to the committee today. What I wanted to do was to give you a bit of context to our role and the reason we have made a submission, then I am happy to go through some of the basics of the submission for the record. You will all be aware of Red Cross. We are part of an international movement. We are an impartial, neutral and independent organisation. We are a not for profit, but most people often do not realise we are an auxiliary to government, not a non-government organisation—so we have a different status. We work on the basis of confidential dialogue and it is critical for us that we maintain that neutrality and the trust of all sides.

Our work in immigration detention is something we have been doing since 1992 under MOUs and various agreements with governments since that time. We undertake a humanitarian observer role, visiting all immigration detention centres across the country on as regular a basis as we can. We then make confidential representations on issues of humanitarian concern to the department of immigration and directly to government when we think it is necessary. Our other involvements are that we have been the provider of community detention services since it started under the previous government in 2005 and we are pleased to see that there has been support from both sides of parliament for community detention continuing. We also provide tracing services, which is the work that Kate coordinates in our organisation which reconnects people separated through conflict and disasters and it is part of the international committee of the Red Cross' network.

Our involvement with Christmas Island is actually long-standing as well. We have had an ongoing relationship around our disasters work, so we have provided training to the Christmas Island community around the national registration and inquiry system, which is something established by the Attorney-General's Department. We have also been involved in provision of community detention on Christmas Island since about 2008 and visiting community detention and people in immigration detention on Christmas Island whenever there have been people on the island. At one stage between 2009-10, we had a permanent presence on the island for about 18 months, while we had people in community detention on the island which is how we established relationships with a number of the people on island. Kate Jones who is with me today was one of the people who was placed on the island for a number of months. When the boat incident happened, we first offered support through the department of immigration from our emergency services area around personal support that we provide in response to disasters as well as our tracing services. But it was not clear to us initially where there were gaps. It was clear that there

were a lot of services being provided and a fairly rapid response to the needs, so we decided to send Kate Jones on an assessment visit. She left on 16 December to identify if there was any need for personal support and tracing or any other supports the organisation could provide. We did not identify any really obvious gaps in the services being provided, and certainly not to survivors, but instead really focused our support on people on island—local people and particularly the volunteer responders. We did not identify the need for tracing as significant, and that is largely because the Department of Immigration and Citizenship had established a hotline for people to make contact. The few inquiries we did get internationally we were able to refer to that service.

In our submission, we focused on the term of reference around the support provided to the local community, particularly the volunteer responders on island. We want to acknowledge that there were some positive measures put in place but also that it was an important missed opportunity, which is what I am happy to put on the record today.

As I mentioned, we have had a long standing relationship with the Christmas Island community. We undertook the visit to do an assessment and we did a subsequent visit in March when the memorial service was held. Kate Jones undertook both of those visits. We found that the impact on the local Christmas Island community was fairly significant, particularly for volunteer responders—people who had been there trying to provide support during the event who were not trained but were trying to do all that they could. We found that they were deeply affected, and as a small community that often spread to other family members and other members of the community.

Our experience and the evidence that we are aware of really shows that people who witness deaths, particularly people who have not been trained, find that that can have a more significant impact on their mental health. It is really important that supports are provided to them to minimise any negative impacts. We do want to commend the support that was provided. There was a significant amount of individual counselling provided, and partly in discussion with us the public memorial service was also organised. With individual counselling, and this matches our experience in other disasters, we found that lots of people did not access the individual counselling. Following disasters, it is not unusual for people to not want to access formal counselling. What is often more important for people is a listening ear, somebody else to hear their story and be able to talk about what has happened to them, and often that is family, friends and other volunteers.

We really felt that it needed a wider approach, although recognising for some people the individual counselling was important, and it was certainly critical that it be available. We felt the memorial service provided another opportunity, and that was an opportunity for people to get together and talk about their shared experience and provide some symbolism of what they had been through. On island, we found that there was an expectation, rightly or wrongly, from some of the people who had been involved as volunteer responders that they would get an opportunity to reunite with some of the survivors at that memorial service. They saw that as fairly important to them just in terms of some human connection. They felt that there was a strong emotional value for them and being able to make that connection. Unfortunately, that did not happen. We felt it would have been important to happen because the physical and emotional state of a lot of the survivors had changed. The people on island had seen these people on the day of the event obviously in an enormous state of distress and physically not well. Largely, they had not actually been able to see them since. While they may have been able to go to the detention centre, our experience was that most people did not feel comfortable making that move themselves and they were not sure about some of the protocols and etiquettes individually approaching some of the people in the detention facilities. We recognise this would have needed sensitive management and there are obviously a range of other issues that we might not be aware of that went behind the decision, or the reasons that it did not happen. There did seem to be a disconnect between the expectations of some of the people attending the memorial that there would be that opportunity and what actually happened. We believe it is something that should have been facilitated. It needed to be organised, rather leaving individuals to try to do it themselves. While this was raised at the service and there was some acknowledgement that opportunities could still be found, unfortunately, the next day was really the day that all the survivors were being moved into community placement options. So time, in the end, really was against us.

In the end, we think there are obviously other factors and other considerations as to why it did not happen. Unfortunately, at the time they were not communicated to some of the first responders on island. For us, while there was commendable effort to provide support, and the memorial service itself was critical, we think there was a missed opportunity to assist people in that recovery. From our discussions with some of the survivors, we believe some of the survivors would have been happy. I am sure there may have been some of the survivors who would not have wanted to, but some of them have indicated to us that they would have been happy to meet the first responders.

This is something we wanted to provide to the committee. We were not sure if it would come up elsewhere. This is being provided more from a perspective of lessons for future—if such an event happens again, God forbid. In any disaster situation like this, it really is important to consider making that connection between people who were the volunteer responders and the people who survived. Thank you.

CHAIR: Does Ms Jones have anything to put on the record, before we go in camera?

Ms Jones: No, I think Mr Clement has summarised it very well.

CHAIR: Based on the understanding you have with us, that is the amount of evidence you are prepared to put on the public record, so the committee will now move in camera.

Evidence was then taken in camera but resumed later in public—

DIMASI, Ms Michelle, Director, Asylum Seekers Christmas Island

Evidence was taken via teleconference—

[9:51]

CHAIR: I welcome Ms Dimasi of Asylum Seekers Christmas Island and thank her for joining us today by teleconference. We have received your submission, which has been treated as confidential by the committee, but I understand given the discussion we just had in camera that you are now prepared to put some evidence on the public record and to refer to your submission, and to have the committee refer to your submission without identifying names contained with it. Is that correct?

Ms Dimasi: That is correct.

CHAIR: I invite you to make some opening remarks to the committee and we will follow that up with some questions.

Ms Dimasi: I would like to begin by mentioning that one of the most concerning issues was that there was little opportunity for survivors and islanders to engage in the aftermath of what happened in December 2010. Many islanders had said that they wanted to meet with the survivors; they wanted to know what happened to these people that they had helped on the day, but there was no opportunities for that engagement to take place. People were under the impression that they could not turn up to the detention centre to speak with survivors and felt intimidated to do this as well. What happened in March 2011 was that there was a memorial service and many island residents went to this service with the anticipation of meeting with the survivors. On the day there were no survivors present at this memorial service and Christmas Island residents were very confused and puzzled as to why this was the case. The non-attendance of survivors on that day may have hindered the healing process for island residents and it may have prevented them from recovering and moving forward with what happened. If this was a sensitive issue and the department believed that the presence of survivors may have caused some problems for the survivors themselves, this should have been communicated to the local community but it was not.

Another issue I would like to raise was the treatment of survivors while they were held in immigration detention on Christmas Island. The survivors should have been moved to the mainland. They would have had better support through their own ethnic and religious communities. Christmas Island is an isolated place and it became difficult for them to be able to receive the best care possible. While I believe that the department tried to do everything it could for those people while they were on Christmas Island, better care could have been provided if they had been moved to the mainland.

The final issue I would like to discuss is the decision to take survivors to the mainland for the funerals in Sydney only served to increase unnecessary stress and added to the trauma that they had already experienced.

CHAIR: Did the survivors know that the memorial service was taking place?

Ms Dimasi: I am not sure whether that was communicated to them. I had told some survivors that there was a memorial service taking place. I do not know if that was exactly communicated to them by the department or not.

CHAIR: What was the response of the ones you spoke to? Were they enthusiastic about going to the memorial service?

Ms Dimasi: The people were interested to go—yes.

Mr KEENAN: Can you expand on your comments that the mainland funerals increased stress on the survivors?

Ms Dimasi: When I was approached by one family in the detention centre they came to me for help and they said they had learnt they were being transferred to Sydney for the funeral. They also learnt they were going to be transferred back to Christmas Island after the funeral services. They said that for them Christmas Island reminded them of a place of pain, suffering and trauma and they did not want to come back to this place. They felt they would be better cared for if they had been sent to Sydney. A number of people already had relatives in Sydney and they wanted to spend time with their family members that were based in Sydney in the days that followed the funeral service.

Mr KEENAN: Did you have a discussion with DIAC about the rationale for keeping people on Christmas Island and not moving them to the mainland?

Ms Dimasi: I did not have that conversation with the department only because it happened quite quickly at the time.

Mr KEENAN: Presumably people would have been subject to the same sorts of checks that other arrivals at Christmas Island would be subject to, such as health and security. We can address these questions to the department, but presumably they still would have needed to go through all of those associated checks before being able to be moved to the mainland. We understand they all now have been. That is all I have got.

Mr PERRETT: Could you talk us through your discussions with people in December, January and February before the memorial and their efforts to make contact with the survivors—the Christmas Island locals? You used the term that they felt 'intimidated'. On what basis do you use that term?

Ms Dimasi: Intimidated in the sense that the detention centres are guarded—there are Serco officers. They know that they are not allowed to just turn up and ask to speak to people. In terms of having to visit someone in detention you need to know the names and ID numbers. People did not know the names and definitely did not know identification numbers of people. I think Islanders were waiting for some sort of opportunity for engagement and people did not feel comfortable just arriving at a detention centre because that is a place that is guarded and they thought they would be turned away.

Mr PERRETT: I was interested in specific examples where people had tried to make contact. What did they do to make contact? Were they waiting—

Ms Dimasi: People were waiting. To the best of my knowledge people did not go to the department and say, 'We want to visit survivors'. They were just anticipating that maybe they would get to meet with them when there was a memorial service.

Mr PERRETT: Do you have specific examples of people feeling intimidated? You are surmising that the walls would have been intimidating.

Ms Dimasi: People on the island know they just cannot simply turn up at a detention centre and ask to see people. Of course if they have the knowledge beforehand they are definitely not going to turn up there to see survivors.

Mr PERRETT: I assume there are Serco guards who are around the community—who go to the same pubs. I assume it is not the Berlin Wall between the people that work at the facility and the community. There must be a fair bit of interaction outside of guard duty and the like.

Ms Dimasi: There would be. In saying that, people know that to visit someone in detention they need to fill out request forms, they need names of people to go there and see them. It is questionable how they would know to do that at the time.

Mr PERRETT: But you do not have any specific examples of people you know who made attempts to make contact with survivors in December, January and February leading up to the memorial in March.

Ms Dimasi: That is correct. I do not have specific examples of that, but people had said to me that they just did not know how to contact people in the detention centre.

Mr PERRETT: Okay. Thank you.

CHAIR: You said there was an anticipation of a meeting with the survivors. Where did that anticipation originate from? Are you aware?

Ms Dimasi: People felt that at a memorial service you would surely have survivors present. They were held in a detention centre located next door to where the memorial service was. People thought that because the memorial service was being held at Phosphate Hill in the recreation centre, that logistically survivors would walk across next door into the recreation centre—that is one reason. People thought it goes without saying if you have a memorial service there would be survivors present.

CHAIR: To your knowledge, it was not as if announcements or plans had been made and simply not followed through, it was just simply an anticipation.

Ms Dimasi: Correct, also because of where it was located. On Christmas Island there is another memorial located at Tai Jin House and that is a memorial for the SIEVX. Annually a service is held there. People thought—well if the memorial service is held up in the recreation centre this must be because people from the detention centre would be able to come next door and that is why it was held in that proximity to the detention centre.

CHAIR: Thank you.

Senator HANSON-YOUNG: Firstly I just wanted to get on the record the work you have done in the local island community up until this event and to build on your understanding of how locals feel about the detention centre because my understanding is you are researching the idea of how the detention facilities and asylum seekers are seen and perceived by locals on the island—is that correct?

Ms Dimasi: Yes that is correct.

Senator HANSON-YOUNG: When you talk about the impression that people have about the intimidation of the facilities. People not knowing how to engage with asylum seekers within the facilities or know even how to use it—is that based on broader research than just this particular incident?

Ms Dimasi: Yes definitely. North West Point is probably the best example. It is located away from the town centre and people have always perceived that as a place where it is a maximum security detention centre and if people are being placed in a detention centre like that with high security, it must mean they are not allowed to visit them.

Senator HANSON-YOUNG: If you have not been contracted as a support network, what is the process that an individual has to go through to be able to enter the centre? Do you have to have some relationship already with somebody inside?

Ms Dimasi: That is correct. It is difficult for that relationship to evolve if you have never been able to meet asylum seekers. On the day that they arrive at Flying Fish Cove they are put on a bus and taken away to construction camp or North West Point never to be seen again. So it is very difficult for locals to ever form a relationship with people held in detention on Christmas Island.

Senator HANSON-YOUNG: Is that something that in your research you have heard consistently, putting aside the specifics of this individual case?

Ms Dimasi: Yes, in some of my own interviews and field work I have asked people, 'Have you ever gone to visit someone in detention?' People have responded, 'Can you visit people in detention?' They do not even know that they are allowed to visit and then they have asked, 'How would I visit someone in detention?'

Senator HANSON-YOUNG: That understanding linked to the issue of an individual who has been involved in the rescue operations not knowing how to—or whether they are allowed to, or whether it is a good idea to—try and make connection with a survivor is obviously even a larger hurdle.

Ms Dimasi : Definitely, and it is based on past experience as well.

Senator HANSON-YOUNG: I would just like to go through some of the things that you have indicated in your submission—that is, how the survivors were supported in the days, weeks and months following the crash. How much direct interaction did you have with survivors?

Ms Dimasi : I would have had direct interaction, ranging from when I went to the memorial service that was held several days after the boat crash and I met with survivors on that day, also relatives of people who had lost family members who had already been in detention. I visit the detention centre probably once a week to meet with people. It was weekly that I saw people who were involved in the boat tragedy.

Senator HANSON-YOUNG: I know there were a number of orphaned children. In the case of the nine-year-old boy, there were many reports following the significant coverage of the families' funerals in Sydney and the plight of this particular boy. Back in December when this event occurred and it was found that this boy had been orphaned, did you at any stage advocate to case workers that he should be able to be sent to the mainland?

Ms Dimasi: No, I did not, only because I came into contact with him during the weeks leading up to the funeral in Sydney. I was approached by his aunty and uncle for help when they learnt that they were going to be sent to Sydney and to be returned back to Christmas Island. So, no, I did not have contact with him prior to that.

Senator HANSON-YOUNG: Do you know if there were any other advocates who suggested that this might be a good idea?

Ms Dimasi: No, because there were no other advocates on the island.

Senator HANSON-YOUNG: So no-one quite knew what the state of this boy's plight was until a couple of months after he had already been in detention?

Ms Dimasi: Correct.

Senator HANSON-YOUNG: There has been various reports about exactly what you just said, that it took two months for people to recognise the vulnerability of this particular child. Is the report correct that he did not understand that his parents had died?

Ms Dimasi: That is correct. I was told that by other detainees. Other detainee children had spoken with me and said that this boy believed that his parents were still alive and that each time a boat arrived on Christmas Island he was looking out see whether his mum and dad were amongst those arrivals.

Senator HANSON-YOUNG: What did you think when you heard this?

Ms Dimasi: My thoughts were that it was quite disturbing. The fact that he had not been able to acknowledge that his parents were still alive was very concerning. It raised issues about what sort of counselling and support he was receiving. After that, I also learnt that other survivors thought that family members were still alive—it was the case with one Iranian woman. My belief is that when people think that family members are still living it raises questions as to what type of counselling and support they are being given and how much consultation there has been. Maybe people reach these conclusions when they have not been adequately supported or counselled. Consultation has not taken place adequately.

Senator HANSON-YOUNG: Did you raise any of these concerns with his case manager?

Ms Dimasi: No, I did not at the time. As I said earlier, my relationship with him was quite short term; it was only in the lead-up to the transfer to Sydney for the funerals.

Senator HANSON-YOUNG: In relation to the added stress and distress of the arrangements for sending people to Sydney for the funeral and then bringing them back, was there any opportunity for you or any of the other advocates to appeal directly to the department on behalf of these people?

Ms Dimasi: Through Asylum Seekers Christmas Island, I issued a media release on the day that they had been transferred asking that the department take a more compassionate approach and allow them to stay in Sydney at the time.

Senator HANSON-YOUNG: Do you know if anyone was able to directly appeal to the department?

Ms Dimasi: No, I do not know.

Mr HUSIC: I just want to take you to page 3 of your submission, specifically to the first half of the page where you refer to DIAC's lack of consultation. You state, 'DIAC's lack of consultation with the local community has been an ongoing issue on the island.' And, 'In the days that followed the boat tragedy, DIAC did not consult with the community.' In relation to those two sentences, it is clear from your perspective that DIAC can and should do more. What do you think they need to do post events such as this, if they were to occur?

Ms Dimasi: What should have happened in that instance is that a community bulletin should have been put out within 24 hours after that saying, 'The survivors have been moved to this detention centre and this is what has happened'. At the time, no-one really knew what was happening. People were asking the questions like, 'What has happened to the survivors?' If community bulletins had been issued in the days that followed—and daily would have been ideal—as to what was happening, people would have felt less anxious and would have had a better understanding of what had happened during that period.

Mr HUSIC: Page 2 of your submission refers to the work that was undertaken by DIAC post the event in relation to counselling, but what you are referring to is specifically knowing details about what occurred—is that right?

Ms Dimasi: Correct.

Mr HUSIC: Can I take you to page 5 of your submission. Something that stood out to me in the third paragraph on that page. I will read out the sentence, 'In the days that followed the tragedy there was some speculation that survivors and other detainees may have been upset with islanders as they thought that the islanders could have done more.' Where did that speculation arise from?

Ms Dimasi: I prefer not to use names of who said that and where that came from, but it was said to me on two occasions at that time.

Mr HUSIC: But you then have, just finally, the follow-up statement, 'Not once was such a sentiment expressed to me by survivors'. Since the point at which you made that submission, have any other survivors expressed that view to you?

Ms Dimasi: No, never.

Mrs MARKUS: Could you clarify what attempts you understand were made by the department to consult with the community and if you could include in your answer any understanding of the communication possibly between the department in the organisation of the memorial service.

Ms Dimasi: In terms of what was communicated to islanders?

Mrs MARKUS: Yes.

Ms Dimasi: In terms of the memorial service, posters were put around the island that there would be a memorial service and it was also put up on the community blackboard in the settlement area of the island. That was all that was advertised for the memorial service. Other than that, there was not really any other community bulletins that were issued. I think there was one DIAC community update in the *Islander* at a later date that said

that the survivors were being well cared for and they were still on the island. That was the only communication that I know of that was conducted at that time.

Mrs MARKUS: Are you suggesting that your understanding is that communication was one way and to rather than from the community? Is that what you are saying?

Ms Dimasi: Yes, there was inadequate communication.

Mrs MARKUS: Your comments in your submission imply that there was inadequate psychological care, particularly for the survivors. What was provided and what would you describe as adequate psychological care?

Ms Dimasi: To the best of my knowledge, a team of psychologists came to the island. However, it was mentioned to me by one person who had been to see one of the psychologists that they did not feel the counselling they received was helpful enough. Adequate psychological support would have been if they had been moved to mainland and then they could have had the support from their own religious and ethnic groups, their relatives. In the times they were grieving they needed more than just a psychologist on the island; they needed other people through their own support networks to assist them.

Mrs MARKUS: How long was the psychologist available for? Was that a one-off debriefing?

Ms Dimasi: You would have to ask the department that. I cannot answer that.

Mrs MARKUS: Thank you.

Senator CASH: If I could just follow on from the line of questioning of Mr Husic. You state that on 19 December 2010 you wrote to the immigration department's assistant secretary suggesting that a community bulletin needed to be issued by DIAC and this was based on the lack of consultation that was allegedly occurring between DIAC and the local community. Do have you any response at all from the department?

Ms Dimasi: I never received any follow-up emails to that.

Senator CASH: Did you follow it up with the department at all to see why they were not responding to you?

Ms Dimasi: No.

Senator CASH: Okay. You have also state that in the days following the boat tragedy it became evident that local residents wanted to meet with survivors to offer support and that others wanted to know what had happened to the survivors. When you say, 'it became evident', can you just outline to the committee how it became evident to you?

Ms Dimasi: Christmas Island is a small place and a small community. When a tragedy such as this occurs, people were constantly talking, whether it would be at school, at the local supermarket, any of these types of places, because it is quite a tight community. On numerous occasions it was said to me by people who had helped on the day throwing life jackets or who had been involved with emergency services: 'What has happened to the survivors? We would like to see them.' They did not know how to do that.

Senator CASH: Okay. As someone who is writing a PhD thesis at the Institute for Social Research, in your opinion how important is it that the community are provided with the community to meet with the survivors in terms of the healing process?

Ms Dimasi: I think it is extremely important. On the day of the tragedy, the Christmas Island community felt that they could still not do enough, because they had to watch people die before their very eyes as well. But people did do something: they threw life jackets, they got down on rocks and they helped with the emergency services and the ambulance services on the day. It is crucial that they should have had an opportunity to engage with those survivors and see with their own eyes that, 'Yes, this is someone that I was able to help,' and from that they could move forward.

Senator CASH: You state in your written submission that you wrote to DIAC about the concerns that had been raised with you by the residents on the island on 19 September 2010 and you actually suggested that an event needed to be held where islanders and survivors could engage. Again, you say you never received a response from DIAC. Have you received a response to date from DIAC to that letter?

Ms Dimasi: No.

Senator CASH: Okay. Can I confirm that no opportunities were ever provided for islanders and survivors to meet in the aftermath of the boat tragedy?

Ms Dimasi: That is correct.

Senator CASH: Have you provided the committee with a copy of the email dated 19 December and the letter dated 19 December? If you have not, are you able to provide the committee with those documents?

Ms Dimasi: Yes, that is no problem.

Senator CASH: Thank you very much.

Mr PERRETT: Ms Dimasi, you mentioned that there should have been a bulletin put out by DIAC. I was wondering if you have broader experience of this. I note your PhD is on the Christmas Island community response to asylum seekers, but are there other communities where DIAC notifies on a daily basis of what is happening with survivors or similar arrivals?

Ms Dimasi: Well, there are two processes. One is through a fortnightly DIAC community update that is published in the *Islander*, the local newspaper on Christmas Island. And there is also a community liaison officer available on Christmas Island if people would like to speak with him about some of the issues they may have or about asylum seekers.

Mr PERRETT: Okay. I was just wondering if your expertise is particularly on Christmas Island. Are there other communities that have detention centres where DIAC communicates with the local media about what is going on in those centres?

Ms Dimasi: No, I am not aware of that, to be honest.

Mr PERRETT: Okay. Your expertise is on Christmas Island?

Ms Dimasi: It is purely on Christmas Island, yes.

Mr PERRETT: And you made the point that Christmas Island is a very small place and a small community. Is your PhD observing what goes on as well as interacting? I noticed that you said that you are putting out media releases about the community response to asylum seekers, so is it observing and interacting with the community at the same time?

Ms Dimasi: It is both of those things. Since 2008, I have been conducting fieldwork on Christmas Island and I have also been involved with asylum seekers through my own organisation, Asylum Seekers Christmas Island.

Mr PERRETT: Thank you.

Senator FIELDING: I want to follow-up the issue about the meeting between survivors and those who helped with the rescue. Have any conclusions been drawn by any of the experts, the psychologists themselves, in regard to that that you have heard of? Obviously psychologists have been involved with both survivors and with rescuers. Have you heard anything at all about whether that is a good or a bad idea from those people who have actually been talking to those people?

Ms Dimasi: No, I cannot answer that. I do not have any knowledge of what has evolved since that.

Senator FIELDING: Thank you.

Senator CASH: Could I ask a follow up question to Mr Perrett's line of questioning?

CHAIR: Yes, Senator Cash.

Senator CASH: In relation to my questions regarding your correspondence with DIAC and then Mr Perrett's questions to you, can I just confirm that what you are saying is that there were opportunities at the time for the department to take the types of steps that you had written to them and advise them to take?

Ms Dimasi: There would be opportunities for that to take place.

Senator CASH: What opportunities would they have been?

Ms Dimasi: Well, there could have been a community bulletin stating, 'If people would like to meet with survivors, this is the phone number to call or they can contact the department or they could contact the community liaison officer.' Obviously that was the first step in acknowledging it, that you can meet with them, if the department agreed to it. But that was not even open for discussion.

Senator CASH: What would have been the impediments to the department facilitating a meeting between the survivors and the rescuers, if any?

Ms Dimasi: Well, that is something that you would have to ask the department. The only reason I could give is that they had their own psychological assessments given and thought that maybe it was inappropriate for the survivors to be meeting. I think that is something that you need to raise with the department.

Senator CASH: From your perspective, were there any impediments?

Ms Dimasi: No, I do not think so.

Senator CASH: Okay. In terms of actually facilitating such a meeting, how difficult would this have been?

Ms Dimasi: I do not think it would have been too difficult. The department could have put out a bulletin that said, 'If people would like to meet with the survivors, they can contact the department on this number or by this email.' From that the department could have seen who it was exactly who wanted to meet with the survivors. Most of those people would have been people involved with emergency services or ambulance services. From that they could have facilitated some type of meeting between the two groups.

Senator HANSON-YOUNG: I want to ask about your observations of how the department has consulted with survivors since the tragedy. We understand that you are not sure exactly if there was any formal communication to any of the survivors around the memorial service. We, of course, will put that question to the department. I am concerned about the evidence you have given about the confusion that people have around their own cases, what they are entitled to and even for people being moved now into community detention in other parts on the mainland how much interaction and support they have. Could you expand on that for us please?

Ms Dimasi: In terms of how much knowledge they have? Can you be a little more specific?

Senator HANSON-YOUNG: In your submission you criticise the level of consultation between DIAC and the survivors. I would like you to expand on why you believe those criticisms are valid.

Ms Dimasi: That came about because people were not entirely sure what was going on. People who had family members still missing felt that they were still alive. That was one reason. They said to me that they had asked the department for a list of the names of those who were deceased and missing, and this was not provided to them.

Senator HANSON-YOUNG: Survivors themselves had asked for a list of who had survived and who had not, and that was denied?

Ms Dimasi: Yes. In terms of other consultation—

Senator HANSON-YOUNG: What level of consultation are you aware of in relation to the moving of people to the mainland and what level of service would be provided to them in general?

Ms Dimasi: People do not know what will happen to them. In terms of the general detainee population, people are being transferred, they do not know when they are going to be transferred and people are being moved around to different detention centres. People are very unaware of what the future holds for them while they are in detention.

Senator HANSON-YOUNG: I am quite interested in the fact that survivors asked the department who else survived and who did not and they were not given that information.

Ms Dimasi: As relayed to me by one survivor, they also asked for the names of the people who were held in the Perth hospital. This person said to me that that was not provided to them.

Senator HANSON-YOUNG: I am interested in this because this issue was reported in the newspaper and the department of immigration rejected it. Did you or any other advocates on the island raise this with DIAC and ask for yourselves a list of survivors and those who were deceased?

Ms Dimasi: I did not raise it with the department because I knew there would have been issues around confidentiality. I knew they would not give me a list of the names of who was deceased and was missing. This came to my attention probably in the days leading up to the Sydney funerals. People who were upset about being sent to Sydney only to be returned to Christmas Island also raised with me that they did not know who was missing and who was deceased. They had asked for that to be clarified and it was never given to them.

Senator HANSON-YOUNG: Thank you.

Mr HUSIC: At the risk of raising the chairman's ire, I want to ask about your organisation. Asylum Seekers Christmas Island was set up in November 2009—is that right?

Ms Dimasi: That is correct.

Mr HUSIC: Do you have a management committee?

Ms Dimasi: Yes, we have a management committee.

Mr HUSIC: How many people are on that?

Ms Dimasi: About six.

Mr HUSIC: And about three people, including you, who work for the organisation.

Ms Dimasi: That is correct.

Mr HUSIC: Are you funded through donations only?

Ms Dimasi: Only through donations, yes.

Mr HUSIC: Given that you have been around since November 2009, do you have any formal dialogue mechanisms with the department? Given the focus of your organisation, do you have an arrangement so that at least on a quarterly or a six-monthly basis you sit down with the department to go through issues of concern?

Ms Dimasi: We do not at this point. That is something we are working towards. Asylum Seekers Christmas Island raises issues as they happen. We will bring them up with the department, whether it is through phone conversations or email.

Mr HUSIC: Is that because you have not approached the department on that or you have and they have declined you the opportunity to meet on a regular basis?

Senator HANSON-YOUNG: In a formal way.

Ms Dimasi: In a formal manner?

Mr HUSIC: Yes.

Ms Dimasi: I have not raised that. I am always in discussion with them, particularly with the staff on Christmas Island. By me being on Christmas Island it has always been that wherever they have needed to be the issues have been raised.

Mr HUSIC: Are there any other organisations that perform a similar function to you, that are funded in a similar way and that are structured in a similar way on Christmas Island?

Ms Dimasi: No.

Mr HUSIC: Thank you.

Mr PERRETT: Do you know the name of DIAC's community liaison officer?

Ms Dimasi: Yes.

Mr PERRETT: Is it a secret on the island, or is he or she well known?

Ms Dimasi: No. The name of the community liaison officer is Chris Su. He has also put updates in the local newspaper as well.

Mr PERRETT: From the incident through December, January, February and March people would have known who the community liaison officer was for DIAC?

Ms Dimasi: Definitely.

Mr PERRETT: They would have been informed in the local media about who the community liaison officer was.

Ms Dimasi: Yes, people are aware of that on Christmas Island.

Mr PERRETT: Is the community liaison officer particularly intimidating?

Ms Dimasi: No.

Mr PERRETT: So there would have been opportunities for people in the community to approach that community liaison officer about the people they had rescued or attempted to rescue?

Ms Dimasi: You would hope so, yes.

Mr PERRETT: Thank you.

CHAIR: Thank you, Ms Dimasi, for your submission and for your evidence to the committee today.

Proceedings suspended 10:32 to 10:43

HUDSON MILLER, Ms Rosemary, Chairperson, Coalition for Asylum Seekers, Refugees and Detainees

WATSON, Ms Judyth, Member of Executive and Manager Committee, Coalition for Asylum Seekers, Refugees and Detainees

Evidence from Ms Hudson Miller and Ms Watson via teleconference—

CHAIR: I welcome representatives of the Coalition for Asylum Seekers, Refugees and Detainees. The committee has received your submission and we invite you to make some opening remarks to the committee which will be followed by some questions.

Ms Hudson Miller: The organisation that we call CARAD, as a quick way of saying who we are, made this submission because we offer a support service in Perth and shortly to be offered in detention centres as well. We provide a visiting service to the detention centre, and also at the boat explosion time and at this time we offer a visiting service in hospitals. Many of the people who come down from the remote detention centres have got medical issues. So we sometimes visit in hospitals, even without the overlay of a tragedy. But CARAD volunteers visit, and visited in this case in both the hospital and the detention facilities here in Perth at the Banksia caravan leisure park and also at the other facilities that were here.

Ms Watson: Added to that, the purpose of the visits, besides any kind of friendship that develops, is to advocate for those individuals who might need that and to seek appropriate referral contacts if that is necessary. That is what we have always done whether people are in detention or not. And there is a list of the main focus of our work on the front page of our very brief submission.

CHAIR: Yes, thank you. In relation to the after-incidence support provided to survivors, your organisation has recommended that information exchange between the survivors, their families and government agencies should be better managed in order to minimise further distress to survivors. What problems did your organisation identify in relation to the information exchange?

Ms Hudson Miller: The information that we have comes from the people who were in the detention facilities. So this is our understanding of it. But in the matters that we observed, there was a lack of coordination of information to the clients who, of course, in particular the couple that lost the child, were seeking information every day and there was just no information coming. And from the other point of view, there were a lot of people who wanted to talk to them about things that they did not seem to understand. They did not seem to understand the context of them. For instance, people were interviewing them on such a range of issues—their detention applications, their witness statements from the boat tragedy and other aspects. Apparently all were done by the Australian Federal Police, as they reported to us. There did not seem to be a good understanding of how many people were interacting with these distressed people from the immigration staff, who are meant to be a kind of case managers in these cases.

Ms Watson: Apparently three groups of AFP people went in to focus on three separate aspects of their inquiry—for instance, the need for identification, the need for witness statements, the need to go over the same questions. As we have said, it could only enhance their grief and loss when they had no idea why they should be interviewed on three separate occasions by three separate groups of police. It made them feel implicated somehow.

CHAIR: Did anyone from your organisation raise these concerns with the AFP or DIAC?

Ms Hudson Miller: We did. We raised them through DIAC. I would have to say that one of the issues around this whole thing was that it was general holiday time, and that I think did not help. The DIAC people here had no understanding that this was the process that people were being subjected to. Once they did know, they were able to quickly remedy that by discussion with the AFP and bringing those interviews to a close. I think there are some things that interpreting cannot do, even when you use a very skilled interpreter. In these circumstances, it is very difficult to convey a completely foreign legal system to people who are so bereft. We would see a remedy as having case managers at the individual level and also a coordinating aspect quite high up to whom those case managers can refer and advocate.

CHAIR: Thank you. I was going to ask you, with the benefit of hindsight, what do you think would have been the best way to manage the exchange of information? I think you have answered that. Is there anything else that you think needs to be done?

Ms Hudson Miller: We have experienced two of these disasters from CARAD's point of view, and it does seem like there does need to be that high-level coordination about who is interacting with the actual clients, the people who are most affected. This coordination has not been there in either case, as we have experienced it and as our clients have told us. People do not actually know what is going on. People come from different agencies and they need to do their jobs, but they also need some kind of case coordination. It does seem to me that sometimes it would be really helpful to have people, probably from the immigration department actually, with consent, present at these meetings. People do not understand the legal setting they are in. Plus, they probably need to have a lawyer for themselves—someone who is there in all of these circumstances. There is probably a double recommendation that we are making. Someone needs to be there as an advocate alongside the client, as well as a much higher level of coordination from the department of immigration about the particular interactions that happen with that particular client.

CHAIR: Thank you.

Mr PERRETT: I just wanted to tease out that recommendation. Is it your position that for every interview, for every arrival, there should be a lawyer sitting in for the interview? Was this vessel and the treatment of the people on it different to other arrivals that CARAD has dealt with? Was this atypical in terms of the ID check, the witness statements and the interactions?

Ms Hudson Miller: I think this was a particular circumstance. This should apply in every kind of disaster circumstance. I guess that that is an impossibility for all arrivals who are not traumatised in this way.

Mr PERRETT: So it would be not for every single arrival by a maritime vessel?

Ms Hudson Miller: No.

Mr PERRETT: It would be in the case of trauma or some compelling circumstance that you would have an independent legal advisor—paid for by DIAC, are you suggesting?

Ms Watson: As Rosemary said before, we met people from the boats that exploded and we also met people from this shipwreck, and we think that special arrangements should be made when people are injured, distressed, bereft. While we might have views about how other people are dealt with, we are making a plea for people in these sorts of circumstances to have special consideration in terms of case management and coordination of the overall case.

Mr PERRETT: Why a lawyer? Why not a social worker or a case manager? Why would they particularly need their legal rights represented?

Ms Watson: An advocate of some kind.

Mr PERRETT: Much of your submission was about post-traumatic stress and the ramifications of that rather than their legal considerations.

Ms Watson: Our submission dealt with their need for appropriate information, and we saw that that was not managed well at all and it compounded whatever stress they had.

Mr PERRETT: Thank you.

Senator HANSON-YOUNG: Your submission talks about the need for reliable information, communication that is effective and the need to relieve people of added unnecessary stress at a very traumatic time. Unfortunately, your submission is not unique. There does seem to be a systemic problem with the level of communication and the means of communication in this particular case. Others make the point that this is a broader issue in relation to how individuals detained in these facilities understand where their cases are up to. One of the things I wanted to touch on was your direct communication with DIAC over the cases that you had become aware of—anyone treated in the Perth hospital and then subsequently waiting to be sent to a detention centre elsewhere. Did you find your direct communications accessible? Did you find that that was effective? What was your assessment of your attempts to communicate with DIAC on behalf of these individuals?

Ms Hudson Miller: We find DIAC in Western Australia very responsive to the communications from CARAD. They seek to remedy the issue, at their earliest convenience of course. But the issue, as you say, is a systemic issue, so we wonder why these things have to happen and that why we have to intervene. If there could be a better system, it would be a preferable thing than having to fix things once they have gone wrong or advocate for something once a misunderstanding has happened.

The other thing is that I think that there were people who were worried about what they could say to these clients, whereas perhaps normally the coroner's office would be very clear about how they would communicate to people, that they would be thoughtful and compassionate in the way that they communicated and also very upfront about difficulties faced by the coroner in releasing the details. The clients that we were seeing did not

seem to have that clear communication to the coroner's office directly themselves; it was coming via other people. It did seem to us, whether it is accurate or not, that there was information that the clients did not actually know about—particularly about the child who was missing—that may have alleviated some of their distress. 'Why couldn't they see the child?'—those kinds of things. We heard stories about why they could not see the child, identify the child, all of those kinds of things, and it did seem to us that our clients never had a clear explanation about why that was not possible. That is another part of the communication problems that happen in these circumstances where people are detained. Everyone seems to take a step back rather than perhaps doing what they would normally do in a circumstance like this where people were not in a detention facility.

Senator HANSON-YOUNG: Did you visit any of the individuals who were receiving medical assistance while they were at the Perth hospital?

Ms Hudson Miller: Yes.

Senator HANSON-YOUNG: Were Serco security guards present in their rooms?

Ms Hudson Miller: They are generally outside their room. We attempted to visit the women on the 17th and we were subsequently able to visit the next day. We delivered some hygiene packs to the women—toilet bags with some toiletries in them, individual things—the first day we went there and the Serco guards took them and passed them on for us.

Senator HANSON-YOUNG: So you could not see them directly yourself?

Ms Hudson Miller: We did not see them the first day they were there, which was 17 December.

Senator HANSON-YOUNG: This might sound silly, but in the context of how traumatic this event was, were the Serco guards in uniform?

Ms Hudson Miller: I do not have that information. I have the report from our volunteer in front of me and I do not have that information. I expect they are in uniform. It is their normal practice to wear uniform, I understand.

Senator HANSON-YOUNG: How did you know that these women were at the Perth hospital?

Ms Hudson Miller: I think there was fairly wide publicity. It was reported in the news that people were being evacuated to Perth. We wrote to the DIAC manager of the Perth Immigration Detention Centre and said that we were available and that we would be happy to visit people as appropriate.

Senator HANSON-YOUNG: You were not asked to do that by the department; you initiated that yourselves?

Ms Hudson Miller: We let them know that we were available to do it.

Senator HANSON-YOUNG: Okay.

Ms Hudson Miller: And we have developed quite a positive relationship with DIAC case managers here. It is a collegial relationship and we expect to be able to do this work for them. They know us, after 11 years.

Senator HANSON-YOUNG: Yes. That is all for my questions. Thank you.

Mrs MARKUS: Could you please describe the management structure of your organisation and the staffing—the number of professionals, their qualifications and background, non-professionals and volunteers—and also how supervision and training is conducted?

Ms Hudson Miller: CARAD is managed by a management committee. Currently, we have three staff, social work and sociology trained people. They all work part time. Then we have volunteers. CARAD has a rigorous training program run by a clinical psychologist and a social worker. Many of our volunteers are professionals in their own right, but they work for CARAD in a voluntary capacity, so they do a range of things. People who visit in detention or detention-like facilities have extra training on top of the general training that we offer for everybody in our organisation. We have about 80 active volunteers at any one time.

Mrs MARKUS: Based on your observations, would you say that the coordination, communication and the way case management was handled are the key areas that need improvement and did not operate effectively?

Ms Hudson Miller: Say those three things again?

Mrs MARKUS: Would you say that case coordination, communication and—I cannot quite remember the other one—were the most challenging areas and that did not operate effectively?

Ms Watson: Yes, they are. There are always concerns about these three aspects of people who are in detention while they are having their status determination made, but they are emphasised when there is so much trauma, so much physical injury and so much psychological impact around these individuals. We think it is inevitable that there will be other tragedies and we would like to see it handled much better if that is at all possible. We know

these things are not unique, but the emphasis is heightened when the ship blew up and when the boat was shipwrecked.

Mrs MARKUS: Could you give some suggestions about how case coordination and responsiveness could be improved, particularly with regard to the management of grief and loss? It has been highlighted already this morning that there have been some challenges, particularly for some of the survivors and the children to be able to accept that their family members were no longer alive. Could you give some suggestions on how this could be improved?

Ms Watson: Acceptance is a long process in the grieving process. ASeTTS, the torture and trauma service, were available to the six people who we had here in Perth. I would hope that a similar service would be available elsewhere for the survivors. They need careful professional help in the beginning. There was one woman who knew we were there but just could not accept any help from anybody, she was so immediately traumatised.

Mrs MARKUS: What were the barriers to her being able to access that help?

Ms Watson: Her grief. We do not know what happened to her. Her husband and I think two children, one of whom she was holding, disappeared. I think her support came from a couple who were in the same place that she was who had also been rescued.

Mrs MARKUS: Are you aware of what consultation advice the department received or who they may have consulted with to be able to plan and respond, particularly to the grief and loss of the families?

Ms Watson: Their submission nominates two psychiatrists who were sent to Christmas Island: Dr Fenner and a child and adolescent psychiatrist. I do not know which psychiatrists went to the Perth centres, but we know that very experienced counsellors from the torture and trauma service here were available and did help those people there.

Ms Hudson Miller: One of the critical things in this circumstance is that everybody must have the same clear information, inasmuch as those things are not confidential or a client has given permission for those details to be shared with people working with the clients. It seems to me that it would be helpful to have that information clearly put to the clients from the range of people who are interacting with because they asked everybody the same questions who could not answer them or who did not know if they had the authority to answer them. That was something that people kept saying, that they did not know or they could not tell them, and the lack of clear information just compounds the grief in the circumstance.

Senator FIELDING: How many of the survivors have CARAD been working with?

Ms Hudson Miller: There were six here in Perth and we work with five of those survivors. Not the woman we offered assistance to whom we referred to in our last conversation. We work with the five others.

Senator FIELDING: What has been the ongoing involvement with those five?

Ms Watson: They have gone. They were transferred to other centres—to Darwin and to a community detention facility in Sydney. Our volunteers put in some very intensive work, but we do not know the outcomes of their determination. Sometimes, clients keep in touch with volunteers and with CARAD by email, but I am not aware of that happening in this circumstance.

Senator FIELDING: I was just trying to work out how are they travelling psychologically. I was wondering if someone has been involved from the start and what are the ongoing lessons learned from dealing with this sort of situation?

Ms Hudson Miller: The couple were in Perth for 2½ to three months, so we had an idea of them over that time span. But the single fellows were transferred—

Ms Watson: One to Darwin and the other to community detention in Sydney. A Kurdish couple started to get some glimmer of hope in February, two and a bit months afterward, and they were keen to start a new life.

Senator FIELDING: I am trying to understand how much of the trauma was potentially made worse because of the lack of information. You are saying that it was a significant issue for the couple you had an involvement with for a longer period of time.

Ms Watson: It must be for all of them; I cannot imagine. The other interesting thing which does not relate to this is that many of us are still in contact with refugees we knew 11, 10, 8 years ago. They were very distressed by this episode. Those who had post-traumatic stress had terrible memories, visions and flashbacks initiated by this shipwreck and the constant talk in the media about it. So for the people who were directly involved, I can only imagine that their healing will take a long time too.

Senator FIELDING: Thank you.

Mr PERRETT: Obviously, in your dealings over the years with arrivals, I imagine it is traumatic to be dislocated from your country, where your roots are. I imagine the journey is traumatic and I imagine that the final boat journey would be traumatic. Could you compare the five people you have been dealing with and the other arrivals—the less traumatic arrivals, shall we say? Is this particular tragedy cumulative? Are there people who have come through this event and have moved on with their lives, like you said, and others who have had a much less traumatic journey who are damaged forever? Could you tell us how these things work out?

Ms Hudson Miller: Our experience is very clearly that the longer people are in detention and do not know what their outcome will be, the worse the outcomes are for them in terms of their focus and probably—though I have no professional expertise in this—their post-traumatic experience. When the system was working and people would come through and have a determination in three to six months and that was what people were expecting, they have actually been able to see that process as an ongoing thing. When people are detained for extended periods of time, their resettlement is much more difficult. What we have seen is that people who were resettled in the mid-2000s are now actually experiencing post-traumatic stress symptoms. If, for all intents and purposes, they have settled well into Australia, have jobs, have new families and so on, and suddenly it all just comes apart, our experience is that the length of detention is the difference in this matter not necessarily the trauma of the journey. Every case of course has its own differentiation in it.

Mr PERRETT: You have empirical data on that? Is the length of the decision-making process directly connected to the ongoing mental health of the person, irrespective of the trauma they came from or suffered in the journey to Australia?

Ms Hudson Miller: Just let me deal with that and then come back to the 'irrespective of the trauma'. There is a lot of mental health literature. Until I retired a couple of years ago, I was working in mental health. There is a lot of mental health literature—Patrick McGorry, Zachary Steel, and Louise Newman—that absolutely points to this. McGorry calls detention centres 'factories for mental illness' and we see that. We see it here in Perth, you do not have to go to a remote centre. The other thing is that you cannot say 'irrespective of their trauma'. We have just been collecting information about people who have been tortured. That torture experience is never ever going to leave those people and it compounds their distress. I remember when people first arrived here straight out of detention in 2000, ASeTTS, actually changed its techniques for the way it counselled people. Up until then, most of the people who were referred to them had been living in camps and had spend some time distant from their torture, their trauma and their escape. They kind of had a way to deal with those people. I can remember counsellors saying, 'We've had to review all that because this experience is so raw, and it has made us think about the people whose experiences are compounded either by the ship blowing up or by wrecking as well as by a long time in detention.'

Mr PERRETT: I have got a lot of trauma survivors in my electorate, but they did not go through the detention process.

Ms Hudson Miller: We are in no doubt about that at CARAD.

CHAIR: Thank you very much for your submission to the inquiry and for your presentation of evidence to the committee today.

Ms Watson: Before we close, we sent a little addendum that raised some concerns that have not been clarified for us about the conduct of the current coronial inquest in Perth. We were concerned about the compounding of the flow of information and communication for survivors. Apparently people were notified in a very legalistic letter in English from the WA police. The lawyer and team representing survivors had not been funded at that time. We want to let you know that. They are not sitting today. They have not started any interviews of any survivors or their legal representatives.

CHAIR: Thank you for that information.

MOSS, Ms Belinda Jane, Assistant Secretary, Territories West, Territories Division, Department of Regional Australia, Regional Development and Local Government

YATES, Mr Julian, First Assistant Secretary, Territories, Department of Regional Australia, Regional Development and Local Government

[11:22]

CHAIR: I welcome representatives from the Department of Regional Australia, Regional Development and Local Government. I note that the Senate has resolved that an officer of the department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

I welcome departmental officers. The committee has received your submission, for which we thank you. We invite you to make some opening remarks to the committee to be followed by some questions.

Mr Yates: Thank you for that opportunity. First, I seek your permission to table an update to the table in our submission of the actions taken in response to the Christmas Island Emergency Management Committee's report.

CHAIR: There are no objections to the tabling of that.

Mr Yates: At the outset, I acknowledge the bravery and fortitude of all who played a part on the day of the tragedy in atrocious weather conditions. It is thanks to the heroism of Commonwealth personnel and the Christmas Island community that 42 lives were saved. We express our sincere condolences and sympathy to the families and loved ones of those who died in the shipwreck of SIEV 221. I draw your attention to the efforts by staff of the Indian Ocean Territories Health Service, the volunteer rescue services and the Australian Federal Police for their truly outstanding endeavours to save life.

A member of our staff. Dr Julie Graham, received an Australia Day medal for her services on the day.

I would also like to draw the committee's attention to the outstanding support provided by agencies of the Western Australia government during and after the incident. Our submission covers this in more detail but I cannot stress enough their willingness to provide any support that we requested. Now the Department of Regional Australia, Regional Development and Local Government is responsible for the provision of state type services to the non-self-governing territory of Christmas Island. This is achieved through service delivery arrangements with 41 Western Australian agencies, 28 contracts for services such as port and airport management and the direct provision of services including health and power. These arrangements are further described in our submission.

The provision of the marine rescue capability on Christmas Island is through the following arrangements: firstly, the Australian Federal Police through their community policing function which is funded by the department, is responsible for emergency responses on the island, including marine search and rescues. Secondly, there is a volunteer marine rescue service unit, established on the island in around 2006. The department supports the VMRS through funding and equipment support and training support as well. The West Australian Fire and Emergency Services Authority, commonly called FESA, provides support to Christmas Island which includes the acquisition of specialist equipment, training for volunteers—including for marine rescues—and operational advice when requested. The department funds this through an SDA with the West Australian government.

Emergency management planning on the island is the responsibility of the Christmas Island Emergency Management Committee which is chaired by the Administrator. The committee's membership includes the AFP, the shire council, representatives of volunteer organisations and infrastructure managers. The committee maintains emergency management plans and conducts exercises to test readiness when responding to emergency situations. These arrangements have been externally reviewed in 2008 and 2010, with copies of the reviews and actions taken being incorporated in our submission.

On the day of the SIEV221 shipwreck and afterwards, the department provided numerous services including triage and emergency medical care at Ethel Beach, arranging for temporary morgue facilities as the existing morgue facilities were insufficient to deal with the numbers, sourcing additional body bags, sourcing and coordinating emergency services from Western Australia, including Western Australia Police in a specialist role,

counselling services, a disaster response hotline, various medical specialists and provision of coronial services. Liaison between the department and other agencies, including Customs, Immigration and the AFP, was cooperative and extensive. Ongoing assistance provided by the department included arranging patient care for the injured and counselling services for island residents and others who were directly or indirectly impacted by the events of the shipwreck.

The tragedy has led the department to reflect on whether its actions were enough and how we might have done things differently. We believe that we worked well with the various agencies to coordinate the provision of services during and after the incident. Communication and cooperation between the agencies were good. We are in the process of implementing the recommendations of the Christmas Island Emergency Management Committee's report, and I have provided you with an updated table on where we have made progress on that. We are working closely with the AFP and the VMRS regarding the provision of search and rescue vessels. While final decisions are being made, we have ensured that an interim capability is in place through the lease or in fact the loan from WA FESA of the *Tom Reed*, a vessel for the volunteer marine rescue service. This vessel has been on island since 9 February 2011. In addition we have funded the AFP to move one of their RHIBs, or rigid inflatables, from the mainland to island for as long as required this vessel has been on island since 29 March.

Additionally, the 2011-12 budget includes \$9 million in funding to extend the wharf at Flying Fish Cove and we have received a strategic business case from a contractor on the project and are moving to develop a procurement strategy. The project will extend the wharf to enable a patrol boat to dock alongside, thus removing the need to bring people in by barge. The wharf extension will also benefit the community as it includes a low-level platform which fishing or dive boats could tie up to and which cruise ships could unload their tenders. I do have to note here that this extension would not have changed the reality that the port was closed on the day. It is not an extension that will be available in any weather condition. It will increase the ability to offload people but it does not mean people can be offloaded in any weather condition, so the port will still suffer periods—some of them extended periods, where it will be closed because of the severity of the weather.

Whilst Commonwealth agencies on the island are well-connected and meet regularly to discuss issues as they arise, we have identified a need to improve dialogue here in Canberra. We are therefore going to establish an interdepartmental committee, to be chaired by this department to coordinate whole-of-government policy issues and investment proposals for Christmas Island.

In conclusion we are committed to continuing to work with the Christmas Island community and other key agencies, including the AFP, Customs and the Australian Maritime Safety Authority, to improve our ability to effectively respond to future emergency situations on Christmas Island and its coastal waters. We will look to this committee's findings as well as those of the WA coroner to consider more ways in which we can improve our on island capacity to deal with emergencies. Thank you for the opportunity.

CHAIR: Thank you, Mr Yates. Ms Moss, did you have anything to add?

Ms Moss: No, thank you.

CHAIR: Mr Keenan?

Mr KEENAN: I wanted to focus specifically on the boats that were available on the day, as opposed to what is available now. We know that the weather on Christmas Island on 15 December was very, very bad—how often do weather conditions like that occur?

Mr Yates: Thank you. Weather conditions for the island in that regard are seasonal and driven very much by the tropical weather patterns. The past year has seen a particularly active tropical weather season and the port was closed for in excess of two months, virtually continuously, from early December through to February. Because of the variation in seasons across years it is difficult to say precisely how long it will be closed but the swell season, over, say, about 100 years of occupation on Christmas Island, is well known for causing extended closures. From year to year you can have periods where the port is barely closed at all and then you can have long periods, such as we have experienced at the end of last year and this year, where the swell closes it for extended periods.

Mr KEENAN: Certainly it is a regular occurrence that the weather is that bad on Christmas Island.

Mr Yates: It is. It is a regular and known occurrence that the port will be closed for extended periods.

Mr KEENAN: Who would normally be responsible for sea rescue? Totally excepting the incident that we are looking into, let us say a boat was fishing at Christmas Island in relatively rough conditions and they got into trouble. What would be the normal response on Christmas Island?

Mr Yates: The Australian Federal Police has the lead for that. When an emergency like that occurs an alert message of some form is received—and there is a variety of ways that can be done, through marine VHF radio,

mobile radio, an emergency locator beacon—that goes through whichever system has picked it up first to the Australian Federal Police, who then coordinate some appropriate response, and they would take into account the weather conditions, the urgency, whether there are vessels immediately nearby or whether it is necessary to launch a local vessel taking into account weather conditions at the time.

Mr KEENAN: And the AFP at the time had one vessel on Christmas Island, which was the *Colin Winchester*?

Mr Yates: That is correct.

Mr KEENAN: But that could not be put to sea on that day because of the rough weather conditions. Could it have been put to sea on any other day?

Mr Yates: That is a question that would be best answered by the AFP, about their specific vessel. My general understanding is that in a safety of life at sea situation, the master of any vessel, subject to being able to do so safely, can respond even if it is going outside the classification of their vessel.

Mr KEENAN: But that boat was purchased by the department for the AFP, was it?

Mr Yates: That is correct, on the advice of the AFP. They were doing a larger boat acquisition process and proposed to us the acquisition of this vessel as part of their fleet to replace a vessel that they had on Christmas Island.

Mr KEENAN: When that vessel was purchased, your department did not have any responsibility for Christmas Island, did they?

Mr Yates: The department of regional Australia did not, but the territory's function has moved with various machinery of government changes from the then Department of Transport and Regional Services to the Attorney-General's Department, and now to the new department. So the new department did not, because it did not exist at that time.

Mr KEENAN: So the boat was purchased by the department of regional Australia in 2007 for the AFP.

Mr Yates: That is correct.

Mr KEENAN: But it is part of a larger fleet of AFP vessels, is it?

Mr Yates: That is correct.

Mr KEENAN: But it is the only one that has been purchased by the department for the AFP.

Mr Yates: There are in fact two, because a similar boat was placed on Cocos (Keeling) Islands as a part of that process. The AFP approached us in 2007 with a business case to say that their existing vessels on Cocos and Christmas were in need of replacement and that they had done a procurement for vessels they needed elsewhere in Australia and recommended to us that the leisure vessels would be appropriate for Christmas and the Cocos (Keeling) Islands.

Mr KEENAN: And has it come to pass that those Leisure Cats are appropriate for Cocos and Christmas?

Mr Yates: The contractual requirements for the delivery of the vessels in terms of the business case that was proposed to us was for the 2C category which was, on the advice given to us, suitable and appropriate. We also, at the same time, acquired a similar vessel for the marine rescue service and took advice from the Fire and Emergency Services Authority there on suitability, and they provided advice to us that they were suitable; indeed, they had similar vessels in their volunteer marine rescue services in Western Australia and the vessels were required to have the appropriate 2C certification by the appropriate Western Australian certification authority, which was providing certification for smaller vessels at that time, and the vessels did in fact have that certification.

Mr KEENAN: I am not familiar with the way you certify boats, but what was it that made AMSA say that those boats could not go to sea? They were certified by the Western Australian department—sorry, which Western Australian department?

Mr Yates: The Western Australian Department for Planning and Infrastructure at the time included, I believe, a marine division as they called it, that ran the vessel certification processes for smaller vessels.

Mr KEENAN: So when was this particular boat certified by that department?

Mr Yates: That was in 2008. When the boat was manufactured they issued the certificate. The certificates last for varying periods depending on the vessel. In 2009, a decision was made to transfer the certification of smaller Commonwealth vessels to the Australian Maritime Safety Authority. In terms of the volunteer marine rescue vessel on Christmas Island, they undertook a survey in 2009 and issued a five-year certificate subject to annual inspections. My understanding is they did the same for the AFP vessel on the island.

Then in August 2010 when they did their annual inspection of those vessels and the other comparable vessels in the fleet, they had determined that there were concerns regarding the vessel's stability, as I understand it. At that point they provided three months for those issues to be investigated so the vessels could be used through until November 2010. We worked closely with the AFP through our harbour master on the island, who has responsibility for the maintenance for the VMR vessel, the *Sea Eye*, to determine what work could be done to make the vessels compliant with the AMSA survey requirements. At the end of November, I am not sure of the exact date, we had not been able to form a view that we could successfully bring the vessels back into survey due to the cost of moving the vessels to Perth—because we were able to determine that the work could not be done on island—and bringing them back, whether that was viable, given that once you take a boat off the island, because of the transit times by ship it is absent for an extended period of time. We were working in conjunction with the AFP to say, 'Okay, it looks like we probably need to replace those vessels.' We had not finalised that process by mid-December when the emergency occurred.

Mr KEENAN: But if that vessel had been unseaworthy or not allowed to go to sea for such a large period of time, why was it not replaced with something that could be?

Mr Yates: We had started to identify a replacement process, but because of the—'delay' is not the right word—simple logistics of saying: 'Well, okay, what's the issue around these vessels? Why have they been unable to meet the AMSA survey requirement, and what do we need to do to get a vessel that is going to meet the AMSA survey requirement?' It is something that does take time to make sure we do not get into a situation where we have a vessel that is unable to meet the survey requirements in future.

Mr KEENAN: So the vessels there—the *Tom Reed*, which is a WA FESA vessel, and the AFP have now got a RHIB—could they go to sea if we saw similar conditions to December 15?

Mr Yates: My advice has been that no vessels could be launched on that day. I should add here that there were on the island a number of other Commonwealth vessels available and in survey—not rescue vessels—that we had the capability of launching; they were serviceable. There are also a large number of private vessels whose members are part of the volunteer marine rescue service that could have been launched, but the key fact is that the weather was so poor that no vessels, regardless of their survey status, could have been launched, and they were decisions made by the harbour master and the police officer in charge on the day, and from what I have heard, I believe those decisions were entirely appropriate and probably saved further lives.

Mr KEENAN: But that applies to vessels launched from Christmas Island because clearly, of course, you could launch RHIBs from the naval vessel because that occurred.

Mr Yates: That is correct.

Mr KEENAN: Is there a type of vessel that you could purchase that would be available for use in that sort of sea state?

Mr Yates: I have not received any advice that suggests that there is.

Mr KEENAN: All right.

Mr Yates: But I should note here: I am not an expert in this area but none of the advice from the experts that we have used has given me any indication that there were vessels that could have been launched on the day. Information that was given to me prior to this when we were in fact looking at some of these issues is that a vessel big enough to stay at sea permanently is quite a large vessel, and that sort of vessel has to be permanently manned and mobile because none of the mooring systems on the island are able to be used in periods of really poor weather. The island does not have any enclosed harbours; they are all open. Over the period from December through the February, the main port at Christmas Island was closed for that entire period and no vessels could tie up at the moorings because of the weather. If you have a vessel that is big enough to operate in any weather conditions, you cannot take it out of the water on Christmas Island, so it means it needs to be permanently manned and permanently operational. In fact, you saw this even with the Navy and Customs vessels which were quite large—I am sure you will get more information on that this afternoon—my understanding is that they needed to shelter from the weather conditions on the other side of the island.

Mr KEENAN: But the *Tom Reed* and the AFP RHIB that is there now would be able to operate, certainly not on the sea state that we saw on December 15, but they would be able to operate in worse seas, if you like, than the *Colin Winchester* that was based there prior.

Mr Yates: I could not comment on that. I do not have the expertise. I understand they are in the same survey classification class but I am not able to comment in a meaningful way on their relative ability in sea states.

Mr PERRETT: Excuse me, Chair, can I just seek clarification on that point? Is it the case that even the RHIBs could not be launched on the day like December 15? I know they can operate—because obviously they did—but they could not be launched from land—

Mr Yates: That is my understanding.

Mr PERRETT: Is that right?

Mr KEENAN: Yes, that is certainly what I have been led to believe prior.

Mr Yates: The issue, as I understand it, is the wave energy when the waves hit the island. Because it is a sea mountain, there is no run up for the waves. The energy of the wave is dispersed in an extremely short time and period so that wave zone is ferocious. I have been on the island in comparable conditions and it is just ferocious.

Mrs MARKUS: Can I just follow on, because you talked about the challenge—I suspect you are referring to anchoring—and that is because beyond a certain point from the island it is impossible, because of the depth of water, for anchoring to take place.

Mr Yates: It is. In all practical senses, a ship cannot anchor at Christmas Island. By way of example, the mooring system in Flying Fish Cove: the depths of chain that attach the buoys go to 400 metres. It is one of the deepest water mooring systems in the world—in fact, it may be the deepest. I might add that it costs us an enormous amount of money to keep it serviceable because of that. Water depths become really deep extremely quickly as you move from the island. There is no practical way for a vessel to actually anchor.

Mr KEENAN: Was the department concerned prior to 15 December that the AFP vessel on the island was unserviceable?

Mr Yates: We were working very closely with the AFP and the Australian Maritime Safety Authority, particularly through our port contractor, to try to resolve this question. When it came up in August that the vessels had failed the annual inspection we were very concerned because of the importance of having marine rescue capability on the island. The initial action was to determine whether the vessels there could be brought into survey by modification or repairs. That is not finally settled from our viewpoint, but I think we are coming to the conclusion that the most appropriate action is probably long-term replacement rather than attempting to bring what are now three- and four-year vessels back into survey. It may be better value for money to acquire new ones.

Mr KEENAN: So from August 2010 the AFP vessel could not go to sea under any circumstances?

Mr Yates: No, that is not correct. My understanding is that in August both vessels failed their annual inspection but that AMSA provided a three-month extension to the survey approval so that the vessels could be used up until November for general purposes whilst these investigations were undertaken. I also understand that AMSA have advised—and they are probably better placed to answer this question because it is a technical one—that, if the masters of the vessels considered it safe to do so, even after the survey certificates had expired they could still use them in a safety of life at sea situation. Quite clearly on the day concerned decisions were made on the island that no vessels could be launched.

Mr KEENAN: What other vessels were available if the AFP vessel was subject to a negative finding by AMSA?

Mr Yates: In a general sense from the Commonwealth's viewpoint our port operates another three vessels. Two are the pusher barges, which you have probably seen regularly in photographs in the newspapers bringing detainees to and from the vessels. They were available and in survey. They are not rescue vessels but, if weather conditions had been suitable for launching, the pusher tugs could have been launched and provided some ability. Certainly, if you needed to tow a vessel, those vessels would be appropriate for that sort of thing, subject to size. They could not be launched because of the weather conditions. We have a pilot vessel—the *Fatima*—that could have been launched. It is in a lower survey classification and does not really have any particular appropriateness for this sort of activity. There are numerous private boats on the island. Many of the owners of those boats are members of the volunteer marine rescue service. Because members of volunteer marine rescue services are out on the water doing things, when an emergency occurs quite often those private boats are the closest vessels to respond. If a member of the volunteer marine rescue services takes action in that regard they are covered by insurance whilst they are doing the emergency response. Again, on the day none of those vessels could be launched because of the weather.

Mr KEENAN: What about jet skis? Could they have been launched in that sea state?

Mr Yates: You would need to ask someone who understands the operation of jet skis.

Mr KEENAN: The department has accepted a recommendation that a jet ski be purchased. Why is that?

Mr Yates: Basically, because the advice from the volunteer marine rescue service is that for some incidents a jet ski could be an appropriate response. If something were to happen on a relatively calm day very close to the rocks, a jet ski could get in very quickly to pick up an individual. If someone falls off a cliff close to the cove, that could be a very quick form of response. I go back to the advice I have received that no vessels of any sort could have been launched on the day. I suspect that would cover jet skis, but that should really be answered by someone with specific understanding of the performance capabilities of jet skis, which I do not have.

Mr HUSIC: I want to take you to page 10 of your submission where you outline all of the various bodies that are available to assist in emergency management. In particular, volunteers are relied upon a lot—is that correct?

Mr Yates: That is correct.

Mr HUSIC: On page 11 you talk about emergency preparedness and community preparedness, are you familiar with those sections?

Mr Yates: Yes.

Mr HUSIC: You talk about competency based training provided for volunteers and also leadership training for volunteer leaders. Are these mainly for people who say that they are prepared to work within an organisational structure, say St John's, or the equivalent of the emergency services? Is that provided only for those people?

Mr Yates: That has been the main approach we have taken in the past. The competency training is particularly important for the volunteers in the fire and emergency services unit and of course in the Volunteer Marine Rescue Service and St John's Ambulance. One of the things that the community has sought through the Christmas Island emergency management committee is to broaden some of that. In the table that we have distributed we have given some advice on where that is going. It is an area certainly for learning, in terms of responding on this island, that engaging the ad hoc volunteer and finding a way of improving their ability to assist in these events is quite an important one.

Mr HUSIC: On the Parsons Brinckerhoff review, looking at the materials that have been provided to us, is it that the territories division of your department commissioned this work or the Attorney-Generals did?

Mr Yates: We were in the Attorney-Generals Department at the time—in fact, I commissioned the report because I made an assessment that emergency management is something that does need to be kept under review. Having an external party have a look at the arrangements would give us some useful insights on what further things we could do to improve it.

Mr HUSIC: From what I understand on page 13 of your submission under 3.5, dealing with the Parsons Brinckerhoff review, the department supported 31 of the 32 recommendations. Recommendation 18 was to establish a community emergency management officer position in the Indian Oceans Territories to coordinate and drive emergency management throughout the community, but the department does not support this recommendation. One of the things that struck me is comment that we have received that particularly non-professional volunteers had been affected by what they had seen. Given the things that I have taken you through so far based on your submission, does the department maintain its position of opposition to the establishment of this emergency management officer, insofar as they might be able to drive some of what you were talking about—the training to deal with these type of events?

Mr Yates: That position is under consideration at the moment. More recently, I have had discussions with the relevant Fire and Emergency Services Authority officer, Mr John Winton, who provides the support under the service delivery arrangement, to say, 'How can we lift the support provided to the community in this regard?' The issue for me in terms of the community emergency management officer is the cost. To establish the position on the island in the first year is about \$250,000, which I would have to redirect from somewhere else—

Mr HUSIC: Can I just clarify, you are saying that setting up a community emergency management officer position would cost \$200,000?

Mr Yates: Over \$200,000 to recruit someone, move them to the island, house them and pay their salary; that is correct. Having permanent positions on the islands, and we have quite a number, are not inexpensive. So that requires some resources which I would need to make judgements about. Is this the most effective way of getting that outcome? The view has been given to me that an alternative way of getting the same outcome is to increase the level of support we get from the Fire and Emergency Services Authority of Western Australia. It is still in consideration at the moment.

Mr HUSIC: But you have SDA's with which you would need to provide them with payment anyway.

Mr Yates: That is correct. It is about which is going to deliver a better outcome. That is what we are trying to see. In terms of considering the community emergency management officer position, it has been recommended again by the Christmas Island Emergency Management Committee, and yes we are considering it.

Senator HANSON-YOUNG: What is the key element of consideration? What is the most effective way to deliver the service or the impact of the cost?

Mr Yates: The critical consideration is the most effective way to get the outcome that we need. But in thinking about how I deliver the outcomes, I have to be conscious that these are all costs.

Senator HANSON-YOUNG: I accept that and I understand that you are responsible for your budget. If the primary consideration is how to get the best outcome, considering the concerns you have outlined in your submission and your evidence and the evidence we have heard from others, surely someone who is in a position to drive and facilitate the training for those ad hoc volunteers, and the engagement and the ability to respond when needed, I struggle to see how it could be delivered in the best possible way by a part-time person based in Perth.

Mr Yates: The response I would give to that is that that is a view. An alternative view that has been put to me is that the risk of having a single identified person full time on it is that it becomes that individual who is the person who does that and you can get some disengagement as well from that because it is the person's problem rather than the community's problem. I have not formed a view as to the right answer, but what I am determined to get is the outcome, which is to strengthen that side of it.

Mr HUSIC: Would it not be beneficial to lift the skills and capabilities of what would no doubt be identified as a source of assistance—this ad hoc source of assistance? I am not saying that you would be shifting responsibility to them. My question is more from the point that non-professionals who feel compelled by virtue of not allowing someone else to suffer get involved and they are not necessarily capable from an emotional perspective to deal with the after-effects of that intervention. Do you not feel that there would be some benefit in being able to raise the skills base or the ability to deal in that situation?

Mr Yates: I agree with that proposition and that is the outcome that we are endeavouring to find. It is a question of what is the most effective way of getting the outcome.

Mr HUSIC: There is something that does not follow on page 14 and 15 of the submission. On 14, 4.1 says, 'At approximately 0940hrs'

Is that Australian Eastern Standard Time?

Mr Yates: Daylight time.

Mr HUSIC: this was sighted. Then on page 15, the third paragraph says:

... the EMP for Christmas Island was activated by the Territory Controller ... 6:20 a.m.

What is that time difference?

Mr Yates: That is island time. My apologies for that. We should have been more explicit. That is an error on our part not being explicit on which time we are referring to.

Mr HUSIC: It did not follow.

Mr Yates: You are completely correct on that. The 6:20 is island time.

Senator HANSON-YOUNG: What is 9:40 island time?

Mr Yates: That is 5:40 island time. I should say that this information is based on our material. Other agencies have more detailed records, particularly Customs and Border Protection, and their timings are probably more explicit and accurate than ours.

Mr HUSIC: I think this is probably important from an evidence point of view: 40 minutes from when the SIEV was sighted was when the EMP was activated—is that correct?

Mr Yates: Approximately.

Mr HUSIC: Thank you.

Senator FIELDING: I think it was reported that SIEV221 was off the coast 500 or 600 metres. That makes me wonder whether SIEV221 could have crashed into one of the Navy boats that were only five or six nautical miles away, if no-one knew the SIEV was there? I am not being funny. We did not know the boat was in that vicinity. I am not sure why no-one knew it was there before.

Mr Yates: That is not the question I can answer. I am aware that the coronial inquiry in Western Australia is looking at that specific point in some detail and I am very reluctant to comment on it. It is outside our field.

Senator FIELDING: I am interested to know about the throwable grenade life jackets and the inflatable life rings. If they were available, would they have been thrown in by the volunteers around the area? Have I got the picture right?

Mr Yates: That is correct. If they had been available, they would have been held by the volunteer marine rescue service. That is what I would expect. I am speculating a little here, but this is what we would have done in a normal course of events. With an event like that, from my understanding on island, members of the volunteer marine rescue service were aware of the problem extremely early in the sequence of events and had those been on the island, they would have gone and got them out of the marine rescue storage shed, presumably where they would have been held, and taken them straight to the site. The distance is quite short so it would not have taken a great deal of time.

Senator FIELDING: It is probably a difficult question to answer, but would those devices have saved more lives?

Mr Yates: I can only give a hypothetical answer from what people on the island have told me. But common sense tells you that when you are throwing a life jacket, a bulky thing, into a strong wind and you are trying to get it across waves, it would be difficult for anyone to throw it any great distance. Whereas a compact grenade-type life jacket, someone reasonably fit will be able to throw further. Whether it would have made a difference is speculative. We have certainly accepted the advice that these are appropriate to acquire and have in fact done so.

Senator FIELDING: You said in your submission on page 20 there were some issues with communications and they are addressed in the recommendations. You state:

Availability and use of radios proved difficult at times because of inadequate hand held radios ...

What sorts of problems was that causing? It would not have saved lives or would it just help, or was there a bit of both?

Mr Yates: I was not on the island on the day, so I cannot comment as to whether it actually would have made a difference in saving lives. The advice we had was that the number of radios did not enable as effective a communication as was desirable. So we have accepted that advice and acquired some hand-held radios. Also into the trailer that is being acquired with the assistance of FESA, there is an intention to have more of a base station set-up as well. If they need to go to a remote part of the island where perhaps coverage from the marine VHF repeaters is not as good, they can set up a local communications channel.

Senator FIELDING: I want to get back to the counselling services that were provided. Has there been a debrief from those who have provided the counselling services, the psychologists or psychiatrists, I cannot remember which ones were sent or whether both were sent? Has there been a debrief on what the survivors and the rescuers have been feeling? Obviously there is confidentiality involved here. Has there been a debrief with those experts? They would have been provided from outside the department, I assume.

Mr Yates: I cannot comment regarding survivors because that was handled with the department of immigration. The feedback I have received through our departmental reporting is that the counselling was appreciated by the people who attended it. I am not aware whether there was a specific debrief of the counsellors. I would be happy to take that on notice and provide advice.

Senator FIELDING: It would be useful to have that debrief to see what they found, not the specifics but the generalities about what else could have been provided.

Mr Yates: I would be happy to take that one on notice. I do not know specifically.

Senator FIELDING: Thank you.

Ms Moss: Senator, if I could just add to that. I know that the committee is going on to the island. I am sure you will be talking to people from the health service then and it may well be that they can give you a more specific answer at that time when you are on island.

Senator HANSON-YOUNG: I am interested in the communication between the emergency management response team and that of border protection and customs. Obviously there are lots of different ways in this process by which information is transferred and the response is determined. At what point did the emergency response team as managed by your department first become aware that there were some emergency?

Mr Yates: From the information I have seen it occurred as residents, some of whom are members of the volunteer marine rescue service, were out and about as they do. Christmas Island people tend to get up early. It is a characteristic of the place. Many people were out walking in the vicinity of Rocky Point. It is a common thing to do. I know that members of the volunteer marine rescue service, such as John Richardson, became aware that

there was a vessel there and there was some sort of an issue with it very early on in the piece. They started making calls on mobile phones and the marine radio.

Senator HANSON-YOUNG: Was that prior to 5:40 island time?

Mr Yates: No, my understanding is it was after that.

Senator HANSON-YOUNG: After that?

Mr Yates: That is correct.

Senator HANSON-YOUNG: Somewhere between 5:40 and 6:20?

Mr Yates: That is right.

Senator HANSON-YOUNG: The locals were out walking and saw it with their own eyes, not through any type of surveillance?

Mr Yates: That is correct. At the same time triple 0 calls were being made.

Senator HANSON-YOUNG: That was going to be my next question.

Mr Yates: Again, I am not well positioned to answer that. The coronial inquest has taken significant evidence on that. The AFP and Customs and Border Protection are better placed to give you the definitive responses on that.

Senator HANSON-YOUNG: When someone calls triple 0 in that vicinity, where does the call go?

Mr Yates: My understanding is it goes into the normal Telstra triple 0 system, gets passed to the Western Australia Police, who take those calls. They then have an arrangement to pass that the Australian Federal Police on the island. The AFP can give you a much more detailed answer than I can on that.

Senator HANSON-YOUNG: So the call is made on island to Perth, a long way away, and then the information goes back to the AFP, who are stationed there?

Mr Yates: That is my understanding, but I stand to be corrected by the AFP, who have the detail on that.

Senator HANSON-YOUNG: At the same time as people were eyewitnesses to the boat and alerting the agency to the fact that an emergency response was needed, you were already aware that some emergency calls were being made.

Mr Yates: When you say 'we', if you are referring to the Australian Federal Police they would have been.

Senator HANSON-YOUNG: No, I am referring to the capacities on the island of the emergency response team.

Mr Yates: I believe that residents who were seeing the event who were members of one of the emergency services were also making calls to say that there appeared to be a problem. It was a typical event occurring in front of peoples' eyes where often get multiple alerts. The thing I really have to note here, from what I understand speaking to people, is that the community's response was extremely good. In fact, the administrator's report to the minister covering the emergency management committee's report highlighted how well the island's arrangements worked.

Senator HANSON-YOUNG: I am not doubting that at all

Ms Moss: Earlier on you, talked about the emergency response for which this department is responsible. We do not have a direct responsibility for emergency response as a department.

Senator HANSON-YOUNG: As a department, but there is facilitation of those services—

Mr Yates: And funding.

Senator HANSON-YOUNG: I guess this is the point, is it not?

There is the department for regional affairs coordinating with the WA government delivering the normal services that any state government would in this situation, but you obviously have to liaise with the various different Commonwealth agencies such as the AFP and the local council. I guess this is part of the questioning: if it is about people just getting on when they see an emergency and dealing with it or having to wait for certain clearance for things. In this situation it seems as though people did the normal thing that you would do when you see people in distress and that is they went and responded.

Mr Yates: That is correct. They went and responded and the system to alert things at the national level worked well. The national coordination arrangements got in place extremely quickly. And given that the island is a long way away, the support in terms of additional counsellors, specialists, WA Police and coronial services happened very quickly and with very few issues.

Senator HANSON-YOUNG: I accept that the AFP and border protection have responsibility for the surveillance and all of those issues before people physically saw the boat and of course we will take those questions to them. In relation to the local community consultation group, the organising committee specifically for the memorial service, the primary role of your department through the support of the administrator and others was to coordinate that organising committee—is that right?

Ms Moss: From my understanding, and I was there on island and attended the memorial service, the shire had the primary role in organising the memorial service. It was done in consultation with a number of other agencies, including our administrator, our staff on island, DIAC and others, but the shire was the main organising body.

Mr CHAMPION: I have some quick questions about the grenade life rings which were referred to by Senator Fielding. Are they thrown out into the water?

Mr Yates: The best way I can describe them is this way: think of an old German potato masher grenade. It has got a bulbous thing, a bit of a handle on it. You throw it, it hits the water and it has a mechanism that says, 'I am in water', and it then explodes up into a life ring. It seemed a very good idea. We had not encountered them as a concept until some of the locals from the volunteer marine rescue said: 'These have come on the market. They are a good idea'—this is after the event—'We should get some'.

Mr CHAMPION: Are there any risks involved? This involved an extreme weather event. Presumably Rocky Point is a description of what it is.

Mr Yates: It is very rocky, yes.

Mr CHAMPION: Are there any dangers for people getting too close to the edge? Are there any dangers with these objects being thrown into the water? Could they hit someone or something? I understand the context of things that might be a risk that one would undertake. Have you looked at that at all?

Mr Yates: Absolutely. At any cliff edge, particularly a marine one, there is a risk. The emergency management committee has also identified a series of points around there where it is desirable to install more fixed life rings and fixed tie-down points for ropes. They did use ropes to secure people at the time. You have to be very careful in how you do this and this is one of the one of the issues about the use of untrained volunteers. If you are going near cliff edges, you need trained volunteers with appropriate equipment and the island has some of that capability. It is something that needs to be continually tested. In the sea conditions that you had, if you were able to actually physically hit someone with the life ring that would be an outstanding result because they are going to be right there. From the video I have seen, the wind conditions and the sea state would have made it incredibly difficult to throw anything. A small compact thing is going to go further. I cannot say how much difference it would have made on the day.

Mr CHAMPION: You said the response was excellent. Was there someone who took charge down on Rocky Point? Obviously it was a distressing event.

Mr Yates: The existing system as identified in the plan went into play very quickly where the administrator, Mr Lacy, took if you like a strategic overview of the higher level activity in communicating back to us, and the officer in charge of the police, Peter Swan, was the territory controller and was in charge of the site. Again, from all that I have seen and heard, I would have to commend the work of those individuals and of everybody there. One of the big learnings for us is that the plans, arrangements in that regard, worked and worked well.

Mrs MARKUS: In the interests of time, I would happy for you to take my question on notice. We have talked about the challenge with the adequacy of the actual radios. Obviously that is one aspect. There are protocols about communication and the use of radios between different organisations and agencies involved, including the volunteer emergency services you have referred to. Could you clarify in writing with the committee what your plans are to improve those and also comment on the inadequacies or weaknesses of those protocols and training around the radio communications issue? What would your plans be to improve the protocols of communication between the various agencies? I know different radio frequencies, for example, are often a challenge. How would that be coordinated and what would you recommend? How was it not coordinated leading up and during the actual event?

Mr Yates: I am happy to take that on notice. I do not think that it was the case that it was not coordinated; there was a set of arrangements in place that did in fact work. The incident identified ways that it could be improved. There were arrangements; they did work but improvements have been identified.

Mrs MARKUS: I am not saying that it did not work completely. If there were weaknesses, could they be identified as well as how it could be improved.

Mr Yates: Certainly.

Mrs MARKUS: If there are no weaknesses, you would not need to improve it.

Mr Yates: Certainly.

Mr KEENAN: Going back over the evidence you have given, Regional Australia is responsible for emergency management on Christmas Island but that is subcontracted to the AFP?

Mr Yates: There is a significant number of stakeholders involved in emergency management. If emergency management is effective, it is owned by the whole community not any one particular agency. In terms of delivering the state type service, we have responsibility for making sure that there are arrangements in place.

Mr KEENAN: Clearly, the department has made a determination that the arrangements in place in December were not satisfactory. Since then there have been extra vessels placed on the island, a RHIB by the AFP and a vessel from FESA in WA. Was it considered adequate that for four months Christmas Island did not have a vessel that was available to go to sea because the vessel that were purchased specifically by the department for the AFP to be able to do that was deemed unseaworthy by the Commonwealth's own agency?

Mr Yates: Certainly if there had been no vessels able to go to sea, I would agree with you. But there were a number of Commonwealth vessels in survey but none could be launched.

Mr KEENAN: The Leisure Cat was—

Mr Yates: The Leisure Cats were—

Mr KEENAN: It was the primary response vessel though, was it not? It was supposed to be the primary response vessel.

Mr Yates: That is correct. Is it satisfactory from our viewpoint that this has occurred? No, of course, it is not. We are very engaged and determined to get a long-term solution. In fact, we were able to get an interim solution to the island quite quickly—virtually as soon as the port could be opened we had a replacement vessel there.

Mr KEENAN: That was January this year?

Mr Yates: That is right.

Mr KEENAN: And the RHIB was placed there in March of this year?

Mr Yates: That is right, the AFP one. But there are and there were at the time, a number of vessels that could have responded if the sea conditions had allowed them to be launched, not including the Leisure Cats.

Mr KEENAN: But was that not the role of the Leisure Cat? Was that not the whole purpose?

Mr Yates: Absolutely that was their role and that is what they were purchased for, and they had the relevant survey certificates for a considerable time.

Mr KEENAN: By the Western Australian department but not by the Commonwealth agency—

Mr Yates: And by the Australian Maritime Safety Authority in 2009.

Mr KEENAN: Has the department got any involvement in the consideration of a radar system for Christmas Island or is that other agencies?

Mr Yates: In a supporting role inasmuch as things like providing power, assisting with land issues but not in terms of any of the technical operational parts. We contributed to the ability for them to conduct it and will continue to support it but have no role in determining its effectiveness.

Mr KEENAN: Was there consideration given by the department prior to the incident in March for a land based radar system to be installed on Christmas Island?

Mr Yates: Not in terms of us giving consideration to whether there should or should not be.

Ms Moss: In terms of exact timing, I would have to go back and check my records, but we were certainly approached—

Mr KEENAN: This is not an issue which has just been raised, since December 15, this is an issue that has been live prior to that?

Ms Moss: Indeed, I have been approached before that, I could not tell you exactly when offhand. When they wanted to set up a trial of a radar system, we were approached to say whether there was a particular site we would make available and whether we could support it in terms of power if it was decided to install one. On both those issues we said 'certainly', and I understand subsequently that the Defence Science and Technology Organisation staff went onto the island and met with our staff on island and determined an appropriate site in consultation with them and we facilitated that as we could.

Mr KEENAN: In terms of the capability of that radar, shouldn't the questions be directed to the defence department about that rather than to your department?

Ms Moss: Or to Customs and Border Protection.

Mr KEENAN: Would the Border Protection Committee of cabinet have played a role in these events of 15 December it had not been disbanded?

Mr Yates: That is not a question I am able to comment on.

Mr KEENAN: Did your minister sit on that committee prior to it being disbanded? The Border Protection Committee of cabinet was apparently the body that the Border Protection Taskforce reported to prior to it being disbanded.

Mr Yates: I am actually not able to answer your question, I think that would be better asked to Customs and Border Protection. I am not able to comment on the status or otherwise of that type of committee.

Mr KEENAN: The department is represented on the Border Protection Taskforce?

Mr Yates: Yes.

Ms Moss: By invitation only, we are not a permanent member.

Mr Yates: By invitation on issues where we are able to provide—

Mr KEENAN: Presumably your minister was not on the Border Protection Committee of cabinet then, is that a fair assumption?

Ms Moss: I think the question would be also, and I do not know the answer, of when it was disbanded, because our department was only relatively recently set up.

Mr KEENAN: Sure, or the predecessor department. Your submission says July 2010.

Ms Moss: That is about when the department was set up.

CHAIR: Thank you. We actually have a lot more questions but no time. We will submit to you a fair few questions on notice and we would appreciate your assistance in getting them back to the committee as soon as possible. Thank you for your submission and your presentation to the committee today.

Ms Moss: Chair, I will be on island when you are holding your hearing there and if I could assist at that stage I would be happy to.

CHAIR: Thank you very much for that offer.

Proceedings suspended 12:24 to 13:02

KELLY, Mr Greg, First Assistant Secretary, Detention Operations Division, Department of Immigration and Citizenship

LYNCH-MAGOR, Ms Fiona, Acting First Assistant Secretary, Infrastructure and Services Management Division, Department of Immigration and Citizenship

MACKIN, Ms Janet, Assistant Secretary, Irregular Maritime Arrivals, Department of Immigration and Citizenship

MOORHOUSE, Mr John, Deputy Secretary, Immigration Detention Services Group, Department of Immigration and Citizenship

RICHARDS, Mr Peter, Assistant Secretary, Detention Operations East Branch, Department of Immigration and Citizenship

CHAIR: I now welcome representatives from the Department of Immigration and Citizenship. I note that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. We have received your submission to this inquiry and we invite you to make some opening remarks to the committee, to be followed by some questions.

Mr Moorhouse: I do not want to make extensive opening remarks other than to just introduce the roles of some of my colleagues. As a result of retirement and staff transfers, some of the people who were directly involved in DIAC's response to the tragedy are no longer with the agency or in their previous roles. As well as bringing my first assistant secretaries today, I have brought along Peter Richards, who was the assistant secretary whose responsibilities covered Christmas Island at the time of the tragedy and who travelled to Christmas Island on the evening of the tragedy and arrived the day after, so was there for the immediate response to the tragedy and Janet Mackin, who currently holds that same role—Peter has moved on to a different role. In addition I have spoken to Fiona Andrew, who is the senior immigration representative on Christmas Island, and she has briefed me about some of the issues. We will do everything we can to assist the committee.

CHAIR: Thank you, Mr Moorhouse. Mr Keenan, did you want to start?

Mr KEENAN: I know you have actually provided it within your evidence but can you provide for the committee the particulars of where the people who survived the boat accident came from?

Mr Moorhouse: Where they came from?

Mr KEENAN: Where they came from, in terms of their nationalities, I should say.

Mr Richards: Of the 42 survivors, 27 were from Iran, seven were from Iraq, five identified themselves as being stateless and there were three Indonesian crew.

Mr KEENAN: What do we understand by being stateless?

Mr Richards: What we understand by being stateless is that it ties back to citizenship and issues of ethnicity. Through the Middle East we have populations that are on the move, populations that are displaced and have been displaced for some time. But this is what is being claimed by the people who have arrived. Those issues that go to the heart of statelessness are still issues that would be resolved.

Mr KEENAN: The reason I am keen to ask this question is because one of the things the committee is being asked to find out is where the boat itself departed Indonesia. I want to get a sense of what the journey of these

people was like prior to that. When you say someone is stateless, they must have had some form of identity document to get to a jumping off point, though, wouldn't they?

Mr Richards: If you talk about the typical journey that might involve the first part of that by air travel into countries like Malaysia and Indonesia. Typically, though, when people do arrive, the majority arrive without documents. Perhaps it might help in terms of—

Mr KEENAN: They arrive without documents when they arrive in Australia—they must have had documents prior to embarking on that journey.

Mr Moorhouse: That is correct. But people may not necessarily tell us what documents they travelled on. They may have travelled on false documents. Our practice is, if a person declares themselves to be stateless on arrival, they are recorded as stateless. Their actual nationality would be an issue that we would seek to determine during their immigration processing.

Mr KEENAN: Okay, so yet to be determined.

Mr Moorhouse: That is correct. If I could perhaps provide an example, there may be someone who identifies themselves of Kurdish ethnicity who has lived in different parts of what they would consider to be Kurdistan, which may be in Iran, Iraq or Turkey, or whatever, but they do not identify with a particular country and when they come to us they may identify themselves as being stateless.

Mr KEENAN: So what do we know about the people who were not stateless—basically we know people came from the Middle East, and there would be a reasonable expectation that everybody on that boat had made the journey from the Middle East.

Mr Moorhouse: That is correct.

Mr KEENAN: So what do we know about the journeys that they made before they embarked from Indonesia?

Mr Moorhouse: I am not sure we have that detail. We can talk about typical paths. Many people who come to Australia using people smugglers come from the Middle East to Malaysia or to Indonesia—most often to Malaysia because of the visa-free arrangements that Malaysia has with a number of Middle Eastern countries. They would typically come to Malaysia or Indonesia, then find their way to Indonesia and then travel to Australia by boat from Indonesia.

Mr KEENAN: So can you provide any further information to the committee about where they did embark from, specifically?

Mr Moorhouse: That is not something that I am familiar with. That would be something that probably Customs and Border Protection would be better able to advise. They have the responsibility for intelligence and for dealing with the boats that are involved.

Mr KEENAN: All right. We have heard a lot of evidence this morning from—I suppose they are best described as non-government organisations—about some of the things they feel that DIAC might have been able to do better. The issue has been raised about the people who were sent to Sydney for the funerals. When they were sent to Sydney from Christmas Island, did that change their legal status at all, that they had been able to set foot on mainland Australia or not?

Mr Moorhouse: No.

Mr KEENAN: So that was not a consideration at all for the department?

Mr Moorhouse: No

Mr KEENAN: All right. Finally, with the processing of the people who survived, has that been any different from any of the other IMAs who have arrived at Christmas Island, has that followed exactly the same process or have special arrangements been made in some way?

Mr Moorhouse: I can answer that in two ways, Senator. I beg your pardon, Mr Keenan. I have had two days in Senate estimates this week, so I beg your pardon. Can you remind me of the question, please?

Mr KEENAN: I was just wondering whether people who survived the accident or the disaster were treated any differently than IMAs who have normally arrived or whether special arrangements were made?

Mr Moorhouse: I guess I would answer that in two ways. In terms of the assessment that would be made, the answer to that is no. The assessment we make in relation to a person's refugee status is based on specific criteria and that would be no different to the assessment that would be made for anyone else. In terms of the actual handling of their applications, the answer to that would be, yes. We would, of course, want to take into account the particular circumstances, the vulnerability and the sensitivity and therefore make sure their cases were handled with appropriate sensitivity. But also in cases where people are particularly vulnerable or have been through

trauma, we will expedite their applications and ensure that their applications are dealt with promptly and that will be the same in any immigration caseload. We try to process applications in a logical and appropriate way, but if there are particular compassionate or other compelling circumstances that might result in an application being assessed ahead of others. There is a delicate balance that we do in that area. We do not want to disadvantage people but we do want to take account of people's circumstances.

Mr KEENAN: Yes, sure.

Mr Moorhouse: My answer to the question is, yes, they would have been handled in a slightly different way, in a more sensitive way and, hopefully, given priority. But that would be something that we would do across any type of immigration caseload.

Mr KEENAN: Finally, the Red Cross told us this morning that everyone of the people who survived the tragedy is now in community detention on mainland Australia, is that correct?

Mr Moorhouse: Either they are in community detention or they have been granted protection visas and are residents of Australia.

Mr KEENAN: Thank you.

Mr PERRETT: Further to Mr Keenan's question, if there are compelling circumstances, is it my understanding that you are not able to direct other government agencies that undertake security checks to do so at a faster rate? Do they operate according to your pace or are they independent of you?

Mr Moorhouse: Essentially other agencies operate according to their own resources and priorities and so on. I mean there is a discussion, we work in collaboration with other agencies who are involved in immigration processing but they are responsible for their own processes.

Mr PERRETT: Could you suggest this file go to the top of the pile rather than the bottom of the pile?

Mr Moorhouse: We could talk with agencies about prioritisation and so, for example, in relation to security clearances, in other parts of immigration business, it is not unusual for our national security and counterterrorism section to liaise with ASIO to say, 'This is a particularly deserving or compelling or particularly urgent case.' ASIO will work with us to ensure that we are able to meet the client's reasonable needs. Just because someone says, 'I am important' or 'I am urgent' does not mean that they get special treatment. But if there is, for example, a delegation of people travelling to Australia urgently and time is of the essence, then we will give priority to that. If we have, for example, in a resident's caseload, a partner who is pregnant and wants to have the child in Australia, we might give priority to that.

Mr PERRETT: Yes, so it is common sense.

Mr Moorhouse: It is common sense and daily practical working relationships. But at the same time we are not in a position to determine their approach, only to discuss with them.

Mr PERRETT: Yes, and you might be guided by the letters from a marginal MP maybe. Sorry, just kidding.

CHAIR: Yes, you are. There has been a lot of discussion about the memorial service and the lack of attendance by the survivors at that memorial service. Can you just explain for the committee how that came about, whether or not you were aware of the service, whether it was requested that survivors attend or explain the rationale why survivors were not involved in the memorial service?

Mr Moorhouse: Yes, I can. My colleague, Fiona Andrew, who is our senior officer on Christmas Island met with Brian Lacy, the Administrator, and Gordon Thompson, the Shire President, and discussed this issue. There was a desire from the community for the survivors to participate in the memorial service. There was an active discussion about the issues involved. Some of the survivors had unresolved issues in relation to the tragedy itself. We are all aware of the heroic and enormous efforts that were made by the community to assist people. That is absolutely not in any contention whatsoever. You will understand that, in the eyes of a bereaved person who has been through a terrible tragedy such as this, not all of them saw the tragedy in the same light. They saw people standing on the shore while family members were killed. Some of the survivors had unresolved issues in relation to their perception of what had happened.

There was a discussion between Brian Lacy, Gordon Thompson and Fiona Andrew about whether it was a wise thing for the survivors to attend. As I said, the community was keen for that to happen. At the end of the day the decision was made that it would potentially be traumatic for the community itself and for the survivors, should any of those unresolved feelings have been manifested during the ceremony. It was not an easy issue; it was a very, very difficult issue to deal with but my colleague came to the view that it was best that the community should be spared from the consequences of what I have just sought to describe and also that the survivors themselves not be exposed to the sort of complexities that such a situation would have created. As an alternative,

and bearing in mind that the people were going to the funerals very shortly afterwards, my colleague arranged for the survivors to be able to attend the site of the tragedy so that they were able to do something. The survivors were given the opportunity to make a statement to be delivered at the memorial service and indeed if anyone had asked to go, that might have caused us to revise our position. No-one chose to do either of those things.

CHAIR: Was there actually any dialogue with the survivors about this issue?

Mr Moorhouse: Not that I am aware of. There was, however, an open dialogue with the Administrator and the Shire President and my understanding is that they understood the complexity and the difficulty of that position and accepted the view of my colleague.

CHAIR: Right.

Ms Mackin: I would like to clarify that. The survivors were aware that the memorial service was being held because they were asked if they wanted to provide some written statement to be read out at the service. So they were aware, but when they were made aware of what was happening, none of them asked if they could attend. It was the following day that they were being sent to the mainland for community detention. Just to clarify another point as well; they had already been to the funerals. On the following day they were all going on a plane to—

CHAIR: So how many provided messages to the memorial services?

Ms Mackin: There would have been about five or six messages read out.

CHAIR: Were all that were provided read out?

Ms Mackin: Yes, they were.

CHAIR: So it was five or six?

Ms Mackin: Yes.

CHAIR: Out of how many again?

Ms Mackin: There were 42 survivors.

CHAIR: Okay.

Ms Mackin: They were read out by members of the community. Basically all the messages that were read out were messages of thanks for the support and understanding of the community. They were very moving messages and I do not think there was a dry eye in the memorial service at all.

CHAIR: I was not there, and I respect any decision that was made at the time, I think people on site are the best to make that decision, but we have the value of hindsight here, and it has been put to the committee that the best psychological response would have been to include survivors if at all possible in such a memorial service. I am just wondering whether the department is looking at that from a position of hindsight—and I say that and acknowledge that—but have you taken psychological advice about these matters and would you do it differently in the future if something unfortunately happened again?

Mr Moorhouse: I think the way I would seek to describe the situation is that there are a lot of factors to consider. It was not a simple decision, it was one where clearly there would have been some benefit, there is no doubt about that, but there was at the same time a real potential of some risk, if I can say that, it seems like inappropriate language, but I am just trying to express the complexity of the judgment that had to be made. I think we could all look at such a situation and perhaps give different weightings to different factors, but I am satisfied that my colleague who was involved in making that very difficult judgment took into account all of those factors and came up with a sensitive decision in the interests of both the community and the survivors. If we were to look at a similar situation again, I would say that it would depend upon a complex balancing of the factors that were present in that situation, but I am satisfied that my colleague made that sensitive and complex judgment.

CHAIR: I am not going to labour the point any more except to just finish with this. Why was there a community expectation that the survivors would be part of the memorial service?

Mr Moorhouse: I think for understandable reasons that they wanted to be inclusive and that this was a community event, and they are part of the broader Christmas Island community. I can understand the motive and I think the motive is entirely commendable and it reflects the enormously positive approach that has been taken by the Christmas Island community at the time of the tragedy and subsequently.

CHAIR: There has been criticism about the department's communication with the community. Can you just explain how did you go after the event and communicate what was happening? It has been put to us that residents of the island were effectively left in the dark about what had actually happened to the survivors, where they had been taken to, what was their condition et cetera. There has been a suggestion that there should have been daily

bulletins put out. Could you just comment on the communications strategy, again, whether you think that was adequate and in the benefit of hindsight whether you would do something different?

Mr Moorhouse: I might ask my colleague Mr Richards to comment.

Mr Richards: There is ongoing communication that the department does provide to the Christmas Island community, through newsletters and community reference groups. In response to the particular tragedy I think there were a range of things about trying to keep people abreast of what was happening, there were joint media conferences that were happening on island that were providing information both from the AFP around what was happening in terms of the search and rescue and moving into the investigation side—

CHAIR: Was that for the national media or for local consumption?

Mr Richards: That was for the national media that had quite broad coverage through that period, and I think there was actually a community reference group meeting on 16 December which was immediately after the tragedy. The department also provided information to update the community through I think it is the *Islander* publication that comes out.

CHAIR: Is that weekly?

Mr Richards: I do not think it is weekly, It is monthly we believe. We used that as a tool to provide the local community with specific information on what was happening, but also more broadly across the detention cohort on Christmas Island.

CHAIR: You might take on notice and see if you can actually provide some specific details of the communication that was undertaken, when and the means by which it was undertaken.

Senator FIELDING: I have a point of clarification about the decision that was made in respect of the issue about survivors meeting the rescuers. When was that decision made?

Mr Moorhouse: I am sorry, Senator?

Senator FIELDING: You were referring in an answer to Senator Marshall's question—there were two or three people involved in a decision.

Mr Moorhouse: About the memorial service?

Senator FIELDING: Yes, about whether survivors would be there. You explained the reasons around it, but when was that decision made?

Mr Moorhouse: I am not sure.

Ms Mackin: There had been ongoing discussions for about three weeks prior to the memorial service and I think the decision was probably made up to about a week beforehand. Also the advice of IHMS and Serco was sought at the time, so they were involved in the decision-making process. The IHMS and the Serco view was that it would be too traumatic for them to attend and, as Mr Moorhouse has explained, there was the attitude of some of the survivors to what had happened—they still had some issues to work through—so there may have been some negative reaction at the memorial service from the survivors. The memorial service was really about a celebration of the things that the community had pulled together to do to rescue these people. There had also been a memorial service held for the survivors on 20 December as well, so I think that was also part of the decision, that there had been something for them. This was for a different purpose. It was more to be part of a celebration.

Senator FIELDING: And was any advice sought, in making that decision, from professional people like counsellors, psychologists or psychiatrists—were they involved in that decision-making process, do you know? And if so, who?

Mr Moorhouse: Our staff on Christmas Island are in regular communication with our contractors there and our contractors include International Health and Medical Services, who provide health and psychological services to our clients on Christmas Island. So I would expect my colleague would have been in regular communication with them. It was a very active dialogue that was occurring at that time, but I am not sure whether any of my colleagues can add anything further to that.

Senator FIELDING: Was there any formal advice sought, in making a decision, from a psychological or psychiatric point of view, in how it would help survivors or rescuers?

Ms Mackin: I do not know the details of that, but the view of the IHMS which does provide those sorts of services and has the psychologists was sought in that decision, but I do not know whether it was sought formally or whether there were written reports from them at the time. They were part of the discussion of the decision making.

Senator FIELDING: Could you take that on notice? Thanks, Chair.

Mrs MARKUS: Senator Fielding has been asking what kind of advice was sought. Were there any suggestions about how else connection between the survivors and those that had rescued them could be facilitated? Was there a discussion about alternatives, individual meetings or follow up for those survivors who may have been willing to do that? Was that ever considered?

Ms Mackin: There were a couple of requests from survivors to meet with members of the community. For example, the uncles that had the two orphans with them asked if they could meet members of the community before they were transferred off the island into community detention. That happened about three days before the transfer, before the memorial service. The uncles just wanted to meet with the shire president and other members of the client reference group to thank them for the things that they had done. So that was a special request made and it was facilitated.

Mrs MARKUS: Thank you.

Mr PERRETT: The community liaison officer—are you aware if he had any requests from the Christmas Island community, between the tragedy and the memorial in March, for meetings to be facilitated with the victims of the tragedy?

Mr Moorhouse: I cannot give you a full account of what requests have been made. As my colleague has just explained there was a request from one of the clients to meet with people.

Mr PERRETT: The Christmas Island community in particular. You may want to come back to us on that.

Mr Moorhouse: We can try to come back to you in relation to that. At all times the interests of the clients was paramount in our mind. We have a group of people who are highly traumatised and we have a visits policy which is intended to serve the interests of the clients. We certainly would have facilitated visits within our visits policy, if the client wanted to meet someone. The point I am trying to make here is that our concern was for the welfare of our clients, trying to protect that and help them heal and deal with the situation they were in.

Mr PERRETT: The suggestion has been put to us that the Christmas Island community felt intimidated by the process in terms of community members being able to access clients. There was also a suggestion, and we did not get the legal definition, that there had to be a connection. Whether pulling someone out of the water or seeing someone being pulled out of the water is sufficient connection. You are not sure if a decision maker had to turn their mind to whether or not such a meeting could be facilitated because you would have to go to the community liaison officer to find out one way or the other.

Mr Moorhouse: I guess that is what I was trying to explain before. I understand the community would have a range of desires and wishes. Wanting to reach out and help in a number of different ways would be a natural response from any community minded person who was witness to such a terrible tragedy. At the same time we have to try to look after the interests of the people themselves. The practices that would have been applied by my colleagues in that situation were very much focused on the interests of our clients.

Mr PERRETT: I have just had a flood go through my community and there were people turning up on strangers' doors, knocking and going in to help. If they turned up tomorrow and did that, they might be looked at a bit strangely. It is not unusual in a moment of crisis for a community to step up and the silos that separate us to be demolished. Obviously, as normality comes back people then just tend to go about their day-to-day lives. I was just interested in exploring whether there were overtures made by the community to reach out to the people who had been affected and whether there were any obstacles in the way.

Mr Moorhouse: We could perhaps take that on notice.

Mr PERRETT: Yes.

Mr HUSIC: I would like to confirm the timing. From the evidence given to us it appears that at about 5:40 SIEV221 was sighted; then at 6:20 the emergency management plan was activated by the territories, not DIAC. Then if I am to understand correctly, at 6:45 you were notified that the vessel had been sighted and that your assistance would probably be required. Is that correct?

Mr Moorhouse: That is as I understand it.

Mr Richards: That was the time at which there was notification provided to our national office here, but our local manager and some of her staff were already at the site and starting to consider what assistance and arrangements we would need to put into place.

Mr HUSIC: Is that the standard time frame in which Immigration would be notified by Customs of a vessel sighting—about an hour? Does that fall within your expectation?

Mr Moorhouse: Is anyone able to help in terms of that? I am not sure of the precise timing of that, but we would be advised as early as possible that a vessel was arriving. Often we would have intelligence beforehand, if

there was knowledge of it. In most situations we would be aware that a vessel was going to arrive before it arrived and so we would be there to meet the vessel when it actually arrives. This is a rather unusual situation because of the fact that the arrival of the vessel was not anticipated.

Mr HUSIC: Okay. Do you have much dealings with the Asylum Seekers Christmas Island organisation at all?

Mr Moorhouse: In different ways. Michelle Dimasi contacts me regularly in relation to the welfare of particular individuals. I should add, I have only been in this job for five weeks and when I say regularly, I have probably had about three contacts with Michelle.

Mr HUSIC: Right. What consultation measures do you have in place with groups like that?

Mr Moorhouse: On Christmas Island?

Mr HUSIC: Yes, on Christmas Island.

Ms Mackin: I think she has spent quite a lot of time on Christmas Island. She has very regular communication with Fiona Andrew, our DIAC leader on Christmas Island. I saw some communication between them the other day, because she was thanking Fiona for the relationship and the information that she has shared with her in the past because Fiona finishes her job today on Christmas Island. So I think they have had very regular contact. Michelle has also regular contact with clients that we have in detention; she fills in the visit forms. One of the things she has been asking is whether she can be given some extra consideration because of her relationship with the Christmas Island community and whether she needs to meet all of our guidelines in terms of visits or whether we can facilitate and perhaps not make her stick by all the timelines in relation to visits that she wants to have. But it has been a very long, ongoing and close relationship with Michelle.

Mr HUSIC: Would it be a reasonable characterisation of that dialogue as ad hoc?

Ms Mackin: It has not been formalised; I think that is probably fair enough, a fair comment.

Mr HUSIC: Okay.

Mr Moorhouse: But we have a community reference group on Christmas Island where we meet with community representatives on a regular basis, so there is a vehicle for consultation with the community. As an agency, DIAC seeks to be as open as we are able to be and so we have what you might call regular ad hoc contact with a number of community advocates and so on.

Mr HUSIC: Does the community reference group meet monthly, quarterly, six-monthly—?

Mr Richards: Monthly.

Mr HUSIC: So what type of groups would be involved in that?

Mr Richards: There is a broad cross-section including the shire president, including from business, but also across some of the different community groups on the island representing the local community.

Mr HUSIC: Then in that reference group—and I will limit my questions just to this, Chair, because I am conscious others want to ask questions—has it ever been put to you that there is a lack of consultation with the local community? Is the quality of the communication between DIAC and the local community ever questioned or has it been questioned in that community reference group?

Mr Moorhouse: I think communication is one of those issues that is constantly—how could I put this—people would always like more communication. Therefore we recognise that there will be a range of expectations or wishes in relation to greater engagement with us. We do try to have, as I said, structured forms of engagement with various stakeholders and we do try to make ourselves as accessible as possible to other interested parties and other stakeholders so that we are not remote and isolated from the people who are representing the interests of our clients. I am sure that there are criticisms, but we try to make sure that we are in regular communication. We have regular community newsletters on Christmas Island, whenever there is major events, we do media conferences and we have regular community meetings. For example, in the recent riots, because of the community concern, our manager in Christmas Island was holding daily community meetings to keep the community informed. So we have a range of strategies for communicating with stakeholders, but I am sure there are many stakeholders who would like to have more communication.

Mr HUSIC: Just finally, on page 7 of your submission, under the heading Memorial services on Christmas Island, in the third paragraph it says:

No clients attended the service, however during the day the survivors and family members remained on Christmas Island and visited the wreck site.

Who organised that visit? Did they undertake that themselves or did someone organise that?

Mr Moorhouse: We organised it.

Mr HUSIC: Right. Knowing that the service was being held at the same time?

Mr Moorhouse: That is correct. In fact it was a deliberate strategy in two respects. One was that given that the memorial service was on and that the survivors were not attending the memorial service, we took them to the site of the tragedy as an alternative to that, but also remembering that they were travelling to the funerals shortly afterwards we wanted—

Ms Mackin: They were travelling to CD.

Mr Moorhouse: I beg your pardon. They were travelling to community detention shortly afterwards. We wanted them to have the opportunity to visit the site of the tragedy before they left the island.

Mr HUSIC: Thank you.

Senator HANSON-YOUNG: The rest of my colleagues have covered the issues in relation to the memorial quite well, so I will not hound you on that. My question is around the decisions made as to where the survivors would be housed and, in the case of their detention on Christmas Island, detained. There were several appeals to the department both from your own mental health advisory group, individual advocates and lawyers, advising that any of the survivors should not be left in detention on Christmas Island and should have been prioritised for community detention and brought to the mainland. Have you documented how many requests you have had after 15 December to have survivors moved to the mainland?

Mr Moorhouse: Could I give you some background to that issue.

Senator HANSON-YOUNG: You can give me your version.

Mr Moorhouse: Thank you. As I understand it the concern in the initial stages was to assist the survivors to deal with their situation. We sought to identify family members either amongst the survivors or from amongst the rest of the detainee population so that we could create a supportive environment in terms of having family members with them. For example, with the three surviving orphans we had family members collocated with them. We also received advice in the early stages that keeping the group together was an important consideration and so we acted on that advice and we placed the group in our lowest security form of detention, but tried to keep them together and together with family members.

Senator HANSON-YOUNG: In Phosphate Hill?

Ms Mackin: Phosphate Charlie.

Mr Richards: Phosphate Alpha which was basically for staff interview facilities.

Mr Moorhouse: As time passed we did turn our mind to community detention but we sought advice from various sources in relation to what was in the best interests of the group of survivors. It was the case that we received advice as time passed that it now was a more appropriate time to look for community detention and we sought to arrange for community detention for the people—in other words, release them into the community rather than holding them in a centre. In terms of your precise question, I would need to take on notice how many requests we received.

Senator HANSON-YOUNG: Could you please on notice how many formal requests there were to consider any of the survivors for community release? Thank you. The specific question I have is in relation to the advice that you did receive around the mental health and psychological concerns of people who had obviously been through a very traumatic experience. One of your own advisors, Professor Louise Newman, is on the record as saying that she specifically requested that survivors, including the orphaned boy Seena and the other orphans, were not to be housed in the detention facilities on Christmas Island. Was there a direct rejection of that advice and if so, was it in writing?

Mr Moorhouse: I do not have that with me. I am not sure if any of my colleagues can help me in terms of how we managed that piece of advice, but there was advice to us that it would be beneficial to keep all of the survivors together in the early stages.

Senator HANSON-YOUNG: Who gave you that advice?

Ms Lynch-Magor: It was clinical advice received through IHMS.

Senator HANSON-YOUNG: So through the contracted medical support on the island?

Ms Lynch-Magor: Yes, Senator.

Mr PERRETT: You do not know what the expertise level was for the person?

Ms Lynch-Magor: Yes I do, Senator. We sought specific clinical advice from the very beginning in relation to supporting and preparing a care plan for these clients. We were particularly cognisant of the particular care needs that we would have for orphans, as well as the remaining survivors who had all suffered bereavements of

one form or another. IHMS were very responsive in terms of making sure that we got appropriate clinical advice from psychologists and psychiatrists and that advice formed part of the considerations that we had in terms of care—

Mr PERRETT: Sorry, I just got distracted. You said psychiatrists, did you?

Ms Lynch-Magor: Yes.

Senator HANSON-YOUNG: What does the department view the role of the mental health advisory group to be?

Mr Moorhouse: You mean the Detention Health Advisory Group?

Senator HANSON-YOUNG: The group which Professor Louise Newman sits on, specifically for your department. What is the purpose of that group?

Mr Moorhouse: The group comprises representatives of a number of medical organisations in Australia and they provide advice to us in relation to strategies for dealing with the health and welfare and mental health of people in detention.

Mr PERRETT: All the people, not just the 42, but—

Mr Moorhouse: That is right, all people. It is an ongoing committee that provides us with advice. They have the benefit of being professional people, representatives of their organisations and not part of DIAC, so they are independent advisors. Professor Newman is a highly-respected and highly-regarded person and we would give a lot of weight to her views. In this sort of situation, there are always going to be a range of views that are presented and I do not want, in any way, to criticise anyone's contribution in relation to this, but what I would like to try to get across is that my colleagues who are involved in managing this particular group of people—the survivors of the tragedy—were motivated by the best interests of that group and took the advice of the people who were on the ground in relation to how we would manage them.

Senator HANSON-YOUNG: Whose decision was it to bring the families and the survivors to the mainland for the funeral and return them to Christmas Island only to have them come back a couple of weeks later?

Mr Moorhouse: In terms of the precise decision, I am not certain, but in terms of the decision itself, I think it is important to provide some context to that. If I have got time to do that, I would like to do that because it was a very difficult situation and a very difficult decision to make. The situation we were in was one where we had the advice that I mentioned about the importance of keeping the group together and the mutual support that they had provided. We had ensured that there were family members brought into the group to provide assistance to the people in that group, and particularly to the orphans. We had advice that even in the context of the terrible tragedy that had occurred—and I am speaking now in relative terms—the children were coping reasonably well in such a terrible context in the supported environment in which they had been placed. At the time of the funerals, we were in the process of trying to organise community placement for all of the people that were involved.

Senator HANSON-YOUNG: Did you seek advice from your external independent advisory group as to whether it was a smart idea to move the entire group of people to Sydney and then back to Christmas Island, even though you already knew there was a process in place to have them resettled into community detention? Did you seek advice from the mental health advisory group?

Mr Moorhouse: I will leave it to my colleagues to answer that precise question. The point I would like to make is that the decision was based on the ongoing advice of people on the island. I will be frank that there were different views expressed, but the view that the department took was based on the earlier advice we had received that it was important that we keep the group together for their mutual support and for the ongoing benefit of the members of that group. We did have advice that as time passed then it was appropriate for people to move into community detention. By the time of the funeral services we were working on the community placement of the people in that group. When the time came for the funerals, the funerals came up with relatively short notice. If we had had a little bit more notice, perhaps we could have arranged the community detention before the funerals occurred but that had not happened and the funerals came up with relatively short notice. The bodies were released, there was a decision to hold the funerals in Sydney and we wanted to provide the opportunity for the survivors to attend the funerals.

Senator HANSON-YOUNG: No-one is disagreeing with that. The issue is the carting of people back and forth when they specifically said they were distressed at doing it. No-one has answered my question. Was the advice—

CHAIR: Mr Moorhouse has indicated that he is going to get the other officers to answer the specifics and if you could answer those questions then we are going to have move on.

Senator HANSON-YOUNG: If somebody could answer the direct question please?

Mr Moorhouse: Is the specific question whether we had requested the Detention Health Advisory Group advice?

Senator HANSON-YOUNG: Yes.

Mr Moorhouse: I am not aware that we had done that. The advice from DeHAG relates to strategies rather than treatment of individual cases.

Senator HANSON-YOUNG: I would imagine that dealing with a group of 42 people with the complex needs of those people, you would be asking for strategic advice. I will leave it there, Chair.

Senator FIELDING: I would like to return to one of the points I raised before about the advice that was sought in regard to the decision not to have survivors meet with the rescuers on the day of the memorial service. Your submission does show that you had mental health advice in regard to the survivors having a look at the wreck site, so you obviously had advice on one issue. That is what I am after. Did you have mental health advice stating that it was not a good idea for survivors to attend the memorial service?

Ms Lynch-Magor: Can I clarify this with you, Senator. The advice that we had at various points was quite broad advice around the clinical management and support that we should provide to these particular clients. Part of that advice said it was really important for them to be offered the opportunity to return to the site of the tragedy and that that should be facilitated at some point. That was not sought in a particular question and answer; it was offered as part of clinical advice. When it became apparent that those clients were going to be settled relatively quickly, we needed to make sure that we moved quickly so that we could actually offer them the opportunity to visit the site of the tragedy and they were leaving the next day. That was offered to them and they accepted.

Mr Moorhouse: Could I just add to that. In relation to the decision about the participation in the memorial service, it was not entirely a medical decision that was being made. It was a decision that was about the impact on the community and the potential impact on the people. People had unresolved feelings of grief and concern about the incident. If this resulted in any negative behaviour or a negative incident it would have had an impact on what was a very important commemoration of the enormous contribution that the community had made. It was a very delicate, practical decision. From my advice, it was made after discussion with the administrator and the shire president.

Senator FIELDING: I appreciate the response. I raise this question because just this morning we heard that there is concern that a significant opportunity has been missed. I understand you are saying that you took into consideration other decisions. But it seems that, as part of the recovery process for survivors and rescuers, there was a missed opportunity of their meeting together. Therefore, I want to go to the heart of that decision to exclude them from that memorial service. What advice did you seek in making that decision?

Mr Moorhouse: I was trying to say that: there was an ongoing discussion about the medical interests of the survivors. The point that I am trying to make in terms of the memorial service is that it was not entirely a medical decision; it was a practical decision made in consultation with the—

Senator FIELDING: I think you have taken it on notice. I am very interested in the advice you have about that decision from a mental health perspective. I understand that you had other issues to take into account for that decision. But I am very interested to know what advice you had from a mental health perspective.

Mr Moorhouse: We can respond to that on notice and give you more information.

Mrs MARKUS: There is quite a lot of literature and experience around best practice approaches, particularly for disaster, trauma and the ongoing handling if post-traumatic stress disorder arises. The challenge we have been faced with, and the information given so far, is that the needs of the survivors could be, and at times was, very different to the needs of those who had rescued, particularly the non-professionals involved in the event. Could we conclude from some of what you are saying that the approach for everybody to come together in one group could have caused re-traumatisation? Were you given advice to treat everybody individually and look at different kinds of approaches? Is that what I am hearing?

Mr Moorhouse: I clarify one thing: the people involved in the rescue attended the memorial services organised for the—

Mrs MARKUS: That is not what I am saying; I am talking about the decision that the survivors would not attend the memorial service. I heard you say that your priority was to consider—I am trying to help you out—the needs of the survivors. In doing that you did not bring them into a group situation with other distressed people who had been involved. You looked at individual plans and then decided how they should be handled, both for the survivors and the non-professionals. It seems that the right advice might have been given. But the failure has

been the communication. Could you have looked at alternative plans for individuals who wanted it? I am trying to paint a picture of what may have happened. Is that accurate Fiona?

Ms Lynch-Magor: Mrs Markus I think you are getting to a good point, but one of the things that Mr Moorhouse pointed out was that it was the purpose of the memorial for the community. There was some concern at the time that the purpose of that memorial was for the community to—the word 'celebrate' has been used—commemorate what had occurred for them. The concerns that I have heard my colleagues express were that the point at which our clients were at in terms of their own grief and anger may well have diverted the purpose of what it was that the community were doing. So to put it more crudely, we did not want to spoil or ruin it for the community because some of our clients, not all, were at that particular point. It was more that rather than—

Mrs MARKUS: I hear what you are saying. I hasten to add that the perception we have got from the feedback so far is that the community actually did want the survivors to be present.

Ms Lynch-Magor: I think that the issue though might have been that they were not aware of the considerable, perhaps strong feelings, possibly the not the most positive feelings in our clients, at that point, so they were not aware that could manifest.

Mrs MARKUS: That comes to my other point. Which is that the communication between the department and the community was not clear enough in sensitively but appropriately communicating that. I think that is where a failure may have been.

Mr Moorhouse: That might be, but you would appreciate this is a very difficult issue anyway. The community had made an enormous contribution and an enormous effort. It could potentially have been seen as a lack of gratitude or a lack of appreciation whereas what we were actually dealing with was the unresolved feelings of grief and complex feelings that some of the survivors were going through.

Mrs MARKUS: It is always much easier with hindsight. What would you do differently in relation to communication with the community?

Mr Moorhouse: I guess I find that a very difficult question because I am conscious that my colleagues who are involved in making these very difficult judgments took account of the range of issues and factors that were present at that time. Clearly, more communication is a good thing, there is no doubt about that. Bringing people together to try to resolve feelings is a good thing, there is absolutely no doubt about that. What we would do in the future would very much depend upon the circumstances in the future. I am not trying to dodge your question, I just want to make the point that my colleagues who had to make those judgments had the absolute best of motives, and were balancing a complex range of factors.

Mrs MARKUS: I understand that.

CHAIR: Thank you.

Senator CASH: Very briefly Mr Moorhouse, just following up in relation to the alleged lack of consultation with the community and the understandings and the expectations of the community in relation to wanting to meet with some of the survivors. Ms Dimasi has given evidence that she actually contacted the department twice, and I understand one of her contacts was Ms Fiona Andrew on 19 December 2010. Her evidence is that she actually raised a number of these issues with the department via Ms Andrew, showing the concerns that the community did have in relation to the survivors, but she received no response from the department at all. And in fact I asked her if she had received a response to date. Is there a reason that the department has not provided Ms Dimasi with a response?

Mr Moorhouse: I cannot answer that Senator, I am not sure—

Senator CASH: Could you take it on notice?

Mr Moorhouse: I definitely can take it on notice.

Senator CASH: Thank you very much. And find out why.

Mr Moorhouse: Okay, thank you.

Ms Mackin: Can I just clarify whether it was a written request she put to Fiona.

Senator CASH: It was a written request. A letter dated 19 December. She says she wrote to her twice.

Mr Moorhouse: Okay, thank you, we will follow that up.

Mr HUSIC: I am just interested in the different mechanisms that are in place pre and post what occurred. And Senator Hanson-Young's questioning of you got me interested in the Detention Health Advisory Group. Now this has been set up back in 2006, correct?

Mr Moorhouse: That is right.

Mr HUSIC: And it has got four terms of reference, I think it is expert opinion on design, development and implementation of health policy, appropriate standards, monitoring and reporting, and nature and scope of research roughly. Is this group used on a day-to-day basis, or is it used in a more structured way?

Mr Moorhouse: It is not used on a day-to-day basis, it is more in a structured way in terms of providing advice to us in relation to strategies and the methods of operating, rather than on a particular day-to-day, case-by-case issue.

Mr HUSIC: So say for example you had an extraordinary set of circumstances such as the one presented on Christmas Island that brought us here today, would you turn to that group for advice on how to manage, for example, the movements of people as was the subject of questioning earlier?

Mr Moorhouse: I think what I would say is that in relation to the particular incident, we had people on the ground who were advising us in terms of how we should respond to the particular situation.

Mr HUSIC: I get that.

Mr Moorhouse: If we were reflecting now on this is an incident, it is probably a good thing for us to do to ask DeHAG to look at our approach and our strategies, and whether we have adequate procedures in place for dealing with such a situation in future.

Mr HUSIC: But 'tradition', if I could use that word, was not that you would refer to them for the management of these type of situations, up until this point.

Mr Moorhouse: That is correct. Not in relation to that specific incident management but perhaps in relation to future strategies.

Mr HUSIC: Thank you.

Mr CHAMPION: Regarding the memorial service, I think you made a prudent decision but it seems to me the committee is interested in the advice you received in order to make that. Could you give us something on notice as to what went into the decision to hold the memorial service—the particular steps you took, what particular advice there was on the different cultural ways of expressing one's emotions and expressing grief and the different expectations on what a memorial service might entail. It seems to me that we have had this external criticism of the department but I am not sure if it is necessarily informed.

Mr Moorhouse: I would be very happy to do that. I would like to reiterate that judgments such as these are not easy. They involve the consideration of a large number of factors. As I said, my colleague who made that call did so after discussion with other key players. Thank you I will be happy to provide you with that background.

CHAIR: Thank you, Mr Moorhouse and the other officers. Thank you very much for your submission and the evidence you have presented to the committee today.

BROWN, Air Commodore James Michael, Commander, Surveillance and Response Group, Australian Defence Force

COLVIN, Mr Andrew, Deputy Commissioner Operations, Australian Federal Police

GRANT, Mrs Marion, Deputy Chief Executive Officer, Australian Customs and Border Protection Service

HURLEY, Lieutenant General David, Vice Chief, Australian Defence Force

[14:30]

CHAIR: I welcome representatives of the Australian Customs and Border Protection Service, the Australian Federal Police and the Australian Defence Force. I thank them for joining us here today. I note that the Senate has resolved that an officer of the department of the Commonwealth or a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of an officer to a superior officer or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

We have received your submissions and I invite each one of you to make an opening statement to be followed by questions from the committee.

Mrs Grant: The Australian Customs and Border Protection Service thanks the committee for providing us with the opportunity to appear and given evidence at today's hearing. Customs and Border Protection officers have been saddened by the tragic loss of life suffered at Christmas Island on 15 December 2010 and the bereavement of relatives and friends. Customs and Border Protection express our sincere condolences and sympathies to the loved ones of those who died in the shipwreck of the vessel now known as suspected irregular entry vessel SIEV221. Customs and Border Protection acknowledges all those who risked their own lives to save 41 people from the sea from the total of 42 survivors.

All on board ACV *Triton* and HMAS *Pirie*—and particularly the Customs and Border Protection and defence personnel who navigated their small vessels in such treacherous seas amongst the debris of the shipwreck and close to the very rocks that had destroyed SIEV221—put the lives of those on board that SIEV before their own. This was nothing short of heroic. All these officers should be recognised for their professionalism and bravery in such treacherous conditions. Likewise, we recognise the significant efforts of personnel on Christmas Island and in our operational headquarters—both within Customs and Border Protection, and Defence—who worked tirelessly on the day of the tragedy and in the days to follow to support the operational activity at Christmas Island and the subsequent inquiries.

The weather in the Christmas Island area from 10 to 19 December 2010 comprised active monsoonal conditions with periods of rain, showers and thunderstorms, which is not unusual for this time of the year in the tropics. On the morning of 15 December 2010, the ACV *Triton* and the HMAS *Pirie* experienced winds gusting 50 knots, which is approximately 90 kilometres per hour and swells of up to four and five metres, which was close to the ACV *Triton*'s maximum operating conditions. The weather and sea conditions placed SIEV221 in extreme danger, but this did not stop the venture from setting out. It appears that SIEV221 was ill-prepared for the conditions it faced, as evidenced by its overcrowding, a critical lack of safety equipment and one member of its crew disembarking to a smaller boat to return to Indonesia. The weather conditions also meant that the vessels assigned to Border Protection Command, the ACV *Triton* and HMAS *Pirie*, were in the lee of Christmas Island on 15 December sheltering from the atrocious conditions.

The ACV *Triton* already had 108 potential irregular immigrants on board. Fortuitously in the circumstances, she had not been able to offload her passengers and depart from Christmas Island and was on hand to make a significant contribution to the rescue activities on the morning of 15 December. HMAS *Pirie*, while sheltering in the lee of Christmas Island, was monitoring the hulk of a previous SIEV, SIEV220, which had been intercepted the day before and had had four defence personnel on board looking after that hulk. She continued to conduct surveillance to the east and north-east of the island to the best of her ability in the prevailing conditions.

The weather and sea conditions also severely restricted the effectiveness of HMAS *Pirie's* radar and visual lookout during the night of 14-15 December. Consequently, and without any intelligence of its arrival, SIEV221 approached Christmas Island undetected, in atrocious conditions and without appropriate safety equipment. After being sighted underway in the light of early morning, it then closed to the shoreline and subsequently its engine failed and it crashed into the cliffs at Rocky Point.

The events of that day are well-recorded and demonstrate the bravery of those aboard ACV *Triton* and HMAS *Pirie*, as well as the people on Christmas Island, who supported the rescue and had to deal with those of the deceased who were recovered. In response to this tragedy, Customs and Border Protection, including Border Protection Command, undertook an internal review to identify the effectiveness of the internal policy, processes or procedures used to respond to the incident. This review, which forms part of our submission, provides details of events that occurred on the morning of 15 December. The review noted that Customs and Border Protection followed and acted in accordance with its policies, processes and procedures. The internal review also looked at the lessons learned from this event and made eight recommendations. At the time we lodged our submission, five of the recommendations were fully implemented, with the remaining three underway. I am pleased to update the committee that seven of the eight recommendations are now fully implemented.

Recommendation 4 was completed by conducting a multi-agency desk top exercise on Christmas Island on 19 May 2011 to test instructions and guidelines, and recommendation 7 was completed with finalisation of a gap analysis of communications equipment available to our officers on Christmas Island. Work on recommendation 2, which relates to the on-land radar trial, remains underway. As noted in evidence to the Western Australia state coroner's inquest in Perth earlier this week, we are planning to extend the radar trial beyond 30 June 2011. This will provide the opportunity to test some different hardware and further develop the software by gathering data from the monsoonal season.

Our submission also provides information about our role in coordinating and controlling operations to protect Australia's national interest against eight maritime threats on a risk-based and intelligence-led basis. Finally, Customs and Border Protection also wishes to acknowledge the many professionals who have been involved in providing counselling and support to our officers and the many others who were exposed to such harrowing experiences. Thank you.

Mr Colvin: Like my colleagues, the AFP welcomes the opportunity to appear hear before you today in response to the tragic events of SIEV221. I want to take this opportunity to expand briefly on the AFP submission and respond to some issues that have been raised in other submissions to the committee.

Firstly, to update the committee on the progress with our investigation into the organisers and the crew of SIEV221. On 12 May this year, Mr Karam Haydar Khani was arrested upon his arrival in Australia by the Australian Federal Police for an outstanding arrest warrant issued by a Perth magistrate. The warrant pertains to his alleged organisation of the people-smuggling venture that ended in tragedy at Christmas Island on 15 December 2010 and offences relating to three other ventures. Mr Haydar Khani is an Iranian-born national who applied for and was granted refugee status in Australia in 2000. He was subsequently approved for Australian citizenship in 2003.

In addition to SIEV221 the suspect has been charged with people-smuggling offences relating to SIEV169, which arrived in Australia on 12 July 2010; SIEV206, which had an arrival date of 3 November 2010; and SIEV226, which had an arrival date of 4 January this year. He has been charged with 89 offences in total, a significant portion of which relate to SIEV221. Of the 89 charges, four charges are for aggravated people smuggling involving a group of five or more people, contrary to section 233C of the Migration Act. Each charge carries a maximum penalty of 20 years' imprisonment. The remaining 85 charges relate to counts of people smuggling involving individuals, contrary to section 233A of the Migration Act. Thirty-five of these charges relate to passengers on board SIEV221. Each of these charges carries a maximum penalty of 10 years' imprisonment.

In our submission to you, we inform you that the three alleged crew of SIEV221—Mr Hardi Han, Mr Abdul Rasjid and Mr Supriyadi—were arrested and charged with facilitating and bringing to Australia a group of five or more persons who had no lawful right to come to Australia, the offence of aggravated people smuggling, contrary as well to section 233C of the Migration Act. I can advise the committee that on 12 May 2011 three alleged crew of SIEV221 appeared before a Perth magistrates' court. The matter was adjourned until 23 June and that is when the matter will next be listed, and those gentlemen have been remanded in custody. Chair, it is important that I remind the committee that all these men are now subject to domestic criminal processes and it would be inappropriate for me to put too much more information on the record about those processes.

Secondly, I wanted to respond to the very legitimate concerns of the Council of Asylum Seekers, Refugees and Detainees that has been outlined in their submission to you about the way the AFP interviewed survivors transferred from Christmas Island to Perth for medical treatment. Following the publication of CARAD's statement, the AFP have taken the opportunity to look at the processes undertaken to interview the SIEV221 survivors referred to in this submission. The AFP acknowledge the difficulty faced by these survivors in being interviewed following the sinking of this vessel. The AFP understood this process would be distressing for the witnesses and took steps, as outlined in our submission, to minimise this. Sometimes I must say that the role of police in situations like this is certainly a thankless task unfortunately.

With SIEV221, the AFP approach to witnesses was to try and get the full detailed statement from the witness as close to time to the event as possible and to also get DVI, disaster victim identification, antimortem forms filled out at the same time. For some witnesses this process occurred over two or three days but was subject to a number of considerations, including the psychical and mental state of the witnesses, availability of interpreters, the availability of such evidence like photo boards and other material that was not immediately available to witnesses when perhaps they were first spoken to. I must say that all statements, as always with police, are voluntary.

Thirdly, the AFP response to SIEV221, like that of other Commonwealth agencies involved, went through a large number of phases. For the AFP, the response moved from an initial recovery of SIEV221 as it approached Rocky Point the subsequent search, rescue and recovery operation; the disaster victim identification process, supporting the West Australian coroner, who has undertaken an investigation into the organisers and crew of SIEV221; and, finally, the repatriation and burial of the deceased.

Against this background, one issue has been given some prominence through media reporting of the inquiry and the current coronial process and this is the capability of the AFP boat on Christmas Island, the *MV Colin Winchester*. During the course of the response to the SIEV221, on 15 December 2010, the AFP officer in charge of Christmas Island considered the use of the *MV Colin Winchester* due to the emergency situation that existed and assessed the sea conditions at the time on Christmas Island. The officer in charge concluded that any attempt to launch the vessel would be unsuccessful and seriously risk the lives of any crew on that vessel. On this basis the vessel was not deployed. It should be noted that even if there were no issues with the vessel's buoyancy and there were no restrictions on the use of the vessel, the sea conditions were such that the vessel could not and would not have been utilised. The AFP is currently determining whether it is possible to remedy the deficiencies in the fleet or whether it is necessary to commence a replacement program of that vessel. The AFP has deployed a rigid hulled inflatable boat, similar to what you have just seen, from the operations' response group as an interim replacement of the existing maritime capability that we have on Christmas Island. We are working very closely with the Department of Regional Australia, Regional Development and Local Government, as well as AMSA, to discuss these issues on Christmas Island, including if necessary replacing that capability.

Finally, I and other witnesses here today from the AFP and the witnesses who will be available to you, of course, when you go to Christmas Island will provide you with as much information as we can. However, we will potentially be restricted and constrained by the ongoing coronial inquiry, which at this stage we have not appeared before, the trial of Mr Haydar Khani and the crew, as well as the ongoing investigations surrounding this vessel and other SIEV arrivals. Thank you.

CHAIR: Thank you, Assisting Commissioner. Lieutenant General?

Lt Gen. Hurley: Thank you. The department thanks the committee for the opportunity to appear and to assist in this matter. The suspected irregular entry vessel, SIEV221, was an undetected arrival and grounding on Christmas Island on the morning of 15 December 2010.

Defence regrets the tragic loss of life resulting from the grounding SIEV221 and recognises the efforts of all those involved at sea, in the air and on the island to assist the stricken vessel. The entire search and rescue effort was undertaken in difficult and dangerous circumstances. The crews of HMAS *Pirie* and ACV *Triton* deserve our highest praise. They put their own lives at risk in extremely dangerous circumstances to rescue 41 people from the sea.

Defence is one of several supporting agencies that assist Border Protection Command to fulfil its role to detect, deter and to interrupt illegal activity in the maritime domain. Defence's major contribution to Border Protection Command is the provision of ADF personal and assets, which include the Commander Border Protection Command, the ADF members of his headquarters in Canberra, his tactical headquarters located in Darwin, intelligence support and patrol boats, major surface vessels and surveillance aircraft. Defence's contribution to Border Protection Command is provided under what we term Operation Resolute and is overseen by Commander Joint Operations Command, located at Bungendore.

There is constant, close liaison between Commander Joint Operations Command and the Commander Border Protection Command. Throughout SIEV221 incident, defence maintained its awareness of events through communications between headquarters Joint Operations Command and Border Protection Command as well as through interagency coordination. As the SIEV221 incident transitioned from a response task to a safety of life at sea task and then to a search and rescue task, defence responded by providing additional resources as requested. In relation to the specific events of 14-15 December, defence has provided a submission to this committee. The submission complements the more detailed Customs submissions as Customs is the lead Commonwealth agency. There are no significant inconsistencies in timing and/or key events between defence and Customs and defence agrees in broad with the detailed narrative and chronology of major events within the Customs internal review.

Defence welcome the release of the internal review by the Australian Customs and Border Protection Service and defence is working with the Border Protection Command to help implement relevant recommendations of the review. Defence, through headquarters Joint Operations Command and headquarters joint taskforce 639 in Darwin is assisting in the conduct of a review of Operation Resolute, defence's contribution to this effort. While such a review is a routine event, this will be a first principles assessment of the posture of assets and interagency relationships and the review will be completed by midyear. In support of Border Protection Command, the Defence Science and Technology Organisation is field testing a ground based radar on Christmas Island, as has been mentioned by Mrs Grant. And Navy and Border Protection Command have commenced addressing issues raised in HMAS *Pirie*'s post-activity report. This is a normal function of the Border Protection Command working group and Navy staff.

Defence continue to cooperate fully with the Australian Federal Police, the Western Australia coroner's office and the Australian Customs and Border Protection Service with all ongoing enquires. Above all else, the performance of the men and women who continuously put their own lives at risk in the most difficult of conditions to save the lives of those in great peril must be recognised. Regardless of all other aspects of this SIEV221 incident, one thing is clear: if not for their efforts on the morning of 15 December, few of the 42 souls whose lives were eventually saved would be alive today. Thank you.

CHAIR: Thank you very much.

Mr KEENAN: One of the tasks the parliament has asked us to look into is the internal review that you referred to in your opening statements. I note that we have not actually got a full copy of that review and I am wondering why that is the case?

Mrs Grant: We included the publically released version of the internal review in our submission to the committee, knowing that would allow you to put it onto your website and make it publically available. The documents that are not included in the internal review are classified documents that we could take on notice the provision of those ones or particular ones that you might request from us. Some of those documents would need to be redacted in line with redactions we have made for the coronial enquiry. So if we could perhaps take on notice which documents you would like to see?

Mr KEENAN: I do not know what they are, so that is impossible for me to say. It is just annexes that do not exist within the information that has been provided to the committee. I could say that we would like to see the full copy of the report.

Mrs Grant: Well, we will certainly take that on notice. Annex 2, for example, is the complete chronology of events which has been created from logs—everything from the ship's logs, the operational logs in our respective watch floors in Border Protection Command headquarters, joint taskforce 639 headquarters in Darwin.

That sort of material has been consolidated into one continuous overarching log that we have called the chronology. There is some classified material in that and we have presented a redacted version of that. That certainly could be made available to the committee for consideration.

Annex 4 is a highly classified document that goes to intelligence that was available around the period of 15 December that has not been made available as—

Senator HANSON-YOUNG: Why is that?

Mrs Grant: It goes to the national security aspects.

Senator HANSON-YOUNG: I accept that, but in your opening statement you actually said that there was no intelligence of the arrival of boat SIEV221.

Mrs Grant: Yes, I understand. There was no intelligence about specifically 221, but we did have a collection of intelligence material for the period pertaining to 15 December. We have a product that I think you have

probably had some briefing on previously that exists each day. It is that sort of material. It is more about intelligence collection than just this particular vessel.

Senator HANSON-YOUNG: I accept that, but if it is important for your internal review to make a determination as to what type of intelligence was available for you to say to us in your public statement that there was no intelligence in relation to 221 and how on earth it got so close to where it did, I think we do need to see that.

Mrs Grant: We can take that on notice and provide those documents on notice, but we will need to work back with the collection agencies as to which material needs to be redacted or make arrangements for viewing of that material in a secure fashion.

CHAIR: Yes. If you are taking that on notice what you might be able to provide to the committee, it may be appropriate for the committee in a private meeting, maybe even next week, to potentially get a briefing on that and you may then be in a position to maximise what you are able to make available to the committee. If I put that proposition to you for you to consider on notice and we will be in contact with you shortly to find out whether that might be an appropriate course of action.

Mrs Grant: Thank you, Chair, that would be helpful.

CHAIR: Mr Keenan.

Mr KEENAN: Who is the decision maker in that instance about what information is provided to the committee and what information is not? I do think it is very, very important. We have been asked to get a full disclosure of all the information that we possibly can and if we cannot get information then we need to have a very good reason why we could not get that information.

Mrs Grant: We are certainly not saying you cannot have that information; we are just saying that we could not make some of that information available in a public submission.

Mr KEENAN: I appreciate that but, of course, that is the first we have heard of that. All we had was a submission and these parts of it missing. Clearly that was of concern to the committee. Chair, I have a lot of questions and I understand that Senator Hanson-Young has to go, so I am happy to defer to her.

CHAIR: Thank you. Senator Hanson-Young.

Senator HANSON-YOUNG: Thank you. My questions are specifically in relation to the information that was known or could have been known around the vessel 221 prior to the morning of 15 December. We have all seen the footage, we have read the submissions, we have been able to hear directly from many of the people involved and we will hear more of that over the coming week. I am not prepared to suggest that anything different could have necessarily been done in those rough waters. I am concerned about the statement that there was no intelligence surrounding boat 221 prior to 15 December.

We have such extensive capabilities, I struggle to understand how there was no ability to detect that boat prior to 15 December. And if that is the case, then we know that the framework and the multilayered intelligence network that we have clearly is not protecting our borders at all. I understand you have certain pieces of your internal report that you have not shown us today, and I appreciate that you have taken that issue on notice. One of the things I would like you to give on notice to this committee is an outline of what that the multilayered intelligence tree looks like—from border protection and customs to the defence force, in terms of tracking, the People Smuggling Intelligence Analysis Team, the data collected by the RAAF and the data collection conducted by JORN. Would you be able to outline what JORN is?

CHAIR: There were several questions prior to those statements and I want the witnesses to be able to respond to all of those before we then go on to the next question. So if you could do that, Ms Grant.

Mrs Grant: Chair, any discussion about intelligence we would need to take in camera. It would reveal national security and law enforcement methodologies to talk about those issues in an open hearing and—

Senator HANSON-YOUNG: I have just asked you to take things on notice, that is what I have asked for.

Mrs Grant: My apologies Senator, I misunderstood.

CHAIR: Well, I did too. Because I thought there was a lot of propositions you were putting, which if they are able to be answered, they should be answered.

Senator HANSON-YOUNG: If they are able to be answered, that is fine.

CHAIR: I will accept your advice on any security issue in the first instance, and then it may be a matter for the committee to further consider, but do not provide any information that you believe is inappropriate in a public

forum. If you wish to respond to some of the things that Senator Hanson-Young has put to you, you can or you can take them on notice.

Mrs Grant: Chair, I would take all of those issues on notice, but I would defer the final comment about JORN to my colleague, Lieutenant General Hurley.

CHAIR: Thank you.

Lt Gen. Hurley: There are a lot of myths about JORN and we can address some of those fairly quickly. The detection of wooden vessels of the nature of SIEV221 and other similar SIEVs by JORN is highly improbable.

Senator HANSON-YOUNG: Can you repeat that? What is highly improbable?

Lt Gen. Hurley: The detection by JORN of wooden vessels of the nature of SIEV221 is highly improbable.

Senator HANSON-YOUNG: Can you explain the purpose of the Jindalee Operational Radar Network, otherwise known as JORN?

Lt Gen. Hurley: I will hand over to Air Commodore Brown, who is actually responsible for that.

Air Cdre Brown: My position is the Commander, Surveillance and Response Group, located at RAAF Base Williamtown, New South Wales.

Senator, your question is quite broad. The primary purpose of JORN is to provide a surveillance to the northern and north western approaches of Australia. Its primary objects of interest are military targets. It has a threshold of detection with respect to surface vessels, for example, of Armidale class patrol boats, similar to one that was involved in the rescue, and also fighter type aircraft similar to a Hawk—in other words, fast-moving aircraft. Without getting too much into the theory of JORN, it is a Doppler radar. It requires either larger targets or targets that are moving either away or towards the radar sites—in other words, slow moving vessels or vessels that are moving tangential to the radar are far more difficult to see.

Senator HANSON-YOUNG: You are saying that a wooden vessel fits into that?

Air Cdre Brown: I am not sure I understand.

Mr Perrett interjecting—

Air Cdre Brown: Yes. The size of the vessel that JORN is designed to detect is an Armidale class patrol boat, so quite a large—

Mr PERRETT: Can you give that in metres?

Interjector: 56.8 metres.

Air Cdre Brown: A vessel that is primarily made of metal. The SIEV221 like vessels are primarily wood and extremely difficult to detect.

Senator HANSON-YOUNG: Does JORN collect data daily?

Air Cdre Brown: JORN operates according to a peacetime schedule. Yes, we collect data on a daily basis.

Lt Gen. Hurley: People might have a misconception about JORN over-the-horizon radar. It is not a sweeping radar that you might see on a TV screen that does persistent and frequent coverage of an area. It might sit and dwell and look at an area. You must know where you want to look. It is not a search radar. It needs other vectors to tell you, 'Look in this area' and you dwell on that area. It does not scan; it reflects off the ionosphere, bounces down and gives you a constant picture of what is happening in that spot.

Senator HANSON-YOUNG: Can you trace? Obviously, if you hone down onto that spot, can you move that focus as whatever you are watching moves?

Lt Gen. Hurley: You can move the beam, but it is rather a large beam.

Air Cdre Brown: As the General said, rather than a sweeping radar, it works very much on a tile. If you imagine there are various tiles laid out to our north-west, and the way the radar works is that it focuses on a particular tile for a period of time, then the operator can move to a different tile.

Lt Gen. Hurley: The clarity of what you see is very much dependent upon ionospheric conditions. That will give you the range, the clarity of picture and so forth that you are able to see at any particular time. For a particular spot in the ocean or land, you must know that you want to look for something in that particular location. It will not just search for you and tell you something is happening, in that sense.

Senator HANSON-YOUNG: If we need to go into camera, you will need to give us that direction. What data is fed through this multilayered system? All the different agencies collecting it make up the direction and the advice that is given to the Customs and Border Protection Service. I have just nominated one part. What are the other facets?

Lt Gen. Hurley: The other intelligence agencies feeding into—

Senator HANSON-YOUNG: The layers. Obviously, Border Protection and Customs act on the intelligence that they are given. They are not in the intelligence agency.

Mrs Grant: That is correct. If you could just clarify this precise question.

Senator HANSON-YOUNG: Where does the intelligence, the data and the information that is given to you in your daily report as to what to be looking for out there in the sea from the sky come from? I just asked the question about JORN. There obviously are other areas such as what I have nominated—the People Smuggling Intelligence Analysis Team, PSIAT, there must be others. What makes up your daily record of what you are looking for?

Mrs Grant: Yes. The People Smuggling Intelligence Analysis Team is a team that is in Customs and Border Protection intelligence and targeting division that brings together all of the reported information each day, and then the analysts make sense of all of the pieces of the jigsaw puzzle. The PSIAT is receiving information from the Australian intelligence community. I clearly would not discuss here how they go about their business, not that I am an expert on that because we receive their products. We also receive reports from other law enforcement agencies that we work with, in Australia and overseas and our own offices. We put together from open source material to highly classified material to build up what we know each day about potential ventures.

And I should say it is not a science by any means. We have pieces of information that could indicate perhaps a venture is being formed that never eventuates into anything that we see as an arrival. We have to make assessments as to whether it is disinformation in a sense for the intelligence-collecting communities, whether it is marketing material by the people smugglers. So even though we get a piece of information it does not actually indicate that that is a fact, and intelligence analysts try and put as many different pieces of information as they can together to form a view of what may occur.

Senator HANSON-YOUNG: Every day you get a list of possible targets to be watching out for, is that right?

Mrs Grant: I would not describe it that way, Senator.

Senator HANSON-YOUNG: You would not describe it like that. How would you describe it?

Mrs Grant: I would describe it in camera if you did not mind, Chair, if we could hold that for perhaps an in camera session? Once we start describing that we are getting into our methodologies.

CHAIR: Yes.

Senator HANSON-YOUNG: Sure. The reason I am trying to get this information is because we know that the conditions on the day were terrible. What we are being told is that the first time anyone knew of this boat's existence was from an eyewitness account by people on top of the hill. That is what we are being told.

Mrs Grant: That is correct.

Senator HANSON-YOUNG: At that stage, when you look at that footage, and you hear the eyewitness accounts, it is amazing that we were actually able to save the lives that we did, I believe, thanks to the bravery and the hard work of the officials and the volunteers. But if we go back, what was it that we missed before December 15 when we know that there were boats that came and were intercepted both before that boat left, and after that boat left—other boats. And we know that because it is in the various submissions in here, there have been various news reports of statements from Border Protection and Customs when they have intercepted those boats. So what is it that we did not see prior to December 15?

Mr PERRETT: Chair, could I ask a question that would inform Senator Hanson-Young's question in a way?

Mr CHAMPION: All we are getting is a series of assertions.

Senator HANSON-YOUNG: No, I am asking.

Mr PERRETT: This is a technical question, but if we knew the boat was in that tile, and it is seen to be definitely less than 57 metres, could you see it with the Jindalee over-the-horizon radar? Even if you knew it was in that tile, the wooden vessel was only 10 or 20 metres long. Even if I said, 'I have got the intelligence, I saw it leave the port, off it goes, I think it is going to be here', could you see it with that radar?

Air Cdre Brown: That is a hypothetical, but as I said before, detection of any SIEV221 like vessel or a vessel as you saw in the video is highly improbable. As a result of the characteristics of the over-the-horizon radar and the way that it operates, both in a physical sense and also in the environmental characteristics, you cannot rule it totally out, but it is highly improbable, even if you knew where it was.

Mr PERRETT: And squally typhoon type weather would not help I imagine.

Air Cdre Brown: The conditions on the day, even in ideal conditions, it remains highly improbable. The conditions on the day, as you saw on the video, just make the likelihood even worse.

CHAIR: At some point we will go into camera and we can address—

Senator HANSON-YOUNG: I would just like to put on the record, Chair, I am not making any assertions, I am asking the questions, and I would just like that noted. Mr Champion should not intervene.

CHAIR: We need questions. There is a fair bit of commentary that goes along with your question.

Senator HANSON-YOUNG: I do not think I have put anything—

CHAIR: Anyway, the question is simply: was the intelligence not there, or was there a failure along the way? And I suppose it is a question that will be answered.

Mr KEENAN: I would like to follow along that theme about the intelligence. We have had submissions to the committee that allege various things. I note that when the internal review deals with this issue of prior knowledge of SIEV221—and I do not say this in any way rudely or pejoratively—the language is not definitive by any means about the intelligence about that particular vessel. It is more like, 'That intelligence was not provided to me.' Is it possible to get a definitive statement that none of the agencies of the Australian government were aware of the existence of this vessel?

Senator HANSON-YOUNG: At any stage.

Mrs Grant: That is the sort of thing we could discuss in camera.

Mr KEENAN: I accept that. We will obviously have to reconvene maybe today or at another date to—

CHAIR: Unless we want to do that now. Do we want to resolve this issue now?

Mr PERRETT: Yes.

Senator FIELDING: On page 2 of the submission it says that neither Customs or BPC were seen to have any actionable intelligence. It is the word 'actionable' that needs explanation. It does not say, 'No intelligence' it says 'actionable intelligence'.

Senator HANSON-YOUNG: Which is different from the statement that was given.

CHAIR: Back to questions. We will now go into camera.

Evidence was then taken in camera but later resumed in public—

BARRETT, Rear Admiral Timothy William, Commander, Border Protection Command, Australian Customs and Border Protection Service

BROWN, Air Commodore James Michael, Commander, Surveillance and Response Group, Australian Defence Force

COLVIN, Mr Andrew, Deputy Commissioner Operations, Australian Federal Police

GRANT, Mrs Marion, Deputy Chief Executive Officer, Australian Customs and Border Protection Service

HURLEY, Lieutenant General David, Vice Chief, Australian Defence Force

KELLEY, Ms Roxanne, Acting Deputy Chief Executive Officer, Australian Customs and Border Protection Service

PERRY, Mr Nigel Antony, National Director, Maritime Operations Support Division, Australian Border Protection Service

[16:16]

CHAIR: I have a number of questions for the AFP. One of the submitters—CARAD, Coalition for Asylum Seekers, Refugees and Detainees—expressed some concern that one survivor was interviewed over 12 hours by the AFP. I was wondering if that occurred and, if so, what was the purpose of a 12-hour interview?

Mr Colvin: As I said in my opening statement, certainly the interviewing of any victim in a circumstance like this is never a straightforward and easy process. After I saw the CARAD submission, I obviously made inquiries into the claim of 12 hours. I assure the committee that we did not interview these people for 12 hours. What I understand occurred with a number of people over a number of days was witnesses who were prepared to talk to us for a start were brought into our police headquarters and over a lengthy period we gave them the opportunity to speak to us, to provide statements. Certainly it was not a 12-hour interrogation, if you like. It was a 12-hour period where they were afforded all sorts of breaks, opportunities to stop talking to us and do something else. Obviously they were given food in terms of their religious tolerances. All of it was done in a very controlled manner in terms of ensuring their medical condition and their mental state. As I said in my introductory comments, at all points they were voluntary. We kept checking the voluntary nature, as we did with all the witnesses, not just the ones referred to in the submission, and we checked they were happy to continue. In any instance where anyone gave us the slightest inclination that it was too traumatic or too stressful we stopped the process. That is why for some people it took two, three or four days to get the information.

As I said, sometimes this is a thankless task from the police because we need to identify bodies and establish as quickly as we can what happened. I assure the committee that we did it in the absolutely most sensitive manner that we could. We are as concerned and distressed to see inferences that we did not do that. I checked into, as I said, those ones in particular and at no point did that couple who tragically lost one of their children say that they wanted us to stop the process. In fact, someone else spoke to the supervisor who oversighted it. While they were distressed, absolutely, they were happy to continue. We gave them as many breaks and opportunities to reflect on the tragedy as they needed. So this concerns me. I am sure that, in making that submission, CARAD were relaying comments that were made to them. I am not disputing that in any way at all. I guess I am just saying to the committee that the AFP are very conscious of this and we did everything as sensitively as we possibly could.

CHAIR: How soon after the rescue did the interviewing of survivors commence?

Mr Colvin: Those ones in particular were survivors who went to Perth. It was over an extended period of many days. The ones who we could talk to straight away—those who seemed to be in a mental and physical state to talk to us—we prioritised. Others, for a range of reasons through trauma as well as injury, we were not able to talk to straight away. If you think about the process, it is everything from trying to get initial immediate information about what occurred through to formally documenting a statement from people. Right up front we were talking to anybody who could help us pin together what had actually occurred.

CHAIR: Were all survivors interviewed?

Mr Colvin: I will correct the record if this is not the case, but yes. I would be extremely surprised if we did not talk to everyone several times.

CHAIR: Including children?

Mr Colvin: It depends on what you mean by 'children'. A 16- or 17-year-old could probably give us some information that was useful. There were infants and children at three, four and five years of age. I cannot be sure that we interviewed them. If we did, our normal practice is that it is done with family members or with responsible adults who again could help us work through that process.

CHAIR: Your submission indicates that you work closely with a number of other agencies. What is your view now in hindsight about the effectiveness of the Federal Police's communications with Customs, the Department of Immigration and Citizenship, the WA Police and the Navy.

Mr Colvin: In the response itself?

CHAIR: Yes.

Mr Colvin: We have debriefed, as we always do in a critical incident. I do not think I have ever been involved in a postoperational assessment or debrief that has not told us something that we can do differently. Communication is nearly always at the heart of that. We feel that there is always room for improvement, particularly in relation to how we communicated on the island. Having said that, nothing came out of that we believe would have made any material difference. We were actually quite pleased with the communication. It is an ongoing thing. This was not the only incident where we are communicating with our colleagues; it is a constant process. We were quite satisfied with the levels of communication. There are always things that you can do differently and better, but none of that was material to the actions on the day.

CHAIR: I would like a response from each agency to this next question. The committee is looking at the after incident support for not only survivors but also those involved in the rescue and the effort. I would like to know what each agency did to provide counselling or support post the tragedy.

Mr Colvin: Do you mean for our members?

CHAIR: Yes, for your members.

Mr Colvin: The initially deployed surge onto the island to help us deal with it included a police welfare officer. Really we leave it to welfare officers to work out how they work, but there could be a range of things from the informal—being around our officers to see how they are coping—through to formal interviews. We had that welfare officer on the island at the time who assessed the AFP members. I will defer to Assistant Commissioner Prendergast, who is here as well, if I am not right on this. We also made our welfare officer available to the community on Christmas Island. We then have a follow up program every three to six months where we talk to our people. I do not mind saying for the committee's record that our officers were traumatised. We do have ongoing issues. We are keeping an eye on officers to make sure we think they are fit and capable to respond to another situation if they have to.

Mrs Grant: In the submission we lodged with you we provided quite some detail about dates and what had happened with counselling of our people who had been involved both on the island and on the ACV *Triton*. I will not take time to go through those dates, but I just want to say that we have had an ongoing program following those very intensive interventions early on. All staff involved in the tragedy have been provided support. We have done some follow-up surveying to see how people are going. As recently as the last two weeks at the coronial inquiry in Western Australia we have had the counsellor who did the initial counselling onsite for our witnesses appearing before that inquiry in case it brought back stressful times for them. Rear Admiral Barrett and I both had to give evidence at that inquiry and the counsellor came and made herself available in the event that we felt we needed to talk with her as well. It is happening and ongoing and will be maintained for as long as any of our officers need that professional assistance.

Lt Gen. Hurley: There is a two-part answer to this. As I have said before, we supply the asset, the patrol boat, to Customs. Rear Admiral Barrett can talk about what he initiated immediately around the incident and I will talk about what Defence has done on the follow through.

CHAIR: Thank you.

Rear Adm. Barrett: The Customs vessel *Triton* was under my operational control at the time; Customs managed that. From the Navy vessel HMAS *Pirie* initially I made calls to the commanding officer on a regular basis from right after the incident for the next couple of days. We then initiated counselling that flew to the island, who then sailed back with *Pirie*—there were two of them—so they could talk to all members of the crew during the journey back. *Pirie* stayed at the island for a number of days after the event, firstly, because of the need to do search and rescue and, secondly, so we could get a replacement vessel out there and relieve her of her duty. The follow on then was captured through Navy, who took ownership of the vessel once she returned to Darwin. There was some ongoing maintenance of counselling for crew after that.

Lt Gen. Hurley: Which included in particular our three-month follow-up after the event, similar to what we do when a person goes on deployment. We bring them back in and do postoperational psychology screening. I can report that all members are in a fit and whole state, are fit for sea duty and are back at work. One member from the ship's company has discharged but that was a process that had started before the incident and was followed through later on.

CHAIR: Thank you.

Senator FIELDING: I have a question with regard to the report from the Australian Customs and Border Protection Service. A fair bit of time and effort went on establishing whether the sighted vessel in actual fact was SIEV221. There was concern it may have been SIEV220, which arrived the previous day. There seemed to be a fair bit of discussion from what I can see in the report about that. Did that delay anything with regard to responding? The first sighting was at 5.40 and it took until 6.55 to resolve the question: was the sighting SIEV220 and not SIEV221?

Rear Adm. Barrett: There are two different issues at play there. Firstly, by my reading of the report, there was a 13-minute difference from 5.47 after it had been reported. Initially a call was made that it was thought that 221 may have been the hulk of 220, which had been boarded the day before. Part of it was around where the report was being made from. They were trying to determine where the observer of that vessel was placed to try to determine whether they had seen the previous vessel. In that process of making calls one call went to a message bank between the operations centre and the customs officer on the island. They waited a period of time and then called back. They eventually got that cleared up and then advised that the boat was a new contact of interest—in fact, SIEV221. That accounted for about 13 minutes. There was another series of calls that were made from the Maritime Security Operations Centre, which works in my headquarters up here in Canberra. A series of 000 phone calls initially indicated that we believed there may have been a vessel in distress somewhere between Christmas Island and Ashmore Island and there was the statement that the vessel was on fire. So staff within the AMSOC, the Maritime Security Operations Centre, I think made prudent calls to try to confirm whether we had a second vessel or whether it was all about 221. As a consequence of their efforts we diverted aircraft to search around Ashmore Island to verify the information that had been provided. So they are two separate issues I believe. I do not believe the 000 calls had any material effect on or changed the other actions that were occurring. They were just prudent measures to determine whether the information we had was correct.

Senator FIELDING: Thanks for clarifying that.

Mr CHAMPION: This might already be in evidence somewhere. Obviously SIEV221 was unprepared for the journey. At the first sighting it was five to 600 metres from the shore. Did they try to approach Rocky Point? Were they trying to land? Is it undetermined—

Rear Adm. Barrett: Mr Chairman, I think that is probably a call for those involved on the boat and will probably come out in the coronial inquiry. The evidence at the moment suggests that, at the initial sighting made by the custom's officer at 5.40, the vessel was some distance from shore, was underway and had steerage. So it was making its own way. As I understand the evidence that has been provided through the coronial inquest, at some stage it made passage towards the shore and then as a consequence of being in that rough surf zone, lost power for whatever reason and then at that point was washed onto the rocks. At that point I think the evidence from the CO *Pirie* was that little could be done. But at the time of first sighting it was underway and it had power.

Mr CHAMPION: Maybe I will leave that to the coronial inquiry.

Mr Colvin: Chair, that is a matter that the coroner will make his own finding on one way or the other. We just need to be a little bit careful with that.

Rear Adm. Barrett: Can I caveat what I just said around those points. Thank you for that.

Mr CHAMPION: Just in regards to the rigid hull inflatable boats—and I have heard you all talking about the heroism of our personnel and I would like to pay tribute to them—the evidence says that they were operating at or above the recommended operational procedure. How close were we to a situation where it was not prudent to put those rigid boats into the sea? From the vision it seems to have been an extraordinary situation. It is always hard to second-guess the decisions made by the officers who were in command at the time. There were so many people on Rocky Point and there were people in these boats in the water. It seems to me that we were very lucky that there was not further loss of life.

Mrs Grant: We agree with you entirely. We heard evidence from a colleague from the Australian Maritime Safety Authority earlier this week about when it is a safety of life at sea situation that it is up to the commanding officer of the vessel—so the RHIB and tender drivers—to make the decision whether they think to save lives they can safely operate their equipment. There is no obligation on them to risk their own lives. So in the circumstances the commanding officer of the *Pirie* and the *Triton* made an assessment that we should launch those tenders. Essentially it came down to whether the drivers of those small vessels were prepared to take that risk. They all, in the circumstances, attempted it and we are very grateful that 41 lives were saved due to their actions. When we look at that footage as the officials with a duty of care to those officers, we are very thankful that no Commonwealth officers lost their lives during this rescue process. Our colleague from AMSA was basically saying the restrictions and the operating limitations on the vessels are sort of set aside in safety of life at sea situations and the commanding officer makes the decision whether they can attempt a rescue or otherwise.

Mr CHAMPION: Obviously it was an emotive situation because would be distressing to see people so close to the rocks in that situation. I am wondering what procedures there are around that decision. It would obviously have been a very difficult decision not to do what was done. I am trying to find out what safeguards there are. It is a difficult question I know, but it seems to me it has to be asked.

Rear Adm. Barrett: It is. It is in part, certainly from the Navy vessel, the commanding officer or the commanding officers we place with experience who make that judgment. In 35 years of the Navy I have never witnessed a shipwreck—certainly nothing of that nature. It was unprecedented in this area and I think it would be to many of our COs, but the fact is they are experienced mariners and they have to make those calls. Their judgments are around their knowledge of the crew, their knowledge of the capability of their boat handlers and their knowledge of the risks that will flow and the benefits in making a decision that may put some of their own people at a heightened level of risk in trying to save other lives.

Senator FIELDING: I think the efforts they went to, from what I could see, were absolutely heroic. Those conditions were horrific. That should be passed back to the officers. That was absolutely life saving for a lot of people. They are heroes.

CHAIR: I am sure the committee will have a fair bit to say about that in its final report. I concur with those comments. There is still the question that you have taken on notice, Mrs Grant, about the internal review attachments. We can have some dialogue with the committee and see where we land on that issue. You are always welcome, after considering what has been said today and the lengthy time we had in camera, to make another written supplementary submission to complete your evidence. I am also happy to give you an opportunity now to make extra comments if you wish to take up that opportunity. We do have a lot of questions on notice which really go to covering off some of the evidence that has been given to us—some in camera and some public. We really did not have an opportunity to cover all the issues we would have liked to in this period of time. We will get those questions to you as soon as possible. I am happy to hand over to you if you wish to take up the opportunity.

Mrs Grant: I do not have anything further to say.

Mr Colvin: I want to thank the committee for the opportunity. Chair, you did ask me about the interviewing of children. I have confirmed that we commenced interviews more generally on the 16th and 17th, so almost immediately after, and in consultation with the Western Australia Police, who had the lead in collecting information for the Western Australian coroner, we arrived at the decision that we would not interview anyone under 17 years of age. We felt it was too traumatic. I thank the committee. We stand ready to provide whatever information we can.

CHAIR: I thank you very much for your submissions to this inquiry and for the evidence that you have presented to the committee today.

Committee adjourned at 16:39