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SENATE

SELECT COMMITTEE ON A CERTAIN MARITIME INCIDENT

Reference: Certain maritime incident

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SENATE
SELECT COMMITTEE ON A CERTAIN MARITIME INCIDENT

Tuesday, 16 April 2002

Members: Senator Cook (*Chair*), Senator Brandis (*Deputy Chair*), Senators Bartlett, Jacinta Collins, Faulkner, Ferguson, Mason and Murphy

Senators in attendance: Senators Bartlett, Brandis, Jacinta Collins, Cook, Faulkner, Ferguson and Mason.

Terms of reference for the inquiry:

For inquiry into and report on:

- (a) the so-called 'children overboard' incident, where an Indonesian vessel was intercepted by HMAS *Adelaide* within Australian waters reportedly 120 nautical miles off Christmas Island, on or about 6 October 2001;
- (b) issues directly associated with that incident, including:
 - (i) the role of Commonwealth agencies and personnel in the incident, including the Australian Defence Force, Customs, Coastwatch and the Australian Maritime Safety Authority,
 - (ii) the flow of information about the incident to the Federal Government, both at the time of the incident and subsequently,
 - (iii) Federal Government control of, and use of, information about the incident, including written and oral reports, photographs, videotapes and other images, and
 - (iv) the role of Federal Government departments and agencies in reporting on the incident, including the Navy, the Defence Organisation, the Department of Immigration and Multicultural Affairs, the Department of the Prime Minister and Cabinet, and the Office of National Assessments; and
- (c) operational procedures observed by the Royal Australian Navy and by relevant Commonwealth agencies to ensure the safety of asylum seekers on vessels entering or attempting to enter Australian waters.
- (d) in respect of the agreements between the Australian Government and the Governments of Nauru and Papua New Guinea regarding the detention within those countries of persons intercepted while travelling to Australia, publicly known as the 'Pacific Solution':
 - (i) the nature of negotiations leading to those agreements,
 - (ii) the nature of the agreements reached,
 - (iii) the operation of those arrangements, and
 - (iv) the current and projected cost of those arrangements.

WITNESSES

FARMER, Mr William, Secretary, Department of Immigration and Multicultural and Indigenous Affairs 808

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ILLINGWORTH, Mr Robert Laurence Mark, Assistant Secretary, Onshore Protection, Department of Immigration and Multicultural and Indigenous Affairs 808

KILLESTEYN, Mr Edward Victor, Deputy Secretary, Department of Immigration and Multicultural and Indigenous Affairs 808

McMAHON, Mr Vincent, First Assistant Secretary, Offshore Centre Management and Infrastructure Division, Department of Immigration and Multicultural and Indigenous Affairs..... 808

STORER, Mr Desmond, First Assistant Secretary, Parliamentary and Legal Division, Department of Immigration and Multicultural and Indigenous Affairs 808

Committee met at 9.33 a.m.

CHAIR—I declare open this hearing of the Senate Select Committee on A Certain Maritime Incident and I call the committee to order. Today the committee continues its public hearings in relation to its inquiry. The terms of reference set by the Senate for the inquiry are available from the secretariat staff and copies have been placed near the entrance to this room. Today's hearing is open to the public. This could change if the committee decides to take any evidence in private. The committee has authorised the broadcasting of public aspects of the proceedings.

The hearing will last till around about 10.30 p.m. tonight and will resume at 8.30 a.m. tomorrow morning. Today's hearing will be suspended for lunch between approximately one o'clock and 2.30 p.m. and suspended for dinner between 6.30 p.m. and 8 p.m. I remind members that there will be a private meeting of the committee during the dinner suspension. The waiting room next door is for witnesses only and is a private area to which the press and members of the public have no access.

We shall attempt to deal as expeditiously as possible with witnesses. I urge witnesses to be concise in their answers and senators to keep their questions tightly targeted. Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. It is important for witnesses to be aware that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. If at any stage a witness wishes to give a part of their evidence in camera, they should make that request to me as chair, and the committee will consider that request. Should a witness expect to present evidence to the committee that reflects adversely on a person, the witness should give consideration to that evidence being given in camera. The committee is obliged to draw to the attention of a person any evidence which, in the committee's view, reflects adversely on that person and to offer that person an opportunity to respond.

An officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy. However, officers may be asked to explain government policy, describe how it differs from alternative policies and provide information on the process by which a particular policy was arrived at. The committee has agreed to requests from certain witnesses that they be accompanied by counsel. However, counsel has no right to address the committee, nor will the committee address questions to counsel.

[9.37 a.m.]

FARMER, Mr William, Secretary, Department of Immigration and Multicultural and Indigenous Affairs

ILLINGWORTH, Mr Robert Laurence Mark, Assistant Secretary, Onshore Protection, Department of Immigration and Multicultural and Indigenous Affairs

KILLESTEYN, Mr Edward Victor, Deputy Secretary, Department of Immigration and Multicultural and Indigenous Affairs

McMAHON, Mr Vincent, First Assistant Secretary, Offshore Centre Management and Infrastructure Division, Department of Immigration and Multicultural and Indigenous Affairs

STORER, Mr Desmond, First Assistant Secretary, Parliamentary and Legal Division, Department of Immigration and Multicultural and Indigenous Affairs

CHAIR—I welcome the officers from the Department of Immigration and Multicultural and Indigenous Affairs. Mr Farmer, do you have an opening statement that you would like to make?

Mr Farmer—No.

CHAIR—Is that true of your colleagues as well?

Mr Farmer—Yes.

CHAIR—In that case, we will start questions straight away.

Senator BARTLETT—I will not be asking any questions in relation to the certain maritime incident. My questions are in relation to the terms of reference for the Pacific solution. For starters, could you provide a range of statistical data, particularly any breakdown of the numbers of people that are on Nauru and Manus Island, the boats they came on and that sort of detail. I do not know if you received any preliminary warning from the committee about the sorts of things that I am looking for but, if you have that sort of data, that would be handy.

Mr McMahon—I have data here which answers about four of the questions that you kindly provided ahead of time. They go to the total numbers on both islands, the composition of them in terms of nationalities, adults, males/females, boats and the number of unaccompanied minors. Can I suggest that I table this. I could also go through it as well, if you wanted me to.

Senator BARTLETT—That would be good. I think it would be helpful to the committee as a whole if it were able to be tabled.

CHAIR—Yes. The procedure we engage in is that, if you are tabling a document, we will receive it at this point, circulate it among the committee and then decide. There is not this nicety necessarily with your department but we decide, after we have seen the document, whether it should be released. It has been mainly for defence and security reasons that we have paused between receipt and public release, but at this stage we will continue to follow that practice so please hand it to the adviser.

Senator BARTLETT—I want to go through the processes that are followed for the assessment of people's claims. As I understand it, there is a group of people that is being assessed by UNHCR and another group that is being assessed by departmental officers. Would you detail what differences there are—if any—and the processes that have been followed to date with all the claims?

Mr Illingworth—The processes that are adopted on Nauru by the UNHCR and by the Australian government are essentially the same processes. The Australian processing arrangements have been modelled very closely on the arrangements that the UNHCR follows in Nauru and elsewhere in the world, and we have liaised closely with the UNHCR in refining those arrangements to ensure that is the case. Essentially, they involve an interview by a trained officer who actively explores all of the possible reasons that an individual may have for seeking refugee protection, discusses country information as relevant with that person and discloses any issues that might need a response from the individual—for example, if there are inconsistencies or issues about the country information which need to be explored further—and then the conclusion is reached. That is conveyed to the individual both orally and in writing.

There are extensive counselling sessions then available to individuals to explain, if they are successful, what the implications of that refugee finding may be and, if they are found not to be refugees, what the implications of that are. All people who are found not to be refugees at that stage have an opportunity to seek a review. That is also conducted essentially face-to-face by a trained officer, a different officer from the officer who conducted the original assessment. Again, there is a process of discussion of claims, exploration of any grounds for refugee protection, disclosure of any potentially adverse inferences or information for comment and consideration of the responses, and a final decision is then reached. It is essentially the same process as is followed by the UNHCR.

Senator BARTLETT—You say 'trained' officers. In what way are they trained? What level are they? Are they people that normally do these sorts of assessments in Australia?

Mr Illingworth—Yes. They are trained onshore protection case officers who have received additional training to operate the new processes offshore. They are officers who, because of their training, fully understand the refugees convention, the handbook, the domestic legislation in relation to interpretation of the convention, principles of natural justice and a range of issues that need to be taken into account when interviewing individuals who may have difficulty putting forward claims because of, for example, gender, culturally based reasons or historical reasons of suffering torture and trauma, fear of authority and those sorts of issues.

Senator BARTLETT—When you say they received additional training, what would be the reason for that? What differences are there in assessing people offshore as opposed to the assessments that they have done here?

Mr Illingworth—The additional training relates to the processes which we have followed. It is not a protection visa process so the administrative part of the onshore protection decision maker's work is a little different—there are different letters that are used and there is no application form. One of the significant differences in the offshore process is that there is a larger reliance on oral communication with individuals so people are interviewed perhaps more intensively and have a larger opportunity to put forward their claims at interview. Dealings with individuals about their claims tend to be more face-to-face. Counselling, for example, is conducted face-to-face. Further explanation of reasons for decisions, where people need to seek that, is conducted face-to-face.

So approaches are taken offshore which are different from the onshore process, which largely reflect that difference. There are some other technical differences in relation to the Migration Act, which does not apply offshore. The framework of decision making is an administrative decision, which then informs a minister's choices and decisions, as distinct from a decision within the construct of the Migration Act, which assesses criteria for grant of visa and then makes a decision about whether a visa should be granted or not.

Senator BARTLETT—So officers assessing people onshore would still be assessing whether or not somebody met the criteria of a refugee, but then they would follow on with granting a protection visa; whereas, offshore, the visa part does not enter into it, at least not automatically. Is there any difference in the assessment in terms of what is taken into account—what counts and what does not count—in being assessed as meeting the criteria under the convention?

Mr Illingworth—Offshore, Australian jurisprudence does not apply. Case officers are applying the handbook and the convention and would be applying them in the same way that the UNHCR applies the handbook and the convention.

Senator BARTLETT—How do you know that they apply them in the same way? They might be referring to the same document but, if you say that jurisprudence does not count or whatever, how do you know? I am thinking of the example, just last week, of the High Court decision in relation to domestic violence, which may or may not be relevant to any of the claims offshore. Are you saying that that decision would not be relevant to the assessments offshore?

Mr Illingworth—That jurisprudence is not a binding guide offshore, as it is onshore, but the principles of a particular social group and the concepts with which a lot of Australian jurisprudence deals are within the convention. The convention provides the source of the concepts so that a particular social group, for example, is specifically recognised in article 1(A) of the convention as a possible convention ground.

Senator BARTLETT—A particular social group is in the convention but that component in particular has been a contentious one as evidenced by last week's High Court decision alone. What is defined as being a particular social group has obviously been a matter of debate as evidenced by this High Court decision, amongst others. Would last week's High Court decision, for example, be relevant to offshore assessments or not?

Mr Illingworth—It is not a binding source for case officers. It does not have the force of precedent in terms of decision making offshore but, as I said before, the principles spring from

the convention. In most issues of jurisprudence, we are not looking at cases where domestic jurisprudence has created a concept which has no source in the convention. It is providing one binding area onshore of guidance on interpretation for case officers, but the convention speaks for itself.

Senator BARTLETT—The convention might speak for itself, but the interpretation of it is obviously fairly significant in terms of the people making the assessments. You say it follows the same procedure as the UNHCR, but are the same interpretive principles followed? Again using this ‘particular social group’ as an example, how do you know that your officer’s assessments in relation to that area would be the same as a UNHCR person’s assessment?

Mr Illingworth—There is a certain degree of consultation between the Australian officials and the UNHCR on issues about interpretation of the convention, both in a general sense in Australia and in the more focused area of refugee determination in the declared countries.

Senator BARTLETT—What info is given to claimants on their rights in relation to the procedure et cetera? Are they given a standard set of information or advice?

Mr Illingworth—They are given information about the process, which describes how we will go about assessing their refugee claims. They are also informed both in writing and orally of the availability of review rights if they are unsuccessful and of the availability of one-on-one counselling opportunities, if they desire them, to explore reasons for their decision in detail and to discuss in detail the options they might want to follow.

Senator BARTLETT—They are not given any assistance in terms of putting together their claim?

Mr Illingworth—That is not necessary with the system as it is constructed. In line with the approach taken by the UNHCR, the objective is to have a system which does not presume that an individual needs to have specialist support of any sort. It is an active investigation of an individual’s circumstances to actively identify those people who need refugee protection, and it is for that reason that the processes adopted by the UNHCR globally—which we are matching—focus heavily on oral communication with individuals, face-to-face contact and an active exploration of claims.

Senator BARTLETT—What if people ask for assistance—if they ask for a lawyer or some other assistance—in putting together the information they provide to you? Is there any mechanism for people to get access to any form of assistance?

Mr Illingworth—That would be a matter for the centre managers and the relevant government. It is not an issue that falls within the framework of the refugee determination processes.

Senator BARTLETT—Are you aware if they are able to get any if they ask?

Mr Illingworth—I am not aware of arrangements. We certainly do not have arrangements in place to provide assistance within the framework of the refugee status determination process, nor does the UNHCR.

Senator BARTLETT—What is the actual nature of the agreement put together between our government, PNG and Nauru in relation to that? We do the assessment but, as you have suggested, the claimants are not actually our responsibility; they are the responsibility of the relevant government whose territory they are on. Is that correct?

Mr Killesteyn—The agreements provide for processing centres to be established on sites provided by the two governments. The expectation in both governments is that the processing—that is, the actual assessment determination—would be done by other parties. In the case of Nauru, Nauru requested the assistance of the UNHCR by way of third-person note on or about the time the first processing centre was established in Nauru. The UNHCR agreed to conduct that processing and that essentially relates to the people who were off the *Tampa*, as well as the other boat called the *Aceng*—that was the group delivered by the HMAS *Manoora* to Nauru. In relation to PNG, at that point the UNHCR had indicated that it would not be involved in the processing of any other groups, so subsequent groups are transferred to Nauru and all of the people transferred to the Manus facility in PNG have been processed by Australian officials.

Senator BARTLETT—So we are doing the processing, but what is their actual status? There are people in Australia, for example, in detention who are unauthorised noncitizens; what is their status in these countries?

Mr Killesteyn—In both cases, the governments have issued temporary entry permits which essentially provide for their legal entry into both those countries. The entry permits provide certain conditions which essentially means that the person has to be available for processing during the time that they are in the countries and that means that they are to remain within the sites of the processing centres that have been established.

Senator BARTLETT—Are they actually in detention in a legal sense?

Mr Killesteyn—In a legal sense, the entry permits provide for a legal status while they are in the country and ensure that they are available for processing and they remain within the address of the processing centre. In the context of the particular immigration legislation that is being used by Nauru and Papua New Guinea legally that is not defined formally as detention.

Senator BARTLETT—Are the people who have already been assessed and have been found to meet the refugee criteria still required to remain within the centres?

Mr Killesteyn—That is the expectation of both governments. However, we are conscious of the fact there will be a group of people who, pending their resettlement, will be classified as refugees, so we are undertaking arrangements and discussions with both governments to ensure that these people have some greater level of amenity and access to other facilities. For example, in Nauru there are excursions that people are taken on to the beach for swimming and so forth. That is the approach that is being taken.

Senator BARTLETT—You mention excursions. Are they still supervised or accompanied?

Mr Killesteyn—Supervised.

Senator BARTLETT—In terms of the figures you have given us here which are a breakdown of the numbers of people and where they are from, I have just one question. You have got the status of some of them as OEPs. What does ‘OEPs’ stand for?

Mr Killesteyn—‘Offshore entry persons’ which is part of the new legislation that was passed by the government last year.

Senator BARTLETT—So why are the SIEV 1, 2 and 3 and the *Tampa* people not offshore entry persons? Was it before the legislation was passed?

Mr Killesteyn—The *Tampa* group, as well as the *Aceng* group that was rescued, never entered Australian territory as far as setting foot on the excised territory Christmas Island. Whereas all of the other groups that have been transferred arrived at either Ashmore Reef or Christmas Island and then were transferred to the processing centres in Nauru and Manus.

Senator BARTLETT—In terms of the legislation that was passed in the last few weeks—I can’t remember the title of it now—that is relevant for the ones that were not offshore entry people. Is that correct?

Mr Storer—Sorry, Senator?

Senator BARTLETT—Is that relevant just for those who are not offshore entry people?

Mr Storer—No, it covers both sets—the people who were taken to the centres on the *Manoora* and the people classified as offshore entry persons.

Senator BARTLETT—What stage are things at? Is it correct that the UNHCR has done initial processing of all their people? Which ones has Australia processed to date?

Mr Illingworth—The UNHCR has handed down a total of 244 decisions out of 525 persons that it is processing, so it has processed around half. The UNHCR and Australia are going through a process of re-interviewing many of the Afghan asylum seekers who, because they were originally spoken to late last year, need to be provided with an opportunity to provide any further information that might be relevant to considering their refugee claims, given the change in country circumstances in Afghanistan over that time.

Senator BARTLETT—UNHCR has done 244 out of the 525; how many have we done out of the rest?

Mr Illingworth—We have done 79 on Nauru and 116 on Manus.

Senator BARTLETT—Are those 116 all from the SIEV4?

Mr Illingworth—Yes.

Senator BARTLETT—So there are still another 100 to go through their initial assessment just from the SIEV4?

Mr Illingworth—Yes.

Senator BARTLETT—Were the 79 on Nauru all from the SIEV2 and SIEV3 group?

Mr Illingworth—That is correct.

Senator BARTLETT—Altogether that is 195 from Australian assessment and 244 from UNHCR. They were all announced at the same time, as I understand it.

Mr Illingworth—There was an announcement that decisions would be handed down over a period commencing earlier this month, so it was a coordinated hand-down arrangement with the UNHCR for Nauru, and hand-down arrangements for Australian decisions on Manus Island were linked in with that timing.

Mr McMahon—All the decisions on Manus were handed down on 8 April, and the ones on Nauru were overwhelmingly handed down on 8 April and 9 April.

Senator BARTLETT—Why was that sort of stockpiling done? I presume they were all interviewed separately and some of the decisions would have been reached somewhat earlier. They were just held off on being handed down.

Mr McMahon—There were significant logistical issues because you simply do not hand down decisions, you have actually got to get staff into place to give them advice in respect of the decisions. There is some management issues of just handing down one or two decisions. There was a coordinated effort between UNHCR and Australia to try to get a significant group of decisions handed down at the same time.

Senator BARTLETT—In terms of the 244 for UNHCR and the 79 and 116 from Australia, could you give me the numbers which were successful and unsuccessful, at least in their initial application? The Afghans, as I understand it, are in effect still in their initial assessment phase. They are not actually appealing yet; they are still being assessed initially.

Mr Illingworth—The Afghans fall into a number of categories. There was a small number of Afghans whose cases could be approved, essentially irrespective of the changes in that country's circumstances. Those cases received approval decisions. Then there is the group of Afghans whose cases were originally examined and assessed late last year and who are being reinterviewed to make sure that we have given them every opportunity to provide information relevant to the current country's circumstances. Then there is a later group of Afghan arrivals whose interviews have only recently been completed. They do not need to be reinterviewed because their initial interviews were conducted after the lie of the land in Afghanistan and the major changes of late 2001 became apparent to them.

Senator BARTLETT—How many of the 244 have been successful—for want of a better word?

Mr Illingworth—This is the Nauru UNHCR group?

Senator BARTLETT—Yes.

Mr Illingworth—There were 126 Iraqis approved by UNHCR. Seventy-five were found not to be refugees. Seven Afghans were found to be refugees. Fourteen people of other nationalities were found to be refugees. Then a group of 22 people of other nationalities were found not to be refugees, four of whom have left Nauru voluntarily to return home.

Senator BARTLETT—So the other Afghanis that are being reinterviewed do not fall into that 244?

Mr Illingworth—No. They are still in process.

Senator BARTLETT—What about the Australian figures—the 79 and the 116? What is the breakdown there in terms of success or otherwise?

Mr Illingworth—There were 60 favourable Iraqi decisions—60 were found to be refugees. Twelve were found not to be refugees; seven people of other nationalities were found not to be refugees. I would make two points. One of those decisions is that the actual hand-down is awaiting the person being ready to receive it. They are receiving some medical treatment at the moment. There is another group of Iraqis from that first tranche that we processed whose resolution awaits some country information which we have only just received.

Senator BARTLETT—So that is the 79 on Nauru?

Mr Illingworth—Yes.

Senator BARTLETT—What about the Manus group?

Mr Illingworth—There are 101 Iraqis found to be refugees; 12 found not to be refugees; three people of other nationalities found to be refugees. Again, there is a sizeable number of Iraqi cases from that first batch—that is, SIEV4, the *Columba* group. The resolution of their cases has been awaiting some critical information which we have now recently received.

Senator BARTLETT—So of the 116, which are all from the SIEV4—which is the most famous one, I guess—104 of those have got a positive assessment so far?

Mr Illingworth—That is correct—at this stage.

Senator BARTLETT—That is a pretty high percentage. I guess the issue is what happens to them now. What is the legal status of all these people—the ones who have got the positive assessment? In terms of their legal status, I suppose, in their various countries, they are still on these temporary entry permits.

Mr Killesteyn—That is correct, yes.

Senator BARTLETT—And this assessment is irrelevant in that respect?

Mr Killesteyn—That is correct.

Senator BARTLETT—Is there any sort of time frame for this resettlement? As I understand it, with the UNHCR ones, the UNHCR is assisting in trying to find resettlement places around the globe. With the other ones that we have assessed, that is basically up to us to find places for them. Is that correct?

Mr Killesteyn—This is the next step for us. It is important for us to secure resettlement places as quickly as possible and consistent with the government's strategy of ensuring that a preferred migration outcome for people who are secondary movers essentially does not end up being Australia—albeit the government has accepted that at some stage that may be the end result. We are now in a process of working with the UNHCR as well as undertaking our own bilateral discussions with various countries to secure those places, and we are doing that as quickly as possible.

Senator BARTLETT—Is there any time frame or time limit for how long people can wait? Some people in Indonesia, for example, that go to UNHCR and get assessed have been there for years, as I understand it. Is there any time frame or time limit in relation to these people?

Mr Killesteyn—There are no time limits. There are no arbitrary time limits on this process. On the one hand, you have to acknowledge that it is a difficult process but, on the other hand, it is important for us to secure the places as quickly as we can. We are now in a process of undertaking those sorts of discussions. The minister, who is also travelling at the moment, will be having discussions with various countries about securing places; the government has announced an ambassador for people-smuggling, who will also be involved in those discussions; we have our own discussions at officials level with various countries, taking up those sorts of issues; and of course we are working very closely with UNHCR, who have already undertaken preliminary discussions with various countries. I think there is reason to be confident that we will get a significant number of resettlement places.

Senator BARTLETT—So, when we are approaching other governments, are we asking them to resettle these people?

Mr Killesteyn—For those who are assessed as refugees, yes.

Senator BARTLETT—I have seen comment that obviously Australia is going to have some of them coming here. Is that the case?

Mr Killesteyn—That is a decision the government is yet to make. The government has indicated that where there are close family connections, for instance, it would be prepared to offer resettlement places. The important thing here is that we do not undo the strategy that the government has put in place, by giving a migration outcome which was the original intention of many of these people; that is, to come to Australia. That only acts as a further incentive for people to come to Australia. So the strategy at this point is to secure places, as part of an international burden-sharing effort, in countries around the globe.

Senator BARTLETT—But if they are resettled somewhere else they will get a migration outcome as well, will they not?

Mr Killesteyn—Indeed, but their original intention was to settle in Australia.

Senator BARTLETT—How do you know that?

Mr Killesteyn—You just have to look at the particular profile of many of these people. They have been in places where they enjoyed protection prior to them seeking entry to Australia. In a sense, the protection outcome was already achieved and they were essentially taking secondary movements to secure a migration outcome in Australia.

Senator BARTLETT—Where did they enjoy protection?

Mr Killesteyn—Many have come from Iran or Pakistan, in the case of those that have fled Afghanistan. Many have lived in other countries such as Jordan prior to taking flight down for Australia—and indeed in Indonesia.

Senator BARTLETT—Being in Iran counts as having protection?

Mr Killesteyn—Essentially, the claims of many of these people are against regimes in Iraq and, prior to the events of September 11, the regime of the Taliban in Afghanistan. So they had already been enjoying that protection from persecution from those regimes.

CHAIR—Isn't Iran an 'axis of evil' country as far as President Bush is concerned?

Mr Farmer—I do not think that has any relevance in the refugee determination context.

CHAIR—No, but—

Mr Farmer—There have been some millions of refugees seeking and having protection in Iran for some years.

CHAIR—But you are confirming, Mr Farmer, that Iran is one of those countries that has been identified by the President of the United States in his address to Congress as a rogue state.

Mr Farmer—That is not in my ken, Senator. It is not an immigration matter.

CHAIR—You don't know?

Mr Farmer—I have no official access to any information relating to that.

CHAIR—But do you know or not?

Mr Farmer—I have read the papers, Senator.

CHAIR—So the answer is yes.

Mr Farmer—I do not know which papers you read. I do not know whether we are having just a semantic talk, but it is not something that I can give you any advice on based on my official position.

CHAIR—Is everything you decide, Mr Farmer, based on your official position, or do you, as a sentient human being, read the papers and know what is going on in the world and relate your decisions as head of your department on what is going on in the world or just on what you officially receive across your desk?

Mr Farmer—I do not believe everything I read in the newspapers, Senator.

CHAIR—I think it is an extraordinarily evasive approach you have taken, Mr Farmer, but that is your decision and I note that.

Mr Farmer—I would note also I am simply saying that a report of a discussion about something unrelated to refugee and immigration matters is just that: it is unrelated to refugee and immigration matters. We have had no reason to ponder on the basis of advice from the UNHCR or anyone else whether Iran still offers effective protection to refugees as a result of those reported statements.

CHAIR—I would have thought it is relevant to the considerations of yourself as head of the department and for departmental considerations as to whether or not Iran has been identified as a rogue state by our allies under the ANZUS treaty to which we are committed and which we have invoked. I would have thought that is a relevant consideration.

Mr Farmer—I do not believe that the UNHCR—and I am ready to be corrected by my colleagues if I am wrong—which has a significant presence in Iran, has advised us of any change in its view about the protection available to refugees in Iran as a result of any statements of the sort you are referring to.

CHAIR—I will note that interjection. It is not an immigration matter. But the purpose of the President's speech—and bear in mind that our Prime Minister has invoked the ANZUS treaty—was to indicate which countries as far as our ally is concerned are rogue countries which may harbour terrorists, which the whole global coalition against terrorism is directed at suppressing. That part is true. That is a relevant consideration, surely, when assessing whether or not we might become militarily involved in any action to suppress terrorism in those countries—which does go to whether or not there are safe havens or otherwise for refugees. There is a connection, it seems to me.

Mr Farmer—I hear your opinion, Senator. That is not something that anyone in this department has turned their mind to.

CHAIR—When would you turn your mind to it? If we became engaged?

Mr Farmer—Senator, that is a highly hypothetical question dealing with a matter beyond my competence, and I am not going to answer that.

Mr Killesteyn—Senator, could I offer a way through here? The assessments of a person's claims against the convention are case-by-case assessments. They are based upon the individual circumstances of each individual. In the case of the people that are in the offshore processing centres, we have undertaken a process to examine their claims of persecution against whatever regime they would claim persecution. Invariably—in fact universally, as I understand it, and Mr Illingworth can correct me here—all of the claims are for protection against the regimes in Iraq or Afghanistan at the time. There were no claims for persecution in relation to anyone that resided in Iran or any other country prior to coming to Australia. That is what we have been pursuing. So the issue that you have raised is not necessarily germane to the individual assessment of a person's refugee claims.

CHAIR—I am intruding on Senator Bartlett's time, and I am loath to do that but, since you make that explanation—and, let me say, I understand that is the position—I would have also thought that there is some relevance to the fact that, if they have fled their original country and now have temporary refuge in countries like Iran, North Korea, Iraq or Afghanistan that are not their home country and which are designated as countries that harbour international terrorists—against which countries there is a global coalition of military action to suppress terrorism—the security of their temporary or transient position is also a consideration. But, apparently, the department knows nothing of this and gives it no consideration. This is the 'I know nothing' defence; I understand the defence. If that is what the department's evidence to the inquiry is and you want to stand by that, fine—that is your position.

Mr Farmer—We have had no advice from the UNHCR to suggest that it has concerns about the protection being offered to people in Iran as a result of the comments that you have been referring to.

CHAIR—Is that the only source of advice you get? Have you had any advice from PM&C, for example, about the implications of the ANZUS Treaty, with respect to any of the countries—I do not want you to single out any of them—that we might be militarily involved with?

Mr Farmer—We have not been involved in any discussion of that sort, Senator.

CHAIR—The 'I know nothing' defence. Thank you, Mr Farmer.

Mr Farmer—Senator, I am sorry—

Senator BRANDIS—That is not fair to the witness, Mr Chairman.

CHAIR—It is very true to the witness.

Senator BRANDIS—It is very unfair to the witness.

CHAIR—It is very true to the witness.

Senator BRANDIS—May I ask a question, Mr Chairman?

Mr Farmer—You asked a factual question—

Senator BRANDIS—May I ask a question to the witness? Mr Farmer, would you care to elaborate on why it is that you consider that not a question you can properly answer?

Mr Farmer—Yes, I would, thank you.

CHAIR—I thought he had been elaborating on that, actually, Senator Brandis.

Mr Farmer—No, Senator; you made a comment and I would like to respond to that. This is not the department for knowing everything that goes on in the Australian government. We are here to help the committee to the extent that we can and, insofar as there are issues relating to the competence of the Department of Immigration and Multicultural and Indigenous Affairs, I assure you that we will do our utmost to do that. But if you lead me down paths that go right away from the competence of this department then I am sorry but there are limits to how far we can help—regardless of our will to be as helpful as we can.

Senator FAULKNER—Mr Farmer, could you direct me to the department that is the appropriate one for knowing everything that is going on in the Australian government?

Mr Farmer—Of course, there is not such a department.

CHAIR—There is the PM&C; that would be the closest department to that.

Mr Farmer—That is right.

CHAIR—That is right. But the reason why I made the retort I did—and I do not need to explain myself but let me go to this extent, since one of my colleagues has intervened in this discussion—

Senator FERGUSON—You have intervened in Senator Bartlett's questions.

CHAIR—Yes, I know, and I have apologised to him doing so.

Senator FERGUSON—But you are still going.

CHAIR—That is right, I am still going and I will go until I complete this, thank you very much. It seems to me entirely relevant, when you are considering whether people have any security over their life or wellbeing—which is an element of our assessment about their status as a refugee—to have a contextual understanding about not just their country of origin but also their circumstances at large. If they are in a country which, I submit to you, you know is one of those countries that is nominated as an 'axis of evil' country and which you know we may—hopefully may not, but may; it is a live question—become militarily involved with, then I would have thought their security in that country is a relevant consideration to your department. Now the fact that you say that it is not and that you are not aware of those wider issues simply says to me that you choose not to take those matters into consideration.

Senator FERGUSON—Mr Chair, is this a question or a lecture?

CHAIR—No, I was asked to respond—

Senator FERGUSON—It sounds very much like a lecture.

CHAIR—and I am doing the witness the courtesy of responding to his proposition.

Senator FERGUSON—There is today's headline for you.

CHAIR—If we can now move on, having put my position to you, Mr Farmer—

Senator FERGUSON—Your lecture.

CHAIR—to Senator Bartlett.

Senator BARTLETT—Thank you. I have forgotten where I was at now.

CHAIR—My apologies.

Senator BARTLETT—That is okay. You were talking about migration outcomes and protection. In terms of this definition of protection, as I understand it, a number of people in Iran, who have been there for some time, are at risk of now being forced out of Iran and back to other areas. Is that the case?

Mr Killesteyn—Senator, what I was explaining was in the context of the question about time frames. I was simply indicating that we are not working to an arbitrary time frame to secure resettlement of people; we are working to secure that resettlement as quickly as possible. We have a range of processes both at government and official levels to do that, as well as working through the UNHCR, and we will continue to pursue that until all people are resettled.

Senator BARTLETT—You were saying that a large proportion of these people had protection previously; they were not in a position where they were able to have permanent protection.

Mr Killesteyn—No. The obligation of the Australian government is not to refole anyone who enters our territories. That is the obligation; it is no more than that. We have undertaken a process with offshore processing as part of a broad government strategy to give people an opportunity to present their claims to either Australian officials or UNHCR officials. Once those claims have been assessed and their status determined then we are assisting with the resettlement of those people. Some may come to Australia—that is a decision that the government is yet to make—others will be resettled in countries that are offering that resettlement—permanent residence, if you like. That is the process we are going through.

Senator BARTLETT—We heard in previous evidence, last week I think it was, from Navy officers that it is not uncommon, indeed it is fairly regular, for people on the boats when they are boarded or approached by Navy to say that they are refugees; that they are wanting

protection or safety. At least three of the boats were turned back to Indonesia. I do not know if any of those actually entered Australian waters but they certainly got pretty close. I know at least some of them have gone into Australian territorial waters. You have just said that we have an obligation for people that enter our territory that we do not refole them, yet we have had three boats, some of which may have entered our territorial waters and have contained people saying, 'We are refugees', that we have sent back. How does that fit into our obligations not to refole?

Mr Illingworth—Senator, the principle of non-refoulement or non-return has been very carefully crafted by the drafters of the convention. It does not mean we must accept; it does not mean that an asylum seeker has a right to demand entry to a country without authority; it does not mean that an asylum seeker has a right to demand that a particular country process their claims; nor does it mean that a particular asylum seeker has a right to ask a country to protect it and choose the country in which the asylum seeker or refugee will obtain protection. Those are all intentional outcomes of the drafting of the convention. The mechanism that was put in place through legislation last year under which the handling of the boat arrivals has taken place is fully consistent with our obligations of non-return. Nobody has been returned—no refugee has been returned to a country of persecution—as a result of those policies. Our obligation is to ensure that those people who enter our territories, if they are refugees, do not get returned. The mechanisms ensure that people are assessed. If they are refugees, appropriate protection is provided, and if they are not refugees, obviously they can be returned.

Senator BARTLETT—But we have had people who have entered our territory who may or may not have been refugees—we do not know because we have not assessed them, but they have claimed they are—and we have sent them back. We have no way of knowing what has happened to them subsequently.

Mr Farmer—Senator, I think there is an important distinction to be made and that is non-refoulement. That means they should not be returned to the country where they believe they have a risk of persecution. It does not mean non-return to another country—for example, Indonesia.

Senator BARTLETT—But you do not know what has happened to them once they have gone back to Indonesia. If they are sent back, as they may be, we have no control over that and surely then we would bear some responsibility for them having been returned to their country of origin.

Mr Farmer—There are arrangements in Indonesia involving the UNHCR, the international organisation for migration, and Australia, which essentially provide the assessment of refugee claims by people in Indonesia.

Senator BARTLETT—I think three boats—maybe more, but certainly at least three—have been returned to Indonesia. Is there an arrangement for them to be met at the Indonesian end by the UNHCR people or other people or is it just for the people on the boats to figure that out or find their way?

Mr Farmer—Senator, I am not aware of any particular communications with the Indonesian authorities about reception arrangements or anything like that for these particular boats. I think

that would be a matter handled by either the Navy or through diplomatic channels. I cannot help you on the specifics of what happens there. I do not know whether any of my colleagues can.

Mr Killesteyn—The Indonesian authorities were advised that four boats were returned. They were all advised about the return of the boats. What then happened in terms of reception arrangements is really a matter for the Indonesian government but we certainly did take steps to let them know. Mr Farmer's point about what is called the 'regional cooperation model' is an important one to emphasise. This was put in place some 18 months or two years ago and it gives an opportunity for people who are in Indonesia to present their claims for persecution and have them assessed by the UNHCR, and then for resettlement to take place in cooperation with the UNHCR and IOM. That was specifically designed to give these people, who were enjoying protection in Indonesia at the time, an opportunity have their claims assessed and for resettlement processes to start.

Senator BARTLETT—Let me just clarify one point. Mr Illingworth, you mentioned that the refugee convention did not provide for people to be able to enter a country illegally to seek asylum. My understanding of it is that the manner in which people enter a country is irrelevant in terms of their claim for protection.

Mr Illingworth—That is correct. Whether a person is a refugee or not is not flavoured by their mode of entry. That is certainly the case in the processes that Australia follows. But that is a separate issue from whether a nation has the capacity to control its borders or whether it has somehow ceded some form of sovereign power to individuals to pick and choose a country and enter it without a visa. The refugee convention is very careful in its words to preserve the capacity of states to control their borders; very careful to withhold from individuals—asylum seekers—a right which is often presented in the media and elsewhere as in existence, but which does not exist, and that is the right to turn up to a country and say, 'Let me in. I demand entry. I have a right to enter. I have no visa.' There is no such right.

Senator BARTLETT—But people have a right to seek protection from any country. I understand your point that they are not able to pick and choose, but they do have a right to enter a country that is a signatory to the convention to seek protection.

Mr Illingworth—No.

Senator BARTLETT—They do not have a right to enter a country?

Mr Illingworth—They do not have a right by virtue of being a refugee to enter a country without authority.

ACTING CHAIR (Senator Brandis)—Mr Illingworth, we should be careful with our terminology. As we know, the fact that a person claims to be a refugee does not make them a refugee; at its highest these people are claimants to a status, their entitlement to which is as yet undetermined. Do you agree?

Mr Illingworth—Yes, although there are two ways in which refugee status is looked at. In one way it is a determinative process undertaken by states which then confers a status. Another way in which it is looked at is that refugee determination processes are declaratory, and so the

general practice of the international community is to assume that an asylum seeker should be treated with some of the basic protection, as if they were a refugee, because one does not know until one then makes a determination, and that will enable the consequent action to be carried out. For example, in the case of people who arrive and are taken to declared countries for processing, even though they are only claimants they are protected, in a sense, from refoulement, from return, until such time as we can work out who is a refugee and who may not be a refugee.

Senator BARTLETT—Of the people that are on Nauru and Manus Island at the moment that have been assessed positively—I think there are about 311 if I add up all your figures correctly—the government has said it will give priority to those with immediate family connections here. Do you know how many of those people that applies to?

Mr Illingworth—We have some information which we are in the process of clarifying and validating with the individuals concerned. The issue of family linkages with Australia has been somewhat difficult to pin down because sometimes people use different names or they provide names of claimed relatives in Australia which are different to the names which we may know them by. In other circumstances they may choose, for whatever reason, to either claim that relatives exist that do not or, vice versa, to not tell us about relatives that might exist. We could provide some more detailed information on the family linkages when we have finished a process which we are going through now with the individuals concerned to validate the information.

Senator BARTLETT—That would be handy when you could; it is not super urgent. Are there any amongst those that have been rejected who have immediate family here such as spouses or parents?

Mr Illingworth—That is the case to my understanding.

Senator BARTLETT—That is a yes?

Mr Illingworth—To my understanding that is the case—there are people on Nauru and Manus who have not been successful who have claimed to have relatives in Australia.

Senator BARTLETT—Could you let us know how many of those there are as well? I assume that in the assessment procedure having a parent or a spouse in Australia on a protection visa is irrelevant in terms of the determination.

Mr Illingworth—The mere fact that a person is in Australia on a protection visa alone would not be a significant factor but it may serve to substantiate claims made by the individual for protection.

Senator BARTLETT—Assuming that some of these people will end up in Australia—I appreciate you cannot say how many, but I think it is reasonable to assume that some of them will end up here, given statements by the government about taking our fair share and giving priority to families—what visa would they be on?

Mr Illingworth—There are two visas which would be the most relevant. There is the 447 visa, which is a three-year temporary visa which carries the same entitlements as a temporary protection visa onshore carries. That is the visa that should be available to people who are offshore entry persons—that is, people who have landed on an excised offshore place and who are subsequently found to be in need of protection. The other visa, which is a five-year temporary visa, is the subclass 451 visa, and that is available to people who have not landed on an excised offshore place.

Senator BARTLETT—So both of those visas are permanent temporary ones, for want of a better phrase. Is that right? At the end of that period—

Mr Illingworth—No. People who have arrived on an excised offshore place unlawfully and who are subsequently found to be in need of protection get a three-year visa which carries the same entitlements as a temporary protection visa. They subsequently would have access, if they need protection continuously for essentially renewals, to a temporary protection visa for three-year periods following that unless the minister decides otherwise. People who have not reached Australian soil in an excised offshore place but who have bypassed or abandoned protection en route to Australia would have access to the five-year visa and after 4½ years would have access to a permanent residence protection visa if they needed protection at that time.

Senator BARTLETT—In terms of all those who have been assessed on Manus, the 104 who have been successful to date would, subject to the minister deciding otherwise, not at any stage be eligible for permanent residence?

Mr Illingworth—The group processed by Australia on Manus would be eligible only for the temporary visa.

Senator BARTLETT—Okay. How does that match with what we are asking other countries to do in terms of resettling people? Those people are not being settled here, they do not get access to settlement assistance and they are not able to settle, in effect, because they are going to be on temporary visas for the rest of their lives whilst they are in Australia. How does that match with our request for other countries to settle people?

Mr Illingworth—It is essentially for other countries to determine the package of entitlements or benefits that are provided to individuals that they take under their own resettlement programs. That would include considerations by those countries as to the appropriate lawful status to provide to those individuals.

Senator BARTLETT—But we are not settling these people, or any we bring here.

Mr Illingworth—The issue of resettlement is one for each individual country to determine how they will do that.

Senator BARTLETT—I appreciate that.

Mr Illingworth—The clear principle in terms of resettlement and local integration is that countries do so as and when they feel that they are capable of doing so or wish to do so. So there is no obligation on other countries to provide permanent residence, just as there is no

obligation on Australia to provide permanent residence. Notwithstanding that, as I just outlined, significant numbers of the people who are in the offshore processing locations, if they were to come to Australia, would have access to a pathway to permanent residence.

Senator BARTLETT—What about those people who have family here? I presume many of those people would also be on TPVs. I think the stereotype is that the husband or the father arrived here earlier and got a TPV and then the others had to come here subsequently. I presume there are some people in that category. When the male's TPV runs out—and some of them are starting to come up for renewal now—if their spouse or children have arrived in the country subsequently, are they able to fold them all into a single renewal application?

Mr Illingworth—This is in relation to onshore processing now?

Senator BARTLETT—Yes. Some of these people who I am assuming will end up here who have a partner here already. When their visa will run out earlier, are they able to fold the whole family into that renewal visa request?

Mr Illingworth—The mechanism that prevents the subsequently arriving family from, for example, accessing a permanent visa for a particular period of time or perhaps indefinitely is not affected by whether or not there are attempts by another family member to include them in an application they might have running. For example, if the individual arrives on a five-year visa—which would provide them with an opportunity to access permanent protection after 4½ years—the fact that they might have a spouse in Australia who lodges a further application and seeks to join this individual to that application will make no difference to that bar.

Senator BARTLETT—But are they able to join them so that—

Mr Illingworth—I am not sure that they can do that. I can provide you definitive advice.

Senator BARTLETT—Could you clarify that. I guess there is a scenario that I can see—and I do not know how many people would be affected by it. There may be a husband or a father whose TPV is going to run out in six months or a year's time and, in the meantime, the wife and kids arrive on a three- or five-year visa that will not run out until 2005 or 2007, yet the husband or father will need to apply for either a permanent protection visa or an ongoing TPV next year, which may be rejected because of a change in circumstance. That process will continue independently of the rest of the family. So they will be out of sync in terms of their visas, I guess. That is what is going to happen.

Mr Illingworth—That is correct. The issue of joining applications really does not affect the underlying principle in the Migration Act structure, which has individuals as individual applicants. So it is possible for people to arrive together and apply together and progress together, and there can be a range of different scenarios. One person arrives and gets processed and maybe gets a refusal. That does not prevent a family member who subsequently arrives from applying and making claims in their own right and seeking a different outcome. Similarly, if that first person is approved, it does not necessarily mean that the subsequently arriving family are going to be aligned in terms of their visa term with that first person.

Senator BARTLETT—Isn't family reunification one of the aims in the convention?

Mr Illingworth—The issues of family unity are identified in statements made in relation to the convention. The convention drafters were very careful to prevent the inclusion in the convention of issues of family reunion particularly, which they were concerned could then be used by people to argue, once again, that the Refugee Convention is a legitimising agent for choosing a country of preferred residence. There is a common theme through the convention, which is evident from the drafters notes when the actual text was being refined, of concern not to create a vehicle for secondary movement, as we now call it.

Senator BARTLETT—The assessment that has occurred to date has taken six months or more—I think it was September when the first people arrived in Nauru. That seems like a reasonably long period of time to me to make an initial assessment. Is there any likelihood of that being sped up? As I understand it, the initial primary decisions are normally done a lot quicker than that.

Mr Illingworth—There were a range of activities that had to be undertaken before we could get to the protection interviewing stage not least, in many cases, the conduct of detailed interviews to identify basic bio-data of the individuals—who they are, where they are from, what their claimed family connections are—to enable our preparation for deploying our interview teams. There were some one-off issues in creating the process and getting the teams ready to deploy which might have added a little time to the start-up of our processing but that was a transitory issue and is not a long-term problem. Processing offshore now is proceeding very smoothly and apart from some other one-off factors, like the need to reinterview a large number of Afghan asylum seekers, we would have had far more decisions ready to hand down at this stage.

Senator BARTLETT—What is the time frame of the agreements with the two countries? I read from time to time that the Nauru one I think—I cannot remember which one—was originally just until May. What is the length of time in relation to those?

Mr Killesteyn—There are two agreements. They are slightly different but they also have some common elements to them. The reference to a time frame with Nauru is probably something that you recollect from earlier public information. The first agreement with Nauru was actually for a six-month period; that was the original agreement negotiated between then Minister Reith and President Harris. Subsequent to that there was a renegotiation of that first administrative agreement to a new MOU—memorandum of understanding—and essentially that provides for no particular termination clause or time frame for the existence of the processing centre in Nauru. As long as both parties are satisfied with the arrangements then those processing centres can continue. In PNG it is slightly different as that agreement does have a fixed time frame. Initially that was also six months but the PNG government agreed to an extension of that and the agreement formally expires in October this year.

Senator BARTLETT—Were the payments made to the Nauru and PNG governments out of your department's funding?

Mr Killesteyn—When you refer to payments, are you referring to aid payments or are you referring to other types of payments, Senator?

Senator BARTLETT—I think there are aid payments and the payments relating to outstanding hospital costs and those sorts of things.

Mr Killesteyn—Again, the Nauru agreement was based on additional aid moneys. I cannot really provide you with a great deal of detail on that because they are matters administered by the departments for Foreign Affairs and Trade and AusAID. To the extent that it is aid money, they are not paid through our department. We are essentially responsible for paying direct costs associated with services to run the processing centres. There is no aid condition, if you like, with Papua New Guinea—it is not part of the agreement that there is any aid moneys. There is a trust fund established under the MOU with Papua New Guinea and essentially the purpose of that trust fund is to reimburse the Papua New Guinea government for any costs that they may incur as a consequence of having the processing centre in their territory.

Senator BARTLETT—Is it also the case that we provide funding to Indonesia to assist with processing of people there, or is that direct to UNHCR?

Mr Farmer—We do provide funding to a number of bodies in Indonesia. We provide money to UNHCR and to IOM, and in some circumstances that extends to arrangements with the Indonesian authorities. For example, I think IOM, in some cases, has had arrangements with the Indonesian authorities that cover accommodation for people who have been intercepted.

Senator BARTLETT—Does that come out of the DIMIA budget?

Mr Farmer—Yes.

Senator BARTLETT—Are you able to give amounts for that?

Mr Farmer—I am sure we could; we could take that on notice.

Senator BARTLETT—That would be good. In the breakdown that you provided to the Senate Legal and Constitutional Committee in additional estimates, of the \$159 million for offshore facilities, \$36.6 million was for Christmas Island. Does that include money for anything to do with the new detention centre that is proposed there?

Mr Farmer—No, it does not. That \$36-odd million mainly relates to the processing costs, the ACM costs, the service detention costs.

Senator BARTLETT—There is \$74 million for the IOM for management of the two Nauru and Manus Island facilities.

Mr McMahon—It was \$72 million for Nauru and \$42 million for Manus, so that was \$114 million in total. The great bulk of that goes to IOM, but it also includes our own costs and the costs of some other agencies which are, in effect, contracted to us. For example, APS provides guarding services, particularly on Nauru, and they charge us for those sorts of costs. Our own processing costs, for example, are included in that, et cetera. But the bulk of it actually goes towards IOM.

Senator BARTLETT—There is \$20 million between Nauru and Manus that is for the establishment provision of infrastructure. Is it anticipated that there will be ongoing use for these facilities by Australia?

Mr McMahon—The infrastructure is now largely in place. We are still doing some work on both of the centres, but its continued availability depends largely on the host governments and the continued willingness of IOM to run the centres, et cetera. So, yes, it is a continuing facility at our disposal, subject to those conditions.

Senator BARTLETT—Where is the proposed Christmas Island facility up to? That comes out of your budget as well, does it not?

Mr McMahon—Yes, it has been fully funded from our budget. In respect of the immigration reception and processing centre itself, obviously there are a range of other infrastructural issues that have been dealt with, for example, the second port, roads, sewerage, electricity, et cetera. That has been provided for in the budget of the Department of Transport and Regional Services.

Senator BARTLETT—I have been aware of some commentary that the site that is proposed is an environmentally sensitive one. Do you know whether environmental impact assessments have been made?

Mr McMahon—I think you have got to take this from the top up. The first thing is that there is an environmental management plan which now governs all environmental matters within the national parks and, more broadly, on the island. We will be conforming with that. We have an exemption in respect of the mine lease site itself, and it is an ex-mine site. This undertaking has been given by both the Minister for Immigration and Multicultural and Indigenous Affairs and the Minister for Regional Services, Territories and Local Government to conform with environmental requirements. Essentially, both organisations have to develop environmental plans, and that is now in the process of being done. It is unlikely, I think—but we will take advice on this—that the site is particularly environmentally sensitive, because it had been fully mined out and it is quite ‘landscaped’, if you like, from the point of view of having pinnacles throughout it.

Senator BARTLETT—But there has not been an environmental impact assessment done in relation to the construction?

Mr McMahon—Not at this stage, no.

Senator BARTLETT—Is there going to be?

Mr McMahon—Yes.

Senator BARTLETT—Finally, going back to the assessment process that is followed on Nauru and PNG, the assessment criteria that is followed is not linked to our criteria under the Migration Act, is it?

Mr Illingworth—The interpretation of the refugees convention is clarified by the Migration Act, but the process is not a protection visa assessment process; it is a refugee determination process.

Senator BARTLETT—Is that determination based on what is in our act?

Mr Illingworth—That is correct, the clarification and guidance as to the correct interpretation of the convention, which is in the Migration Act, is taken into account by decision makers representing the Australian government wherever they make their decisions, whether it is onshore or whether it is in one of the declared countries.

Senator BARTLETT—So, in effect, a person would get the same outcome—not in terms of a visa but in terms of a determination—whether they were onshore or offshore?

Mr Illingworth—In terms of the guidance provided by the Migration Act, that is correct. Domestic jurisprudence does not have effect in the offshore decision-making process.

Senator BARTLETT—The assessment is conducted by a departmental officer. Is the appeal, when we get to that stage—and I guess we are just moving into that phase for some—conducted by a different departmental officer?

Mr Illingworth—By a different and more senior departmental officer.

Senator BARTLETT—Is that a fresh assessment?

Mr Illingworth—It is essentially a fresh assessment. The individual is asked to provide new information and they are re-interviewed. From our perspective, anything they want to say, they can say; any information they want to put, they can put, and a fresh decision-making process is gone through.

Senator BARTLETT—How many officers all told have you got making assessments?

Mr Illingworth—On the island?

Senator BARTLETT—Yes.

Mr Illingworth—We have two officers at the moment who are conducting re-interviews of Afghans. We are yet to deploy officers to conduct reviews, but that will be happening in the next few days.

Senator BARTLETT—How many have been involved in the determinations to date? Has that just been two or have there been more than that?

Mr Illingworth—No, essentially, we use as many as we need. The number of decision makers is not a constraint—we have more than enough. The numbers range from small numbers conducting small focused work to deployments of five, six or more officers.

Senator BARTLETT—Could you let me know—on notice if need be—how many, all told, have been involved in assessments? Are people continuously assigned or are they sent there at some stage, then brought back and others are sent later?

Mr Illingworth—Essentially, we deploy a team and that team does a chunk of interviewing work and takes on responsibility for a set number of cases. They will then come back to Australia and be processing those cases, and another team will go in. So there are a large number of officers, but not all of them will be working exclusively on boat cases. Some of them will be working for longer periods and more intensively than others; it depends on a range of operational factors. Essentially, we have the entire onshore protection work force available to us to draw from, and the final decisions about who goes are dictated by their availability.

Senator BARTLETT—Those officers make the decision themselves? They do not refer it back to anybody else?

Mr Illingworth—There are the usual internal quality assurance mechanisms which are in place for refugee determination work. At the first level, there is workshopping and discussion amongst case officers on various teams about issues which might run across a number of cases. There is guidance and information provided by team leaders. There is a quality assurance responsibility of the local state manager for the case officers and, indeed, there is also a responsibility by the program management in Canberra to ensure that decisions are robust and reliable.

CHAIR—Thank you. The committee will have a short break. Senator Brandis will begin questions when the committee resumes.

Proceedings suspended from 11.07 a.m. to 11.22 a.m.

CHAIR—The committee will come to order.

Senator BRANDIS—Mr Farmer, I will direct my questions to you but it may be that other officers are the best people to answer particular questions, and there may be some questions you wish to take on notice. Among other things, I am going to ask about some figures. If you are able, please offer me an estimate, even if you cannot give me the express figure, and take it on notice to provide the express figure subsequently. Mr Farmer, how many refugees did Australia take in 2001 from all countries?

Mr Illingworth—In the last financial year there were somewhat over 13,000; I do not have the precise figure with me, but I can undertake to provide it to you.

Senator BRANDIS—So in the last accounting period, which is the 2000-01 financial year, it was approximately 13,000?

Mr Illingworth—It was somewhat over 13,000.

Senator BRANDIS—Is the figure for the current period approximately the same, or is the rate of refugee intake approximately the same?

Mr Farmer—Perhaps I can help by way of background comment. The government several years ago agreed that in implementing the refugee and humanitarian program we could retain flexibility in a variety of ways designed to make sure that no refugee places were lost. There had been a phenomenon whereby, for example, some people were given visas but did not actually use the visas, and those places were lost. We now have the flexibility to make sure that if fewer than the current program, that is 12,000, of refugee or humanitarian entrants arrive in a year then the shortfall is added to the program for the next year.

Senator BRANDIS—I understand.

Mr Farmer—It gives us flexibility in the administration of the program, which can be helpful because occasionally it can be difficult either getting visas to people or getting visaed people to Australia. It is true to say that our roll, on average, has been 12,000, but it goes up and down in any one year.

Senator BRANDIS—I understand, and that is because, as you have explained, not all 12,000 places are filled, and that spare capacity is carried forward as an adjusted quota for the following year.

Mr Farmer—Yes.

Senator BARTLETT—That is not just refugees in that 12,000, is it? It also includes others—

Mr Farmer—Refugees and humanitarian entrants.

Senator BRANDIS—Perhaps we had better chase that point. What is the distinction between refugees and humanitarian entrants?

Mr Illingworth—A person who is brought in as a refugee is a person who meets the convention definition of a refugee. A person resettled as a refugee is a person who meets that definition and also is assessed as being in need of resettlement, usually by referral from the UNHCR.

Senator BRANDIS—As I understand it, the basic criterion for refugee status is a justified fear of persecution in the country from which the person is seeking asylum. Is that so?

Mr Illingworth—That is correct. The basic criteria for determining whether a person is a refugee is whether they are outside the country of nationality and have a well-founded fear for a convention ground of return to that country—a well-founded fear of persecution.

Senator BRANDIS—Persecution in itself is a defined term?

Mr Illingworth—Persecution in itself is clearly defined in a number of ways.

Senator BRANDIS—I am sorry, Mr Illingworth; I interrupted you. Please go on.

Mr Illingworth—The other element of our offshore humanitarian intake is a special humanitarian program, and that is for people who are in refugee-like situations. For example, they may be suffering or in fear of persecution or significant harm, but not for a convention ground. In respect of those people, there is also an assessment that they are in need of resettlement.

Senator BRANDIS—In the last accounting period—that is, 2000-01—within the 12,000 or whatever the adjusted intake quota was, what was the break-up between persons received as refugees and persons received under the special humanitarian program?

Mr Farmer—We can get those precise figures for you. I just make a general statement—

Senator BRANDIS—I am sorry; before you go on, just roughly how did it break up? Can you tell me?

Mr Farmer—I was going to make a general statement that, roughly, the 12,000 would be broken down into 4,000 refugee places delivered offshore. The balance would be a mixture of humanitarian places delivered offshore and the onshore refugee places—that is, people determined to be refugees having applied in Australia.

Senator BARTLETT—Could I have one more clarification? Does that include people on temporary visas? Are they counted in that 12,000?

Mr Farmer—Yes.

Senator BRANDIS—I obviously do not expect you to have these figures, but I would be interested to know—and, for ease of reference, let us restrict ourselves to the most recent accounting period, the 2000-01 financial year—of the aggregate intake under what we generically call the refugee program, how many of those people were of Afghan, Iraqi, Iranian, Palestinian, Syrian and Turkish nationality?

Mr Farmer—We will get that for you.

Senator FERGUSON—For my personal information, as much as anything, could you give us a breakdown of all the breakdowns in nationality and not just those? I would like to know the other nat, as well.

Mr Farmer—Yes.

Senator BRANDIS—Mr Farmer, I want to look at the offshore refugee applicants and the offshore humanitarian program applicants. You gave me a figure of about 4,000 for the offshore refugees; you did not give me a figure for the offshore humanitarian program applicants. Can you offer a rough figure for that?

Mr Farmer—Senator, that will vary from year to year because of the variation in the number of onshore refugee places, and that will either push down or up the number of other humanitarian places available.

Senator BRANDIS—All right. Perhaps you can give me those figures for the previous three years.

Mr Farmer—Yes, we can easily do that, Senator.

Senator BRANDIS—Mr Storer, did you want to say something?

Mr Storer—To clarify, do you want the figures for people applying under our offshore resettlement programs over the last couple of years?

Senator BRANDIS—Applying successfully.

Mr Storer—Applying successfully, or all those who are applicants, because there are quite large numbers in the pipeline?

Senator BRANDIS—I am going to come to that. In the last annualised accounting period, which predates the government's current border protection policy, was it the case that, if a vessel containing unauthorised arrivals landed on Australian shores, the number of those asylum seekers who were accepted into Australia for processing was deducted from that year's refugee intake quota?

Mr Farmer—From the overall refugee intake quota?

Senator BRANDIS—Yes.

Mr Farmer—They were included in it.

Senator BRANDIS—So if a person arrived in Australia on a SIEV—they were not called SIEVs in those days, but you know what I mean—and they came onshore and were accepted for processing, they took the place of somebody elsewhere who would otherwise have been in the queue, as it were?

Mr Farmer—Yes, that is right.

Senator BRANDIS—Dealing with offshore applicants in particular, are you able to speak of their localities, both for refugee and humanitarian entry—I would like you to elaborate as fully as you feel the need to—and the circumstances in which those people find themselves?

Mr Farmer—Senator, I could make some general statements. The officer who is directly working on this issue is not here, but we can certainly make some statements that might be helpful.

Senator BRANDIS—I understand that it is a fairly discursive question and I am inviting a discursive answer.

Mr Farmer—We essentially say to the UNHCR that Australia is ready to resettle a number of refugees each year. There are only quite a small number of countries that proactively express

to UNHCR the will to resettle refugees, as distinct from countries that face major problems when refugee flows come across a border as a result of a war or some other circumstance. We say proactively to UNHCR that we will take, usually, 4,000 refugees. We then discuss with UNHCR essentially where the areas of most need are. There are many millions of refugees and not all of them really need resettlement. Resettlement is not the preferred or the desirable option for a lot of refugees. There are other options—local integration or return home being two of the others. We have annual discussions with UNHCR about circumstances where they believe people are in particular need.

Senator BRANDIS—So we are now speaking of people who, by definition, are outside of the country from which they are seeking refuge?

Mr Farmer—Yes.

Senator BRANDIS—In—what is the term you use?—an intermediate country or a third country.

Mr Farmer—A country of first asylum or—

Senator BRANDIS—Is ‘country of first asylum’ the cabbalistic expression, is it?

Mr Farmer—Yes.

Senator BRANDIS—Who have expressed a preference to come to Australia?

Mr Farmer—No.

Senator BRANDIS—Not necessarily?

Mr Farmer—No, the UNHCR’s resettlement program is essentially based on need—for example, ‘This person needs resettlement.’ The UNHCR will ask resettlement countries if they are willing and able to take people. So the criterion for the UNHCR is need, not preference.

Senator BRANDIS—As opposed to the people of whom we have been speaking—those on the unlawful entry vessels in the second half of last year—for whom preference appeared to be an indicator of their intention?

Mr Farmer—That is right. They may have a need, but they are acting on it in a very different way based on their preference for a country.

Senator BRANDIS—I think you might see where I am going. I want to see what the material differences are between the people who paid for their passage on the SIEV vessels late last year and the more orthodox refugees for whom need is, what, the sole determinant, Mr Farmer?

Mr Farmer—That is right.

Senator BRANDIS—Could you speak to that, please?

Mr Farmer—Perhaps the best way to put it is that potentially there are very many refugees who could be resettled. The UNHCR, for example, runs very large refugees centres or camps around the world in places like the north of Kenya, for example. The Kakuma refugee camp is very large. It has, at various times, up or down from 100,000 people there. Many of them are Sudanese—

Senator BRANDIS—I am sorry—how many did you say?

Mr Farmer—Up or down from 100,000.

Senator BRANDIS—100,000. Goodness.

Mr Farmer—Many of those people at Kakuma are Sudanese who have been in that camp for up to a decade. The brutal reality is that there are insufficient resettlement places and, in many cases, rather poor prospects of return to the country of origin. It does mean that some people face rather long periods in, I think, quite difficult circumstances. The UNHCR does a terrific job in running centres like that. It tries to identify for resettlement the people, even among that sort of needy group, who are most in need of resettlement.

Senator BRANDIS—Just for completeness, Mr Farmer, I assume you would also say that in many cases there are poor prospects for integration into the country of first asylum.

Mr Farmer—Yes. In many cases, countries of first asylum themselves are overwhelmed by refugee numbers. Countries like Pakistan and Iran and a number of countries in Africa, from time to time, have had hundreds of thousands or millions of people from neighbouring countries crossing the border and living there and, on occasion, the domicile can be for very lengthy periods. So I do not underestimate at all the burden that the countries of first asylum share, in many cases, for a long time. I think, understandably, they in some cases have the view that permanent settlement in that country of first asylum is not desirable.

Senator BRANDIS—How large do you estimate the global refugee population to be at the moment?

Mr Farmer—That is a slightly changing figure. In general terms, the UNHCR says that there are around 20 million people of concern to it, but the figure is a little more than that. It does not mean that they have all been determined to be refugees. These would be people who are caught up in mass exoduses of one sort or another or who are living in camps or countries of first asylum for extended periods. Doubtless there are other categories. So it is a sizeable number.

Senator BRANDIS—Mr Farmer, for that global population of refugees or asylum seekers, I have two categories: those who are living in what you have called refugee camps in facilities provided by or under the auspices of the UNHCR, and those who are not.

Mr Farmer—Yes, it is a grey sort of area because, in many cases, countries set up areas where refugees or other temporary inhabitants live. The country of first asylum may well be running that sort of area but with substantial assistance from the UNHCR and/or other international organisations. There may well be other refugees who are simply living in a community making their own life and their own way.

Senator GREIG—Can you offer a number for the global population of refugees who are living in camps or facilities run by the UNHCR?

Mr Storer—I think it varies a bit. The number of people that the UNHCR determine are people who do need resettlement in a third country vary between 60,000 and 100,000 at any one time in any one year.

Senator BRANDIS—Do I take it then that those refugees who Australia receives under its annual refugee quota from offshore are people who have come through UNHCR camps?

Mr Farmer—Not necessarily from camps, but they are identified to us by the UNHCR.

Senator BRANDIS—In all cases, the qualifying body is the UNHCR. Is that right?

Mr Farmer—I am 99 per cent sure of that. There might be some exceptions at the margin but generally speaking that is true.

Senator BRANDIS—Can you tell me or offer an estimate—and, if you cannot offer an estimate, please take this on notice—as to the average length of time that refugees or other humanitarian asylum seekers who have come to Australia from offshore under our refugee program have been waiting in the refugee camps or the other offshore facilities in Third World countries?

Mr Farmer—I do not have a basis right now for answering that. We can try to look at our records. I hope you will not mind my saying this, but if this is a task that is proportionate and which I think is a reasonable use of resources, I will try to get that for you. Failing that, we might have people obviously versed in this area of work all the time, and we could give you some impressions. We will do the best that we can.

Mr Storer—As Mr Farmer said, it would take a long time to go back on our records. It would be substantial periods of time in all cases.

Senator BRANDIS—That is really what I am getting at. I do not want to ask you to undertake a herculean task.

Mr Storer—It would be years.

Senator BRANDIS—That is what I am getting at. Is it fair to say, as a generalisation but based on your professional experience, that the people who come to Australia from refugee camps in Third World countries under our refugee program are usually people who have been in those refugee camps for years?

Mr Farmer—I believe that would be an accurate statement, because you used the phrase ‘usually’. With the UNHCR and in our program we do make a very strong effort to take account of cases of most need, both in the refugee and in the humanitarian entry categories. That can mean people whom, for a variety of reasons, the UNHCR has immediate concerns about, or people who are facing immediate problems. For example, some mixed marriage cases in the

former Yugoslavia have certainly been cases of very immediate concern, and we have acted as quickly as we can.

Senator BRANDIS—I understand that perfectly, Mr Farmer. What I gather from that is that the people who Australia takes under its refugee quota from offshore fall into either or both of these categories: the neediest, or in other words the most urgent refugees; or people who have been waiting a long time in these refugee camps—that is, as Mr Storer suggested, a period of years. Is that right?

Mr Farmer—I think that, in general, that is right. I am not aware of the basis on which the UNHCR assesses relative need. But, in terms of those most in need, that is certainly a factor that we take into account.

Senator BRANDIS—Mr Storer, I do not want to press you beyond the burdens of your patience with me but you said ‘years’; are we talking about one or two years, or three to five years?

Mr Storer—You are testing me now, Senator. I think we will take that one on notice and come back to you. But, as you said, it is based upon experience of having been in this area, having seen some camps and having been involved in the program management. It would vary from case to case, as Mr Farmer said. In some cases we make extraordinary efforts, always working with UNHCR, in trying to get those people who are most directly in fear of persecution—for example, the mixed marriage situation that was happening in the former Yugoslav republics at the time of their recent troubles. It did not matter which side, they were going to suffer some sort of persecution so we worked as quickly as we could. But in general circumstances, when we go to camps—in Africa, where, as Mr Farmer said, the Sudanese, who have been in extraordinarily difficult situations, are living in these camps, it has taken considerable time for the UNHCR to work through that with a whole range of people. There are particular groups within those camps that we worked with; for example, women at risk. There are a lot of women who have been subjected to rape and violence. They have been in the camps many years and are still—

Senator BRANDIS—Do you mean rape and violence within the camps?

Mr Storer—Perhaps, but more prior to arriving there—they had had a long journey from southern Sudan, through to the various camps in Kenya, particularly the Kakuma camp, which Mr Farmer mentioned. So it is difficult to be so categorical about years, but generally it is a long time in most cases.

Mr Illingworth—I want to add to the comments of Mr Storer and Mr Farmer. The refugee convention does not actually create an entitlement for a refugee to resettlement, as distinct from protection. So when the UNHCR and countries such as Australia are looking to provide resettlement, it is very much a triage process.

Senator BRANDIS—I am sorry but I do not know what a ‘triage process’ means.

Mr Illingworth—It is rather like the emergency ward at a hospital, where many may call for treatment but the order in which people receive a limited resource—you can substitute

resettlement for medical treatment, but the order and the priority is essentially assessed by a judgment of relative need. What that means for waiting times is that the duration of a wait in a refugee camp, just as the duration of a wait in the emergency ward, might actually mean that, however long a person waits, they will never get treated because their treatment is not required, even though they might feel they need treatment. It is similar for a refugee who is in a camp in another country: merely being there for a long time does not create a need for resettlement.

Senator BRANDIS—I must say I understand that and that is a shocking thing to contemplate, particularly when one is considering the numbers of which we have been speaking and the global refugee population. You are talking about—to use your hospital casualty ward metaphor—either people who are so desperately in need of resettlement that they are, from a humanitarian point of view, a desperately urgent case or people who, if they do not fall into that category, may well face the prospect of an indefinite stay year after year as basically stateless persons in these refugee camps. Is that the picture?

Mr Illingworth—It is from one perspective but resettlement is only one element of the durable solutions which are available for refugees. The efforts of the UNHCR and the international community are focusing on the prime durable solution which is to bring about the capacity of the individual to return in safety and dignity to their homeland and their capacity to action their entitlement as a national of that country to be protected by their government.

Senator BRANDIS—And it follows almost inevitably, may I take it, that the demand from people in these refugee camps in these distressed circumstances for resettlement places vastly exceeds the supply of resettlement places on offer.

Mr Illingworth—Yes, that is true.

Mr Farmer—Yes.

Senator BRANDIS—By about what factor, Mr Farmer?

Mr Farmer—It must be many times because of the size of the camps and the length of time that people have been there. Again, in general terms, there are nine major resettlement countries and then another nine, 10 or so countries that either are beginning to express interest in taking small numbers of resettlement cases or have begun taking small numbers of resettlement cases.

Senator BRANDIS—Just quickly, what are the nine major resettlement countries?

Mr Farmer—The United States, Canada, Australia, New Zealand and the Nordic countries—I do not know whether that gets us to nine, but they are the major ones.

Senator MASON—The threshold for resettlement or the standard for resettlement is partly an objective test about need but there is also a relative test. In other words, using your hospital casualty analogy, it is about who the other claimants are for those positions; is that right? So there is both an objective test and a relative test.

Mr Farmer—That is true. That is the sort of assessment, and it is obviously an extremely difficult one that the UNHCR has to make.

Senator BRANDIS—I read somewhere last week that approximately 80 per cent of the global population of refugees are estimated to be women and children; is that right? Is that consistent with your experience?

Mr Illingworth—We would have to confirm the exact percentages, but certainly the consistent information is that the overwhelming majority are women and children.

Senator BRANDIS—And presumably, when one comes to assess need—and I appreciate that this is not an exclusive criterion—one would intuitively think that children and mothers would be presumptively needier of resettlement than any other demographic category, wouldn't one say?

Mr Illingworth—Particularly with certain cultural backgrounds for certain environments in camps that would be an issue that the UNHCR would look at very closely in identifying cases of need.

Senator BRANDIS—This is a discursive question and a question inviting a discursive answer. I wonder whether any of you gentlemen would be able to describe to the committee from your experiences and your professional knowledge of the field what conditions are like in these refugee camps.

Mr Farmer—Perhaps I will start off. I have been to the Kakuma camp in north-west Kenya.

Senator BRANDIS—That is the one with about 100,000 people in it?

Mr Farmer—Yes. I would just like to say, by way of introduction, that I certainly would not want what I say to be taken in any way as a reflection either on the Kenyan government, which is hosting this rather compelling group of people, or on the UNHCR, which I think is doing an extraordinary job in very difficult circumstances. Having said that, the Kakuma camp is a vast camp, as you would expect, and with that number of people there are a huge range of challenges. For a start, the UNHCR has to raise the money to provide quite basic accommodation, food and medical treatment for the people there, and I think the work they do on the ground is an amazing act of international public service. They do confront difficulties apart from funding. With that many people, there are security problems both in relation to conditions within the camp but also, in some cases, relating to the camp population and the population outside the centre.

Frankly, in the circumstances, when you meet people—as we have—who have been in those camps for seven, eight, nine or 10 years, it is extraordinary the extent to which many of the refugees still maintain an optimistic outlook on life. We met incredibly impressive people at Kakuma. There were women who were Sudanese school teachers who, using their own extremely limited resources, had set up education arrangements for children in that camp. We met people who had a variety of physical disabilities who, in some cases through work involving their own efforts, were being provided with prostheses of the most basic sort but that were better than nothing. The dynamics of life in a long-established camp like that are rather different from the dynamics of a camp of the sort I visited in Rwanda, where the UNHCR had established quite a large camp to basically take care of people for a short term.

Senator BRANDIS—This is immediately after the civil war?

Mr Farmer—No, this was only a few years ago, but they were still dealing with populations who were moving around the country looking for a return to their place of origin. In some cases there were people from outside Rwanda, because there were problems in the Congo at that time. This camp was not long established; it was something that had been set up at very short notice by the UNHCR. There, you literally had bare earth with tents. The UNHCR was providing basic accommodation, sustenance and medical treatment for people in what I thought were extremely exiguous circumstances. So the circumstances in the camps were different, but both were rather difficult. I do not know whether my colleagues have different sorts of experience they would like to talk about.

Senator BRANDIS—I appreciate that these descriptions must needs be impressionistic and, if I may say so, with respect, are no worse for being so. Do other gentlemen at the table wish to elaborate?

Mr Storer—My experience is similar to Mr Farmer's. The conditions of living are very basic, but people manage with dignity to remain there and establish their community's support for each other. The actual conditions are extremely basic. I have not been to Kakuma but I understand that there are problems with wood, for example. I know that sounds silly, but the collection of wood to make the huts means they are in competition with Kenyans who need the wood for other purposes, so it is very difficult for everyone. It has become well known that a lot of the people who have gone to Kakuma are young single men and women who had to walk on extremely long journeys without their parents to actually get there. There has been a focus over the years on trying to resettle these extremely vulnerable young people. As Mr Farmer said, there are very few countries, unfortunately, sharing in this resettlement burden, fewer than the United Nations would like.

Senator BRANDIS—Indeed. So the picture we get, to take up some of the adjectives that you have offered us, ranges from people living in—to use your words, Mr Farmer—extremely exiguous circumstances to people living in very basic circumstances. Is that the sort of range we are speaking of?

Mr Farmer—Yes.

Senator BRANDIS—Notwithstanding the social and emotional comfort built through family and social structures within the refugee camps, I apprehend that these people are essentially destitute.

Mr Farmer—Certainly, in material terms that is the impression that I received. In mental and emotional terms, as I said, I think there are numbers of amazingly strong and robust people. Honestly, I thought those Sudanese women teachers were extraordinary individuals. But, on the other hand, they do not know what their future holds—they certainly know what their past has held, which in many cases has been long years of separation from their country and in many cases their family.

Senator BRANDIS—Presumably, as well—in a vast number of cases, though not all cases—they experience emotional deprivation as a result of separation from family, including the separation of parents from children and spouses from spouses; is that so?

Mr Farmer—Yes, that is so.

Senator BRANDIS—Dealing with the material circumstances in which these people have to live their lives, the exiguous or basic circumstances apply to the shelter they have, as you were saying in the Rwandan camp, whether it is tents or elementary but, nevertheless, more solid structures.

Mr Farmer—In the case of Rwanda, it was tents and in some cases sort of large, plastic sheeting—I mean this was emergency accommodation. At Kakuma, much of the infrastructure was permanent tentage; in other words, tentage that had been built on boards and things like that. The hospital there, for example, was a very large tent affair. Much of the accommodation was tents, but people had also gathered together some pretty basic building material and had constructed small dwellings—with thatched roofs and that sort of thing. Then, the administrative buildings were things like—

Senator BRANDIS—I am not so interested in the administrative buildings. I am trying to get a picture of the circumstances in which these people have to live.

CHAIR—It sounds like the set for *M*A*S*H* but with a climatic difference.

Senator BRANDIS—It does a bit, but maybe not with a climatic difference, depending on where they are.

CHAIR—Well, it would be semitropical.

Senator BRANDIS—Could you speak to the sufficiency or otherwise of the sanitation for the people in the camps with which you are familiar?

Mr Farmer—At Kakuma it is quite basic because there are very serious water shortages. It is a very dry part of Kenya. It is in the far north-west, if I remember correctly. Some work has been done by, obviously, the UNHCR and by countries like Australia to help with some of that basic infrastructure, like water. The need there is immense. What has been done clearly has not delivered what we would consider as anything remotely approaching an acceptable standard. The conditions are, I would say, pretty rugged.

Senator BRANDIS—What about the standards of nutrition that these people have available to them? Can you speak to that, please.

Mr Farmer—On the basis of our discussions, that seemed adequate in that United Nations agencies and others, like the World Food Program, were working with the UNHCR to provide sustenance for the refugees. I think that was calculated to be adequate in terms of nutrition. It was extremely unvaried because of just the nature of logistical difficulties in getting supplies there, but there were supplies of flour, corn, oil and cooking fat. It was that sort of pretty basic sustenance, but much of it was vitamin enriched.

Senator BRANDIS—I am a little familiar with this. I spent many years as a director of UNICEF, so I have spent many years reading reports about the sorts of facilities that UNICEF provides to people in these circumstances. I take it that that is one international agency among many which assists the UNHCR?

Mr Farmer—That is right. Essentially, the people at Kakuma are given rations two or three times a week which they then cook themselves.

Senator BRANDIS—So the nutritional conditions—and I appreciate these are very gross generalisations because there are different camps—are elementary but adequate, at best?

Mr Farmer—That was my impression. In terms of the range of needs in a camp, the nutritional arrangements seemed to me better than other elements.

Senator BRANDIS—I appreciate that you must generalise, but could you speak about the medical conditions and the provision of medical facilities and services.

Mr Farmer—I thought that was an example of the UN in one of its more positive modes. I am not always positive about everything that every UN agency does, but I think the efforts that were being made to care for people were quite extraordinary. The personnel there certainly gave the impression of having much more to cope with than they could possibly manage. They certainly had to prioritise very severely in terms of what they could do. If you look at the full range of medical treatment, dental work, for example, was not really available on a broad scale to people, but some of the most basic and pressing needs were being taken care of by UN agencies and volunteers.

Senator BRANDIS—But certainly not to a standard that would be acceptable, may I take it, in a Western country?

Mr Farmer—That is right. By the way, we met some Australians who were volunteers and working in that camp.

Senator BRANDIS—What about the educational needs of the children? Could you speak to that, Mr Farmer.

Mr Farmer—I think it is true to say that over a period of years the UN and some of the refugees themselves have made efforts to construct an education system. Some quite experienced teachers were there among the refugee population. They were definitely making a go of teaching their kids. They made the point that, if you were in a place for a decade or more, you could not allow a generation to lose its education. So they were making a huge personal effort to make sure that the children had some education. Facilities were very basic, and basic things like books and so on were in very short supply. They were using slates and things like that that were essentially recyclable.

Senator BRANDIS—Again, not a standard that would be acceptable in a Western nation?

Mr Farmer—Very far from that, I think. I am not passing judgment on the people involved because I think they were really—

Senator BRANDIS—No, Mr Farmer, far from it. I do not think anybody takes you to be critical. If I may say so, you have told us exactly what the people face, the challenges they face and how heroically they seek to meet those challenges in very difficult circumstances. Mr Farmer, can you speak to the personal security of the people in these camps? I am particularly interested—though I do not want you to limit yourself to this—in the personal security, freedom from violence, and rape of the women.

Mr Farmer—Again, I refer to Kakuma. I could not pretend to have a detailed first-hand impression of security because, by definition, that is rather more intangible than the other things that we have been talking about. The visit that we made was about three years ago. We were told that there were security problems within the camp. At that stage, there were about 80,000 people in Kakuma—as I said, the number has gone up and down—in quite deprived circumstances. The UN officials, for example, had security concerns about the food stocks because they had had instances where their stocks had been broken into by people in the camp. That was one area of concern in the camp. There were certainly personal security issues that were referred to us, relating to relations between people in the camp and dealings between people in the camp and outside.

Senator BRANDIS—Would it be a fair generalisation to say that the people in the camp were people whose personal security could not be guaranteed and who were constantly at least at some threshold of risk?

Mr Farmer—I am not sure whether I would go as far as that, but I would certainly say that there were people in the camp who were particularly at risk: young unaccompanied people and women, for a variety of reasons. Then there were people who I think were less able to take care of themselves: handicapped people and some of the elderly. If I could just say something about the UNHCR budget—the UNHCR has a core budget and then it makes appeals for particular purposes. Generally speaking, the core budget is underfunded. There is a quite variable international response to UNHCR special appeals. For example, in recent years, in countries like Iran and Pakistan, which have had up to two million refugees each, the UNHCR has been able to spend I think about \$US15 million or \$US16 million a year. That is quite a small amount of money compared with the size of the challenge. I believe that the UNHCR itself says that, when it looks at the people in its immediate care, it has something like less than \$1 a day to spend on their care, broadly defined. Things like security and so on are almost of necessity—not everything that even the UNHCR would want.

Senator BRANDIS—Using Kakuma as an example—and you have told us that it is one of the better, or less desperate, of the refugee camps—with its population of 80,000 to 100,000 people, on your estimate, there must be thousands of people in that one camp alone at any given time who fall into what you have identified as the most at risk categories: single young women, unaccompanied children and handicapped persons. Would you agree?

Mr Farmer—I believe that is right. For example, if you look at the Sudanese case load as a whole, that case load forms a significant part of our refugee program. That reflects just that point—that people from the Sudan are judged by the UNHCR in many cases as being in particular need. The Sudanese also form part of our special humanitarian program. So these are people that we ourselves, quite apart from the UNHCR, judge to have particular needs.

Senator MASON—Senator Brandis asked an interesting question. About 10 years ago I worked for the UN in Cambodia and there was violence in refugee camps on the Thai border. In a sense it was of two distinct sorts. One was, let us call it, random violence and the second was orchestrated political violence—two quite different sorts. In the end, the UNHCR in the camps in Thailand had to separate the different factions of the Cambodian refugees that supported different sides of the conflict. I suppose Senator Brandis's point also goes to whether that is a problem among different tribal, religious, political groups within that camp. Is that an issue there?

Mr Farmer—Yes; it may be. I don't recall that particular element as figuring there. I would not be surprised because it was a camp that had populations from different countries, the Sudan and the Horn of Africa.

Senator BRANDIS—What are the banking facilities for people in the camps?

Mr Farmer—I am not aware that they have any money.

Senator BRANDIS—Do you have a copy of a document that has been declassified and released to the committee? It is a DIMA intelligence bulletin No. 52/2001 relating to SIEV4 dated 23 November 2001, and it was sent to the committee under cover of a letter dated 27 March 2002 by Mr Matt Kennedy.

Mr Farmer—I know of the document but I am not sure we have got one here. I will just check that.

Senator BRANDIS—Can I ask the committee secretariat to pass one to you.

CHAIR—It probably is better if one is passed to you, Mr Farmer, because we can then all talk to the declassified document. It may be better if you have one to hand. I am cautious that we should conduct this discussion on the basis of the declassified document.

Senator BRANDIS—I will only be asking him questions about the bits I can see, not the bits that have been blanked out.

Mr Farmer—We don't have either.

Senator BRANDIS—I am sorry. While that is being looked for, I will move on to another topic, dealing with the asylum seekers on the SIEV vessels in the second half of last year. In his evidence to the Senate estimates committee on 23 February 2002—this is at pages 72 to 73 of the estimates *Hansard*—Admiral Barrie spoke of having received intelligence reports from the ports of embarkation and he said:

... I think we were well aware that a considerable level of briefing was occurring at the ports of departure on how to try and counter our efforts to stop this activity.

That is, unlawful entry into Australia. On Friday I asked him to elaborate on what he meant by that remark and, on page 800 of this committee's *Hansard*, he said:

What I am referring to ... is ... the behaviour on board those SIEVs varied from time to time. There was a range of methods used to try to frustrate our successful conduct of the—

Navy's—

mission. I think that it was these people being told how to try to thwart our objectives.

Then I said to Admiral Barrie:

So your evidence is that the Navy became aware that the people occupying the SIEVs were being briefed at the ports of departure before they set out on these voyages to try to enter the Australian territorial sea as to what kind of conduct to engage in to frustrate the Navy's efforts?

Admiral Barrie said yes and I said:

And that includes the conduct of which we have heard so much evidence about in this inquiry, among other things, the threats to throw children overboard?

Admiral Barrie said:

That is right.

Mr Farmer, I appreciate that there may be issues of confidentiality here—if there are, please flag them and we can go into a private session—but what intelligence, if any, did DIMIA have about the briefings or instructions being given to the SIEV occupants by the people smugglers at the ports of embarkation from Indonesia? I do not want you to limit yourself to this but I would like you to speak in particular, if you are able to, about the kinds of threats of which we have heard so much evidence in this committee—the threats to throw children overboard, to sabotage vessels and so forth.

Mr Farmer—I would like to say something about the dynamics involved here, because in one sense they are timeless in that the organisers of this traffic have certainly tried to take account of what they understand to be the potential Australian reaction. This is something that, as I say, would have gone back some years. This is before the period starting in August or so that I know is of particular concern today. We had seen a pattern of a number of tendencies, such as the tendency, for example, for boats to come from Kupang in West Timor, drop people at Ashmore Reef and then return, the smugglers having told the passengers on the way to dispose of their documents. So that was an attempt by the smugglers to do several things: firstly, to avoid being apprehended and charged and prosecuted for people-smuggling by in effect dropping people at Ashmore and then making their getaway and, secondly, to in effect prevent our processing of refugee claims proceeding on the basis of well-founded documentation as to who was who in the case load. That was really a sort of bread-and-butter phenomenon for a couple of years in relation to Ashmore Reef but the pattern there was set, which was an understanding by the smugglers of the likely Australian reaction and their taking steps to thwart our plans.

Senator BRANDIS—I am conscious of the time—and I see we have got the DIMIA intelligence brief to you, so I will move back to that in a tick—but, just quickly, did those threats include the sorts of threats of which I have spoken and of which we have heard so much evidence in the committee—to throw children overboard, to sabotage vessels and so forth?

Mr Farmer—We were very conscious, during the latter part of last year, of a development along the lines of that basic dynamic I spoke of, which was that—obviously talking about Australia broadly defined—if we, in effect, sent RAN ships to the front line then that action would be treated with other sorts of actions that were being developed by the smugglers. The most obvious sort was to scuttle a ship. They knew that the RAN would pick people up and rescue them. Then, as Operation Relex continued—we are obviously not party to all of the details of that—it became clear, on the information available to us, that again the smugglers were developing other means of frustrating the RAN's attempts, such as sabotaging vessels. Of course, in the case of SIEV4, that was of particular note because the passengers were wearing life jackets. That was an indication to us—and I think it was a reasonable assumption—that passengers were being briefed, in effect, to prepare to scuttle the ship because they could float around in the water and the RAN would pick them up.

Senator BRANDIS—And of course we have heard the evidence of Commander Banks, the commander of the *Adelaide*, that when he first saw SIEV4 all of these people were wearing life jackets and the vessel was seaworthy. Can I take you back now to the DIMA Intelligence Bulletin. I think I described it wrongly before. I said No. 5/2001—it is in fact No. 52/2001.

Mr Farmer—Yes.

Senator BRANDIS—I take it that you have the declassified copy?

Mr Farmer—Yes—I hope I have it!

Senator BRANDIS—On some pages the entire text has been obliterated. But that is fine; I will ask you some questions about what we are allowed to see. Are you on the first page?

Mr Farmer—Yes.

Senator BRANDIS—Is it the one with the coat of arms at the top? It is just that we get confused with all the covering letters and so on. So it is the title page that you have?

Mr Farmer—Yes.

Senator BRANDIS—It is a report specifically about SIEV4?

Mr Farmer—Yes.

Senator BRANDIS—In the square which seems to be almost like an executive summary—on page 1, in the middle paragraph—the author writes:

The main organisers of the boat were—

and then there are some words which have been covered up that presumably identify those people. It continues:

The majority of passengers had entered the smuggling pipelines post-TAMPA—

I pause there to say that I assume this means post the *Tampa* incident, in the last week of August 2001. Is that how I am to read this?

Mr Farmer—Yes.

Senator BRANDIS—It goes on:

... and 11 September terrorist attacks in the USA—spending less than one month in Indonesia. Some passengers, however, may have been from—

and some other words are blacked out. It continues:

... and had possibly been in Indonesia for up to five months.

Do I understand that report to mean that, in most cases, the people on SIEV4 had entered the smuggling pipeline less than a month before they embarked on the journey?

Mr Farmer—That is certainly the import of the intelligence, yes.

Senator BRANDIS—This expression ‘smuggling pipeline’, I take it, is a reference to the point at which the PIIs leave where they are coming from and seek, by overland or marine transportation, ultimately to come to Australia?

Mr Farmer—That is right.

Senator BRANDIS—So the start of the smuggling pipeline in this case—in almost all of these cases—is somewhere in West Asia?

Mr Farmer—West Asia and the Middle East, yes.

CHAIR—Can I just be clear? Is the ‘start of the smuggling pipeline’, in your answer to Senator Brandis, the country of origin for these people?

Mr Farmer—It is a simple question, but it has a slightly complex answer. There would be some people who would leave their country of origin and then immediately get into a smuggling pipeline. There would be many others—and we have seen a very sizeable number of people who fall into this category—who have spent periods of time, in some cases many years, in other countries, not necessarily a country of first asylum. We have had people who have certainly had periods of time in other European countries and in some of the Gulf countries, and so it really is quite variable. My impression is that the majority would not have come to us directly from the country of origin.

Senator BRANDIS—You say that a number of them had lived, in some cases for years, in Europe? Perhaps you could take this on notice too: are you able to estimate roughly what proportion of either the SIEV4 entrants, or all of the SIEV entrants who ultimately came into the hands of Australian authorities offshore, had lived in Europe?

Mr Farmer—I would say that it is really quite a small number. It bears on the point we were discussing earlier: the destruction of documentation. Part of the reason for destroying documentation is that we do not find out that people have had prior protection in another country. It is a deliberate policy on the part of the smugglers to get their people to do that.

Senator BRANDIS—I think Senator Mason is going to ask you some questions about document destruction.

Senator FERGUSON—I assume that the people using the smuggling pipeline you talk about would also include those like the unaccompanied minor I interviewed in one of our detention centres—which I think was Woomera; we visited most of the detention centres—who, when asked how he came to arrive on a vessel, told us that he had flown to Indonesia by air. When I then asked him how he knew who to go and see about getting on a boat to come to Australia, he said, ‘But my grandfather arranged all that for me before I left.’

Mr Farmer—Yes.

Senator FERGUSON—It includes those people as well?

Mr Farmer—It would be quite normal for a person at the beginning of the pipeline, whether in the Middle East or South Asia, in effect, to provide a service that takes people right through to the end of the pipeline, whether Australia, Europe, Canada or the United States.

Senator FERGUSON—Do you know what percentage of people in this pipeline arrive by air in Indonesia or at their first port of call in Asia?

Mr Farmer—The great majority come by air. They would come to a country in South-East Asia by air, either arriving directly in Indonesia or coming originally to another country, then getting a boat into—

Senator FERGUSON—So it is quite a costly exercise?

Mr Farmer—Yes.

Senator BRANDIS—So this is the way it works: in the vast majority of cases they buy an airline ticket from the country where they have hitherto been, whether a country of first asylum or subsequent asylum, and fly into a country in South-East Asia—most commonly, I gather from this document, Malaysia?

Mr Farmer—A lot go through Malaysia.

CHAIR—Some through Thailand?

Mr Farmer—Yes.

Senator FERGUSON—And some straight to Indonesia?

Mr Farmer—Yes.

Senator BRANDIS—Those who have not gone directly to Indonesia then go from the South-East Asian country to Indonesia?

Mr Farmer—Yes.

Senator BRANDIS—By ship or by air?

Mr Farmer—Sometimes by ship, sometimes by air.

Senator BRANDIS—I go to the DIMA report, page 3, second paragraph under the heading 'Background'. When they arrive in Indonesia, they stay at hotels and apartments that are owned, presumably, by the people smugglers or people associated with the people smugglers. Is that right?

Mr Farmer—Certainly someone ready to cooperate with them, yes.

Senator BRANDIS—Would you care to comment—and I understand this has to be a generalisation—on the quality of shelter, sanitation, personal security and nutrition available to these people who are staying in hotels and apartments in Indonesia and compare their physical circumstances with the physical circumstances of the people living in refugee camps, of whom you were speaking earlier?

Mr Farmer—That is a bit difficult because we are talking about different circumstances. In the case of people in Indonesia, we are talking about people using commercial operations. They are, at least when initially staying there, paying their way and so, in effect, they have access to really quite reasonable accommodation, sustenance and so on. I think that over time that situation can change, because as interdiction and other efforts have success people are thrown back onto their dwindling resources.

Senator BRANDIS—Of course, these people have resources, unlike the people in the refugee camps.

Mr Farmer—Yes. They are dwindling, though, so you can see that there can be a change in their circumstances. We have arrangements with IOM, the International Organisation for Migration, to provide resources for some of these people who are in need.

Senator BRANDIS—Mr Farmer, in the fourth paragraph on page 3 of the DIMIA intelligence bulletin, we read:

Prices paid to smugglers and agents varied from US\$1200 to US\$3500.

If we are going to speak in dollars, we should translate that into Australian dollars—so it would be roughly \$A2,500 to \$A7,000. Do I take it that that is per person?

Mr Farmer—Yes.

Senator BRANDIS—And that buys them what—merely their passage, or the attempt to make a passage, from the port of embarkation in Indonesia to Australia?

Mr Farmer—Generally speaking, that would also include the airfare to Malaysia, Indonesia or where have you, then the transit arrangements to and through Indonesia and, then, a boat there.

Senator BRANDIS—So it is a package deal, in other words. You get your airfare to South-East Asia, you get your hotel or apartment accommodation in Indonesia and you get your passage—or attempt at making a passage—from Indonesia to Australia for the sum of somewhere between \$A2,500 and \$A7,000.

Mr Farmer—Yes. Just on a point of detail, I am not sure about the accommodation in Indonesia aspect, but certainly you get the travel and what you would save putting together the package activity.

Senator BRANDIS—I must say, Mr Farmer, it seems to me, hearing everything you have said—and allowing for the fact that, of course, these are people in circumstances of some distress—that the material circumstances of these people with the capacity to pay these sums of money for airfares and accommodation bear no comparison whatsoever with the material circumstances of the totally impecunious people in the refugee camps. What do you say about that?

Mr Farmer—Senator, allowing for your qualification—namely, that these are people in distress, and that can certainly be the case—there are certainly indications that some people have arrived in Australia with substantial amounts of money. But we also certainly have indications that some people who have arrived in this manner have really sold everything they have. You might say, ‘They have things,’ but they have sold them, and they did have the resources. So I think the case load varies a bit.

Senator BRANDIS—I accept that. But it must follow, mustn’t it, that if these people have at least that measure of material wealth—which is not a lot of money of course but at least they have some wealth—they cannot be regarded as being as needy as the neediest people in the refugee camps?

Mr Farmer—As you know, a number of these people are found to be refugees—that is, to have protection needs. That is an important thing to say. But the bottom line is that there has not been a process involving them where the UNHCR has said, ‘Among all of these needy refugees, these ones are the most needy.’ That is the core process that we and the UNHCR go through when we are determining which people we will accept from the UNHCR for resettlement. People who arrive in the process we have just been talking about have not gone through that process of comparative need. So, they may well have needs—including protection needs—but they have not been assessed in the comparative sense in which we normally assess people in our offshore refugee program.

Senator BRANDIS—May I put it to you plainly that they are not in as needy circumstances as the neediest people in the refugee camps, of whom you have spoken.

Mr Farmer—I think to the extent that they have not been assessed by the UNHCR—

Senator BRANDIS—And to the extent to which they have some money.

Mr Farmer—Yes. There is no basis for saying that these people are more needy than people in camps. They have in effect elected to come in a different way. Yes, they do have resources that by and large do not seem to be available to people in camps like Kakuma.

Senator BRANDIS—Going back to the first page of the intelligence briefing, in the smuggling pipeline it is a matter of weeks before they seek entry into Australia, compared with people in the refugee camps—who may have been there for some years, as we have heard.

Mr Farmer—Ye. The people who we are talking about who have come into the smuggling pipeline may have a variety of backgrounds and have spent longer or shorter periods—in some cases quite long periods—in third countries.

Senator BRANDIS—Though not generally in the refugee camps.

CHAIR—It is an apples and oranges comparison. What you are saying is the length of time in the smuggling pipeline compared to the length of time in a refugee camp is not a direct comparison.

Mr Farmer—That is absolutely the case.

Senator BRANDIS—This is my last question. In general, these people are not people who have been in refugee camps, are they? I understand they have been in countries of first or subsequent asylum but they are not generally people who have been in refugee camps, are they?

Mr Farmer—Certainly we get very few Africans via the smuggling pipeline. They do not have the money, essentially, to do that. With the Afghans and the Iraqis who come here, many of them have come from Iran or Pakistan. I have told you that the resources available for the UNHCR in those two countries are not sizeable. It cannot run camps of the sort we have spoken about in Kenya. It does work with the local governments to provide some facilities but you do not have camps of a comparable sort. The UN does not have the funds to do that.

Senator BRANDIS—Thank you.

Senator FERGUSON—Can I follow on from that question? You just said that we do have many refugees from African camps who have enough money to pay people smugglers to get here. In approximate terms, how many refugees has Australia accepted from any of the refugee camps in Africa in that year 2000-01—in approximate terms? I do not care if we do not get the exact figure.

Mr Farmer—I think the African component of the refugee program is about one-third.

Senator FERGUSON—About one-third?

Mr Farmer—About one-third of the program and I believe that the Sudanese are the largest element in that.

Senator FAULKNER—So it would appear that those who arrive on our doorstep who have managed to get here because they have the means and wherewithal to get here, take up two-thirds of that refugee component or two-thirds of those who approach—

Mr Farmer—I am sorry, Senator, I think I might have misled you. About one-third of our regular offshore refugee program, that is, the 4,000 places that we work with UNHCR to fill on the basis of need, is filled from Africa and the rest in recent years, generally speaking, have come from the former Yugoslavia and the Middle East.

Senator FERGUSON—So what you are saying is that roughly 1,300 or 1,400 come from Africa under that part of our refugee intake.

Mr Farmer—Yes.

Senator FERGUSON—But we have a number far in excess of that who have arrived onshore as illegal or unauthorised arrivals who have been accepted for temporary protection visas, and they are the ones who have had the money to be able to get here under their own steam.

Mr Farmer—That is right, but they are not Africans.

Senator FERGUSON—They are not Africans. The Africans who are destitute comprise only 1,300 or 1,400 under the regular program, but we have this number of people who have money.

Mr Farmer—Yes. Someone will tap me on the shoulder if I am saying something wrong, but I believe that for the last couple of years the number of illegal or unauthorised arrivals, and the people who have subsequently been granted temporary protection visas, would be greater than the number of Africans we have accepted under the refugee program.

Mr Storer—For the year we are going to get you figures, last year between 4,000 and 5,000 were temporary protection visas. That would have been included in the overall refugee and humanitarian intake for that year.

Senator FERGUSON—But you also said earlier that if that number goes up, it eats into the number of humanitarian cases that we can accept under our program. While we have this argument and debate in the community about queue jumping and whether there is a queue, it is a fact that if we accept more people who arrive here unauthorised, that eats into that quota of people that we could accept under the regular refugee or humanitarian programs.

Mr Farmer—That is correct.

Senator BRANDIS—But many people in the world could come here if their places were not taken up by the unauthorised arrivals who are not nearly as needy as they are.

Mr Farmer—As a general proposition, I would accept that. I made the point that I would not necessarily make that judgment in relation to each and every person who arrives here.

Senator BRANDIS—I understand that you were speaking in general terms.

CHAIR—This is quite a critical point. Need is not the criterion to be classified as a refugee.

Mr Farmer—That is right.

CHAIR—The criterion to be classified as a refugee is that you are under some threat in your homeland. If all the people who are under threat in their homelands come from countries with different living standards, it is not surprising that there would be a difference in material means between refugees.

Mr Farmer—That is correct.

CHAIR—That is right, and basically we are looking at an economic issue here in the sense that demand for spots vastly outstrips supply and those with means find a way of using their means to try and insinuate themselves in the queue. It is not to say that they may not be refugees—

Mr Farmer—That is right, and we are finding—

Senator BRANDIS—We are saying that you have a global refugee population in respect of which the demand for places vastly outstrips the supply of places. There is an issue of priority where, as Mr Farmer has said, need is critical.

Senator FERGUSON—You are much better off if you are wealthy.

CHAIR—Here we are turning on to the state of wealth—

Senator BRANDIS—It is a given that the people in the refugee camps are refugees.

Mr Farmer—Perhaps I can help.

CHAIR—But obviously an African may not have the same personal income as someone from the Balkans.

Mr Farmer—Yes. In the sense in which we are talking, you are quite right. In terms of the refugee population, need is not a criterion for being classified as a refugee, but when we are talking with the UNHCR we are essentially saying to them, ‘You have a really large number of people who could potentially be in need of resettlement. They will not all be refugees because, as we have said, that is not the preferred option for many refugees, but among the refugees that you have identified for resettlement, which are the ones that the UNHCR thinks are most needy?’

CHAIR—Needy in what sense?

Mr Farmer—It can be a variety of senses. One can be an immediate physical security or safety sense. That can obviously be broken down into a variety of categories of small groups who are in particular danger in a particular—

CHAIR—What place in the hierarchy does personal wealth, or lack thereof, count?

Mr Farmer—I do not think it is really a criterion at all. The UN is looking at people's welfare, safety and survival.

CHAIR—And that is how you mean 'needy'?

Mr Farmer—That is the sort of discussion we have with the UN when we are talking about relative need.

CHAIR—As set out in your report, there were 219 passengers on SIEV4 and they paid between \$US1,200 and \$US3,500. Doing some quick calculations, that means the gross return to the people smugglers who organised SIEV4 was between \$A½ million and \$A1½ million. If we take the median point and say the gross return to the people smugglers for SIEV4 was \$A1 million, do you have any idea what the profit margin to the smugglers was?

Mr Farmer—In answer to your specific question, no. But I can give you an answer that might illuminate the issue a bit. We have done a lot of work overseas in trying to look at the people smugglers, their methods and so on. There is no doubt that, in the last five years, this has become a global industry that is very much more profitable than it used to be. People have developed their routes so that they are much more effect than they were. In terms of its overall value as a criminal industry, it is something that would clearly rival the drug trade.

CHAIR—As I understand it, it is just behind the drug trade in the amount of money generated.

Mr Farmer—Yes.

CHAIR—And the profit levels are quite stupendous for the smugglers, as I understand it.

Mr Farmer—Yes, that would be our general impression. In some ways, the risks are less in this area than in the drug trade and some governments, including in Australia, have taken legislative and other steps to try to increase those risks.

CHAIR—And part of the profits of the trade possibly go to corruption of local officials and law enforcement officers in the countries from which the refugees depart to Australia.

Mr Farmer—I think that is so.

Senator MASON—Mr Farmer, I have a couple of points on the document that Senator Brandis was working from—the DIMIA Intelligence Bulletin—and a couple of questions on the information flow within the department. The Chair just asked a question relating to the cost to

the passengers of being smuggled into this country. On page 3 of 15 the prices quoted are \$US1,200 to \$US3,500. Was that on SIEV4?

Mr Farmer—That is right. All of this relates to SIEV4.

Senator MASON—The evidence that Senator Brandis extracted before was that people pay somewhere between \$A2,500 and \$A7,000 to fly and then surf the smuggling pipeline. Is that right?

Mr Farmer—That is right.

Senator MASON—I have one other question relating to the DIMIA Intelligence Bulletin. At the top of page 6 of 15—everything else has been blacked out—relating to the ‘children overboard’ issue, it says:

Of the passengers interviewed, the majority expressed a concern that they were accused of throwing children overboard to force the Navy to pick them up. Passengers claim that children were simply held up to make the Navy aware that there were children on board and to stop the Navy firing warning shots, or ramming the vessel.

The conclusion in this document is:

This seemed to be a consistent statement, probably discussed by the group prior to being interviewed.

I take it from that that this response was orchestrated or contrived. Is that right?

Mr Farmer—I would not necessarily say ‘contrived’—if I understand the import of what you are saying—in the sense that they were not telling the truth, because I do not think that we are saying that in that statement. I think we are saying that, as we find in a number of areas of dealing with this particular caseload, people talk about the sorts of things that they are going to discuss with us and—

Senator MASON—So ‘orchestrated’ is a better word?

Mr Farmer—That, I think, is better.

Senator MASON—Does that relate to the next paragraph, which says:

A committee of six passengers greatly influenced the other passengers. Allegedly, prior to meetings or communications with IOM or DIMA, they dictated what should and should not be said.

Mr Farmer—Yes.

Senator MASON—That reflects that orchestration. That’s it for the document. I have just a couple of quick questions, if I might, chair. Senator Faulkner will go into this in great depth after lunch, but I will just touch on it, if I might. There was much questioning last week about the flow of information, whether it was from HMAS *Adelaide* or any of the Royal Australian Navy vessels that intercepted SIEVs, all the way up to whether it was the Minister for Defence or other ministers. Were you aware of all the other SIEV incidents that occurred? We have heard a lot about SIEV4, but were you aware of SIEV7, SIEV9, SIEV10 and SIEV12, for example?

Mr Farmer—In a general sense, yes, Senator, in that we were working in this area, but in terms of the details of each and every incident I would say that my awareness differed.

Senator MASON—I could not quite hear that, Mr Farmer. Could you say that again? I am sorry, I missed it.

Mr Farmer—In a general sense I was aware of the flow of boats, but in relation to each particular boat my level of awareness of the details would have varied, because in relation to some I was involved at meetings where there was discussion of what would happen with particular boats. In relation to others I was not involved in meetings, and so other DIMIA officers would have been more au fait with what was going on there.

Senator MASON—Let me get to the point. I am trying to find out whether there was a different briefing, in a sense, given to the Minister for Defence than there was to Mr Ruddock, the minister for immigration. We heard evidence last week that evidence of all those SIEV incidents was given to the Minister for Defence via the Head of Strategic Command, Air Vice Marshal Titheridge. That in a sense comprised a synopsis of each of the SIEV incidents, down to this sort of specificity—this was the evidence—whether children were thrown overboard or dropped overboard; whether there were threats to do that; whether there were threats of offensive behaviour; whether there were threats of suicide or self-harm, sabotage or fire; whether there were hunger strikes; and whether there was violence on board et cetera. That was all included in the synopsis of each of the SIEV incidents. I wonder, Mr Farmer, whether you were made aware of that level of specificity with respect to all those SIEV incidents.

Mr Farmer—No is the answer. There were, in effect, I guess, different briefing lines for the Minister for Defence from his department, from anything that was going on in the immigration department. In a general sense we would have tried to keep our minister advised of the arrival of SIEVs in broad outline and of what was happening to the SIEVs.

Senator MASON—Sorry to interrupt, but were you not aware of that level of specificity with respect to each of the SIEVs?

Mr Farmer—I am absolutely not surprised that there was that level because I would have expected that sort of briefing to be going on. But, as to what I was aware of and what I actually saw, no, I did not see that.

Senator MASON—Do you know if Mr Ruddock was made aware of that level of specificity with respect to the SIEV incidents?

Mr Farmer—I do not know what was coming to Mr Ruddock from other sources. Personally, I would be surprised if Defence briefings of that sort were going to Mr Ruddock. We, at the department of immigration, would have been advising Mr Ruddock—but I would say more in outline than in detail—of the arrival of boats and what was happening in relation to each boat.

Senator FAULKNER—Who would do the advising?

Mr Farmer—We would have a variety of ways of doing that. Mr Ruddock's media adviser was, on a number of occasions, in direct contact with Jane Halton, who was the chairman of the high-level group because a lot of these matters were being brought together in the high-level group and so Ms Halton was obviously at the centre of things.

Senator FAULKNER—Yes, obviously.

Mr Farmer—Yes, well, I did mention it. Secondly, the departmental officials would have been advised—for example, by Coastwatch or in the high-level group—of the arrival of vessels and what, in general, was being done to them—not necessarily in any great detail—and we would have tried to advise Mr Ruddock's office of the facts.

Senator FAULKNER—I will follow this up after lunch because I know that Senator Mason wants to continue. It is a very important issue that he has opened up, and I am glad that he did open it up and I thank him for it.

Senator MASON—I knew you would anyway, Senator Faulkner, so I was not too concerned.

Senator FAULKNER—You can never be certain, Senator Mason.

CHAIR—It is nice to know you people love each other but would you please ask questions.

Senator FAULKNER—I would not say it is love.

Senator MASON—We have heard evidence that on 24 October there was a child dropped overboard from SIEV7. Were you aware of that?

Mr Farmer—No. I was not aware until I saw accounts of it after the Senate estimates, or perhaps it was at earlier meetings of this committee.

Senator MASON—Was the IDC on people-smuggling made aware of that?

Mr Farmer—I cannot answer that question except in relation to my knowledge because I was not at all meetings of the high-level group.

Senator MASON—Could you find out whether it was discussed? You had a representative there at every meeting and if you were not there, Mr Farmer, there would have been a representative there from your department.

Mr Farmer—I believe that is the case.

Senator FAULKNER—Or representatives.

Mr Farmer—Yes.

Senator MASON—Yes, indeed. Could you find out whether that was discussed? The child was dropped overboard on 24 October so it would have been at some meeting around that date.

Given that the ‘child overboard’ incident was of such moment on 7 October and that there was an incident on 24 October, a couple of weeks later, where a child was dropped overboard, are you saying that you did not know about this incident, and that it was not reported back from your representative at the IDC that a child was dropped overboard?

Mr Farmer—I certainly have no recollection of that.

Senator FAULKNER—Were you at the meeting on 11 October? You can check over the lunch break because I know that the chair would like to move on. You might let me know who was present at the meeting of the task force on the 11th.

CHAIR—We are in a situation, Mr Farmer. We were hoping to, in the kindest possible way, dispose of you by lunchtime and none of the opposition have had a chance to conduct their examination of you as yet; I think that would take about an hour or so. We have Ms Halton coming at 2.30 and we are trying to keep our timetable. It seems to me that it is the preference to break now and resume in half an hour, if that is convenient for you.

Mr Farmer—I am in your hands, Senator.

Proceedings suspended from 1.05 p.m. to 1.35 p.m.

Senator FAULKNER—Mr Farmer, I take you back prior to the events of 7 October and to the more general question of the establishment of the People Smuggling Task Force and your department’s role prior to the task force being put in place. Some of the evidence that we have had certainly suggests that your department was the lead agency at that stage. Could you very briefly provide us with that background, when it changed and why it changed?

Mr Farmer—In a number of respects, certainly DIMIA was central to a process which in the period leading up to the *Tampa* was also the focus of a lot of action by Coastwatch. So in regard to the border approaches we were in very close contact with Coastwatch. We were consulting with Coastwatch, AFP and other agencies on what was going on in Indonesia. We did not have a high-level group of the sort which was established late in August. The arrangements were rather more at the working level in intelligence exchange and liaison between DIMIA, AFP and Coastwatch in keeping track of vessels that were coming in.

But the People Smuggling Task Force was set up at the end of August. That was partly in response to the *Tampa* range of issues—because that was developing, as you know, very quickly—but partly also because we had had a range of boats coming into Australia and we thought that you really needed a more concerted focus on what was happening and on government responses.

Senator FAULKNER—Who is ‘we’ in this instance? You say ‘we thought’.

Mr Farmer—I certainly thought that in DIMIA, in order to bring together the whole-of-government effort, you needed a mechanism which would do that on an ongoing basis rather than on an ad hoc basis—that is, on the basis of working level contacts and then occasionally phone calls and so on at senior level.

Senator FAULKNER—And you passed that suggestion on to Mr Moore-Wilton, from memory, didn't you?

Mr Farmer—I certainly said to Mr Moore-Wilton that I believed it was important that we have a process directed by Prime Minister and Cabinet.

Senator FAULKNER—How did you do that? Did you do that verbally or telephonically, or did you do a written brief?

Mr Farmer—I remember speaking to Mr Moore-Wilton in a corridor here in Parliament House. I do not know that I was the only one to make that statement, but I believed that that was required, and Mr Moore-Wilton agreed.

Senator FAULKNER—He said it was your suggestion in evidence he gave to the estimates committee in late February.

Mr Farmer—I am happy with that.

Senator FAULKNER—You just had a corridor conversation with him?

Mr Farmer—Yes.

Senator FAULKNER—And was that what really kicked off the People Smuggling Task Force as a new IDC under the chairmanship of Prime Minister and Cabinet?

Mr Farmer—Yes. By way of background, we had had a number of interdepartmental processes in the period since the beginning of 1999 to look at this sort of issue. We had a Coastal Surveillance Task Force that met from April to June 1999, I think. That was also chaired by PM&C. It looked at the circumstances surrounding the arrival of two vessels, I think, on the Australian eastern coast in 1999. There was an Unauthorised Arrivals Task Force, which was again chaired by PM&C. That started meeting, if I remember correctly, at the end of 1999 and then it really continued intermittently until it was superseded by the People Smuggling Task Force—the high-level group that we talked about.

Senator FAULKNER—But of course the number of unauthorised boat arrivals actually dropped over this period, didn't it?

Mr Farmer—Which period are you talking about?

Senator FAULKNER—The figures that I have previously seen made available were that in 1999 there were 85 unauthorised boat arrivals, in the year 2000 there were 51 and in 2001 there were 39. They may not be accurate figures, but they certainly show a clear trend, don't they?

Mr Farmer—There were ups and downs. If you look at the month of August in 1998-99 there were no boats. In 1999-2000 you had six boats. In 2000-01 you had one. The month before, in July, again for those three years, it was two boats, six boats—

Senator FAULKNER—I have seen these figures. The annualised figures are 85 in 1999, as I understand it. Is that right?

Mr Farmer—I have got financial years, which was 42 in 1998-99, 75 in 1999-2000, 54 in 2000-01. Then for 2001-02 we had 22 in the period up to December, including six in August.

Senator FAULKNER—That shows the same trend.

Mr Farmer—No, it does not. The trend is: 2000-01 in August you had one, 2001-02 you had six.

Senator FAULKNER—You have got to compare apples with apples. In calendar year 1999 there were 85. That is right, isn't it?

Mr Farmer—We don't have calendar year figures.

Senator FAULKNER—Someone could add them up and that is the figure they would come to, because we are working off the same figures. In the calendar year 2000 there were 51 and in calendar year 2001 there were 39. I am trying to understand why the urgency come the latter part of 2001 with this change of lead agency and change of approach, that is all.

Mr Farmer—I think I gave you the two reasons that were in my mind. One was that in August we had six boats and, secondly, the *Tampa* incident had emerged and it was quite clear that we needed a process to pull together a whole-of-government range of activities.

Senator FAULKNER—Did DIMIA have primary responsibility for developing policy in relation to unauthorised arrivals prior to the establishment of the People Smuggling Task Force?

Mr Farmer—No. I think that was part of my thinking. I thought that we had responsibility spread over a number of agencies.

Senator FAULKNER—But was there a lead agency?

Mr Farmer—We had an Unauthorised Arrivals Task Force, as I had said, which had been meeting under the chairmanship of PM&C, but that was meeting on an ad hoc basis. I do not know the dates of its meeting, but I thought we needed a different approach—namely, one coordinated at a senior level.

Senator FAULKNER—But can you identify a lead agency on policy and strategic directions in relation to people smugglers prior to the establishment of the People Smuggling Task Force?

Mr Farmer—The Unauthorised Arrivals Task Force was chaired by PM&C. That was the body that met on an ad hoc basis until superseded in August by the People Smuggling Task Force.

Senator FAULKNER—In terms of development of policy, did your department have primary responsibility?

Mr Farmer—When?

Senator FAULKNER—Prior to the establishment of the People Smuggling Task Force.

Mr Farmer—No, because we had responsibility in relation to immigration issues. There were other issues involved as well, of course: offshore issues, which would have been looked at by the Attorney-General's Department and AFP, by Foreign Affairs and its agencies—

Senator FAULKNER—So you say that PM&C was the lead agency even at that stage?

Mr Farmer—It was chairing the Unauthorised Arrivals Task Force.

Senator FAULKNER—But you did not have a whole-of-government approach?

Mr Farmer—It was meeting in an ad hoc fashion, and that had proved its worth on a number of occasions. You are asking me why I made a suggestion and I am telling you, rightly or wrongly, I thought we needed a high-level group which would pull together agencies in the light of what was clearly a large number of boat arrivals and a very complicated set of matters flowing on from the *Tampa* issue and that we needed to have that process—

Senator FAULKNER—But I asked you the question in this way because I thought it was quite reasonable to assume that it was your department that had the status of lead agency prior to moving to PM&C for a whole-of-government approach. It is not an unreasonable approach for me to take. Sure, it is an assumption I made, but you are now saying, 'No, PM&C in fact had that role anyway.'

Mr Farmer—That is right.

Senator FAULKNER—So what changes were made following the commencement of Operation Relex?

Mr Farmer—If we could go back just a bit earlier than that, because the People Smuggling Task Force started meeting earlier than that. It was really the *Tampa* set of days that sparked the meeting of the task force. It was by name and by function a high-level task force. I, for example, attended a number of meetings of that task force and there was very senior representation from other departments. I do not think that had necessarily been the case with the Unauthorised Arrivals Task Force.

Senator FAULKNER—The People Smuggling Task Force did not have any terms of reference, of course, did it?

Mr Farmer—Not that I am aware of.

Senator FAULKNER—But you were not under any illusions about what it was supposed to do, even though it did not have any terms of reference?

Mr Farmer—We had a job to do, which was to bring together all the government agencies involved to respond to this phenomenon of illegal boat arrivals.

Senator FAULKNER—Its first task, of course, was to handle the *Tampa* incident—that is right, isn't it?

Mr Farmer—Yes, the first time I remember meeting with this group was in relation to the *Tampa*.

Senator FAULKNER—Then it goes off and deals with people-smuggling issues in the broad after the specific incident of the *Tampa*?

Mr Farmer—I hesitate to say 'people-smuggling issues in the broad' because, as I recall, the great focus was on the illegal boat arrivals. So I just do not recall the extent to which we got involved in the people-smuggling issues further up the pipeline.

Senator FAULKNER—I am only using the words provided by PM&C who, in a tabled document, said that, 'It'—just so that you are aware, that is the People Smuggling Task Force—'has dealt with people-smuggling issues more broadly since this time.' 'Since this time' is since *Tampa*. Those are the words in the tabled document.

Mr Farmer—I do not think we are having a disagreement; I am simply saying that, for example, I do not recall the sort of work done by DIMIA in relation to people-smuggling—for example, in the Middle East, Iran and Pakistan—being discussed in the high-level group.

Senator FAULKNER—Understanding that background, what were the changes in the way the task force worked that can be related directly to Operation Relex? Can you identify any changes for us, understanding the point you make about the commencement of the task force work being around the time of the *Tampa*.

Mr Farmer—From my perspective, there were really two changes: firstly, the level of representation, at least from some organisations, and the range of representation; and, secondly, the fact that the committee met in a more intense and regular way.

Senator FAULKNER—Did you provide any advice to your minister about the necessity for the establishment of a different operation to the one that had been in place for the previous period of time—in other words, prior to the establishment of the People Smuggling Task Force?

Mr Farmer—I do not believe I did.

Senator FAULKNER—So the only advice you provide, in fact, is in a corridor conversation with Mr Moore-Wilton? You did not inform your minister that you had had that conversation, and suggest that there be a serious change and you need to get a broader whole-of-government approach to people-smuggling?

Mr Farmer—It is quite probable that I would have told the minister or his office because I think it was a significant—

Senator FAULKNER—But what I am asking is: did you?

Mr Farmer—I do not recall. My job is to let my minister know things that I think he should know, among other bits of the job, and this was significant so I think I would have informed him or his office.

Senator FAULKNER—Would you have informed him in writing? Would a brief have gone up to the minister?

Mr Farmer—No.

Senator FAULKNER—So that would have been verbally too, if it had happened?

Mr Farmer—I believe so, yes.

Senator FAULKNER—But you cannot be sure? Do you remember how you heard about the establishment of the IDC?

Mr Farmer—I think I had a discussion with Mr Moore-Wilton and then—I do not recall specifically, but I would suggest that what happened would have been that PM&C called a meeting.

Senator FAULKNER—Would there be a paper trail for that? Do you recall that, or does one of your officers recall that?

Mr Farmer—I do not. PM&C was the coordinator of the group, so it would be able to help you on that.

Senator FAULKNER—I am asking deliberately from the point of view of your department: who takes the decision, as far as you are aware, and how is it communicated to you? I am asking this not from a PM&C perspective but, deliberately, from a DIMIA perspective. I may not be getting very far, Mr Farmer, but that is what I am trying to do.

Mr Farmer—I spoke to Mr Moore-Wilton. I believe that Mr Moore-Wilton would have taken the decision and we would have heard from PM&C. I assume that that would have been in the context of PM&C calling a meeting.

Senator FAULKNER—Given that there is a lack of certainty about this, and to perhaps save some time, I will ask you to take on notice the details of the establishment of the IDC from your department's point of view, Mr Farmer—in other words, who took the decision, how it was communicated to you, who communicated it to you, and what the reasons and background for it were. That might be the easiest way of dealing with it. Will you take that on notice?

Mr Farmer—I am happy to do that.

Senator FAULKNER—Thank you.

Mr Farmer—Can I just say I do not know that we will have much to add to what I have said. I invite my colleagues to come in if they have anything to add.

Senator FAULKNER—I imagine it does not happen by osmosis. I am sure there is something that you can lay your hands on.

Mr Farmer—If it was done by a telephone call calling us to a meeting, there is nothing we could lay our hands on.

Senator FAULKNER—Someone may have taken a note of it.

Mr Farmer—I have said we will do our best. I am just saying, out of courtesy really, I am not sure that we will have much more to add.

Senator FAULKNER—But given that, as you point out, it is a high-level task force that involves the secretary I thought it would be reasonable to ask you these questions. And I thought that, given its nature, PM&C may have made that suggestion which you are well aware of—and I am sure they did—via some process to you that I am interested in understanding more broadly.

Mr Farmer—We will check.

Senator FAULKNER—Thank you. I know that you are not the only departmental representative who attends the meetings; I know on occasions more than one DIMIA representative is present. Appreciating and understanding that background, could I ask you whether, to your knowledge, in relation to the work of the task force—or more broadly, but particularly the work of the task force—any decisions were made or directions given, as part of general policy or more specifically in relation to any of the numbered suspected illegal entry vessels, that asylum seekers be misled about where they might be taken or towed to.

Mr Killesteyn—Can I perhaps ask for the context of that question? It is a bit hard to respond without some context.

Senator FAULKNER—The context is quite simple, Mr Killesteyn. Allegations have recently been made—in fact these were aired on national television last night—that asylum seekers were misled about where they were being taken, their point of destination.

Mr Killesteyn—You are talking about SIEV4.

Senator FAULKNER—I do not know how relevant it is, but the context of this question is the fact that those allegations have been made. I am asking Mr Farmer specifically—or you or any other witness at the table who can assist me—whether you have any knowledge at all about decisions made or directions given either in a general policy sense or as it applied to any of the numbered suspected illegal entry vessels.

Mr Killesteyn—Can I give you a general description of the approach that the high-level group took—and this applied right from the time that the people off the *Tampa* and the *Aceng*

were placed on HMAS *Manoora* through to the transfers onto *Tobruk* and then other transfers. Essentially, we were keen to ensure that the asylum seekers had information which maintained a level of communication with them about what was happening. In every case we generally prepared some form of script which went through the sorts of issues that you have referred to: where you are going, what is going to happen when you get there, what is the nature of the accommodation—all those sorts of issues. As I said, that was an approach that was taken in every boat's case.

In terms of the allegations that you are referring to, I think they come from the SIEV4 group—from those that are in PNG at Manus, if I am not mistaken.

Senator FAULKNER—I am not clear that that is the case. I am not clear that it is limited to SIEV4 and I am not suggesting for one nanosecond that there is necessarily any truth to these allegations. What I am doing, Mr Killesteyn, is asking questions. I think they are reasonable questions and you have heard now on two occasions the context of my questions. They are that and that only. They are questions to you, but they do arise, as I noted, from public comments that have been made.

Mr Killesteyn—In the process that I described to you about the nature of the information which was provided to the asylum seekers, in every case but one there were full details disclosed of where they were being transferred to.

Senator FAULKNER—What was the one case, Mr Killesteyn?

Mr Killesteyn—That was in SIEV4's case.

Senator FAULKNER—Can you explain the background to that?

Mr Killesteyn—SIEV4 was the group that was rescued and was placed on Christmas Island for a number of weeks pending the finalisation of the centre in PNG. We were at the time doing the logistics of transferring this group to PNG. It was our view that, given the very complex nature of the transfer arrangements as well as the experience that we had had of moving people from the *Manoora* on to Nauru, it was better at that time not to disclose the final location of these people. They were not told that they were going to Australia, nor were they told that they were going to Papua New Guinea. It was a complex exercise. The safety of all concerned was of paramount importance to us and, as I said, the experience with the *Manoora* was quite difficult.

Mr McMahon—Can I just add that they were told that they would not be taken to Indonesia, that they were going to be taken to another place, where they would be processed by Australian processing officers, and that when they got there they would be looked after by IOM.

Senator FAULKNER—So, Mr Killesteyn and Mr McMahon, are you saying to me and the committee that, while the asylum seekers may not have been told the whole truth, they were not told a deliberate lie? Is that the significance of the answer you have given?

Mr Killesteyn—Yes. The context is that these people were obviously keen to get to Australia—that was their intent—and any suggestion that they were not going to get their outcome could, we believe, have created a security incident. They ultimately may have assumed

that they were going to Australia. As to how they reached that conclusion, it is not a matter that I can judge. One can speculate that, based upon what they would have been told or knew in relation to the way in which Australia had been dealing with refugees or asylum seekers at that time, they would have been picked up and moved to Australia. That was the pattern. It is certainly within the realms of possibility that, once they had been told that they were being moved, they could have assumed that they were being moved to Australia. That was not the case.

Senator FAULKNER—But they were not told deliberately false information—is that right?

Mr Killesteyn—That is correct, yes. We told them that they were not going to Australia, but we did not tell them where.

Senator FAULKNER—Was that decision made at the People Smuggling Task Force level?

Mr Killesteyn—It was made in the high-level group, yes.

Senator FAULKNER—Is that the only decision that was made in relation to any of the suspected illegal entry vessels that goes to final destination? If I am not mistaken—and I would need to check with my colleagues here—my belief is that the allegations that were made on the *Four Corners* program last night did not relate to SIEV4; they related to SIEV8 or—

CHAIR—SIEV7, I think.

Senator FAULKNER—maybe SIEV7.

Mr Killesteyn—My recollection is that it was only in relation to SIEV4 that we constructed the script about where they were going in that fashion.

Senator FAULKNER—When was that constructed script finalised at the IDC?

Mr Killesteyn—I think they were transferred to Manus around 20 or 21 October, so it would have been at around that time.

Senator FAULKNER—Was this standard operating procedure for scripts that were developed to be communicated to the asylum seekers? Were they, as a matter of course, notified to and agreed to by the IDC?

Mr Killesteyn—Essentially, yes. It was a process that tried to deal with all the particular issues that each of the agencies may be responsible for. That was the pattern of operation that we adopted at that time. This was a whole-of-government approach and we were keen to ensure that all agencies that had an opinion and a view about the way in which these difficult issues were being managed had an opportunity to comment on the drafts and to include whatever thoughts that they wanted.

Senator FAULKNER—I have asked you about destinations, Mr Killesteyn and Mr Farmer. Let me ask you more broadly now about the question of the purpose of asylum seekers'

journeys under Australian control—which is a different issue. Can I ask whether, at any stage, any of those aboard the suspected illegal entry vessels were misled about the purpose of their journey under Australian control?

Mr Killesteyn—My recollection, Senator, is no. They were told that they were being transferred to a processing centre to allow for their claims to be heard—and that was in the case of all SIEVs.

Senator FAULKNER—So you can say to the committee then, Mr Killesteyn, that at no stage were asylum seekers misled about the general purpose of their journey. I am asking a broad question, as you can appreciate here, as opposed to a specific one about destination. That is the reason I am asking it. I suspect that is entirely obvious to you, anyway, but it is reasonable that I say it to you. You can assure me that at no stage were those on board the suspected illegal entry vessels misled about the purpose of their journey under Australian control? You can give the committee that assurance?

Mr Killesteyn—Yes, I can, Senator. We were quite deliberate in preparing the scripts to ensure that asylum seekers knew what was going to happen to them. Bear in mind that one of the issues of most difficulty in managing groups such as these—and quite understandable—is the level of uncertainty they have about their own future. We wanted to do what we could as best as we could to explain what was going to happen to them over the course of the next days and weeks and months. So the scripts went to issues such as where they were going, what they would find when they would get there, the nature of the amenities and accommodation, the attitude of the governments of Nauru and Papua New Guinea, and the fact that upon arrival at these processing centres they would have an opportunity to present their claims for asylum. We then went into further information about what potentially could happen to them if they were found to be refugees, in which case we would generally advise them that we would seek resettlement for them. We would tell them, if they were not found to be refugees, that the advice was that we would be seeking arrangements to return them to a country which allowed them to enter.

Senator FAULKNER—So I can also be assured that at no stage were asylum seekers misled about whether their requests for asylum were being, or would be, processed.

Mr Killesteyn—That was the advice that we were giving to them. What they actually finally understood by the advice I cannot say. We made efforts in, I think, most cases to translate that information for their benefit. But I can be quite categorical in stating that the scripts were based on advising them that they were going to have processing of their asylum claims.

Senator FAULKNER—All those matters went for determination? The messages, the information passed to those on board the suspected illegal entry vessels, went via the IDC? In other words, the decisions were made at the IDC level?

Mr Killesteyn—Initially yes. Once we had some experience with developing the scripts and we essentially had a formulation that could be repeated then they were generally, I guess, delivered or developed at a lower level, at officials level, below the high-level group. But initially the broad pattern of the scripts was developed at the high-level group.

Senator FAULKNER—At any stage, Mr Killesteyn, did you get down to the level of determining whether or not medical treatment would be given to individuals on board the SIEVs at the IDC?

Mr Killesteyn—I think there were discussions about particular individuals from time to time, yes.

Senator FAULKNER—Did the IDC actually deal with individual asylum seekers and their medical problems?

Mr Killesteyn—There were cases where from time to time we had to make some sort of judgment about how particular medical attention could be provided to individuals, yes.

Senator FAULKNER—Are you saying to me that such cases were approved or not approved at the IDC level or was it broader than that? Was it a matter of getting government, ministerial or prime ministerial approval?

Mr Killesteyn—The cases were certainly discussed at the high-level group. There were some cases where we did discuss the particular proposals with the minister—at least my minister.

Senator FAULKNER—Your minister?

Mr Killesteyn—Yes.

Senator FAULKNER—So you discussed individual cases of whether medical treatment would be provided to individuals on board the SIEVs with your minister—that is, Minister Ruddock?

Mr Killesteyn—When you say ‘on board the SIEVs’, I guess my reference is—

Senator FAULKNER—I am sorry; you are quite right to correct me. I should have said ‘either on board the SIEVs or who had previously been on board the SIEVs’. Is that the point that you make?

Mr Killesteyn—Yes, that is correct. For instance, there have been a number of cases where we have transferred individuals from either PNG or Nauru to Australia for medical treatment.

Senator FAULKNER—Are you aware of any occasions where individual cases of medical treatment were left to the approval or otherwise of the Prime Minister?

Mr Killesteyn—No, I am not aware of that, Senator.

Senator FAULKNER—But your minister, Minister Ruddock, was left in a position of making decisions, or was it a matter of his advice being referred back for further consideration by the IDC?

Mr Killesteyn—All I can explain—for instance, in the cases where we transferred people from Manus or Nauru—is that we received advice from IOM about the particular condition of the individual. We received further advice from our own medical resources about the best place for treatment of those conditions. We provided both oral and written advice to the minister about the nature of that advice, and we sought advice as to whether that could be handled here in Australia or should continue to be handled offshore.

Senator FAULKNER—It is still not entirely clear to me, and I think it is best if you explain this, Mr Killesteyn. If a decision is to be made by ministers—and let me use the word ‘ministers’ here as I think it is clearer—on an issue, as opposed to the IDC or task force making it at the officer’s level, if you like, how is that transmitted to ministers? How or in fact does that advice come back to the task force for action, or is there some other line of communication—which means Navy or some other government agency or Defence broadly—which is able to ensure that such a government decision is carried through? I think it is important to understand that background. It may be better directed to you, Mr Farmer. I do not mind who answers the question, but I think you understand that this is a process question; it is about the decision making of the task force.

Mr Farmer—Yes. Senator, could we just go back one step because I think there is an issue related to the SIEVs and what was said to the people on board. There is one element that we would like to return to on that.

Senator FAULKNER—Yes, by all means, if there is something you want to add.

Mr Killesteyn—Mr Farmer asked me to clarify that in relation to the scripts that we used for the boats. I was referring to all of the boats that either ultimately found their way to Christmas Island or ultimately transferred to PNG or Nauru. I cannot say whether particular scripts were used for the boats that were towed back to Indonesia. There were four boats that were towed back to Indonesia, so I just wanted to clarify that particular comment.

Senator FAULKNER—I see. So your answers do not actually go to the four SIEVs that go back to Indonesia?

Mr Killesteyn—What I am saying is that I was intimately involved with the scripts for all of those people who were transferred to Manus and Nauru—

Senator FAULKNER—Yes, I understand.

Mr Killesteyn—but I was not involved—

Senator FAULKNER—I do appreciate you saying that because it is a very important qualification, as you would appreciate. Now I understand you identifying the SIEVs, which was different from some of the public information. So I do understand the qualification and I thank you for giving it, because I think it is an important one. I think you are saying that you are aware of—in relation to the numbered SIEVs—eight series of scripts but not aware of four others. Is that right, Mr Killesteyn?

Mr Killesteyn—That is correct, yes.

Senator FAULKNER—Would the department be able to take on notice the copies of—in English, I quickly add—the eight scripts that were approved and used for the relevant eight SIEVs, please?

Mr Farmer—We can take that on notice.

Senator FAULKNER—Can I ask you about another allegation that has been made publicly—and I do not comment on its veracity or lack of veracity. I say that because I have made it clear about some other questions I asked. Are you aware of any decisions made at the IDC level about the use of force by, in this case, Australian defence personnel or the types of weapons that might be used by them in their work following their instructions and tasking for Operation Relex?

Mr Killesteyn—No, I am not aware of any. I think essentially there were operational orders issued by the Department of Defence. I certainly cannot recollect that the detail of those sorts of operational orders, and the nature of force that may or may not be used, was discussed.

Senator FAULKNER—That is fine. I can be satisfied therefore that that matter was not discussed at the IDC because DIMIA was represented at all times, I think, was it not, at the IDC?

Mr Farmer—I think that is right. In relation to the *Manoora*, the first vessel to go to Nauru—I think I am right in saying the *Manoora*—as you know, there was some delay while that ship was stationed off Nauru. There was a discussion there about how long we would continue the process of talking with people and what would be the contingencies there. I remember that discussion and I do not recall where that discussion went in terms of specific decisions. A lot of things were essentially, and I think appropriately, left to Defence to decide on the spot. The commanders had to make their decisions. I am trying to be helpful—so I think there was some discussion of what was obviously a dilemma and how to resolve it.

Mr McMahon—I recall a very similar discussion. There was a question about whether force would be used. I recall that we discussed, particularly in respect of the *Manoora*, when it was sitting in Nauru, the issue of whether force would be used, but at no time can I ever recall a discussion there which said how it would be used if it were to be used.

Senator FAULKNER—So what I think all three witnesses are saying to the committee—and correct me if I am wrong—is that that matter was not a matter for the task force—in the general sense it may have been whether force was used—but, in relation to how that might occur, was left more to operational decisions within Defence. Is that a fair summary of what you are saying to us?

Mr Farmer—I believe that is so. Obviously this is now quite a while ago. I think we did discuss possibilities whether the AFP—or someone like that—might have a role, but as to the details of what happened in the end I do not recall particularly.

Senator FAULKNER—But what happened in the broad about the use of force, Mr McMahon? Could you just explain that a little further to me so I understand—appreciating the detail of this matter being not discussed and how this might occur at the task force. Did the task

force make a decision, for example, that force could or should be used? Is that the level we are talking about?

Mr McMahon—The basic issue was, ‘Would the *Manoora* sit there forever if people did not get off,’ so there were discussions around that. I do not recall whether or not we came to a point of actually agreeing that it would be used. I think that was an operational decision in the end.

Mr Killesteyn—What was happening on the *Manoora* at the time was obviously a delay in transferring the people to Nauru. Initially, the process started by strenuous efforts at convincing the people to move voluntarily. That involved the representative from IOM and his staff at the time. It was successful to a point where we had an initial group come off, then there were further delays. There was a deliberate view on the part of the UAs that they would not come off. That became rather protracted. We then sought further assistance from AFP negotiators, who were transferred to Nauru and spent some time on the *Manoora*. Ultimately, it reached the point where the minister—Minister Reith, given that it was his assets that we were talking about—indicated that beyond a certain period, and I have forgotten now how long that was going to be, the transfers were to be effected. So a deadline was provided, in essence, as part of the orders. How that was to be implemented on the ground, or perhaps ‘on the boat’ is a better description, was really up to Defence—they were the people on the spot, they knew the risks that were associated with involuntary removal from the boat—and, as we saw on some of the clips, some people were removed physically; whereas most of them ultimately went voluntarily.

Senator FAULKNER—Can you shed any light on suggestions that the SIEV7’s departure—from, I think, Ashmore Reef—was deliberately delayed during the election campaign?

Mr Killesteyn—There were decisions taken on the basis of the preparedness or readiness of the centres to take further UAs. I cannot recall the timing of this, but we were always just one step ahead of the next boat, if you like, in terms of getting centres ready. So there was a number of occasions where we had to hold the boats a bit longer than we might normally if we were simply transferring them to the centres on Nauru and Manus.

Senator FAULKNER—But you are aware of the suggestions being made in relation to SIEV7. I would just like to ask whether that matter was discussed at the task force. In other words, without beating around the bush, did you discuss the question of delaying the departure of SIEV7 until after the campaign launch for the Liberal Party during the election campaign?

Mr Killesteyn—I cannot recall the discussions on each of the SIEVs and the particular issues. What I have told you—and what I stick by—is that we had to get the centres ready. Whether it was SIEV4 or SIEV5 I really do not know, but we had to get the centres ready, and that was always one step ahead of the next boat. There were times when we held people on the boats a bit longer than we might normally.

Mr Farmer—I would like to say two things. One, certainly at no meeting that I attended was there ever any discussion couched in that sort of term of: ‘Let’s do something because of the Liberal Party’s campaign launch—there’s a timing consideration there.’ That would have, I believe, been quite improper.

Senator FAULKNER—I did not think that anyone for one minute would be that unsubtle that they would actually say that. Not even I would think that anyone would be that dopey.

Mr Farmer—Sorry, I misinterpreted your question then.

Senator FAULKNER—I was talking about the delay in the departure of SIEV7. I bracketed what has been said publicly as late as last night on national television for that reason. I am asking whether there was a decision made about delaying the departure of SIEV7, in the broad. I was not suggesting for one minute that people would be, as I said, so dumb that they would actually say at the IDC that it was delayed because of the timing of the Liberal Party campaign launch. No-one would be that gauche.

Mr Farmer—Not only dumb and gauche but improper.

Senator FAULKNER—I hope they would not be that improper.

Mr Farmer—That is right.

Senator FAULKNER—I am not asking whether anyone said it; I am trying to find out whether anyone did it. Did anyone do it?

Mr Farmer—I said that I wanted to say two things. The first thing we have disposed of between us. The second thing is that I do not have a particular recollection about SIEV7. Mr Killesteyn has mentioned one dynamic that was involved in the delay of boats. I am sorry I do not recall which boat it was, but at least one group arrived at Ashmore in an unseaworthy boat, and there was a delay while the Navy was trying to fix up the boat or fix up the engine, or something like that. So there was a delay while the boat was being made seaworthy. That was another dynamic that I recall from the time, but I am sorry I do remember which boat that was.

Mr McMahon—Can I add that in respect of each of the tow-backs there was a sense of urgency about getting them back. It was mainly a logistical issue that stopped them. As Mr Farmer said, there was the issue of making sure that the boat was seaworthy and that the engine was working properly, but the other issue was making sure that proper notification of the Indonesian authorities took place.

Senator FAULKNER—But you would appreciate, Mr Farmer, as I said before, that some of these matters have been raised as late as last evening on national television. I am sure you are aware of that, aren't you?

Mr Farmer—I saw *Four Corners*, yes.

Senator FAULKNER—One or two of my questions—only a few of them—go to those issues that have been raised in the public arena. I think they are perfectly reasonable questions to ask, and it is proper for you to answer them in any way that you see fit.

Mr Farmer—Yes.

Senator FAULKNER—Of course, one of the other issues that was raised was a suggestion that there was a use of electric batons, at least in relation to one of the SIEVs. I think it was SIEV5, but I stand to be corrected; maybe it was another suspected illegal entry vessel. Before that suggestion was made public last night, had you or any of your officers heard of that suggestion?

Mr Farmer—I had not.

Senator FAULKNER—In relation to the department's role more broadly, how does the decision making process that you are a part of at the IDC fit in? How do you link in to the minister and the minister's office? Could you explain that briefly for the benefit of the committee?

Mr Farmer—In terms of the decision making in the high-level group, we have said in another venue that members of the high-level group were not always involved in the preparation of briefing or advice that went to the Prime Minister from the Department of the Prime Minister and Cabinet. It is quite normal for that sort of advice to be, in effect, jealously guarded by PM&C. In terms of advice to the Prime Minister, we were not involved in, as I say, the preparation of every bit of paper. We were on some occasions involved in looking at draft bits of paper prepared by PM&C and offering our comments on those. After those discussions, PM&C would finalise them and send them to the Prime Minister. We were never a party to the broader distribution of those pieces of paper by the Department of the Prime Minister and Cabinet. I think in one case at least the Bryant report says that one of the reports went to Minister Reith. That may have happened on other occasions, but we were not the master of that information. That was one form of product from the IDC prepared by Prime Minister and Cabinet for the information of, or decision making by, the Prime Minister and possibly other ministers.

From the point of view of this department, we were involved in clearly a number of issues that were being discussed in the high-level group: for example, the establishment of the processing centres on Nauru and Manus; the very quick work that was being done on Christmas and Cocos Islands to develop reception capacity there; and information in a general sense about the arrival of boats and what was proposed to be done by the Navy in relation to those. Some of those matters did not call for action outside of the high-level group by this department. They were not immigration matters. Others were: for example, our necessity to liaise with the IOM about setting up the offshore processing centres. We would have taken away from the high-level group the task of implementing the will that that should happen. So we would have, in effect, operationalised that. That would have been in immigration related matters, not everything that the high-level group was involved in.

Senator FAULKNER—I am trying to understand how ministerial decisions were being reflected at the task force. You obviously had regular contact with Mr Ruddock and his staff, did you not?

Mr Farmer—A number of the decisions were the result of the preparation of papers by the Department of the Prime Minister and Cabinet. They were preparing advice which would be referred to the Prime Minister and, as I say, on some issues at least, to other ministers. So the

high-level group would also receive back advice from PM&C about decisions that had been taken on a range of issues.

Senator FAULKNER—Take for example something you have said before about medical treatment of individual asylum seekers: that was a matter for Mr Ruddock to make some decisions upon as opposed to you or another representative of the task force.

Mr Farmer—Yes.

Senator FAULKNER—In the broad, how does that process work?

Mr Farmer—Depending on the urgency of it, on some medical issues we would talk orally to Mr Ruddock's office. On some matters I might have talked to him direct, depending on what it was, who was contactable and so on. On others we would have done advice in writing to our minister as we normally do.

Mr Killesteyn—The high-level group shared information as well as, in a sense, trying to give some strategic direction on the way that the whole particular bits of the strategy were being implemented. In the case of the medical decision, for instance, that would have been raised at the high-level group so that everybody knew what was going on. Then perhaps we would have said, 'That is a decision for Minister Ruddock,' and off we would go.

Senator FAULKNER—When a decision goes out of the task force and the Navy or the Air Force are required to follow an instruction or decision from the task force, how was that communicated out of the task force? I assume it was not done by you.

Mr Farmer—I cannot say for any of the other agencies but, to the extent that the particular issue was to be implemented by DIMIA, if it were a matter dealing with broad policy issues, Mr Metcalfe, the other deputy secretary, may have taken it on. If it were a matter dealing with any of the processing centres, I would take it on. If it were a matter dealing with the construction of the facilities at Christmas Island, Mr McMahon would take it on. How it was organised within each agency essentially depended upon the way in which the secretary or the departmental head wanted to allocate the particular responsibilities.

Senator FAULKNER—Would you be able to tell me how the Navy was told of the government's requirement that SIEVs were not to be permitted to enter Australian waters and were to be returned to Indonesia? Would you know the background to that and how that was communicated?

Mr Farmer—I think that would have been a matter for the Defence representatives coming out of the meeting.

Senator FAULKNER—Were you part of the decision-making process in relation to that issue, for example?

Mr Farmer—I am sorry, I do not follow you, Senator.

Senator FAULKNER—Is that a matter for the IDC or is it a matter for ministers?

Mr Farmer—Sorry, I am being slow. You are not asking a question about processing; you are now asking a particular question about the view that the—

Senator FAULKNER—I am using this as an example about how this is communicated. There are inputs to the task force, there is a capacity for you to seek advice from your ministers and then there are decisions that are made. We were just talking to Mr Killesteyn about outcomes.

Mr Farmer—When decisions came back from ministers, they could have come back in a variety of ways: for example, as a result of briefings prepared by the Department of the Prime Minister and Cabinet, Ms Halton would have briefed the IDC or the high-level group on outcomes there. The high-level group would have been briefed by the relevant departments on other matters being worked on by departments. If there were decisions coming out of the high-level group that had to be implemented, they would have been, in effect, parcelled out to the appropriate agency. Anything to do with the Navy's implementation of a decision would have been taken away by the Defence representative or representatives at the high-level group.

Senator FAULKNER—Did the IDC go to the point of making decisions about, say, a vessel to be towed back to Indonesian waters? Did the IDC, for example, place a caveat that such a vessel must be seaworthy? Was that the sort of decision the IDC made?

Mr Farmer—The general question of tow-backs was discussed by officials and then a decision was made by ministers. I do not recall whether it was a range of ministers. That was the process: discussion by officials, recommendations, decisions by ministers, then implementation.

Senator FAULKNER—Do you recall any of the background to the issue of the seaworthiness of SIEVs to be towed?

Mr Killesteyn—That is a given. Obviously when you are towing back, you hope that the vessel continues to float.

Senator FAULKNER—You hope that.

Mr Killesteyn—Yes. If it is not, you pick them up and you start the process again. With those sorts of operational issues, once a decision had been made that it was a legitimate part of the government's strategy to tow people back to Indonesia, the execution of that decision, given that it was essentially a maritime issue, would have been up to the Navy.

Senator FAULKNER—Excuse me for a moment while I ask the Chair how we intend to handle the situation that we now have in relation to time.

CHAIR—I understand Ms Halton is available in the building and could appear at a moment's notice, virtually, should we now call her. I note that we are one hour and 10 minutes into our questioning since lunch. It seems to me that, if you have a substantial amount of time yet to go, we could excuse these witnesses and call on Ms Halton, put on notice what questions can be put

on notice and, if there are other outstanding questions which require examination directly by the committee, find a time with these witnesses to call them back. That is one option.

Senator FAULKNER—There are some that I will be able to put on notice, but there are probably others that I would prefer to ask. We have lost more time than I think we expected to, but our suggested time allocated has turned out not to be accurate on this occasion.

CHAIR—The other option is to plough on, but I would like some indication of time—

Senator FAULKNER—But the problem I understand there is that for Ms Halton particularly it was extremely difficult to find the available time. I do not know how Mr Farmer is placed. Mr Farmer, if you were able to come back some time for a short time it would be useful.

Mr Farmer—I am going to Darwin tomorrow and I will not be back in Canberra until May—I have a series of commitments in Darwin, then Sydney and then overseas. From my perspective, I would rather continue now. I think that is the only way I can help the committee.

CHAIR—I appreciate that. The problem we are running into is that we do not wish to inconvenience departmental heads or senior public servants and we are trying to accommodate that lack of inconvenience against the role that the Senate has given us to deliver a report on this matter by 16 May. It is proving to be a balancing act, I think, beyond our capability and sooner or later we are going to have to bite the bullet about what we do about our deadline and so forth.

Senator FERGUSON—Chair, I know we suggested this this morning with Mr Farmer, but the government senators have suggested that we will not take up a lot of time with the next witness, and we are prepared to let Senator Faulkner go first. I reckon we should allow him to go till 3.30 and see whether you and he can get in the questions you need to ask directly and whether there are some that can go on notice at 3.30. We are certainly quite willing to allow Senator Faulkner to question Ms Halton first.

CHAIR—There is an offer for you to respond to, Senator Faulkner.

Senator FAULKNER—What is your suggestion, Mr Chairman? I do not know how many other senators are keen to—

CHAIR—I am not sure how long you think your questioning may take, but if it can be concluded—and I am not suggesting it should be—within three-quarters of an hour then we should plough on.

Senator FAULKNER—I think it can be.

CHAIR—I have about 10 minutes of questions; that is all. If we can wrap up by 3.30, given what is suggested, then our apologies to Ms Halton but I think we should plough on.

Senator FAULKNER—I will also need to place some questions on notice, Mr Farmer. It is never as useful as asking them directly, as you would appreciate.

Mr Farmer—We have a very good record of responding to questions on notice pretty expeditiously.

Senator FAULKNER—Yes, but one does not have the advantage of any follow-up questions, as you would appreciate, Mr Farmer.

CHAIR—I suggest we move on.

Senator FAULKNER—Mr Farmer, when did the SIEV4 first come to the attention of your department?

Mr Farmer—The SIEV4 is the one that was right at the centre of things, isn't it? As I recall, it was on Saturday when, in accordance with normal procedures, we had advice from Coastwatch. I think Ms Godwin, the head of the Unauthorised Arrivals and Detention Division, had dealings with Coastwatch on the Saturday.

Senator FAULKNER—So the first information you get is on the Saturday and from Coastwatch?

Mr Farmer—I believe that is the case, yes.

Senator FAULKNER—When did you first get information from Defence?

Mr Farmer—Do you mean that literally—when did I get information?

Senator FAULKNER—When did DIMIA first get information from Defence about SIEV4?

Mr Farmer—I think it was on the Sunday. I believe that the information that Ms Godwin had on the Saturday was from Coastwatch and then on Sunday morning, 7 October, information was provided to the high-level group from Defence.

Senator FAULKNER—Is it true that none of the information—and I note this in Admiral Bonser's statement—provided to DIMIA from Coastwatch mentions children in the water?

Mr Farmer—I believe that is correct.

Senator FAULKNER—So your sources were Coastwatch directly and Defence. Apart from what occurs at the high-level task force meeting, you have information from other agencies in the form of Coastwatch and Defence. Is that right?

Mr Farmer—No, before the high-level group, I believe it was only Coastwatch and Ms Godwin.

Senator FAULKNER—I see. At any stage, were warning bells rung for you because there was no written material from Coastwatch or Defence about the fact that children had been thrown overboard? I ask you that given your central role, which we have previously canvassed and which I do not want to canvass again, in this issue being placed in the public arena.

Mr Farmer—The written advice that came out of the high-level group on the night of 7 October was discussed in that group. That contained the sentence, which I am sure you have read, relating to passengers throwing their children into the sea.

Senator FAULKNER—Yes, but you also knew not too long after that, of course, that children were not thrown overboard. When did you become aware of the fact that there was some dispute about the fact that children had been thrown overboard?

Mr Farmer—Can I just make one observation about this? You will notice that, on that piece of paper which I am sure you have, the report of the task force on the night of 7 October contained a caveat in relation to the number of people on the boat—90 men, 42 females and 54 children, ‘but this number may not be reliable.’

Senator FAULKNER—Yes.

Mr Farmer—When it talks about the attempts to disable the vessel, passengers jumping into the sea and passengers throwing their children into the sea, there is no caveat. There was certainly no alarm bell then. I said in another place that between 7 October and 7 November, as far as I was concerned, no information was received officially by me that cast any doubt on that report. I do not believe that it was discussed in the high-level group. No-one has ever mentioned to me that it has been.

Senator FAULKNER—Who was there on 11 October at the IDC? That is an issue that I raised before lunch.

Mr Killesteyn—I think I was, Senator.

Senator FAULKNER—Mr Killesteyn, do you remember what Admiral Bonser recalls—and I do not know whether you have read it—in his submission to the Powell report? Let me read it to you:

Additionally, at an interdepartmental meeting of the UBA group, held on 11 October 2001, I made note of an exchange between representatives from PM&C and DIMA along the lines that one or the other were apparently ‘concerned about (the) veracity (of reports) of children going into (the) water’.

Given that you are the representative, Mr Killesteyn, can you shed any light on Admiral Bonser’s witness statement?

Mr Killesteyn—I regret that I cannot shed any light. I do not recollect any discussion at the IDCs about children overboard.

Senator FAULKNER—You cannot help us? The admiral seems to have a pretty clear recollection that this was between a DIMIA officer and a PM&C officer.

Mr Killesteyn—Yes.

Senator FAULKNER—Were you the only DIMIA officer there?

Mr Killesteyn—I do not know that. I was certainly there. But bear in mind that during that particular incident on 7 October I was not even in the country. Any notion that I brought some particular information, about an event that I only became aware of when I returned from Nauru, I find odd. I certainly cannot recollect that discussion.

Mr Farmer—Senator, could you give us the reference, please? You mentioned the Powell report.

Senator FAULKNER—I assume it is Admiral Bonser's, but it may be the Bryant report.

Senator JACINTA COLLINS—It's not the report—it is a statement.

Senator FAULKNER—Sorry, the witness statement. It may be to Ms Bryant's report; I am not sure. I have them all bundled up into one great big heap alphabetically.

Mr Farmer—I do not think we have seen that.

Senator JACINTA COLLINS—No, you would not have.

Senator FAULKNER—Okay. Is it Bryant or is it Powell?

CHAIR—Bryant.

Senator FAULKNER—It is Rear Admiral Bonser's witness statement to the Bryant report—the second last dot point.

Mr Farmer—We do not have that.

Senator JACINTA COLLINS—It has been released, hasn't it?

Senator FAULKNER—Appreciating that you do not have it, could you provide for me any information as to anyone who was present at the meeting, apart from Mr Killesteyn, who can throw any light on the exchange between Prime Minister and Cabinet and your departmental representatives.

Mr Killesteyn—I am just checking the records of other DIMIA representatives at the meeting and I can only see my own name there.

Senator FAULKNER—And you cannot help me?

Mr Killesteyn—As I said to you, 11 October was the second meeting after I returned from Nauru. I left for Nauru on Sunday the 7th. I was not aware of any of the events associated with SIEV4 until I got back and read them in the newspaper like most other people. So I am quite confident that, in terms of any suggestion that I as the only DIMIA representative made reference to some concerns about the veracity of information, that reference certainly did not come from me. I was not in the country.

Senator FAULKNER—Thank you for that. Mr Farmer, I will place on notice a range of questions about the costs of the Pacific solution. I know that Senator Bartlett asked you one or two this morning. I might ask some specific questions about that and some comparative costs along the lines of one or two questions asked by my colleagues and taken on notice at estimates. We might be able to deal with the matter quickly in that way. If I could ask you to turn that around at your earliest convenience I would sincerely appreciate it.

Mr Farmer—We will do our best.

Senator FAULKNER—On a general issue, have we had any changes to protocols or processes in relation to departmental processing of information relating to suspected illegal entry vessels—this is between the department and the minister—in the light of the experience around SIEV4 particularly, but going through the process from pre *Tampa* through operation Relex to the current day? Have there been any changes of departmental process put in place?

Mr Farmer—I do not believe so. As you know, we have not had any boat arrivals this year—we have not had some for months—so the question has not been live. In a general sense, I can say to you that my approach has been, and remains, that if we say to the minister something that proves to be incorrect then we would advise him of that as soon as we possibly could. I think that is a heavy responsibility and one that I take very seriously, and I would do that no matter what the consequences. I am not only talking about boats; I am talking about anything in the department. That was why I reacted as I did on 8 November when I saw the first—for me, anyway—official suggestion, or at least the indication of an official suggestion, that that advice of 7 October was incorrect. I moved very quickly to establish whether there was any cause for follow-up action there.

Mr McMahon—Can I just add to that by saying that during November there was quite a bit of discussion around the issue of information being passed down and what the protocols should be. SIEV4 was not the stimulus to it but simply—because of the Defence involvement—a change in the relationship about the way information was being distributed. Up to that time, Coastwatch had been the central point. With Defence taking a pivotal role in respect of border protection, there was considerable discussion about the need to actually make sure that information flowed through in some single way. So I am just registering the fact that the issue of protocols and information transfer was quite a significant issue at the high-level task force for some of November.

Senator FAULKNER—Mr Farmer, since we last canvassed this issue at the Defence estimates, when you were able to reflect from the perspective of, I recall, a man in the street at the time—

Mr Farmer—I am trying to forget that, Senator, but thank you for bringing it up.

Senator FAULKNER—I did not mean to embarrass you, but I did want you to reflect, nevertheless, on any mistakes made, if you believe there were any. I am talking here about a departmental perspective—a DIMIA perspective—and if you could reflect on any mistakes made and lessons learnt. Have you had an opportunity to do that? If so, please share it with us.

Mr Farmer—Yes, Senator. Certainly in relation to DIMIA I believe that we pursued our responsibilities very effectively during that period. I made no bones about the fact that, acting in good faith and, I think, professionally, I passed on to Mr Ruddock information that, very much later, proved not to be well-founded. During the early bit of November, when I saw a suggestion that it might have been ill-founded, I immediately took steps to try to establish whether that was the case. The steps I took satisfied me at the time. They were not effective, as it turned out, but I believe that I took the necessary steps, and I certainly believe that my colleagues performed outstandingly under extremes of pressure. The huge demands that were put on them at that time I think were unprecedented. One of my reflections is that the Australian people are very well served by the public servants who work in this department.

Senator FAULKNER—What about the lack of a paper trail, Mr Farmer? Is that a matter of concern, on reflection?

Mr Farmer—For me, no. I am concerned with effectiveness and with outcomes. That means that I am concerned about paper trails where there is a quite appropriate requirement for a paper trail, in an audit or other sense, but successive governments have made it clear that they want a public service that is able to be flexible and get the job done. That, for me, does not mean producing huge mounds of paper; it means looking at what is the most appropriate and effective way of getting something done.

Senator FAULKNER—What about the passing on of uncorroborated oral advice?

Mr Farmer—I do not know that I would accept that characterisation of what happened on 7 October. I have already said that that was a high-level group meeting, that anyone in that meeting who was told anything by me about an immigration matter had the right to assume that that was authoritative advice from the Department of Immigration and Multicultural Affairs. Similarly, I and other DIMA officers had a corresponding expectation that anything said to us by representatives in the high-level group was an authoritative statement from their organisation. If there were caveats about material, then we had a responsibility to reflect those caveats. If there were not—I have already said to you in relation to this particular matter that there were not—then we had the right to take the information given to us by, in this case, Defence.

Senator FAULKNER—Have you come to the conclusion that some things ought to be done differently in future?

Mr Farmer—I have certainly come to the awareness that the process that led to that information coming into the high-level group was flawed and that, of course, has been at the centre of much of the discussion in this committee and in other places. I think that is the lesson that others are drawing—that before that sort of statement is made in that sort of meeting, then things should be properly corroborated.

Senator FAULKNER—Yes, of course, but what about before it is disseminated?

Mr Farmer—I have already said that if a representative in a high-level group passes on information without caveats, then the other representatives in the high-level group have an expectation that that information is well founded. You do not go into a high-level group and say,

‘Well, the Attorney-General’s Department says this about the law, but how do we know this? Perhaps the Attorney-General’s Department had better check it,’ and then go through every bit of advice and send people away. You had senior officials there who were supposed to be participating in a high-level group and I think talking authoritatively about the things that—

Senator FAULKNER—But the whole aim of the exercise was to get it out as quickly as possible—this may not have been your imperative but the government’s imperative—to use it for political advantage. What happened, of course, was that something that was utterly false was splashed on the front-pages of literally million of newspapers within a matter of hours.

Mr Farmer—In relation to the point you have just made, Mr Ruddock was acting on the basis of advice given to him by me and I told him—

Senator FAULKNER—Which was wrong.

Mr Farmer—Yes, but he did not know that and I did not know that until very much later.

Senator FAULKNER—But you do accept that it is wrong now, at least?

Mr Farmer—I have read the Bryant report and I have followed some of what has gone on in the processes, so yes, I do.

Senator FAULKNER—You said to me more than a month or so ago now that you felt that you were in the same position as a man on the street. Do you still think that you are in the same position as a man on the street?

Mr Farmer—What I was saying to you then, Senator, was that I had not had the responsibility of forming an official view on the information and coordination processes within the Department of Defence. That was not my role or responsibility and still is not. You are running an inquiry, not me. I receive information from a variety of sources and I have just told you what my own personal conclusion is. That is on the basis of reading the sorts of things—

Senator FAULKNER—It is important. You are a senior public servant in this country and your reflections are important, I would have thought, in terms of ensuring that such an exercise does not occur again.

Mr Farmer—Yes. But if I had given incorrect information in a different manner—namely, to a group—and then I had found out that it was wrong, I would have done what I do with Mr Ruddock, if I know something to be wrong or if something has gone wrong. Then I believe it is my responsibility—

Senator FAULKNER—But in this case you accept no responsibility?

Mr Farmer—No, I don’t say that at all. I have been quite clear, Senator: I don’t shy away from what I have done. I told Mr Ruddock the information that he subsequently used. I told him that in good faith based on information out of the high-level group.

Senator FAULKNER—As you know, the secretary of the Department of Defence offered the minister his resignation because of his own perceived failings. The Chief of the Defence Force gave this short-term consideration. Have you thought that any action might be appropriate on your part?

Mr Farmer—No, I haven't, Senator.

Senator FAULKNER—Just business as usual?

Mr Farmer—I have not thought that any action of that sort on my part would be—

Senator FAULKNER—No, but of any sort?

Mr Farmer—Well, yes.

CHAIR—I have a few questions, if I may, Mr Farmer. Is the task force—the high-level group, as you have referred to it—still convened? Does it meet from time to time?

Mr Farmer—Yes, it is, Senator.

CHAIR—It is ongoing?

Mr Farmer—It is ongoing.

CHAIR—I think you said earlier—

Mr Farmer—I am sorry, I should say it is meeting less regularly now than it was because, obviously, the flow of boats has stopped, but there is still a variety of matters, for example relating to offshore processing, that need to be coordinated.

CHAIR—And a variety of matters relating to the changing strategic situation, too, no doubt?

Mr Farmer—I am sorry, I do not understand the point you are making.

CHAIR—There is now a new government in Afghanistan. It would seem that the flow of refugees from that country, if not halted entirely, has been reduced to a trickle. That is a change from what applied previously.

Mr Farmer—Yes.

CHAIR—And that is something that the task force would be aware of and note?

Mr Farmer—That is so.

CHAIR—According to the Bryant report, as I recall it, you were the officer present at the task force meeting on 8 October.

Mr Farmer—I do not think there was a meeting on that day, was there?

CHAIR—Which day was it, the 7th?

Mr Storer—Sunday the 7th

Senator JACINTA COLLINS—There were two.

CHAIR—There were two meetings that day—thank you for that correction—but you were present—

Mr Farmer—I was present at both, and I think one or two other DIMIA officers were at both meetings as well.

CHAIR—According to the Bryant report, your mobile phone rang during the course of that meeting.

Mr Farmer—That is right.

CHAIR—And the caller was the minister. You received a call from him.

Mr Farmer—Yes.

CHAIR—How far into the meeting did that occur?

Mr Farmer—I think we have established, Senator, that the meeting started at about nine o'clock and the call—

CHAIR—That is Canberra time?

Mr Farmer—Canberra time, yes.

CHAIR—Because we have got into all these time-zone difficulties about who was where at what time, given different parts—

Mr Farmer—The minister was on the east coast, so we are safe, and the phone call was at about ten to 10.

CHAIR—Sorry, the meeting started at?

Mr Farmer—Nine o'clock.

CHAIR—I do not need to know what the minister was ringing you about, but was the subject of his call the fact that children had been thrown overboard, or that allegation?

Mr Farmer—No, the minister did not know of that when he made the call. Mr Storer might say something, because he was at the other end of the line with the minister.

Mr Storer—I was doing the ringing.

CHAIR—You were in the minister's company, Mr Storer?

Mr Storer—I was, Senator.

CHAIR—So, between you and Mr Farmer, we have evidence about what happened at both ends of this call?

Mr Storer—Yes. As I said in the testimony I gave before at the legal and constitutional committee, this was a long engagement that the minister had. The other piece of evidence that was also provided was that at six o'clock that morning there were news announcements about this boat. I do not know where they came from, but we heard on the ABC news that this was an interception. So, when the minister arrived at this function at about a quarter to 10—he was to start the function at 10 o'clock—there were many more media than expected. He asked me what was going on and I said, 'I understand that there have been announcements on the news about this new boat that has been intercepted by the Navy. You might want to talk to Mr Farmer to find out what the latest information is.' At about ten to 10, or a bit later—9.51 to be precise—we rang Mr Farmer, and he took the call and conveyed the information.

CHAIR—You arrived at this function at quarter to, you saw the assembled throng—the ladies and gentleman of the fourth estate—and, prudently, given that you were two days into an election campaign, the minister rang the departmental head to find out what the latest information was about the report on the ABC that the boat SIEV4 had been intercepted?

Mr Storer—I had arrived earlier than the minister at this function that had been set up before the election was called. As a matter of information, the convention arrangements did not start until the Monday—the 8th. The media had come to me and I said, 'What are you all here for?' They mentioned all this. So when the minister arrived I informed him of this. I did not know, for example, that Mr Farmer was at that particular meeting.

Senator FERGUSON—And the minister knew nothing about it either?

Mr Storer—At that stage, no.

Senator FERGUSON—He had not heard the news reports?

Mr Storer—I cannot comment on that. He did not respond to that particular question.

CHAIR—So the point of the phone call was?

Mr Storer—To find out what was going on.

CHAIR—The minister was going to be asked a question; that was patently obvious—

Mr Storer—Yes, about the boats.

CHAIR—and the minister needed to be up-to-date with the information—

Mr Storer—That is correct.

CHAIR—so he could frame his answers to any questions that might come?

Mr Storer—Yes. Can I say that the meeting that had been already arranged for a week dealt with all the legislation that the parliament had passed in the previous two weeks, when there were seven bills, you may recall—certainly Senator Bartlett could recall it—and was to convey to a range of people, including ethnic media, in particular, in Sydney, the outcomes of all this. So it was pertinent—this boat arrival.

CHAIR—Any editor would have had on their program for that day this meeting, which had been long planned, and the subject for it. They would know that an election campaign was under way and that this was a hot issue up until the election campaign. They would no doubt have monitored the ABC and advised their reporters that they wanted some questions to be asked. All of that is a reasonable presumption, isn't it, and a presumption that you made at the time?

Mr Storer—Yes.

CHAIR—So the phone call came to you, Mr Farmer—and what did you say, Mr Farmer?

Mr Farmer—As a bit of background, you have to understand that the meetings were, of course, concerned with a great many issues and a lot of coming and going. On that morning, we had been told at the meeting from Defence. There had been some discussion about who in Defence provided that information, but we will leave that aside for the moment.

CHAIR—Yes, I have left it aside for the moment. It was before you in whatever form it got there?

Mr Farmer—It was before us. I had the phone call from Mr Ruddock who, in effect, said that he was going into a media conference and he wanted to know the latest factual information about this boat that had been reported in the morning. I told him that I was in the high-level group. I stayed at the table in the high-level group, and I made clear to him that I was doing that because I wanted to make sure that the information I was giving to him was properly understood by me and by the members of the group.

CHAIR—My understanding is that, sotto voce, you had this conversation with the minister—

Mr Farmer—No, it was not sotto voce.

CHAIR—You had this conversation with the minister on your mobile phone—

Mr Farmer—Yes.

CHAIR—while the high-level group paused and listened in.

Mr Farmer—That is right. I told him that we had had advice from Defence which was significant because it essentially came in three parts: that passengers were wearing life jackets—and we have talked earlier on about the significance of that—that some were jumping overboard and that passengers were throwing children overboard. Those were the three elements, and they were three new elements.

CHAIR—Did the minister interrogate you about the details of that?

Mr Farmer—I said we did not have any great degree of detail.

CHAIR—This is subject to checking but—I think my recollection is accurate on this—that is essentially what the minister told the media, is it not?

Mr Farmer—That is right. Those were the factual elements that he received and passed on.

Mr Storer—He did not tell them immediately. He went through his normal procedure of talking about the legislation, which they were interested to hear, for an hour and a half or an hour and a quarter. At the end of that, he passed on the information that Mr Farmer said, because people started to ask questions about it.

CHAIR—One suspects that, while everyone was interested in the prime subject, the media at least thought this was a hot story and wanted to get more detail about that—

Mr Storer—That is probably correct.

CHAIR—and were anxious to get to that point.

Mr Storer—They were anxious to hear about the boat.

CHAIR—Yes. All that sounds to me to be prudent and responsible behaviour by the department in your case, Mr Storer, and in your case, Mr Farmer. But what you have said is that there were no specific details available about the background to this incident. Did the minister come back to you at any other point to ask for more and better particulars?

Mr Farmer—No, not until some time in November. In between that time, he had received the report produced by the Office of National Assessments.

CHAIR—That is the report of what the newspapers said.

Mr Farmer—As we now know. We did not know that then.

CHAIR—But it is in their report: this is a run-down of what the newspapers are saying.

Mr Farmer—I do not think the ONA report says that. I think ONA—

CHAIR—That is a matter of fact. We have a copy of that report.

Mr Farmer—I believe that he had seen the ONA report. I do not believe that there was other information from the department made available to the minister. I cannot say what information he had from other sources. The next contact I recall with the minister's office was not until 7 November.

CHAIR—Did the minister have any other press conferences between that day and 7 November?

Mr Farmer—I believe so. I think he was talking to the media—obviously it was during an election campaign so he would have been talking quite a lot. I think that he was making statements on this matter, certainly in the early day or days of that week beginning Monday, the 8th.

CHAIR—The minister strikes me as being someone quite precise about what he says to the media and, in particular, about being accurate about what he says. Did the minister come back to you for further and better particulars at any point? I think you have said that he did not come back to you until 7 November.

Mr Farmer—That is right. His office came back then.

CHAIR—Did any journalist approach you or your department about further and better particulars of this incident after the minister's announcement?

Mr Farmer—Certainly not me. During the election campaign we would not have been talking much to the media.

CHAIR—No. You were in caretaker mode.

Mr Farmer—Yes.

CHAIR—But can you state for a fact whether or not further inquiries came to you or your department, given that your minister had made this announcement?

Mr Farmer—I do not know of any. Mr Storer's division handles the public affairs matters.

Mr Storer—I would need to go back and check, but I do not recall it, because of the fact that on the Monday it went into caretaker mode and so any public affairs material would have been—

CHAIR—Flicked to the minister?

Mr Storer—flicked to the minister's press person.

CHAIR—Your department strikes me as one that prides itself in its efficiency and in anticipating what is required. Indeed, Mr Storer had anticipated accurately the needs of the

minister at the press conference that day. Did you make any further inquiries, in case you were asked or so that you knew, as to what further and better particulars there might be about the alleged incident?

Mr Farmer—Can I just say something. Clearly, the issue is at the centre of a lot of attention now. At that time, as I have said, I was the instrument of the information being passed to Mr Ruddock. But essentially this was not an immigration matter and, as I have already said, with the sorts of things we were working on, we were really preoccupied with other matters. So this question—I am just saying this as a statement of fact—was not on my mind as something that the department of immigration needed to pursue. We had had advice from Defence; it had been confirmed in the advice to the Prime Minister and, frankly, we moved on.

CHAIR—You are anticipating me to some extent, because I will ask you in a moment about why you made no further inquiries, but let me just stick with where we are in time at this moment. Mr Storer, in the minister's presence, had identified the media's interest in SIEV4, following the ABC report that morning. He had advised the minister to ring you to get better and further particulars so that he could front the press conference and answer authoritatively. You give him the information that it has been reported to the committee at which you are in attendance that, among other things, children, or a child, may have been thrown overboard—or have been thrown overboard. The minister goes public with that information about an hour or an hour and a half later and it becomes the spectacular news that—two days into an election campaign—graces the front page of every major newspaper and electronic media outlet. Are you inviting us to believe that that is where your interest in this subject stopped?

Mr Farmer—I am not inviting you to believe anything. I am simply telling you what I believed to be the case. From the evening of 7 October, when that written advice was provided—and that has been tabled, so you have that—until 7 and 8 November, for me the issue did not arise. We had other issues and there was no official information that came to me. There was obviously discussion in the media.

CHAIR—So you have said. But the point is—

Mr Farmer—And I do invite you to take note of that.

CHAIR—I do take note of it. Believe me, I take note of it. But the point is: this is a department with a reputation for thoroughness and a minister punctilious about accuracy, and he gives a broad statement to the media. The obvious follow-up questions were these. Did anyone drown? What gender were they? Was anyone missing? How many? Was it a random act or was it an organised event? Were refugees—and this is in the purview of your department—in something like a hostage situation, saying to the Navy, 'If you take us to Australia, we'll throw even more children overboard'? Was that the type of stand-off? They are valid questions, are they not?

Mr Farmer—They might be, but I do not know that those questions were pursued at that time.

CHAIR—I know, but that is what the evidence is saying. My question is: why weren't they? They are valid questions.

Mr Farmer—I have heard some of the statements from Defence about what was in the ether on the 9th, 10th, 11th of October, or whatever it was. But equally I am saying to you that, as a matter of fact, I had no doubt about that advice on 7 October and that the matter did not come across my sight until 7 November.

CHAIR—I am asking you why you did not take action.

Mr Farmer—Because, Senator, this was a Defence matter, not an Immigration matter.

CHAIR—Mr Farmer, if I may, it was not a Defence matter.

Mr Farmer—And it was not a matter that had for me been the subject of any doubt. No report came to me from the high-level group or anyone else that suggested that there was doubt as to the facts of that matter.

CHAIR—Mr Farmer, where I am struggling is that it is a matter for you to tell the minister that this alleged event occurred. It is a matter for your department—and, as I said, quite reasonably so—to pre-arm your minister about further and better information concerning this incident prior to a press conference. That is quite proper behaviour. Let us pick one of what I regard is a series of valid questions. It seems to me to be of passing importance for your department to know how organised, how structured, how threatening and how often this event may be repeated. They are the follow-up lines of questioning that commend themselves to the mind as being further information that your department would want to know about.

Mr Farmer—Indeed, and we sent investigators to talk to the people on SIEV4 and they produced a report, a copy of which you will have in a declassified version.

CHAIR—Yes. What is the date of this report? It is 23 November.

Mr Farmer—That is right. They went to Manus on the weekend, I think, of 10 and 11 November.

CHAIR—And you are saying that the minister or his staff never came back to you with any further questions, either?

Mr Farmer—They came back to me on 7th November—that is, the minister's press adviser did.

CHAIR—With what, specifically?

Mr Farmer—He had seen an article in the *Australian* of 7 November headed 'Navy officers contradicted Reith'.

CHAIR—And he came back on that basis?

Mr Farmer—The press officer basically rang me to ask from where the original information came to the minister, and I told him quite clearly that it had come from me and the basis on

which it had come to me. I said I had heard nothing that questioned or contradicted that information, and I pointed out that Mr Reith's spokesman was being quoted that day saying, 'Mr Reith has no reason not to believe the reports he has received from senior officers in the Navy.' In other words, the Defence portfolio was in the press on the same day, using the words that I have read out.

CHAIR—Let us just go back to this event and recreate it again. The minister has a front page splash on the Monday but he does not ask you another question about this event. You have given him only the generality, none of the detail; you are saying to us that he does not ask you another single question until his press officer contacts you on 7 November, almost a month later. Are you saying he did not ask you a single question about this event?

Mr Farmer—That is right. I have also said to you, Senator, that I do not know each and every contact that Mr Ruddock or his office had on any matter.

CHAIR—I know. That is a matter for him.

Mr Farmer—That is right.

CHAIR—You may know but you would not be an authority on knowing. You may know inadvertently, I am saying.

Mr Farmer—But if I knew I would tell you.

CHAIR—Sure. I am not suggesting that you are withholding information, Mr Farmer. I am actually agreeing with you that you are not the person we should ask as to how many press contacts Mr Ruddock's office had.

Mr Farmer—It is pertinent that, because many of these incidents were fast moving, a number of the contacts were between Mr Ruddock's media adviser and the chair of the high-level group that was really the one most up to speed with the most recent developments.

CHAIR—Mr Ruddock had several press conferences during the election campaign and many of them ahead of 7 November when you next got a question. Did the department not think to supply him routinely with a brief setting out the further particulars? It is of some interest how this issue was managed, how this issue was resolved, who the people were involved in it, what the implications were for your department, as well as the policy you were pursuing. Did you not prepare any such brief?

Mr Farmer—Not on this matter, no. The important thing is that you are the master and possessor of a lot of detail, including detail from the Defence portfolio, that was not available to this department at that time. I am simply saying to you factually what happened.

CHAIR—Why I am reacting as I am, Mr Farmer—since you raise this question—is that I have been a minister for some time and I know how ministers and departments tend to act when there is something like a crisis or a major event. Ministers tend to want to know everything about that so that they are authoritative, fully briefed, and can speak honestly and accurately about those events. Departments want to serve their minister by ensuring that information is

available to their minister. Usually, if a highlight event such as this happens, there are follow-up briefs to explain what else has happened in case there are follow-up questions to the minister. It seems to me that what you are saying is that after the initial press statement there was silence until 7 November. I just think that does not look to me at all like normal operating practice for either a minister or a department.

Mr Farmer—There are several things to say, Senator. One I have already told you about—Mr Ruddock's media adviser being in liaison with the chair of the high-level group. Secondly, we were in caretaker mode from noon on the 8th and that—

CHAIR—Did that prevent you telling him about further SIEV incidents?

Mr Farmer—No, not at all. I am just saying that was an element—

CHAIR—I understand the caretaker provisions.

Mr Farmer—And the third thing is that—and I hope that this does not seem incredible—the children overboard was not the biggest issue for me from 8 October—it was not on the screen. We were developing contingency detention facilities in Australia; we were working to develop facilities and take care of a range of matters on Christmas and Cocos Islands; we were involved in discussions with IOM and people on Nauru and Manus and implementing arrangements there. As I said in response to a similar question from Senator Faulkner in the estimates process, we were then in a challenge rich zone. This issue was not on the screen. It might seem strange to believe, but I am simply telling you the facts of the matter.

CHAIR—I am quite ready to believe that it was not the biggest issue on your plate, but it was on every TV screen and on the front page of every newspaper, and it related to your portfolio. I have difficulty accepting that no further follow-up questions or pieces of information were taken. But that is what you have said, and I have to accept your evidence at that point.

Mr Farmer—That is as it relates to action by the department. I have said that I cannot say what other approaches might have been made.

CHAIR—I do not have time to pursue this any further. How many people smugglers have been prosecuted?

Mr Farmer—It would be many dozens if we take into account the people who have captained boats that come to Australia. I will take that on notice and give you the exact details.

CHAIR—I think I said earlier that SIEV4 made, in gross terms, roughly \$1 million for the smugglers. What their actual clear profit was, after you take out their operational expenses, is not clear. But we agree that it is handsome and it is huge. I note that you nod affirmatively to that.

Mr Farmer—Yes.

CHAIR—So this is a very lucrative trade. I think we agreed that it is second only to drug running as a form of criminal industry which makes a lot of money. It was the policy, when you apprehended a SIEV, to try and get them to steer the boat back to Indonesia as a first priority rather than arrest the smugglers. That was a matter of declared policy—am I right?

Mr Farmer—I think in practice that is what has happened. I do not recall the AFP being involved in any of those tow-backs. But it is a factual question whether those people went back on the tow-backs. I believe that is the case, but I think the Defence people would be the masters of that detail.

CHAIR—I have no further questions at this point, but I have a number of questions that I will put on notice. Some of them are questions that I would have preferred to ask directly, but I do note that you have said that you deal with these things promptly. I have not had experience of your department before. I know that some do not, but I am mollified by that comment and I look forward to the answers.

Senator JACINTA COLLINS—There is one issue that you raised, Chair, that I would like to take one step further, because Mr Storer looked at that moment as though he wanted to make a comment. It relates to a question that I would have asked him in your discussion with Mr Farmer just a moment ago. Mr Storer, were you present at the interview where Minister Ruddock, I think, was asked the question: ‘How many children were there?’

Mr Storer—Yes.

Senator JACINTA COLLINS—Was there no follow-up question to you from the minister to try and clarify that information?

Mr Storer—No, there was not. He basically said, ‘We don’t have information.’ He just repeated what Mr Farmer had said: ‘I don’t have any information on numbers.’ There was no interest in the media, frankly, to follow up that question at the time. Can I just say that the media were particularly interested in the fact, in the second part of the information, that people had come prepared with life jackets on.

To my way of thinking, listening to the interview later, there were surprisingly few questions on the ‘children overboard’ issue. You said it made a big splash. I was a little bit surprised to see the newspapers the next day—I have just got a transcript—and I would say that only about three questions related to children overboard. They went on to ask a whole series of other questions about the boat arrival, the boarding party and questions like that, and a lot of questions about the preparation regarding having life jackets on. I think it is fair to say that that is the point the minister particularly focused on when he heard the information from Mr Farmer.

Senator JACINTA COLLINS—That is fine, Mr Storer. It is just that I recalled from the transcript of the interview the minister was asked how many children, he was unable to answer and, as with Senator Cook, I am just a bit surprised that the minister did not seek clarification on that point, according to your evidence.

Mr Storer—Yes, he did not.

Senator JACINTA COLLINS—Mr Farmer, another question arising from some of the additional material we have picked up since estimates is that Air Vice Marshal Titheridge says that in providing the information to the IDC he would have caveated it. Can I be clear that your evidence is that you were provided with no caveats about the nature of the information?

Mr Farmer—Yes, Senator, you can be quite clear about that. And the document of the evening of 7 October, which was looked at in that meeting, does not have a caveat.

Senator JACINTA COLLINS—There is a question there. Air Vice Marshal Titheridge claims there was a meeting post the evening IDC meeting and we have some other participants in the IDC meeting that evening who claim that they did not see that report, so that is still one thing we have got to get to the bottom of.

Mr Farmer—Well, that is not my—

Senator JACINTA COLLINS—No, I am not asking you that question, but you are saying that there was this report and I am saying yes, but the stand in that is still not quite clear. There are only two other things that I wanted to go to and they relate to questions that Senator Faulkner was asking Mr Killesteyn earlier. Rear Admiral Smith provided us with a number of statements, and this one pertains to SIEV8 and a statement by Lieutenant Commander Heron who was the Commanding Officer of HMAS *Wollongong*. This has not been made public yet, but I should read you the full paragraph. Page 3 of his statement in the matter of the boarding of SIEV8 reads:

That evening the UA's decided that they would not eat, stating that they were too sad and wished to die if they could not go to Australia. At 1711 I briefed holding party to maintain resolve and reiterate GOAS intention with reference to AI.

I presume that is Ashmore Island. It continues:

Both Boarding Officer and Holding Party I/C's achieved this using the message that Quote the government of Australia will only make a decision on whether or not to take you to Australia if you voluntarily go to Ashmore Island, behave and await the government of Australia's decision. Unquote.

Is that an example of one of the scripts that would have been worked on by the working party?

Mr Killesteyn—It is not in the scripts that I was involved with, Senator.

Senator JACINTA COLLINS—But until you collate them all in answer to the question on notice you cannot be clear; is that right?

Mr Killesteyn—Yes.

Senator JACINTA COLLINS—The reason I raise this example is because immediately after that—

Mr Killesteyn—Sorry, Senator. I might just clarify that one of the important messages that we were seeking to provide all unauthorised arrivals with was that the processing of any claims that they may have had could not commence until they had been settled into a particular processing facility. If they continued to behave in a way which was putting threats to the

Australian government in any way, then our message back to them was, 'We are not going to proceed with processing. If you want to make claims you have to provide yourself, make yourself available in an orderly fashion with good behaviour.' It was a clear, very strong message to all of them.

Senator JACINTA COLLINS—I have no concern with the content of that message. I am seeking to understand the full context. But the next stage of this statement goes on to say:

Ongoing de-escalation continued using moral ascendancy in order to maintain the status quo.

Do you have any idea of what is being referred to as 'moral ascendancy'?

Mr Killesteyn—It is not in my language or my lexicon. I do not know what 'moral ascendancy' means.

Senator JACINTA COLLINS—I did not think it would be DIMA scripting, but I was just curious if you had anything to offer on that. The other relevant part of this, though, is that on this particular SIEV the UAs had what this statement describes as an 'obvious misapprehension of the UA's over sovereignty of AI'. They then had a 'change of heart based on understanding that AI is Australian territory and not Indonesian'. But what this statement does not go on to say was that they were actually apprised of the status or how arriving on Ashmore Island would impact on their potential status as an asylum seeker. So, in Senator Faulkner's question about the scripting, I would like to know if that issue was addressed as well.

Mr Killesteyn—I will take that on notice.

Senator FAULKNER—Were you scripting for SIEV5, SIEV7, SIEV11 and SIEV12? You mentioned that you had copies of the scripting for the eight SIEVs. Are you aware of which department holds the scripts for SIEV5, SIEV7, SIEV11 and SIEV12?

Mr Killesteyn—No, I am sorry, I don't know. In fact, I am not even sure whether scripts were essentially provided in those cases. I would have to simply take that on notice.

Mr McMahon—I do not believe there were scripts for those.

Senator FAULKNER—Why weren't there scripts for those ones?

Mr McMahon—There was some general protocol about the way they dealt with people when they first came—asking them to leave, that they were entering an illegal area or crossing a border et cetera. We did not have a lot of involvement in respect of some of the turnarounds, while we obviously had a lot of involvement when people were being moved on to Christmas Island or from Christmas Island to Nauru or wherever.

Senator FAULKNER—But the scripts go to the communications between the Australian government, effectively, and the asylum seekers—those on board the SIEVs.

Mr Killesteyn—That is true; but, as I clarified in my earlier remarks, a transfer to a processing facility was being put in place. DIMIA had the responsibility for that because we were managing the processing facilities through IOM.

Senator FAULKNER—But, as a department, everything you say to them, or want to say, goes through the IDC on people-smuggling.

Mr Killesteyn—In relation to the preparation of those scripts, which were for people being transferred to Manus or Nauru, they were initially drafted in consultation with all the members of the IDC.

Senator FAULKNER—But you had no involvement with scripts for people on SIEV5, SIEV7, SIEV11 and SIEV12?

Mr Killesteyn—No. And, as I said to you, I am not even sure whether scripts were provided. I just do not know the answer to the question. I can take it on notice.

Senator FAULKNER—Were provided or were provided to the task force?

Mr Killesteyn—Even to the task force. The issue essentially with the tow-backs was that a decision had been made by government that tow-backs were a legitimate response to some of these boats. Having made that decision, it was then for the Department of Defence, through the Navy, to execute the tow-backs. Ultimately, it was not a DIMIA responsibility.

Senator JACINTA COLLINS—So there may be Defence scripts?

Mr Killesteyn—There may be, but I cannot say categorically.

Senator FAULKNER—Anyway, Ms Halton may know that.

Senator JACINTA COLLINS—My final issue takes you back to the statement by Rear Admiral Mark Bonser. I am not sure that the earlier discussion showed it in its full context. The statement indicated:

... at an interdepartmental meeting of the UBA group, held on 11 October 2001, I made note of an exchange between representatives from PM&C and DIMA along the lines that one or the other were apparently “concerned about (the) veracity (of reports) of children going into (the) water”.

Is it possible that you were the ‘other’ who was hearing another party raise such concerns?

Mr Killesteyn—Anything is possible, but my recollection on this matter is quite clear. I left Australia on 7 October and I returned from Nauru on the morning of Wednesday, 10 October. I attended the high-level group meeting that afternoon, I reported back on my visit to Nauru and the issues that we were managing at that time and then continued to attend the meetings of the high-level group, including the one on 11 October. I am quite clear in my own mind that there was no discussion of the veracity of the reports about children or a child being thrown overboard.

Senator JACINTA COLLINS—There was no discussion in the meeting or no discussion in two weeks—

Mr Killesteyn—There was no discussion while I was there and there was certainly no comment from me about the veracity of the reports because I simply was not in a position to know one way or the other.

Senator JACINTA COLLINS—The question I am coming to is: you do not recall hearing such a discussion?

Mr Killesteyn—Exactly. I do not recall any such discussion.

Senator JACINTA COLLINS—And you were the only DIMA official present on 11 October?

Mr Killesteyn—According to the list of attendees, yes, I was.

Senator JACINTA COLLINS—From my point of view, I do not know if whether or not you were in the country at the time of the actual incident relates to whether such a discussion could or could not have occurred.

Mr Killesteyn—That is true. But I returned from Nauru up to my eyeballs in trying to work out how I could find more spaces for people in Nauru and get on with building the Manus facility. As we have said before, this was not a key issue for me. I came back to the photographs in the papers and, like most people, got on with doing what I was being required to do.

Senator JACINTA COLLINS—But if there were, for instance, a PM&C person who was concerned about veracity, and it did figure in their mind-set more than you have just indicated it did in yours, and they expressed that view, that is equally possible?

Mr Killesteyn—Anything is possible. But my recollection is it was not discussed while I was at the meeting, nor was it discussed with me, nor did I raise any issues about the veracity of the reports. I am quite clear on that.

CHAIR—Senator Bartlett, you have a final question, then we will break for afternoon tea.

Senator BARTLETT—I have one question to wrap up. I do have some others, but I will put them on notice because of the time. In relation to what I think was SIEV7, the boat that was taken back to offshore of Roti, the *Four Corners* report last night indicated that that vessel actually ran aground just before the island. Are you able to confirm that? I assume that boats that are returned are monitored by our surveillance to make sure they do not come back again.

Mr Killesteyn—I cannot confirm it. I think the Navy is the best agency for you to ask that question.

Senator BARTLETT—So you are not specifically aware of the fate of those people on that boat?

Mr Killesteyn—No.

Senator BARTLETT—I asked before about costings under expenditure that we provide to IOM on Indonesia et cetera. You were going to provide further details on that—is that right?

Mr Farmer—That is right.

Senator BARTLETT—In relation to that SIEV, would you be able to verify the suggestion or report last night that there was a baby on board that died just before the boat was intercepted? Are you aware of that?

Mr Farmer—I think Defence is best placed to answer that.

Senator BARTLETT—Are the assessments you make on PNG and Nauru approved or ratified by the UNHCR in any way?

Mr Illingworth—There is no formal ratification process, but we liaise closely with the UNHCR on processes, we discuss issues of country information with them regularly and of course, as is the case with our onshore processes, there is full transparency to the UNHCR in what we do. If they wish to see what we are doing, by sitting in on interviews, talking to individual case officers or looking at individual files, then that facility is extended to them without question. And in relation to PNG, for example, we offered the opportunity for them to be observers and to participate in training which we provided to PNG officials who were taking advantage of our training to develop skills amongst their officers.

Senator BARTLETT—Have UNHCR taken up the offer?

Mr Illingworth—In that particular instance they did not. But in other instances of our relationship with the UNHCR they have taken up offers to look at various parts of our processes and they are fully aware that that offer is a standing one.

Senator BARTLETT—Do the decisions and assessments you make have any formal legal standing?

Mr Illingworth—They do inasmuch as they will inform a view of the minister about whether to invite applications for a visa, should that ever eventuate. They certainly have a standing inasmuch as they identify people who would be the centre of our efforts for resettlement in other countries. And, should the matter come to an issue of a visa assessment for Australia, one of the criteria for one of the obvious visa classes, the humanitarian visa classes, will essentially have been already assessed.

CHAIR—Thank you very much, Mr Farmer, Mr Killesteyn, Mr Storer, Mr McMahon and Mr Illingworth. We thank the department. We appreciate your attendance today.

Proceedings suspended from 4.00 p.m. to 4.12 p.m.

HALTON, Ms Jane, Secretary, Department of Health and Ageing

CHAIR—Before I invite Ms Halton to take the oath or affirmation, can I just remind the committee that we will be having a meeting over dinner tonight. So we do have a very busy day of work and we have a serious agenda for consideration tonight. Ms Halton, according to a document that is in front of me, you do have an opening statement which you have taken care to circulate to the committee in advance. Would you prepare to speak to or read your opening statement.

Ms Halton—I am pleased to be able to assist the committee in its inquiry today and, if I may, will start my evidence with a statement which outlines a number of key events. I would also like to provide the committee with an overview of the operation of the People Smuggling Task Force. I am aware that the events of 7 and 10 October and 7 and 8 November have been covered extensively both here and previously in Senate estimates hearings. In view of this coverage, I think there are a number of matters which are worth recording here today. I would like to say at the beginning that at no time was the PST or I told that children were not thrown over the side of SIEV4 on 7 October or that the initial advice from Defence was wrong or in doubt.

The first advice I received of what was to become known as SIEV4 was on the afternoon of Saturday, 6 October 2001. I usually received advice soon after a new vessel was spotted, and, as was my habit, rang both Mr Moore-Wilton and Mr Jordana to tell them. Defence advised that, unlike earlier vessels, the passengers appeared to be wearing life jackets. We agreed that I would convene a meeting of the PST the next morning to discuss the handling of the vessel and its passengers and to prepare written advice for the Prime Minister. As a result, the PST convened at 9 a.m. on 7 October. All relevant departments were present, and the Defence member of the PST, Air Vice Marshal Titheridge, was represented by Group Captain Walker.

You have already heard evidence regarding who first told the meeting that children had been thrown over the side of SIEV4. As I have said in my witness statement to Ms Bryant, I do not recall who first informed the meeting of events. I am, however, very clear that the first I knew of the matter was in a telephone call from Air Vice Marshal Titheridge. Ms Edwards records this in her notes as being at 9.15 a.m., and I understand that Air Vice Marshal Titheridge's telephone records show a call to me at 9.17—and I understand that was given in evidence. My handwritten records show that the advice to me from Air Vice Marshal Titheridge was that the potential unauthorised arrivals were:

... throwing kids o/b and trying to disable steering.

When I received such advice, particularly from a PST member who could not attend the meeting, my habit was to relay the full details of such calls, including the source of the advice—which, from memory, was NORCOM—to the meeting. I do not recall any particular comment made on this issue by Group Captain Walker, and the meeting went on to discuss accommodation on Christmas Island, security and a range of other logistical issues. Members were asked to gather various pieces of information for a discussion later that day on handling options.

As I have said in my statement to Ms Bryant, I did not overhear the discussion between Mr Farmer and Mr Ruddock. I also said in that statement that I did not recall phoning Mr Jordana, who was, as you know, the relevant adviser in the Prime Minister's office during the meeting. I have confirmed that, according to my records, I telephoned Mr Jordana at 3.30 p.m. to update him. The PST reconvened later that afternoon to consider the material gathered by departments and prepare advice. A first draft of a paper, based on the morning's discussion and outlining options, was tabled and discussed. Information gathered by departments during the day was added.

Air Vice Marshal Titheridge had told me that he would arrive late and was to be represented by Group Captain Walker for the first part of the meeting. I am aware of Group Captain Walker's evidence that he advised the meeting that he had been unable to find signals outlining the events described in the morning. I do not recall this statement. However, such a comment would not have raised particular concerns as our experience to date had been that signal traffic could often be slow in arriving. Air Vice Marshal Titheridge arrived part way through the meeting and helped with the editing and finalisation of the paper. Once agreement had been reached on its contents, it was sent to the Prime Minister and Mr Reith. The version of this paper was released by the Prime Minister and, I understand, also provided to the committee by Prime Minister and Cabinet.

I would like to reinforce that the background section was a compilation of Defence advice, which they cleared. It says clearly:

The boarding party report there are 90 men, including 4 Indonesian crew, 42 females and 54 children, but this number may not be reliable.

This information, on Defence advice, was clearly caveated. The later statement—that passengers were again 'jumping into the sea and passengers throwing their children into the sea'—was not. The reference in that document comprised one sentence in the background section. That sentence was included, as its context shows, to indicate that officials were expecting SIEV4 unauthorised arrivals to be more difficult to handle than previous arrivals. The fact that passengers were wearing life jackets and had made attempts to disable their vessel was consistent with this.

On 8 October the PST did not meet, but regular briefing on events was received. Prime Minister and Cabinet made regular inquiries about the safety of the passengers and crew of SIEV4 and of naval personnel as events progressed and following the sinking of the vessel. This advice was passed on to others as it became available. On the evening of 8 October or on early 9 October, I heard a radio report that suggested that children may have been thrown overboard in response to shots being fired at the vessel. There was also some questioning of the detail of events at sea. PST had not been advised that any shots were fired and, as a result, at the meeting of 9 October Defence officials were asked to confirm all details of the event. I asked PM&C staff to pursue this with Defence. I should say that I did not doubt the event had occurred but rather was trying to answer specific questions about the timing of events. Nonetheless, I specifically asked Defence to confirm all the details and to advise us accordingly.

PM&C officials held a number of discussions with Strategic Command during the morning and about midday they provided the chronology which you are already familiar with. The footnote to that chronology said:

There is no indication that children were thrown overboard. It is possible that this did occur in conjunction with other SUNCs jumping overboard.

PM&C officials then sought to reconcile the chronology with other details that had been provided. The issue of the footnote was not taken further as it was overtaken by the information that there were photos of the event that had been released to the media, there was a grainy video and Defence were collecting witness statements. The facts as we understood them were advised in the evening meeting of the PST. This evening meeting was, I believe, the last time the incident was raised in the PST until 8 November. This issue was not raised by Defence at any time of the subsequent period in question. Meetings of the PST occurred on an almost daily basis and the Secretaries Committee on National Security met during this period. I had no reason to suspect that there was any doubt about the facts. Over the next month the group continued with its main work of managing and advising on day-to-day issues.

The next occasion on which I can recall any issue being raised in relation to SIEV4 was in the week 5 to 9 November 2001. As you already know, Ms Bryant passed on to me tearoom gossip from an officer in Defence that the photos released to the press on 10 October were in fact of the sinking and not of the 'children overboard' event. You are also aware that this advice concerned me sufficiently to ring Mr Jordana immediately. As I have said previously, he responded that there was already speculation to this effect in the press and the matter was being discussed with Mr Reith's office. While I was concerned at this gossip prior to my discussion with Mr Jordana, my conversation with him provided me with reassurance. He did not seem concerned and said the issue was in hand. Minutes of the PST of 8 November record that a Defence official advised that the video of the event had been released, the content of the video was not discussed and Defence did not raise any issue about the original report of events on 7 October. The issue was not raised in the meeting of 9 November, which was primarily concerned with the handling of passengers from SIEVs 8, 9 and 10.

In order to put all of the above into some sort of context, I would like now to very briefly outline how the PST worked. As you know, it was established as an interdepartmental committee to provide whole-of-government advice. My role as chair came from my then position as the relevant executive coordinator in the Department of the Prime Minister and Cabinet. The PST was set up and run on the basis that it provided advice on policy and operational issues as they arose. One of the group's key jobs was information exchange to ensure that all agencies were kept aware of relevant and emerging facts. It is important to understand that the role of the PST was not to insert itself into the chain of command within departments or the military.

My habit as chair was to start every meeting with a roundtable update from every agency. I always asked those attending to update the group, to raise any issues that they wish discussed or considered and to ensure that all members were fully informed. The need to ensure we were kept fully informed was reinforced on many occasions. At all times the PST operated in a thorough and professional manner consistent with Australian Public Service practice and APS values. Where issues or concerns emerged, these were followed up and advice provided. With

hindsight, it is clear that some information which was available elsewhere was not passed to the PST. That concludes my opening remarks.

CHAIR—Thank you very much, Ms Halton.

Senator FAULKNER—Ms Halton, given that your opening statement is made in mid-April this year, I assume you have been able to prepare it with the benefit of a close examination of some of the material that is now in the public arena and of course was not available at the time of the incident which this committee is investigating. I just wondered if you had relied on the use of some of that material—I am not saying that is unreasonable—for drawing up your opening statement.

Ms Halton—I should be very clear that the statements that are made in this opening statement are founded on my examination of my own records in some detail and information available to me as a consequence of going back, for example, and looking at my handwritten notes and a series of other things. What I have not done in preparing this statement is rely on the evidence of other witnesses. I have gone back to primary sources. One of the comments I would make to you is that, for example, it was not possible to earlier go back and look at every single record in relation to particular meetings. What I have done in preparing this statement is reacquaint myself with primary sources but I have not relied on things that people have said.

Senator FAULKNER—I appreciate that background, and that is why I asked you. For the benefit of the committee, you might just indicate what the primary sources are in this instance.

Ms Halton—I have gone back and looked at the minutes of meetings. I have gone back and reviewed, for example, some of the security information that is held by Prime Minister and Cabinet on who arrived in buildings at particular times and who left buildings at particular times. I have gone back and reviewed, or my colleagues have reviewed and advised me—I should be quite clear here—of information in relation to when papers were edited and by whom, for example.

Senator FAULKNER—You sought your colleagues' advice in that regard in terms of the latter element of the primary sources that you referred to?

Ms Halton—No, I did not seek my colleagues' advice; I simply asked a series of questions which needed to be answered from primary sources.

Senator FAULKNER—Has this been a little disadvantageous for you because you now find yourself in another government department as opposed to where you were placed at the time these actual events took place?

Ms Halton—Certainly I cannot any longer walk down one flight of stairs and readily go to the files. It is a bit hard to do that when you are in Woden.

Senator FAULKNER—Did you check with any colleagues or others on the opening statement itself?

Ms Halton—My opening statement was seen by one of my former colleagues in the Department of the Prime Minister and Cabinet just to check that there were no errors of fact. As far as he was concerned, I was advised that there were no errors of fact.

Senator FAULKNER—Can you say who that former colleague was?

Ms Halton—It was sent to David Webster, who is the Acting First Assistant Secretary in the Social Policy Division. I should say that that was this morning.

Senator FAULKNER—But no changes to this opening statement or a previous draft of this opening statement were made?

Ms Halton—This opening statement was drafted with my own fair hand and there have not been changes made to it, other than by my or my assistant's hand. I have to say I actually typed the first version myself.

Senator FAULKNER—I raise it because of your comment a little earlier about the checking of information.

Ms Halton—That was about primary sources, Senator, not about this statement.

Senator FAULKNER—That related only to primary sources. Fair enough. You do mention in the statement your handwritten records, and there is a difference obviously between your handwritten records and the minutes of the People Smuggling Task Force. You might just explain for the benefit of the committee whether you actually take contemporary notes and, if so, what relationship those contemporary notes might have to the minutes of the task force.

Ms Halton—My habit if I am chairing a meeting and speaking is not to write at the same time, because I find that a little difficult. If I am receiving a telephone call on something like this my habit, generally speaking, is to jot something down. I cannot say that that is always the case. In this particular case, when I went back through my notebook I found the handwritten note that I took down. It is in the section which is relevant to this particular meeting. When other departments were giving us particular facts—I have outlined the role of information exchange—what I tended to do was jot down those facts: numbers of people who were recorded and things of that sort.

Senator FAULKNER—So you describe this as a notebook as opposed to a diary or a diary entry?

Ms Halton—I think it is a question of semantics, Senator. What I have is a running day book, basically, and I take notes about particular issues that arise during a day: things that occur, meetings I am at et cetera.

Senator FAULKNER—Fair enough. Separate to that, of course, is the formal record—the minutes—of the task force itself. Who actually had responsibility for writing and preparing those?

Ms Halton—In this particular period, Katrina Edwards, who was the First Assistant Secretary of the division, was the note taker.

Senator FAULKNER—That responsibility changed, did it?

Ms Halton—There was the odd occasion when she was unavailable. As you probably imagine, there were many meetings over this period and, from memory, there were occasions when someone else would actually take those notes. Much later in the process Ms Bryant did take some notes in the meeting—towards the end of October is my recollection—but Ms Edwards was the principal recorder of minutes, if I can describe her that way.

Senator FAULKNER—Is there a distinction between the role of the note taker, which I assume you are using in the normal Public Service definition of ‘note taker’ as opposed to formal minutes or a formal record of decisions? I am wondering if there is a distinction between those descriptions.

Ms Halton—I am a bit unclear as to the point you are trying to get at, Senator.

Senator FAULKNER—You said that Ms Edwards—and later on, Ms Bryant—was the note taker?

Ms Halton—Yes.

Senator FAULKNER—Were those notes converted into minutes?

Ms Halton—Yes.

Senator FAULKNER—If so, was that done by the note taker?

Ms Halton—Yes.

Senator FAULKNER—Did they go back to the IDC?

Ms Halton—No.

Senator FAULKNER—I am just wondering how you—or do you?—get to the point of a record of decisions.

Ms Halton—If what you are asking is, ‘Were the minutes reflected back at the next meeting?’ the answer is no. If what you are asking is, ‘Was there a record of key issues raised and/or decisions taken?’—‘decisions’ is probably the wrong way to describe this forum, to be quite frank—

Senator FAULKNER—‘Outcomes’ maybe?

Ms Halton—‘Outcomes’ would be a better description. Sometimes there was a product of the meeting—you are aware of one of those, which was the paper prepared by that group which

went to Prime Minister and Mr Reith—and often the outcome of the meeting would be a thing: a paper or whatever.

Senator FAULKNER—Okay, but ‘outcomes’ did not go back to subsequent meetings for endorsement; they just became part of the ongoing record of the work of the task force?

Ms Halton—That is correct.

Senator FAULKNER—Did you keep a weather eye on that as the chairman of the task force?

Ms Halton—Not really because, to be quite frank, we were running so fast and, as you know, there were a series of issues being dealt with and the issues that came out of particular task force meetings were often then themselves considered in the next meeting. It was the nature of the iterative process of the work. So, no, those minutes were not subsequently referred to me.

Senator FAULKNER—I will try in a comparatively short while to deal with things in a fairly logical way—in part, chronologically—but I just wanted for a moment to deal with one or two issues I raised an hour or two ago with the department of immigration officials—Mr Farmer, in particular. I just want to rule those off. They were able to assist me with some matters, but there are one or two matters that were left in abeyance, and I would like for a moment to clear a couple of those issues up.

I was talking to Mr Farmer about task force decisions or directions relating to those on board the numbered SIEVs 1 to 12 and asked whether the task force made any decisions that meant that asylum seekers may have been misled about where they were being taken. To be fair, before I ask you to answer this I might indicate, as I did to Mr Farmer, that one or two of these issues were raised on national television last night. I pointed him to that as he probably asked what was the background to the questioning.

Ms Halton—Senator, I have been told this morning that this issue was raised on national television last night. I was speaking at a dinner so I did not happen to see the particular program and I have not seen a transcript or a video of it. Regarding the messages that were given groups of asylum seekers about where they might go to be processed, I think Mr Farmer—or maybe it was Mr Killesteyn—told you that the messages given to groups of people were contained in briefing materials, or scripts I think he described them as.

Senator FAULKNER—He used the terminology ‘scripts’. You use whatever terminology you are comfortable with.

Ms Halton—Let us use his terminology, Senator, then we will know what we are talking about.

Senator FAULKNER—So that we are clear, he was using scripts basically as material that went before the IDC and was agreed at the level of the IDC.

Ms Halton—Certainly, there were a series of scripts prepared in relation to the information that will be used by all of the agencies. You have got to remember that on Christmas Island we

had representatives of many of the agencies which are in the IDC. It was important to ensure that all of the officials who were employed in this process had a common basis on which to operate: that they understood where we were intending, for example, to house the asylum seekers on Christmas Island, to let them know that there were a number of accommodation options and that they had the same information on which they would operate. My understanding of all those scripts—and I cannot say that I remember every single one of them, but certainly we saw them—was that they did not mislead people about where they were going. They were carefully written in terms of the information that it provided them, but I would have to go back and look at the particular script to which you refer to reacquaint myself with its precise content.

Senator FAULKNER—I do not refer to a particular script, Ms Halton. First of all, I have not seen them and, secondly, I am told by officials from the department of immigration that in relation to—their terminology—‘scripts’ it applies to only eight out of the 12 numbered SIEVs. So that leaves four SIEVs—I think SIEVs 5, 7, 11 and 12—in a somewhat different category, which we might come to. But all I am really asking of you is whether you can satisfy this committee that at no stage was a decision taken at the IDC meeting—and I think it is reasonable to ask you as you chair the IDC meetings whereas the department of immigration are represented at the meeting—that would have the effect of misleading asylum seekers, and/or those on board the SIEVs, in terms of scripts or information provided to them, about where they were being taken.

Ms Halton—I do not recall such a decision. I do recall a discussion explaining to the asylum seekers that they would be processed by Australian staff, they would be processed in a camp, and they would be processed consistent with the way DIMIA officers always process staff. But, no, I do not recall a decision—

Senator FAULKNER—My question specifically goes to whether asylum seekers were misled or not about destination.

Ms Halton—Not that I am aware of.

Senator FAULKNER—But if had happened, you surely would be aware of it, wouldn’t you?

Ms Halton—I cannot say that.

Senator FAULKNER—I am just worried about the qualification, not that you are aware of it.

Ms Halton—I suppose the point I am making is that I was not there. I was not a witness to the events. What was actually said at the time, I do not know. But I do know, and my memory is, that we did not make a particular decision that they would be misled.

Senator FAULKNER—Fair enough. I know that you were not on board a naval vessel. I appreciate that, so I am only asking you in terms of your role as the chairman of the IDC and wanting to be assured that, at the IDC—and I am hoping that you are to able to say this to me without qualification—no decision was taken about asylum seekers, or those on board the SIEVs, being misled about the ultimate destination of the SIEV.

Ms Halton—I recall no such decision.

Senator FAULKNER—What about decisions about information about the purpose of their journey under Australian control—as opposed to destination purpose—what the journey was about?

Ms Halton—Again, I would have to go back and refresh my memory, but I think Mr Killesteyn told you that asylum seekers were told that their claims could not be processed until they presented themselves for processing in a facility which the government was minded to set up and that, when they did that, their claims would be processed. I have exactly the same memory.

Senator FAULKNER—So you could say to me that, as far as issues of destination, issues of the purpose of a journey of any SIEV under Australian control, and issues relating to the processing of asylum seekers' claims are concerned, I could be absolutely satisfied that no decision was taken at the IDC to provide information to those on board the SIEVs that in any way would be misleading to them?

Ms Halton—That was false? No. There was no such decision that I am aware of.

Senator FAULKNER—One thing that struck me as Mr Killesteyn and Mr Farmer were describing the way the IDC worked—and you can comment on this—was that the IDC was getting into real micromanagement on some of these issues. Take, for example, the question of medical treatment—whether medical treatment was to be granted or denied. Those sorts of decisions were being discussed, according to evidence we have heard, at the IDC and were also, in individual cases, being determined by the minister. To what extent, in relation to issues relating to those on board the numbered SIEVs, 1 to 12, did the task force get into micromanagement?

Ms Halton—The task force did not get into micromanaging issues around medical treatment. The reality is that there were personnel on the ground—that is probably a bad term; at sea—in a number of cases who were medically qualified. It was always the case that we deferred to the medical judgment of the staff concerned. At the end of the day there was nobody around that table who was medically qualified. The evidence you have heard from others in respect of decisions taken by ministers, I cannot comment on, because I am not necessarily privy to those decisions. But in terms of the IDC I do not recall any decision in relation to whether or not a particular individual or group of individuals should or should not receive medical treatment.

Senator FAULKNER—So was medical treatment discussed, even in the broad, at the IDC?

Ms Halton—Yes, it was.

Senator FAULKNER—Could you give me the background to that.

Ms Halton—I could give you the background. The issue was individuals who presented with any obvious or, in some cases, not obvious medical conditions. I am aware that naval medical personnel actually checked groups as they arrived and, as I have said to you, what we did was always to defer. In fact, the question about whether someone should be treated, evacuated or

whatever might be the appropriate response was deferred to the medical judgment of the people on the ground. It was not something we would assert ourselves in.

Senator FAULKNER—So it does come to the IDC, but the IDC does not make decisions about it?

Ms Halton—No. Please do not take my words somewhere they were not going. In most of those cases, we were not consulted about that; it was left operationally to those on the ground. Sometimes we were told about it afterwards, but there was not a process of deferring to the group on whether or not someone should be treated.

Senator FAULKNER—Was medical treatment on board the SIEVs finally a decision for government or was it a decision for serving Defence personnel on the naval ships that were intercepting the SIEVs?

Ms Halton—The latter.

Senator FAULKNER—Are you aware of how or why some of these decisions were made by Minister Ruddock, as officials from his department have just told us about two hours ago?

Ms Halton—I did not hear the evidence of those officials. I do not know to which particular cases they refer, so it is a little hard for me to comment. You have asked me about treatment of individuals on vessels at sea by naval personnel. As I have said, my understanding is that a decision whether or not to treat someone was a matter for the medical personnel there at the time.

Senator FAULKNER—It seems to be in stark contrast to what was being told just a short time ago about these individual cases actually being discussed at the task force and also about decisions being taken by the minister for immigration. I understand the point you make about the minister for immigration. I appreciate that and I put that aside. I am just concentrating on the task force.

Ms Halton—Sure, and perhaps, Senator, you can assist me by telling me what they told you. I was not privy to that evidence, so it is hard for me to comment on the specifics of it.

Senator FAULKNER—I hope that the thrust of my questioning is reasonably clear to you. I am just trying to understand in more detail to what extent the task force got down to talking about individual cases. I am using the area of medical treatment as a good example because it is something that was canvassed at this committee a short time ago. It does not much matter what the other witnesses say, because they certainly indicated that there was a role for the minister in individual cases. My interest is what the role of the task force was, and that is why I think it is fair to ask you that.

Ms Halton—As I have said, the issue of medical treatment at sea, as far as my memory goes, was always a matter for naval personnel.

Senator FAULKNER—Can you give me some examples of individual decisions that might have been made by the task force in relation to the interface between Defence and the SIEVs? What sorts of decisions were being taken at the IDC and were the responsibility of the IDC?

Ms Halton—I suppose I alluded to this earlier. I think that to say ‘the IDC took decisions’ is a bit of a misstatement. The IDC enabled people to come together to consider and discuss a range of issues. I said in my opening statement that it did not assert itself in the line command—for example, in the Defence Force—let alone in departments. There were some decisions, which were properly the decisions of individual departments, that individual departments took in conjunction with their ministers—but often bringing to bear the advice and views of people from across the service would inform them in providing that advice. So I am struggling to come up with an example of where the IDC took a decision. It had no power to take decisions. Decisions were taken by ministers or where individual departments had delegated authority in respect of those delegations.

Senator FAULKNER—The task force did not have any terms of reference, did it?

Ms Halton—No, it did not.

Senator FAULKNER—So what did it do? Let us just go back a couple of steps. What did it actually do?

Ms Halton—It discussed issues as they arose and it discussed the handling of those. It provided an opportunity—and I said this in my opening remarks—for information exchange so all of the agencies that were working on this issue had the opportunity to hear from all of the others precisely what issues were currently emerging. So, if we take that earlier question, it was important, for example, for Customs officers, for the Federal Police and for Immigration officers to all understand exactly what was intended in particular respects so that their officers on the ground could be similarly briefed and be working from the same basis. As you know, it is the classic conundrum of whole-of-government exercises that individual departments do not always get the information that other departments have, and this was a mechanism to ensure that those departments were all privy to the same information.

Senator FAULKNER—Would you say, then, that it had any decision-making role at all?

Ms Halton—As you know, the group prepared briefing papers and option papers in particular areas, so you are already aware that there was one provided on the evening of 7 October. That was advice from the task force in respect of a number of issues that were current at that time. What the paper did—and I think that paper actually demonstrates it quite well—was reflect the views of all of the agencies in respect of a series of issues. In some cases it reflected an accord about issues and in some cases it reflected a difference of view, which again you would expect—agencies come from different perspectives. It was important that in this particular case the Prime Minister understand that the agencies sometimes had a slightly different perspective on those issues.

Senator FAULKNER—Did it, for example, get into the level of looking at the extent to which force might be used with those on board the SIEV by defence personnel?

Ms Halton—Not that I recall.

Senator FAULKNER—You would know if that were the case, though.

Ms Halton—I would think so.

Senator FAULKNER—Again, an Immigration official indicated that, in the broad, that matter was discussed at the task force.

Ms Halton—This is where we make a distinction between ‘considered’ and information. I do not recall any particular discussion about whether we thought force should or should not be used. The Navy, and indeed the forces more broadly, have a process, as I understand it, of agreeing on what basis particular operations will be conducted. At one point or another I do recall we were briefed on the basis on which operations would be conducted. That briefing would have contained, at least in the broad, some description of that issue, but to say that this group was either germane to any decision on that matter or influenced it I think is not right.

Senator FAULKNER—Who provided that briefing to the task force?

Ms Halton—Issues around operational guidelines are properly a matter between the Defence Force—I suspect the Chief of the Defence Force, but this is not my area of expertise—

Senator FAULKNER—He was not there, so we know it was not him.

Ms Halton—Whomever. Someone in the Defence Force would have advised the Minister for Defence and had some sort of operational guidelines agreed to.

Senator FAULKNER—Who provided the briefing to the task force on this?

Ms Halton—It would have been whomever came from Strategic Command, most likely Air Vice Marshal Titheridge.

Senator FAULKNER—In this instance, do you recall who provided a briefing to the task force on the use of force in relation to defence operations within Operation Relex?

Ms Halton—No, I do not.

Senator FAULKNER—You do not recall who might have provided that briefing. Do you recall any detail of the briefing?

Ms Halton—My memory is that, whilst the issue was raised, there was not any detail. I have an impression of the notion of reasonableness, but beyond that I do not believe there was any detail provided. My memory might be infallible in this area, but that is what I recall.

Senator FAULKNER—We are all infallible. None of us lives in the Vatican.

Ms Halton—I am pleased to hear it.

Senator BRANDIS—Infallible?

Senator FAULKNER—What did I say? Did I say ‘infallible’?

Ms Halton—I said that we are not infallible.

Senator FAULKNER—If I did not say it, I meant to say that we are all fallible.

Ms Halton—I think we know what we are talking about.

Senator FAULKNER—Apart from Senator Brandis, we are all fallible.

Senator BRANDIS—I am probably almost as fallible as you are!

Senator FAULKNER—That is one thing we have a unity ticket on then; that is good.

Ms Halton—I am sure everyone in the room is on the same ticket, Senator.

Senator FAULKNER—But, when talking about the use of force, what about types of weapons? Was that discussed at all?

Ms Halton—I do not recall any discussion about any weapons.

Senator FAULKNER—What about the use of capsicum spray, for example?

Ms Halton—I do not recall any discussion about capsicum spray.

Senator FAULKNER—If you do not recall it, I think we can be confident that there was no such discussion, can we?

Ms Halton—I do not want to give you a categorical, Senator, because my memory may be fallible. I do not recall any such discussion.

Senator FAULKNER—In relation to the scripts, they were nevertheless for eight SIEVs—1 to 4, 6 and 8, 9 and 10. They were discussed in detail at the IDC, weren't they?

Ms Halton—I do not have that list in front of me and, again, my memory is that a number of scripts in relation to vessels where people were landed were considered. I cannot tell you categorically whether they were all considered in detail, and we have actually got someone going back to have a look. However, as a general principle, a script in relation to a group that was landed would probably have been dealt with, yes.

Senator FAULKNER—What about a script in relation to those who were not landed?

Ms Halton—I have asked somebody to go back and check this while we are having this discussion. I do not recall ever seeing a script in relation to anything other than the groups we

have just discussed. Again, my memory might be fallible—we have to find another word—but I do not recall any such scripts.

Senator FAULKNER—I think we know what we mean by fallible.

Ms Halton—Yes, we do.

Senator FAULKNER—I might progress that with you after the dinner adjournment if someone could check that.

Ms Halton—Someone has gone to look.

Senator FAULKNER—I would be interested to understand more detail about that and I am happy to progress that then.

Ms Halton—Certainly.

Senator FAULKNER—What we are doing here is talking about a distinction that is properly drawn by Department of Immigration and Multicultural and Indigenous Affairs officials who talk about scripts in relation to eight of the 12 SIEVs and drawing a distinction between SIEVs numbered 5, 7, 11 and 12 and the other eight.

Ms Halton—The other four.

Senator FAULKNER—I am still struggling to understand how it worked for all of them and, in particular, how it worked for the ones that were, as you say, in a different category. I am happy to progress that at a later stage. How does the task force work in relation to its interface with the Department of the Prime Minister and Cabinet? You are a senior official of the Department of the Prime Minister and Cabinet—you are the deputy secretary of that department—and you are also chairman of the task force. How do you link in departmentally?

Ms Halton—Essentially, the department provided some of the servicing to this and other groups. Other departments sometimes serviced various parts of this process. We made a distinction—and I made a distinction—inside the department between the activity of the task force and the activity of the department. The department and I, in my role as executive coordinator, had a role in briefing, advising and the normal things that go with that kind of role. The task force was the bringing together of the collected advice of those various departments. For example, there would have been occasions when the task force in toto would have considered a particular issue and would have come to a view about that particular issue, and that did not in any way fetter any of the members of that group from individually advising their minister as to their individual view.

Senator FAULKNER—Sure, but let us assume that there was some action to be taken by the Department of the Prime Minister and Cabinet—and this is hypothetical but I think it is reasonable because this would no doubt have happened on very many occasions—where you required, as a result of a task force discussion, follow-through from PM&C. I assume that would have happened on many occasions, wouldn't it?

Ms Halton—Except, of course, that Prime Minister and Cabinet is a coordinating agency and, as such, it did not have a day-to-day role in the administration or the putting into effect of the government's policy.

Senator FAULKNER—So that did not happen; that was not an issue for you. Fair enough, if it was not. I am trying to understand whether there were issues that needed to be progressed at your then department level, the Department of the Prime Minister and Cabinet, through the bureaucracy of PM&C.

Ms Halton—Not that I can recall. Again, I do not want to be categorical in case there is some particular instance, but right at this second I cannot recall.

Senator FAULKNER—I do not know of any instance. I was just interested in knowing how, if it were the case, you would manage that. So that was not an issue that you had to worry about?

Ms Halton—Not particularly. But it did not separate our separate responsibility to give the Prime Minister advice intermittently on immigration or other particular issues.

Senator FAULKNER—I appreciate that. You say that you reported to the Prime Minister's office on matters discussed at the task force as well.

Ms Halton—Yes.

Senator FAULKNER—Do you report to anyone within the Department of the Prime Minister and Cabinet?

Ms Halton—I think, as you know, Senator, I reported on a regular basis to Mr Moore-Wilton in terms of progress.

Senator FAULKNER—So you report to Mr Moore-Wilton and you report to the Prime Minister's office.

Ms Halton—Yes.

Senator FAULKNER—Who else, if anyone, do you report to?

Ms Halton—Nobody.

Senator FAULKNER—That is it, as far as the task force is concerned?

Ms Halton—That is right.

Senator FAULKNER—It is limited to those two points of contact?

Ms Halton—Yes.

Senator FAULKNER—That is a reporting-out mechanism.

Ms Halton—Yes.

Senator FAULKNER—What about incoming messages?

Ms Halton—Incoming? Can you be a bit more specific?

Senator FAULKNER—You report outcomes to Mr Moore-Wilton and the PMO.

Ms Halton—Sure.

Senator FAULKNER—What about input you take to the task force? Is it only your personal views, opinions and reflections that govern your activities as the chair or do you have the benefit of broader advice when you go to the table as chair? I think we have dealt with what you do with information that arises as a result of task force activities. I am interested in what happens before that on those occasions where you might have some input to take to the task force, if there are any such occasions.

Ms Halton—I am trying to recall such an incident that might fit this category. The nature of discussing the handling of a particular group or whatever I suppose was to an extent iterative. Can I recall being sent to the task force with a particular remit on something? I would have to say I am struggling to think of one, if that is what you are asking me.

Senator FAULKNER—Not a particular remit. But prior to the meetings did you have discussions with anyone, be it in the bureaucracy, be it in the Prime Minister's office or elsewhere, and go to the task force meetings armed with the benefit of that advice?

Ms Halton—Let me give you a particular example, and it goes back to the statement that I made at the outset: I do not recall having, on anything like a regular basis, any pre-meeting discussions. I do recall—I said this in my opening statement—for example, that on the afternoon of 6 October I was advised that SIEV4 had been spotted and I informed—as I think I said was my habit—Mr Moore-Wilton and Mr Jordana of this. Because the advice was that the passengers were wearing life jackets, we agreed that there should be a meeting to consider handling options. So, to the extent that there was a collected view that we should convene a meeting, yes, but whether I was then asked for a particular course to be followed I cannot recall it. There was the odd occasion on which, for example, the Prime Minister would ask for task force advice on a particular issue before taking a decision: would the task force please convene to ensure that the range of perspectives from departments across the service were brought to bear in a particular area and would that then consolidated advice be provided to him before he considered a particular decision.

Senator FAULKNER—The development of advice is a bit beyond just assimilating the considerations of departments, isn't it?

Ms Halton—That is true. That does not go, though, to the task force taking decisions per se. But when the task force was asked for advice it was provided.

Senator FAULKNER—I want to conclude this line of questioning about issues that were raised as a result of recent publicity. First of all, can I ask you this: was the issue of whether there be a requirement that any of the suspected illegal entry vessels not be permitted to enter Australian waters but be returned to Indonesia discussed at any stage at the task force?

Ms Halton—You are talking about the active return to Indonesia?

Senator FAULKNER—Yes. I am talking about a requirement or a suggestion that the SIEVs were to be returned to Indonesia. I am asking if that matter was discussed at any time at the task force.

Ms Halton—The return of vessels to Indonesia was discussed in the task force.

Senator FAULKNER—Can you give the committee some broader context to that discussion, please.

Ms Halton—I think this might have been one of the areas where we were asked for advice—whether it was possible and under what circumstances. My memory is that that issue was discussed and advice was prepared, and that advice was then forwarded to others for consideration.

Senator FAULKNER—The request for that advice came from where?

Ms Halton—I genuinely cannot recall on this one.

Senator FAULKNER—Would Ms Edwards's or Ms Bryant's—or whoever the relevant notetaker was—notes be able to provide that information for us?

Ms Halton—Not that I have seen. There was a discussion on the issue on 11 October, from my memory.

Senator FAULKNER—This is the question about the return of SIEVs to Indonesia?

Ms Halton—Correct.

Senator FAULKNER—So that occurred on 11 October?

Ms Halton—Correct.

Senator FAULKNER—You are absolutely clear, aren't you, that this is a matter on which you—the task force—were asked to provide advice?

Ms Halton—That is my memory, yes.

Senator FAULKNER—I am a little surprised, if you can recall that, that you cannot recall who asked you to provide the advice. It seems there is a bit of a gap in logic there.

Ms Halton—It is now many months since. I recall that we had the discussion in response to something. I suspect that was a request for advice. As I think others have told you, this was an incredibly busy period when we had things going on. Quite where that request came from I just do not recall.

Senator FAULKNER—You are requested to provide advice on the issue. That you can admit.

Ms Halton—Yes.

Senator FAULKNER—The task force did discuss it on 11 October.

Ms Halton—Yes, that is right.

Senator FAULKNER—Do you finalise a view on 11 October?

Ms Halton—There was a draft of a paper prepared. My memory is that that draft was fairly complete, but I think it was probably not the final view on the issue.

Senator FAULKNER—Do you know where the advice goes? The task force having finalised its advice, who is that provided to?

Ms Halton—To the Secretaries Committee on National Security.

Senator FAULKNER—Do you know when that goes before the Secretaries Committee on National Security? I appreciate that you may not know.

Ms Halton—From memory, it is 12 October.

Senator FAULKNER—In a nutshell, are you able to very briefly describe what the import of that advice is on this issue about whether the SIEVs would be permitted to enter Australian waters and whether they were to be returned to Indonesia?

Ms Halton—The conversation we were just having, Senator, was about the return, not the ‘permitted to enter Australian waters’, so we should be clear about—

Senator FAULKNER—I had asked about both earlier, but I appreciate that we have concentrated on the second of them.

Ms Halton—We have. My memory is that the advice that was given was that it was—subject to a range of caveats, obviously, about seaworthiness and a series of other issues—possible to return vessels under a number of circumstances, and that the meeting, as I recall it, agreed that this could be done.

Senator FAULKNER—By this stage, of course, the caretaker conventions apply, don’t they, for the election countdown?

Ms Halton—That is correct.

Senator FAULKNER—Did you have any sensitivities about how this was handled bureaucratically and administratively, given that circumstance?

Ms Halton—I cannot speak for others, but certainly in relation to a number of issues that I had discussions about over this period there was an active discussion about caretaker conventions and being confident that we were operating consistently with the caretaker conventions, and that, where there were particular issues that should be properly discussed with others in the opposition in respect of those decisions, those issues were raised.

Senator FAULKNER—With whom?

Ms Halton—With, for example, the Prime Minister's office. In fact, as I recall, it was discussed in the meeting on the odd occasion.

Senator FAULKNER—So you do not know who requests that the committee provide advice on this, but do you know when the request comes? This is on the question of the return of SIEVs.

Ms Halton—Again, Senator, I would be wrong to be categorical, because my memory does not enable me to be categorical, but I would say that it would be mid that week.

Senator FAULKNER—So it was some time earlier in that week. It would have to be earlier.

Ms Halton—Yes, exactly. Clearly the request predated the actual consideration of the issue.

Senator FAULKNER—Yes.

Ms Halton—How far it predated it I cannot be categorical about, but it would not have been—I do not believe—any more than one or two days prior to the actual consideration of the issue.

Senator FAULKNER—Would you be able to take that issue on notice? I do not know if this can be established from your records or not, but I think—given the sensitivity of the issue, firstly, and given that the discussion is occurring actually while the caretaker provisions or conventions apply, secondly—it would be absolutely incredible if we could not establish from where this request comes and when it comes. So I wonder if you would mind taking that on notice.

Ms Halton—I would be happy to do that, as I said. It will be a question of relying on people's memories. So I will undertake to consult with others and see whether their memories are better than mine.

Senator FAULKNER—But, given the circumstances, I would be very surprised if there is not a written record of that and, frankly, I would be amazed if that were the case. I take your

word for it that you would have to rely on people's memories. So it goes to—is it described as the Secretaries Committee on National Security?

Ms Halton—SCONS.

Senator FAULKNER—The acronym is SCONS. We have always got to use the right acronym. It goes to SCONS. Does the IDC have a role subsequent to decision making at SCONS?

Ms Halton—Not that I can recall.

Senator FAULKNER—Pumpkin!

Ms Halton—In respect of this issue?

Senator FAULKNER—Yes.

Ms Halton—Not that I can recall. I would have to go back and again look at the documents.

Senator FAULKNER—It goes to the secretaries committee and that committee make the decisions to see it put in place. Is that how it works?

Ms Halton—No, the decision on whether or not vessels would in principle be returned was taken not by the bureaucracy, as I recall it.

Senator FAULKNER—So it is taken by government?

Ms Halton—That is correct.

Senator FAULKNER—So in this case it is taken by the Prime Minister?

Ms Halton—That is my understanding.

Senator FAULKNER—Does this decision go direct from the task force to the Prime Minister via the secretaries committee?

Ms Halton—I think it is important to understand that the secretaries committee, again from memory, had a slightly different view in respect of a couple of elements of the advice provided by the task force and it would have been the secretaries committee who advised on this particular issue.

Senator FAULKNER—They advise the Prime Minister?

Ms Halton—Yes.

Senator FAULKNER—The decision is made by the Prime Minister?

Ms Halton—Yes.

Senator FAULKNER—Once the decision is made by the Prime Minister, either in this specific case or—

CHAIR—They must be the ‘cream puff committee’.

Senator FAULKNER—I missed that.

CHAIR—I said it must be the ‘cream puff committee’ as opposed to SCONS.

Senator FAULKNER—That humour was lost on me, Senator Cook.

CHAIR—I know—and it should never have been engaged in.

Senator FAULKNER— One thing that we are grappling with on this committee, Ms Halton is, once a decision like that is made by the Prime Minister, to understand how such a government decision is communicated to those naval vessels in the Indian Ocean. I do not understand that yet, so I have been waiting for you to be here to explain it to me. Can you help?

Ms Halton—I am sorry I am going to disappoint you because at the end of the day there was not communication from the task force to the Navy on this issue.

Senator FAULKNER—But how do you understand it works? The task force makes a recommendation—and you are indicating that in some areas the secretaries committee expresses a different view—and that ends up on the desk of the Prime Minister. That is how it goes?

Ms Halton—As I understand it.

Senator FAULKNER—As you understand it. You are in a much better position than I am to understand it, I can tell you.

Ms Halton—Sometimes I am not so sure about that.

Senator FAULKNER—I doubt that very much, Ms Halton. The Prime Minister makes a decision. How do you understand Defence acts upon those decisions? How does this get through the chain of command?

Ms Halton—My understanding is that Defence sought approval from the Minister for Defence in relation to all the elements of its operations. My understanding in this particular case—and this is extremely imperfect because I do not understand the inner workings of the defence department or the relevant arms of the military—is that they were told, and I do not know by whom, that there was a decision to proceed with this course. Understanding, as you will, that the Chief of the Defence Force was—and is—a member of SCONS—

Senator FAULKNER—Yes.

Ms Halton—So he is completely privy to and familiar with the advice. And that is translated through the Defence hierarchy into action. As I have already said, we never inserted ourselves in the military chain of command, so I cannot tell you how that translated itself into action.

Senator FAULKNER—That is a blanket statement. Brigadier Silverstone and others seemed to be under the very strong misapprehension that the task force does not insert itself in the chain of command but is absolutely crucial in terms of communicating the view of government on a range of issues that are important in Operation Relex.

Ms Halton—Senator, I did not hear the testimony of either of those officers, so it is hard for me to comment, but I am quite clear in my own mind that we were not issuing instructions to the military. We did not, right throughout this period, issue instructions to the military.

Senator FAULKNER—You, for example, have never had any communication with Brigadier Silverstone, have you?

Ms Halton—No. I wouldn't know him if I tripped over him.

Senator FAULKNER—No, but you do know, of course, Air Vice Marshal Titheridge.

Ms Halton—Correct—who is the head of Strategic Command.

Senator FAULKNER—Who is the head of Strategic Command.

Ms Halton—Absolutely—who is not in the operational chain, I think.

Senator FAULKNER—Not in the chain of command, as it is defined for the purposes of this committee, to the extent that that is useful, relevant and helpful, that is right. Is Air Vice Marshal Titheridge a conduit back to the ADF, as far as the ADF reflecting views of the task force is concerned? I am using those words deliberately. I am not using 'government'; I am using 'task force'.

Ms Halton—Certainly. I can only reflect on what I know, and what I know is that Air Vice Marshal Titheridge would, in my expectation, have been telling people elsewhere in the Defence hierarchy, however defined, as to what issues were being discussed and/or considered. As I have already said, one of the key functions of the group was to ensure information exchange, so if Air Vice Marshal Titheridge came to the meetings and then did not go back and reflect the conversation and/or discussions that were occurring I guess I would have been disappointed, because that was the point of having that shared information and that forum—to ensure that people did understand each other's perspective. In terms of the task force saying, 'You may do this, you may not do this, you must do this,' as I said in my opening statement we did not insert ourselves in the chain of command, and in fact the chain of command on a number of occasions was reinforced to us as being from the Chief of Defence Force to the minister concerned. So his authority was the authority that enabled—

Senator FAULKNER—Who reinforced that with you?

Ms Halton—I suppose, Senator, I'm a Luddite when it comes to the defence forces. I have now worked out what some of the pips on the shoulders mean, but in my working experience I have not had a lot to do with the military, so there was probably a small element every so often of Air Vice Marshal Titheridge finding it necessary to explain to a bunch of civilians who did not necessarily have much to do with the military sometimes how some of these things worked.

Senator FAULKNER—I am glad you got something out of him because I am damn sure I did not achieve very much when I asked him—

Ms Halton—I didn't actually see that, Senator, so I can't comment.

Senator FAULKNER—No. There was not a lot he recollected, I have got to say, but anyway. So on the specific issue about the returning of SIEVs to Indonesia you can say to me that no precise instructions were given; merely advice to the secretaries committee and the—

Ms Halton—Sorry, can we just be clear about whom we are talking about here?

Senator FAULKNER—We are talking about the advice that was requested, although we do not know from whom, by your task force on the question of the return of vessels—SIEVs—to Indonesia.

Ms Halton—Yes.

Senator FAULKNER—We know that you provide that advice to the secretaries committee on security.

Ms Halton—That is right.

Senator FAULKNER—Do you also provide it to the Prime Minister's office?

Ms Halton—No.

Senator FAULKNER—It is just to the secretaries committee?

Ms Halton—Yes.

Senator FAULKNER—We know that. In terms of the final decisions, we have a fair idea of what occurs. But was the task force made aware of the precise, final instructions that were given—in other words, the Prime Minister's final decision as it comes back via the secretaries committee?

Ms Halton—My memory is that we were apprised of the fact that there had been agreement that in suitable cases Defence would be pursuing this course of action. I do not know that we ever had anything more specific than that.

Senator FAULKNER—Who apprised you of that?

Ms Halton—Again, I would be unclear, Senator. I would suspect it was the secretary, but I do not know categorically.

Senator FAULKNER—I would be interested to understand how that communication occurs and who actually communicates it to you. Would you mind taking that on notice?

Ms Halton—I will take it away and I will think about it. Whether I can be more specific, I do not know.

Senator FAULKNER—Someone else might be able to assist us there. I know you are not an official of Prime Minister and Cabinet now, but you were the deputy secretary and it is really in that context that we are speaking to you.

Ms Halton—I understand.

Senator FAULKNER—Did your task force in its recommendation that goes to the secretaries committee on the issue of SIEVs returning to Indonesia place any caveats on that? I think ‘seaworthiness’ was one that you might have mentioned.

Ms Halton—I will have to go back and review the paper. I have not got it here.

Senator FAULKNER—In relation to seaworthiness, could I ask you to look at the question of whether medical needs would be attended to, or otherwise?

Ms Halton—Can I say that, in respect of medical needs, the comments I made earlier still obtain and, at the end of the day, I do not recall an expectation other than medical assistance would be provided. So this was not actually done on an exception basis; it was done the other way round. I will see if I can find this piece of paper and—

Senator FAULKNER—I am just interested in the caveats—whether food and water and the like might be provided. I am interested in caveats.

Ms Halton—Okay. I should be quite clear about this. There was always, throughout this process, an expectation by everyone who was involved at an official level that individuals at sea who presented in one of these vessels would be afforded all appropriate humanitarian assistance: food, water, medical assistance and, in some cases, clothing. There was never any expectation that this was on an exception basis. So the basis on which we operated was always in a context of humanitarian assistance being provided, and I do not recall an instant where that issue was debated as being unnecessary or was in any sense questioned. My clear understanding throughout this process was that people were afforded necessary medical assistance. They were provided with food; they were provided with appropriate care and protection.

Senator FAULKNER—Your advice on that matter on notice would be helpful. As I said before, I did not want to get too bogged down in this; it is just that these are matters that have been in the public arena in the last 24 hours. Could I ask you to take a step or two back in time to the events that precede the establishment of the People Smuggling Task Force. You at that time are actively involved in the people-smuggling issue in the broad. This is pre the establishment of the People Smuggling Task Force.

Ms Halton—It was pre the end of October. The People Smuggling Task Force was established on 27 August, so it is prior to that period that you are asking about?

Senator FAULKNER—Yes. Could you very briefly explain to the committee what your involvement in the people-smuggling/asylum seeker issue was prior to 27 September.

Ms Halton—Certainly. Senator, you understand well, I know, that one of the roles of Prime Minister and Cabinet is to perform a kind of coordinating function across government. We have just been talking about that. It is to shadow, effectively, every part of government policy in operation. The part of Prime Minister and Cabinet for which I was responsible had immigration as one of its issues. So we had a general watching brief over that issue.

In late 1999 there was established—and I think you might already have been apprised of this—something called the Unauthorised Arrivals Task Force. We could probably have acronym salad here if we kept going, but it followed something called the Coastal Surveillance Task Force. What it did, in a similar way to the Coastal Surveillance Task Force but probably at a more operational level, was consider all of the information about unauthorised arrivals, consider current policy and look at a range of issues; ultimately, it provided advice and a report that resulted in an allocation in the 2000-01 budget in respect of particular initiatives. So it was your classic IDC basically: come up with a range of options, come up with a report, which will be considered in the budget process, and allocations will be made in a number of areas.

From memory, that task force reported in February 2000 and then effectively went into abeyance. It did not have an ongoing role, and much like a lot of the other work of Prime Minister and Cabinet, as issues emerge, the role in that department can increase and the role will abate once a particular issue is dealt with. So that group ceased operations in February 2000. When this particular issue emerged, the People Smuggling Task Force was established. Essentially, it was founded on that earlier model. So it has antecedents in the earlier Unauthorised Arrivals Task Force, which itself owed its existence to the Coastal Surveillance Task Force.

Senator FAULKNER—But by, say, the early part of last year this whole question was taking up a fair amount of your time, wasn't it, as the Deputy Secretary of PM&C?

Ms Halton—The early part of last year?

Senator FAULKNER—Yes. I was thinking in the first half of 2001.

Ms Halton—No.

Senator FAULKNER—It was taking up just a small amount of your time?

Ms Halton—A very small amount of my time.

Senator FAULKNER—It was obviously dominating your workload by August-September.

Ms Halton—It started by 26 August.

Senator FAULKNER—You were the chair of the Unauthorised Arrivals Task Force, weren't you?

Ms Halton—But it was not meeting. It had stopped meeting at the beginning of 2000. Its work was, effectively, complete.

Senator FAULKNER—Yes, that is right: February 2000 was its last report. After February 2000 until 26 August you were not particularly engaged in those issues?

Ms Halton—No.

Senator FAULKNER—So when did this responsibility basically land on your desk?

Ms Halton—On 26 August.

Senator FAULKNER—Literally on that day?

Ms Halton—Yes, literally.

Senator FAULKNER—How did that happen? Did Mr Moore-Wilton contact you?

Ms Halton—Perhaps I may be wrong with the dates, but if 26 August is the Monday—let me just backtrack for a moment. Some of my officers were involved in discussion on a range of issues. You asked me about my engagement. My engagement was relatively minor. I was busy doing other things. My officers were engaged, as you would expect them to be, on a regular basis with the department. I had had leave the week prior to that week, and I had a phone call when I was still out of town on the Sunday to apprise me of the events over that weekend—so this was before my return—and, on the Monday, my memory is that the task force was effectively established via a cabinet decision. So the issue was discussed under the line and the task force came into being basically early that afternoon.

Senator FAULKNER—Do we know what day of the week the 26th was?

Ms Halton—If that was the Monday—

Senator FAULKNER—I am just trying to check. I am just trying to get it absolutely clear, because it is not clear to me.

Ms Halton—It might have been the 27th, actually. I have a feeling that the 27th might have been—

Senator FAULKNER—I think the first meeting was on the Sunday.

Ms Halton—No, there was no meeting on the Sunday.

Senator FAULKNER—So the 26th was the first meeting?

Ms Halton—Whichever was the Monday was the first meeting.

Senator JACINTA COLLINS—The 27th.

Ms Halton—The 27th?

Senator JACINTA COLLINS—Yes.

Ms Halton—That was the first meeting.

Senator FAULKNER—So it first met on 26 August. That was a Monday was it?

Ms Halton—Monday was the 26th, was it?

Senator JACINTA COLLINS—No, the 27th was a Monday.

Ms Halton—In that case, that was the first meeting.

Senator FAULKNER—I do not think that is right. According to the information that was tabled, it first met on 26 August 2001.

Ms Halton—Tabled by whom?

Senator FAULKNER—Tabled by the Department of the Prime Minister and Cabinet. The People Smuggling Task Force commenced, first met, on 26 August 2001.

Ms Halton—The note I have is that they will be correcting that. It was the Monday.

Senator FAULKNER—So that document is wrong, is it?

Ms Halton—I understand that there was an error in the document.

Senator FAULKNER—So it first meets on Monday, 27 August?

Ms Halton—That is correct.

Senator FAULKNER—I assume you were the chair of that meeting.

Ms Halton—I was.

Senator FAULKNER—This was, of course, in relation to the *Tampa* basically. That is right, isn't it?

Ms Halton—Yes.

Senator FAULKNER—So that was on Monday, 27 August. Were you asked by Mr Moore-Wilton to chair the task force?

Ms Halton—My memory is that there was a cabinet decision asking for some advice, and I was then asked to convene the meeting.

Senator FAULKNER—By whom?

Ms Halton—My memory is that it was Mr Moore-Wilton.

Senator FAULKNER—And the first meeting was on the 27th?

Ms Halton—Correct.

Senator FAULKNER—I am glad they are correcting their advice. There were no terms of reference for the task force—which we have talked about before. Basically, what were your riding instructions?

Ms Halton—I suppose it was—and this goes back to my opening statement—to have a process of information exchange and discussion about a range of issues that required multiple agencies to work together and then, as necessary, give advice, be it logistics or what have you, in relation to whatever issue might have been confronting us at the time.

Senator FAULKNER—Its nature is unusual, isn't it, in the sense that it is a high-level task force or a high-level IDC?

Ms Halton—I do not know that it is particularly unusual. If I look at the work that I did as part of the welfare reform exercise leading up to the last budget, the level of people who turned up to that was secretary and deputy secretaries. I would not have characterised it as being unusual. What I would say is that it was meant to—and indeed did—include people who were able to advise on particular issues and who were able then in their own agency to communicate those issues to their minister or what have you.

Senator FAULKNER—It is unusual, surely, because it has such an extraordinary amount of direct contact with ministers?

Ms Halton—The task force itself never had any direct contact with ministers, as far as I am aware.

Senator FAULKNER—Members of the task force did. It seemed to be a characteristic, from what I have seen.

Ms Halton—I go back to my earlier point. If you look at the people who were involved, in their normal jobs they would have had a responsibility to work directly to ministers. In character I do not think this was any different from a number of other IDCs I have chaired.

Senator FAULKNER—So what role does the IDC have from its first meeting on Monday, the 27th? I am interested in the background in relation to the *Tampa*. Can you briefly explain? It is established on 27 August and the key event in relation to its work is the *Tampa*. I think we

understand that. Could you briefly explain what the role of the task force was over those intense two or three days?

Ms Halton—My memory is that it comprised people from, as you know, relevant agencies who were able to synthesise advice on, for example, international obligations, international law and maritime issues such as safety of life at sea. It enabled all those agencies to collectively consider the circumstances in which we found ourselves which, I think we would all acknowledge, were fairly unusual. It enabled that group to readily exchange views and information about (1) the circumstances and (2) what advice should be given or could be considered by ministers.

Senator FAULKNER—Sure, but what was happening over those couple of days? You said it was a very intense period—I accept that completely. What was the role of the task force immediately after its establishment in relation to the *Tampa* issue?

Ms Halton—As we did later, it was the preparation of, for example, briefing papers, which would then be considered by, in this particular case, relevant ministers. So a compilation of information and advice.

Senator FAULKNER—What about the drafting of the legislation?

Ms Halton—The legislation was not drafted until very much later, depending on which legislation you are talking about. But legislation, given that in a number of areas it had impacts on a range of agencies, was never pored over forensically from beginning to end by that group. Certainly key individuals in that group would have been involved in legislation. The group did not author legislation, if that is your particular question.

Senator FAULKNER—No, I am not suggesting it did. I just wondered what the interface was and when that started.

Ms Halton—Again, it is legislation in an area which impacts on Customs, Coastwatch and Defence. There are a number of agencies that are impacted on by the legislation. Those agencies sometimes used that forum, if there were particular issues that needed discussion.

Senator FAULKNER—On what date was the *Tampa* boarded?

Ms Halton—I have not brought a chronology on that issue. I did not realise that would be a particular focus. I do not recall.

Senator FAULKNER—Was it on the Wednesday?

Ms Halton—I do not recall, Senator.

Senator FAULKNER—Did the IDC have any involvement with the first border protection bill?

Ms Halton—No, it did not.

Senator FAULKNER—Did you?

Ms Halton—No.

Senator FAULKNER—You did not have any—

Ms Halton—No, other than to see it when it was in the public domain.

Senator FAULKNER—Fair enough. Did the character of the task force change at all from these early stages? Obviously the *Tampa* was on the agenda when you started and then you had the series of suspected illegal entry vessels. Did the character or nature of the work of the task force change and evolve from the *Tampa* through to Operation Relex?

Ms Halton—Not particularly. I would not have said it changed. It would be a self-evident fact that at the beginning of that process there was a series of officials who had never met each other. I can recall the first meeting of this group—which had a cast of thousands—where, for example, Air Vice Marshal Titheridge had taken over from Angus Houston and Strategic Command. The military faces and the particular roles had changed. If you looked at the people who came to the Unauthorised Arrivals Task Force—which last met in 2000, as we have already discussed—some of the faces had changed and there was a series of people who had not worked with each other before. It is fair to say that, by the end of the process, not surprisingly, people had spent a lot of time with each other, so there was a greater familiarity with working styles, their roles and all the rest of it. But did the essential essence of the group change? I would not have said that it did.

Senator FAULKNER—What role do you or the task force have in terms of the preparation for Operation Relex?

Ms Halton—My understanding is that Operation Relex was an initiative proposed by the defence forces, considered by the national security committee and agreed by it.

Senator FAULKNER—Does the People Smuggling Task Force have any involvement as events move along and in the planning stages of Operation Relex?

Ms Halton—No.

Senator FAULKNER—None at all?

Ms Halton—No.

Senator FAULKNER—You personally do not have any involvement there at all?

Ms Halton—No. My memory is that it was an initiative of the Chief of the Defence Force working with his colleagues. I did not know that. To my memory, it was never discussed in the task force.

Senator FAULKNER—Did the international division of PM&C get involved in the work of the task force at all?

Ms Halton—Intermittently.

Senator FAULKNER—How did that work?

Ms Halton—If there was a particular issue in relation to, for example, working with the Indonesian government on vessels and return of vessels, they would have been party to those discussions.

Senator FAULKNER—What about the reporting arrangements that were set up on 6 October—there has been some public debate about them, which you may or may not have caught up with—which effectively circumvent the normal Defence chain of command? Were you or the IDC involved in that at all?

Ms Halton—I was not aware of them.

Senator FAULKNER—When did you become aware of those?

Ms Halton—When I read them in one of the reports. I think it might have been the Bryant or Powell report, but I do not know which.

Senator FAULKNER—Did you have any involvement at all—when I say ‘you’ here, I mean either IDC or PM&C to your knowledge—in the restrictive Defence instruction on public comment in the ADF? Was that something that had been drawn to your attention prior to reading it in either the Powell or Bryant report?

Ms Halton—My understanding, right at the beginning of this process, was that there was a general instruction that the only people who were to make any comment in relation to any of these issues were either ministers or ministers’ offices. As to how that instruction was translated, or whether it superseded or replicated existing instructions in Defence or in the military, or indeed elsewhere in service, I am not aware. Certainly, I am aware that there was a general decision that that was where comment should come from.

Senator FAULKNER—Where was that general decision made?

Ms Halton—You will find this unsatisfactory, but again I do not recall. It was just one of the features of this beginning of process.

Senator FAULKNER—Was it discussed at the task force?

Ms Halton—Yes. It was discussed at the task force on a number of occasions.

Senator FAULKNER—Can you explain the background of it?

Ms Halton—I am sorry, Senator, you have to be a bit more specific.

Senator FAULKNER—What was the reason for this change of approach in terms of the need for a new Defence instruction?

Ms Halton—I reiterate what I just said: I did not know that that was a particular Defence instruction or indeed what standing instructions in Defence were in relation to any public comment.

Senator FAULKNER—In the broad, are you saying to us that, because it was discussed at the task force, you did understand that a new arrangement was going to be put in place that basically meant that public comment on ADF operations would be made from the minister's office as opposed to what had applied before?

Ms Halton—No. Senator, you have just introduced a range of additional material there. I want to be quite clear about this.

Senator FAULKNER—Good.

Ms Halton—What was said in the task force was a replication of what we understood to be the case, which was that there was a general instruction that the only commentary on any of these issues was to be from ministers or ministers' offices. I was not aware of any particular Defence instruction or indeed change to Defence instruction. It was never raised in a way that I can recall it that this represented a 'change'—your word, not mine—about activity in the Defence Force; it was simply that there was a general instruction commentary. So it was put in the affirmative, not in the negative. Comment on this issue was to come from ministers and ministers' offices, full stop.

Senator FAULKNER—Just so I am clear: from where does that emanate?

Ms Halton—I suspect it emanated from the Prime Minister's office at the beginning of the *Tampa* process. But, again, I would not want to be categorical about that. This was not an instruction of the bureaucracy, if you see what I am saying. This is not something that the bureaucracy raised or suggested or what have you; this was an instruction.

Senator FAULKNER—I accept that completely. But it gets into a bureaucratic process. I accept what you say: it does not emanate from the bureaucracy; it comes from the Prime Minister's office, or it might come from Minister Reith's office. Sure. How does it get into your domain in the IDC?

Ms Halton—Because I am told it.

Senator FAULKNER—Yes, I know that, and all I am asking you is who tells you.

Ms Halton—And what I am saying is it was in August; I do not actually recall. If you asked me to say where I think likely, I think likely the Prime Minister's office, but I cannot be categorical about that.

Senator FAULKNER—But it is discussed on more than one occasion at the IDC.

Ms Halton—The issue was discussed when, for example, there were things that happened which were not consistent with what we had understood as being a general instruction. It came up in that context. So, for example, when Commander Banks gave an interview—

Senator FAULKNER—You mean his Channel 10 interview in this case?

Ms Halton—Yes, it may well have been Channel 10, but whichever one it was.

Senator FAULKNER—Did members of the task force accept that Operation Relex basically was not business as usual as far as the bureaucracy was concerned?

Ms Halton—The bureaucracy was not running Operation Relex. I think here it is only possible to talk about ‘I’, because I do not recall that any particular issues about Operation Relex being usual or unusual were actually canvassed. Operation Relex was a particular initiative that had been agreed. I do not actually recall any conversation about it being usual or unusual.

Senator FAULKNER—For example, in Rear Admiral Bonser’s and Mr Drury’s submission to the Bryant report this point is made:

Admiral Bonser said that RELEX was not business as usual and we shouldn’t be reporting as if it was business as usual.

Ms Halton—If I can perhaps make a comment, Rear Admiral Bonser is a rear admiral; he understands naval business intimately, and he would have a perception about what is usual and what is unusual. I have already made the observation that I am a relative newcomer to matters military and particularly to naval. So I do not recall discussions in the task force about it being usual or otherwise and I do not recall having any personal view on that issue. You have to have a frame of reference, I think. So his comments are perfectly understandable given his naval frame of reference.

Senator FAULKNER—Yes, but what about Mr Drury’s note for file that is attached to his submission—

Ms Halton—Which says what?

Senator FAULKNER—It says this—and this is dated 9 October 2001:

PM&C made strong statements about the rules involving press briefings and reiterated its bans in these occurring other than by Ministers or Ministerial staff.

Ms Halton—I think my earlier comments pertain.

Senator FAULKNER—But did you make those?

Ms Halton—I think I actually just said a second ago that one of the occasions on which that issue came up was in response to Commander Banks having given an interview—and, if I am right, the date that you have just referred to would be either the day or the day after that particular interview.

Senator FAULKNER—I think you are right about that, because it goes on to say, ‘Criticism was levelled at the Captain of *Adelaide* for his communications with Channel 10.’ It continues, ‘This issue then extended to the need for more timely information being passed to members of the senior level reference group—in particular, to Jane Halton of PM&C.’

Ms Halton—The date you are talking about is the 9th, which is the date that, as I said in my opening statement, I asked Defence to go and check the detail in relation to this incident. As I think I said in my opening statement, I recall a radio report on either the evening of the 8th or the morning of the 9th which suggested that children had been thrown in the water as a consequence of shots fired at the vessel. So that would be the same meeting.

Senator JACINTA COLLINS—You referred to your opening statement and there is one issue I wanted to clarify with you on that. In the last paragraph on the page where you refer to queries about events on 9 and 10 October, you say: ‘The facts as we understood them were advised in the evening meeting of the PST.’ Which evening was that?

Ms Halton—Where are you exactly?

Senator JACINTA COLLINS—It is under the headline ‘Queries about events 9-10 October’, in the second-last paragraph.

Ms Halton—The evening of the 10th.

Senator JACINTA COLLINS—The one in which the previous witness said that he had no recollection of those sorts of discussions?

Ms Halton—Which previous witness?

Senator JACINTA COLLINS—Mr Killesteyn.

Ms Halton—I do not think that Mr Killesteyn was in that meeting. I will check.

Senator JACINTA COLLINS—If you could, that would be good. I had previously asked Mr Killesteyn to comment on Admiral Bonser’s statement to the effect that he took a note of such a conversation and Mr Killesteyn said that he had been overseas at the time and did not recall any such thing happening but that he was in the meeting on the 10th.

Ms Halton—I heard part of that evidence and, to be quite frank, that discussion sounds to me like the discussion of the 9th.

Senator JACINTA COLLINS—But you just said to me a moment ago, ‘The facts as we understood them were advised in the evening meeting of the PST,’ on the 10th.

Ms Halton—Yes. You have to understand that there were two discussions: there was a discussion on the 9th and there was a discussion on the 10th. The discussion on the 9th—and it goes to Senator Faulkner’s questions in relation to John Drury’s notes of that meeting—shows that there was a discussion in respect of the need to be updated on a more regular basis. As I

said, my memory is that that was the point at which I said to Defence, ‘Go check this,’ and I asked my officials to go out and pursue the detail. At the meeting on the 10th, we then recapped—

Senator JACINTA COLLINS—That there had been concerns and this is where our investigations had taken us.

Ms Halton—that these were the facts as we knew them, and there was a piece of paper that went to those issues. In fact, the point about that is that we had ascertained that the shots were not at the same time as the ‘people in the water’ issue.

Senator JACINTA COLLINS—But are you suggesting then that Bonser’s comments relate to the meeting of the 9th and not the 10th?

Ms Halton—So you are saying that he is saying that these comments were on the 10th?

Senator JACINTA COLLINS—That appears to be the case, yes.

Ms Halton—Killesteyn was there on the 10th and thereafter for a series of meetings?

Senator JACINTA COLLINS—No, on the 11th, according to Bonser.

Ms Halton—I have no memory of that. Given that the 11th was the meeting when we actually discussed the return of vessels to Indonesia, I do not recall any such discussion on the 11th.

Senator JACINTA COLLINS—Is it possible to actually have the notes that were taken of these meetings?

Ms Halton—Which notes?

Senator JACINTA COLLINS—We have had references through various earlier pieces of evidence to notes that were taken by Ms Edwards. I am asking you whether it would be possible for us to see the full notes of each of the meetings—say, from 6 October through to 11 or 12 October.

Ms Halton—As they are in the possession of Prime Minister and Cabinet and I am no longer in that department, I do not know that that is a question I am in a position to answer.

Senator JACINTA COLLINS—Okay.

Ms Halton—Can I just tell you that Mark Bonser was in the meeting—I will just make sure my eyes are not playing up—on the 9th. So Mark Bonser was in the meetings of the 9th, 10th and 11th, according to my records.

Senator JACINTA COLLINS—His statement is:

Additionally, at an interdepartmental meeting of the UBA group, held on 11 October 2001, I made note of an exchange between representatives from PM&C and DIMA along the lines that one or the other were apparently “concerned about (the) veracity (of reports) of children going into (the) water”.

That would be consistent with your comments for the 9th and 10th but not for the 11th.

Ms Halton—No, not for the 11th. And essentially, as I said in my opening statement, this issue was no longer an issue as at the 10th. The 10th was the last time we dealt with it because we were confident, based on what we had been told, by that point that the issue was at rest.

Senator JACINTA COLLINS—And we need to wait until we talk to PM&C about whether the committee can actually see the notations of those discussions?

Ms Halton—Yes.

Senator FAULKNER—Who scheduled the Sunday, 7 October meeting—or how was that scheduled?

Ms Halton—How was it convened?

Senator FAULKNER—Yes.

Ms Halton—I think I said earlier on in evidence that, following the notification of the identification of the vessel on the afternoon of the 6th, and following my advice to Mr Moore-Wilton and Mr Jordana that a vessel had been spotted and it was unusual because all of the passengers appeared to be wearing life jackets, we agreed that I would convene a meeting. There was a series of telephone calls that evening to a number of people. I enlisted Ms Edwards’s assistance in ringing some of the members. We asked people to come to a meeting at nine o’clock on Sunday morning.

Senator FAULKNER—But was the advice from Mr Moore-Wilton and Mr Jordana the only advice that was available to you prior to the convening on the 7th?

Ms Halton—I guess it depends on what you mean by ‘advice’.

Senator FAULKNER—I am just going from your opening statement.

Ms Halton—Yes, and I said that we agreed that I would convene it.

Senator FAULKNER—Just go back a couple of paragraphs there:

The first advice I received of what was to become known as the SIEV4 was on the afternoon of Saturday 6 October.

Ms Halton—That is right.

Senator FAULKNER—You received that advice and you rang Mr Moore-Wilton and Mr Jordana.

Ms Halton—That is right.

Senator FAULKNER—I am going back a step before that—I may not have made myself clear—to the ‘advice’. I am just wondering from where that advice came—the first advice on what was to become known as SIEV4.

Ms Halton—It comes on the telephone. I get a call from Defence to say another vessel has been spotted. My memory is that I very shortly thereafter got a call from Coastwatch. There was a bit of a ‘who was there first’ in this. What you often found is that the information appeared in the information chain very quickly from a number of sources.

Senator FAULKNER—I am just asking you about that sentence. I appreciate when you received that advice—which was Saturday afternoon on the 6th. I am just wondering who it was from.

Ms Halton—Defence is my memory, in the first instance.

Senator FAULKNER—And then Coastwatch?

Ms Halton—I think so, yes.

Senator FAULKNER—Do you recall who in Defence passed this through to you?

Ms Halton—I genuinely can’t. My phone records show that I had a series of conversations with Air Vice Marshal Titheridge that afternoon, so I would suspect it was him but I would not wish to be categorical on that.

Senator FAULKNER—Would that be standard operating procedure with the air vice marshal?

Ms Halton—Yes.

Senator FAULKNER—He would know about this and would give you a call?

Ms Halton—Yes.

Senator FAULKNER—So the need was established, was it? I appreciate that when you say ‘we agreed’, ‘we’ means Mr Moore-Wilton, Mr Jordana and you, I gather. Is that right?

Ms Halton—To be absolutely precise, I seem to recall saying that, as this group looked a bit different from the earlier groups, the visible appearance of life jackets on all of the people on the vessel suggested that this was going to be slightly different. As you already know, there was a range of logistical issues about Christmas Island, including accommodation, security staff and a series of other things—and I have said that in my opening statement as well—that suggested that getting departments together to work on the issue was desirable.

CHAIR—It could have suggested that they were just on a leaky boat, couldn't it? That is a good reason to wear a life jacket.

Ms Halton—We had not seen that in any other groups.

CHAIR—It is all relative to the vessel, though, isn't it? I do not want to divert from Senator Faulkner, but there is this emphasis about life jackets and people choosing to make one interpretation. The most sensible seagoing interpretation is the boat was unsafe and people put on life jackets in case it was about to sink.

Ms Halton—Maybe. At the end of the day, all I can reflect to you is the thinking in people's minds at the time and that is what I am doing.

Senator FAULKNER—One of the issues of contention in this, of course, is in relation to the meeting on the morning of 7 October. There are different views about where advice about children being thrown overboard came from, as you are well aware.

Ms Halton—Yes, I know that.

Senator FAULKNER—So let me ask you who actually provided to the task force the first report of children being thrown overboard.

Ms Halton—As I said in my statement to Ms Bryant, which I am aware you have, and as I have just said in my opening statement, I do not recall. I know very categorically where I heard it from first and that was from Air Vice Marshal Titheridge in a phone call and I have got diary notes or—sorry, you objected to the word 'diary' earlier—I have notes in my notebook which record the essence of that and I do not recall whether someone else had said it first.

There is no doubt in my mind, and I said this in my opening statement as well, that particularly when a senior member of the task force was not in the meeting, on receipt of a phone call from a senior member of the task force, I would have relayed that phone call almost in a verbatim sense—obviously not every single dot, comma and word. But it would be my practice that, if someone had rung me with something that was obviously germane to what was going on, I would have passed that on to others on the task force. I have to say that when Ms Bryant asked me about this my memory was that in fact the Defence Force representative had had something to say on the matter. It may well be that my memory is faulty, but I do know that I was phoned by Air Vice Marshal Titheridge and I would be absolutely confident that I would have reported that conversation to the group.

Senator JACINTA COLLINS—Just on this point, Ms Halton, the suggestion in some of the material put to us is that there was a secondary source of that information—and it is hard to differentiate some of this now that we know a lot of things in retrospect—

Ms Halton—Yes, exactly. Hindsight is a wonderful thing.

Senator JACINTA COLLINS—If that information had not come from the Defence representative present, can you tell us any other possible source at that point in time?

Ms Halton—Often information came from Customs and Coastwatch. Coastwatch were often flying overhead of things and saw things that went on and their information sources would tell us particular things. Coastwatch sometimes had a vessel in the area when particular things were going on and they would often communicate.

Senator JACINTA COLLINS—Neither of those was referring to children on this particular incident.

Ms Halton—As I say, I do not recall. I did have a memory that some of this information was already in the meeting—that it was introduced by somebody else—but more than that I cannot say.

Senator JACINTA COLLINS—Not necessarily the children component.

Ms Halton—Again, I could not be categorical.

Senator JACINTA COLLINS—I think it was Ms Edwards, or someone else, who said that they had information from Customs, but it did not refer to children, and that the children information was introduced and, it appeared, by two sources—a phone conversation to you where one recollection is you said, ‘Yes, we’ve just heard that.’ My question is: if it had not come from a Defence representative, is there anyone that it possibly could have come from that you could tell us about now that would help us? Is there other information?

Ms Halton—I suppose that is my point: it could have come from a number of sources. When I originally spoke to Ms Bryant on this subject—and it is interesting that other people have said that they thought it had come from somewhere else, because that is my memory, but I cannot be more categorical; certainly the conversation with Air Vice Marshal Titheridge is the thing that is prominent in my memory.

Senator JACINTA COLLINS—We know that this verbal conversation went from Banks to Silverstone to Titheridge, then to you, to Smith, to Ritchie.

Ms Halton—Not in a line sequence, I hope, because I have never had a conversation with Smith.

Senator JACINTA COLLINS—No, it branched out then from Titheridge to you, Smith and Ritchie, but beyond that I cannot comprehend another avenue other than a Defence representative at the meeting that it could have been presented to you at that point in time. Can you comprehend—

Ms Halton—Yes, because my understanding is that NORCOM has a range of agencies.

Senator JACINTA COLLINS—So Silverstone may well have advised other than Titheridge his understanding of the Banks conversation?

Ms Halton—I do not want to speculate, Senator, because to speculate is unhelpful. The reality is that NORCOM has a range of agencies which work with it and maybe that is a source.

I had a memory that it had come from somewhere else. I cannot be more categorical than that. I do know that I was advised of the detail by Air Vice Marshal Titheridge and I have got the notes that show that.

Senator JACINTA COLLINS—I am not interested in speculating; I am trying to draw together pieces of information so that they fit into a consistent picture.

Ms Halton—I understand.

Senator JACINTA COLLINS—And at this stage we do not have that with respect to various impressions of what occurred in that meeting.

Ms Halton—I know.

Senator JACINTA COLLINS—The solution may well be that it had come out of NORCOM, and maybe that is something that we should investigate as well.

Ms Halton—Can I just ask whether it is possible to take a five minute break.

CHAIR—Yes, it is. We were going to break at half-past.

Senator FAULKNER—What time is the dinner break supposed to be?

CHAIR—From 6.30 p.m. until 8 p.m.

Senator FAULKNER—We could even have the dinner break earlier, if you want.

Ms Halton—I only need two seconds.

CHAIR—We will suspend the proceedings and just relax in our positions for a few minutes.

Proceedings suspended from 6.12 p.m. to 6.16 p.m.

Senator FAULKNER—Can I take you to the statement that you made to Ms Bryant on these issues that we are canvassing? At the bottom of page 1—this is in the context of you recalling media speculation on Monday, 8 October—it is stated:

... she

‘she’ is you, of course—

had told the Defence rep at the Monday or Tuesday meeting ... that they had better be certain about the veracity of the initial reports and they should do some checking.

You obviously stand by that.

Ms Halton—Absolutely.

Senator FAULKNER—A little later on in the dash point at the bottom of the page, it is stated:

Ms Halton said that at no time did Defence advise the High Level Group that there was doubt about the claim of children overboard. While we had asked them to check that the statement was correct ... this issue was not pursued beyond 10 October ...

because of the photos.

Ms Halton—And other things. I think in my introductory statement here today I have gone into slightly more detail in relation to that issue.

Senator FAULKNER—In the opening statement you say:

... at the meeting of 9 October Defence officials were asked to confirm all details of the event. I asked PM&C staff to pursue this with Defence... I specifically asked Defence to confirm all the details and to advise us accordingly.

PM&C officials held a number of discussions with Strategic Command during the morning and about midday they provided the chronology which you are already familiar with. The footnote to that chronology said:

“There is no indication that children were thrown overboard ...”

Ms Halton—However, it may have occurred.

Senator FAULKNER—I am sorry?

Ms Halton—You need to finish the quote, Senator.

Senator FAULKNER—You just did, I think. Would you accept that that footnote reveals that there was doubt about the original claims?

Ms Halton—No, I wouldn't. I think it is important to understand the frame of reference here. The frame of reference was about clarifying detail rather than looking for proof and I think it depends on the vantage point you sit in when you read those things. With hindsight, you may well read that from a different perspective, but, as I have said in my statement, the thing that had prompted me to ask the question was the media report in relation to the shots. I can remember being in the car when I heard that radio report and thinking, ‘Oh, golly! That’s the first I’ve heard of that.’ I remember thinking, ‘Well, we’d better get all those things checked because that’s an issue that doesn’t, prima facie, sound very attractive.’

The fact that people in the department were looking to clarify detail meant that my people were trying to sort it out. There were a number of things that came from Defence at that time. Remember the context: people were incredibly busy and some of the information from Defence had various numbers, for example, about people who had gone over the side and some of the details were contradictory. Some of it was in—what do they call it?—zulu time. It was in different time frames. We were trying to sort through when the actual shots had occurred—we discovered they had—and how that related to what we thought was the children overboard as well as others overboard. We now know that not be the case. Trying to get a consistent chronology around all of this is what was occupying people. This is I think why when I made that original statement to Ms Bryant I said that this was in an environment—a frame of

reference—in which we had never been told, it had never been alluded to and there had never been the merest suspicion in the advice we had given that there was any doubt about this.

Senator FAULKNER—But that is the whole point. You say, ‘At no time did Defence advise there was doubt.’ That footnote, I am afraid, is the advice you ask for, and you get the advice back, surely, and it not only says there is doubt but says that they are unsubstantiated by the facts.

Ms Halton—As I said in my opening statement, that footnote appeared as a footnote on a fax that was sent to a junior officer in Prime Minister and Cabinet and was not accompanied by a phone call to me or to anybody else to say, ‘Actually, we are a bit concerned now that there is doubt here.’ We were never told that there was doubt. There was never a suggestion made to me that there was doubt about this event. Can I say—and I made this comment in my opening remarks—that we in very short order were advised that there were photos. These had been released to the press, and we all know that they were published the next day. There was a video and there were witness statements. Then we went to the evening meeting and the information as we knew it was canvassed, and that was the last time we dealt with it.

Senator FAULKNER—You say to Defence, ‘Look, you had better check the facts.’ They are your words. I put them in inverted commas.

Ms Halton—That is right. Exactly.

Senator FAULKNER—But then the facts seem to me to be completely disregarded when they are provided.

Ms Halton—I don’t accept that.

Senator FAULKNER—This chronology comes from a signal from HMAS *Adelaide*, does it not?

Ms Halton—I do not know where it comes from. We were never advised where it came from. I was certainly never advised. I do not believe—

Senator FAULKNER—I thought you may have been at least able to establish in the meantime that that is where it came from.

Ms Halton—No.

Senator FAULKNER—You haven’t?

Ms Halton—I have not established where that chronology came from.

Senator FAULKNER—It is a primary source, and nowhere does it show or does it say that children have been thrown overboard.

Senator FERGUSON—It does say that it was possible.

Ms Halton—That is right. And it comes back to the frame of reference.

CHAIR—I started, as did Senator Faulkner, at your statement where you said that you got no advice. That is patently not true. You got the advice by way of a footnote.

Ms Halton—The department got it. I did not get it. I said I did not receive advice.

Senator FAULKNER—Do we know who in the department got it?

Ms Halton—A junior officer.

CHAIR—Can I put this to you: you have relied on your statement to argue your position. In your statement you say—

Ms Halton—I have relied on my statement to make you aware of the facts as I know them.

CHAIR—I see. In your statement you say, ‘At all times the PST operated in a thorough and professional manner’—

Ms Halton—That is right.

CHAIR—‘and consistent with Public Service practice and APS values.’

Ms Halton—That is right.

CHAIR—That is right?

Ms Halton—That is right.

CHAIR—You are expecting us to accept that the level of professionalism and Public Service values is that when you get advice such as this you pay no heed to it?

Ms Halton—As I have said to you, officers in my group saw that footnote. They then saw it in a context where there was advice that there were photos, which they duly saw. There was a video and there were witness statements. That advice says this may have occurred, and the judgment was formed that that was the end of the matter. This was in a context in which there had been no senior—or can I say junior that I am aware of—allusion to the fact, statement of the fact, call or anything else to say that there was doubt.

Senator BRANDIS—Ms Halton, could I ask in relation to the source documents whether and, if so, when, you became aware of Commander Banks’s signal from the *Adelaide* dated 11 October.

Ms Halton—Which signal would that be? I did not see any signals from Commander Banks right throughout this period.

Senator BRANDIS—That is the signal in which Commander Banks says, among other things, that he had been advised by the boarding party and other witnesses on the bridge wings that some men, some boys and some children had entered the water. You had not seen that at that stage?

Ms Halton—No. We did not see Defence signals through this period.

Senator FAULKNER—Did you think of retracting the advice that you gave to Ms Bryant:

... at no time did Defence advise ... that there was doubt ...

That is not correct. They did advise.

Ms Halton—Let us be quite clear. My knowledge, when I gave this statement to Ms Bryant, did not in fact include—I have to tell you—the existence of that chronology.

Senator FAULKNER—I know that.

Ms Halton—I made that statement based on my understanding and my knowledge. We can have a semantic debate about a fax with a footnote, which was never then canvassed in the PST, was never referred to in any phone calls or discussions with me or other senior officers that I am aware of, about doubt. As far as I am concerned, that statement was made in absolutely good faith and, from my perspective and based on my knowledge, is accurate. I do say in that statement ‘advise the High Level Group’. They did not advise the high-level group.

Senator JACINTA COLLINS—Ms Halton, can you explain to us the context of how this was sent to the department.

Ms Halton—My understanding is that it was faxed to a junior officer in PM&C. I have already said in my opening statement that people were trying to clarify detail. They were trying to clarify the time of the shots, they were trying to clarify the number of people et cetera. I think it may well have been sent to a junior officer. As you know, the other information that came into our possession almost contemporaneously was in relation to the existence of photographs, video and the collection of witness statements.

Senator FAULKNER—But you also have very high-level Defence people on the task force.

Ms Halton—That is right.

Senator FAULKNER—They do not tell you, do they?

Ms Halton—They do not.

Senator FAULKNER—Everyone seems to know except Air Vice Marshal Titheridge.

Ms Halton—He or his officers did not say anything about this.

Senator FAULKNER—That is not right. There is actually documentation out of Strategic Command that goes to PM&C—

Ms Halton—You are talking about the footnote again?

Senator FAULKNER—No. There is other advice and we will get to that at a later stage. Do you question now and do you reflect on the nature of the advice coming from Air Vice Marshal Titheridge, as the senior Defence person on the task force, in these circumstances?

Ms Halton—I think I said in my concluding remark in my opening statement that there was clearly information elsewhere that was not made available to the PST. The reasons for that, I cannot begin to comment or speculate on, because I do not know what they are. You made the comment earlier about the information that is now in your possession. You probably actually know more about this than I do. I have not sat here all the way through testimony you have heard and the various people's perspectives on what happened at particular times. All I can do is tell you about what I know and what I was involved in.

Senator FAULKNER—So the reason the chronology is not mentioned in your witness statement to Ms Bryant is that you did not know about it at the time?

Ms Halton—No, I did not.

Senator FAULKNER—When did you learn about it?

Ms Halton—When the inquiry was under way.

Senator FAULKNER—Now that you do know about it, do you agree that the definitive statement that you make in that witness statement looks rather silly?

Ms Halton—I stand by the definitive statement that I make in that witness statement. Defence did not advise the high-level group that there was doubt about the claim of children overboard, which is the direct quote from my statement. I still stand by that, because that is the case. They did not advise the high-level group.

Senator FAULKNER—Here is this question of definition of the difference between Prime Minister and Cabinet and your role on the task force. At the end of the day, I do not know that people are drawing these sorts of distinctions. You earlier found it a bit hard to draw the distinction yourself.

Ms Halton—I do not know that I did, Senator, but we could debate that another time.

Senator FAULKNER—You were there representing Prime Minister and Cabinet, but this is a pretty nebulous sort of task force without terms of reference. For Defence or any of these groups, what is the point of contact? It is officers in Prime Minister and Cabinet, isn't it? If you want to inform the task force about something or communicate directly you go to officers in the Department of the Prime Minister and Cabinet.

Ms Halton—You do not go to a junior officer in the social policy division by fax with no follow-up phone calls.

Senator FAULKNER—You do go to officers in the Department of the Prime Minister and Cabinet.

Ms Halton—If you have an issue of substantial concern in relation to what was going on in this context, you pick up the phone and ring me or, if you cannot find me, you ring Katrina Edwards. That did not happen.

CHAIR—I imagine there is no convenient point to adjourn in this dialogue, but we are after the hour at which we were going to adjourn.

Proceedings suspended from 6.32 p.m. to 8.04 p.m.

CHAIR—The committee will now resume. Ms Halton, I understand that you have some additional information that you want to bring before the committee.

Ms Halton—Before the break, I was asked a series of questions in relation to how the advice from the Secretaries Committee on National Security was transmitted to the Prime Minister. That was by way of a minute from the department to the Prime Minister which basically reflected the paper and the decision of that committee.

CHAIR—A minute from the Prime Minister?

Ms Halton—A minute to the Prime Minister, asking for a decision. Senator Collins asked me a couple of questions which I think were motivated by something that she had said on the *Four Corners* report last night. As I have already said, I have not seen that. She particularly asked about whether there was concern taken for the seaworthiness of vessels and whether there was concern taken in respect of humanitarian assistance.

I would like to reflect on two things. Firstly, the advice to the Prime Minister did acknowledge that not every vessel could be returned, so it was only if it was practicable. And I would like to reflect—again, this is with the process of thinking about this over the dinner break—that all of this was done in the context of the notion of safety of life at sea and our international obligations in respect of rendering assistance to people who are in distress. I do quite vividly recall a series of conversations about our obligations to not leave people who are at risk at sea. So I can say to you very confidently that not only is it my understanding that we did provide humanitarian assistance to people—we have talked about medical assistance already and we have talked about food—but also this was done in the context of ensuring that we did not place people at risk. It was done in the context of our obligations, which go beyond the black letter of the law, to ensure that people's needs were met.

CHAIR—Neither of the two senators who were questioning you about that are present.

Ms Halton—I know, and I am sorry about that but I did want to get it on the record.

CHAIR—Your remarks are on the record and I will privately direct them to those remarks.

Ms Halton—Thank you.

Senator BARTLETT—Turning to the interdepartmental committee, was the policy change to this ‘deter and deny access’ approach developed by that committee?

Ms Halton—I am sorry, but can you be quite clear about which one you mean. That is not a language I would use so I do not know what you are referring to.

Senator BARTLETT—‘Deter and deny’ is the mission label that the Navy personnel used a lot, and the commander of the *Adelaide* and others were saying that.

Ms Halton—You are not talking about ‘tow-back’?

Senator BARTLETT—I am talking about the two stages, I guess. The first was post *Tampa*—

Ms Halton—Operation Relex.

Senator BARTLETT—Yes, Operation Relex, and the second one when, as I understand it, there was a specific policy decision made to look at towing boats and returning them.

Ms Halton—Where it was practicable.

Senator BARTLETT—Were they both policy decisions made by the IDC?

Ms Halton—No, they were never decisions of the group of officials. I think, as we have already canvassed, the approach in relation to Operation Relex was that there was a proposal from the head of the Defence Force, is my memory, which was considered by the Secretaries National Security Committee and, obviously, any rules of engagement would have been signed off by the minister. I think we have canvassed in some detail what is referred to as ‘tow-back’ and that, while there was some advice provided that was founded on legal and foreign policy advice, there was certainly no decision about that by any group of officials. That was clearly a decision taken by government.

Senator BARTLETT—So, in effect, was the IDC’s role basically to monitor the operation of that policy?

Ms Halton—We have talked a lot already about the role of the IDC in the exchange of information and certainly, as you know, there was a series of calls about particular aspects of operations. In respect of your first question, no, the IDC did not take decisions about those issues.

Senator BARTLETT—So would it have been involved in consultations with, or receiving feedback from, the Indonesian side of things, involved in responses from the Indonesian

government to Australian government policy? Would those sorts of issues have been considered by the IDC?

Ms Halton—Do you mean were we briefed by foreign affairs officials?

Senator BARTLETT—Yes.

Ms Halton—Yes.

Senator BARTLETT—Was that more of a monitoring role on those sorts of developments, rather than any—

Ms Halton—Steering or directing role?

Senator BARTLETT—Yes.

Ms Halton—Yes, that is right. In fact, Rick Smith, who is our ambassador in Indonesia, actually attended the task force on—from memory—one occasion, as we had various other people who were germane to the operation attend on various occasions. You would know, Senator, that there is often a great advantage in meeting the people who were working sometimes on the other end of a telephone. My memory is that Rick Smith was in town and he came to the task force, and certainly I saw him in that time.

Senator BARTLETT—And you would have received reports when it was assessed that vessels were leaving Indonesia; the committee would have been apprised of those?

Ms Halton—Not necessarily. Can I say that I think there is something of a misapprehension abroad about the state of our knowledge about vessels leaving. I am aware of one particular allegation that has been made in relation to our state of knowledge about a vessel leaving. It is fair to say that sometimes we had a vague knowledge that maybe somewhere something had left. But to say that we had categorical knowledge of individual vessels leaving a particular place at a particular time in a categorical way I think is to misstate the truth.

Senator BARTLETT—And the IDC would not necessarily have been informed of that in every case anyway.

Ms Halton—If there was a reasonable view that something might be leaving from somewhere, we would probably have been advised of that. I have certainly read some things in the newspapers in the last little while about our state of knowledge of particular vessels which, I have to say to you, from where I sat, is absolutely not correct.

Senator BARTLETT—I presume you are referring to the vessel that sank.

Ms Halton—That is correct.

Senator BARTLETT—I want to briefly pursue the ‘children overboard’ incident and situation. There has been a lot of focus on what was or was not provided to the office of the

Minister for Defence. I notice today that some of the DIMIA officials spoke about the immigration minister's adviser, Mr Ingram, contacting you to get updates et cetera. What was the nature of those conversations? Did he want more detail about what happened?

Ms Halton—No. It was usually very brief and usually of the essence of, 'Have we found another one—yes, no? If we have, is it in the public arena, or can it be?'

Senator BARTLETT—Would he have rung you about trying to get more details about the specific 'children overboard' allegation?

Ms Halton—As my witness statement to Ms Bryant said, my memory is that at the beginning of the IDC on the morning of the 7th I think I may have actually received a call from Mr Ingram. My memory—and it is imperfect—is that the call was to say the detail of this vessel, as it existed, seemed to be in the public arena and did I know where that had come from. I should say that my knowledge at that point of where that information had come from was nonexistent. I knew there was a vessel. I was not aware that that information had been released to anybody. The general habit had been not to comment on operational details whilst operations were in train. I was a bit surprised that the detail of that vessel seemed to be in the public arena. What I said—again my memory might be imperfect—is that I did know because I had heard on the radio a report that there was a vessel but where that information had come from I did not know.

Senator FAULKNER—But the intelligence reports were much more precise, were they not, than just giving you a vague idea of when the SIEVs were leaving Indonesia?

Ms Halton—What we had was often a statement that a source had said that a vessel might leave. For every source that had said a vessel might leave to a vessel that actually turned up, we probably had a hit rate of one to four. The reality is that sources said that vessels might be leaving from some island.

Senator FAULKNER—How do these sources come through to you in your role as chair?

Ms Halton—They do not come through to me directly. As you know, DIMIA have an intelligence report—in fact, I think you have already received, as I understand it, a somewhat blacked version of one of those; I have not seen it—

Senator FAULKNER—It is more black than white, I can assure you.

Ms Halton—I guess I am not surprised. Essentially, that intelligence report would be something that, as appropriate, would be discussed in the group as part of the agency updates I talked about—going around the table at the beginning of every meeting and saying, 'What do you know and what needs to be discussed?' When one of the agencies thought that they had a source that said a vessel might be coming, they would relay that.

Senator FAULKNER—So it is not only DIMIA, there are other agencies as well.

Ms Halton—Yes, but my point remains that, in terms of accuracy, for every time someone thought a vessel might be about to leave, we probably got one in four. Don't hold me to the one in four, but you understand the point I am making.

Senator FAULKNER—But the task force is looking at this issue closely—at vessels that are leaving Indonesia—and planning for them?

Ms Halton—That is right, in terms of: if we have all those vessels arrive, do we have a capacity to accommodate them? That was an issue that we discussed.

Senator FAULKNER—It was more than just accommodating them, wasn't it?

Ms Halton—What do you mean?

Senator FAULKNER—A lot of this is happening in the period of the election campaign. There was a political imperative.

Ms Halton—I think you need to be really clear about this. Senator Cook took objection to a comment I made in my opening remarks. I think we need to be really clear that there was a stated government policy that the people in this task force were working on the implementation of in terms of the information exchanged in that group and individually within agencies. They had been given clear riding instructions about the policy. That policy was set before the election was called and that is what was undertaken in that group. Bill Farmer made a comment in his remarks on that issue. I got here a little early and you finished with him a little late so I did see an exchange between a number of you and Mr Farmer on that issue. I think that the task force at all times operated in an operational way. It did not operate in any sense in a way which went to a change in policy or to behaving improperly.

Senator FAULKNER—I am interested in your characterisation of operational. What do you mean by operational?

Ms Halton—I mean that there was a stated policy which was to be implemented and the policy parameters, with the exception of the change that we have talked about, which came from advice from the Secretaries Committee on National Security—

Senator FAULKNER—This is the one change that you and I were talking about before the break in relation to being relation to boats being returned to Indonesia—

Ms Halton—That is right. Essentially the government's policy was stated and known prior to the election and the basis on which that group operated was consistent with that stated and known position.

Senator FAULKNER—Was that the only policy change for the entire life of Relex?

Ms Halton—Do not ask me to be categorical because we were proved to be—

Senator FAULKNER—It is an important point. You are making that distinction and I appreciate that. That is an important policy change.

Ms Halton—I cannot remember any other particular policy change. That one we have talked about in terms of the process around that, but in terms of what that group was doing which was

hearing advice if there were one, two, three or however many might be alluded to to be on the way—and as I said, probably one in four arrived—and hearing the logistical issues about managing Christmas Island, talking about how to provide food, security and blankets. They were the sorts of briefings that departments would provide in the meeting about where they were up to on the logistics. It did not strike me that there was anything in that that represented a change from the position prior to the election being called.

Senator FAULKNER—So if that is the only significant policy change that occurs through the life of Relex, what about from the establishment of the task force to the commencement of Relex when Relex became operational on 3 September 2001? Were there any significant policy changes in that comparatively short period of a week?

Ms Halton—Not that I am aware of. I am aware that there were rules of engagement, as you would expect, in that period. I am not aware that they were changed.

Senator FAULKNER—Did the rules of engagement go to the task force?

Ms Halton—My memory is that we were probably drop-copied a copy. We were not commentators on it.

Senator FAULKNER—They were not matters for the task force?

Ms Halton—No, absolutely not.

Senator FAULKNER—They were not discussed at the task force?

Ms Halton—No, absolutely not. Again, this goes back to my earlier comment in my opening statement about not inserting ourselves in the line of command. The rules of engagement are an issue between the Minister for Defence and the Defence Force. I am quite confident that we saw them.

Senator FAULKNER—Did the return of suspected illegal entry vessels back to Indonesia have any impact on the rules of engagement?

Ms Halton—I assumed that they changed the rules of engagement.

Senator FAULKNER—Is there a basis for that assumption? I am not saying it is a silly one; it does not make sense, but—

CHAIR—John, Andrew was completing—

Senator FAULKNER—I know. I fear, Mr Chairman, that I have taken Senator Bartlett's line of questioning away from him, so I will be very disciplined after this question—

CHAIR—Okay.

Senator FAULKNER—After all, I could make the point that he was breaking into my questioning, but I would not be so churlish as to suggest that!

CHAIR—I know. And it is too early in the night for those displays.

Senator FAULKNER—I am never churlish!

Ms Halton—Perhaps I can say, Senator, that in the advice that went from the department to the Prime Minister, which was gathered from the SCONS meeting, there was an acknowledgment that the rules of engagement would need to change.

Senator BARTLETT—I have nearly finished in any case. Of the conversations you may have had with Mr Ingram, as far as you are aware only the one specifically went to the ‘children overboard’ allegation?

Ms Halton—No. I think we should be quite clear. I do not recall having any conversation with him about children overboard.

Senator BARTLETT—So the frequent contact with him was more on that daily ‘What has been happening, anything I need to know?’ sort of thing.

Ms Halton—Yes, basically. I would say they probably lasted all of 30 seconds, if that.

Senator BARTLETT—You do not recall any specific time when he contacted you asking for clarification or further detail on that?

Ms Halton—Definitely not.

Senator BARTLETT—Thank you. That is it.

Senator JACINTA COLLINS—I apologise for not being here when we first started back. I ask Ms Halton whether she could go over what she indicated was related to a question I had asked which, from what I can gather, was one televised on the *Four Corners* report—is that right?

Ms Halton—I think you were concerned, Senator, that there had—I am paraphrasing and I am going to get this wrong—

Senator JACINTA COLLINS—But this is previous evidence—

Ms Halton—Yes.

Senator JACINTA COLLINS—Not tonight’s.

Ms Halton—No. You had asked earlier—now I am confused. You had asked earlier about—

CHAIR—I think it was the seaworthiness—

Ms Halton—That is right. I think it was in reference to something on *Four Corners* but, as I said when I started this evening, I had not seen *Four Corners* so I did not know quite what the reference was to. I understood your concern to be that we had not provided all humanitarian assistance possible to people, and I thought you were concerned that there might have been a danger that we had been towing vessels that were unseaworthy. What I said was, ‘I have gone back and confirmed the basis of the advice that went from the Secretaries Committee on National Security to the Prime Minister.’ That went via a minute from the Department of the Prime Minister and Cabinet to the Prime Minister. It acknowledged that a vessel could not go back if this was not practicable. This was in the context of a broader discussion that had been had, on multiple occasions, about the notion of safety of life at sea and the obligations that obtain on any mariner in relation to safety of life at sea. So the point that I was making was that, firstly, a vessel did have to be seaworthy. I did not go on to say, but now that you are here I will say it: my understanding is quite clearly that a judgment about whether a vessel was seaworthy was absolutely in the province of the relevant naval commander. They had to make a judgment about whether that vessel was seaworthy, and they similarly could not leave a vessel if they had any concern that it was not seaworthy. They could not leave a vessel that they did not feel was able to return to land, or in any sense endangered the life of the people on that vessel.

Senator JACINTA COLLINS—I am sorry. The only time I recall raising the towing incident tonight was when Senator Faulkner had asked what you needed a decision from the IDC on, and I think it was a quip of mine which said ‘towing’, for instance, in reference to the logs—

Ms Halton—Maybe I misunderstood your intent, but I gathered that you were concerned that people’s humanitarian needs had not been met and that there might have been a danger that—and I think you asked about whether or not we had taken account of seaworthiness in the advice that had been provided—so what I was trying to do was—

Senator JACINTA COLLINS—That was Senator Faulkner.

Ms Halton—I am sorry if I have confused the two of you. You are pretty hard to confuse.

Senator JACINTA COLLINS—Okay. You go, John.

CHAIR—I think we are sorted with that—as far as we can be—so let us get on with it. Senator Faulkner.

Senator FAULKNER—Before the break, Ms Halton, we were speaking about the footnote to the chronology, I recall, and I raised with you my concerns about what I think is an inconsistency between the witness statement you made for the Bryant report and your opening statement tonight. You said in your witness statement:

... at no time did Defence advise the High Level Group that there was doubt about the claim of children overboard.

I think that is the issue we were discussing prior to the break. But you also said earlier this afternoon that it was you who was asked your own then department, Prime Minister and Cabinet, to pursue this with Defence and that you specifically asked Defence ‘to confirm all the details and to advise us accordingly’. Is the point here not that Defence did advise PM&C,

albeit via the chronology and the footnote that we have spoken of, but that advice—as a result of the PM&C and Defence tick-tacking on the issue—Defence material, is provided to PM&C?

Ms Halton—No-one is denying that that chronology was received in Prime Minister and Cabinet. You know that; I now know that. I think what is relevant here—and I made this comment in my opening remarks—is that the officers were trying to sieve through what was sometimes contradictory information that had come from Defence, contradictions about the numbers of people at various times. I have talked about zulu time. I am not a Defence guru, so I get the terms wrong, but you understand the point I am making—that they had been trying to sort through these facts. At the same time, or shortly thereafter in any event or almost contemporaneously, as that footnote—and it was only a footnote and it was not accompanied, as I have already told you, by a red light flashing and a warning bell problem type alert from anyone that I am aware of in Defence—we are told about the photos which duly appear on the front page of I do not know how many newspapers the next morning—

CHAIR—Just about all of them.

Ms Halton—Yes, that would be my memory. It was either Minister Reith or Air Vice Marshal Titheridge—I think it was Titheridge; I would not want to be completely categorical on that—

Senator FAULKNER—The usual suspects.

Ms Halton—We were told that there was a video. It was acknowledged it was grainy, but we were told there was a video, and we were told there were witness statements. At the end of the day, with reasonableness and the balance and the weight of evidence, as I said in my opening remarks, we then took the facts as we knew them to the evening meeting. No-one then came back to us and said, ‘You’re wrong!’ And, as I have said, that was the last time, to my knowledge, that it was discussed. As you probably know—and it is hard to get a perspective on it at this point—there was a huge amount of other things going on. I had explicitly asked the question about the substance of this because I heard that commentary about the shots across the bow, and when you hear something and you think, ‘Oh, I didn’t know that, that sounds a bit worrying,’ we went looking, we went asking, and then the balance of evidence swung back the other way because of things I have just talked about. We put the information in front of the evening meeting—that was fine—and then it moved on.

Senator JACINTA COLLINS—Who was the junior official who received the chronology?

Ms Halton—He is an ASO6.

CHAIR—Has he been promoted?

Ms Halton—No, he has actually left the Commonwealth service.

Senator JACINTA COLLINS—But was he part of your investigation to find out what had happened?

Ms Halton—It was not my investigation.

Senator JACINTA COLLINS—You asked—

Ms Halton—I am sorry, I was not clear which investigation you were talking about. He was one of the officers in the Social Policy Division who was working—

Senator FAULKNER—Let's not beat around the bush. Who was the officer, Ms Halton?

Ms Halton—An officer called Matt Healey.

Senator FAULKNER—Thank you. In your opening statement you said:

PM&C officials held a number of discussions with Strategic Command staff during the morning and at about midday they provided the chronology which you are already familiar with.

'You' being all the committee, and you note the footnote. This is indicative, isn't it, of the fact that there is tick-tacking between Strategic Command and the Department of the Prime Minister and Cabinet, obviously, at that stage? That is going on. You, in fact, kicked that off. You say you kicked that process off.

Ms Halton—Yes.

Senator FAULKNER—That was your initiative.

Ms Halton—That is quite correct.

Senator FAULKNER—But given that there is the footnote to the chronology, you do not follow up the outcome, do you? You are saying that Defence do not follow it up with you or Ms Edwards—that is what you said earlier today.

Ms Halton—I think that is an unreasonable characterisation of the facts, Senator. The reality is that we initiated the contact with Defence. It was an own motion question. We were the ones who actually pursued them on the subject. My officers were actively chasing them.

Senator FAULKNER—But you never get to know about it.

Ms Halton—No, but can I explain to you how I was briefed? I was interstate on business on that particular day and I returned to the office 15 to 20 minutes before the high-level group meeting that afternoon. I was briefed that we had been pursuing Defence on the substance of the material.

Senator FAULKNER—Who did that first briefing?

Ms Halton—Ms Edwards. Contemporaneously with that briefing, the information about photos, videos and witness statements came about.

Senator FAULKNER—But she tells you, doesn't she? This is the point, Ms Halton: Ms Edwards, whom you said Defence should have chased down, or chased you down—you said that before the—

Ms Halton—What I said, Senator, was that there was no proactive bringing of that to my or my senior officers' attention, as I understand it.

Senator FAULKNER—But Ms Edwards tells you directly that Strategic Command that afternoon—following receipt of the chronology—had no documentary evidence of children thrown overboard. The whole case that you put does not seem to hold water. We know, because Ms Edwards says in the witness statement to the Bryant report, and this is signed by her:

Following receipt of the chronology I informed Jane Halton—I think it was late in the afternoon—that Strategic Command had no documentary evidence of children thrown overboard.

Ms Halton—Senator, I suppose this goes to our understanding of where Strategic Command sat in the great firmament. Essentially, as I have already told you—and this is my point about Ms Edwards arriving to give me a brief as I arrived in the office that afternoon—we were advised contemporaneously about photos, videos and what have you. The photos then appeared in the paper. There they were, in the paper.

CHAIR—You are referring to the false ones? They were misleading because they were deceptively labelled.

Ms Halton—The ones that we now know were misattributed; that is correct. But we did not know that at the time. Our experience throughout this period—and I said this in my opening remarks—was that very often the cable traffic, or however you want to style this, was significantly, and sometimes days, behind events. This had been our experience right throughout this period. At the end of the day, when very senior people in close connection with what is going on explain to you that there are videos, witness statements and photos, and the photos appear, and there is a huge pressure of work, and the facts, as we understand them, are put in front of the evening meeting and no-one demurs from those facts and no-one says, 'No, no; that's wrong,' and there is no doubt, you move on.

Senator FAULKNER—Yes, but do you accept that you were informed late that afternoon by Ms Katrina Edwards that Strategic Command had no documentary evidence of children thrown overboard? Do you accept, as she said in her witness statement to Ms Bryant for Ms Bryant's report, that she, Ms Edwards, said that to you on that day?

Ms Halton—I don't remember that.

Senator FAULKNER—Were you aware that she had said that in her witness statement?

Ms Halton—Yes, I am aware that she said that, and I do not recall it. But, as I said, that does not surprise me. If she did say it, it would not necessarily have caused me instant alarm for two reasons: first, I had been told there were videos, photos and witness statements and, second, our experience since Monday, 27 August—I think we have now agreed that—had been that material that goes to these things was often, as I have said, very behind the actual events.

Senator BRANDIS—I suppose it is a little stronger still for you than that, in the sense that you had been relying upon verbal reports. It was on the basis of verbal reports that you arrived

at whatever conclusions you arrived at. You would not necessarily have been looking for documentary evidence.

Ms Halton—No. When something is moving as quickly as this, which it did right throughout this period—and I know that the comment was made in evidence earlier this afternoon by Mr Farmer—what one did was treat the information provided by senior people from each agency as being robust. Our experience right throughout this process was that it was—

Senator BRANDIS—I suppose one can also get a bit tricked even by the concept of what documentary evidence is. A photograph, of which there were not any, would plainly be documentary evidence. But if one treats a statement as documentary evidence—a statement is merely an ex post facto writing down of what originally would have begun as a verbal report. It does not bear any greater probative significance, indeed perhaps less since it is not contemporaneous but, as I say, ex post facto. We have to be a little careful, Senator Faulkner, in vesting the expression ‘documentary evidence’ with a significance it perhaps does not bear.

Ms Halton—I have a comment that goes to your question about documentary. At the end of the day, we had been advised that there was document evidence, and that was the photos. The photos then appeared—

CHAIR—This is where you lose me, I must say. One of your staff tells you that there is doubt. You hear of documentary evidence. Surely that raises a question. You do not send for the documentary evidence.

Ms Halton—It was published in the paper.

CHAIR—What was published in the paper was a photo of people in the water, that is all.

Ms Halton—Which was attributed as being a photo of children thrown overboard.

CHAIR—It was said. But you are sitting here in charge of the peak body—the task force—sifting all this evidence. You are told by a staff member that it is not reliable, yet you choose to prefer the other advice without checking whether the statement made by your staff member has any veracity. That is what you are asking us to believe—in the context that this is an entirely professional operation.

Ms Halton—That is right, and I stand by that statement.

CHAIR—You cannot have it both ways.

Senator FAULKNER—How can you possibly stand by that statement? The trouble is, Ms Halton—

Senator BRANDIS—I raise a point of order, Mr Chairman. I respectfully suggest that it might be fair and helpful to let the witness finish her answer.

Senator FAULKNER—I think it would be fair and helpful if you did not interrupt so much.

Senator BRANDIS—I suggest, Mr Chairman, that the witness be invited to finish her answer.

CHAIR—She has the floor.

Ms Halton—I did not think I did, actually. The reality is I do not recall a statement like that by Ms Edwards. As I have said to you, had she made it, it would not necessarily have caused us instant alarm. As I have already said, completely contemporaneously we were advised by senior people who were, as best you could tell, more connected to the actual day-to-day operations of this whole process, that there was, to use your terminology, documentary evidence—it was not put in that way, but that was the effect of it—and that comprised the photographs.

The photographs were then duly published. You made the point about us sifting through all of the information here. Could I just take you back to what the role of this group was. It was not—and I have said this several times—to insert itself in the chain of command, in the military or in departments. At the end of the day, the advice that came to us—I have said very clearly—was that children were thrown overboard. I have said very clearly that we asked for clarification of detail in response to a particular issue about which we did not know—which was the shots—and that, notwithstanding whether Strategic Command did or did not say to us there was no documentary evidence—and I do not recall that—the simple reality is that people who were more intimately involved with this than Strategic Command told us there was video, there were photos—which then duly emerged—and there were witness statements. Not only did we do that, but our interpretation of the facts of the case was put in front of the evening meeting of the 10th. Those facts were not denied.

Senator BRANDIS—Ms Halton—

CHAIR—Hang on, you asked me to wait and I have waited.

Senator BRANDIS—I am sorry, I thought the witness had finished the answer and I wanted to ask her a question arising from that answer.

CHAIR—I just had a follow-up question and I thought I would seize the call off you and you would seize the call off Senator Faulkner. Maybe we should all sit back and let Senator Faulkner—

Senator BRANDIS—I have not exactly been very interventionist in the examination of this witness, Mr Chairman, now have I?

CHAIR—Ms Halton, at the beginning of that long statement, you said that it would not have caused panic stations. It would have caused, though, a reasonable doubt in a reasonable officer—I would submit—that there is something here that should be examined further, wouldn't it?

Ms Halton—Are you suggesting I am not a reasonable officer, Senator?

CHAIR—I am putting the question to you, Ms Halton, and asking me a question in return is not an answer.

Senator BRANDIS—I think he is.

Ms Halton—I think he is too. Senator, as I have said to you, I had already asked explicitly for positive confirmation from Defence of the facts. My officers had actively chased people from Strategic Command all day long on this subject. My officers had actively tried to reconcile sometimes contradictory information from Strategic Command, and we had had advice from people who were much closer to these events in relation to—your term—the documentary evidence. In terms of any suggestion that we harboured doubts, can I say that hindsight and retrospectivity is a truly wonderful thing and—

CHAIR—Yes, and you were very busy—

Ms Halton—Can I finish?

CHAIR—but you were very professional. We understand both those points.

Ms Halton—I think I should be allowed to finish.

Senator BRANDIS—Mr Chairman, let Ms Halton finish, for heaven's sake.

Ms Halton—Can I just say explicitly—and I have said this in my opening statement—that, at the end of Wednesday the 10th, we did not have a doubt about this issue. We had ascertained the facts to the best of our ability, remembering that we are not responsible for the detailed goings-on of the internal workings of the military or the defence department; we are a coordinating agency. We had put our understanding of the facts in front of that group and no-one had said, 'Oops, bit of a concern here. Might not have happened. It's a bit of a worry.' It did not happen. Senator, you may say—

CHAIR—The evidence is that it did happen, on two occasions.

Senator BRANDIS—Mr Chairman, do you have to continue interrupting?

CHAIR—Yes, I do, because—

Senator BRANDIS—You cannot interrupt the witness.

CHAIR—You will just behave yourself. Yes, I do have to follow up a question part-way through an answer.

Senator MASON—Yes, but not when she is in the middle of the answer.

CHAIR—How much longer must we wait for the same answer to be repeated ad nauseam, when there are gaps? Ms Halton, the evidence we have is that you were advised twice. So, with due respect, you cannot sit there and say that you did not know.

Ms Halton—Do you say I was advised, or the department? We now get into the realm of opinion. I can tell you what I knew and what I believed to be the case, and I will continue to tell

you that from now, basically, till my dying day. What I knew was that I had been told a series of things about the facts. I asked for clarification. It was vigorously pursued. We were given, at the end of that process, confirmation in terms of video, photos and witness statements which, together with the facts—we tabled our understanding of the facts—led us to move on.

Senator FAULKNER—When were you given the video?

Ms Halton—We were not given the video; we were told there was a video.

Senator FAULKNER—And when were you given the witness statements?

Ms Halton—We were not given the witness statements. We were told—

Senator FAULKNER—Yes, I know. That is the point: there does not seem to be evidentiary support to me. Where I was at is at the footnote—

Senator BRANDIS—Before Senator Faulkner goes on, can I ask two follow-up questions in relation to this subject.

Senator FAULKNER—No. All my questions, with respect, Senator Brandis, are also follow-up questions. It is just that it has been impossible to follow them up for the last 13 minutes because you and others have been asking questions.

Senator BRANDIS—I have not been intruding, Senator Cook has.

CHAIR—I have intruded a number of times, Senator Faulkner, so I plead guilty to that charge.

Senator BRANDIS—I would like to ask two follow-up questions on this documentary evidence issue. Am I right in understanding you to say that you became aware of the photos at, or shortly after, the time you were given this piece of information by Ms Edwards?

Senator JACINTA COLLINS—It cannot be all the fault of the information from Ms Edwards.

Senator BRANDIS—She has not said that.

Senator JACINTA COLLINS—She did say that.

Senator BRANDIS—She said she does not remember what she was told but she accepts that she was told something.

Ms Halton—Correct.

Senator BRANDIS—That is the difference, Senator Collins.

Ms Halton—Correct.

Senator BRANDIS—Given that we have heard your evidence and at least some of us have understood it, given that it is accepted that there was a conversation between you and Ms Edwards—

Ms Halton—Absolutely.

Senator BRANDIS—and given that you did not dispute her version of the conversation but very candidly told us that you do not remember what she told you—

Ms Halton—Quite correct.

Senator BRANDIS—at what point in time did that conversation happen in reference to the time at which you first became aware of the photos?

Ms Halton—I have already told you that I was out of the office that day; I was interstate on business. I know because I have checked that I walked back into the building at 4.45. I also know that I commenced chairing the meeting of the group that day at five o'clock. I also know that I had had a phone call and I had made two phone calls in the intervening 15 minutes. I also had to walk from the door up to the office, and I know that Ms Edwards arrived in my office part way through the phone call.

Senator BRANDIS—So does it follow that the conversation with Ms Edwards and your first awareness of the existence of the photos happened almost simultaneously?

Ms Halton—I think that is absolutely right.

Senator BRANDIS—And, of course, at the time you became aware of the photos you had absolutely no reason to believe that they had been misattributed.

Ms Halton—That is right.

Senator BRANDIS—The point I was at pains to make before is, I suppose, a matter of commonsense: the most literally graphic form of documentary evidence that you can have of an event is a photograph. So when you saw these photos that you were misled to believe were photos of the supposed child throwing incident on the SIEV4, did that relieve you entirely of any concern about the existence of documentary evidence to support that assertion?

Ms Halton—To the extent that I may have had a particular concern about documentary evidence, and we have canvassed the issue about—

Senator BRANDIS—Yes, quite—you correctly pulled me up, Ms Halton.

Ms Halton—To the extent that I felt that was the end of the matter, because there was the categorical, visible evidence, yes.

Senator BRANDIS—Yes. It goes like this: somebody says, ‘We’ve got concerns about whether there’s documentary evidence,’ and a few minutes later somebody shows you a photo and says, ‘Well, there it is.’

Ms Halton—No. Let us be clear: I was not physically shown the photo; I was told it existed. It was in the paper the next morning.

Senator BRANDIS—So you saw it in the paper.

Ms Halton—I saw it in the paper. I was told it was going to be in the paper and there it was, in the paper.

Senator FAULKNER—Ms Halton, how was that communication made? That was from either Air Vice Marshal Titheridge or Mr Reith, you told us before.

Ms Halton—That is correct.

Senator FAULKNER—Was that a telephonic communication?

Ms Halton—That is correct.

Senator JACINTA COLLINS—A call from Minister Reith—

Senator FAULKNER—Or Air Vice Marshal Titheridge.

Senator JACINTA COLLINS—or from Air Vice Marshal Titheridge?

Ms Halton—I received a call from Minister Reith; I made a call to Air Vice Marshal Titheridge.

Senator JACINTA COLLINS—In that intervening period between the meeting and—

Ms Halton—No. I walked into the building at 4.45. I received a phone call from Minister Reith almost as soon as I walked into my office. Based on that conversation, which included a statement that there was a video, which I did not know, I then rang Air Vice Marshal Titheridge—

Senator JACINTA COLLINS—Who had not seen these photos.

Ms Halton—and Peter Hendy.

Senator BRANDIS—Ms Halton, there is one last thing on this question of documentary evidence: the witness statements. You had not seen them at the time; we know that. Are you aware that seven of the 16 witness statements are completely silent on the question of whether there was a child thrown into the water, or indeed in the water at all. Six of the statements merely say that the maker of the statement did not see a child in the water, but do not claim that the maker of the statement saw the whole event. Two of them categorically say there was no

child in the water, and one of them says that the maker of the statement believed that there was a child in the water. Were you aware that, when you analyse the statements, that is the way they come out?

Ms Halton—At the time, no. But I certainly am now, based on evidence that has been introduced here.

Senator BRANDIS—If you have 16 statements, of which 13 are neutral, two are one way and one is the other way, it is hardly an unequivocal proof of one proposition one way or the other, is it?

CHAIR—That is a matter of opinion.

Senator BRANDIS—I am asking the witness's opinion.

Ms Halton—I do not think I should offer an opinion, Senator.

Senator BRANDIS—All right.

CHAIR—Did you ask what the witness statements contained?

Ms Halton—As I have said, I do not recall this issue being discussed or raised after the 10th.

CHAIR—But you said that you had the photos and you had the video—

Ms Halton—No, I did not say I had the photos or the video.

CHAIR—Sorry, you are right. You have corrected me accurately. But you were told there were photos, a video and witness statements. Did you ask what the witness statements said?

Ms Halton—No.

CHAIR—Why not?

Ms Halton—Because, as far as we were concerned, the information had been established sufficiently in terms of the shots across the bow which had prompted our initial concern—my initial concern—that there was a clear gap in the time frame between people overboard and when the shots had occurred. That was quite clear as far as we had been able to ascertain. We had the documentary—we thought—proof of the issue. We had not only one source, which we had seen, but we had been told by very authoritative sources that there were these other elements. And, as I have said, we put it on the table on the 10th and no-one demurred and we moved on.

CHAIR—I will come back to this question when I get to my chance to ask you some questions directly.

Ms Halton—So what was this, Senator?

CHAIR—I have not pursued the matter to my satisfaction properly, but Senator Faulkner does have the call.

Senator FAULKNER—You can never be satisfied, Senator Cook.

CHAIR—It is not true; I am very easily satisfied with a convincing case.

Senator JACINTA COLLINS—Hearing from Mr Reith might help on this, of course. There are references to statements and photos and videos, and she may well have just taken the minister by his word. She had not learnt from other people's past experience.

Senator FAULKNER—Are we through all that now? I was actually back at the footnote, as you would recall, Ms Halton. I probably jumped ahead of myself. I promised you I would deal with this matter chronologically, which I think is far more sensible than going backwards and forwards. So let me focus your mind on the events of the 7th, before we move on to the other events, because otherwise we will find ourselves in some trouble. During the task force meeting when this information becomes available to you, by whatever route—whether it is Air Vice Marshal Titheridge at the meeting, or before the meeting—

Ms Halton—There is no doubt, Senator. No-one is denying there was a phone call from Air Vice Marshal Titheridge to me. It occurred at 9.15-ish and he certainly told me that information. On whether there was another source, I take Senator Collins's point that—

Senator FAULKNER—I was aware of the phone call, but I thought it was possible that it was one of Air Vice Marshal Titheridge's earlier communications that may have informed you.

Ms Halton—I do not think so.

Senator FAULKNER—Fair enough. I was not aware of that detail. In relation to your own responses that day, we know from Mr Moore-Wilton's evidence to the Senate estimates committee that you passed this information on to him during that day.

Ms Halton—That is right.

Senator FAULKNER—Could you just indicate to the committee anyone else that you might have passed that on to. We know how it went to Mr Ruddock via Mr Farmer.

Ms Halton—I said in my statement to Ms Bryant that my memory had been that I had not stopped midway in the meeting to ring Mr Jordana, who is the Prime Minister's relevant adviser. I have been able to check my telephone records of that day and, as best I can tell, the call that I made to Mr Jordana, as I think I said in my opening remarks, was at 3.30 that afternoon.

Senator FAULKNER—So you did not have any contact with Mr Reith or Mr Reith's office that day?

Ms Halton—No.

Senator FAULKNER—Or no-one else in the Prime Minister's office?

Ms Halton—Not that I can recall.

Senator FAULKNER—And, as far as you are aware, no-one else in the Department of the Prime Minister and Cabinet? You had already spoken to the secretary, which is fair enough.

Ms Halton—Did I ring somebody? No. Clearly, there were people in the meeting who were from the Department of the Prime Minister and Cabinet.

Senator FAULKNER—In the discussions you did have that we know of with Mr Moore-Wilton and Mr Jordana were there any caveats on the information that you passed on in relation to this matter?

Ms Halton—I suppose the point I draw your attention to, and it goes to the context of the information, is that we knew on the Saturday evening that the people concerned were wearing life jackets—we have already covered that quite extensively—and we agreed I would convene a meeting. What we did in the morning meeting, other than receive this particular piece of information—at the time it was one of a plethora of pieces of information; it was not a particularly standout item or issue; that might be hard to understand in retrospect but that is the case in the matter—was commission work to be done, information that needed to be gathered, to complete a paper.

In fact, my call to Mr Jordana—and, as I have said, I have been back and checked the telephone records—was at about 3.30, and that in fact was at a time I had been into the office—I have said this, I think, in my remarks already—to dictate a skeleton of the task force paper for the evening meeting. We were trying to produce some advice by a reasonable hour. In my experience—because we had had this experience on rather a large number of occasions—if we started to draft as a group when the group convened we would often be there until two in the morning because the process of iterative drafting takes a long time.

So I went with my assistant to the office. I dictated a skeleton which reflected the substance of the discussion in the morning with large gaps in it basically to be filled in as departments were able to advise us on particular areas, and my call to Mr Jordana was at the end of that dictation basically. What I did, from memory, is say, 'This is what we know to date, this is what Defence have advised, this is where I am up to and this is when the meeting is next going to convene.' So it was a kind of general state of play. Because, as I have already said, our concern had been to manage issues around this vessel carefully, what I was doing was giving him the state of play as I knew it at that point. But I did not ring him before that.

Senator FAULKNER—My question was: in your conversations with Mr Moore-Wilton and Mr Jordana were there any caveats, such as the fact that the advice was not in writing and so forth?

Ms Halton—I would not have said that. What I would have said was 'Defence advised that'. You will see that form of words reflected in the first part of the paper where it says quite clearly 'Defence advised that'.

Senator FAULKNER—Was there any questioning of the original information—for example, how many kids might have been thrown in the water, did they live, were they rescued, did they drown, what happened to them?

Ms Halton—There was always a concern to ensure that there was no loss of life. I was not asked about the number but certainly I was asked whether everyone had been saved, rescued, whether there was any injury, those kinds of questions.

Senator FAULKNER—You were asked?

Ms Halton—I had always asked those questions. It was one of the first questions we always asked.

Senator FAULKNER—So you knew everyone was safe?

Ms Halton—We had been assured of that, yes.

Senator FAULKNER—Was it true that Mr Ruddock was informed, in your view, as quickly as possible so that he could get this dreadful allegation out into the—

Senator FERGUSON—It was not a dreadful allegation.

Senator JACINTA COLLINS—Senator Brandis thought it was evil.

Senator FAULKNER—Evil is how it was described earlier. The suggestion that asylum seekers were throwing their children overboard was described by the Prime Minister in terms that I think it would be reasonable—and I will pass on to him your view that it was not dreadful, but you go back and look at what he said about it at the time—

Senator BRANDIS—At the time.

Senator FAULKNER—At the time, exactly. You go back and see what your own party leader said at the time. I am interested in understanding from Ms Halton whether it was her view that Mr Ruddock was informed in the manner he was informed and as quickly as that information was passed on so that he could make the issue public as soon as possible.

Ms Halton—I have two comments on that. As I said in my opening remarks, and as I said in my statement to Ms Bryant, I did not overhear the phone call between Mr Farmer and Mr Ruddock. In that context, I did not know that he had passed that information to Mr Ruddock. I should also add—and I have already made the comment about being in the office dictating papers and what have you—that I was actually in the office nearly all of that day with one minor exception when I went to the Fyshwick markets to provision the household. I should say that I do not even think that I knew that this information was in the public domain probably until very much later that night. When I became aware that it was in the public domain, I did not know where it had come from.

Senator FAULKNER—So in your view there was no urgency at the task force about passing this on to ministers so that it could be used politically?

Ms Halton—If I had thought it was urgent, I think I might have rung Miles Jordana before 3.30 in the afternoon. Quite seriously, this was only one of a small—it was not a major issue. The notion that it was the most important piece of information that had to be passed on or around was not a fair way to characterise that meeting as far as I am concerned.

Senator FAULKNER—But Mr Ruddock was giving a media interview, as you would recall, at 11.30 a.m.

Ms Halton—I cannot say that I was aware of that. As you know, I believe I had a call from Mr Ingram who wanted to know where the information about there being a boat had come from. Because I do not believe I was aware, I cannot say that I was aware that he was giving a media interview. I cannot say that categorically, but it goes to my point that this was not an issue that the task force was in any sense dishing up to ministers to use in a way which you would regard as being—what was your term?—‘excessively quickly’. I cannot recall exactly what you said. But the reality is that it was one of the details about the behaviour that we had discovered on that boat and I think I referred in my opening statement to the disabling of the steering et cetera as being part of that whole package and suite of things being observed. I do not believe that the notion of passing that information quickly was a feature of that meeting.

Senator BRANDIS—If this advice was passed like all advice no doubt you give, in the manner of giving accurate and dispassionate advice—

Ms Halton—Correct.

Senator BRANDIS—Was it dispassionate when Mr Peter Doyle, who was the DFAT representative you would recall, said that morning about the discussion that there was also a discussion about Mr Ruddock giving a media interview at 11.30 a.m. and the discussion was about how the information could be used? Do you recall that discussion at the task force?

Ms Halton—No, I don't. Mind you, as I have said, I do not recall the conversation between Mr Farmer and Mr Ruddock and the reality is that there were phones going all round that room so there may well have been discussions in the room that not everyone was party to. As I say, if there was a notion that he was doing a media appearance that morning, I genuinely do not recall it. I think that had the ‘children overboard’ issue been a feature of a conversation about a media interview, I would have remembered it. My point about not having rung Mr Jordana until 3.30 that afternoon is that, again, my habit through this process when something had happened—for example, a new boat had been spotted or whatever—was to very quickly inform Mr Jordana and Mr Moore-Wilton of those issues. Again, you cannot reconstruct every memory and every event that happened as part of this process, but I go back to my memory but also to what I did—which I have checked in my telephone records—and I did not instantly get on the phone and pass that to either Mr Moore-Wilton or to Mr Jordana.

Senator FAULKNER—But I want to be assured that there is no overt politicisation going on with the IDC.

Ms Halton—I understand that.

Senator FAULKNER—Hence, when I read a witness statement that says the discussion was about how the information could be used, I was concerned.

Ms Halton—As I say, that perplexes me. Can I also say that I understand that Mr Doyle does not remember the evening meeting and the completion of the paper.

Senator BRANDIS—Ms Halton, it is a commonplace thing, is it not, for public servants to provide information to ministers against a media deadline? In other words, if they know that a minister is giving a press interview at a given time and requires information before that interview, it is the most commonplace thing in the world to meet the requirement for that information.

Ms Halton—Certainly, but in this particular case, as I have said, I am not confident that there was canvassing of the ‘children overboard’ issue in relation to this particular matter. I have heard recently that that interview was meant to be about the legislation.

Senator BRANDIS—I know the line that Senator Faulkner is pushing. I understand why he is pushing it. I cannot for the life of me see how it could be regarded as political for a public servant to give a minister information in advance of a media interview, knowing—particularly since an election campaign is going on—that the minister is going to make political points in the interview. What else would he do? It is the middle of an election campaign. How does that make the provision of the information sought itself a political act?

Ms Halton—I can answer that in a different way. It goes to Senator Faulkner’s question about politicisation. Let us address the issue directly. I am absolutely confident that this committee behaved extremely properly in terms of information management and issue management. It was explicitly and deliberately careful. I have already made a reference to the fact that issues in relation to the caretaker conventions were as appropriate canvassed on the odd occasion. I cannot go to specifics, but I do recall that. As a public servant of 20 years standing, I am very familiar with the APS code of conduct and values. I am absolutely confident that the discussion in those meetings and the behaviour I observed and certainly of my officials was very proper.

Senator FAULKNER—How does that fit with the preparation of media lines for Minister Ruddock at the IDC?

Ms Halton—We should make a distinction. Sometimes people use terms like media lines when in fact what they mean are the facts—and this goes I think to Senator Brandis’s point.

Senator MASON—As opposed to spin.

Ms Halton—Absolutely. We need to be quite clear that spin, to use Senator Mason’s term, was never a province and is not properly a province of bureaucrats. And, anyway, we’re no good at it.

Senator JACINTA COLLINS—Some politicians aren’t either!

Ms Halton—I could not possibly comment. That goes to my point about the facts that we canvassed on the Wednesday, the 10th, about, as we knew it, the event. There were on a couple of occasions what I would style ‘talking points’ in relation to particular events that were canvassed and cleared in this group. It goes to my point about all being clear about what the circumstances were. What was the term you used, Senator Faulkner: media lines?

Senator FAULKNER—Media lines. I asked: how does this fit with developing media lines at the IDC?

Ms Halton—And that is my point. My point is that there was an agreement about the facts—and, as I have said, there were a couple of occasions on which those talking points which went to facts were prepared. They were agreed to make sure that they were accurate and everyone agreed them from all their perspectives. That is different to Senator Mason’s term of spin.

Senator FAULKNER—Really.

Senator BRANDIS—Let me make the point in the form of this question: if a public servant provides factual information on request to a minister and that minister then uses those facts in a media interview to make a political point, does the conduct of the public servant, in providing those facts, in any way compromise Public Service values?

Ms Halton—Not in my view—and particularly when those facts are provided in a context where the government’s policy is stated and known prior to that election.

Senator BRANDIS—Even if there is an expectation—because senior public servants, men and women of the world, know the way government works—that the minister, having been provided with those facts, might make a political point out of them, does that compromise Public Service values, if all the public servant does is provide the facts?

Ms Halton—Not in my opinion.

Senator BRANDIS—Indeed, if a public servant declined to provide facts to a minister on request for fear that the minister—who is, let it be said, a politician—might use those facts to make a political point in some form or another, do you think that the Public Service would ever provide any facts to any minister?

Ms Halton—You are asking me to indulge in speculation, Senator, but I think we can all work out what the answer might be.

CHAIR—But Public Service values, Ms Halton—

Senator FAULKNER—In fact, the media lines were not facts, were they, Ms Halton? In fact, the media lines were just plain wrong.

Ms Halton—Which ones are we talking about, Senator?

Senator FAULKNER—Are you aware of the media lines that were provided? We know about them because Ms Katrina Edwards's witness statement says, 'Bill Farmer said that Minister Ruddock had requested a media line.' Do you recall that? This is at the IDC you were chairing.

Ms Halton—As I have said, my recollection is (1) a call from Mr Ingram about whether I knew where the detail of this particular vessel had come from and (2) a discussion about whether we knew how many people there were and where they were from. There was a series of fairly standard information items on which we were asked to provide detail if we had it.

Senator FAULKNER—But you were quick to remind me that Ms Edwards, of course, is the notetaker at the IDC, so I assume that her notes and her recollection would be better than most. Would you agree with that?

Ms Halton—I certainly would.

Senator FAULKNER—She is the one who said she told you about the fact that Strategic Command had said that there was doubt about children being thrown overboard; she is the one who raises in her witness statement—

Ms Halton—Senator, can I just say that what you quoted to me was a statement which said that there was an absence of documentary evidence, not that there was doubt. I do not recall a statement that there was doubt about this. I think it is important to make that distinction.

Senator FAULKNER—In her witness statement she says, 'Bill Farmer said that Minister Ruddock had requested a media line.' Do you recall that occurring? This is the meeting on the morning of 7 October.

Ms Halton—And what I have just said is that my memory is that we had a conversation. As I said, I did not overhear any conversation between Mr Farmer and Mr Ruddock. I am aware that there was a conversation about what we knew about this particular vessel. Whether that was in the context of media or not, I cannot recall. In terms of Senator Mason's term 'spin', I definitely do not recall that. But it would not surprise me if, in the process of going through what we knew—numbers of people, origin et cetera—that that would then have been provided to ministers.

Senator FAULKNER—The minutes of the meeting, under 'Issues', describe—

Ms Halton—Senator, do you have the minutes? You asked for the Department of the Prime Minister and Cabinet—

Senator FAULKNER—No, this is just Sunday, 7 October. I do not think I asked for minutes of all—

Senator JACINTA COLLINS—No, I did.

Ms Halton—I knew someone over this side did.

Senator JACINTA COLLINS—You were not confusing us again, were you?

Ms Halton—Sorry, I must stop that.

Senator FAULKNER—The minutes say:

In the morning, agencies considered options and identified information requirements. Media lines were also considered and provided orally to Mr Ruddock.

Ms Halton—Let me give you one insight as to what that could refer to. Minister Ruddock's media adviser was sometimes asked questions about whether there was a vessel and, as I have already said to you, there was a desire sometimes to report that there was a vessel when it was an operational issue and the general principle, as I recall it, was not to comment on operational issues. To the extent that there might have been advice consistent with advice that I had given on a regular basis, which was not to comment on operational issues, that may well be what that is a reference to.

Senator FAULKNER—You said in your witness statement to Ms Bryant:

... Strategic Command did not always seem to have access to information from the chain of command ...

Do you stand by that?

Ms Halton—Yes. That is my point about the shots. The fact that those photos appeared and we had not been told.

Senator FAULKNER—Yet there were special arrangements put in place, weren't there? The special reporting arrangements actually relied on the head of Strategic Command, Air Vice Marshal Titheridge, to advise the task force.

Ms Halton—But, as we have already covered in your questioning of me, you asked me whether I was aware that a special arrangement had been put in place, and I told you I was not aware of that.

Senator FAULKNER—Yes, but Air Vice Marshal Titheridge said this in his witness statement to Major General Powell:

I should add that often information came from the task force chair with a request for us to confirm its veracity or otherwise.

Is that the way it worked? It sounds like a two-way street. Reading Air Vice Marshal Titheridge's witness statement, I get the feeling you were in the loop a hell of a lot more than Air Vice Marshal Titheridge.

Ms Halton—Senator, it goes to my point about timeliness of information, and merely that. If I can give you a worked, practical example—Senator Collins, am I about to confuse you with Senator Faulkner again? I am sorry if I am. Did you ask the question about what date the *Tampa* was boarded?

Senator JACINTA COLLINS—No.

Ms Halton—I am sorry, I have done it again. Senator Faulkner, you must have asked me which day the *Tampa* was boarded. The answer to the question is the 29th—we have checked.

Senator FAULKNER—I thought it was, but we got the dates wrong because, as you would appreciate, there is a mistake in the PM&C table.

Ms Halton—Which, I understand, has been corrected.

Senator FAULKNER—Has it? That is good.

Ms Halton—That is my understanding. The reality is that on that particular day we were asking Defence to advise us about what was going on. In the end, because information coming down their chain of command was moving relatively slowly, we actually got advice from Coastwatch that that operation had commenced. We also got advice from someone sitting on a balcony on Christmas Island with a set of binoculars and a telephone. I am just using this as an example. I would then ring Air Vice Marshal Titheridge and say, ‘I am being told this—can you confirm it?’

Senator FAULKNER—How does this fit with your role in coordinating agencies? Is this what the chairman of a task force normally does—receive all this sort of information from people with binoculars peering out in the ocean?

Ms Halton—No. I was not personally receiving advice from people with binoculars, nor was I receiving advice directly from other people. This was information that was appearing in various other quarters. I had been asked whether in fact this was accurate, and I would ring Air Vice Marshal Titheridge and ask for confirmation. You simply raised the question about his remarks. I asked him for confirmation of information, and it would have been in that kind of case.

Senator FAULKNER—But at no stage do you take the initiative to go to Defence or any other agency to check the veracity of allegations: firstly, that children had been thrown overboard; secondly, that any photographs that had been published actually represented that incident; or thirdly, that there was a video that showed children being thrown overboard. You at no stage go to any agency to satisfy yourself about the true facts of those matters.

Ms Halton—Senator, there are any number of events, facts and issues that have been part of what was quite a lengthy process. It was not my job, as I have already said—nor, indeed, was it the job of the task force to insert itself in the line of command in the military or in the defence forces. Did we physically go to Defence and demand that they produce particular things? No. That is because—

Senator FAULKNER—I did not ask that. I asked whether you satisfied yourself at any stage about those matters—about the true facts on those issues.

Ms Halton—As I have said, I was satisfied. As we now know, I was satisfied based on a false premise, but I was satisfied—

Senator FAULKNER—A false premise told to you by either Minister Reith or Air Vice Marshal Titheridge.

Ms Halton—That is correct.

Senator FAULKNER—So you blame Minister Reith or Air Vice Marshal Titheridge for getting it wrong.

Ms Halton—I am not blaming anybody. All I am relaying to you is the basis on which we ceased pursuing the matter.

Senator FAULKNER—But what happens is that probably Minister Reith, by the sound of what you told us before, rings you and says there are photos. You just accept that at face value, and life moves on.

Ms Halton—As I have said to you, and I think I said in my witness statement to Ms Bryant, in fact after the conversation I had with Minister Reith I then made a series of other phone calls to corroborate what he had told me because there was material in that conversation that I had not hitherto been aware of. He told me that he had just given a media interview and he had said the following things. I thought to myself, ‘Oh, I didn’t know that.’ Then I rang a couple of other people, as you know from my witness statement to Ms Bryant, to assure myself that what he had said in the public arena was indeed a fact, even though we had not been advised of that.

Senator JACINTA COLLINS—About the video?

Ms Halton—That was the particular thing that I had no conception of. I think Ms Edwards and I have a different recollection of whether I also asked for positive confirmation of the photos—and that part I am unclear on. The thing I particularly remember was thinking, ‘Oh, a video?’ and getting on the phone and making a series of phone calls, and then being told that yes, indeed, there was a video.

Senator FAULKNER—But you are very active on the phone on all these issues to people. That sounds like checking it out. You speak to the Minister for Defence, you speak to Air Vice Marshal Titheridge, you speak to Mr Jordana and the Prime Minister’s—

Ms Halton—The Minister for Defence actually spoke to me. I think we should be quite clear on that point.

Senator FAULKNER—Okay. You have phone conversations, and a significant number with him, with other ministerial staff, with prime ministerial staff, with Mr Moore-Wilton and with a whole lot of people about these issues, but at no stage do you or the task force take the fundamental step in the direction of actually checking the veracity of this information—of checking whether children were thrown overboard, whether the photos depicted children who had been thrown into the water by asylum seekers or whether there was a video also depicting these events. And that is fair, is it not: you never do it?

Ms Halton—As far as we were concerned, the process we went through was a process of checking the detail and then seeking positive confirmation of the facts as we knew them, and we got that positive confirmation.

Senator FAULKNER—You got at least two pieces of positive confirmation, didn't you? First of all, you got the chronology and the footnote, and that gives no support to any such claims, does it?

Ms Halton—You have just turned the notion of positive confirmation into a negative. Go back to what I said in my earlier evidence. This is in a context where we are told this is a categorical fact. No-one has said to us, 'This is not a categorical fact,' or, 'There is doubt about it.' We have raised questions about the timing of the events, about the shots, and asked for detail. We have proactively sought that confirmation from Strategic Command.

Senator FAULKNER—And the one time you ask for confirmation from Strategic Command and you get an answer, the answer is ignored.

Ms Halton—The chronology, which we have already discussed, had a footnote which said, 'It may have occurred on the other side,' and this was—and I said this in my opening statement—part of a series of exchanges between Strategic Command and the people in Social Policy who were actively trying to understand the contradictions in that chronology. As I have already outlined, the experience of hearing from people much closer to the events, there were other things that were germane to our understanding of this event—that is, there were photographs, a video and there were witness statements—and the fact that we took our understanding of the facts to the evening meeting. That was never denied, and at that point we moved on.

Senator FAULKNER—But the chronology that was requested from Defence does not say that children had been thrown overboard, does it?

Ms Halton—No, but it says it may have occurred.

Senator FAULKNER—And the footnote says there is no indication that children were thrown overboard. That is the first bit of black-and-white information that you request; it comes to PM&C but it is ignored. Then, of course, there is Wing Commander Cowan's brief at 0800 Australian Eastern Standard Time on 8 October 2001—

Ms Halton—I do not know what you are referring to, Senator.

Senator FAULKNER—Well, this goes to PM&C.

Ms Halton—I have never seen it. I do not know what it is.

Senator FAULKNER—This is the Operation Gaberdine/Operation Relex brief that I have discussed with other witnesses. It goes to the Minister for Defence, the parliamentary secretary, PM&C, CDF and so forth. This is from Strategic Command, in black and white. Again, no-one seems capable of picking up the fact that, there in black and white is no suggestion about children being thrown overboard.

Senator BRANDIS—I raise a point of order on the question of relevance. The witness has said she has never heard of this document. I am sorry, Mr Chairman, but I am at a loss to see how a question directed to a witness about a document of which she is entirely unaware—and there is no suggestion that it ever came to her—can be admissible.

Senator FAULKNER—There is nothing contradictory in the chronology or in the Strategic Command brief. These go to Prime Minister and Cabinet. Technically, there is no receipt point with the task force. We know that. The chronology goes to a junior staff member, according to Ms Halton, in Prime Minister and Cabinet.

Senator BRANDIS—She can only speak of what she knows.

Senator FAULKNER—The task force does not actually have a fax machine.

Senator FERGUSON—You only half quote the chronology.

CHAIR—Order!

Senator FAULKNER—She does not have a fax—

Senator FERGUSON—It also says it is possible that it did occur. That is what the chronology says.

CHAIR—Order!

Senator FAULKNER—The point is: these two written advices, at least, go and they are both ignored.

Senator FERGUSON—Why did you only half quote the chronology?

CHAIR—We are debating the point of order now. Just a moment. I have the call. We have had a point of order from you, Senator Brandis.

Senator BRANDIS—Further to my point of order—

CHAIR—You may continue in a moment, when I have finished. We have had a point of order from you, Senator Brandis, and a reply followed by an unseemly across-the-table debate between all of you, my colleagues. Let us get some order and rationality to this. Have you completed stating your point of order, Senator Brandis?

Senator BRANDIS—I have stated the point of order. I wish to speak to it.

CHAIR—You can speak to it.

Senator BRANDIS—Thank you. The witness can be asked if she knows of the document. She has been asked that, and the answer is that she does not know anything about it. She can, I suppose, be asked questions in relation to process, so as to reveal the way in which a document

of that kind might have been treated, and she can speak of her knowledge of process. She has not been asked that. If she were to be asked that, I would not object. But, if she is asked, ‘Do you know about this document?’ and she says, ‘No, I have never heard of it,’ and then Senator Faulkner proceeds to ask her a series of questions premised upon knowledge of the document, it is objectionable on two bases. One is relevance, because nothing that she can say can be relevant, because she has no knowledge. The second is fairness, because there is a fairly clear innuendo overlying Senator Faulkner’s question, about the way in which this officer has handled herself. This is extremely unfair, since it is premised on something of which—incontrovertibly—she was unaware.

CHAIR—Is that all?

Senator BRANDIS—Yes.

CHAIR—Does anyone else wish to speak on the point of order before I rule?

Senator FAULKNER—I understand why Senator Brandis is trying to interrupt the flow of questioning. I would do exactly the same thing if I was as embarrassed as Senator Brandis.

Senator MASON—You have been going for hours.

Senator BRANDIS—Come on, Senator Faulkner, do not make cheap political points.

CHAIR—Order!

Senator JACINTA COLLINS—You have been encouraging him, Senator Brandis.

CHAIR—Order! If that is all on the point of order, let me say that I have tried to apply a fairly easygoing, liberal—in a little ‘l’ sense of the word—reign here, and to allow a fair bit of scope for honourable senators to pursue their questions fully. I think that is a matter of record.

Senator MASON—I would agree with that.

CHAIR—I am being asked now to apply a more stringent test—which may be fair; I do not know. Before I go to that issue, I am mindful that Senator Faulkner has not completed the question, and I think I should allow him the opportunity, given the standards I have applied, to complete his question.

Senator FERGUSON—I seek a point of clarification from Senator Faulkner.

Senator JACINTA COLLINS—From Senator Faulkner?

Senator FERGUSON—Yes. In the question that he asked he is continually referring to a chronology. For the sake of the witness and for my understanding of her answer, can I assume that it is the chronology of the footnote that says that there is ‘no indication that children were thrown overboard’—which is what Senator Faulkner quotes. But the full footnote also says:

It is possible that this did occur in conjunction with other SUNCs jumping overboard.

Is that the chronology you were referring to?

Senator FAULKNER—It is indeed; and I make the point that not only is the footnote, you would think, enough to cause concern—

Senator FERGUSON—But why did you not quote the whole lot of it?

Senator FAULKNER—but so is the chronology itself, which does not mention the issue either.

Senator FERGUSON—It is not just the footnote.

Senator BRANDIS—That is a chronology of events, not a chronology of observed—

Senator FAULKNER—That is exactly right. It is a chronology of events, and one of the events that did not occur was children being thrown overboard.

CHAIR—If we get into the question of quoting the full text then I think there has been selective quoting more than once during this inquiry.

Senator BRANDIS—There has been, and you should bring Senator Faulkner into line whenever he does it, with respect, Mr Chairman.

CHAIR—I have ruled on the point of order. Proceed, Senator Faulkner.

Senator FAULKNER—Thank you, Mr Chairman. I was making the point, in relation to these two communications, that they go to the Department of the Prime Minister and Cabinet. One of the problems here is whether this is the same as effectively going to you. You are the chairman of the task force, but I think you would accept, wouldn't you, that as you are an officer of the Department of the Prime Minister and Cabinet—now, since the establishment of the people-smuggling task force, the coordinating agency on all people-smuggling policy and process questions—it is absolutely appropriate that these matters end up in the Department of the Prime Minister and Cabinet? And they do.

Ms Halton—I do not accept that, Senator.

Senator FAULKNER—You think it is inappropriate that they end up in Prime Minister and Cabinet?

Ms Halton—Your question was a little unspecific, so let us go to specifics.

Senator BRANDIS—You will have to get used to that with Senator Faulkner.

CHAIR—Order! Please proceed, Ms Halton.

Ms Halton—Thank you. Essentially, as we have already discussed at some—

Senator FERGUSON—It is going to be a long night—

Ms Halton—Finished?

CHAIR—Ignore us and proceed with your answer.

Senator JACINTA COLLINS—Senator Brandis will never be—

Senator FERGUSON—Senator Collins, Senator Faulkner is—

CHAIR—Order! It is fair enough for the witness to pause if there is so much audible conversation going on in the room.

Ms Halton—And I have quite lost my train of thought, Senator. What I was going to say was that we have already canvassed here, very extensively, the role of the task force. We have canvassed its role in ensuring that everyone who had a role to play in this exercise had the benefit of the advice, the counsel, the knowledge that was contained in multiple agencies. We have already canvassed extensively the need—probably doubly reinforced by some of the things we now know—to ensure that agencies were fully apprised of all of the material in relation to an exercise like this. We have also acknowledged—and I know I have said this to the point of being, I suspect, stultifyingly boring, Senator—that the task force did not insert itself in the chain of command. You have rightly made the point that I, on an own-motion basis, asked for confirmation in relation to the details of this event. I did not do that on the basis of any concern raised by anybody else. Again, I have made the point, and I apologise if I am being excruciatingly boring by keeping on repeating it—

CHAIR—‘Boring’ is never an offence in the Senate.

Ms Halton—You cannot expect me to comment on that, Senator. The reality is that we did not have a doubt about this. What we were looking for was a kind of positive confirmation. The environment in which we operated was a known environment where—and we have already talked about this—the cable traffic was excruciatingly slow. We often got information from other sources in a far more timely way. With the benefit of hindsight, you would probably treat that particular statement differently. At that time, we did not have the benefit of all the information that you have now had brought out in front of you. What we had was a circumstance where we had been told this was a fact. As I said in my opening statement, that fact was not caveated in the paper of the 7th explicitly on Defence advice. We had some argy-bargy about—

Senator JACINTA COLLINS—That fact was not caveated in the report—

Ms Halton—Of the 7th.

Senator JACINTA COLLINS—specifically on Defence advice? Did you say that?

Ms Halton—Yes. The process of actually preparing that paper, which was provided on the evening of the 7th, notwithstanding the memory of Mr Doyle, was that every line of the paper was entered, reviewed, critiqued by the evening meeting—every line of it.

Senator JACINTA COLLINS—And Air Vice Marshal Titheridge said you do not caveat that?

Ms Halton—In fact, there were caveats added in some places and the text in that area was modified to be as you have now seen it.

Senator JACINTA COLLINS—A caveat was removed, was it?

Ms Halton—No, I do not think there was a caveat removed in that respect. My point is that it reflected the verbal advice and then that was edited and confirmed, line by line, at the meeting.

Senator JACINTA COLLINS—Air Vice Marshal Titheridge claims that it was after the meeting.

Ms Halton—I have checked the pass swipes and the video footage of when people left the building that evening. I have had it all examined and I can assure you that all of the members of that meeting left at the same time. I have checked the editing records of when that document was edited and I can assure you that document was edited and completed while the meeting was under way. I know when the document was sent and I know it was not edited after the meeting was completed. We have gone and checked.

Senator FAULKNER—I am glad something has been able to be checked.

Ms Halton—The point about that is that is something which is materially the responsibility of that department and was actually conducted in that department.

Senator FAULKNER—Aren't you concerned as a senior public servant at the amount of reliance there is on verbal as opposed to written advice?

Ms Halton—The world we live in these days is not the world that existed when I first joined the Public Service.

Senator FAULKNER—I know that.

Ms Halton—The world moves extraordinarily quickly.

Senator FAULKNER—Particularly in an election campaign.

Ms Halton—Regardless of it being an election campaign or not. One of the reasons why the task force was asked on a regular basis to provide written advice on a series of issues was precisely where it was possible to take pause and to be quite confident that the advice that was provided was whole-of-government advice. I make that point because these papers that were provided were edited and considered by all of the members of those groups. That was advice in

writing. It was advice in writing on the basis of the clearance of the very senior officers who attended those meetings.

Senator FAULKNER—Have you seen the Strategic Command brief of 8.00 a.m. of 8 October 2001?

Ms Halton—Would you like to show me what you are talking about? I do not instantly know it.

Senator FAULKNER—I can dig up a copy for you, if you like. This is the brief cleared by Group Captain Walker. Perhaps the best way is to pass my copy to you.

Ms Halton—I do not recall ever having seen that.

Senator FAULKNER—Would you accept that the distribution areas for that particular report includes the Department of the Prime Minister and Cabinet, as recorded on the document?

Ms Halton—If it says this, I cannot deny that it is not the case. I am advised by my former colleague that this was sent to the international division in the department and having been looked at was destroyed.

Senator FAULKNER—That is handy!

CHAIR—Maybe we have to call the International Division.

Ms Halton—I should be clear about this: I am advised that these sorts of things were received and their general practice was to destroy things, but we cannot say categorically whether this one was or was not. But, if I could say it as a general principle, I have never seen one that looks like this, to my memory.

Senator FAULKNER—I do not know the officer who is providing that advice. Who is the officer providing that advice to you?

Ms Halton—Mr Ingram, who is a Social Policy Division officer.

Senator FAULKNER—Fair enough.

Ms Halton—Would you like this back, Senator?

Senator FAULKNER—In the fullness of time.

Ms Halton—Do you want to ask me more about it?

Senator FAULKNER—I am interested in the suggestion—

Senator BRANDIS—I would like to see it now, Ms Halton, so I can read it while Senator Faulkner is asking his questions.

Senator FAULKNER—It is in your documents. You do not need a copy; you have got a copy. That one is mine. It is attached to Group Captain Walker's submission to Bryant. All the committee members have it. Is it the practice of International Division to destroy documents that come to it from Strategic Command?

Ms Halton—International Division was not part of my group in Prime Minister and Cabinet, and I cannot make any comment about the practice of International Division.

Senator FAULKNER—You have just told the committee. Here is a substantive piece of evidence, distributed to the Department of the Prime Minister and Cabinet some time after 8 a.m. on 8 October 2001, which is a piece of information and a very important brief that scuttles the 'children overboard' claims, and we are told tonight that it has been destroyed in the International Division of PM&C.

Ms Halton—As I have said to you, and having looked at it, I have not seen a brief that looks like that. My colleague who is here from Prime Minister and Cabinet advises me, as I have advised you; what I can do is perhaps ask that that information be pursued in Prime Minister and Cabinet and that they come back to you on notice on that subject.

Senator FAULKNER—I do find it incredible because here in black and white is a document of an early date in the process. No wonder it was so hard to get through the fog on this issue, if important documents like this are being shredded in the department.

CHAIR—Did the International Division know of the existence of parts of this?

Ms Halton—Yes.

CHAIR—It knew of the general material that you were dealing with?

Ms Halton—Yes.

CHAIR—If it obtained a document which related to your affairs, would it have routinely forwarded it to you?

Ms Halton—Not necessarily.

CHAIR—But it would check with you, out of courtesy, as to whether you had a copy of that document?

Ms Halton—Not necessarily.

CHAIR—Why not? It would just go off and destroy it?

Ms Halton—Sorry?

CHAIR—It would just go off and destroy it without checking with you?

Ms Halton—As I can say to you quite categorically, I did not know about that document, nor was it discussed with me.

Senator FAULKNER—But you say to us, Ms Halton, that Strategic Command are the people who know best, they are the people we should take notice of in relation to these matters, they have got the senior Defence representation on your IDC, they send documents to the department and they are probably destroyed—they probably go straight through the shredder. That is extraordinary.

Ms Halton—I think you are being a little wicked because you have just said that we have said that Strategic Command are the people who are most important and know everything, and I think I have explicitly said to you on several occasions this evening that I think, on experience, sometimes Strategic Command did not know everything.

Senator FAULKNER—But the point is—

Ms Halton—So I did not say what you just said I said.

Senator FAULKNER—I think you indicated that you were dependent on Defence advice from Strategic Command on the IDC.

Ms Halton—It is certainly the case that Strategic Command was the nominated member of the task force.

Senator FAULKNER—Here you have written information very early—this is literally the day after the claims are made at the IDC: this is 8 October, 8 a.m. Australian Eastern Standard Time—when this brief goes off to the International Division of PM&C and it is destroyed. That is handy, isn't it?

Ms Halton—Let us be clear: I have said that my colleague advises me that they were, as a rule, destroyed; my colleague advises me it is unclear what happened to this one.

Senator FAULKNER—Are you seriously saying to me that documents from Strategic Command during this sensitive period are routinely destroyed?

Ms Halton—No, I am not saying that to you; I am saying what was the general practice. And what I have also said to you—

Senator FAULKNER—The general practice is that they are routinely destroyed.

Senator BRANDIS—Listen to her answer.

Ms Halton—What I have also said to you is I am happy to ask my PM&C colleagues who are here to go and investigate that matter for you and come back to you on notice.

Senator BRANDIS—Ms Halton, while we are dealing with this document—and perhaps I did not hear Senator Faulkner's question properly—as I understand it, the point being sought to

be made is that this document provides some support for the view that no child was thrown overboard from SIEV4. Unless I am missing something or unless I have been handed the wrong document, I think it does not say any such thing. And, indeed, under the fourth dot point under the discussion of ‘significant incidents’, all it says is that the UBAs:

... refuse to accept the warning notices, refuse to identify the crew, threaten or throw themselves overboard and disable the vessel steering and navigation systems and threaten the boarding parties.

CHAIR—It does not state a negative, that it—

Senator BRANDIS—Let me finish, please.

CHAIR—It does not state that something did not occur.

Senator BRANDIS—Let me finish, please!

CHAIR—I am just making that point; it does not state—

Senator JACINTA COLLINS—Point of order, Chair!

CHAIR—Senator Collins, on a point of order.

Senator JACINTA COLLINS—Senator Brandis in the past has had ample opportunity to ask his questions in his own way without interruption. Would you please ask him to desist from trying to reinterpret Senator Faulkner’s questions.

Senator BRANDIS—I am asking my own question.

CHAIR—I have got a point—

Senator FAULKNER—I could not care less what he does. My point about children being thrown overboard is clear, Senator Brandis. Ms Halton has had a chance to see the documents. She knows—

CHAIR—Can I rule the point of order out, unless the senator wants to debate it further, because I have allowed the practice of interventions and indeed I just made one myself.

Senator JACINTA COLLINS—But this is becoming far more extreme, Chair.

CHAIR—Yes, I appreciate that; and we will not get to our concluding hour if we keep interrupting one another, but I will allow Senator Brandis to complete his question.

Senator FAULKNER—He also indicated he did not want to ask any questions.

Senator BRANDIS—That is quite right, Senator Faulkner. The reason the government senators have decided to allow you to have a proper go at this witness right up to the end of her period is that we have very few questions of our own and, as a result of which, the opposition

and Democrats senators will have virtually all of the time with Ms Halton. The only indulgence we seek is the occasional clarifying intervention.

CHAIR—That is a lovely debate between each other, but can we please proceed. Senator Brandis, I gave you the call; please take it.

Senator BRANDIS—Thank you very much indeed, Mr Chairman. Notwithstanding the point of the question being directed to you—and I will not read the sentence again, for reasons of economy of time—there is not a word in this document that speaks to the issue of whether or not children were thrown overboard. It does not speak of children at all. To the extent to which there is the issue of UBAs going overboard, some of the conduct reported in the fourth dot point merely says that the UBAs ‘threaten or throw themselves overboard’: not adults specified, not children specified, but generically a reference to the UBAs. Perhaps I am a bit slow, Ms Halton, but I cannot for the life of me see how this is evidence that children were not thrown overboard, given that the UBAs included children, and it says that UBAs were thrown overboard. As far as it goes, it seems to me to provide—

CHAIR—It does not say that.

Senator BRANDIS—some evidentiary support—

CHAIR—It does not say that.

Senator JACINTA COLLINS—It does not say that at all.

Senator BRANDIS—‘Threaten or throw themselves overboard’: those are the words.

Senator JACINTA COLLINS—‘Thrown’.

CHAIR—No-one is pretending that children decided to throw themselves overboard.

Senator BRANDIS—‘Threaten or throw themselves overboard.’ As far as it goes, it seems to me to provide some—and I will agree it is limited—evidentiary support for the proposition, and certainly no evidentiary support to contradict the proposition. Would you care to comment on that?

Senator FAULKNER—10 out of 10!

Ms Halton—I do not think I should comment, really. Can I say—

CHAIR—Just on that point, then, the heading is ‘Significant incidents’—

Ms Halton—Can I finish what I was going to say?

Senator FAULKNER—I am sorry; I thought you said you were not going to comment.

Ms Halton—I was half a syllable—

Senator JACINTA COLLINS—It was a quip.

Ms Halton—It was a quip. Thank you, Senator Collins, it was a quip. I might have to stop doing those. We come back to the context. I know you have already said you have trouble with this, but at the time we did not have a doubt. There was no doubt in the department. There was no doubt raised with us. We did not hold any particular concern. I certainly did not, and whilst I cannot speak in the detail of what happened in the International Division—and I have said we will happily find that out for you—the reality is that we had a meeting on the 9th, which Alan Titheridge attended, and we had a meeting on the 10th, which Alan Titheridge attended. And I could keep going. On the 9th I asked for this matter to be pursued and on the 10th we then went to the detail as we understood it—and no-one demurred from this; we had been given the other information in an environment where we did not doubt it. We were seeking positive confirmation. The reality is that I do not think, to be quite frank, had I seen that and had I read it, it would have set alarms bells running with me.

Senator BRANDIS—Of course it would not because there is not a syllable in it that contradicts the proposition that children were thrown overboard.

CHAIR—Can I just come to that point and to the point you are now making, Ms Halton. This is a report of what occurred and was signed off as a documentary report of what occurred. The heading that you have been referred to is ‘Significant Incidents’.

Ms Halton—This is in this report?

CHAIR—Yes. This is the document that you have been directed to by Senator Faulkner.

Ms Halton—Which I happen to have a copy of.

CHAIR—The heading is ‘Significant Incidents’. In such a report it is extraordinary to suggest that a significant incident would be reported that no children were thrown overboard. So it is not surprising that the document does not say that. What the document says is what did occur and what the document says is that certain things happened, none of which included children being thrown overboard.

Senator BRANDIS—But UBAs throw themselves overboard. The idea that the UBAs end up in the water is the very point that this document makes. And when you say, Senator Cook, it is a report, it is not a report; it is a very abbreviated short-form summary of perhaps a couple of hundred words.

Senator FAULKNER—It is a brief.

CHAIR—It says, ‘Australian Defence Headquarters Operation Gaberdine/Operation Relex’—

Senator FAULKNER—That is what Air Vice Marshal Titheridge describes it as.

CHAIR—‘0800 AEST 8 October 01 ADF activities last 24 hours’. Then you drop down to the second headline raised in black type—‘Significant Incidents’—none of which report children being thrown overboard. All I am saying is that that does lend support to the line of questioning that Senator Faulkner is pursuing.

Ms Halton—Can I make another point to you, Senator. You have drawn my attention to the fact that PM&C is one of—

CHAIR—It is one of several.

Ms Halton—17 recipients on this list.

CHAIR—Yes. What is the point?

Senator BRANDIS—So the suggestion that the document has been surreptitiously and nefariously destroyed seems to be garbage.

Senator FAULKNER—No. The point is how many of them are on the task force—PM&C and Strategic Command, where it comes from. That is the significance of it.

Ms Halton—And the Minister for Defence and the parliamentary secretary.

Senator FAULKNER—He is not on the task force.

Ms Halton—Yes; but, as we have already observed, certain people did tell us in relation to the substance about videos and a number of other things—

Senator FAULKNER—No, I accept that point. You are making a very valid point, Ms Halton, that other people who should have known better should have looked at the brief. You are absolutely right. My only point is that in relation to this particular matter there is no mention of children being thrown overboard in such an early brief, and you would have thought that if such a significant event had happened it would have been included.

Ms Halton—I would not have said that.

Senator FAULKNER—But, anyway, you would not think that once you found out that the thing had been destroyed in the International Division of PM&C.

Ms Halton—Let’s go to your point, which is that something produced at 8 a.m. Australian Eastern Standard Time on 8 October by Strategic Command would necessarily have contained all of the material. As I have already said to you on several occasions, our experience was that information coming through the chain was often very, very slow and, frankly, had I seen this, I would not necessarily have been alarmed or alerted. This was on the morning of the 8th, so this is basically under 24 hours after, I think, we all agree I was advised by Air Vice Marshal Titheridge about this event. Some 36 hours later I have asked Defence to clarify this. So a bit over 24 hours after that we have been assured in relation to the evidence in this matter and we, as a task force in a coordinating role, have moved on.

Senator FAULKNER—I would appreciate your taking on notice for me what you offered to take on notice—

Ms Halton—Yes.

Senator FAULKNER—which was whether this and other documentation that comes to PM&C from HSC is, as a matter of course, destroyed.

Ms Halton—Certainly. I am relying on the advice I am given from someone who is from the international division, so I could well stand to be corrected. I have already undertaken to ask someone to give you some information on notice about that.

CHAIR—Who would have directed this report to the international division and not to your task force who is relevant to the content of this report?

Ms Halton—I do not know that ‘directed’ is probably the right description. In my experience, our interface with Strategic Command was intermittent. We have already canvassed in some detail this evening the fact that, when we had our unauthorised arrivals task force, we interfaced with Strategic Command because they were the nominated members. That process stopped when that task force finished. So we did not have a regular relationship, day-to-day contact, month-by-month contact or, indeed, contact every six months with Strategic Command. The regular interlocutors in the Department of the Prime Minister and Cabinet would have been the international division.

Senator FAULKNER—Do not feel too badly about it, Ms Halton, because Air Vice Marshal Titheridge did not know about it either. He was quite shocked to find this document existed—

Ms Halton—Really?

Senator FAULKNER—from his own command, so I would not feel too guilty.

Ms Halton—I did not know that.

Senator FAULKNER—That is the point. I want to ask you a couple of questions about the photographs because you have indicated the significance of the photographs. What the photographs meant effectively for you was that you did not progress other issues including the chronology and the footnote?

Ms Halton—Yes.

Senator FAULKNER—I am interested in knowing the background to the checking of the photographs. Wearing your PM&C hat, could you confirm that the photographs were received in the Department of the Prime Minister and Cabinet on 9 October? I know you did not see them and did not know about them until the 10th, you have told us, but you can confirm for us they were received in PM&C on the 9th?

Ms Halton—I am not aware of that. No, I understand that is not the case, Senator.

Senator FAULKNER—I think it is the case.

Ms Halton—Okay, well—

Senator FAULKNER—The only reason is that no better authority than Mr Moore-Wilton said on page 51 of the Finance and Public Administration estimates *Hansard*:

In regard to the Department of the Prime Minister and Cabinet, it is crystal clear—crystal clear—that officials were shown photographs on 9 October which they believed to relate to activities on 7 October. For that reason, they took the matter no further. I have no criticism for that.

And on he went. So it was a very definitive and strong statement that Mr Moore-Wilton made to me in answer to a question I asked him.

Ms Halton—I was not here through that process. I have not read the—

Senator FAULKNER—I understand by that stage you were in another department—I know that.

Ms Halton—All I can say to you is I would suspect that that refers to the 10th. I do not have any personal recollection of actively seeing the photos on the 9th—sorry, did you say the 9th? I beg your pardon, Senator; it is getting late.

Senator FAULKNER—He said:

In regard to the Department of the Prime Minister and Cabinet, it is crystal clear—crystal clear—that officials were shown photographs on 9 October ...

And you said to you us today ‘the 10th’. I am trying to get to the bottom of this.

Ms Halton—No, I don’t believe that was the case.

Senator FAULKNER—You do not believe Mr Moore-Wilton’s evidence is correct?

Ms Halton—I cannot comment on whether there is something else in the department of which I am not aware. As I said in my opening statement, I became aware of the existence of the photos on the 10th, which was the Wednesday—I am now starting to lose my grip on which day of the week it was—and we saw those the following day.

Senator JACINTA COLLINS—In the meeting?

Ms Halton—And otherwise.

Senator JACINTA COLLINS—So you saw them directly at some stage?

Ms Halton—Well—

Senator FAULKNER—Can you provide evidence for the committee from a PM&C context—I am asking you to wear that hat if you would not mind for the moment—and from your knowledge in PM&C, when the photographs were first seen and who saw them?

Ms Halton—I will have to confer with others, Senator, because my understanding has always been that the knowledge we gained there were photos was on the afternoon of the 10th and I think we have covered that to the point of—

Senator JACINTA COLLINS—The 9th.

Senator FAULKNER—No, the 10th.

Ms Halton—The 10th. The 9th is the day I asked them to check the detail. The morning of the 10th is the day people were running around with chronologies et cetera and the afternoon I was interstate on business. The afternoon of the 10th was the day I arrived in the office at a quarter to five, the afternoon of the 10th is the day that there were the series of phone calls which resulted in the knowledge about photos, videos et cetera. My memory is not of seeing anything on that day but seeing it the next morning.

Senator FAULKNER—There does appear to be a conflict here between what you are saying and the evidence that Mr Moore-Wilton gave about the 9th. I have quoted his comment to you and he was quite strong. He said it is ‘clear, crystal clear’ that officials were shown the photographs on the 9th.

Ms Halton—Senator, I think we can take that away and ask that particular person; it may just be a mistake of the date.

Senator FAULKNER—In this circumstance I do not want to get bogged down on it. Could you please take on notice, in relation to the Department of the Prime Minister and Cabinet, when the photos were received in the department, who received them, where they came from and to whom and when they were distributed in the department?

Ms Halton—My memory—

CHAIR—In addition to that: and did they still bear their captions?

Ms Halton—What I was going to say was that I do not know that we ever technically received them. My memory is that in the IDC sometimes people turned up with digital images which were passed around the table. Whether these were actually retained I cannot tell you.

CHAIR—Did they have captions describing what they depicted, or dating them or timing them?

Ms Halton—I actually think that if they did, Senator, I would remember it and I would have spotted the inconsistency.

Senator FAULKNER—I think it is likely that they did not as well from what we know, and this of course is of concern itself—why the lead agency in the Commonwealth would rely on photographs without any contextual information at all?

Ms Halton—As we have already covered, Senator, the reality is that when things are presented as representing particular things by people who are credible, have proved reliable over a period—

CHAIR—Minister Reith?

Ms Halton—It was not presented by Minister Reith, Senator; it was presented—like all this information—by the key interlocutor we had in that agency. That is my memory. I do not recall a batch of photos turning up. I recall a process—

Senator FAULKNER—Hang on. The key interlocutor in that agency is who—Air Vice Marshal Titheridge?

Ms Halton—That is our principal point of contact.

Senator FAULKNER—So it was he who presented the photographs to you.

Ms Halton—As I am saying, my memory on this is a little hazy and probably because in the morning, as you already know, and I think Senator Cook has made the point, they were on the front page of just about every newspaper—I think we have decided, haven't we, Senator?

CHAIR—We have, and all of the television and radio.

Ms Halton—Again, because that is out there I do not have a particular memory of this being a great issue or of great interest or what have you. Put simply, it was relatively old news so it would not have occupied any particular time or attention.

Senator FAULKNER—Again, I find it somewhat extraordinary that these matters have not been checked through given that officials from departments, who are aware that we have got this committee of inquiry, know these sorts of questions are likely to be asked and it would be absolutely any witness's expectation—when departments first have these matters drawn to their attention or brought before them—that it seemed a fairly obvious, straightforward and logical question to ask.

Ms Halton—I have answered that, and I have said to you that the first time I knew the photos existed was on the afternoon of 10 October. The first time I actually saw them was in the papers on the morning of the 11th. I anticipated precisely that question.

Senator FAULKNER—Did anyone decide that the photographs should not come before the task force? I think you said they did not.

Ms Halton—No, not that I am aware of.

Senator FAULKNER—They did not come before the task force; the task force did not look at the photographs.

Ms Halton—As in beforehand?

Senator FAULKNER—At any stage. I mean, whether you considered them.

Ms Halton—Let us be clear about what you are asking.

Senator FAULKNER—I am asking: at any stage did the task force examine the photographs—that is, have a look at them?

Ms Halton—Did they forensically examine them?

Senator FAULKNER—Not forensically—

Ms Halton—Did they look at them?

Senator FAULKNER—it is not an adverb I applied to it; it is one you applied. I am asking either forensically or not forensically. It does not appear that anything was done forensically, so I certainly would not put that demand on you!

Ms Halton—That is your opinion. My memory is that on several occasions in the task force, agencies would come with digital photos printed on pieces of paper which were shown to members of the task force, often as context. For example, there was a picture of one of the vessels that had come from Vietnam. I remember being interested to see what a vessel that could travel that distance actually looked like. Digital photos were actually considered—your word, I think—and looked at in the task force. As to these particular ones, I do not particularly recall. In relation to the point you were making about whether we saw them, about footnotes or about any kind of descriptor on them, the thing I can say confidently is that had I seen a photograph with something that was demonstrably a different date to the one we knew the photo was to represent, alarm bells would have been set off.

Senator FAULKNER—The Prime Minister was asked by gallery journalists on 10 October about doubts about the ‘children overboard’ claims. He said he would find out more. I wondered if there was any follow-up with you or the task force.

Ms Halton—I think I said in my statement to Ms Bryant that my memory of the 9th is not only of asking for Defence to investigate but of telling Mr Jordana that I had asked for that to happen. I think I have said to you already—maybe I have not said this—that I know, because I have checked my records, that on the evening of the 10th I gave an update on what had happened during the day to both Mr Jordana and Mr Moore-Wilton, from memory. I will check. But as to me explicitly receiving a phone call asking me to do a categorical check, I do not recall that. Frankly, I would have thought that unnecessary, given the process that we had going. As I have already said to you, in the evening meeting of the 10th we put the facts, as we knew them, to the group. No-one demurred, and I am pretty confident that those facts as we knew them would have been communicated to Mr Jordana.

Senator FAULKNER—Are you aware of the quite numerous aggressive attempts by Mr Hampton to make direct contact with Commander Banks on board HMAS *Adelaide*? Were you aware of that at the time?

Ms Halton—No.

Senator FAULKNER—So that did not come to your attention?

Ms Halton—No.

Senator FAULKNER—Did you have any contact at all with Mr Hampton during the period from, say, early October through to 10 November?

Ms Halton—Mr Hampton and I had contact. It was of the same variety that I have already outlined in relation to Mr Ingram.

Senator FAULKNER—How much contact with Mr Hampton did you have?

Ms Halton—About the same amount: very brief conversations, facts as we knew them.

Senator FAULKNER—How many conversations would you have had with Mr Hampton over that period?

Ms Halton—I cannot estimate.

Senator FAULKNER—A couple a day? A couple a week?

Ms Halton—It is very difficult to estimate. When there was a vessel, it would probably be once a day—maybe. When there was not a vessel, there was no need for me to be having any conversation with Mr Hampton.

Senator FAULKNER—You may not have been aware of some of the evidence that was given to a previous parliamentary committee about the aggressive nature of Mr Hampton's interventions with some in Defence.

Ms Halton—I seem to recall it got quite a bit of media coverage at the time, so I was aware of it.

Senator FAULKNER—It did. I was not sure whether you saw it or not. That was not the nature of his communications with you, was it?

Ms Halton—No.

Senator FAULKNER—He was always very courteous with you?

Ms Halton—Polite. I have never met the man.

Senator FAULKNER—What about Mr Scrafton? Any contact with him?

Ms Halton—I do recall one face-to-face conversation with Mr Grafton when I was chairing a meeting of the Welfare Reform Consultative Forum. This was the other job that I was trying to do sometimes—it did not happen very often—and I was asked to have come and have a conversation with him, Mr Reith and Air Vice Marshal Titheridge in relation to a particular matter. In fact, I was probably even in this room, if I think about it. I was sitting about where you are. From memory, I only had one other conversation with him, which was on the afternoon of 10 October, which is when—as I think I have already said in my witness statement to Ms Bryant—following the news that there was a video, and having been told by Minister Reith that he had just told this to the press, I made a series of phone calls to confirm that what I had been told was accurate. Those phone calls led me to Mr Scrafton, who confirmed that that was accurate.

Senator FAULKNER—What about the first conversation? When did that take place with Mr Scrafton in this room? The second one was 10 October.

Ms Halton—At a guess, it would have been at the end of August. It preceded the disembarkation of the *Manoora*.

Senator FAULKNER—Could you let me know what that was about, please.

Ms Halton—It was about a discussion that was being had about how we might use the offices of a number of different agencies, particularly the police negotiators, to have the people on the *Manoora* disembark to Nauru.

Senator FAULKNER—Were these matters that you raised with Mr Scrafton or Mr Scrafton raised with you or was it Air Vice Marshal Titheridge who raised the issues?

Ms Halton—On that particular occasion there had been a series of discussions in the task force. I think I said earlier on today that there were occasions on which agencies did not agree with each other. There was—difference of view is too strong—a discussion between Air Vice Marshal Titheridge and me about the strategy and the tactics around removing people from the *Manoora*. He had told Minister Reith that I did not agree with him, and so Mr Minister Reith and Mr Scrafton asked whether I would repeat my views to them, which I duly did.

Senator FAULKNER—The IDC had been established, obviously, by this point?

Ms Halton—Yes. This issue had been debated ad nauseam in the actual IDC.

CHAIR—I wonder if I could intervene for a moment. It is now nearly a quarter past 10. We are scheduled to turn into pumpkins at 10.30.

Ms Halton—That was the scone we had earlier on, wasn't it?

CHAIR—A pumpkin scone. That is a Queensland reference, I think.

Ms Halton—You said ‘pumpkin scone’—I remember.

Senator BRANDIS—In Queensland we eat nothing else.

CHAIR—I would have thought the Queensland Liberal Party had a different view.

Senator FAULKNER—There is a senatorial culinary flavour to pumpkin scones.

CHAIR—Now we have all indulged our scone allusions, is there any indication you can make to us, Senator Faulkner, about how much longer you will be?

Senator FAULKNER—I am battling through. I will be a little while longer. But if you and the witness would like to have a five-minute break, that would probably be a smart thing to do. I am hoping not to delay the committee.

CHAIR—I am trying to get an idea of a reasonable finishing time.

Senator FAULKNER—I am going to be as quick as I can but, because of unexpected interruptions, I will take a little longer.

CHAIR—I am just trying to get an estimate from you, if you could give us one. I have not called Senators Collins, Brandis, Ferguson or Mason yet, and I have not had an opportunity, but I have already said something earlier to Ms Halton.

Senator FAULKNER—I am more than happy to allow some other senators to ask some questions and come back into the fray at a later stage, if you want.

Senator BRANDIS—That does not help Ms Halton very much though.

Senator FERGUSON—We ought to have some idea of how long we are going to go. I know that we started later than normal but, because we started later, we have ceded most of the questions that we may have asked. It is not fair on the witness, having got here at half past two—although she did not start at that time—to expect her to be here forever, without giving any idea of a finishing time.

Senator FAULKNER—The issue here is always whether we are better off battling through and finishing tonight, as opposed to asking the witness to come back. I do not mind that.

CHAIR—We cannot ask the witness to come back tomorrow morning because we have already committed ourselves to an 8.30 start tomorrow with Air Marshal Houston, who has to be away at a certain time.

Senator FAULKNER—Given that we are looking for a slightly longer period of committee deliberations, we could probably find a mutually agreeable time at some point.

Senator BRANDIS—I favour that course. I think Ms Halton is an important witness, and she has been cross-examined by Senator Faulkner now for many hours.

Senator FAULKNER—She is not being cross-examined by anyone; some questions have been asked.

Senator BRANDIS—She has been examined by Senator Faulkner for many hours.

Senator MASON—You have a lot of stamina, Ms Halton; you have much more than I have.

Senator BRANDIS—I think it might be better, frankly, subject to Ms Halton's availability, if we made arrangements to interpose her, obviously post Air Marshal Houston, tomorrow. Is that not possible?

CHAIR—Our commitments tomorrow are such that a number of Defence personnel have to be out of here by a certain hour to meet commitments in Tasmania.

Senator FAULKNER—We do have a bit more flexibility than we had before, so it is probably achievable. I know that this witness had difficulty finding time over this three-day period—it is appreciated.

Ms Halton—I would prefer that we just keep going until we are finished. I am due to go to the OECD very shortly. I have a range of departmental commitments which would be extremely difficult to shift. I am conscious that you want to finish this evidence, so I am perfectly happy to bat on until we are done.

CHAIR—All right then. Let us proceed.

Senator FERGUSON—I do think we ought to have some sort of time limit. We do not want to be here at two o'clock in the morning. We ought to look at finishing at 11.15, or something like that.

Senator FAULKNER—That will not solve the problems necessarily. Let one or two of the other senators have a go.

Senator FERGUSON—Do you think you have got more than an hour of questioning to go?

Senator FAULKNER—I fear so.

Senator BRANDIS—We are talking about scheduling two additional hearing dates somewhat into the future.

Ms Halton—No thanks.

Senator FERGUSON—I think it is unreasonable to expect any witness to spend seven or eight hours under constant questioning. Mr Chair, the unions that you represent would not allow their workers to stay that long, so I think that it is unfair to ask Ms Halton to do the same thing.

Ms Halton—Senator, all I can say to you is that there is a long and noble tradition in the Public Service of sitting in Senate estimates committees for many hours and that we are in training for just such an event. I am very happy to stay for longer.

Senator FERGUSON—But that does not make it right.

CHAIR—It does not make it right, I agree with that. And you are right about the unions that I represent: they would not allow it to happen either, but they would not allow me to be here. I have a few questions. I am happy to ask those and get myself off the slate. Perhaps I should do that.

Senator JACINTA COLLINS—I have probably got only one small area to cover at this stage.

CHAIR—Let me just go to a couple of questions that I have. I feel obliged to ask these questions, because I did make an observation about not being satisfied with some of the answers earlier, and this is an effort to satisfy me or deepen my disquiet. In your opening statement to the committee, you concluded with a small chapter called ‘The role of the People Smuggling Task Force’. In the third paragraph, you said:

The PST was set up and run on the basis that it provided advice on policy and operational issues as they arose. One of the group’s key jobs was information exchange to ensure that all agencies were kept aware of relevant and emerging facts.

Is that the mission statement for the People Smuggling Task Force?

Ms Halton—We have already canvassed in Senator Faulkner’s questioning whether there were official terms of reference, and I have said there were not. The reality is that in the way one chairs a meeting one can set a tone and a style for its operations. I have said in that opening statement—and this is definitely the case—that I made an absolute point of ensuring that every department, and indeed the officials who came to that meeting, had not only the opportunity but the encouragement to bring forward relevant information, to have issues canvassed and to have matters debated fully.

CHAIR—I am not going to that; I am going to something more primary. This interdepartmental task force, variously described as a high-level group, was convened for a purpose. All I am asking is: does that paragraph set out what, to the best of your knowledge, is the purpose for the establishment of this task force?

Ms Halton—That is essentially my understanding of what we were doing.

CHAIR—But you were not given written terms of reference?

Ms Halton—No.

CHAIR—But you were given to understand, when you were tapped on the shoulder to chair this body, that this is what you would be doing?

Ms Halton—That is correct. Sometimes we were explicitly asked for advice on particular issues, and I think I have already alluded to that—in fact, I said it directly.

CHAIR—So, in addition to your offering advice, you were regarded as a reference group for testing of views or offering opinion?

Ms Halton—What I said earlier on, Senator, was that there were occasions on which the Prime Minister explicitly decided he would ask the view of that task force prior to taking a decision on a particular issue.

CHAIR—There are two things you have said about SIEV4 which stick in my mind and I want to go back to that for a moment. I think the introductory remark you made about SIEV4 was the outstanding thing that occurred to you at the time, which was the report that most of the passengers on SIEV4 were wearing life jackets.

Ms Halton—That is right.

CHAIR—Why was that—

Ms Halton—Why was that outstanding?

CHAIR—of interest to you?

Ms Halton—You made the observation earlier on, Senator—and I think this is where you and I started to differ—that you thought that was a function of the fact that the vessel might be rickety and they were doing that—

CHAIR—I think I said it may be leaky, and a reason for wearing life jackets would be if you are in the middle of the ocean on a leaky boat.

Ms Halton—Right. What was in the mind of officials was we had had an experience with the preceding boats, where groups of people were—and I think you have had a fairly extensive catalogue of this—presenting more challenging management issues as each boat arrived. We had not had a boat arrive, from memory, for about two weeks. There was an expectation in the group—and it is the task force that I am referring to here—that the next boat would be conceivably quite a difficult boat to manage. I think there had been discussion in the group that one of the tactics we expected to see at some point was that, as soon as a grey ship appeared on the horizon, the boat would be scuttled and that everyone would go in the water. So, when we heard that this particular vessel was characterised by a lot of people wearing life jackets, the context in which we thought this boat was operating was one where they were going to get up alongside, or even within sight of, the grey funnel line and someone would pull the plug in the bottom of the vessel.

CHAIR—And it would sink.

Ms Halton—And it would sink.

CHAIR—Creating a safety of life at sea issue.

Ms Halton—That is correct.

CHAIR—For which, under international articles, you are required by any ship in the vicinity to provide a response—

Ms Halton—To provide assistance, yes, that is right.

CHAIR—and to save human life.

Ms Halton—That is right.

CHAIR—So am I right in thinking that what heightened in your mind this concern was the reported fact that these people were in life jackets?

Ms Halton—That is right.

CHAIR—In that advice that they may scuttle the vessel, was there any advice or apprehension by you or the committee that one of the possible actions they may engage in is threaten or throw a child or children overboard?

Ms Halton—There had been a series of events, and there were subsequent events, of people ending up in the water. I recall a conversation with an officer in Strategic Command who had been in charge himself of a vessel out at Ashmore Reef. I remember saying to him after one such report to me that people ended up in the water, including children—and I am the mother of two smallish boys—

CHAIR—And I am the father of four children.

Ms Halton—I remember saying to this person, ‘This is not good. How did this happen?’ and he said to me in a very matter-of-fact tone, ‘This is actually not particularly unusual. I have been out there. I have been in charge of a vessel and sailors have had to hop over the side and fish them out of the drink,’ I think was his statement. He said, ‘This is not something which is particularly unusual.’

I have already made the comment to Senator Faulkner that dealing with the military, and certainly matters naval, is not something in my career. I have had a lot of experience of delivered meals in nursing homes in my career, but dealing with the Navy and what goes on out at Ashmore Reef is not something that I have had a lengthy history in. So I was perturbed about the first few times that this occurred—and, as I said, I had this conversation with a particular officer in strategic command.

So, yes, in the preceding boats, my memory is that we had had advice of people ending up over the side. I cannot say to you in the preceding boats that I was told that any children were thrown, because I do not believe I was—but certainly in subsequent boats. My memory of one of the sailors that testified in the people-smuggling case in Darwin is that that sailor gave

evidence that someone had thrown a child over the side. I remember it actually being reported on ABC radio—I seem to hear everything on ABC radio—

CHAIR—I am sure the ABC will be grateful for the reference.

Ms Halton—You mean the one remaining listener!

CHAIR—I do not think you are the only one.

Ms Halton—There may be several more in this room. Anyway, we digress! Certainly, subsequently there were stories about people again over the side and children over the side.

CHAIR—Let me come back to my question: when you were concerned prior to sighting this vessel that there might be a step-up in effort by the asylum seekers, was one of the things that you were concerned might possibly happen the idea that they might throw a child or children overboard?

Ms Halton—Not that I can explicitly remember, no.

CHAIR—So that was not a concern then. Was it a concern that there would be possibly a heightened ‘confrontation’?

Ms Halton—My active concern was that they would sink the vessel and everyone on the vessel would end up in the water.

CHAIR—And that was the concern?

Ms Halton—If I go to my pre-eminent concern at that point, it was about sinking.

CHAIR—I am only concerned about your concern at that point. You did not have a formal mission statement, but you understood your purpose. Would you categorise that as a policy or as an operational issue?

Ms Halton—My concern?

CHAIR—That here was a step-up in intention or confrontation—whatever is the right word. That is not a policy issue; it is more of an operational issue.

Ms Halton—That would be my judgment, yes.

CHAIR—You have given evidence that you heard on the ABC news a report that SIEV4 was fired on or may have been fired on—and as a consequence. That is an operational issue, too, isn’t it?

Ms Halton—That is correct.

CHAIR—When you received the report that a child or children were thrown overboard, would you regard that as an operational issue?

Ms Halton—I would.

CHAIR—As far as operational issues are concerned, my understanding is—and please correct this if I am wrong—that you wanted to monitor what was happening at operational level—

Ms Halton—Within reason, Senator.

CHAIR—You needed to know what was going on.

Ms Halton—Yes.

CHAIR—Because if there were to be a change in the tenor or the level of confrontation by the refugees, or whoever it was—I think the evidence earlier was that it was orchestrated by the people smugglers but leave that aside—then you would need to consider from a policy point of view what changes there might be in response.

Ms Halton—Possibly, but there was also an overriding operational concern, and that went to the amount of accommodation that was available on places like Christmas Island. It went to the issues that DIMIA manages on a day-to-day basis in terms of the number of ACM guards—I have already raised this—the amount of bedding that was available and the number of doctors and nurses who were available to provide people with care. It went to very practical operational issues.

CHAIR—Yes, exactly. It went to issues such as—we heard from Commander Banks—whether we had an adequate supply of clean clothing and towels if people were fished out of the water. There were issues as basic as that.

Senator JACINTA COLLINS—Nappies.

Ms Halton—Yes. Babies' bottles, too, for that matter.

CHAIR—Babies' bottles as well. I even saw on the ABC eye drops for conjunctivitis.

Ms Halton—I could tell you about scabies at some point, too. We did that one as well.

CHAIR—There were a lot of skin diseases. I understand that if one goes to the health conditions, both mental and physical, of the asylum seekers, it is not a pretty picture. But we are not going to go into that—at least not at this stage. So, when you received advice that a child or children were thrown overboard, this would be advice that would be categorised as operational advice?

Ms Halton—Correct.

CHAIR—Did you inquire as to how this occurred and under what circumstances it had occurred?

Ms Halton—In terms of forensic inquiry—back to the use of the word I used earlier—as to every single operational detail, no. As I have already outlined, our need for operational detail was in the context in which we were operating. We did not need to know which side of the vessel someone had gone off. We did not need to know chapter and verse on all of this. I have already said in evidence that we needed to know from an operational perspective if anybody had drowned, whether everyone had been retrieved and whether there were any injuries to either the asylum seeker or indeed the naval personnel. One of the things that we reflexively asked on any of these occasions was: had there been loss of life? Were we confident that all the people who had gone over the edge had actually been retrieved? I think we all know that, when there is a situation of confusion, you do not actually sit and catalogue every single person who is in the water. Those sorts of issues we did ask about.

CHAIR—And you have received answers to all of those questions?

Ms Halton—I received assurance that we need not be concerned, that people were safe and had been retrieved and that there was no injury.

CHAIR—Did you ask the question: how many?

Ms Halton—I recall asking them about how many.

CHAIR—Did you get an answer to that question?

Ms Halton—I did not. I think I have already said in evidence that one of the things the Prime Minister and Cabinet officers sought to do on Wednesday, the 10th was to try to sort out the contradictory information, which is included in that chronology and elsewhere in relation to the numbers.

CHAIR—Did you ask a question about gender?

Ms Halton—I recall being told something about gender; I do not recall asking about gender.

CHAIR—What were you told about gender?

Ms Halton—I recall being told that we thought it was largely men.

CHAIR—Largely men?

Ms Halton—People of the male persuasion.

CHAIR—They are men, I think.

Ms Halton—And possibly boys. One of the reasons—

CHAIR—I just want to be clear about this. What were you told—that the child or children were boys or that the throwers were men?

Ms Halton—No. I recall actually being told, ‘We didn’t think any women had gone in.’ The reason I was interested in that was that we all know that most of these women wear the hajib or something of that sort. The notion that somebody who is unlikely to swim—and, thinking about where most of these people come from, I think swimming lessons when you are in fifth class are improbable—and the notion of ending up in the water wearing a full hajib caused me some concern.

CHAIR—Me too. I have raised that question.

Ms Halton—I tended to ask whether any women or girls had gone in the water.

CHAIR—When I am asking the question about gender—if I have not been specific about this, let me try to be specific now—to the proposition that a child or children were thrown, did you inquire as to what sex they were?

Ms Halton—I believed it to have been a boy.

CHAIR—You believed it to be a boy?

Ms Halton—That is right.

CHAIR—How did you acquire that belief?

Ms Halton—Because of a conversation about gender in total and the particular questions in relation to whether any women or girls had gone over the edge.

CHAIR—And this is boy singular, not boys plural?

Ms Halton—I cannot be precise on that. I know and have given in evidence and said in my opening statement that I was told—and it is there in quotes from my diary note—that this was plural. I am quite clear that that is what I was told. The impression I had was of no girls and no women. Whether it was two, three or four, I have to say I did not have an impression.

CHAIR—Given your concern about life jackets, did you ask whether they were wearing one?

Ms Halton—My recollection is that I was advised that most passengers were wearing life jackets. I do not recall explicitly saying, ‘Did everyone who went into the water have a life jacket on?’ That would have been in a context where I had already been advised that most of the passengers were wearing life jackets.

CHAIR—Did you inquire, as to the allegation that the child or children were thrown in, whether they were wearing life jackets?

Ms Halton—No, I did not.

CHAIR—Coming back to the operational elements of this, you were right that it would have been a qualitative change in behaviour if everyone was wearing a life jacket on the basis that they all were to jump in the water if they were turned back. Would it not also be a step up in the confrontation if there was a systematic effort to throw children in the water? That would also be a notching up of the confrontation.

Ms Halton—Because I had not thought about it explicitly I do not think I had an opinion on that. I have already said that I had an opinion on the notion of sinking. Sinking was the thing that was at the front of my mind in terms of how things might be escalated. If I sit and reflect, as you have no doubt done—and I have done this at some length—why I did not ring Mr Jordana until 3.30 that afternoon, it was because it was against a framework where I was actually expecting the vessel to be scuttled and that had not happened and where I knew that people were safe. This was not something which I regarded, perhaps erroneously, as being sufficiently noteworthy that I needed to disturb anyone else's Sunday.

CHAIR—Let me come back to my question because, with due respect, you have gone a long distance from it. If there was a systematic effort to throw children in the water would that have been an increase or a notching up of the tension and confrontation?

Ms Halton—My understanding is that there were a range of strategies used as part of these confrontations. I was not on any of those vessels. We have seen recently some video that has been released. The description of some of the strategies and tactics used I found somewhat confronting on the odd occasion. I do not know, and I do not recall thinking to myself, that this was now such a quantum leap away from some of those other tactics. My principal concern was, first, that they were about to sink the entire vessel and, second, to ensure that there had been no loss of life and that everyone had been secured. As I have already said, I had a particular concern in that respect in relation to any women.

CHAIR—This would have been an increase in the confrontation if that had occurred?

Ms Halton—You are asking me for my opinion. My opinion is that any activity to summarily toss a child is a fairly significant step.

CHAIR—Indeed. You are a mother and I am a father and we both appreciate that point.

Ms Halton—Precisely.

CHAIR—It would have been an increase in the confrontation had that occurred?

Ms Halton—My understanding is that there were a range of behaviours that had been evidenced on the other boats, some of which were pretty confrontationist. To say that this one is materially different from some of the others is a matter of personal opinion.

CHAIR—Your concern was that the boat may be scuttled?

Ms Halton—Yes, it was.

CHAIR—And you got advice that a child has been thrown overboard.

Ms Halton—Children, kids, plural.

CHAIR—You are thinking, ‘How are the refugees going to increase the confrontation?’ It was reasonable to assume that that was how they were going to do it at this point of the encounter.

Ms Halton—No. I did not think that. That might have been the process that you would have followed in your mind. I did not think that.

CHAIR—You did not think of that?

Ms Halton—I did not. I thought that in fact we were lucky so far that the boat had not been scuttled. In terms of where we might be relatively, we were relatively better off than I otherwise thought we might have been at that point.

CHAIR—It did not occur to you that you were unlucky so far that a child had been thrown in the water?

Ms Halton—I thought we were lucky that everybody had been retrieved and was safe.

CHAIR—Going to the operational issues again, if the asylum seekers had conducted themselves in this manner—lined up four or five kids, thrown them over one at a time and said, ‘If there is any attempt to turn us around we will continue to do this process’; a sort of hostage situation—that would have been a significant escalation, wouldn’t it?

Ms Halton—You are now asking me to speculate on hypothetical situations. With due respect, I do not think that is appropriate. I am quite happy to talk about what I know about the circumstances and I am quite happy to talk about this particular incident and, to the extent that I know about them, other incidents, but to now start to talk about a hypothetical event which, to the best of my knowledge, is not a feature of this particular incident—or indeed others—I think is unfair.

CHAIR—You may think that. I must say I have a different view, and let me explain why. You are the chairman of this task force that the Prime Minister interrogates from time to time.

Ms Halton—Chairperson.

CHAIR—Chairperson. Thank you very much for that correction. You are the chairperson of this task force that the Prime Minister interrogates from time to time that coordinates the government’s response.

Ms Halton—Can I correct you there? The Prime Minister never personally interrogated—in your terms.

CHAIR—No, of course. But through his department—

Ms Halton—He sometimes sought advice.

CHAIR—Yes.

Ms Halton—Correct.

CHAIR—You were alerted that there may have been a qualitative change because people were wearing life jackets. You became concerned that there was a report that shots may have been fired at the boat and that is why people were jumping from the boat.

Ms Halton—Yes.

CHAIR—It is reasonable not to ask you to speculate but to ask you as a responsible officer in charge of this operation of ‘providing advice on policy and operational issues’—

Ms Halton—Yes.

CHAIR—about the fact that there may have been under way as a consequence of the report that you had before you a further escalation. All I am saying is—

Ms Halton—As a consequence?

CHAIR—You had this report, that you said you had in front of you, that a child or children were thrown overboard.

Ms Halton—Right.

CHAIR—It is reasonable to say that you as responsible person thinking along the lines that you were—‘How is this going to be escalated?’—

Ms Halton—Where is this going?

CHAIR—‘Where is this going? Does this indicate a new and frightening trend?’ All I am saying to you is that is a reasonable exercise of your responsibility in acquainting yourself with all of the issues.

Ms Halton—I suppose the question I would put back to you is—

CHAIR—It is no good putting questions back to me.

Ms Halton—No, but it is relevant to what I am going to say. The question that I put back to you is that even if I had done that, which I did not—and I accept that that is where your mind goes logically; mine does not—at that point the Navy had rules of engagement; the basis on which it operated. They were the instructions it had been given by the Chief of the Defence Force, signed off by the Minister for Defence.

Those rules of engagement governed everything that happened at sea. We all know that relevant commanders had a huge amount of discretion—rightly, in my view—about the circumstances and how they discharged those rules of engagement because the judgments that had to be taken were on-the-spot judgments which could not be informed, in this particular case, by a task force or indeed by anyone who was not physically there at the time. In terms of what we thought about this, our practice when there was a boat—as you already know—was to very often convene to provide advice. In this particular case, the advice we gave was on the operational issues about accommodation et cetera, whilst the issues played out at sea. There was nothing we could do about what was going on out at sea. It was a matter for the naval commander, consistent with the naval commander's instructions.

CHAIR—Yes. All of that accepted, one of the jobs that you had was to also be aware of what the tactics and circumstances of these encounters were, and the Prime Minister did speak publicly on this matter.

Ms Halton—Can I say that for particular briefings on 'tactics and circumstances' I do not recall us giving detailed briefings on those issues. I think you have already heard evidence from DIMIA about the fact that they actually gathered information and did briefings in respect of people-smuggling tactics. I know that detailed briefing about what happened in particular incidents was also provided, for example, to the Minister for Defence. I do not recall a cataloguing of tactics and incidents by us as a task force for provision for the Prime Minister.

CHAIR—But for any purpose at all. Let me be very frank with you. This is where I have the difficulty. What is exciting or interesting to you—what engages you, to be more precise—is that these people are wearing life jackets.

Ms Halton—That is right.

CHAIR—What engages you is a news report that shots may have been fired. What does not engage you is that children or a child had been thrown overboard and what this meant in the conduct of the refugees' confrontation with the Navy. That is why I find it, to be honest with you, very difficult to understand why that did not engage you—when your mission is, as you have said it, to advise on policy and operational issues—and why there were no-follow-up questions, Ms Halton.

Ms Halton—As I have said—I do not know how many times this evening—we did ask those follow-up questions. You may or may not be satisfied with the answer. I cannot tell you anything other than the complete truth, and that is what I have told you. Whilst you have a different process in terms of the inquiry you may have made, we had several statements from Defence in relation to this being a matter of fact. The point that I have already made to you—and I have made it in my opening statement—is that the numbers of people on this vessel was clearly caveated. They said, 'We can't tell you categorically whether this is right. We think it is this number but we may not be right.' But the other information was not caveated. At the end of the day, we worked on the basis that it was accurate. The thing that concerned me—and I have already said this—was the suggestion that people had thrown their children overboard in response to shots—that, in other words, they were basically trying to save their children from some form of fire. I did not know that there had been any fire. In fact, I thought to myself that, as a parent, if they were concerned about that issue, maybe that would explain their behaviour.

As it happened, we ascertained categorically that the shots were at a different time, and so the substance of that concern was not borne out.

CHAIR—I am sorry; I find that all very interesting, but the Prime Minister made a curious statement that day. He did not endorse in the actual words—

Ms Halton—Which day are you talking about, Senator?

CHAIR—The day of the report.

Ms Halton—The day of the 7th?

CHAIR—The meeting was on the 8th, wasn't it?

Ms Halton—There was no meeting on the 8th, Senator.

CHAIR—Sunday the 7th?

Ms Halton—There was a meeting on Sunday the 7th—

CHAIR—Right. On that day the Prime Minister made a statement.

Ms Halton—and there was a meeting on Tuesday the 9th and on the 10th.

CHAIR—He did not endorse what Minister Reith said. In fact, he used what I regard as an interesting form of words, which were along the lines of 'I wouldn't have people in this country that did those things'.

Ms Halton—Yes.

CHAIR—I have said this a couple of times, and I apologise for repeating it, but I have been a minister in circumstances where there is a crisis of sorts, and the Public Service—bless their cotton socks!—are in a professional way keen to keep the minister advised of all the details and not just some of them.

Ms Halton—Yes.

CHAIR—In my experience, ministers—not just me, but other ministers that I observe in action—are keen to find out all of the details.

Ms Halton—Yes.

CHAIR—The big mystery here is that the news that a child or children had been thrown overboard travelled with almost the speed of light. No questions following up how that happened, how systematic it was, what the nature of the confrontation was between those who may have done this act and the Navy, were ever explored. I find that extraordinary.

Ms Halton—You might find it extraordinary, Senator, but the reality is that we had a picture in our mind which went to the nature of the event and which went to—we have already established—the gender of the people concerned. We have gone to the safety of the people concerned and, in fact, the circumstance you have outlined hypothetically of people being lined up across the top of the vessel and summarily held as hostages and pushed over the side was not the way this event was characterised. As far as I was concerned, and I believe my colleagues were concerned, the substance of the event was relatively clear. There was not any particular need—other than, as I have already said, when this new element in relation to shots was brought out—to pursue that detail. As I have already said to you—

CHAIR—I will just go through this—

Ms Halton—If I can finish please, Senator.

CHAIR—You may finish, Ms Halton, but please finish promptly. You keep repeating it.

Ms Halton—Okay. I have finished.

CHAIR—You have made me lose my spot now.

Ms Halton—We are equal now.

Senator FERGUSON—That is because you are repeating yourself, Senator Cook.

CHAIR—No, I am not. The Prime Minister said those words, as I have described them.

Ms Halton—I did hear them subsequently.

CHAIR—You did hear them subsequently. Someone in the department may have heard them and certainly the Prime Minister's press office heard them. It seems to be a reasonable thing to think that the Prime Minister might want to seek further detail.

Ms Halton—As I have said to you, I was not asked for further detail.

CHAIR—The other thing we have here is Commander Banks, who, I must say, presents to me as a commendable officer that I regard highly.

Ms Halton—And Commander Banks was in fact a member of the Unauthorised Arrivals Task Force, so we know Commander Banks well.

CHAIR—So I understand. He believes that no child was thrown overboard.

Ms Halton—So he said in evidence.

CHAIR—He believes that he never reported this matter.

Senator FERGUSON—He said that he told Brigadier Silverstone.

CHAIR—He says he did not report it to Brigadier Silverstone. I am going on his evidence—I will come to Silverstone in a minute, Senator Ferguson. And when he saw the report he moved as quickly as possible to correct it. Brigadier Silverstone is at odds with Commander Banks as to whether or not it was reported to him. Brigadier Silverstone says—and I hope I am not inaccurate—that in a way that was not as important, when it was confirmed that no kids were thrown overboard, as correcting the record promptly and quickly so that everyone knew what the situation was. That is what Silverstone says, which I think is right.

Senator FERGUSON—You had better check the quote.

CHAIR—Check the quote. I am sure I have not got it right, but I am sure that is the gist of what he said. What he as a serving officer was saying is, ‘If we have got some advice, we pass it up the line. Bang! We learn it is wrong, we correct it straightaway.’ It is a bit like the Mafia: tell us bad news as quickly as possible.

Ms Halton—I could not comment on what the Mafia does.

CHAIR—No, nor could I. I do not know the Mafia. I just read Mario Puzo. But do you follow what I am saying?

Ms Halton—I think so. Keep going.

CHAIR—Wrong advice, quick correction at operational level on the sea in Darwin, down the line.

Ms Halton—Yes.

CHAIR—But you are saying not to you.

Ms Halton—No. Categorically not.

CHAIR—And you are saying to me—here is where I have the difficulty—you made no further follow-up examination of what throwing a child or children overboard may portend as new tactics by illegal immigrants.

Ms Halton—No.

CHAIR—Maybe we should have a short break.

Proceedings suspended from 10.54 p.m. to 11.01 p.m.

Senator MASON—Ms Halton, I cited before from the final page of your opening statement:

The PST was set up and run on the basis that it provided advice on policy and operational issues as they arose. One of the group’s key jobs was information exchange to ensure that all agencies were kept aware of relevant and emerging facts.

You have been keen tonight to assert continually to Senator Faulkner and others that you did not want to insert the People Smuggling Task Force into the chain of command. That is correct, isn’t it?

Ms Halton—Correct.

Senator MASON—I then asked you whether you were aware of other SIEV incidents.

Ms Halton—I was. As each new vessel arrived, we were notified of each new vessel.

Senator MASON—Several hours ago, I think in response to a question from Senator Faulkner, you said that you received advice on other SIEV incidents from Air Vice Marshall Titheridge.

Ms Halton—And others.

Senator MASON—At what level of specificity were those reports made to the joint task force?

Ms Halton—I think probably a bit like this one. There were details that were provided about particular incidents. A particular incident I recall was about the breaking of bottles and the using of glass. There was a series of vignettes, if I can describe them in that way, of behaviours and activity. Notwithstanding Senator Cook's desire that we had a blow-by-blow account of every event, we did not; we had a broad understanding of the nature of those events at sea as they emerged.

Senator MASON—Can I ask you a specific question in relation to SIEV7. You spoke about vignettes. Let me put some vignettes to you. Were you informed, with respect to SIEV7, that a child was dropped overboard?

Ms Halton—I cannot be categorical about which SIEV I was told there was a child over the edge from. I was told there was a child at one point, and I think I made a reference earlier on to evidence that was given by a sailor that was reported, I think, to the Magistrates Court in Darwin as part of the people-smuggling prosecution. In terms of whether I had a particular knowledge of that particular SIEV and all the details of that event, no.

Senator MASON—Would your briefing have included this level of specificity: threats to children?

Ms Halton—Sometimes.

Senator MASON—Whether there was threatening or offensive behaviour on the part of unauthorised entrants to this country?

Ms Halton—Most often.

Senator MASON—Threats of suicide or self-harm?

Ms Halton—Yes.

Senator MASON—Sabotage or fire on vessels?

Ms Halton—Yes.

Senator MASON—Whether illegal immigrants actually went over the side or threatened to go over the side?

Ms Halton—Yes. I have already given evidence about that.

Senator MASON—Whether there was, for example, hunger strikes?

Ms Halton—Yes.

Senator MASON—And whether there was any violence against Royal Australian Navy personnel?

Ms Halton—That was not covered in particular detail, but I was aware that on the odd occasion there had been some confrontations. I could not ever say I was told in graphic detail what happened.

Senator MASON—That level of specificity would have been given to the People Smuggling Task Force with respect to all the SIEVs subsequent to SIEV4?

Ms Halton—Senator, I would not want to be that categorical because sometimes that information was communicated from, for example, Air Vice Marshal Titheridge to me when he rang me about the latest vessel. Would there have been a general understanding of issues of the type that you talk about? Yes, I think that would be the case.

Senator MASON—Thank you, that is fine. The claim is made—and it has been made again by Senator Cook—that this information about a claim on SIEV4 that a child was thrown overboard travelled at the speed of light. The implication was that the government made political capital from that. The question that keeps raising its head is that—I have just mentioned SIEV 7 but there are other very serious incidents, SIEVs 7, 9 and 10 and of course 12—Admiral Barry said they were operationally much more significant than SIEV4, yet until recently we had heard a bit about SIEV10 and none of the other SIEVs. Why is that?

Ms Halton—You tell me, Senator.

Senator MASON—The point is that all that information was not used for political purposes.

Ms Halton—The comment I would make, and it goes to my remarks which some have taken objection to, is that the task force always operated in a manner which was completely professional and consistent with Public Service practice and values—and that is precisely the point I will underscore—in passing on, where relevant and appropriate, information to the minister. I cannot comment on the comment about the speed of light because, as I have already outlined, I was not aware of it. It is my understanding that people were informed about what actually happened in respect of each of these SIEVs.

Senator MASON—The claim is made that both the military and the Australian Public Service were used to trawl through this information for political purposes, but that is just not right, is it?

Ms Halton—I would not want to make any comment on that, other than to say that I think the task force at absolutely all times operated entirely properly and professionally. I have not seen any sign of what you just alluded to.

Senator MASON—Thank you.

Senator JACINTA COLLINS—Ms Halton, I would like to take you back to the telephone conversation and the recollections you have of that with Air Vice Marshal Titheridge. You indicated earlier that you had a recollection of asking some questions. Was that during the telephone conversation?

Ms Halton—That is my recollection. I did have a couple of conversations with Air Vice Marshal Titheridge—and again I have checked my phone records that this was the case. What I cannot tell you categorically is that the information that we were going through earlier on was all gained in the one conversation. The thing that I am absolutely certain of is that the question I asked when I was first told about this was whether everyone was safe.

Senator JACINTA COLLINS—Air Vice Marshal Titheridge tells us that he would have, in conveying that information to you, caveated it in terms of the nature of the report.

Ms Halton—Certainly, as I think I have said in my opening statement, my memory is that he told me that the source of the advice was NORCOM. My practice was habitually to pass on that information. I have absolutely no doubt, whilst I cannot remember who said it first—and we have already covered all of that—that I would have said that Air Vice Marshal Titheridge had rung and told me that NORCOM had just advised him of the following things. NORCOM would have been the part of the operational system that would have known what was going on.

Senator JACINTA COLLINS—Yes, but you have no recollection of a caveat to the extent that preliminary oral advice from the CO to the head of NORCOM said this?

Ms Halton—No. I have a clear recollection that the advice was from NORCOM. If that is a caveat, maybe that is how it is being interpreted. This is advice from NORCOM. Maybe that is a caveat, but that is the context in which I remember the information coming.

Senator JACINTA COLLINS—So in your mind there was no further caveat beyond that?

Ms Halton—No, there was not.

Senator FAULKNER—But you were aware of the special arrangement, as it is described—

Ms Halton—No, I think I have told you twice already, Senator, that I was not. You put that question to me earlier.

Senator FAULKNER—I know. You were not aware of the basis for the special arrangement?

Ms Halton—No, I was not.

Senator FAULKNER—When did you become aware of the special arrangement?

Ms Halton—When I read the Bryant report, I think—it was either Bryant or Powell.

Senator FAULKNER—And therefore for what it was put in place to do—in other words, to get advice for a media appearance?

Ms Halton—You are saying to me, Senator?

Senator FAULKNER—I am asking you if you were aware of that?

Ms Halton—No.

Senator FAULKNER—Not even aware of that now?

Ms Halton—No. Are you saying that that is the case?

Senator FAULKNER—Yes. But that is fair enough: you are making the point to me you do not know about it.

Ms Halton—No. I do not know about that.

Senator FAULKNER—I can only ask the questions, Ms Halton. I cannot provide the answers.

Ms Halton—Fair enough.

Senator JACINTA COLLINS—Ms Halton, if I then go to a further step in the discussion that we have had thus far about the caveats issue: Ms Edwards's evidence tells us that she notes in the evening discussions that Walker and/or Titheridge indicated that they had no further information to provide in relation to the incident.

Ms Halton—Yes.

Senator JACINTA COLLINS—That may well in part be reflecting on Walker's comments that you do not recall yourself—

Ms Halton—No.

Senator JACINTA COLLINS—that no other evidence existed at that point that he could find.

Ms Halton—My understanding—and maybe I am wrong—is that the essence of what Group Captain Walker said was that he had advised that before Air Vice Marshal Titheridge turned up to the meeting. Maybe I am misunderstanding the essence of the evidence so far, but my understanding was that he had said that, he understood, in the earlier part of the meeting. I have covered it in the statement. You would know that Air Vice Marshal Titheridge turned up at the meeting, I think, about 50 minutes after it started. He was there for the large majority of the meeting. It went on for quite some time and he was party to the going through of that paper. I have already described that process.

Senator JACINTA COLLINS—That is why I thought it was interesting to note Ms Edwards's notation classing Walker and Titheridge together. We will obviously discuss that further with her later on. When we move on to the line by line working through the report that was then provided to Minister Reith and the Prime Minister, can you provide to us—and I will understand if you cannot do it now—the detail of the change that was actually made in that process, or the line that you were referring to that referred to the child matter?

Ms Halton—No, there was not a change in that area that I am talking to specifically. What I said in relation to the editing of that paper is that there were multiple edits to the paper. What happened was a draft skeleton of a paper was prepared during the day. That was tabled and then people made extensive edits.

Senator JACINTA COLLINS—This is tabled in the evening meeting?

Ms Halton—That is right. And then extensive edits were made to the paper. Again, what I did reflexively with pieces of paper like this was say to people, 'Righto, let's start at the top. Line 1: any changes? Line 2: any changes?' and literally work through it line by line. I cannot say to you what the details of those individual changes were, and I frankly think it would probably be quite hard to find out, because, as you would know, with documents, unless you have saved them as separate things, you cannot necessarily retrieve them. But what I do know is that that document, and the way it is drafted in that background section with the caveat on the numbers and the lack of caveat on the other bit, was worked through line by line with the relevant Defence officials and it was cleared by them.

Senator JACINTA COLLINS—I think you are probably aware that Air Vice Marshal Titheridge has said he was essentially concentrating on other issues and not the child issue in terms of that clearance. I suppose in a sense even your evidence today seems to provide some potential clarification of how that process may have been imperfect because, if I take you to, for instance, your statement to us today, you indicated that on 8 October or early on 9 October you heard a radio report that suggested that children may have been thrown overboard in response to shots being fired at a vessel.

Ms Halton—Yes.

Senator JACINTA COLLINS—You then say 'The PST had not been advised that any shots were fired'.

Ms Halton—That is right.

Senator JACINTA COLLINS—But in your report to the Prime Minister, this report that you went through line by line, the second paragraph says:

Once in the contiguous zone, the HMAS *Adelaide* fired volleys on front of the vessel

Ms Halton—Okay. Let me be clear—and maybe I have been a bit too truncated. In terms of the shots issue, my understanding of the radio report was that there were shots. As I understood it—you talk about volleys in front—

Senator JACINTA COLLINS—This is what the report refers to.

Ms Halton—Yes. What was alleged in this radio report is that there were shots at the vessel or over the vessel. I had no understanding of that. It goes to my point about why you might have thrown your children over the edge and what was being alleged in this radio report. I am sorry if I have been a little non-specific in that respect. But that got my attention.

Senator JACINTA COLLINS—Your comment in your statement today is ‘The PST had not been advised that any shots were fired’.

Ms Halton—I have been a little loose with my language. I apologise.

Senator JACINTA COLLINS—All I am suggesting to you is that the clearance process for this report seems to have been a bit more imperfect than perhaps you earlier implied but certainly in terms of how Ms Bryant had reported it.

Ms Halton—This goes back to the context. It goes to the questions that Senator Cook was asking earlier about why people did not pause and go back over every single event. He made the point about when he was a minister wanting to go back and forensically examine particular issues that were difficult or contentious. It sounds hollow to say it, but the reality is that people at this particular time were working sometimes 20 hours a day, managing incredibly complicated things. People were tired and did not go back over historical parts of this.

Senator JACINTA COLLINS—You misunderstand the nature of my point here. My point is that the process was imperfect, for the reasons you have just said as well, but it has been used by some and, in part, probably in your submission as well as corroboration of the report. The point that I am making is that this report to the Prime Minister gave no real corroboration of what was in fact an oral report between Commander Banks and Brigadier Silverstone.

Ms Halton—You are right. Essentially the photos from our perspective provided that corroboration.

Senator JACINTA COLLINS—With respect, it is not just the photos. From your evidence today, it was a misrepresentation of the photos, the video and the statements.

Ms Halton—Yes.

Senator JACINTA COLLINS—It was those three things. What is unclear to us at this point in time is whether that misrepresentation was conveyed by Minister Reith or Air Vice Marshal Titheridge. Do your personal notes shed any light on that issue?

Ms Halton—No, they do not, and I have examined them somewhat carefully.

Senator JACINTA COLLINS—At this stage the only area of evidence that does shed some light on that issue is Air Vice Marshal Titheridge's claim that he had only, at that point in time, seen the four photographs portraying asylum seekers on the deck of the ship.

Ms Halton—Okay.

Senator JACINTA COLLINS—If he was part of your picture of photos, his evidence is, 'I was not even aware of them at that point in time.'

Ms Halton—I will take your word for it, Senator. There is no doubt that the thing that got my attention, particularly in the conversation with Minister Reith, was the business about the video. The rest of it, I cannot be categorical about.

Senator FAULKNER—I have a question on this general issue of the brief that was prepared on the 7th that goes to the Prime Minister amongst others.

Ms Halton—One other.

Senator FAULKNER—Yes, that is right. That is detailed in places. We know it contains a certain inaccuracy, but there is quite a level of detail there. In relation to the detail, where does that actually come from? This goes to numbers, boarding—

Ms Halton—Advice from the agencies. Obviously we go back to this notion of primary sources or who actually had possession of information. Essentially, those blanks were filled in by the relevant agencies.

Senator FAULKNER—At the task force itself.

Ms Halton—At the morning meeting, there was a series of information provided and options discussed and considered. There were some things that could not be resolved because there was not particular information available then and there. Individual agencies were asked to ascertain answers to particular questions or to gather particular facts.

Senator FAULKNER—But not whether children had been thrown overboard?

Ms Halton—No, because, as you would know, 'children overboard' was not the focus of that paper. In fact, the focus of the task force was never 'children overboard'. The focus of the task force was the day-to-day management of the issues—about accommodation et cetera. 'Children overboard' was a side issue and context, but it was never the main business.

Senator FAULKNER—Other things were checked, but not children being thrown overboard. That bit was not checked. Agencies are asked to check all sorts of other details but not the one that, in retrospect, looks rather crucial.

Ms Halton—Let me give you an example, Senator. People had been asked to check what was caveated by Defence, which was the number of people on the vessel. By the evening, there was still a need to caveat that information. The things that were being checked were things like: did we have enough beds; where were the ACM guards; when could they get to Christmas Island—things of that sort. People said, ‘We don’t know.’ So, when you were talking through options and handling issues, people simply could not answer those questions and had to go away and find out some information.

Senator FAULKNER—I am making the point that they may well have gone and found out a lot of information, but one crucial piece of information that was not checked out was the issue of whether children had been thrown overboard. Other things may have been checked by agencies, but that was not.

Ms Halton—We know that we asked them to check. We asked them on the 9th, and you know the rest of that story.

Senator FAULKNER—I know about the 9th, but—

Ms Halton—I suppose the point here is that at the time—and this goes to my earlier remark about the timing of my phone calls to Mr Jordana and to Mr Moore-Wilton—that particular issue, from my perspective, was not in fact particularly germane to the handling of the people on this vessel, if and when they arrived on Christmas Island.

Senator FAULKNER—But this was happening not on the 9th but on the 7th. The original ‘Options for handling unauthorised arrivals: Christmas Island boat’ brief was prepared over the period of 7 October, was it not?

Ms Halton—That is right, and the issue that day was not the children overboard.

Senator FAULKNER—No, but other elements of the brief have been checked by agencies.

Ms Halton—Those went to the handling and strategy; they did not go to the background, other than numbers.

Senator FAULKNER—But not ‘children overboard’. You accept that was not checked.

Ms Halton—No—clearly.

Senator FAULKNER—I want to ask about some other specific material that at some point was in the possession of the Department of the Prime Minister and Cabinet and/or the task force. I am not quite clear on this. I will ask you about DFAT sit rep 59 first, which is a key one in relation to the general SIEV4 issue. Do you know when that was received by your department or the task force?

Ms Halton—My understanding is that the DFAT sit reps, which reflected information that people had rung in to DFAT, and they basically compiled it, would have been received—and I do not know the particular date—I should imagine by mid-morning on whatever day. You have obviously seen a copy of it and I know you have taken evidence about it before.

Senator FAULKNER—But do they go to the task force?

Ms Halton—They are, as I understand it, addressed to agencies. Whether or not they were tabled routinely in the task force—not to my memory. That does not mean that individual ones were not dealt with.

Senator FAULKNER—But do you know who the DFAT sit reps normally go to in the department?

Ms Halton—I would have got one; I would imagine that one would go to Social Policy Division; International Division would have got one; Mr Moore-Wilton would have got one.

Senator FAULKNER—Would you know why the DFAT sit reps, including DFAT sit rep 59, did not prompt further questioning about the veracity of the ‘children overboard’ claims?

Ms Halton—In a word, no.

Senator FAULKNER—PM&C gets them; you get them yourself.

Ms Halton—I do not recall that particular one, Senator, but certainly they were received.

Senator FAULKNER—I thought you said you got all of them.

Ms Halton—My point is that we were at this point sometimes drowning in paper, so I cannot remember each of them chapter and verse. I am aware of that particular one, the one you refer to, although I have not physically reviewed it for some time.

Senator FAULKNER—Sit reps 59 and 60 have been considered, in events leading up to this inquiry, the most relevant of the numbered sit reps.

Ms Halton—I seem to recall you congratulating Dr Raby in relation to them.

Senator FAULKNER—Did I do that?

Ms Halton—You did.

Senator FAULKNER—Did I do that tongue in cheek?

Ms Halton—I was not here, Senator, so I could not see your face clearly enough to possibly comment.

CHAIR—The trouble with irony is that it is not obvious from the text always.

Ms Halton—No.

Senator FAULKNER—What about the process of such sit reps being forwarded through to the Prime Minister's office? What is the process there?

Ms Halton—From my understanding, they were received by the Prime Minister's office and indeed all the ministers' offices. But we did not send them, so I cannot give you a categorical guarantee.

Senator FAULKNER—I appreciate that. I assume they go direct from DFAT, but I wondered whether they might go via PM&C.

Ms Halton—Not that I am aware. My colleagues advise me that we believe they gave evidence in Senate estimates that they did provide them to ministers' offices.

Senator FAULKNER—Are your colleagues aware of the dates?

Ms Halton—Can you be a bit more specific, Senator?

Senator FAULKNER—You are saying that your colleagues have indicated that they were forwarded from PM&C to—

Ms Halton—No.

Senator FAULKNER—I just want to be clear. Your colleagues are saying that they went direct from DFAT to the ministers' offices. So that includes the Prime Minister?

Ms Halton—That is our understanding, and we understand that there was evidence given to you in Senate estimates from DFAT about that.

Senator FAULKNER—Do we know the date of that?

Ms Halton—The date of the evidence?

Senator FAULKNER—No. The dates that they were forwarded.

Ms Halton—My expectation would be that the DFAT sit rep was forwarded to all interested parties when it was prepared and at the same time. So my expectation would be that if there was a sit rep produced it would have gone to whomever was on the distribution list at exactly the same time. But I have no personal knowledge of it.

Senator FAULKNER—I am interested in knowing when sit reps 59 and 60 came into PM&C. You indicated that you and Mr Moore-Wilton did not precisely know that. There may be someone else in the International Division who might get this. I think that is the case, isn't it?

Ms Halton—Yes.

Senator FAULKNER—In relation to those two sit reps, could you take on notice when they come in and which offices they go to?

Ms Halton—We have them here; we will have a look. Sit rep 60 has a fax line across the top of it that says ‘10.27 a.m. 9 October’. Sit rep 59 has a fax time stamp on it of ‘9.55 a.m. 8 October’.

Senator FAULKNER—Does it say on those fax cover sheets what the distribution list is?

Ms Halton—My point is that this is a bureaucratic distribution list, so it has the Treasury, the Department of the Prime Minister and Cabinet, the Department of Transport and Regional Services and the Department of Immigration and Multicultural Affairs. This is what I am saying about knowledge of ministers—

Senator FAULKNER—I might call that a broadcast fax, or something like that.

Ms Halton—Yes, exactly. So what I am saying to you is that we understand that it was provided to ministers’ offices contemporaneously. I understand that you have taken evidence on that from Foreign Affairs and Trade, but I cannot say it to you categorically.

Senator FAULKNER—I appreciate that. I am interested in what happens in PM&C. Could you take that on notice in relation to PM&C?

Ms Halton—How about we do it on an exception basis, Senator. My understanding is that it would have been distributed to the people I have outlined. If that advice is incorrect or incomplete, we will come back.

Senator FAULKNER—Thanks very much; I appreciate that. Your understanding, clearly, in relation to the Prime Minister’s office, is that it goes at that point from DFAT direct.

Ms Halton—That would be my understanding.

Senator FAULKNER—If that is not the case—and, as I understand it, it is the case—again, on an exception basis, you may come back.

Ms Halton—I am very happy to do that.

Senator FAULKNER—Thanks very much. In the broad, were you getting any advice from International Division within PM&C? I do not know whether I am asking you wearing your ‘task force’ hat or wearing your ‘Deputy Secretary PM&C’ hat. Were you receiving any information or any advice relevant to the ‘children overboard’ incident from International Division over the first week in October? I am specifically saying from the International Division of PM&C.

Ms Halton—No.

Senator FAULKNER—None at all?

Ms Halton—I do not recall ever having had a discussion with International, or people from International, on that subject matter. I could be proved to be wrong in that regard, but I do not recall any particular advice on that subject. You are talking about that first week in October. Did someone from International come to raise it with us—or is there a particular issue that you are thinking of?

Senator FAULKNER—No; I am just wondering, in the broad, what the situation was.

Ms Halton—I think we have already canvassed, at some point in the recent past, that people from International did intermittently come to task force meetings. According to my records, as best as I can tell, no-one from International attended the task force in this particular period, and I do not recall any other separate conversations. I cannot be completely categorical, because obviously one talks to people from International all the time about a range of things.

Senator FAULKNER—At the Senate estimates committee hearing on 18 February, I questioned Ms Bryant and Mr Moore-Wilton. I want to put this in context—I do not know if you have the estimates transcript with you.

Ms Halton—No, I do not.

Senator FAULKNER—I asked about so-called ‘informal advice’. I do not know if you are aware of this background. I asked Ms Bryant what she meant by that. She said:

This was second-hand advice to me. My recollection of the context was that it was more an item overheard. I am not entirely clear about the context, but it was an item overheard by a departmental officer when at another meeting. My understanding is that it was not an item presented in the context of that meeting.

I went on to ask her about it, and Mr Moore-Wilton said to me:

Maybe I could be of some assistance here, because I queried this particular point. I understand that the second-hand advice was overheard by an officer attached to the Department of the Prime Minister and Cabinet’s International Division.

I do not know if you know this background. Then I asked who it was, and Mr Moore-Wilton said:

I do not know the officer’s name. I am sure that could be obtained. I understand it was overheard in the confines of a Department of Defence cafeteria or canteen during the course of a meal, a tea-break or something of that nature.

Ms Halton—This is the tearoom gossip issue.

Senator FAULKNER—Exactly.

Ms Halton—Which was not the first week of October. I do not know whether that was where you were going, but you did say ‘first week of October’.

Senator FAULKNER—I am sorry?

Ms Halton—In your preamble when you asked me the last question you talked about the first week in October and whether there was ‘informal advice’ to me.

Senator FAULKNER—I did, but now I am going to the—what is the precise date of the so-called ‘tearoom gossip’? That is 7 October, isn’t it?

Ms Halton—I think we can now be pretty confident it was the 7th. My memory was unclear as to when it was but I think, based on examination of various departmental records, we can say pretty confidently it was the 7th.

Senator FAULKNER—Can you give me the background to that?

Ms Halton—I think the background is fairly well known.

Senator FAULKNER—I have not had an opportunity to ask you about it. I have followed what Mr Moore-Wilton and Ms Bryant have said, and I have had the advantage of reading your letter, which was tabled in the House of Representatives and which also names the officer concerned.

Ms Halton—In my conversation with Ms Bryant, she said to me that she had had a conversation with Harinder, who had had a report, as I recall it, from somebody. I do not recall the name.

Senator FAULKNER—I am sorry, I think we have both blundered here. It is not October; it is November.

Ms Halton—That is why I asked you earlier, because you said October.

Senator FAULKNER—Did I say October?

Ms Halton—You did, and that is why I asked you about whether you meant October or whether you meant November.

Senator FAULKNER—Strike the word ‘October’ from the record!

Ms Halton—We now know what we are talking about.

Senator FAULKNER—I just realised as I was talking to you that I must have said October.

Ms Halton—As I have said, what Ms Bryant said was that she had been told by Ms Sidhu that an officer in Ms Sidhu’s section had overheard some Defence officials in what I think she reported to me as a tea-break. You have introduced the notion of the canteen. I have to say I have not heard the notion of the canteen before, but tea can be had in multiple places, as we all know.

Senator FAULKNER—I am quoting the original source of this, which was the Senate estimates committee. The first time I was aware of it was in the Senate estimates committee on the 18th.

Ms Halton—I do not think we are saying anything that is particularly contradictory. There is some informal element to this, clearly.

Senator FAULKNER—How informal is it? That is the question.

Ms Halton—The impression I have, and what I was told, was that it was an overhearing in the margins of a meeting when a meeting was in some form of a break.

Senator FAULKNER—Are you satisfied that it was informal?

Ms Halton—To the extent that Ms Sidhu is known to be a reliable officer, which she is, and to the extent that that is the story as I recall it being told, yes.

Senator FAULKNER—And this was communicated through to Ms Bryant in the first instance? Is that right?

Ms Halton—That is my understanding.

Senator FAULKNER—You received the information, according to your letter, at 7.30 p.m. from Ms Bryant.

Ms Halton—I thought it was at about 7.30 p.m. I believe it was probably more likely around 6.30. The reference point I have for this was there being some element of news at the relevant time, because I know where I was standing. As it transpires, I think it was probably around 6.30. The reason I think that is that, in checking Jenny Bryant's phone records, there is a record of a call from her to me at about that time. We cannot find any others so I believe, based on that objective evidence, that it may well have been about that time.

Senator FAULKNER—Given that it says 7.30 in a letter tabled in the House of Representatives, I suppose I was depending on that.

Ms Halton—Yes, and that is perfectly reasonable.

Senator FAULKNER—You indicate in the letter that was tabled by Mr Howard in the House of Representatives that you were shocked about this.

Ms Halton—Senator Collins has rightly corrected me about the shots of the vessel. It goes back to the conversation we had earlier about the photos, which I do not think had been discussed beyond that very early period in October. We have canvassed that very extensively. Senator Cook has already reminded me not to repeat myself, so I shall not repeat myself, but it has been a good month since that issue has been anything that I have given any active consideration to.

Senator FAULKNER—You have not?

Ms Halton—No.

Senator FAULKNER—You made an opening statement before this committee today in which you said:

While I was concerned at this gossip prior to my discussion with Mr Jordana my conversation with him provided me with reassurance. He did not seem concerned and he said the issue was in hand.

Ms Halton—That is right. Yes, my comment was that over the preceding month I had not given the matter much consideration. So I do not think there is any conflict between—

Senator FAULKNER—Over the preceding month? I just do not understand that.

Ms Halton—Let us start again, Senator, because we are obviously talking at cross-purposes.

Senator FAULKNER—No, we are not talking at cross-purposes. Let me ask the question in this way: I read what you said in your opening statement about it today—fair enough. I also read the letter that you wrote on 7 February that was tabled by Mr Howard in the House of Representatives where, with respect, the language is quite different. You say you are ‘extremely shocked’ to hear this and today, while you are concerned with the gossip, ‘the conversation provided me with reassurance’. That seems to be quite different.

Ms Halton—What I reflected in that letter was my very honest first reaction to something in a telephone call. With hindsight, I possibly would not use that kind of language again, but hindsight is a wonderful thing, as we all know, and I would suggest to you that it is the essence of this inquiry.

Senator FAULKNER—Yes, but the phone call we are talking about occurs on—we think—7 November. So you wrote that you are extremely shocked, but you wrote that on 17 February.

Ms Halton—That is right. I still have quite a strong memory of that phone call and I have a memory of thinking there was something out of Defence yet again I did not know about. As I have said in that letter, I did what I had always done right throughout this process and that is immediately pass the information on. Again, I have a clear memory of ringing Mr Jordana about that and saying to him, ‘Jenny Bryant’s just told me this piece of gossip.’ He said to me—and, again, I have reflected this here—that this issue had already been canvassed in the papers and that they were having a discussion with Mr Reith’s office and, as I have indicated here, the issue was in hand.

I have to say that I had not seen the particular report in the paper that day and had I seen that report in the paper—which, having seen it subsequently, I think included some rebuttal of that particular comment from, my memory is, the Minister for Defence’s office—I probably would not have reacted to that phone call in the way that I did. However, I had not seen it and what I did when I got the phone call was do what I had done reflexively throughout this process, which was to ring Mr Jordana. I did not get to the end of that conversation with the same sense that I started the conversation. I had the clear impression that the matter was in hand. I had a clear impression that it was being dealt with and I did not need to worry about it. And—this goes back to Senator Cook’s question earlier—nor was I asked to do anything about it.

Senator FAULKNER—By whom?

Ms Halton—By Mr Jordana.

Senator FAULKNER—That may be so, because what did Mr Jordana say to you in that phone call?

Ms Halton—In a very calm voice he said that they knew about it, it was already in the press, they were talking to Mr Reith's office and it was under control.

Senator FAULKNER—If you were extremely shocked at the time—you stand by that—

Ms Halton—I said to you, Senator, in hindsight and if I was not at that particular point under some considerable pressure at home from members of the fourth estate, I probably would have reflected in a more careful fashion on the language.

Senator FAULKNER—You mean on 17 February?

Ms Halton—Yes. What I am saying to you is that my initial reaction was, 'Oh, something else out of Defence I don't know about.' So, as I have said, I rang Mr Jordana.

Senator FAULKNER—What was happening with the fourth estate on the 17th?

Ms Halton—The fact that my house was being regularly visited by members of the press and there were photographers at my house. I could go on.

Senator FAULKNER—And why was that happening on the 17th?

Ms Halton—I do recall that there was a certain frisson of excitement in question time and certain people's names were being taken in vain.

Senator FAULKNER—The 17th was a Sunday, wasn't it?

Ms Halton—No, but it had been going on for quite some time. Anyway, that is ancient history.

Senator FAULKNER—Fair enough. I am just trying to understand the background because the Senate estimates did not start until the next day which was the 18th.

Ms Halton—That is right and I appeared with Health on the following Wednesday.

Senator FAULKNER—That is why I am asking. There seemed to be more focus on this issue after the subsequent week, maybe not at your place—

Ms Halton—Not at my place.

Senator FAULKNER—So be it; I was not aware of that background. So you would not have used that terminology if you had reflected on it a bit more?

Ms Halton—No. Look, as I have said, hindsight is a wonderful thing and one learns things from these experiences. Did I react strongly to that initial piece of gossip? Yes I did. Did I react in a way that I considered appropriate and proportionate? Yes I did: I passed it on. I had reassurance and again I reflect on this letter and the thing I did not include in it was the fact that, when I made that phone call, I was reassured. So it is history.

Senator FAULKNER—You use the terminology ‘extremely shocked’ because you are aware of the significance of what was being said to you about the photographs misrepresenting the incident.

Ms Halton—The misrepresenting of the photographs was a significant issue.

Senator FAULKNER—Exactly. In fact, was that the day of the Prime Minister’s Press Club speech or was it the day before?

Ms Halton—No, it was the next day. As I recall it, there was Mr Beazley one day and the Prime Minister the next day.

Senator FAULKNER—That is right.

Ms Halton—I recall having to eat two Press Club lunches in two days.

Senator FAULKNER—Commiserations.

Ms Halton—I should not say that too loudly.

CHAIR—We’ve all been there.

Senator FAULKNER—It’s all right; I am a member of that Press Club—

Ms Halton—Are you? Good for you.

Senator FAULKNER—so I suppose I have to admit a pecuniary interest, as opposed to a culinary interest. You are certainly aware of the political significance. Let’s not beat around the bush: this is a politically significant matter that has been drawn to your attention—the fact that the photographs misrepresent—

Ms Halton—May. There is gossip that they may.

Senator FAULKNER—Yes, gossip that they may. Having heard that and after Ms Bryant reporting it to you as her superior in the department, to what extent was it important for you to follow up with whomever—and not just with Mr Jordana, a member of the Prime Minister’s staff who at a minimum had an absolute axe to grind three days out from an election—to ensure that the public record was corrected?

Ms Halton—Let’s be clear: I had gossip now about sixth or seventh hand. As you rightly know, it caused me to react and to do something immediately with it. At the end of that

conversation, I had my concern effectively dealt with because, as you rightly pointed out, we were just out from an election and I was told that the matter was being addressed. I was also told that it was in the press. I probably should go through and find the press article to reacquaint myself with what it actually said. Let me see if I can find it. When I looked at this press report, it said, quoting the minister, that there was no reason not to believe the reports he had received from senior officers in the Navy and it says ‘a spokesman for Mr Reith said last night’. In other words, this gossip or allegation had clearly already been put to the responsible minister and the responsible minister’s spokesman had, as far as I read the report, denied it.

Senator FAULKNER—So you are at the Press Club on the 8th. You hear the Prime Minister’s speech. You hear his unequivocal response when asked questions about this. Didn’t that set the alarm bells ringing, given what you had heard the day before from Ms Bryant about the fact and had passed on to Mr Jordana? Didn’t you think this ought to be corrected?

Ms Halton—Actually, no. I will tell you why. You might recall—maybe you do not—that in that particular Press Club experience there was an interjection from the floor when the various members of the gallery were asking questions, and it was something about asking the sailors. I remember thinking to myself, ‘We have done.’ You and I both know that that was not as I had been led to believe, but I can remember thinking to myself, ‘Yeah, we did.’ I can quite consciously remember it. In fact, I said to somebody some time ago that I have absolutely no memory of leaving that Press Club lunch feeling in any sense that the Prime Minister had misled people. I did not have that sense at all. As I said, if you think about it, there were three legs to this: the photos, the video, the statements. My understanding of all this was founded on those elements.

CHAIR—None of which you had looked at.

Ms Halton—No. Again, because this was the advice we were given by officials and because, as we have already canvassed in some detail, the material business—

Senator JACINTA COLLINS—The officials or the minister?

Ms Halton—The officials.

Senator JACINTA COLLINS—You said, ‘This was the advice we were given by officials,’ but your earlier evidence is that you are not clear if it was the minister or Titheridge who was referring to those three things.

Ms Halton—Let us be clear. There is the first advice that they exist, and then there is subsequent discussion about all of those issues.

Senator JACINTA COLLINS—There is a difference between existence and what they actually purport to portray.

Ms Halton—We can go back and speak categorically about that first advice, which you have said—based on your understanding of what Air Vice Marshal Titheridge has said—must have come from the minister. I cannot deny that, because there are bits of this I cannot recall. I can recall the minister raising with me the video, categorically. I have already made the point that I

did not actually turn my mind to this issue at all in the period between, probably, the end of 10 October and when this re-emerged on the 7th. I had not given it another thought. So, in terms of where it was pigeonholed—if I can put it in that way—in my mind, it was pigeonholed in a category that said, ‘Video, photos, witness statements—and no doubt.’ It was not something where I had actively—

CHAIR—Who told you that, though? Who told you that all this added up to proof that they were thrown overboard?

Ms Halton—But there was not a question of actually finding proof. You are asking me—

CHAIR—But you are citing these three things—photos, video and witness statements—as reasons why you were satisfied that evidence existed. My question is: who led you to believe that that was evidence that children were thrown overboard?

Ms Halton—You are suggesting that we had been seeking specific evidence in an environment where we doubted this to be the case.

CHAIR—No, I am not suggesting that.

Ms Halton—I am sorry. I misunderstood you.

CHAIR—I am not suggesting anything; I am asking you a question and the question is: you have consistently cited these things as reasons why you did not take it any further, and the implication—

Ms Halton—Why there was no doubt in my mind.

CHAIR—is that it was because that settled the issue for you. What I am asking you is: who led you to believe that it did?

Ms Halton—I go back to my earlier comment. Firstly, it did not need to be ‘settled’ for me, because I did not doubt it. But in the process of chasing various other things we came into the possession of the knowledge that there were the following elements to that story or that part of this whole sequence of events, and, in an environment where I did not doubt it to be the case—never doubted it to be the case—but had stored away—

CHAIR—You presumed that it did. Is that what you are saying?

Ms Halton—I did not doubt it.

Senator FAULKNER—But you doubt it by 7 November—

Ms Halton—I do not know. Again, I do not doubt it. I get told something which is tearroom gossip. I react to that tearroom gossip, understanding, precisely as you have said—

Senator FAULKNER—You say in the letter that you were extremely shocked, but now you are not extremely shocked.

Ms Halton—I probably would not have chosen that language had I the time to reflect on it more broadly. But did I react strongly? I reacted strongly. I have said that to you. What I am saying to you is that, with that concern that I had, I rang Mr Jordana. He said the issue was under control; they were talking to Minister Reith about it. He told me this was already in the press. So in fact what I was telling him was not news. I thought I had something which he did not know. I did properly what I would do under those circumstances and what I did right throughout this process, which was to provide information.

Senator FAULKNER—But you also ring Mr Moore-Wilton the same day?

Ms Halton—Again, this is where my memory is not as clear, and I suppose it is a bit like the question Senator Collins was asking me about who told me about the bits other than the video. My clear memory is of ringing Mr Jordana and having this conversation. I remember getting to the end of the conversation and thinking, ‘That is okay—relief.’ I think I tried to ring Mr Moore-Wilton and I think I did not speak to him but left a voice mail message. But on that point—and again I have said this very openly—I cannot recall.

Senator FAULKNER—The Prime Minister made the point in the parliament, didn’t he, of, if it was so important to you, why did you just leave a voice mail message?

Ms Halton—Indeed, I am aware of those comments. As I have explained to you, I think, had I had the time to reflect in a calmer environment on the material I included in that letter, I would have actually included the point about the reassurance I got from the conversation with Mr Jordana.

Senator FAULKNER—You write this letter on 17 February this year—you said you were under pressure—there is media at your home and all this sort of thing.

Ms Halton—That is right.

Senator FAULKNER—Why do you decide to write the letter to Mr Moore-Wilton?

Ms Halton—Because I was asked to.

Senator FAULKNER—Who asked you to do it?

Ms Halton—Mr Henderson.

Senator FAULKNER—Did you ask Mr Henderson why he asked you to write the letter?

Ms Halton—They were conscious that they had Senate estimates appearances coming. And, as I have said in that letter, Ms Bryant did not ask me anything in relation to this issue at the time of the inquiry—and, frankly, in an environment where I was absolutely confident we did not know this was not the case and we did not have—

Senator FAULKNER—This—

Ms Halton—Can I finish, Senator? I have got a train of thought here.

Senator FAULKNER—I am just worried about being pressured for time. Like you, I would like to finish this tonight and not be pressured. So let us do that and let us not be pressured.

Ms Halton—Okay. Now I have lost my train of thought completely. The point I was trying to make was—

Senator JACINTA COLLINS—Why you wrote the letter.

Ms Halton—that, as we had had no doubt—and there was never any notion in our minds that there was any doubt that we held, so the events of that period immediately—

Senator FAULKNER—Who is ‘we’ here?

Ms Halton—Sorry, we—the Department of the Prime Minister and Cabinet—did not have a doubt about this incident. I did not have a doubt, and my understanding is that all of my colleagues did not have a doubt. I am not using the royal ‘we’; I am referring to the department.

Senator FAULKNER—I just want to make that clear.

Ms Halton—Essentially, to be honest, that did not seem germane at that particular time. But I did not know some of the other evidence that you took in Senate estimates about other phone calls that had been made and other information that was being—

Senator FAULKNER—You wouldn’t. Senate estimates had not been held.

Ms Halton—Precisely. So I did not raise this. I was not asked about it in my interview with Ms Bryant in December. When the interest in all of this event started, and when I was reflecting on the evidence that was in the Bryant report, I reflected to one of my Prime Minister and Cabinet colleagues, from my memory, that there was of course this particular issue in relation to the phone call—I was not sure about the date, whether it was on the 7th or the 8th—and Mr Henderson said, ‘Well—

Senator FAULKNER—Is he the colleague you reflected this to?

Ms Halton—I cannot recall whether it was him or indeed someone else, but I can just recall having a conversation in the department. Mr Henderson said to me, ‘You had better put it on paper and give it to me.’ And I did.

Senator FAULKNER—So that was his suggestion. When did he make that to you?

Ms Halton—My memory is it was that weekend. As you have already observed to me, Mr Henderson of course leads the Department of the Prime Minister and Cabinet in Senate estimates.

Senator FAULKNER—Yes, but this letter is not provided at Senate estimates; this letter is tabled in the House of Representatives by the Prime Minister.

Ms Halton—I was not party to any decision about what was to be done with it. It was provided in the context of Senate estimates.

Senator FAULKNER—You were not uncomfortable when it was tabled in the House of Representatives, given that you had given the information as background for the Senate estimates committee?

Ms Halton—I suppose, if the mark of a good public servant is invisibility, I think that was not necessarily consistent with my expectation, but in terms of the substance of it, no, I had no problems with that. I was not asked about it and, indeed, I was not told about it.

Senator FAULKNER—So you just saw it on the media, did you?

Ms Halton—I think I actually saw it watching the parliament that day.

Senator FAULKNER—Were you surprised?

Ms Halton—A little.

Senator FAULKNER—Why only a little? No, I am serious: why only a little? Why weren't you a lot surprised?

Ms Halton—I think we have already established that the use of more colourful language is not always desirable—but I was surprised.

Senator FAULKNER—Anyway, what happens is Mr Henderson rings you and suggests you write a letter about these incidents. He does that on the weekend of the 16th and 17th—

Ms Halton—Do not hold me to precisely when it was.

Senator FAULKNER—You think he does that on the weekend of the 16th and 17th.

Ms Halton—Yes.

Senator FAULKNER—You certainly write a letter dated the 17th.

Ms Halton—That is right.

Senator FAULKNER—Do you provide it to him on the 17th—on the Sunday—or the Monday?

Ms Halton—My memory is I handed it to him on the 17th.

Senator FAULKNER—You handed it to him on the Sunday and it is tabled in the parliament the next day.

Ms Halton—I take your word for it. I do not recall exactly when it was tabled.

Senator FAULKNER—Well, it is tabled in the parliament. Did you ever take the precaution of actually checking with the officer herself, Ms Harinder Sidhu, about whether there is any truth to this?

Ms Halton—What do you mean by ‘truth’? Was the material—

Senator FAULKNER—Ms Bryant passes on what she is told by Ms Harinder Sidhu. That is right, isn’t it?

Ms Halton—Yes, on what she had been told by—

Senator FAULKNER—Did you take what Ms Bryant said at face value or did you go back to Ms Harinder Sidhu and ask for further background?

Ms Halton—My understanding is that there were a couple of social policy officers involved in that discussion with Ms Sidhu. It was not a conversation one on one; there was a conversation which had had witnesses.

Senator FAULKNER—Who were the other officers involved?

Ms Halton—My understanding is Ms Wildermuth.

Senator FAULKNER—Anyone else?

Ms Halton—I think that would be it.

Senator FAULKNER—So it was Ms Wildermuth and Ms Sidhu. Did you take the opportunity to speak directly to either of those officers about what they heard?

Ms Halton—No. I cannot recall whether Ms Bryant had me on speakerphone but I had the impression that she had Ms Wildermuth either immediately with her or in the vicinity.

Senator FAULKNER—Wouldn’t it have been a sensible precaution to raise it with one of the officers concerned?

Ms Halton—In a sense of ensuring that the message was reliably passed?

Senator FAULKNER—Yes, and the fact that you are a dep sec of PM&C, a senior officer, and you are also writing about it in a letter that is to be used in Senate estimates—in fact, it was tabled in the House of Representatives, but for use in the parliament. In the circumstances, given the incredible sensitivities about this issue—which you are feeling, given that you have got media at your door and the like on the 17th—again, it is one of these things I find

incredible, that you would not check it out beyond Ms Bryant. I am not suggesting that Ms Bryant is unreliable at all, but it would just seem sensible to go back to primary sources.

Ms Halton—Let us make a distinction here between the writing of the letter and the telephone call to Mr Jordana. I had received a telephone call and I made a telephone call. I made a telephone call which I considered to be a proportionate response to the telephone call I received. I did not write that letter without confirming precisely with Ms Bryant, and I read her that particular bit to ensure that I had actually accurately reflected it. Indeed, I had had a conversation with Ms Wildermuth about that.

Senator FAULKNER—So you did talk to one of the officers concerned?

Ms Halton—Before I made the call to Mr Jordana, no. I had spoken to Ms Bryant. My understanding was that Ms Wildermuth was party to that conversation. I understood that, if I was not on speaker, Ms Wildermuth was in the vicinity. I had written a draft of the letter and I rang Ms Bryant and I said, ‘I want to read you a particular paragraph, to be completely confident that this is an accurate recollection of what you said to me and what you had been told’—and she said it was.

Senator FAULKNER—I am not suggesting that it is not accurate. I do not know. But one thing that is obvious is that Ms Wildermuth’s name is not there.

Ms Halton—No. She was a third party in this. The direct chain of information was something that Ms Sidhu said and that Ms Bryant passed on. At the end of the day, one could put a vast catalogue of names in here. In terms of the principal chain of communication, I have already said to you that I do not know the name of the more junior officer who was party to the conversation, and it would therefore be inappropriate for me to reflect that. You asked whether, in respect of the letter, I had confirmed those details; I am telling you that I did.

Senator FAULKNER—But now you would not write a similar letter. Is that what you are saying to us—you would write a different letter?

Ms Halton—What I am saying to you is that I would choose my language in one area more carefully, and I would have made it more complete in respect of the particular issue about the state of my concern—‘anxiety’ is the wrong word—following the conversation with Mr Jordana.

Senator FAULKNER—But it was only important enough to leave a message for Mr Moore-Wilton; it was not actually important enough to speak to him about it directly?

Ms Halton—No. I think, as I have said, having been told by Mr Jordana that this was in the press—again, that press article clearly indicated that this allegation had already been put to the minister’s office, and I believed from the implication of what was written here that a spokesman had issued a particular statement—it diminished in terms of its significance.

Senator FAULKNER—Did you regularly talk to Mr Moore-Wilton about your discussions with key players like Mr Jordana and Mr Reith?

Ms Halton—I had very few conversations with Mr Reith—I should say that very clearly. When I had one of those conversations, it was my practice to tell Mr Moore-Wilton—this is on the ‘no surprises’ basis—that I had had one. With Mr Jordana, there was obviously more regular information exchange but, as I have told you, my practice was to pass information to both Mr Jordana and Mr Moore-Wilton—clearly not in the same conversation, but one following the other. My practice was to say, ‘I told Miles that,’ or ‘I am about to tell Miles that,’ depending on who I spoke to first.

Senator FAULKNER—You speak in this letter about ‘consistent with my practice of keeping you informed’. ‘You’ here is Mr Moore-Wilton.

Ms Halton—That is right.

Senator FAULKNER—What was the interplay like between you and Mr Moore-Wilton on these sorts of issues? In other words, how did your discussions with other key players, whoever they might be, and Mr Moore-Wilton’s discussions with key players affect your role as the chairman of the IDC and his as secretary of the department?

Ms Halton—I will give you a couple of practical examples. We have already talked about the meeting of the 7th. I made a number of calls to Mr Moore-Wilton on that particular day. To give you an example, I rang him in fact before I rang Mr Jordana—we have already covered that call, on which we do not agree. I informed you that it was at the end of the period when I had dictated a very rough cut first skeleton of the particular paper, and on that particular day I rang him at that point. I made several more phone calls to him during that evening.

Senator FAULKNER—There is a lot of tick-tacking, which is fair enough, between you with your role and him with his role. That was basically the way it worked, wasn’t it?

Ms Halton—That is right.

Senator FAULKNER—On this particular issue that we have just been canvassing about the information you received via Ms Bryant from Ms Sidhu, was it enough, was it sufficient, to leave a voicemail message?

Ms Halton—I suppose this is an issue which, in retrospect, we might take a particular view on but, again, I go back to the context. I had been given this piece of information. I had a reaction to it, which you all know about. I made a phone call to Mr Jordana. In the course of that phone call, I was told that they were in conversation with Mr Reith’s office, that it was already in the press and that it was in hand. I refer you to the contents of the media report—which, as I said, I had not seen beforehand but I certainly saw immediately afterwards—which went to the rebuttal of that particular issue. In terms of its immediate prominence—and it is probably a failing of human memory—I do recall very clearly the phone call because it pulled me up short. In terms of that follow-on, I did not have a huge concern.

Senator FAULKNER—Do you believe he got the voice mail message?

Ms Halton—I do not know.

Senator FAULKNER—Have you ever asked him?

Ms Halton—He says he does not remember it.

Senator FAULKNER—He says he does not remember it. So, when you say you do not know whether he got the message, you know that he does not think he got the message. That is a bit different, isn't it?

Ms Halton—Again, this might well go to what would have been the essence. As I say, this is where my memory is imperfect and that is a shame. Essentially, this was now not really a particular story. So I think I rang him, but I cannot tell you categorically, 'I rang him.' I cannot say that, but I believe I did. What I believe I would have said is, as you now know, that this was being dealt with by the office and that the issue was in hand.

Senator FAULKNER—With respect, you do have an obligation here as a senior officer—who, I admit, is asked by your fellow dep sec in PM&C to write a letter. But this letter was tabled in the parliament and I think you would accept, wouldn't you, that the same obligations are on you in relation to that sort of written material as there are in relation to the evidence that you give here? You have to ensure that it is accurate, and if you feel it is not accurate you should correct it.

Ms Halton—As I have said, I did not know it was to be tabled in the parliament. I have already told you that.

Senator FAULKNER—Yes, I know. But you thought it was going to be used for Senate estimates anyway—as background, I assume, not tabled.

Ms Halton—Yes, that is right. As I have said to you, in terms of the matters of fact in there—which went to my checking with Ms Bryant that I had accurately reflected those issues—I checked my memory, as I have already said in that letter. I was at home; I was in the family room, and my husband remembers this.

Senator FAULKNER—I have read that in the letter. It was tabled, wasn't it? That is the thing.

Ms Halton—It was tabled.

Senator FAULKNER—Do you believe, given that it was tabled, that anything warranted correcting advice?

Ms Halton—No.

Senator FAULKNER—Have you had any discussions after the event with Mr Moore-Wilton in relation to the 'children overboard' and associated issues? You have not about the voice mail.

Ms Halton—No, other than his memory and my memory.

Senator FAULKNER—Other than that he does not think he got it.

Ms Halton—Yes. That is my memory of the conversation; he does not recall it.

Senator FAULKNER—Have there been any other discussions about that?

Ms Halton—No. Mr Moore-Wilton and I have, obviously, seen each other at secretaries' meetings and a number of other occasions. We did have one conversation that I can recall in relation to this issue where he said to me—in relation to whether Defence had ever told him that there was any doubt about this—that he had never been advised that there was any doubt. I said to him, 'That is exactly the same position I am in, because they never told me that there was any doubt.' He said, 'The process will now just unfurl.'

Senator FAULKNER—When did you have that conversation with him?

Ms Halton—It must have been around the time the inquiry was starting to kick off. I cannot really recall, to be quite honest.

Senator FAULKNER—What about in the post-election environment when the Prime Minister was requesting the task force to undertake an inquiry? That is the one undertaken by Ms Bryant.

Ms Halton—That is right.

Senator FAULKNER—Who decided Ms Bryant would prepare that report?

Ms Halton—You have seen that letter which asked for an inquiry to be undertaken by the task force?

Senator FAULKNER—Yes.

Ms Halton—I was shown that letter by Mr Moore-Wilton following its receipt in the department and I said to Mr Moore-Wilton that I would imagine that, given the task force itself might be in some way the subject of part of that inquiry, it would probably be advisable for the job to be delegated to a particular individual—in fact, I recall saying this to him—who was not here or who was not party to that series of events. Ms Bryant, as I think she might have told you in the evidence, was actually on leave in that week.

Senator FAULKNER—Was it your recommendation to Mr Moore-Wilton that Ms Bryant conduct the inquiry?

Ms Halton—I do not actually specifically recall recommending Ms Bryant. I do recall saying that I did not think that the task force should do it. I thought that that was probably ill-advised. How one alighted on Ms Bryant, I do not know. I suspect it might have been through a process of elimination in terms of who was there during the particular week, and she explicitly was not.

Senator FAULKNER—Before we move off this and hopefully wind up pretty soon, just in relation to this Sidhu-Bryant-Halton communication, if you like—I think we both understand what we mean by that—what importance did you give to that information?

Ms Halton—As you know from my reaction, in the first instance I gave it the same sort of importance I would to some new piece of information that went to some of the things I had understood. That is why I reacted as I did. It was tearoom gossip; it was not anything more than that. I responded by making the phone call which I have outlined. It left me with, firstly, the information about the press report, secondly, information that it was being discussed with Minister Reith's office, and, thirdly, a sense that this was not an issue of alarm.

Senator FAULKNER—I understand that. Let me bring it back so we can be focused and quick about this. Was it an attempt—I would say another attempt—by Defence to get through to you, the task force or Prime Minister and Cabinet about the inaccuracy of the claims about children overboard and the photographs that purported to represent that incident?

Ms Halton—Can I take you to your question and the words you have used in your question? You have used 'another'. Can I say that I am not—

Senator FAULKNER—I said 'an attempt or another attempt'.

Ms Halton—You did say 'another'. I have to go back and say that there were not attempts that I am aware of by Defence to tell us this was not the case.

Senator FAULKNER—We simply have to disagree on that point. On that point, you and I do not agree.

Ms Halton—Okay. That is fine. We can agree on that.

Senator FAULKNER—I think the chronology and the footnote and the report that was shredded that went to the international division were all more than very serious attempts. That is my view. You and I disagree on that. I accept that I used the word 'another' in the question. I did it deliberately. But let me take the word 'another' out so we do not get bogged down with that issue, which we have canvassed at some length. Was this an attempt by Defence or Defence personnel or those associated with the Department of Defence to get through to you, to get through to the task force or to get through to Prime Minister and Cabinet that there was a real problem about the claims about children overboard and the photos that allegedly depicted that incident?

Ms Halton—I do not believe so. I had a small number of calls with people in Defence through this period. I had a conversation with Ms McKenry; I had a conversation with Dr Hawke. Some of those people have been known to me for very many years. The notion is that it was not possible for one of those people, or any of those other people for that matter—bureaucracies are a big place and a small place and inevitably there are people that you have worked with in various environments in all sorts of agencies—to pick up the phone—on a couple of occasions I was explicitly asking about things—and say, 'You just need to know that this looks a bit dodgy' or 'We are a bit concerned.' As I said, not only were we not told; it was never alluded to—there was never the slightest suggestion. I am probably as perplexed as you

alluded to—there was never the slightest suggestion. I am probably as perplexed as you as to why, given some of the personal connections with people in that agency, that did not happen.

Senator FAULKNER—I am not perplexed about it at all. I think I understand it perfectly well, and I think it goes to motivation. When did you talk to Dr Hawke?

Ms Halton—I had a brief conversation with him on the evening of 8 November. That was the day, and you will recall it because you have asked people about it, when Admiral—is it? I do get the labels wrong—Shackleton was apparently—

Senator FAULKNER—It is technically ‘Vice Admiral’, but they are all admirals.

Ms Halton—Thank you for the correction. Vice Admiral Shackleton was apparently reported in the press as having made a particular statement.

Senator FAULKNER—Yes.

Ms Halton—You have already had evidence from various people about the process of asking for clarification about how information was provided. I was party to a conversation between Mr Moore-Wilton and Mr Farmer about whether we had to—

Senator FAULKNER—Between Mr who and Mr Farmer?

Ms Halton—Mr Moore-Wilton and Mr Farmer, and I should say at this point that we had not even heard what Vice Admiral Shackleton had said. It was relayed to us that he had said that they had not told us this was the case, and in fact officers of the Department of the Prime Minister and Cabinet went back to their handwritten notes of the 7th. The conversation I had with Dr Hawke was that the executive area of Prime Minister and Cabinet had received a fax which was the unheaded statement issued by Vice Admiral Shackleton that afternoon. We had been told that this was going to arrive and I undertook not only to provide it to Mr Farmer, but there was nothing on it that indicated what its status was—whether it had been released or where it had come from—and I rang Dr Hawke’s office. He had left. I then rang him on his mobile about that statement.

Senator FAULKNER—As you look back to your conversation with Mr Jordana—or conversations; I am not clear whether there was more than one—on 7 November—

Ms Halton—It was one conversation, as far as I can recall.

Senator FAULKNER—I was not certain about that; so there was one conversation with Mr Jordana on the 7th—was it your impression that Mr Jordana was trying to get to the bottom of this, or trying to defend earlier government statements? Did you get a feeling about what his motivation was?

Ms Halton—No, and our conversation did not go to that. As I have said, and it was in the press, the impression I was left with was that this was not an issue. It had been dealt with. They were discussing it with Minister’s Reith’s office, and I had no sense from that conversation of

concern in any way, shape or form. This was not news, I suppose, is what I am saying to you, Senator. It was, 'It's in the press; we're talking to Reith's office—end of story.' You will understand that I had not seen the paper before this conversation so this, for me, was something extraordinary.

Senator FAULKNER—When Mr Jordana asked for copies of material from Prime Minister and Cabinet, did that come through you?

Ms Halton—No. My understanding is that he had had a conversation with Ms Bryant, seeking material.

Senator FAULKNER—I know that, but were you made aware of that at the time?

Ms Halton—My memory is that Ms Bryant told me in the conversation that in fact she had been with Ms Sidhu because Mr Jordana had asked for one of the sit reps. She had been with Ms Sidhu, trying to find it, when this particular piece of information was passed.

Senator FAULKNER—This particular piece of information was what?

Ms Halton—The tearoom gossip.

Senator FAULKNER—So that all occurred at the same time.

Ms Halton—That is my understanding. My understanding is that she was trying to find a sit rep or one of the factual pieces of information. Mr Jordana had asked for something—my memory is it was a sit rep; maybe I am wrong.

Senator FAULKNER—I think that is right.

Ms Halton—She had gone to try and find this particular sit rep. She had ended up in international with Ms Sidhu and Ms Wildermuth. They were both trying to find this particular document. It was in the conversation with Ms Sidhu in the process of trying to find the particular document that this tearoom gossip had been passed.

Senator FAULKNER—Just so we are clear with the documents, is it right that you were not a first party to the document that Mr Jordana requested?

Ms Halton—No.

Senator FAULKNER—My understanding is that you are right. We know from what Ms Bryant said to the Defence estimates on Monday, 18 February that there was—

Ms Halton—I am sure she was not in Defence estimates.

Senator FAULKNER—Did I say that?

Ms Halton—You did.

Senator FAULKNER—I am sorry—finance and public administration. She was probably lucky enough not to be in the Defence estimates later in the week.

Ms Halton—Much as she might probably like a career change, I do not know that that is one she has got in mind.

Senator FAULKNER—In the PM&C estimates in finance and public administration she said:

My staff have advised me, to the best they have been able to check in the time available, that the documents that were sent were two DFAT task force situation reports, namely situation report No. 59 and situation report No. 60—

Ms Halton—Okay, so those ones you referred to earlier.

Senator FAULKNER—Yes. She continued:

... in the sequence that was produced by DFAT over that time frame.

Does that make sense to you?

Ms Halton—Yes, it does.

Senator FAULKNER—She continued:

A third document was the Defence headquarters Operation Gaberdine/Operation Relex 8 November situation report.

Ms Halton—If that is the one that we were discussing earlier—

Senator FAULKNER—Well, I wonder.

Ms Halton—But you just said Operation Gaberdine/Operation Relex 8th—

Senator FAULKNER—Yes.

Ms Halton—That suggest that in fact it was not destroyed. Notwithstanding what I was advised earlier, that does not sound right then, does it?

Senator FAULKNER—It depends where the report comes from. I listened carefully to what you said. What I do not know is whether efforts were made, which seemed quite likely given the scrabbling around that went back to Defence. It is true, isn't it, that Mr Jordana asked for material that had previously been sent to the Prime Minister. That is what he actually asked for.

Ms Halton—That sounds to me like it would be the case. But, as I said—

Senator FAULKNER—There is a reason for that, though, isn't there?

Ms Halton—That was not a request to me. I am aware, from what Ms Bryant said as context for this other conversation, that there had been a request for a sit rep. You have already made

the point and we have discussed that there is a belief that we hold that sit reps had been sent directly to the Prime Minister and to others.

Senator FAULKNER—Yes, exactly. And I think the reason for this, Ms Halton, is because, as I understand it anyway, the way the caretaker conventions ought to apply is that only material previously sent would be appropriate to send to the Prime Minister.

Ms Halton—That would be correct.

Senator FAULKNER—You would accept that, wouldn't you?

Ms Halton—I would accept that, yes.

Senator FAULKNER—And that is my assumption. Whether this material is found in Prime Minister and Cabinet—

Ms Halton—Or elsewhere.

Senator FAULKNER—or it is a Defence source or whatever, we do not know. I certainly suspect that, from the information we have heard, if this is the same thing, if it is the same document, then it may well have been found in Defence or elsewhere.

Ms Halton—I cannot dispute you, so you can form that opinion.

Senator FAULKNER—I am hypothesising, but I think it is a reasonable hypothesis—

Ms Halton—I have noted your hypothesis.

Senator FAULKNER—from the information that is available to me. I will ask Defence to chase down the Operation Gaberdine/Operation Relex report, because I suspect that may be the way it went through. That is what Mr Jordana was seeking, anyway, and that seems proper in the circumstances. It seems, from the information available to me, that that conforms with the caretaker conventions. Just briefly, Ms Halton, what is your role, if any, in the Shackleton clarifying statement?

Ms Halton—Other than to find a fax on the fax machine in the Department of the Prime Minister and Cabinet and then to fax that fax that had come in—

Senator FAULKNER—This is the fax from Dr Hawke?

Ms Halton—I believe it had come from Dr Hawke's office, but I cannot be categorical about that.

Senator FAULKNER—This is not for approval?

Ms Halton—This is my point, and this is why I then made a telephone call: it was unheaded, effectively. It was not clear whether it had been released, and so my phone call, firstly to his

office and then to his mobile, was to ascertain whether that particular statement had been released.

Senator FAULKNER—And had it been?

Ms Halton—He told me it had.

Senator FAULKNER—So it was not sent to PM&C for approval?

Ms Halton—Not that I am aware of, Senator.

Senator FAULKNER—As background for you—you may not be aware of this—we know from Dr Hawke's evidence to this committee that he was told on 11 October that the photographs were dodgy, that they did not represent the incident they were supposed to represent.

Ms Halton—I was aware that he had given that evidence.

Senator FAULKNER—But what you are saying to us now is that you had a conversation, as chairman of the IDC, with Dr Hawke on 8 November and he did not raise that issue at all.

Ms Halton—No.

Senator FAULKNER—There was absolutely no mention of it whatsoever?

Ms Halton—No. It was a very brief conversation.

Senator FAULKNER—Yes, but why wouldn't he mention it that day, given that it was central to what Vice Admiral Shackleton had to say? He had put out a statement, said something—did a doorstep, if you like—and then put out a clarifying statement.

Ms Halton—I cannot speculate about that, Senator. I think Mr Farmer gave you evidence that he had rung Mr Moore-Wilton seeking to confirm his memory that we had been advised by Defence that this was the case. I then sent officers off to the Social Policy Division, and in fact we extracted the handwritten notes that had been gathered on this particular issue. We advised Mr Farmer that, indeed, we had the handwritten notes that indicated the advice had been provided. Then—and I do not recall from where we ascertained this, or how I came to know this, and this is remembering that I did not actually know what Vice Admiral Shackleton had said precisely—we were told that in fact he was issuing a retraction. I think I then had a call from Mr Farmer to say, 'Have you received this document yet?' and I went and looked and found it on the fax machine. That was the point at which I rang to ascertain whether this document, which did not have a heading or any sort of illuminating detail, was in fact in the public domain, because I did not want to pass it to Mr Farmer without knowing what status it had.

Senator FAULKNER—But you definitely spoke to Mr Farmer? Mr Farmer was not certain about this, but you can confirm that?

Ms Halton—Yes, and I have got the phone records to prove it.

Senator FAULKNER—All right. I accept that. You also made the point I think earlier that not only Dr Hawke but also Mr Farmer did not raise concerns about the incident with you. Was that right? I may have got the wrong name. You used a couple of examples: one was Dr Hawke not raising this matter with you. Was the other Mr Farmer?

Ms Halton—No. Mr Farmer—that was in a different context. I think I made the point that I had had a conversation with some people in Defence Public Affairs, Jenny McKenry being one in particular.

Senator FAULKNER—And when did you have that conversation with Ms McKenry?

Ms Halton—I had a conversation with her—

Senator FAULKNER—We are nearly there, which will be a great relief to everybody.

Ms Halton—I made a call—and this is congruent with our discussion very much earlier on today—about the comment made by me in the meeting on the 9th of the 10th when, as we know, Commander Banks had given an interview, when we know that I had asked for details to be checked. I rang Defence Public Affairs and I tried to get Ms McKenry. In fact, what I did in the first instance was ring Defence Public Affairs, and I could not get her there. I do not think I was hugely patient, Senator. According to this, I waited about 40 minutes and I still had not heard from her, and I was told that she was in Dr Hawke's office. So I rang Dr Hawke's office to try and find her. I did not manage to find her. My memory is that she rang me later on that afternoon and we had a conversation where I made the point about information, confusion and Commander Banks making particular statements. I asked her for clarification about the instructions that had been given to people about commentary, and I made the point that it was imperative, which was then reiterated—it is reflected in some of the minutes you have seen—that we be given timely and accurate advice.

Senator FAULKNER—What date is this?

Ms Halton—The 9th of the 10th.

Senator FAULKNER—It was 9 October.

Ms Halton—The 9th of October.

Senator FAULKNER—Sorry, I am winding back another month and a bit. What time was your discussion on the 8th with Dr Hawke?

Ms Halton—I wrote this one out—6.39 in the evening.

Senator FAULKNER—That is p.m.

Ms Halton—Eighteen thirty-nine.

Senator FAULKNER—Did Dr Hawke tell you that he had been back-briefed that day by Air Marshal Houston?

Ms Halton—No.

Senator FAULKNER—He had been. He had been back-briefed that day and told the event did not happen at all—not just the photographs. But he did not raise that with you—

Ms Halton—No.

Senator FAULKNER—as the chairman of the task force?

Ms Halton—No. In fact, what my phone records show is that after I had had the conversation with Dr Hawke, I then rang, firstly, Max to tell him that I had the statement—I think I read it to him—and I then rang Mr Farmer and faxed it to him.

Senator FAULKNER—You have probably seen some press coverage of this. You know that, in relation to Dr Hawke and Admiral Barrie, one had offered and one had considered resignation over this matter. In the circumstances, did you consider your future?

Ms Halton—No, Senator, I did not.

Senator FAULKNER—Not a moment's thought?

Ms Halton—Senator, one has examined this process from a personal perspective and a great deal of detail, as you would well understand. It is not often in a career you get involved in something which is as big and as difficult as this or which ends up in an environment like this. As I have said on several occasions—I know Senator Cook does not in any sense agree with me—I am absolutely confident in my own mind that we acted and behaved properly. I am absolutely confident, notwithstanding the fact that issues were not raised with us, that we did ask for clarification and that when material was raised we pursued it. We could have a debate about whether that pursuit was successful and, with hindsight, we could probably all reach a particular opinion. In terms of the question: did that task force operate professionally and was the role that the Department of the Prime Minister and Cabinet played in that proper, I have to say—and I have said this on the public record before—that I think the work that was put in by the officials both inside the department and from the other departments was outstanding. It was a very difficult period. It was incredibly demanding on people both professionally and personally and on their family lives, and I am quite confident that people did discharge those obligations professionally.

Senator FAULKNER—Have you given any thought in relation to your own role as chair of the IDC as to whether you crossed the line from what might be reasonable activity as an administrator, as a bureaucrat, if you like, and in fact progressed your role in a way that could only be seen as a political tool of the government? Have you given that any thought? Because that suggestion has been made and that criticism has been made.

Ms Halton—I know that. One of the issues here that you have to consider, as I have said earlier, is that we were very conscious of the caretaker arrangements. I have been a public

servant for over 20 years and I am absolutely fully au fait with what that means. There is no doubt in my mind—and it goes to the term ‘spin’ that Senator Mason, I think, used before—that we provided, once we were in the caretaker period, the necessary facts. It was done in an environment where the government’s policy position in this area was known and the job that was done was completely consistent, in my view, with the requirements of the Public Service Act. Yes, I have reflected on that, not surprisingly, and I am absolutely confident that is the case. There is no doubt that—

CHAIR—It is the accuracy of those facts that we are here about, of course.

Ms Halton—I understand that. I suppose the point I am making to you is this: given everything that was going on and the work of the task force, which was a huge workload, and given that essentially,—and in retrospect it does not look this way—there was one thing that was, in hindsight, discovered to be inaccurate, there were steps taken by us to confirm the details. We positively put our understanding of those issues in front of the relevant players; they did not demur from that. My view, categorically, is we behaved professionally and properly. I have a great deal of respect for the work that the people from the various departments put in on this issue. It is unfortunate that people have sought to portray humble servants of the public, which is what professional bureaucrats basically are—and I made the comment about being ‘faceless’ earlier—as being something other than they are.

CHAIR—Yes, but whichever way you want to cut it we are still stuck with this problem: news that kids were thrown overboard travelled at the speed of political light; the rejoinder that they were not did not even reach the Prime Minister after a month. That is the problem.

Ms Halton—As we have canvassed here—and I know you feel—

CHAIR—And everyone builds an edifice of proof that the first accusation did not have to meet but that the retraction does.

Ms Halton—This will come down inevitably to individual opinion.

CHAIR—It may, or it may come down to a better understanding of the facts.

Ms Halton—Indeed.

CHAIR—And who did what, and when.

Ms Halton—From my understanding of the facts, I describe this as being a bit like the parable of the blind man and the elephant. Are you familiar with it?

CHAIR—I am not sure at this hour that I want to become familiar with it—

Ms Halton—Maybe not.

CHAIR—but I am pretty sure you are about to tell me.

Ms Halton—I am sorry, I am. Essentially, this is like the blind man on the elephant. You walk up and you clasp onto something which feels like it is long and thin and leathery—and I am not going where you think I am—and what you have actually got hold of is the tail. You do not know, even though you can describe that bit of the tail in graphic detail, what the rest of the elephant looks like. At the end of the day we endeavoured to do what we could from a central agency perspective, but if people did not give us that information—

CHAIR—The problem with that analogy is that you have the helicopter view of the elephant.

Ms Halton—If you are blind, I suspect you cannot fly a helicopter—and, anyway, we should stop with parables, shouldn't we? It probably is not helpful at this hour of the evening—but we did not have the helicopter view. That is where I would dispute with you, because essentially we only saw what we were given from line agencies. The Department of the Prime Minister and Cabinet is not a line agency.

CHAIR—Yes, I accept that part of it. But nor did you seek to find other information out either.

Ms Halton—You only seek to find information when you have a doubt.

CHAIR—We have been through this, and I have told you honestly what my position is. You say that refugees wearing life jackets is interesting and a new level of escalation in this but that throwing children overboard is not a new pattern of threatening behaviour and therefore not requiring of investigation. I have expressed my view to you about that, straightforwardly.

Ms Halton—Let us be clear about escalation. You have made a comment about what life jackets represented.

CHAIR—You did. I just parroted yours back to you.

Ms Halton—What I said was: what we thought that might be indicative of was an intention to sink the vessel. That was the escalation we were expecting. Life jackets are neither here nor there; it is what you do with them and what the intention is that comes from the life jackets and, as we suspected and as we all know, that vessel was sunk.

CHAIR—Yes, but the fact that children were being thrown overboard—as the report you had—does not in any way appear to you to be a new pattern of behaviour worthy of further investigation? That is my whole problem with the evidence.

Ms Halton—And I have said to you that the answer to that is no. Had that been an issue raised, we would have pursued it. Had it been particularly germane to anything that was going on at that point in terms of operational detail, we may well have pursued it. At the time it did not seem that that was the case, and that was where the issue rested.

CHAIR—So the report got broadcast but no-one bothered to find out anything more because it was not convenient?

Ms Halton—No. And that is a misrepresentation, Senator. You are implying that an active decision was made not to do something because of convenience, and that is a misstatement of the facts. The reality is we did seek information—

CHAIR—And you got it; that is the evidence.

Ms Halton—We have had that discussion, and Senator Faulkner said he has one opinion and he knows I will not necessarily agree with him. But in terms of this being about convenience, can I tell you that there was no point in this process that the advice that was given by that group was couched in any notion of convenience. The advice that was given and the information that was provided was, if I use the old bureaucratic standard, frank and fearless based on the facts as we knew them, based on our technical and professional advice. That is absolutely an accurate reflection of the truth.

CHAIR—So how do you explain it, then, that it works one way but it does not work the other way? It works with the first advice, but it does not work with the second advice. Isn't that a systemic failure?

Senator FERGUSON—There was no reason to doubt the first advice.

Ms Halton—That is my point.

CHAIR—Hang on. We are sitting exactly in your seat. We have the commander, as he is properly entitled, of the ship saying that as soon as he became aware of the misrepresentation he corrected it.

Ms Halton—I am aware of that, Senator.

CHAIR—And we had Brigadier Silverstone saying exactly the same. We went right up the line and they all said that they corrected it. The line peaks with you.

Ms Halton—But they did not correct it to me, and that is where this is a misrepresentation. The reality is that—

CHAIR—So they are wrong? We should call them back.

Ms Halton—No, Senator. Not one of those people, as I understand it, has given you evidence that they came and corrected it to the task force. Can I say that I acknowledge absolutely what you have said in relation to the evidence you have had from Commander Banks and those people immediately contiguous to him. I never had a conversation with Commander Banks; I never had a conversation with Silverstone or Smith or, can I say, Vice Admiral Shackleton.

CHAIR—And we are expected to believe as well that the most hands-on Prime Minister, in election campaigning, takes the front page of the newspapers around Australia essentially the day or the second day after he announces an election and never asks another question again about the issue that got him favourable front-page coverage?

Senator FERGUSON—He had no reason to doubt it.

Ms Halton—I cannot make any comment about what the Prime Minister did or did not ask. I can simply reflect to you, going back to my elephant, what I know. What I know is that I was never asked and the task force was never asked and, indeed, we never had any reason. We could go back to the caveat on that from Senator Faulkner and your perspective, but we believed this to be the case.

Senator FERGUSON—Mr Chair, can I ask—

CHAIR—We are debating it now.

Senator FERGUSON—I really—and you can put your own political spin on that—

CHAIR—I am not putting a spin on it; they are the facts.

Senator FERGUSON—You can have your own political beliefs, but the fact is that this was an operational report of which you received many of over a period of time, didn't you?

Ms Halton—Yes.

Senator FERGUSON—SIEV4 was one operational report, and you had no reason to doubt that report in the same way that you had no reason to doubt SIEV7, SIEV8, SIEV9 or SIEV10.

Ms Halton—I have made a comment which is very much to that point. I must have had through this period hundreds of telephone calls, principally from Titheridge. Maybe I am exaggerating but we are talking about multiple telephone calls which relay information—some of which ended up in advice papers and some of which did not. My experience throughout this period was that the information was reliable.

CHAIR—I have no doubt that what you have said, that everyone worked very hard, is true, but I have some doubt in believing, given the problem as it has been explained, that this is an example of sterling professionalism by the Public Service.

Senator FERGUSON—I think that is a reflection, Mr Chair.

CHAIR—It is not a reflection on Ms Halton; it is a reflection on the circumstances.

Senator FERGUSON—It is going very close.

CHAIR—How can it be that something that goes so grievously wrong is an example of consummate professionalism?

Senator FERGUSON—Nothing has gone grievously wrong.

Ms Halton—Senator, again—

CHAIR—You heard Banks: how come that did not get explained by the Prime Minister in time?

Senator FERGUSON—I heard Silverstone as well as Banks.

Ms Halton—I cannot comment on that, Senator, because I do not know why that is the case. I can just tell you what I know.

Senator JACINTA COLLINS—Ms Halton, there is just one issue that I want to revisit, but I want to clarify your earlier statement first about who you did not speak to. Does that include Rear Admiral Ritchie? Did you not speak to him as well?

Ms Halton—No, I have never spoken to him.

Senator JACINTA COLLINS—I want to go back to the vigorous pursuit of the details about what had happened in the incident that led to the chronology being received by Matt Healey. Was he part of the PM&C vigorous pursuit of the facts?

Ms Halton—Now that I am tired, and we are all tired, let us take the emotional language out. If I have used that language before I regret it, so let us talk about the seeking of clarification and detail which was professionally what people were doing. My understanding is that Mr Healey was part of that exercise. There were a number of officers who had, as I understand it, conversations with Strategic Command looking for detail in particular areas.

Senator JACINTA COLLINS—Do you now know why that chronology was not passed up the line within PM&C?

Ms Halton—My understanding is that Ms Edwards in fact probably had it in her possession when she came to see me on that afternoon. We have gone through the chronology: I arrived at the office at 4.45 p.m., we went into the meeting at five o'clock and we have already observed the time frame and the series of phone calls that occurred in that 15-minute period and the information we became privy to in that period. I think she arrived in my office to tell me where they had gotten to with this process and what we now knew to be the substance of particular things. As I have said, we tabled—I think it was an hour or so later, maybe a bit less—our understanding and we discussed it in that evening meeting, although not in vast and glorious detail. I have no record of having received that chronology. I have checked the incoming record of the documents into my office, which I keep a record of, and I did not recall having seen it; so when I was actually shown it when the inquiry was under way I had no memory of having seen at all. As I said earlier, I would fully believe it was overtaken by those three things that we have already talked about at length this evening.

Senator JACINTA COLLINS—Amongst others, the conversation you had with Minister Reith before you went into the meeting?

Ms Halton—Yes.

Senator JACINTA COLLINS—In retrospect, if you had read the chronology, would you have had greater doubts?

Ms Halton—I do not know. Speaking quite honestly about it, I just do not know—when I have been told by a minister that certainly there is a video and we know there is uncertainty whether he told me about the photos, but it sounds like he probably did and I think Katrina might actually think that that conversation included a discussion of the photos—whether I would have then said, ‘No, go look more.’ However, the reality is that at that point we were satisfied about the detail we had about when particular things happened and, as I have said, we moved on.

Senator JACINTA COLLINS—The other concern I have relates to earlier comments you made about the footnote at the chronology, where you seemed to link that to the earlier reports that Commander Banks had made about the fact that he was still awaiting reports from the other side of the SIEV—where it was possible that someone had seen something. My understanding of that chronology is that it was actually produced post clarification that there were no reports from the other side of the SIEV indicating the possibility that a child had still gone overboard.

Ms Halton—I do not know that we knew that. I suspect that this is information you are now piecing together from various witnesses.

Senator JACINTA COLLINS—Yes.

Ms Halton—I would be surprised if we knew that. Clearly, we had a chronology; clearly, we were trying to pick through the detail to get the facts sorted out in terms of what happened precisely when. When you get told that there is a video of something—

Senator JACINTA COLLINS—Yes. This is our biggest problem: we hear reports that there is a video that shows a child being put overboard. As you have reported, you were informed that the statements were corroboration and that the photos were corroboration. At this stage, we have no access to the person making those claims. We are almost stuck with you in terms of chasing the information.

Ms Halton—As I have said to you, I can tell you what I know, and I have attempted to do that as best I can.

Senator JACINTA COLLINS—Thank you.

CHAIR—I think that concludes tonight’s hearing. Thank you for your patience and stamina, Ms Halton.

Ms Halton—It has been my pleasure, Senator.

Committee adjourned at 12.57 a.m. (Wednesday)