

[5.14 p.m.]

BYRNE, Air Commodore Philip Darcy, Commander, Maritime Patrol Group, Royal Australian Air Force

CHAIR—Welcome to the inquiry. We apologise for keeping you waiting so long. There is nothing more I can say about that, other than our apologies, but we as a committee felt the need to pursue a number of questions with the previous witness. Do you have an opening statement?

Air Cdre Byrne—I have, Mr Chairman.

CHAIR—Before you proceed, the practice we have followed is that if there are copies of that and they can be handed around, it can save a fair bit of time in questioning. I think that is what has happened in the background behind you, so please proceed now.

Air Cdre Byrne—I am the current commander of the Maritime Patrol Group, which is located at RAAF Base Edinburgh in South Australia. I assumed my position as Commander MPG in February 2000. My experience in maritime patrol operations began in 1974 and extends for 14 years, with intermittent breaks. I am able to assist you by describing Maritime Patrol Group operations in relation to Operation Relex. To begin with, it may assist the committee if I describe the role and place of my organisation within the Australian Defence Force. The Maritime Patrol Group operates the P3C Orion long range surveillance and anti-submarine warfare aircraft. This aircraft carries a number of sensor systems, including a maritime search radar and an infra-red detection system for night operations.

Maritime Patrol Group aircraft and crews have been involved in searching for SIEVs as part of Operation Relex and its predecessor since August 2001. Since the beginning of operations, Orion aircraft have patrolled search areas, with few exceptions, daily. Operation Relex has flown eight- to 10-hour missions on most days over the past 11 months. Aircraft conducting Operation Relex surveillance are under the command of Headquarters Air Command and the operational control of Commander NORCOM whilst airborne. In addition, aircraft come under tactical control of RAN ships deployed on Operation Relex while in the search area.

Turning now to the events surrounding the so-called SIEVX, Orion surveillance missions were flown daily from 18 to 23 October inclusive. These missions were approximately 10 hours long and spent some 4½ to 5 or so hours on surveillance in the vicinity of Christmas Island. I understand the committee has had provided to it a summary of search patterns undertaken by Orion aircraft during this period. The material shows in a pictorial format the general search patterns for the flights from 19 to 20 October.

In addition to the daily flights over the period, an additional surveillance mission was flown on the evening of 19 October in response to a request from Headquarters NORCOM. I was a crew member on that flight. I can say that at no time was surveillance withdrawn over the period in question. To the contrary, on 19 October Orion surveillance was increased. I have reviewed the intelligence briefing material provided to the crews who flew missions over the period. This briefing material contains no information to indicate a safety-of-life-at-sea issue

before 23 October 2001. No distress signals were received by any of the surveillance flights. Had a distress signal been received, we were in a position to respond immediately. Each surveillance aircraft was fitted with an air-sea rescue kit.

In summary, the men and women of the Maritime Patrol Group have been involved in daily surveillance flights since 28 August 2001, and have diligently and professionally undertaken their duties. I am proud of the way they have carried out their mission.

CHAIR—Thank you, Air Commodore. The *Australian* newspaper yesterday on page 5 carried a report headed ‘Spy planes not told of boats’ status’, with a by-line of ‘Cameron Stewart’. Are you aware of that report?

Air Cdre Byrne—I am.

CHAIR—Did you speak to Mr Stewart?

Air Cdre Byrne—He rang me last Friday.

CHAIR—Are you, therefore, the source that is quoted in this story?

Air Cdre Byrne—I told him that I could make no comment on the statement. I asked him if he would read me the statement that he was going to make. He read it to me. I said, ‘I can make no comment except that “I do not disagree with anything that you have said.”’

CHAIR—Which is to confirm what he read to you.

Air Cdre Byrne—That was all I said.

CHAIR—Which confirms what he read to you.

Air Cdre Byrne—I made that statement to him. I said, ‘I can make no comment.’ Yes—the answer is yes.

CHAIR—From what you were saying, though, you did not provide the original information to the reporter, Mr Stewart? He had that when he spoke to you?

Air Cdre Byrne—That is correct.

CHAIR—And he was seeking confirmation that what he had was—

Air Cdre Byrne—He was seeking further comment, and I gave him no comment except to confirm that I would not object to any of the information that he was going to state. Effectively, I was wanting to say that yes, I would be upholding the Maritime Patrol Group and defending them in Operation Relex.

CHAIR—Did he let you know how he obtained the information that he put to you?

Air Cdre Byrne—No.

CHAIR—Had you circulated your statement?

Air Cdre Byrne—No, I had not.

CHAIR—Do you have any idea how he would have obtained it?

Air Cdre Byrne—No, I do not.

CHAIR—Did you notify the minister's office of what you were going to say?

Air Cdre Byrne—I rang the Chief of Air Force's office, told him that I had been called by Cameron Stewart and told him that I had made that statement.

CHAIR—So this was after the event. I am going to how Cameron Stewart may have obtained the information about what you were going to say today before he rang you.

Air Cdre Byrne—Cameron Stewart had spoken with me about a month before and asked me simple questions. I had said to him—and I cannot remember exactly—that I expected that Maritime Patrol Group would in fact be part of the investigation at some stage.

CHAIR—But the point I am coming to is that the information he rang you with last Friday—

Air Cdre Byrne—I did not provide to him.

CHAIR—You did not provide him with that information?

Air Cdre Byrne—I did not provide it to him.

CHAIR—Who did you provide that information to?

Air Cdre Byrne—I provided no information. The only information I provided with regard to the investigation that we are part of today was to the task group that was headed up by Rear Admiral Gates.

CHAIR—So you provided the information to Rear Admiral Gates's task force.

Air Cdre Byrne—Correct.

Senator JACINTA COLLINS—Do you know if they provided that information to the minister's office?

Air Cdre Byrne—I am sorry, Senator; I do not know.

CHAIR—I may come back to this later or I may not—and I do not want to delay the proceedings—but can you refresh my memory about the current situation for officers of the

Defence Force speaking to the media. We know, for example, during the period from August last year, I think it was, through to early this year, under the previous minister there was in effect an order which centralised comment through the minister's office. What is the current situation?

Air Cdre Byrne—Comments can only be made by officers with the rank of one star or higher. In the case of Air Force, that is Air Commodore.

CHAIR—When comments are made, are you required to notify anyone?

Air Cdre Byrne—Yes, I am.

CHAIR—Who are you required to notify?

Air Cdre Byrne—The Chief of Air Force. I cannot remember exactly; I have the piece of paper sitting beside me on my desk.

CHAIR—Is this who you notified after you had spoken to Mr Stewart?

Air Cdre Byrne—I could not get on to the Chief of Air Force, so I spoke to a group captain who runs his office.

CHAIR—In the expectation that a staff member in his office would notify him of your call.

Air Cdre Byrne—Yes, but I did speak with the Chief of Air Force yesterday, and he was aware of it.

CHAIR—That is after the event—after the press report appeared?

Air Cdre Byrne—Yes, but I notified the Chief of Air Force's office of the contact with the press when it occurred.

CHAIR—As I say, I may come back to this or I may not, but thank you for that.

Senator FAULKNER—Air Commodore, when did you discover that you were going to be offered up as a witness to the committee?

Air Cdre Byrne—I was overseas. I think it would have been about the same time as Colonel Gallagher, who was brought before the committee on 11 July—my birthday—and I was overseas at the time.

Senator FAULKNER—Happy birthday for that day.

Air Cdre Byrne—Thank you, Senator.

CHAIR—It was perhaps not the present you were looking for on that day!

Air Cdre Byrne—I feel proud to be here.

CHAIR—We will not exploit the opportunity of having you under oath to ask you how old you are. We will pass immediately to the next question.

Senator FAULKNER—I could comment that, if that was on your birthday and your birthday was on 11 July, you had a little more notice than Colonel Gallagher had, because his appearance followed quickly after your birthdate, as you would appreciate. In terms of your appearance, where did that indication to you come from?

Air Cdre Byrne—It was passed to me by telephone. I was flying with my crews in a major exercise in Hawaii. I landed one day, and it was passed to me.

Senator FAULKNER—Who passed it to you?

Air Cdre Byrne—I cannot remember.

Senator FAULKNER—Was the indication that this was the suggestion of the minister or of somebody else?

Air Cdre Byrne—The information that was passed to me was that I would be appearing before the Senate inquiry. I am sorry; I really have not got any further information. I assume that, if I have been told that I am appearing in front of an inquiry, I am appearing in front of an inquiry.

Senator JACINTA COLLINS—You cannot recall the source of that request.

Air Cdre Byrne—No, Senator.

Senator FAULKNER—Did anyone inform you of what issues you might be canvassing or might be expected to canvass before the inquiry?

Air Cdre Byrne—Yes, I was provided with that information on my return to Australia.

Senator FAULKNER—Have you had the benefit of a discussion with Rear Admiral Gates about your evidence?

Air Cdre Byrne—I have not.

Senator FAULKNER—Are you aware that you are appearing today because the Minister for Defence has blocked the appearance of Rear Admiral Gates?

Air Cdre Byrne—No, I have no knowledge of that.

Senator FAULKNER—Thank you very much for that. I wondered if we could just turn the air commodore to some of the issues surrounding one element of this committee's work that has come about as a result of an expansion of the terms of reference, which I think was a very useful

decision that was made so we could examine in some detail the question of SIEVX. I wonder, first of all, if we could go to some of that evidence that Colonel Gallagher actually provided to us at the committee. I am interested, in a sense, in some of the interface between your role, responsibility and what you are able to provide for us and what Colonel Gallagher was able to tell us. I do not know if you have had the benefit of reading his evidence or not. You might share with us whether you have or not.

Air Cdre Byrne—I have read it, yes.

Senator FAULKNER—You recall that Colonel Gallagher said to us, in relation to reports from ASTJIC, that they went to all those involved in operational work. I asked him some questions about that. Let me quote him to you. He said:

It goes to all people involved in conducting the operation, which would have been the ships at sea; the aircraft, or the squadrons that the aircraft belonged to; Headquarters Northern Command; and all four component commands—that is, naval, land, air and special operations. Information copies would have been forwarded to DIO, DSD and DIGO.

In relation to your own group, can I be clear that you received intelligence from ASTJIC?

Air Cdre Byrne—We did, Senator.

Senator FAULKNER—Is that direct? Do you receive that directly from ASTJIC?

Air Cdre Byrne—We do. We also receive intelligence reports from NORCOM.

Senator FAULKNER—Are there any other sources of intelligence that go to your group?

Air Cdre Byrne—Not that I know of, but I can take that question on notice. I do not want to say that we do not if we do.

Senator FAULKNER—Fair enough. But generally it is ASTJIC mainly but also NORCOM—is that right?

Air Cdre Byrne—ASTJIC and NORCOM, yes.

Senator FAULKNER—In relation to the suspected illegal entry vessels, can you say to the committee whether this intelligence, in the broad, tended to outline when possible SIEVs might be departing from Indonesia or other countries?

Air Cdre Byrne—The reports, on a daily basis, were providing indications of possible departures.

Senator FAULKNER—Can you say in relation to SIEVX what sort of intelligence your group received?

Air Cdre Byrne—Yes, I can.

Senator FAULKNER—Could you share that with us, please?

Air Cdre Byrne—The term ‘SIEVX’ is one that has been used only in the last few months.

Senator FAULKNER—If I can interrupt, I do appreciate that that is the point and I do understand that this would not have been terminology that would have been used at the time. But, for ease of our speaking about this, it is probably valuable if we just use that terminology. I do appreciate the point you make and I know all the committee members do.

Air Cdre Byrne—Certainly, Senator. From the information that we derived from reports that were provided by NORCOM and ASTJIC, and which were subsequently provided as intelligence summaries for crews who were flying, the first mention of a small and overcrowded vessel—which is my hint that it is the vessel now known as SIEVX—was mentioned in a 92 Wing intelligence summary for 21 October. That would have been based upon ASTJIC and NORCOM intelligence reports from 20 October noting that the intelligence summary for the crews who were flying on the 21st were put together to brief the crews at or about midnight of the 21st.

Senator FAULKNER—So you did not receive any reports of 18 October? They did not come through?

Air Cdre Byrne—There were no reports on 18 October that specifically identified the boat that we now refer to as SIEVX. In my investigations I have tried to link it with SIEVX being small and overcrowded, and the first indication of a small and overcrowded vessel in a NORCOM and ASTJIC ‘in sum’ was the 20th, which was subsequently briefed to the crews at about midnight of that night, which was for the flight of the 21st.

Senator FAULKNER—I appreciate and acknowledge the point you make about a small and overcrowded boat. I understand that qualification. Is there anything in relation to an in sum on 18 October or that emanated from ASTJIC or NORCOM on 18 October—and it may not have been received by you on 18 October—that could possibly have been SIEVX? In other words, it did not necessarily have that characteristic of ‘small and overcrowded’ that we have just been talking about?

Air Cdre Byrne—Not to my knowledge.

Senator FAULKNER—So you are quite clear that the first report was the report of 20 October and that it was received by your group on 21 October?

Air Cdre Byrne—No, it was received by my group on the same day, on the 20th, and it was used to put together a briefing for the crew that was going to be briefed about midnight of that day.

Senator FAULKNER—Are you able to be more precise in relation to those timings on the 20th—in other words, when it was actually received?

Air Cdre Byrne—I would have to take it on notice. I am pretty certain that we would keep that information. In fact, my staff could try to get that information now.

Senator FAULKNER—If you do not mind taking it on notice, that would be helpful. But the point you are making is that the tasking that resulted from this report—those flights—took place on 21 October?

Air Cdre Byrne—Correct.

Senator FAULKNER—Can you say to us in the broad—you are dealing very much with laypeople here, of course—how much you rely on these intelligence reports for the sort of surveillance work that you are doing; how important are they?

Air Cdre Byrne—It depends. They are important if they lead us to search an area in a particular way. In the absence of the reports, we will still search the area as best we can. However, if we have queuing information that might lead us to search in one particular area first, then they might become important.

Senator FAULKNER—How much notice is taken of this sort of intelligence material?

Air Cdre Byrne—Crews will generally be very aware of the possibility of one or two SIEVs in the area. I shall not say that they try harder, but perhaps crew members will be a little more diligent in their duties. It is a natural reaction if you are expecting two in the area.

Senator FAULKNER—Are you able to tell us how much signals intelligence, human intelligence and imagery are used in the tasking of aircraft?

Air Cdre Byrne—Senator, I cannot; I do not know.

Senator FAULKNER—You are just not in a position to make that sort of assessment?

Air Cdre Byrne—No.

Senator FAULKNER—Are you able to make an assessment generally about how important those different types of inputs are?

Air Cdre Byrne—As an officer with 32 years experience, I have worked in various positions that would give me a view as to how important they may be, but I would prefer not to discuss that in this open fora.

Senator FAULKNER—I am not going to individual intelligence reports here; I am just trying to get a broad understanding—I think it is useful to the committee—of the relative weights you might apply to some of this sort of information, particularly in relation to the sorts of reports that you have coming through from ASTJIC and NORCOM. But if you are unable to assist us, so be it.

Air Cdre Byrne—It is really not my area of expertise, and I just point you in the direction of the intelligence experts; that is their job. I am an expert on maritime surveillance; I am a user of their information.

Senator FAULKNER—Yes, and that is the point I am trying to come to. Obviously, I appreciate that you are neither a collector nor an analyser of this material. I do understand that. But, as you say, you use that information in your role in surveillance. It is that interface that I am interested in. What about information from radio beacons? Is that used as intelligence to tasking of surveillance aircraft?

Air Cdre Byrne—Not in this case, although we do have the ability to pick up radio beacons. To my knowledge, no intelligence from a radio beacon has been pertinent to Operation Relex over the last 11 months.

Senator FAULKNER—Fair enough. I wondered about that—maybe even from beacons used on Indonesian fishing boats, for example.

Air Cdre Byrne—I can say that Indonesian fishing boats do, on occasion, discuss between themselves on a radio frequency.

Senator FAULKNER—Yes. I think we are aware that these are used increasingly on Indonesian craft. This might be due, in part, to a Canadian aid program, as far as I understand. I am wondering whether they provide useful information to surveillance aircraft. I am thinking here of the EPIRB beacons. What do you call those beacons?

Air Cdre Byrne—Emergency personnel locator beacons. We have the ability to pick them up.

Senator FAULKNER—Yes. I just wondered whether there was any particular role for SOLAS situations.

Air Cdre Byrne—Absolutely. And had an emergency personnel locator beacon been triggered, we would have picked it up immediately, had we been within range of that beacon.

Senator FAULKNER—That sort of SOLAS related information, if there were any, would be passed on to aircraft, obviously.

Air Cdre Byrne—Yes.

Senator FAULKNER—But in terms of Operation Relex, that has not been used effectively, I think you were saying.

Air Cdre Byrne—We monitor those emergency frequencies, including EPIRB frequencies, whenever we get airborne.

Senator FAULKNER—Did your group ever receive phone calls about intelligence information in relation to the SIEVX vessel or the notorious people smuggler Abu Qussey? Do you get information in that sort of form when it comes through from ASTJIC and NORCOM? Reports that are no longer ‘raw intelligence’ may be the best way of describing it.

Air Cdre Byrne—No, we do not. We receive processed intelligence from ASTJIC and NORCOM.

Senator FAULKNER—Do you receive only processed intelligence?

Air Cdre Byrne—That is my understanding but I could clarify that with my intelligence officers, if you so desire.

Senator FAULKNER—No, I accept what you say. I am just trying to get a broad understanding at this stage of how the group works. More specifically, could you tell us whether any directions were ever given to the patrol group to focus on a particular area in the period from 18 October 2001 to 22 October 2001?

Air Cdre Byrne—On 18 October, there was no direction. The search was undertaken as a creeping search from the south to the north. On 19 October, it was the same: from the south to the north. For the second flight of 19 October, which was the night flight put on to take the place of *Arunta*'s helicopter, which was unserviceable, we were advised to search the southern areas—south-west first, then south-east, then north-west, then north-east, in that order. So the priorities for the second flight were south-west, then south-east, then north-west, then north-east. On the flight of 20 October, I believe it was south-west, then north-west, then north-east, then south-east, in that order.

Senator FAULKNER—And who gives those directions, Air Commodore?

Air Cdre Byrne—They are given by the ship on joining with the ship. The aircraft receives initial instructions via a tasking message. When it reaches the area, it joins with the ship, rings the ship up on radio and receives more detailed tasking from the ship.

Senator FAULKNER—In the case of the second flight on 19 October, the relevant ship was the *Arunta*?

Air Cdre Byrne—It was, Senator.

Senator FAULKNER—Is that also the case in relation to the 28th; is it also the *Arunta*?

Air Cdre Byrne—I believe so.

Senator FAULKNER—I have just noticed a number of references to the unserviceability of the *Arunta*'s helicopter, which I absolutely accept. I would have thought that the P3 Orions would have had a vaster range than the helicopter off *Arunta*; there would be no comparison, would there?

Air Cdre Byrne—In what sense, Senator? We carry more fuel. We go further.

Senator FAULKNER—And you go a lot quicker?

Air Cdre Byrne—We go quicker. I think we have a more powerful radar, and there are some other capability differences in other sensors.

Senator FAULKNER—Yes. In official capability.

Air Cdre Byrne—We are a bigger aircraft.

Senator FAULKNER—A bigger and better operation.

Air Cdre Byrne—And more capable in certain areas.

Senator FAULKNER—What I am interested in understanding is how significant an operational impact the loss of the *Arunta*'s helicopter had. You may not be able to assist us in that.

Air Cdre Byrne—I think the loss of a helicopter is a significant loss in a surveillance operation. Helicopters are not as capable as a P3 for the reasons we have discussed but they are not incapable. They are still very capable platforms.

Senator JACINTA COLLINS—So, in terms of the surveillance powers that we have been provided so far, are we only seeing part of the picture? Do we also need to look at the ship's helicopter surveillance as well, other than on this one occasion when the P3 replaced the *Arunta*'s helicopter?

Air Cdre Byrne—Perhaps, Senator. My understanding is that the ship's helicopter would search the southern part of the area in the p.m. hours.

Senator JACINTA COLLINS—In the evening hours?

Air Cdre Byrne—In the afternoon hours. Most of the Orion surveillance flights were carried out in the morning hours. The helicopter carried out a surveillance flight in the evening hours but, of course, that surveillance flight would have been limited to the southern reaches of the area because of the limitations in range and endurance of the helicopter.

Senator FAULKNER—So the direct tasking in relation to those 'sectors'—is that the correct terminology: south-west, north-west, north-east, south-east sectors?

Air Cdre Byrne—That will do.

Senator FAULKNER—Tell me if there is better terminology. That comes from HMAS *Arunta*?

Air Cdre Byrne—It does.

Senator FAULKNER—Do you know if it comes originally from NORCOM or elsewhere?

Air Cdre Byrne—I suspect that it is the Captain of HMAS *Arunta* in consultation with the Commander of NORCOM or his staff who make that judgment.

Senator FAULKNER—When you receive such tasking, is there any difference between tasking for surveillance for interception or some other function or a safety of life at sea situation?

Air Cdre Byrne—Very much so.

Senator FAULKNER—Could you explain the detail of that for us?

Air Cdre Byrne—The methods of surveillance that were being used in Operation Relex were primarily radar, as a prime sensor, and visual, as a secondary sensor. If a safety of life at sea incident is at hand, the prime sensor would be that which one would expect had a best chance of detecting the person, persons or vessel at risk. For example, if the safety of life at sea incident is to look for a ship, the prime sensor may well still be radar; if it is to look for someone in the water who has an EPIRB beacon, it would be a beacon search, not a radar search; if it is for somebody in the water who does not have a beacon, it would be a visual search and it would be restricted to, one hopes, an accurate datum of the last known position and it would have very close track spacing.

Senator FAULKNER—Were there any differences in the surveillance that takes place over the period that we are talking about—18 October to 22 October 2001—in relation to that type of surveillance?

Air Cdre Byrne—None whatsoever—and logically so, because there was no safety of life at sea situation known at that time.

Senator FAULKNER—In relation to the information that comes through the ASTJIC for the tasking of your group on 21 October, are you able to provide any more detail specifically about the nature of that intelligence reporting or tasking? Can you assist us any more with that?

Air Cdre Byrne—As I have made a small note here, on the 21st a report mentioned the possibility of a small and overcrowded vessel. It reported that the vessel had left the west coast of Java. No, I tell a lie. I think that was the only vessel that they were searching for on that day. The reason I mentioned that is that there had been two vessels that we had been searching for on the previous two days, but we had found one of them on the 19th.

Senator FAULKNER—So really the only intelligence report goes to the possibility of a small and overcrowded vessel?

Air Cdre Byrne—Correct.

Senator FAULKNER—Not to the point of departure or anything like that?

Air Cdre Byrne—I would have to check whether the intelligence report does in fact give a point of departure or a possible point of departure. I have not got that—

Senator FAULKNER—Yes, a possible point of departure or any other elements that might assist the surveillance operation.

Air Cdre Byrne—All we have got in the report is that the vessel had left the west coast of Java.

Senator FAULKNER—So there are two elements: a vessel had left the west coast of Java, and it was small and overcrowded. Is that it in a nutshell?

Air Cdre Byrne—That is it.

Senator FAULKNER—Is there any date in relation to when it leaves the west coast of Java? Is there any time or—

Air Cdre Byrne—No. None whatsoever.

Senator FAULKNER—Was it the practice of the P3 Orion surveillance groups to take photographs of SIEVs when they were spotted?

Air Cdre Byrne—Yes, it was.

Senator FAULKNER—What form are those photographs in?

Air Cdre Byrne—Generally they are taken as wet film. Recently we have been taking digital film.

Senator FAULKNER—We have received evidence that there were no photographs taken of SIEVX, but I think I should ask you this just so you can confirm it for the committee. Can you confirm that that is the case?

Air Cdre Byrne—That is the case.

Senator FAULKNER—What sort of knowledge did the Maritime Patrol Group actually have—I assume it is quite detailed—of the Royal Australian Navy vessels that were in the area?

Air Cdre Byrne—Total knowledge.

Senator FAULKNER—Does that include submarines?

Air Cdre Byrne—No, it does not.

Senator FAULKNER—So, all surface vessels?

Air Cdre Byrne—Correct.

Senator FAULKNER—Would you know, in this case, whether there was any Royal Australian Navy submarine activity in that broad area?

Air Cdre Byrne—I do not know whether there were any submarines there.

CHAIR—You do know that there were no submarines on the surface?

Air Cdre Byrne—I do know that there were no submarines on the surface.

Senator JACINTA COLLINS—You saw no submarines on the surface?

Air Cdre Byrne—We did not detect any submarines on the surface.

Senator FAULKNER—Did the Maritime Patrol Group have any interaction at all with the People Smuggling Task Force?

Air Cdre Byrne—No.

Senator FAULKNER—I assume the answer to this is no, but I want to be clear here: you would not be receiving any direction regarding surveillance matters from the People Smuggling Task Force?

Air Cdre Byrne—No.

Senator FAULKNER—Because you were only receiving these from either ASTJIC or NORCOM?

Air Cdre Byrne—Correct.

Senator FAULKNER—You may not be able to assist us here. When we read the task force notes, for example on 21 October it says:

- Check Defence P3 is maintaining surveillance over Christmas Island.

On 22 October, it says:

SIEV 8

- Not spotted yet ...

that element of it. On 4 October, an unidentified

boat has been upgraded to possible arrival ... but no sighting as yet.

Those sorts of reports obviously originate with your group, don't they, or Coastwatch?

Air Cdre Byrne—No. The only reports that originate from my group are contact reports. If we find a SIEV—for example, we found SIEV6, then we reported SIEV6 both in the air—

Senator FAULKNER—So if you find nothing you report nothing?

Air Cdre Byrne—We report everything that we do find, and most sorties do find something—20 or 30 fishing vessels and merchant vessels—and they are reported.

Senator FAULKNER—Yes, but what you report is contacts?

Air Cdre Byrne—Correct.

Senator FAULKNER—Who do you report to?

Air Cdre Byrne—We report them, in the air, to the ship with whom we are working and we report them, once we have landed, to our operating control authority and a number of other agencies. The operating control authority then further distributes that report.

Senator FAULKNER—Are you aware of what those other agencies are?

Air Cdre Byrne—Not off the top of my head, but I could find out.

Senator FAULKNER—I would appreciate it if you would take that on notice. I suppose I am interested in who they are and—you might take this on notice too—the time delay that might be involved in those reports being disseminated. There is no urgency about that, but if you could I would appreciate it. Have you looked exhaustively at those contact reports for the period that we are speaking of—

Air Cdre Byrne—I certainly have.

Senator FAULKNER—18 October through 22 October?

Air Cdre Byrne—I have. I have looked at the post-flight reports for each of those sorties.

Senator FAULKNER—What, if anything, can you say to us about them? You can say, I assume, that there is no contact of anything remotely like SIEVX, can you?

Air Cdre Byrne—Yes, except for the contact on the 19th, which was SIEV6.

Senator FAULKNER—You may or may not have seen it, but there has been some press commentary—most recently I could point you to a *Dateline* program on SBS television. That reports survivors, in some instances, actually saying to camera—I do not know if you have seen this or not—that they saw a large ship or a number of large ships shining their lights on survivors. Some thought they were, in fact, naval vessels. There was even a suggestion at one stage, which has subsequently been found to have no substance, that it might have been a Royal Australian Naval vessel involved. Are you able to indicate to us in the assessment that you have made of the contacts in this period, particularly about the time when we now know SIEVX sank, whether such reports make any sense to you from the information you have had available to you?

Air Cdre Byrne—I have looked—quite obviously it was an important point.

Senator FAULKNER—You have looked for that specifically?

Air Cdre Byrne—I did. I tried to make some sense out of it and I could not. If you look at—I think you have got the material—the radar contacts from the flights of the morning of the 19th and the 20th, they do not shed too much light on concentrations of ships, particularly merchant ships, in the vicinity of that latitude and longitude that was mentioned on the *Dateline* program.

Senator FAULKNER—I think the key element here is that the evening of the 19th is the night of the 19th, isn't it? That would be what we would be talking about. But you specifically looked to see whether there was anything that might make sense?

Air Cdre Byrne—I have looked to see if there is a concentration of vessels in the vicinity of the point at which the *Dateline* program indicates that the SIEVX went down. I could not find anything.

Senator FAULKNER—Can you say to us whether the maritime border patrol knows of any ships that may have been in the area or in some way adjacent to the area where it is suspected that SIEVX sank?

Air Cdre Byrne—Yes, I can give you the positions of all of the ships that were in the area that were detected on the flights of the 19th, because the aircraft flight on the 19th detected ships and fishing vessels and those contacts were all reported.

Senator FAULKNER—But none of this information throws any light on these suggestions or allegations or claims that are made in relation to largish vessels and lights shining on survivors?

Air Cdre Byrne—Not that I have seen.

Senator FAULKNER—In relation to the second flight of 19 October, it seems to indicate from the map—but I would seek your professional assessment of this—that the second flight of 19 October does not go as far north as similar flights. Is that right?

Air Cdre Byrne—That is correct.

Senator FAULKNER—Can you say to the committee why that was the case?

Air Cdre Byrne—Certainly. Firstly, we were tasked by the *Arunta* when we first came on task with searching a sweep from east to west, 10 nautical miles to the south of the area. So we actually initially searched to the south of the area, which obviously takes time. We also had very bad weather. We were deviating around thunderstorms and rain cells for the full 4½ hours on task, and that takes up time and effort. We also deviated out to the west of the area. You will notice on the radar contacts and fishing contacts that were picked up just outside the area, to the west of the area. We were 45 minutes outside the area visually identifying those in the dead of night with infra-red detection gear. That actually involves overflying each contact at 300 feet and looking for hot spots to try and identify suspected illegal entry vessels by multiple hot spots, for example. We were out of the area for 45 minutes.

Senator JACINTA COLLINS—Does that identify the number of people on board the vessel?

Air Cdre Byrne—That is right. Each contact has to be flown over directly, and that takes time. There is the deviation around the cloud and the fact that we were asked to search to the south of the area initially. We compressed the track spacing because of the bad weather to try and increase the probability of detection. Also, we had been told that the high-probability areas were the south-west and south-east areas.

Senator FAULKNER—Have you been able to establish in the work that you have done why that tasking went to the south, the south-west and south-east first and then followed the north-west and north-east?

Air Cdre Byrne—I can only make an assumption in that regard, and that is that that is the high-probability area, because they were expecting two vessels that day. They had found one in the morning in the south of the area and they wanted to make sure that they sanitised the south of the area before the next flight, which was not coming on until dawn the next day. If indeed they had not sanitised the south of the area, and if there had been something there, it would have reached Christmas Island before the next aircraft came on task at dawn the next day. So the tactical priority was to ensure that there was nothing in the southern part of the area. That is the reality of tasking priorities. But I also highlight that we were not restricted from searching the north of the area, and indeed we were tasked as a next priority with searching the north-west then the north-east. We never made it there because we ran low on fuel. It was just the luck of the game—going around all these thunderstorms in the area.

Senator FAULKNER—How bad was the weather that night?

Air Cdre Byrne—It was not good. It was particularly bad, as is indicated in the diagram. There was an ‘impenetrable’—I think that was the word used in the post-light report—area of thunderstorms about 30 miles long and 10 miles deep about halfway through the area.

Senator JACINTA COLLINS—Was it the weather that led to the usage of fuel?

Air Cdre Byrne—No, we were still on task for 4½ hours. It was the fact that we closed up the track spacing.

Senator JACINTA COLLINS—To saturate the southern—

Air Cdre Byrne—It was not so much the fuel usage; it was the flight track that led us only to search the southern area, largely. The track was closed up.

Senator JACINTA COLLINS—For what reason?

Air Cdre Byrne—Because the wind velocity was high and there was a lot of rain. That makes radar detection performance less than ideal.

Senator JACINTA COLLINS—Let me understand this: the weather then led you to contract so that you had 100 per cent surveillance of the southern sectors—

Air Cdre Byrne—Actually, 95 per cent was what we determined.

Senator JACINTA COLLINS—and those the southern sectors were your priority tasks.

Air Cdre Byrne—They were.

Senator JACINTA COLLINS—So, as a consequence of the weather leading to that contraction, you ran out of fuel before you could get to the northern sectors.

Air Cdre Byrne—That is right. In fact, we finished about the centre of the area. We were tasked at the end of the sortie with doing a sweep of about 60 nautical miles from west to east, 60 miles north of Christmas Island. We reached a point where, had we gone on, we would have used up about another 150 or 160 miles going away from our home base before we would have been on task in the north-west. At that point we would have had to turn around and come back again. So it was largely a combination of weather and the initial tasking which made us search outside the area, combined with us searching that high-density area of fishing boats which was to the west of the area. In fact, that was pretty much most of the contacts that we found that evening, as you can see from the radar contacts, which are plotted on the information that was given to you.

Senator JACINTA COLLINS—So was there a decision taken in the course of this flight, when your radar identified at 1930 a vessel that was never visually identified, that, no, you could not go there yet, you needed to travel all the way over to the south-western sector and conclude surveillance there first?

Air Cdre Byrne—I cannot remember the 1930. I have got the surface detections for the second flight on the 19th. Could you explain that?

Senator JACINTA COLLINS—Flight 2, the 19th, right at the top, north-western sector, right on the dotted line, 1930.

Air Cdre Byrne—Yes, that was an unidentified radar contact. From the range that it was made at, it would have been a good radar contact. We simply did not have a chance to get up there.

Senator JACINTA COLLINS—That is what I am saying.

Air Cdre Byrne—In fact, if it was made at 1930, it would have been detected on a leg from west over to the 2045-2050. Our priority was to search the south-east area and then return to the north-west once we had finished the south-east. If we had gone to that contact that we detected at 1930, that would have seduced us away from our primary search area, which at that point would have been the south-east sector.

Senator JACINTA COLLINS—Yes. What I am trying to understand from the crew's point of view is whether they would have needed to say, 'We can't look at that now. Our priority is still to get over to the south-east, and if possible, although not likely, given how much fuel we have already used, get up there.'

Air Cdre Byrne—We would have searched all of the south-east sector and then have attempted to get up into that area after we had searched the south-east sector.

Senator JACINTA COLLINS—But, given that, just looking at the earlier map, you have conducted about two-thirds of the sortie by that stage, the crew would have been aware they were not likely to have enough fuel to get back there, wouldn't they?

Air Cdre Byrne—Probably half of the sortie.

Senator JACINTA COLLINS—If you look at the earlier page, you have got that loop right up the middle and then, as you have said, a very contracted sortie in the south-western sector. The final loop around is where you picked up that radar contact.

Air Cdre Byrne—We were off task at 2115, so that was a 1930; almost two hours to go.

Senator FAULKNER—But this is picked up by radar. Would that have to be a boat or could it be flotsam or something like that? Does radar pick up that sort of thing? It would have to be a boat, wouldn't it, of some description?

Air Cdre Byrne—I would suggest yes. I would think so. In that weather we were picking up wooden fishing boats at about 12 nautical miles and in particularly bad weather seven nautical miles. We would not have picked that up—I would think that that would have been a good radar contact, certainly nothing less than a boat.

Senator FAULKNER—Do you know how difficult it would have been to detect what that vessel was? Basically you had reached your limit of endurance, hadn't you? You could not go there.

Air Cdre Byrne—That is correct. We had reached our limit of endurance and that would have been 10 o'clock at night and there was another aircraft on task at 5.30 in the morning.

Senator FAULKNER—But it was because you had reached your limit of endurance that you could not check.

Air Cdre Byrne—We were unable to go up and look at it.

Senator FAULKNER—So that was not a weather issue?

Air Cdre Byrne—No, it was a fuel issue.

Senator FAULKNER—Who knows, but it does appear to be in the general area where SIEVX sank, doesn't it?

Air Cdre Byrne—We do not know where SIEVX sank.

Senator FAULKNER—That is why I used the major qualifier ‘general area’. I appreciate the debate around the location. But the point here is that that sort of radar would pick up only a vessel; it would not pick up flotsam and survivors.

Air Cdre Byrne—I would say that in the weather that was present in the area that night it would have been impossible to pick up flotsam or jetsam.

Senator FAULKNER—A lot of—how shall I describe them?—commentators have questioned why the surveillance patterns changed on 19 October. It is true, isn’t it, that routine surveillance took place over the Christmas Island surveillance zone on 18, 19 and 20 October?

Air Cdre Byrne—That is true. It is also occurred on 21, 22 and 23 October.

Senator FAULKNER—Sorry, it also occurred on?

Air Cdre Byrne—Routine surveillance occurred on 18, 19, 20, 21, 22 and 23 October. And on 19 October there was an additional sortie.

Senator FAULKNER—Yes, I appreciate that point, but I was limiting my questions to that. I was wondering whether the Orion crews were alerted to any potential SOLAS situation.

Air Cdre Byrne—Not at all—none.

Senator FAULKNER—Of course, the point here is—and I hear very clearly the evidence you give—that this is a situation that is revealed in ADF intelligence reports of SIEVX’s departure on 18 and 20 October. I think it is very important that this issue be nailed down. We also now know that this issue was not discussed in any detail at all at the People Smuggling Task Force. But you can categorically say to this committee that no SOLAS focused air search took place on any of those days in the relevant period from 18 October through to 23 October?

Air Cdre Byrne—That is correct.

Senator JACINTA COLLINS—In point of fact, you were not aware of any SOLAS information, were you?

Air Cdre Byrne—If there had been SOLAS information, I would have become aware of it.

Senator JACINTA COLLINS—So you never received the detail of the AFP report indicating a potential SOLAS situation?

Air Cdre Byrne—We received no information of an AFP report indicating SOLAS information. I understand, by reading Commissioner Keelty’s evidence, that there was no report until 23 October.

Senator JACINTA COLLINS—You will have to read very carefully how he characterises that. He says ‘all of the information that might have led to a SOLAS situation’, including reports from survivors, ‘was not available until 23 October’. He later corrected that to clarify that point that it all was not available by that stage. He has not denied that there was a report on the 20th that formed the basis of the ASTJIC report, that formed the basis of your report to crews at midnight on 20 October. But, from what you say to us, that report did not include any information that would lead to SOLAS concerns.

Air Cdre Byrne—That is correct.

Senator FAULKNER—In relation to the early morning flight of 19 October, on the chart there is a radar detection at 9.19 of something just outside the surveillance area, something that looks like it might have been heading south. Are you able to say what that was?

Air Cdre Byrne—No. It was a radar contact that could not be visually identified because of the range. Also, we were not in a position to further investigate that vessel, because it was within the no-go area, 24 nautical miles from the Indonesian baselines.

Senator FAULKNER—Was it ever determined what it was?

Air Cdre Byrne—Not to my knowledge.

Senator JACINTA COLLINS—What was the 9.32 one?

Air Cdre Byrne—Was this on the morning of the 19th?

Senator JACINTA COLLINS—Sorry, that was a merchant ship.

Senator FAULKNER—Are you aware of any reason why there was no afternoon search of the north-west quarter on 19 October, after the 9.19 radar trace that morning?

Air Cdre Byrne—The only reason I would put down is that there was no reason to have an afternoon search. There would have been no reason to put one up. Is this for the 19th?

Senator FAULKNER—Yes, 19 October.

Air Cdre Byrne—There was only the additional Orion flight that took off at about three o'clock in the afternoon and was on-task at about 5.30. It landed at about midnight or one o'clock in the morning.

Senator FAULKNER—Obviously what we are looking at is whether it is possible that any of these traces may have been SIEVX. No doubt this is something that has exercised your own mind.

Air Cdre Byrne—Exactly.

Senator FAULKNER—I suspect that this is an imponderable, isn't it?

Air Cdre Byrne—Very much so.

Senator FAULKNER—But, of course, the similar radar contact on the second flight at 1930 was in fact inside the surveillance area, wasn't it?

Air Cdre Byrne—It was.

Senator FAULKNER—So there were other elements that pertained there.

Air Cdre Byrne—That is right; we did not get up there because we did not have the fuel.

Senator FAULKNER—No report came from ASTJIC or from NORCOM at this stage that caused any difference to the way surveillance was done through this period from 18 to 23 October, was there?

Air Cdre Byrne—No.

Senator JACINTA COLLINS—Can you provide us with the detail of when you received the ASTJIC report on 20 October and, similarly, the NORCOM int sum on that day as well?

Air Cdre Byrne—The ASTJIC int sum of 20 October was received at the 92 Wing detachment at Learmonth in Western Australia, from where they were operating at the time. It was 200001 zulu, which was 200801 local time.

Senator JACINTA COLLINS—I was trying to trace that through what we know about when the originating report arrived.

Senator FAULKNER—It was from Colonel Gallagher.

Senator JACINTA COLLINS—No, earlier than that—the AFP one. When we go to the original AFP report, it arrived with Coastwatch at 9.30K on 20 October, and it was that report that Colonel Gallagher told us formed the basis of the ASTJIC report they put out that day to forward on that information as quickly as possible. When I trace through the timing of the 9.30K, it seems that it appears to be before the timing of the flight on the 20th. I am trying to understand why, if at 9.30K intelligence arrives, that intelligence would not be passed through to a crew that is commencing at about that time on-task.

Air Cdre Byrne—Let me put that report in kilo terms. That report was put out at 201001K, about half an hour after that time you mentioned.

Senator JACINTA COLLINS—No, the time I mentioned was 9.30K.

Air Cdre Byrne—Yes, and the ASTJIC int sum of 20 October was put out half an hour later.

Senator JACINTA COLLINS—So that was put out half an hour later?

Air Cdre Byrne—It was.

Senator JACINTA COLLINS—So it was received by you at that time?

Air Cdre Byrne—It was received half an hour later at 92 Wing det Learmonth, yes.

Senator JACINTA COLLINS—How does that time translate to where the P3 was at the time?

Air Cdre Byrne—The flight for the 20th was airborne when that report was received. The crew for the 21st were briefed on that information that night before they got airborne.

Senator JACINTA COLLINS—So they were not briefed on that information whilst they were on task?

Air Cdre Byrne—No, they were not.

Senator JACINTA COLLINS—Can I ask why that would not have occurred.

Air Cdre Byrne—I would suggest it was because there was no information in there that they needed to be briefed on. Let me also check on the timings. When the int sum was received on the 20th the aircraft was three hours from off-task. The only thing I can think of is that there was nothing of any criticality in that intelligence report to bring to the attention of the crew, which was airborne.

Senator JACINTA COLLINS—This in part reinforces for us why we need to see that report.

Air Cdre Byrne—This is the ASTJIC report?

Senator JACINTA COLLINS—Yes. As we understand it, that report was produced following the advice from AFP that there was an overcrowded vessel, with the AFP officer raising concerns about safety. I am finding it difficult to understand why, if that information was received by ASTJIC and used to compile their report—which they said they compiled immediately because of that sort of information—when it was received at your end it was not immediately translated to a crew that was in the air in the region at the time.

Air Cdre Byrne—No, there was no safety of life at sea information. Correct.

Senator JACINTA COLLINS—But we need to see what information there was to understand your comment about why whatever information was there was not translated.

Air Cdre Byrne—I will take it on notice, then, to attempt to get the intelligence people to produce that for you.

Senator FAULKNER—Was there any special tasking after it became clear that SIEVX had sunk?

Air Cdre Byrne—The first indication we had that the SIEVX had sunk was on the 23rd. It was reported to the crew that got airborne on the 23rd.

Senator JACINTA COLLINS—So on that occasion there was a report directly to the crew?

Air Cdre Byrne—ASTJIC NORCOM reported that a vessel had foundered, and this appeared in our subsequent int sum of 23 October. So it was reported, I suggest, at some time on the 22nd.

Senator FAULKNER—But that did not lead to any special tasking for your crews?

Air Cdre Byrne—No. We did not know where it was, for a start.

Senator FAULKNER—Has there been any role for your group in assessments—obviously ex post facto—of this whole episode: for example, has there been any involvement in the development of Rear Admiral Gates's report and the like?

Air Cdre Byrne—We provided this information that has been provided to you to Rear Admiral Gates's group. We have not undertaken any analysis. That is beyond our capacity—we do not have the information. What we have been doing is flying Relex sorties every day, including today.

Senator FAULKNER—But you were able to provide some of that material that we obviously now have the benefit of.

Air Cdre Byrne—Yes.

Senator FAULKNER—That also has obviously been part of Rear Admiral Gates's consideration. You have done your own assessment of—

Air Cdre Byrne—All I did was look through this information that was provided to me, which is based upon the information that we gave to them, and try to make a bit of sense out of it in anticipation of questions here. But I cannot make any sense of the concerns.

Senator FAULKNER—We probably will not need to detain you much longer, Air Commodore. But if there was this expectation in the southern sectors on the day of looking for two boats and one of them was located and one was not located, I suppose the issue is the logicity of looking further north. No doubt that logicity would have struck those who were determining the strategic and tactical approaches for the day, I assume.

Air Cdre Byrne—Not necessarily. What is important here is an understanding of the vagaries of weather, and the weather on the 19th was not good. And radar is not brilliant; it loses a lot of effectiveness, particularly against wooden hulled vessels in high sea states. The crew that flew on the 19th indicated that they assessed the probability of detection against a fishing vessel in the northern areas would be 75 per cent.

Senator FAULKNER—Probability against detection?

Air Cdre Byrne—No, probability of detection of 75 per cent. That is a subjective assessment by the crew on the day, but it does indicate that it is not a perfect radar search. The integrity of their search was reasonably good in the north of the area; I checked the tracks basing myself. If I were an operational planner I would start by concentrating in the south of the area to make sure that nothing got through in the seven or eight hours subsequent when there was no aircraft on task, whilst there could have been a vessel transiting from north to south.

Senator FAULKNER—Do you have any other insights into the surveillance operation and the sinking of SIEVX that you might be able to share with us to assist us in this element of this committee's inquiry?

Air Cdre Byrne—Unfortunately no, Senator, I do not. It was a terrible tragedy but unfortunately we had no safety of life at sea indications and really did not know that it had happened until the 23rd, based upon all of the information that we had at hand.

Senator JACINTA COLLINS—I want to go back to the issue of what advice ASTJIC did provide as a consequence to the AFP report from 9.30K on the 20th. I appreciate that you need to take on notice the full detail of that. What we know from our end is what information was fed into the system from the AFP end. We have some insight of that material, such as that it referred, I think, to overcrowding from ASTJIC. Are you able to indicate whether the overcrowding aspect was part of the report that was received by ASTJIC on that morning of the 20th?

Air Cdre Byrne—At some time on the 20th, ASTJIC would have put out a report which indicated that a small and overcrowded vessel had departed, because it was definitely in our intelligence summary for that night for the crew that was flying the 21st. So, yes, I can say it. I cannot say when, but I can say that the mention of a small and overcrowded vessel would have occurred sometime in an ASTJIC report on the 20th.

Senator JACINTA COLLINS—From your end, what would constitute a safety of life at sea situation?

Air Cdre Byrne—A report from AusSAR or the Australian Maritime Safety Authority or anything that we receive from any other party which would indicate that there was a safety of life at sea situation and anything that we would have picked up airborne. I cannot think of anything else.

Senator JACINTA COLLINS—If we were to ask the Federal Police, hypothetically, if they were aware that there was a vessel of the standard 20-metre length with more than 400 people on board and it was a confirmed departure, would you agree that for them that would constitute a SOLAS situation?

Air Cdre Byrne—No, I do not know. I do not know what a 20-metre vessel with 400 people on board looks like, to be frank.

Senator JACINTA COLLINS—You would be relying on the assessments of others?

Air Cdre Byrne—Yes, I would have to rely on the assessments of others.

Senator JACINTA COLLINS—If a safety of life at sea situation had been clearly announced from one of the other agencies providing you with information, how would the MPG have responded? What would you have done?

Air Cdre Byrne—We would have taken the most appropriate action depending upon the information that was provided to us. For example, if a last known position had been provided to us, we would then have launched an aircraft and undertaken a search pattern appropriate to the safety of life at sea incident.

Senator JACINTA COLLINS—If for instance on the 20th the assessment had been reached that there had been a SOLAS situation, if you had been apprised of the departure point as a confirmed departure, the destination point and the likely travelling speed, would you have gone directly to that point to look?

Air Cdre Byrne—If we had known that there was a safety of life at sea incident, we would have taken appropriate action, yes.

Senator JACINTA COLLINS—In relation to some of the survivors' reports, if a P3 had flown over the survivors in the water, would they have been likely to have heard it—taking into account the weather conditions as well at the time?

Air Cdre Byrne—If it had gone straight over the top, I would have thought so.

Senator JACINTA COLLINS—Right. Even in inclement weather?

Air Cdre Byrne—Perhaps if they were in cloud—

Senator JACINTA COLLINS—You were up that night.

Air Cdre Byrne—I really cannot categorically say so, but I would think that somebody who had an aircraft of the P3 type overfly them at 1,000 or 1,500 feet would probably see it or hear it.

Senator JACINTA COLLINS—Was that the height that you were flying at?

Air Cdre Byrne—Generally, the searches were at 1,000 feet and definitely below cloud and the cloud was 1,000 to 2,000 feet over that period.

Senator JACINTA COLLINS—I appreciate that you have taken on notice the issue of why the information you received from ASTJIC was not immediately disseminated to the crew that were in the area, but I want to look at the timing in that regard. If the report came through three hours before they went off task then they were actually in that north-west sector—the area where some people have been hypothesising the ship sank. It is critical to ascertain why that information was determined not to be relevant to the crew in the area at the time. Is there anything further you can say to us at this stage or do you need to take it on notice?

Air Cdre Byrne—The ASTJIC int rep of 20 October was posted to the ASTJIC web site at the time that I indicated at 20.00.01z. I cannot advise when the int rep was read at the Learmonth detachment, but I can advise that the P3 flight for 20 October would have been under way at that time.

Senator JACINTA COLLINS—We understand that but why wasn't the information conveyed to the crew in the air? I am assuming you have radio contact.

Air Cdre Byrne—You would have to determine, once you read it, that there was a reason to pass it to the aircraft.

Senator JACINTA COLLINS—That there was a significant cue in it, for instance?

Air Cdre Byrne—I think, in fact, what it would say is that it was a small and overcrowded vessel. All of the vessels are small and all of those vessels had been overcrowded at some point—it is just that there are varying levels of being overcrowded. That is the only assumption I could make at the time, but I cannot speak for the intelligence personnel who were putting together those int reports, particularly at ASTJIC.

Senator JACINTA COLLINS—No, but you can take that issue on notice.

Air Cdre Byrne—I will take it on notice, Senator.

Senator JACINTA COLLINS—I can understand if the answer is that there was insignificant information from ASTJIC but, from our end, we are tracing information that came from the AFP indicating more detail than you seem to understand was the case. Our process needs to sift through how that information came out of the system and if there was some chance that that information could have assisted people still sitting in the water at that point in time.

Air Cdre Byrne—Yes.

Senator JACINTA COLLINS—The other thing that I would like you to clarify for me is that my recollection of Colonel Gallagher's evidence was that they posted on the web site and made calls about that intelligence report, so it may be that a call had been made directly rather than just simply that the report was posted on the web site. My impression from his evidence was that they posted an immediate report rather than wait for the end of the day, for instance, and they made calls to alert some people at least—DIMA was one of those that was not alerted—to this information. Obviously it would be critical to alert people to that information, particularly the people out there surveilling and looking for the ship, so I would question, if no call had been made, why that was the case, too.

Air Cdre Byrne—I will put it to my intelligence people and ask them to work back. Really, my judgment is that a report of a small and overcrowded vessel does not, of itself, indicate a safety of life at sea situation.

Senator JACINTA COLLINS—No, I appreciate that. If that is all that the report said, then it does not accurately reflect the report that we understand an AFP officer delivered. That might be the critical issue. You said earlier that the role you saw for yourself here today was defensive.

I would suggest that that is far from necessary in relation to the surveillance, but there are—certainly in my mind—some communication issues that I would like to get to the bottom of, such as why it was that certain communication flows had not occurred. I think the last people who sit in the spotlight on that issue are the crews who were out on the aircraft.

CHAIR—That concludes our examination of you as a witness, Air Commodore. I understand a colleague of ours, Senator Ludwig, has flown with your wing under the arrangement for members of parliament to experience activity with the defence forces, and he reports to us the very high standard and the professionalism of your wing. I wanted to pass that on to you. Senator Mason, Senator Brandis and Senator Faulkner have left but that is meant as no disrespect to you. If they had not left, they would have missed their planes, and the end of the examination of you as a witness was in sight, so I pass on their regards and thank you for your appearance here.

We do not have a listed date for another hearing—this may well be the last formal hearing of the inquiry. I cannot be certain about that, because there are outstanding matters yet to be settled and we are in anticipation of some answers that are on notice as well as other information that has been requested. There is also the possibility of other witnesses being called. With those considerations, on behalf of the inquiry, I take this opportunity to pass on to the officers of the defence forces that have appeared before us and those that have worked with our secretariat in arranging appearances and helping witnesses our thanks and appreciation for the work that has been done. We do appreciate it, and it will make our report and our job in writing the report a lot easier. On behalf of the committee, I pass on our thanks and appreciation.

Committee adjourned at 6.45 p.m.