

**KEVIN, Mr Tony (Private capacity)**

**CHAIR**—I welcome Mr Tony Kevin. I have in front of me a document embargoed until delivery and release by the Senate select committee, and it is headlined ‘An opening statement’. I assume that is yours. Would you like to present it to us?

**Mr Kevin**—Yes. It is quite short, just over 10 minutes. I live in Canberra. I retired from the Department of Foreign Affairs and Trade in 1998 after 30 years of career service. My last postings were as ambassador to Poland and to Cambodia. My previous 13 years of service in Canberra, in the departments of Foreign Affairs and Prime Minister and Cabinet, involved senior level policy advice and policy coordination on foreign affairs, defence and security matters. In Cambodia, I worked closely with members of the Australian Defence Force who were conducting an Australian defence cooperation program. I had the pleasure on one occasion of sailing for some hours off the Cambodian coast as a guest of the Australian patrol boat HMAS *Dubbo*, which was on a goodwill visit to Cambodia. I greatly admire the professionalism, camaraderie and integrity of the Navy and of the Australian Defence Force as a whole. My testimony today is not intended to discredit or dishonour them.

Something went seriously wrong in the information chain in Australia’s border protection system during October 2001 that had terrible human life consequences. A boat left Bandar Lampung in southern Sumatra on 18 or 19 October, bound for Christmas Island, carrying over 400 people, more than double the average load of nine suspected illegal entry vessels—SIEV vessels—of similar size that were intercepted by the Navy between September and December. This boat was grotesquely overloaded, under armed duress and probably also sabotaged. It sank on 19 October, drowning 353 people and leaving only 44 survivors. It is important to note that the exact location of the sinking is in dispute. The original news report was that it sank 80 kilometres south of Java, out in the Indian Ocean. It is now being claimed officially that it sank in the Sunda Strait, between Java and Sumatra. Pending the production of clear evidence, I believe the original report is more likely to be true. I will be pleased to set out my reasons for this belief, and I hope I will be able to do so.

Coastwatch Australia knew from an intelligence source when this boat had left, where from, its likely speed and that it was heading for Christmas Island. This information was not given to Operation Relex or the Navy or the RAAF or Jane Halton’s People Smuggling Task Force. Coastwatch, which comes under Customs and is an integral part of Australia’s border protection system, did not pass this information on to the sharp end of Australia’s border protection system—that is, the aerial surveillance and naval interception force units belonging to Operation Relex. As a result, the Navy was not told about a grave safety of life at sea situation that was taking place only 150 nautical miles north of the nearest Navy ship, the frigate HMAS *Arunta*. Had *Arunta* known, it could have had its onboard helicopter at the site within 30 minutes. *Arunta* itself could have been there within four or five hours fast steaming. But *Arunta* was not told, Operation Relex was not told, Jane Halton’s PST was not told. Eventually, Coastwatch told the Australian search and rescue authority, Rescue Coordination Centre, RCC Australia.

The Navy and Operation Relex finally found out on Monday, 22 October, three days after the boat had sunk. They found out from an overdue notice issued by the Rescue Coordination

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Centre. The RCC issued this boat-overdue notice after Coastwatch advised it that the boat had failed to appear at Christmas Island on its estimated arrival date. It is not clear when Coastwatch advised RCC or when RCC issued the overdue notice. The RCC notice was only sent to its Indonesian search and rescue counterpart, BASARNAS. Oddly, the notice was never made public or circulated to all shipping, but the *Australian's* correspondent in Jakarta, Don Greenlees, got to hear of the overdue notice. It was reported in one of his 24 October stories on the sinking.

When I asked both Coastwatch and the Australian Maritime Safety Authority a few weeks ago for further information about this overdue notice, they refused to tell me anything on the matter. Why was information about a service departure, which Coastwatch clearly had, not given to Operation Relex and the Navy until far too late to save lives? How can such an important piece of information have been shunted off into a siding for up to three days at a time when the Australian government was giving top priority to its tough new border protection exercise, Operation Relex?

An argument of administrative error is not credible. The ADF, Coastwatch, our intelligence source agencies and the RCC are all efficient organisations. The first three were working together on a top priority, whole-of-government border protection operation. They would not have mishandled by accident the information that came into the Australian system about this boat. If this reporting was taken out of the information chain, this was done deliberately. Assuming the original intelligence report on this boat's departure had said that this grossly overloaded boat would soon founder and would not reach Christmas Island, there may well have been a view in Canberra, 'Well, we don't have to worry about that one.'

Somewhere along the line—more probably at a political level because I cannot see that such a serious decision would have been taken by senior officials without direction from ministers or their senior policy advisers—a person or persons may have read this report and decided that it should not be passed in to the official PST and Operation Relex information chain. Had PST and Operation Relex had this information, they would have been duty-bound to investigate a known or suspected SOLAS, safety of life at sea, emergency. This may have been seen as a complication and a distraction from the Navy's priority task at the time of intercepting and repelling asylum seeker boats that were reaching Australia's northern waters. 'This one is not our problem because it clearly is not going to arrive. Don't tell the Navy because, if we do, they will have to honour their safety of life at sea obligation.'

That is the central thrust of my testimony today. It is obviously a very serious matter. I submit that all of the Australian border protection system, not just the Navy, has a safety of life at sea obligation. With respect, I believe that obligation also now falls on this committee under its term of reference (c). Mark Metherell in the *Sydney Morning Herald* of 3 September 2001 quoted Prime Minister Howard as saying:

'We don't in this nation sink boats.'

Mr Howard assured that Australia's interception operation would be conducted lawfully and decently, yet on 19 October, in the middle of an intensive Australian border protection exercise, only a few hours steaming time away from HMAS *Arunta*, an asylum seeker boat sank in the most terrible way, drowning 353 men, women and children. I hope that senators might have had a chance to read the heart-rending accounts of survivors that were attached to my original

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submission. There are key issues at stake here both of human rights and justice and of the Australian Defence Force's integrity that need to be fearlessly investigated. The death of 353 people on their way to Australia, in my view, transcends normal restrictions about the privacy and deniability of all intelligence matters.

In any case, the questions that I ask today do not go to the sources of Australian intelligence about this boat. The important thing is that such information was in Canberra already and that it was mishandled in Canberra, with callous disregard for human life and with tragic consequences. There is clear public knowledge now from Australian official sources that there was some Australian official foreknowledge of the circumstances that led to the deaths of these 353 human beings. This cries out for explanation and accountability. Also, to leave the public record as it now stands would cast a serious slur on the honour and competence of our Navy and ADF generally, a slur that I do not believe should be laid at their door.

I will be pleased to offer detailed testimony this morning which is mostly based on previous testimony offered by others at this committee and also on a letter from the Minister for Defence, Senator Hill, to the Leader of the Opposition, Simon Crean, and which Mr Crean sent on to me. I would like to table this letter at the end of this opening statement.

My testimony will support the following propositions: (1) *Arunta* was 150 nautical miles away at the time this boat sank. *Arunta* was preparing for, or engaged in, the interception of SIEV6. *Arunta* did not know about the boat that was travelling in grave danger of sinking or had sunk already. Had *Arunta* known, its safety of life at sea obligation would have taken precedence over its interception mission. It would have immediately taken action to assist the threatened vessel or to try to rescue survivors during the 22 hours that they were in the water. (2) All the Navy's SIEV interceptions—and we now know there were 12 of them between September and December—relied on a three-stage process: first, a timely and accurate intelligence report giving place and time of embarkation, intended destination and number of passengers; second, aerial surveillance up to as close as 30 miles from the coast of Indonesia in the window of sea where the boat might first appear; and, third, the Navy's interception in the contiguous zone adjacent to Ashmore Reef or Christmas Island. For all this to work, information about SIEVs needed to flow efficiently through the information and command chain in Canberra. (3) An efficient system of Australian intelligence gathering was in place. (4) The second and third phases of Operation Relex had very good success rates. Only one out of 12 intercepted SIEVs arrived unexpectedly, and this was SIEV2 early in the operation on 10 September. By mid-October the border protection system was already highly reliable. (5) The testimony in this committee and Senator Hill's letter show that data on the vessel that sank was taken out of the information chain in Canberra and handled very differently from those 12 other SIEVs. We need to find out why. I now table Senator Hill's letter, which I regard as a public document. Mr Chairman, I believe you already have that letter.

**CHAIR**—I have a copy of it, yes.

**Mr Kevin**—I also table a set of illustrative maps and notes that may assist senators in their further investigations. I believe you have that information also. This completes my opening statement, the text of which I will be pleased to make public if the committee so permits. Thank you.

**CHAIR**—The letter is from Simon Crean to you, Mr Kevin, so it is your property. Is there a view in the committee about releasing this letter?

**Senator BRANDIS**—I do not see any difficulty.

**CHAIR**—I do not see any difficulty either. Okay, that is done. I take it that the maps are associated with your submission, Mr Kevin. I do not see any difficulty in releasing them in that context, so that is done as well. Thank you for your comments.

**Senator FAULKNER**—Mr Kevin, I have a question arising from paragraph 4 of your opening statement that this boat was grotesquely overloaded, under armed duress, and probably also sabotaged. I think it is unarguable that it was grotesquely overloaded, but could you explain to the committee in a little more detail why you described the boat as under armed duress and probably sabotaged?

**Mr Kevin**—I would be glad to. I am very grateful to Senator Brandis for having assisted in the publication of all this information about these 12 boats, and the matrix that Rear Admiral Smith presented is really quite invaluable in terms of public information and transparency. Most of these boats were about the same size; a few were smaller. When you look at the numbers that were loaded—and I think it is important to read out the numbers—you see the point that I am making about it being grotesquely overloaded. I will read the numbers out quickly: SIEV1, 228; SIEV2, 132; SIEV3, 129; SIEV4, 223; SIEV5, 238; SIEV6, 227—SIEV7 seems to be a smaller one, so I will not include that—SIEV9, 152; SIEV10, 164; and SIEV12, 162. All of these boats were roughly 19- to 20-metre fishing boats and they all carried numbers of people of that order. Honourable senators have seen photographs of how overcrowded these boats were. Just imagine a boat like that with about 420 people going on board. I rely for my information about the circumstances of loading on essentially two very high quality reporters.

**Senator BRANDIS**—Mr Kevin, before you go on, just to clarify my understanding, are you saying that our knowledge of the size of this vessel is a fair inference from the fact that the other vessels we know about were 19 to 20 metres, so you invite us to infer that it was probably the same size?

**Mr Kevin**—No. I have more information on that, Senator Brandis.

**Senator BRANDIS**—I am sorry.

**Mr Kevin**—One of the reports I have—but I may not be able to lay my hands on it immediately—says that it was a 19- or 20-metre vessel. I will get that information for you later. The story by Don Greenlees on 24 October went into great detail on how the boat was loading. The story by Ginny Stein on the ABC went into even more detail. She said on *PM* on 24 October:

People are saying that in the middle of the night they were taken down to a port, they can't say exactly where, they weren't aware of it, it was dark, they could not see the sign. But from there they were put on small boats and taken out to the ship which was moored some way out to sea. When they got there, what they saw was a boat that was very, very, low in the water. They realised it was horribly overcrowded and some did not want to get on board, but they were forced at gunpoint to do so.

On land, people also knew about what was happening. There were about 30 police there and they said that they did not want to go on either. At that stage, police it's claimed, beat them and forced them at gunpoint to get on the boats, and

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there police were in those boats where they had about 25 people at the time being taken out, and they were forced to get on the vessel.

She went on:

It was the same story that was told by virtually everyone there today that we spoke to. They had the same story—

that the police:

had guns, they were preventing anyone leaving. They forced them on to the boat.

**Senator FAULKNER**—And that is why you used the terminology ‘under armed duress’?

**Mr Kevin**—Correct. A similar story was told by Don Greenlees.

**Senator FAULKNER**—By the way, I was making clear that it seems to me to be unarguable that it was grotesquely overloaded. I appreciate you providing that background. You also made the statement that the boat was also ‘probably sabotaged’. Could you indicate to the committee why you make that point?

**Mr Kevin**—That judgment comes from the whole improbable list of coincidences associated with the sailing, sinking and subsequent rescue and return to Jakarta of the 44 survivors from this boat. One reaches a point where the string of coincidences is simply so long that it cannot be attributed to coincidence any longer.

As the boat was leaving, there were reports of a long crack in the hull requiring bailing almost from the start of the voyage. The engine failed after 30 hours of travel. That is fairly unusual because, even though these boats were at the end of their useful life, the engines were generally reliable enough to get them to Christmas Island or Ashmore Reef. Being so grossly overloaded, the boat overturned very quickly once it lost way, and that in itself indicates that the overloading was a kind of a strategy of sabotage, quite possibly. It broke up into planks almost immediately after it foundered, suggesting that the hull may have been weakened, and that ties in with the long crack in the hull.

Then we have this mysterious story of boats in the night, with searchlights, that witnessed the scene but did not try to rescue survivors. Then we have the miraculous arrival the next day of one or two fishing boats that say they saw luggage floating in the water and came out to look in an area where they do not normally fish. Then we have all the survivors being picked up by one fishing boat which turns out to be from Jakarta, 300 kilometres away—down here in the Indian Ocean, 300 kilometres away. It has not yet started to fish. It does not have any fish in the hold. It immediately drops everything and proceeds to take them back to Jakarta.

**Senator FERGUSON**—The boat came from Jakarta; therefore you are assuming that it was in the Indian Ocean, not the Sunda Strait.

**Mr Kevin**—Yes.

**Senator FERGUSON**—So you are making that assumption yourself, that it is not the Sunda Strait?

**Mr Kevin**—No, I am not making that assumption. The original report by Don Greenlees is that the boat sank 80 kilometres from land, into the Indian Ocean.

**Senator FERGUSON**—Is that a paper report?

**Mr Kevin**—Yes. And I would be happy to elaborate on that, but perhaps I could finish my reply to Senator Faulkner.

**Senator FERGUSON**—It is just that you said the Indian Ocean—because the official report is that it sunk in the Sunda Strait, that is all.

**Mr Kevin**—Yes. As I have said in my opening statement, Senator, that is an important point at issue.

**Senator FERGUSON**—Yes, I understand that.

**Mr Kevin**—As I say, the passengers were taken back 300 kilometres to Jakarta on this fishing boat that had not yet started to fish. They were transferred to another boat halfway along and they were met by Indonesian immigration police on arrival at Jakarta. All of that to me sounds an improbable chain of coincidence and it suggests that the sinking may have been a managed event. But that is not central to my testimony today. The central point about my testimony today is the whole issue of how information came down to Australia and how, once it got to Australia, it apparently was not handled in the normal Operation Relex chain of information and command, thereby creating a safety of life at sea situation that could have been prevented.

**Senator FAULKNER**—No, but you did make the statement in your opening address that the boat was probably also sabotaged. I was keen to understand why you made it. Is it those factors that you have just outlined to the committee that draw you to that conclusion?

**Mr Kevin**—Yes, those factors—primarily, the gross overloading. That strikes me as not sensible commercial conduct on the part of a people smuggler who wanted to remain in business. It is not very good for business to have 353 people drown. The substantial presence of uniformed personnel, whether police or military, suggests to me that the people smuggler's operation may have been taken over by a stronger force. And I am not saying here the Indonesian government. Indonesia is a very lightly governed country and it is entirely conceivable that some kind of operation may have been developed that the Indonesian government knew nothing about.

**Senator FERGUSON**—Who are you suggesting sabotaged it?

**Mr Kevin**—I am not suggesting anything at this point. I am just setting out the known facts about the departure, the sinking and the rescue and saying it creates a very great puzzle. And that therefore throws light on the importance of establishing what happened to the information about this boat when it got to Canberra.

**Senator FERGUSON**—It is just that all the other evidence of sabotage that we have had has been sabotage by the unauthorised arrivals.

**Mr Kevin**—I am sorry, I did not quite hear that.

**Senator FERGUSON**—All the other evidence that we have heard previously is that any sabotage that has occurred has been done by the people attempting to come to Australia.

**Mr Kevin**—Are you talking about after interception by Operation Relex forces?

**Senator FERGUSON**—Not always after interception, either, I don't think.

**Mr Kevin**—I understood from Rear Admiral Smith's summary of events that most of these things happened after interception.

**Senator FERGUSON**—Most of them; that is true.

**Senator FAULKNER**—But you have not drawn any conclusions about who or what might have been responsible for this probable sabotage?

**Mr Kevin**—Senator, I think we are dealing with a very complex and serious mystery here. The way into the truth, I suspect, will be quite long and tortuous. I do not think, in the limited time available for this committee hearing, that it is enormously useful for me to speculate further on what might have been the reasons for the sabotage or the agencies involved. Once the committee, as I hope it will, begins to address the question of what was in the intelligence report that came down to Canberra and why that information was not passed to the Navy, I think truth will flow from that process. I think the implications of this tragedy are so enormous that it is important that that be done.

**Senator FAULKNER**—I think these events are, as you say, extraordinarily tragic events. I am exploring the issue of probable sabotage because I think it is of interest to the committee. I think you just have to accept that perhaps the perspective on this side of the table as to the priority of issues is sometimes different from that of the witnesses. That is often the case here. I am concerned to hear what you have said about sabotage and that is why I am exploring it. But if there are any other concerns that you have or light you can throw onto this, I would appreciate your doing so. If there is no other information you have available to you that you can share with the committee, I am happy to move on to other issues.

**Mr Kevin**—Senator, there is something I would like to say that might be relevant to what you have just said. Without making any allegations or accusations, I want to say that the context and the timing of this sinking were enormously useful for the Australian border protection operation. Consider the chronology: until this time, there had been a number of SIEVs come down, six in all. *Arunta* intercepted SIEV6 on the 19th. In all of those cases, prior to this event which took place on 19 October, the strategy of repelling asylum seeker boats had not succeeded. Asylum seeker boats basically were not prepared to turn around and sail back to Indonesia. We were faced, as has been set out by official witnesses, with safety of life at sea situations in which, usually, the only way to deal with them was to take the people on board and transfer them to *Manoora* or *Tobruk*.

After this time, it became possible to escort or tow boats back to Indonesia—something that had not been politically possible before 19 October. Clearly, there had been considerable Indonesian resistance to that at the political level, especially at the level of the parliament, but

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this terrible tragedy perhaps made it easier to enable the government to simply lock the people in the hold and, without telling the people where they were going, tow them back to Indonesia. So it made the operation of Operation Relex a lot easier. It also allowed the Australian diplomatic initiative of a joint conference with Indonesia on people smuggling to be launched. It was under the shock of this incident that the Indonesian foreign minister announced two days later that he would host with Australia a people smuggling conference.

Finally, of course, the tragedy sent an enormously powerful signal of deterrence to both the people smugglers and the paying passengers—that travelling to Australia on these boats was no longer safe. It is interesting that only a few weeks beforehand Mr Downer was saying that travelling on these boats to Christmas Island or Ashmore Reef was pretty hazard free. The hazards may have begun, of course, after the interception by the Australian Navy, but until that point they were hazard free, yet after this they were clearly no longer hazard free.

The government has recently been congratulating itself on how successful it has been in halting the flow of people smuggling, and it mentions a number of reasons for that, but I would suggest perhaps the most important reason was this terrible tragedy, which really slowed things down. Of course, it took a week or so to take effect, but I think that tragedy continues to reverberate around the world.

**Senator FAULKNER**—I want to be clear on this. You are not suggesting any direct or indirect Australian involvement, or possible Australian involvement, in what you describe as the probable sabotage, are you?

**Mr Kevin**—I am not going to go beyond what I have said in my submissions on that. I have said that it is conceivable and I have said that the possibility has to be taken into account, but clearly one has to begin to get some hard evidence.

**Senator FAULKNER**—But you do not have any hard evidence.

**Mr Kevin**—The route into that sort of evidence, I believe, is finding out why this SIEV boat's embarkation for Australia was not normally handled in the Australian information and command system of Operation Relex. Once we know why that happened we will have a basis on which to investigate further these very serious matters.

**Senator FAULKNER**—Yes, but you do not have any evidence of this, do you? You do not have any evidence of any possible Australian involvement.

**Mr Kevin**—If I had that kind of evidence, I would be putting it in the hands of the police.

**Senator FAULKNER**—Yes. So you do not have any, do you?

**Mr Kevin**—No.

**Senator FAULKNER**—That is what I was trying to get to.

**Mr Kevin**—Yes.



**Senator FAULKNER**—I am not suggesting that you would not act properly and do as you suggest—put it in the hands of the police—but I wanted to be clear that that is the situation.

**Mr Kevin**—Yes.

**CHAIR**—Wherever the site of the sinking is, it is in Indonesian territorial waters, isn't it?

**Mr Kevin**—Not according to the *Australian* report of 24 October.

**CHAIR**—Are you saying that site in the Indian Ocean is outside Indonesian territorial waters?

**Mr Kevin**—That's right. If you go to map 2, you will see the site of the sinking.

**CHAIR**—Yes.

**Mr Kevin**—It is 80 kilometres from Panaitan Island, which is where I would guess that the boat overnighted, and it is probably about 50 kilometres from the nearest coast of Java—that is 30 miles in old language. The territorial sea extends 12 miles. It is of interest that Rear Admiral Smith said in his testimony that Australian Coastwatch and RAAF Orion surveillance aircraft operated to within 30 miles of the Indonesian coast. Where that boat sank—if the Greenlees report is right, which I believe it is—was both outside Indonesian territorial waters and within range of Australian air surveillance.

**Senator FERGUSON**—How many people besides Greenlees suggest that that is the position where the boat sank?

**Mr Kevin**—That is the only report.

**Senator FERGUSON**—So there is just this one report?

**Mr Kevin**—Yes.

**CHAIR**—I must say that I am confused when I look at these maps, because I am unable to automatically convert kilometres into nautical miles—

**Mr Kevin**—Nor am I.

**CHAIR**—and I need to do that. The close-up map only has a legend in kilometres.

**Mr Kevin**—Yes.

**CHAIR**—Has there been any coronial process in Indonesia about the loss of this life?

**Mr Kevin**—As far as I know, not. The only things that I know have happened are, firstly, a couple of policemen were arrested in Riau, which is up near Singapore, while trying to escape. Secondly, the people smuggler concerned was arrested and charged with documents fraud. That is all that has happened, as far as I know.

**Senator FAULKNER**—In paragraph 2 of the summary of your submission of 4 March 2002, you submit that there is a circumstantial case to be investigated: did any Australian agency or agent act in such a way as to bring about or make more probable the sinking of this boat on 19 October? Since the development of that submission, have you been able to go any further in answering the question that you asked in the submission?

**Mr Kevin**—Yes, I have, Senator. I have been able to rule out certain disturbing possibilities. I have been able, thanks to the evidence in this committee—and I am grateful for it—to rule out in my mind any possibility that an Australian naval boat may have been present at the scene of the sinking. I accept, without qualification and with relief, the information that the nearest Australian Navy vessel was 150 nautical miles away. But in ruling out one difficulty a new one presents itself, because Senator Hill's letter to Mr Crean and testimony by Rear Admiral Smith—which are completely consistent with each other—make clear that something very odd happened to the information that should have been coming in to Operation Relex about this boat and that it would have required a safety of life at sea response. One has to ask: did that happen? If it did, why did it happen? Conspiracy or stuff-up? We say in Australia that 'stuff-up' is usually the right explanation. But this one is more disturbing and I believe it will require on the part of the committee a vigorous examination of witnesses who can give the answers to these questions, which I cannot.

**Senator FAULKNER**—Do you mean Coastwatch and AMSA?

**Mr Kevin**—I would not want to teach the committee to suck eggs, but I think that obviously the players in this are both Coastwatch and Search and Rescue. Also, possibly it would require going to the Australian Federal Police and perhaps going back to some of the previous witnesses.

**Senator BRANDIS**—Senator Faulkner, do you mind if I ask a question?

**Senator FAULKNER**—Not at all.

**Senator BRANDIS**—Mr Kevin, I want you to go back to the answer before last when you said it was a conspiracy or a stuff-up. It is not really a binary choice like that, may I suggest to you, because if it were either a conspiracy or a stuff-up it assumes that something untoward happened. The other possibility, which so far the state of the evidence appears to me to be the overwhelming possibility, is simply this: your conjecture is baseless.

**Mr Kevin**—Sorry, what conjecture, Senator Brandis?

**Senator BRANDIS**—The circumstances referred to in Senator Hill's letter. You have drawn an inference from that and said, 'This is disturbing, it was either a conspiracy or a stuff-up.' But it is not a binary choice. It may be that your conjecture that something untoward happened is simply baseless, that nothing untoward happened. If you can direct us to some evidence to suggest something untoward did happen, then we will listen carefully.

**Mr Kevin**—I would be happy to, Senator. When we look at the whole issue of why this vessel was handled differently to the other 12 SIEVs, we have testimony from Rear Admiral Smith on 4 April—CMI *Hansard*, page 461—where he says:

... the first time that the Navy knew that this vessel had sailed was when we were advised through the search and rescue organisation in Canberra that this vessel may have foundered in the vicinity of Sunda Strait.

On the next day, 5 April—*Hansard*, page 488—he goes on to say:

At no time under the auspices of Operation Relex were we aware of the sailing of that vessel until we were told that it had in fact foundered.

This is the same Rear Admiral Smith who has told us—and I have no reason to doubt his testimony—that, in almost every case of these SIEVs coming down, we knew they were coming and that information was based on intelligence material. Operation Relex knew that and was therefore ready to prepare air surveillance and the Navy to intercept. So I do not think it is conjecture, with respect, to say that there is something very odd here.

**Senator BRANDIS**—Why, because in 12 instances we knew of SIEV vessels through surveillance—

**Mr Kevin**—Eleven out of 12.

**Senator BRANDIS**—And on this occasion we were unaware of it, at least at the same early time in its progress that we became aware of other SIEV vessels. Is that your point?

**Mr Kevin**—My point is that in the normal system these vessels were obviously tracked early so that the Navy could be positioned to intercept them at the right place. If I could go back to some of the things that were said by Admiral Smith on that, he said—

**Senator BRANDIS**—Before you go on to that, on map 3 of the document you have produced, where you identify the point of sinking, that is nowhere near Australian territorial waters.

**Mr Kevin**—I have not suggested it was. I have, however, suggested that that was well within the area at which Australia was conducting forward air surveillance of boats that were known to be coming down to Australia.

**Senator FAULKNER**—What you are saying is that there is an intelligence report or reports, as happened so often, including on-the-ground reporting, it appears, in Indonesia as well as air surveillance and whatever other intelligence sources are available to Australian government agencies in relation to SIEV vessels. There is also intelligence reporting in relation to this vessel, the vessel that sinks on 19 October. That is right, is it not?

**Mr Kevin**—Yes.

**Senator FAULKNER**—Coastwatch has that, does it not?

**Mr Kevin**—Yes.

**Senator FAULKNER**—We know that Coastwatch has it, trying to work through this now, because Senator Hill sends Mr Crean a letter and paragraph 1 on page 2 of that letter describes the process.

**Mr Kevin**—Yes.

**Senator FAULKNER**—It says ‘Consultation with the Rescue Coordination Centre (RCC) Australia’, which I described broadly as AMSA a few moments ago. I probably should have said the Rescue Coordination Centre, which I think is an agency of AMSA, is it not?

**Mr Kevin**—Yes, I believe so.

**Senator FAULKNER**—It says:

Consultation with the Rescue Coordination Centre (RCC) Australia has indicated that Coastwatch Australia advised the RCC that a vessel had departed the Sunda Strait on or about 18/19 October 2001 bound for Christmas Island, and that the vessel was overdue.

So we know that that advice goes from Coastwatch to RCC. That is right, is it not?

**Mr Kevin**—Yes.

**Senator FAULKNER**—Do you have any view as to when that advice might go from Coastwatch to RCC?

**Mr Kevin**—There is no public information on that.

**Senator FAULKNER**—This is why I said earlier we can ask Coastwatch when they come before us and we have AMSA a little later in the day and obviously we can ask them that question and no doubt our witness will be able to answer it. You are saying, are you not, that at least in relation to the sort of normal intelligence reporting there is information that this vessel is leaving Indonesia. Is that your point?

**Mr Kevin**—Yes.

**Senator FAULKNER**—And after that somehow, but you do not know how, it is possible that the normal processes in terms of the information flow to other Australian government agencies do not apply. Am I understanding you correctly? Is that not what you are saying?

**Mr Kevin**—That is right. And there is evidence to that effect in this committee.

**Senator FAULKNER**—That draws you to say to this committee—I am just following through what Senator Brandis has I think usefully asked you—that there is a possibility here that this is either a conspiracy or a stuff-up. That is what you said, isn't it?

**Mr Kevin**—Yes.

**Senator FAULKNER**—And Senator Brandis puts to you that it may be neither.

**Mr Kevin**—Or perhaps, as Senator Brandis puts it to me, it may be somewhere along the spectrum between conspiracy and stuff-up.

**Senator BRANDIS**—No, that is not at all what I said to you, Mr Kevin. I said it may have nothing to do with conspiracy or stuff-up, both of which imply that there was something untoward. It may be the very opposite of that—that is, that there was nothing untoward and what you are saying is merely baseless conjecture unsupported by any empirical fact to which you can point.

**Mr Kevin**—Your colleague Senator Faulkner has just helped me clarify it in my own mind. I just find it very strange—why doesn't information that Coastwatch has about a suspected illegal entry vessel coming down to Australia go to the other parts of the border protection interception system?

**Senator FAULKNER**—We do not know that. Let us try to deal with this logically. I made the point to you a moment ago. You say that it is a conspiracy or a stuff-up. Senator Brandis put to you that it is neither a conspiracy nor a stuff-up—it might be something else. You do not accept that. You are satisfied that it is either a conspiracy or a stuff-up or somewhere on the continuum between a conspiracy and a stuff-up. That is what you are saying, is it?

**Mr Kevin**—Yes. Clearly something went very wrong.

**Senator FAULKNER**—Would you still say that if this committee received evidence that Coastwatch perhaps did not receive these intelligence reports as early as it might have in the case of the other SIEVs, for example?

**Mr Kevin**—I think that would simply take the burden of question back one stage in the system to the intelligence agency that provided the report. What has come through in the general testimony in this committee is the importance of accurate and timely reports coming down on these boats so that the Navy has time to send its air surveillance out to survey the windows in which the boats are expected to appear and then to position the boats to intercept them. We are dealing with very limited assets here—only a few boats and a few aircraft. The intelligence, if it is late, is not terribly useful.

**Senator FAULKNER**—I appreciate that. I want to be clear on this and I am going to try and choose my words advisedly. I think you are saying to us that your thesis is that, given the intensity of this issue in terms of its prominence, government policy, the sensitive time and the priority that Operation Relex has, with the resources applied to Relex it is not likely that any of these vessels would not have been closely tracked. Is that what you are saying to us?

**Mr Kevin**—Yes.

**Senator FAULKNER**—Without going into all the detail of it, you are making that assumption?

**Mr Kevin**—It is not really an assumption. It is based on my careful reading of evidence in this committee by expert witnesses.

**Senator FAULKNER**—I think it is fairly described as an assumption at this point because we do not have any evidence to either support it or not support it. I am not dismissing what you are saying to the committee at all—I am, as always, open-minded about these sorts of things.

But I think it is fair to say that that is a conclusion you draw. You may draw that on the basis of the experience with the other SIEVs—which I think is also true, isn't it?

**Mr Kevin**—Yes. To make this a little more concrete, could I just read out some of the things that Rear Admiral Smith actually said in this committee to remind senators that, even if I am making an assumption, it is an assumption based on good empirical knowledge that has emerged in this committee? Rear Admiral Smith said, on page 454 of *Hansard*, that intelligence sits behind all monitoring and interception activities. He said that he was not 'able to share that information at this time'. He went on to say:

On the basis of some of that information, we were able to make some assessments on windows when these vessels might appear. We then were able to adjust our patrols and so forth to make intercepts.

He says that they did not know every time these things were going to happen—'We planned on not knowing.' He said that their surveillance operation involved ships, RAAF P3 Orions and Coastwatch aircraft. He says:

We had a patrol arrangement in place, and we were relying upon a whole series of activities to give us the information that we needed ... We certainly had some information that boats might be being prepared in different parts of the archipelago.

He says that, apart from one SIEV—and that was the early one, SIEV2—'we pretty much knew where things were going'. I think all of that is fairly conclusive information that the Navy normally had a good idea of what was coming and when it was coming.

**Senator BRANDIS**—How is the piece of evidence that you just read from Admiral Smith—let me quote it back to you, 'We did not know every time these things were going to happen,'—conclusive of the opposite proposition, which you have just articulated?

**Mr Kevin**—Simply because we did know something, because Coastwatch had a report that a boat was coming and the boat failed to arrive, and then Coastwatch asked Search and Rescue to put out an overdue notice.

**Senator BRANDIS**—Hang on a second. You just said, 'I can show you some evidence from Smith that supports my proposition.' That evidence included his statement, 'We did not know every time these things were going to happen.' How does that support your proposition?

**Mr Kevin**—There are two different propositions here: one is the proposition that we knew pretty much about all the boats that we intercepted, so—

**Senator BRANDIS**—Even the qualifying words 'pretty much' suggest that that was not universally true.

**Mr Kevin**—He said actually, 'Apart from one SIEV, we pretty much knew where things were going.' Those were his words.

**Senator BRANDIS**—'Pretty much'?

**Mr Kevin**—Yes.

**Senator BRANDIS**—So he qualifies himself. He says, ‘We generally knew, pretty much knew.’ But he does not say, ‘It was universally true that we knew.’ Then he says, ‘We did not know every time.’ How does that support what you are saying? It says the opposite, Mr Kevin.

**Mr Kevin**—I do not think so, Senator, with respect. It simply says that we knew about 11 of 12 boats that came, in advance, and, in this particular case, we knew about the thirteenth boat—let us call it SIEV13, an unlucky number—because Coastwatch knew it was coming.

**Senator MASON**—But even then, Mr Kevin, ‘in advance’ means different things in different contexts—it is when they left port in Indonesia or sometime subsequent to that. ‘In advance’ means different things with respect to different SIEVs.

**Mr Kevin**—That is an important question—

**Senator MASON**—You would agree with that, wouldn’t you?

**Mr Kevin**—I am glad you asked that question. I would be happy to reply to it. In the case of SIEV13, the Coastwatch must have known when it left in order to be able to know when it was due to arrive.

**Senator MASON**—In relation to that, yes. But what I am saying is in relation to all the SIEVs. The time of departure from Indonesia was not known in every case. That is all I am saying. When you say it was known ‘in advance’ that means different things in relation to different SIEVs. Do you agree?

**Mr Kevin**—Possibly.

**Senator FAULKNER**—As I said before, we can ask other agencies—in this case particularly Coastwatch and the RCC as a starting point—and there may be other agencies involved, as you say. The starting point may well be the others providing intelligence reports to Coastwatch and the like. I understand all that. But at issue here in the first instance is when the process starts from Coastwatch to AMSA and beyond.

**Mr Kevin**—I would not necessarily confine it to Coastwatch and AMSA because—

**Senator FAULKNER**—I am not, but we have substantive information now from Senator Hill, in black and white—you accept what Senator Hill said to Mr Crean, don’t you? Or do you? You do not have to.

**Mr Kevin**—It is an interesting question.

**Senator FAULKNER**—Do you accept the veracity of what Senator Hill said to Mr Crean on that matter?

**Mr Kevin**—I have a problem with the statement that it has been assessed that the vessels were in the vicinity of Sunda Strait. That is a very important point.

**Senator FAULKNER**—You have a problem with that. Is there anything else you have a problem with?

**Mr Kevin**—I must say I have not been reading the letter in that light. I was more reading it as a source of reliable information.

**Senator FAULKNER**—Do you, for example, dispute the advice that the closest naval vessel was 150 nautical miles away?

**Mr Kevin**—No, I do not.

**Senator FAULKNER**—You accept that?

**Mr Kevin**—I do. In fact, I have used that information to try and verify my analysis that the boat was not in the Sunda Strait. In fact, it could not possibly have been in the Sunda Strait if it was 150 nautical miles away from *Arunta*.

**Senator FAULKNER**—So you also accept what Admiral Smith has said in relation to the inability or incapacity of any Australian naval vessel to assist in this circumstance?

**Mr Kevin**—I would not put it that way. There is an important qualification: had the Navy known, *Arunta* could have had a helicopter there in half an hour and *Arunta* itself could have been there in four or five hours steaming time.

**Senator FAULKNER**—Yes. I read that in your opening statement. Let me ask the question another way: do you accept the Navy did not know?

**Mr Kevin**—I accept that Operation Relex and the Navy did not know in their official capacities, yes.

**Senator FAULKNER**—You think they might have known in an unofficial capacity?

**Mr Kevin**—Senator—

**Senator FAULKNER**—You qualify, which is fine—we all do. I am in politics; I have even qualified the odd answer from time to time—I admit it. That is a very qualified answer. Why do you make the qualification?

**Mr Kevin**—I think there is a great need for clarity in all of this and both Jane Halton, who said that the task force was not aware of the vessel that sank, and Rear Admiral Smith, who said:

At no time under the auspices of Operation Relex were we aware of the sailing of that vessel until we were told that it had in fact foundered.

might welcome an opportunity to also say that they did not have any corridor knowledge of these matters.



**Senator BRANDIS**—But you have no evidence of that, either. You bring to this committee no evidence that the Navy knew of this, either officially or unofficially, do you?

**Mr Kevin**—I have evidence which has come from this committee that the Navy did not have official knowledge of this.

**Senator BRANDIS**—And you have no evidence that the Navy had—to use your expression—unofficial knowledge either, do you?

**Mr Kevin**—No.

**Senator FAULKNER**—What I am exploring is whether you do have any or why you qualify your answer in the way you do. It is because Admiral Smith, in your view, has given a qualified answer to this committee in that he talks about the Navy under the auspices of Operation Relex. That is why you qualify your answer to me. Is that right?

**Mr Kevin**—I found that qualification interesting. I am conscious of the fact that Coastwatch is part of Operation Relex, and so I am a little curious as to how Coastwatch had the information and other parts of the system did not. That is strange.

**Senator FAULKNER**—If I could try and sum this up: you are concerned about when Australian authorities first knew about this vessel leaving Indonesia. That is right, isn't it?

**Mr Kevin**—I am concerned that if information about this vessel included information about its unseaworthy state that information should have been handled in the normal way to enable a safety of life at sea response. I am concerned about that.

**Senator FAULKNER**—Beyond the matters you have canvassed in answer to questions asked so far this morning by committee members and in your opening statement, is there any other matter or evidentiary support that you have or that you can provide to this committee today that you believe it would be appropriate for this committee to explore? I accept that this is a serious issue. I am sure that is a view shared by every member of this committee. I would certainly hope it would be. The number of people that drowned on this vessel is horrific and I accept your very deep concern about it. But if there is any other matter or piece of evidence that you have that you have not outlined to us and that you can draw to our attention, it would be appropriate for you to place it on the record.

**Mr Kevin**—There is. It is the issue of why I believe it is reasonable to conclude that the boat was 80 kilometres south of its last landfall when it sank and not in the Sunda Strait. This is not—

**Senator FAULKNER**—Let us deal with that in a moment. Is that the only—

**CHAIR**—I wonder if this might not be a bad time to break for lunch and come back at 2.18 p.m. Can I divine from the questions that Senator Faulkner is wanting to try to get the thing wrapped up again? That might give you a chance to order your thoughts as well, Mr Kevin.

**Mr Kevin**—Thank you.

**Proceedings suspended from 12.30 p.m. to 2.18 p.m.**

**Senator FAULKNER**—I asked Mr Kevin prior to the luncheon break whether there were any other outstanding matters that he had not presented to the committee in either a submission or an answer to questions that he felt might be beneficial to us. I think he was about to respond to that when we went to lunch, so we should give him that opportunity.

**Mr Kevin**—The main matter on which I wish to speak at some stage is the issue of the location of the sinking, but before I get to that I would like to say a couple of things. Firstly, I would like to give Senator Brandis the information about where the 19-metre boat reference came from. It came from an article by Don Greenlees in the *Australian* on 24 October, ‘Forced on to death boat’, and it contained the sentence: ‘Authorities say the 19m vessel could safely carry fewer than 100’.

I would also, in the same context, like to say something about the importance of the reporting of Don Greenlees in this affair. I think there was a reference by Senator Ferguson at one point that I was relying on one newspaper report. Don Greenlees has just won a Walkley Award: he is the winner of the 2001 Walkley for the best Asia-Pacific coverage, largely arising from his series of articles on people-smuggling and on this event. The judges were impressed by the detail of names, faces and connections revealed in a difficult operating environment. I have read all of Greenlees’s articles on people-smuggling; they are remarkably detailed and remarkably well informed. I admire them for that. What I am about to say is not in any sense intended to reflect adversely on Don Greenlees.

As a former ambassador in Cambodia, which in some ways is a similar environment to Indonesia, I know that this sort of detailed, intensive journalism reflects fairly intensive contact with Australian official sources. I am confident that, first of all, all this detail that Greenlees has is pretty accurate on the events surrounding the embarkation of this boat. Secondly, it is a reasonable supposition, not conjecture, that Australian Federal Police up in Indonesia would have had access to the same kind of detailed information. I think that is a reasonable deduction from the available information.

**Senator BRANDIS**—Like a lot of the things you have said to us, you still do not know. This is inference and conjecture. In fairness to you, some of the inferences are more readily drawn than others. Nevertheless, you still cannot point to any evidence to support the propositions you have been advancing.

**Mr Kevin**—Senator, we are not in a court of law. I am not tendering evidence.

**Senator BRANDIS**—This is a fact-finding inquiry, and a conclusion as to whether or not a fact exists must be based on evidence.

**Mr Kevin**—Senator, you mention inference and conjecture. I think there is a great deal of difference between the meanings of those two words. I am prepared to accept that what I have said this morning is inference, but it is inference from known facts. To me, there is a big difference, with respect, between that and conjecture. It is a known fact that this boat sank, that 353 people drowned. It is a known fact that Coastwatch Australia had information on the boat’s departure and was expecting it to arrive on or about Monday, 22 October. It is a known fact that Operation Relex and Jane Halton’s People Smuggling Task Force did not have that information. Those are important discrepancies in the Australia information and command chain. I do not

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feel comfortable with the description of them as conjecture. They are certainly inference, but they are not conjecture.

At this point perhaps I could say something about the location of the sinking because it is quite important, not in terms of search and rescue obligation, because Rear Admiral Smith said that the Navy would have gone to the rescue, even into Indonesian territorial waters, but obviously in terms of the politics of the whole thing it is fairly important to establish where the boat sank. I have circulated a set of three maps. Map 1 is the only map that I have seen plotting the presumed location of the sinking, and it appeared in the *Australian* on 24 October. As you see, it is well out to sea, out into the Indian Ocean south of the western tip of Java. In Greenlees's article of that same date we have a statement that:

About 80km from land at 2pm on Friday—

that is the 19th—

the fishing vessel began to take heavy water, listed violently to the side, capsized and sank within an hour.

I have done the exercise of creating these two news maps, map 2 and map 3. I should perhaps say that, although I am not a navigator, I do have a degree in civil engineering and I do know how to read maps, measure and make basic calculations. I worked backwards from the known facts of *Arunta*'s interception of SIEV6. We do know quite a bit about that from the information provided by Rear Admiral Smith. I will read from the event summary for SIEV6:

ARUNTA intercepted the SIEV at approximately 190109Z Oct (0809 local) north of CI.

That is, Christmas Island. Later on it says:

SIEV 06 entered the ASCZ—

Australian contiguous zone—

and was boarded by ARUNTA at approximately 191045Z (1745 local) without incident.

That means that *Arunta* was shadowing SIEV6 for approximately 9½ hours, travelling south towards Christmas Island, and intercepted it at the 24-mile edge of the contiguous zone. That is 20 nautical miles north of Christmas Island. I am making a judgment that SIEV6 was travelling at five knots. That seems to be the average speed at which these fishing boats are quoted as travelling, and the sort of travel times we have seen in the reporting of them coming down to Christmas Island indicates that is, give or take a knot or two, about right.

Applying that speed of five kilometres an hour to that time of 9½ hours, we get a position that *Arunta* first encountered the SIEV four to five nautical miles north of the contiguous zone where it finally intercepted it. That puts the point of first encounter at 65 nautical miles north of Christmas Island. I have plotted that point on map 2 with the reference 'Presumed position of HMAS *Arunta*'. I have then measured 150 nautical miles north of that, back towards the Sunda Strait, based on the evidence of Rear Admiral Smith and also Senator Hill's letter that *Arunta* was at no time closer than 150 nautical miles from the sunken vessel. Where I have marked the cross is the position of the sunken vessel. I have marked its sinking site. Reassuringly, from the

point of view of my thesis that the boat did sink at that point, that point is precisely the same point as is shown on the small Australian map on 24 October.

It also fits with the Greenlees account of the voyage because Greenlees has the boat leaving from Bandar Lampung in the early hours of Thursday morning, travelling through the day, overnighing at an island and the next morning, Friday, going on and sinking about six hours later. If you look at map 3—I have not plotted the course here—you can see that the distance from Bandar Lampung, which is up in the top left-hand corner of the map, down to Panaitan Island is about 120 kilometres, which is the sort of distance that one of these boats would cover in a day. Also, the distance from Panaitan Island down to the sinking site that I have marked is about the same sort of distance the boat would cover in half a day, that is, until it sank on the Friday. So that fits also. We have this position triangulated both from the information we know about how far *Arunta* was from it and also from the information we know about the voyage—they both lead to the same conclusion as to where it was.

The alternative hypothesis that it sunk in Sunda Strait breaks down for several reasons. Firstly, it means that HMAS *Arunta* would have had to have been about 70 nautical miles further north at the point at which it intercepted SIEV6 for it to have been still 150 nautical miles from the sunken boat. When we do that, we find then that when *Arunta* was accompanying SIEV6 down to the edge of the contiguous zone, *Arunta* and SIEV6 would have had to have been travelling at about 12 knots for 9½ hours. These SIEV boats, particularly ones with the load factors that they were carrying, would not have travelled comfortably or safely for 9½ hours at 12 knots. This particular SIEV boat was carrying 227 people. It would not have gone for 9½ hours at 12 knots, so that does not seem to hold water.

There is also the point that there is a lot of shipping in the Sunda Strait. It is a very busy area, and it is rather difficult to conceive that a wreck of this kind would have taken place in Sunda Strait and that the survivors would not have been found for 22 hours. There is also the fisherman's report that they had gone out well beyond their normal fishing grounds, and this also suggests a location well beyond the Sunda Strait.

The survivor's journey back to Jakarta took two to 2½ days to cover a measured distance of some 300 kilometres. If you look at my projected route back on map 3, that is a distance of about 300 kilometres and it took them 2½ days travelling, once again, at about five knots. If you go for the hypothesis of a sinking in the Sunda Strait, you are dealing with a much shorter distance and you must ask yourself: why would it take 2½ days to cover 150 kilometres?

For all those reasons, the deduction that the Greenlees' position of sinking is correct seems to be reasonable on the known facts. That is why I made the statement in my opening statement that I would stick to that position as the site of the sinking. Again, the important thing about that position—and it is very important—is that, firstly, it is outside Indonesian territorial waters and, secondly, it is within the normal operating range of Australian air surveillance, had Australian air surveillance known that there was a boat coming from that general direction at that time.

**Senator FAULKNER**—Are you aware of any photographs of the vessel that sank? There are some P3 Orion photographs, aren't there, of the vessel?

**Mr Kevin**—I have heard a bit of gossip that there may have been P3 Orion photographs, but I have never pursued it and I do not know any more than that.

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**Senator FAULKNER**—It is only gossip, as far as you know?

**Mr Kevin**—That is all that I have heard at this stage. I am hoping that one result of my testimony in this committee will be that others who know a lot more than I do may be encouraged to come forward and offer information about this very serious tragedy that happened to an asylum seeker boat that was on its way to our country.

**Senator FAULKNER**—How did you become involved or develop an interest in this particular incident? As I said before, it is a horrific tragedy and it is understandable that anyone would take a close interest in it, but you have taken a particularly close interest in it. I just wonder why you have put so much effort into it. Do not read into that that I am critical in any way, because I am not. I am pleased that an Australian citizen would take such a close interest in something like this. How did it develop?

**Mr Kevin**—First of all, like all senators, I was shocked and appalled by the whole thing. I am sure you all remember these terrible pages of the *Australian*. They are indelibly cast in my memory. Even at the time, I felt this was just too enormous and too horrible to contemplate—how could such a dreadful thing have happened. Then there was an article by Vanessa Walker in the *Australian* on 21 December about one of the survivors being granted a temporary protection visa in Australia. I was going through my clippings towards the end of January, and I noticed a couple of paragraphs at the end that said that a survivor's account suggested that he had seen large boats with searchlights and was told later by fishermen that these were Australian. The next paragraph said that a Department of Defence spokesman said that the nearest Australian boat was 230 nautical miles away.

I was interested in that. At that time I did not know anything about it. I rang Vanessa Walker and asked, 'Where does this come from?' She gave me the name and contact details for Mr Keysar Trad, who is an Australian of Lebanese origin, who had translated into English the full set of videotaped survivor accounts that were taken at the UN hostel in Bogor on the first day after the people were brought back to Bogor, on 23 October. He emailed me those survivor accounts. I read them all and I was appalled, distressed and horrified. I started to re-read the Greenlees reports from 24 and 25 October in the context of those detailed survivor testimonies, I suppose you could call them. More and more I became convinced that this horrible event could not have been an accident; there were just too many strange coincidences piled upon coincidences.

It went from there. I have to say that this has been a long process of circling closer to the truth. It has been done by the scientific method of eliminating things that are clearly not true and, as one eliminates things that are clearly not true, hopefully, in the end, one gets to what may be true. In the process of that work I spoke to a couple of Australian journalists based in Jakarta—Ginny Stein, now with *Dateline*, and Lindsay Murdoch, from the *Age* Fairfax group. I also spoke with personnel from the International Organisation of Migration and the UN High Commissioner for Refugees. I spoke with a couple of Indonesian speakers I know in Canberra to ask them how this event had been covered in the Indonesian press. And, perhaps most importantly of all, I started reading very carefully the *Hansard* of this committee. I was obviously looking at it from a particular point of view, which was to see what light might be shed on, first of all, the general intelligence and aerial surveillance and interception procedures that came out of the committee's work. Also, I was looking at the way witnesses responded to

specific questions regarding this boat. There has been, I think, a very useful process of getting closer to the truth. That is really all I can say.

**Senator FAULKNER**—Thank you very much.

**CHAIR**—I am trying to recreate your position and I would like you to comment on the following. In your submission, under the heading ‘The sinking on 19 October’, in the second paragraph down you say:

In rough seas, it put into an island in the Sunda Strait on Thursday night. 24 passengers refused to continue and disembarked. The remaining 397 people decided to continue the journey to Christmas Island early on Friday 19 October.

Do you have any idea what island in the Sunda Strait that was?

**Mr Kevin**—I believe that, on the basis that they had sailed all day—and it would probably be better to look at the larger scaled map 3 at this point—it would be that rather big one down near the corner of Java, which is called, Panaitan Island.

**CHAIR**—What I am trying to come to grips with is that, according to the reports, these people were forced onto the boat, using smaller rowing boats or whatever, at gunpoint, if they put ashore at Panaitan Island. What forced them to continue? The boat clearly was not seaworthy and a number of people had left. Was there any suggestion of compulsion to force the others to continue?

**Mr Kevin**—That is a very good question. I can only suggest a number of possible reasons. First of all, these people had a huge and urgent desire to get to Australia. Many of them had relatives here and so on. Second, they had made it through one day sailing to Panaitan—if this is correct—and, most of them being very deeply religious, they may have thought God would help them through the rest of the journey. If they had got this far perhaps they could keep going. It is strange, isn't it, that they did get through that whole first day without sinking?

**CHAIR**—The point I am coming to is that if they were forced onto the boat, when they came ashore and disembarked at Panaitan Island—if they were not forced to continue at that point—presumably more of them would have left the boat, I do not know.

**Mr Kevin**—I think that by that stage most of them might have decided in a fatalistic sort of way, ‘We have got this far, let's hope we get the rest of the way.’ I think those who wanted to leave the boat at Panaitan were able to do so, judging by the accounts. Can I also say—this might be important for future investigations—that the people who left the boat at Panaitan are actually still in the UN hostel at Bogor. Unlike the survivors of the sinking proper, they have not been sent to various resettlement countries. I think that all of the original group of 44 survivors have now been resettled around the world. I think three or four came to Australia and the rest went to other countries. But the 24 people who got off at Panaitan Island are still in the UN hostel at Bogor. They would be a very valuable source of information if this were to be pursued seriously further.

**Senator FAULKNER**—What about the 10 who refused to embark at Bandar Lampung?

**Mr Kevin**—I have heard no more about them. All I know about them is what is in the—

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**Senator FAULKNER**—I am not doubting for a moment that people are basically forced onto the boat at gunpoint. Why are these people able to avoid embarkation, do we know?

**Mr Kevin**—Because they paid \$400 in bribes to get off—and money will take you a long way.

**Senator FAULKNER**—How do we know that?

**Mr Kevin**—That is in the Greenlees report.

**CHAIR**—This boat, when it departed Panaitan Island—if that was the land fall—was motoring at about three nautical miles an hour or about five kilometres an hour. Is that correct?

**Mr Kevin**—I am working on five knots, which is five nautical miles an hour.

**CHAIR**—Five knots?

**Mr Kevin**—A knot is one nautical mile per hour.

**CHAIR**—I know that, but I am just trying to make the conversion to kilometres because these things are in kilometres as well.

**Mr Kevin**—It is difficult.

**CHAIR**—You say they were about 80 kilometres from land at 2 p.m. on Friday, and I am just trying to make the conversion to what time they would have departed Panaitan Island to be in that region.

**Mr Kevin**—Eighty kilometres is about 50 nautical miles, give or take.

**CHAIR**—No, it is not. A nautical mile is longer than a land mile.

**Senator FERGUSON**—Yes, which means there will be fewer of them.

**CHAIR**—Which means there will be fewer of them—that is right.

**Senator FERGUSON**—There will be 45 instead of 50.

**CHAIR**—So 45 is probably about right. I will go and work on those sums.

**Senator FERGUSON**—The only thing I was ever good at was maths.

**Mr Kevin**—So say 45 and five knots—that makes nine hours travelling. They left very early in the morning on the Friday morning, according to the account. They sank at about two o'clock in the afternoon, so that would fit reasonably well.

**CHAIR**—So they must have left at 5 a.m. or some such time?

**Mr Kevin**—Yes, about six o'clock.

**Senator FAULKNER**—It is an educated guess.

**Mr Kevin**—Yes.

**CHAIR**—I am just trying to put the thing together, that is all.

**Senator MASON**—As Senator Faulkner and our chair, Senator Cook, have said, you raise a very important issue. It is one that certainly should be examined. As you say, the loss of hundreds of lives is certainly tragic and, indeed, horrific. So thank you for your submissions. Committee members have got a letter, I think, dated 18 February from you to various parliamentarians, submission No. 2 to the committee dated 4 March, a letter from Senator Hill to Mr Crean dated 26 March, submission No. 2A dated 11 April and, of course, your opening statement here today and your examination today.

You speak about the development of your thesis. What I want to quickly put to you this afternoon is that your explanation to account for the tragic events of 19 October last year has shifted and seems to continue to shift. I would draw you to your first letter. I think it is fair to say that, in your first letter, which is dated 18 February, you argued that there were allegations that two Australian naval ships visited the site of the sinking of the Indonesian vessel and shone their lights—they were the allegations put—and then departed. I examined the Chief of the Navy, Vice Admiral Shackleton, and he, I am sure you would agree, denied it emphatically. Then I think Senator Bartlett examined Rear Admiral Smith, and Rear Admiral Smith denied it emphatically. I think Senator Cook also asked questions of Rear Admiral Smith on that point, and again it was denied. So would you say that you no longer give any order at all to the first hypothesis that naval ships attended the site of the sinking of the vessel?

**Mr Kevin**—I do not want to quibble about words, but in that first letter of 18 February—which was a request that the Senate urgently examine a survivor's account that Australian naval patrols witnessed the sinking refugee vessel—I was not advancing a hypothesis; I was simply saying, 'There is this survivor account on the public record. It is a very serious matter. I am hoping that it will be considered in the context of the Senate select committee.' I think to call it a hypothesis overdignifies it. I made it very clear in my testimony today that, from the testimony that has been given and the letter from Senator Hill, I am completely satisfied that there was no Australian Navy boat at the scene.

**Senator MASON**—All right, let us move on from that then. Let us leave that behind us, if that is all right. I would now like to go to your submission No. 2 to this committee dated 4 March. You touched on this in your opening statement. Following the denials of Vice-Admiral Shackleton and Rear Admiral Smith, I think the argument you particularly developed in submission 2 was that the Australian intelligence authorities—it is a loose description, but let us leave it at that—knew of the departure of the Indonesian vessel and potentially even knew of the sinking of the Indonesian vessel but either (1) passed it on and it was not acted upon or (2) deliberately did not pass it on. Are you with me, Mr Kevin?

**Mr Kevin**—Yes, I am with you.



**Senator MASON**—I just want to get this correct in my own mind. Which part of that do you now say is correct? Are you saying that Australian intelligence authorities either passed the information on and it was not acted on or that they did not pass the information on?

**Mr Kevin**—I am sorry; could I have that question again?

**Senator MASON**—Sure. I am just trying to cut straight to the chase. In submission 2, I think it is your argument that Australian intelligence authorities knew of the departure of the vessel from Indonesia—it is just unclear from your submission—and also knew of its sinking but either (1) passed that information on to perhaps the armed forces and it was not acted upon or (2) deliberately did not pass that information on.

**Mr Kevin**—I would say—and I am looking at the last page of that submission—that I was asking a series of questions which I requested the select committee to examine. I cannot really simplify that into the either/or proposition you just put to me.

**Senator MASON**—That is fine.

**Mr Kevin**—I think my concerns were fully expressed on page 15 of that submission when I asked a series of questions and I asked the select committee to try to seek answers to them from expert witnesses.

**Senator MASON**—That is fine. You do not need to be any more particular. Can we call that second part of the development of this argument a crime of omission—in other words, intelligence knew about something but they failed to pass it on and certainly no Australian authority has acted on the basis of that intelligence? Is that a crime of omission? Is that a fair description of what you are arguing?

**Mr Kevin**—At the time I wrote that submission I did not conceive of the possibility that an intelligence report that this boat was coming might have been sent to Canberra and that Canberra then mishandled that information. That submission was really written more on the basis of: what happened to the intelligence report? Yes, I had deduced that there was an intelligence report, on the basis of what I have already said about the Greenlees very detailed reporting, which I assumed was also known to Australian intelligence sources. At that time I did not conceive of the possibility that reporting might have come down to Canberra and then been derailed or shunted into a siding in Canberra, as I said this morning.

**Senator MASON**—That is another part of the potential conspiracy. The third part I understand—and Senator Faulkner touched on this before—was that people were, for want of a better word, loaded on to the boat in Indonesia and then, to use your word from the opening statement today, there was sabotage. That is another aspect of the potential conspiracy. Is that right?

**Mr Kevin**—Once again, I am simply looking at the known public record and saying that for a boat to leave in this condition and sink is not normal.

**Senator MASON**—Mr Kevin, I accept that, but what I am trying to do is to deconstruct the conspiracy and all facets of it. Do you understand? First of all, we had the naval ships turning

up at the site of the sunk vessel. No-one says that is the case. Okay, we have finished with that—

**Mr Kevin**—We are happy that that has been proved.

**Senator MASON**—Secondly, there are intelligence reports that are either not passed on or not acted upon; and, thirdly and finally, we have an overloading, in a sense, of a boat and then, potentially, sabotage. And they are all parts of this conspiracy.

**Mr Kevin**—On your second point, we know now from committee testimony that the intelligence reports were passed on.

**Senator MASON**—That is fine.

**Mr Kevin**—That is no longer part of my ‘hypothesis’, if you like. I know that at some point intelligence reporting came down to Canberra.

**Senator MASON**—Sure, but it does not establish a conspiracy, does it?

**Mr Kevin**—I am not trying to establish a conspiracy; I am trying to establish the facts.

**Senator FERGUSON**—What do you mean by the ‘known public record’?

**Mr Kevin**—The authoritative journalism of the man who has just won a Walkley prize for best—

**Senator FERGUSON**—Authoritative journalism—you keep talking about a Greenlees report. What you are talking about is a Greenlees article in a newspaper; it is not a Greenlees report. When you talk about a report, you are talking about the sort of thing that we are going to deliver at the end of this. But you are talking about the Greenlees newspaper article, which you place all the weight of your theory on, don’t you?

**Mr Kevin**—No, I place most of the weight of what I have said today on the public record of this committee.

**Senator FERGUSON**—But you have also talked about the Greenlees report—

**Senator BRANDIS**—What about Admiral Smith’s testimony?

**Mr Kevin**—Admiral Smith’s testimony is extremely important.

**CHAIR**—Greenlees might be a reporter or a journalist or a correspondent—

**Senator FERGUSON**—I do not think the Greenlees report is a public record; it is a newspaper report, a newspaper article.

**Mr Kevin**—It is investigative journalism; it just won the Walkley Award for the best Asia-Pacific coverage, and I respect the credibility of that journalism.

**Senator FERGUSON**—It does not mean it is infallible, though, does it?

**Mr Kevin**—Nothing is infallible.

**Senator MASON**—Just to summarise where we are, Mr Kevin, I think that the two aspects of this left are: (1) we have in effect an intelligence report passed on, you have just said, which was not acted upon and (2) let us call it sabotage following the overloading of a boat. That is the second arm.

**Mr Kevin**—On the second arm, gross overloading to that degree, under armed duress, in itself I believe is an act of sabotage.

**Senator MASON**—Do you think the two arms of this hypothesis are linked in any way?

**Mr Kevin**—I do not know.

**Senator MASON**—In a sense, all this argument comes together on page 3 of your opening statement where you say:

There is clear public knowledge now from Australian official sources, that there was some Australian official foreknowledge of the circumstances that led to the deaths of these 353 human beings.

**Mr Kevin**—Yes.

**Senator MASON**—You go on:

This cries out for explanation and accountability.

What you are arguing is that there was some official foreknowledge of the circumstances. That is a direct reference in particular to page 2 of the letter from Senator Hill to Mr Crean regarding the Rescue Coordination Centre. Are you referring to that part in particular?

**Mr Kevin**—I was referring there more to Rear Admiral Smith's testimony where he said two things: firstly, on page 461 of *Hansard*:

... we had some information that a boat might have been being prepared in the vicinity of Sunda Strait but we had no real fixed information as to when it was going to sail.

So we establish from that that the Navy, Operation Relex, knew that a boat was being prepared in the Sunda Strait area but they did not yet know when it was going to sail. On page 676 of *Hansard*—we have now moved from 5 April to 11 April—we have a statement by Rear Admiral Smith:

They had advice from Coastwatch Canberra to say that the vessel believed to have sailed on or at the 19th—

of October—

for Christmas Island was overdue.

They had got that information from intelligence and it was sensitive information.

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**Senator MASON**—So you have the evidence from Rear Admiral Smith and Coastwatch.

**Mr Kevin**—So there I have the evidence that something definitely was known about this boat sailing at the time it did. I believe that supports the statement that there was some Australian official foreknowledge of the circumstances that led to the death of these people.

**Senator MASON**—I agree that those two bits of evidence from Rear Admiral Smith and Coastwatch seem to indicate that it is some evidence about the boat and the date of its departure.

**Mr Kevin**—Yes.

**Senator MASON**—So you say there was official foreknowledge of the circumstances that led to the deaths of these 353 human beings.

**Mr Kevin**—Yes.

**Senator MASON**—So that is drawing a different bow. Foreknowledge of the boat and its departure is not foreknowledge of the circumstances that led to the death of these people—it is a different issue.

**Mr Kevin**—I have not mentioned the activities of Kevin John Enniss to this point, but this is a good opportunity to do so. We have the reports of the Channel 9 *Sunday* program on the activities of Mr Enniss. We also have official testimony to the Senate Legal and Constitutional Legislation Committee on 19 February at pages 137 and 138. I think it is very important to know that the Australian Federal Police were aware that Mr Enniss was a people smuggler and they knew that he was engaged in people-smuggling because he was telling them what was going on.

I think it is also interesting and important to note that, in a subsequent article by Lindsay Murdoch—and this is on page 12 of my original submission—Enniss said that he was in a position to pass on to the Australian authorities information on ‘when the boats were going, who arranged them and who was on them’. And, of course, it was important for the Australian authorities to know how many people were on the boat because they used that information to prepare reception and interception facilities for them. They needed to know whether 50, 100, 200 or 400 people were coming. So I think, once again, it is one of my reasonable inferences. It is reasonable to infer that, if there was intelligence reporting of when this boat left and from where this boat left, that also contained the information that there were over 400 people on it.

**Senator MASON**—I might yield to Senator Brandis who is itching to ask you a couple of questions.

**Senator BRANDIS**—I am itching to understand what are you saying Mr Kevin. You directed us to page 461 of *Hansard* of this committee where Rear Admiral Smith tells us:

... we—

that is the Navy—

had some information that a boat might have been being prepared in the vicinity of Sunda Strait but we had no real fixed information as to when it was going to sail.

**Mr Kevin**—Yes.

**Senator BRANDIS**—It goes on:

Indeed, the first time that the Navy knew that this vessel had sailed was when we were advised through the search and rescue organisation in Canberra that this vessel may have foundered in the vicinity of Sunda Strait. At that time our nearest ship was about 150 miles away. The reason it was so far away—

you did not read this—

was that we were not permitted to intercept or board vessels in Indonesian territorial waters. Indeed, our patrols were such that we were intercepting closer to our own territorial waters rather than to Indonesia so as not to create any tensions in those sorts of areas. That is the reason why there was no ship nearby. We were not in a position to do anything.

Now you have directed us to that bit of the *Hansard* or parts of what I have read to you. All I can get from this, Mr Kevin, is that you say, because at some unspecified point the Navy had some information that a boat might have been being prepared to sail, and that at some much later time the Navy received information that that ship had sunk within Indonesian territorial waters when there was no Australian ship closer than 150 miles away—and you point to no intermediate piece of knowledge received by any Australian authority—you gather from that the proposition, on page 3 of your statement today, there was some Australian official foreknowledge of the circumstances that led to the deaths of these 353 human beings. Mr Kevin, can you please tell me what fact—other than the knowledge that a boat might have been being prepared to sail—constitutes official Australian foreknowledge of the circumstances that led to the death of these 353 people? Not inference, not conjecture, what fact, if any—in addition to those to which you have already referred—can you point to?

**Mr Kevin**—That is a long question.

**Senator BRANDIS**—That is a long preamble but a short question: what if any other fact can you point to?

**Mr Kevin**—All of the facts I have already cited from *Hansard*, but I will go on offering more detailed references from *Hansard*. I am happy to go on doing that.

**Senator BRANDIS**—Sure. We have Rear Admiral Smith on page 461. That gets you nowhere, with respect. We have Rear Admiral Smith on page 676, which gets you nowhere.

**Mr Kevin**—Would you like me to answer the question, Senator?

**Senator BRANDIS**—Go on with any additional references.

**Mr Kevin**—I will.

**Senator BRANDIS**—Give us your best case, as it were—all the relevant facts you point to.

**Mr Kevin**—Senator, first of all, there is no basis for saying that it sank within Indonesian territorial waters. We do not know that.

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**Senator BRANDIS**—That is Rear Admiral Smith's evidence.

**Mr Kevin**—He did not. He simply said that the reason our Navy ship was 150 miles away was that 'we were not permitted to intercept or board vessels in Indonesian territorial waters'. Indonesian territorial waters extend to 12 miles from the coast of Indonesia. Beyond that, you have a contiguous zone from 12 to 24 miles. Beyond that—

**Senator BRANDIS**—That is as I read Rear Admiral Smith, but in any event where does that get you, Mr Kevin, please?

**Mr Kevin**—That is the first statement by Rear Admiral Smith about what we knew, but there were other statements subsequently that made it more concrete.

**Senator BRANDIS**—What were they, please?

**Mr Kevin**—The key testimony is really on 11 April, pages 676 and 677.

**Senator BRANDIS**—Just point me to it, please.

**Senator FAULKNER**—What page is this again?

**Mr Kevin**—Pages 676 and 677. If you go down to the third paragraph, it says:

In that particular instance, our nearest ship to where that boat sank was 150 miles away. We had no knowledge of the boat having sailed.

That is a little bit of a contradiction there to the statement that you previously read out to me, that we had some knowledge—

**Senator BRANDIS**—No, there is not. There is no contradiction at all, with respect. Rear Admiral Smith says at page 461:

... we had some information that a boat might have been being prepared in the vicinity of Sunda Strait but we had no real fixed information as to when it was going to sail. Indeed, the first time that the Navy knew that this vessel had sailed was when we were advised this vessel may have foundered ...

So that is not a contradiction at all; it is completely consistent, Mr Kevin.

**Mr Kevin**—It is not contradictory in terms of the integrity of Rear Admiral Smith's testimony but it is contradictory in terms of what I will go on to remind you of, which is that the first we were aware that this vessel had sailed from Indonesia was when we were contacted by the search and rescue organisation here in Canberra on 22 October when they advised us that this vessel was overdue and it was feared it had foundered in the Sunda Strait area. None of our surveillance that we had operating, aircraft or ships, had detected the vessel.

**Senator BRANDIS**—What is that inconsistent with, please?

**Mr Kevin**—I will go on, if I may. Senator Bartlett then asked how Search and Rescue knew it was overdue if they did not know it had left. Rear Admiral Smith replied:

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They had advice from Coastwatch Canberra to say that the vessel believed to have sailed on or at the 19th for Christmas Island was overdue. Where they got that information from is a bit sensitive, I think; it is intelligence.

That is the key question. It is there in black and white that Coastwatch had advice—Rear Admiral Smith indicates intelligence advice—that the vessel believed to have sailed on or at the 19th for Christmas Island was overdue.

**Senator FAULKNER**—It is an important question but I do not know whether it is a key question. Three hours ago we were at the point, or I was at the point, of canvassing with you the possibility of clearly establishing with Coastwatch and the RCC or AMSA about some of those details. We are actually going to have an opportunity to question an official from AMSA at the conclusion of your evidence. It is fair to say that the timing of the advice to Coastwatch is unknown. The point that you make, and I think it is a valid point, is that you are not aware, and I do not think any of the committee members at this stage are aware, of how the process works between Coastwatch and AMSA in this particular instance. Beyond that, we are now starting to go round in ever decreasing circles, aren't we?

**Senator BRANDIS**—I think the point that perhaps in different ways Senator Faulkner, Senator Mason and I have been at pains to make to you, Mr Kevin, is that, torture this testimony from Admiral Smith as you will, it does not seem to support the proposition that you advanced in your statement this morning that it is clear that there was some official Australian foreknowledge of the circumstances that led to the deaths. There is an innuendo, wouldn't you accept, in what you said this morning of some Australian culpability or responsibility for those deaths? That is the innuendo you make. You do not come out and say that; you are willing to wound but afraid to strike. But that is the innuendo, isn't it?

**Mr Kevin**—I do not want to wound anybody and I did not come here to make innuendos. I came here to point out inconsistencies in the public record.

**Senator BRANDIS**—Do you or do you not say that there was any level of Australian culpability in those deaths?

**Mr Kevin**—I say that it is for your committee to find out.

**Senator BRANDIS**—What do you say?

**Mr Kevin**—I say it is for your committee to find out.

**Senator BRANDIS**—You have raised the issue and then said, 'I believe that the public record as it now stands would cast a serious slur on the honour and competency of our Navy and the ADF generally.' You, with respect, Sir, have cast the slur. Do you or don't you say that there was some Australian culpability for these deaths?

**Mr Kevin**—With respect, Sir, I say that your committee has the power to call official witnesses under oath to find out the truth on these disturbing discrepancies in the public record.

**Senator FAULKNER**—You are entitled, Mr Kevin, in answer to Senator Brandis in this case but to any committee member, to say that you do not know. That is a perfectly reasonable answer. There are questions asked to which you do not know the answer.

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**Mr Kevin**—Yes, and I said I did not know a moment ago.

**Senator BRANDIS**—So you do not make that allegation.

**Mr Kevin**—Senator, I am not here to make allegations; I am here to bring to your committee's attention discrepancies in the public record of what Australia knew about this boat and what it did with the information. A system of intelligence, surveillance and interception that worked very well in the case of every other SIEV boat that was coming down in this period failed to work in this case and 350 people died.

**Senator BRANDIS**—Do I understand you to be telling me that you do not allege any Australian culpability in these deaths?

**Mr Kevin**—I am not here to allege; I am here to bring discrepancies on the public record regarding the Australian system of information and command to your attention, for your committee to do what you wish to do with it.

**Senator BRANDIS**—Perhaps Senator Faulkner, Senator Mason and I are all stupid, but it is not apparent to us that there are such discrepancies in the public record.

**Senator FAULKNER**—I wish you would not include me in that group.

**Senator BRANDIS**—In any event, Mr Kevin, you do not suggest there is a culpability. Is that what I take from your evidence? At the end of the day, you do not make an allegation to that effect.

**Mr Kevin**—Senator, I am not in a position to say whether there is culpability or not. It is for your committee to find this out.

**Senator BRANDIS**—And it is for you, is it, to leave the slur on the honour and competency of the Navy and the ADF on the basis of no evidence at all?

**Mr Kevin**—No, it is for me to say that this public record shows that the information in the command system was not working as it should have been in this very important case and 353 people died.

**Senator FAULKNER**—In fact, just following on from that question from Senator Brandis, as I understood your evidence, Mr Kevin, you have made absolutely clear to us that you accept that Navy did not know until the 22nd of that month.

**Mr Kevin**—I do. I accept that.

**Senator FAULKNER**—You do accept that. I am just following through from Senator Brandis's question about the RAN and the ADF. It seems to me that we are still at the point that we were more than three hours ago. I am pleased that you have identified what were questions in the committee's mind. There are some process issues that need to be directed to Coastwatch, the RCC and possibly to other agencies. That really, at the end of the day, is what you are saying to us, is it not?

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**Senator MASON**—Sorry, Mr Kevin, but I am trying to elicit the other issue, Senator Faulkner—what we might call the ‘sabotage’ issue. That is the other part.

**Senator FAULKNER**—I raised that because—in my view—it was new, Senator Mason.

**Senator MASON**—Indeed.

**Senator FAULKNER**—That was raised in Mr Kevin’s opening statement. You would recall that, as I questioned Mr Kevin about it, I did ask him at the end of that line of questioning whether he was suggesting that possibly there was any Australian involvement from Australian agencies, be it direct or indirect, in such sabotage. Like you, I accept that is a very serious issue.

**Senator MASON**—My point was that it was also raised in submission 2A to the committee.

**Senator FAULKNER**—Yes.

**Senator MASON**—It was also in the opening statement. So it is not that new. The thesis is evolving.

**Senator BRANDIS**—Mr Kevin, are you satisfied now that you have placed before the committee—or referred to the committee—every piece of evidence upon which you rely for the statement to which I have directed you in your opening statement, that is, the statement about Australian official foreknowledge? I do not want to be accused of cutting you off. If there is another piece of evidence beyond that to which you have referred Senator Faulkner, Senator Mason and me, let us have it now please.

**Senator FAULKNER**—With respect, Senator Brandis, that is precisely the question I asked Mr Kevin before the luncheon adjournment, as you are aware.

**Senator BRANDIS**—I know that, but these allegations have now been remade. Out of abundant caution, I just want to make sure that Mr Kevin does not have the opportunity to go away from this committee and say, ‘Well, there is other material I did not have the opportunity to give to the committee.’

**Senator FAULKNER**—That is what the committee was saying before lunch, to be honest.

**Senator BRANDIS**—Is there anything else? Do you have anything else, Mr Kevin?

**Mr Kevin**—Senator, I continue to have difficulty with the word ‘allegations’. I do not think that describes my testimony today and I do not accept it as a description. What I am pointing you and your fellow members of the committee to are evident inconsistencies and discrepancies in the record of what was done with information in Canberra about this boat. I think there is a basis for the committee, in terms of the safety of life at sea obligation on Operation Relex and the border protection system, to take this further. That is all I am saying.

**Senator BRANDIS**—Is there any other piece of evidence to which you wish to direct us?

**Mr Kevin**—No.

**Senator BRANDIS**—Thank you.

**CHAIR**—I think we are in a position where we are going back over the same ground a bit. My understanding, frankly, is that you have raised these questions because you are horrified at the number of people who have died. That is a reasonable human response. You have put together a hypothesis which requires further investigation and you are asking us to undertake that investigation. That is my understanding of what you have been saying to us.

**Mr Kevin**—With respect, I think once again we are taking it back-to-front. We are saying I have put together a hypothesis. I have put together a series of questions based on the public record. I am trying to retreat from the word ‘hypothesis’.

**CHAIR**—Okay. Thank you, Mr Kevin.

**Mr Kevin**—Thank you.