Effective Surveillance and Interdiction?

An evaluation of Policy Failure in Canberra's Response to

Illegal Fishing and Immigration in Australia's Northern Waters.

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Declaration

I hereby declare that the work herein, now submitted as a thesis for the degree of Doctor of Philosophy of the Charles Darwin University, is the result of my own investigations, and all references to ideas and work of other researchers have been specifically acknowledged. I hereby certify that the work embodied in this thesis has not already been submitted in substance for any degree, and is not currently submitted in candidature for any other degree.

[Signature]

Thomas Anthony Lewis, 20 December 2003
Statement of Inspection

This thesis contains references to the Australian Defence Force and its activities, some of which have been gained from the writer’s employment within that organisation. I have examined the pages which mention such material, and I consider them free of classified material or material which may be considered sensitive.

Commander Henry Pearce, RAN
Executive Officer, HMAS CRESWELL

28 January 2004
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Explanatory Notes

Names of Departments given throughout are cited as they were at the time of information retrieved from that agency. For example, the Department of Immigration and Ethnic Affairs was renamed (in 1996) as the Department of Immigration and Multicultural Affairs.

Distances are given at sea in nautical miles, unless noted otherwise.

Ranks and positions of personnel within the Department of Defence and various other government departments and organizations are those given at the time of interview, quotation, letter and so on.

Tonnages are given in original figures; that is, if the vessel is being discussed before Australia’s conversion to metric notation, then tons are used rather than tonnes.

Sections of this work have been published by the writer previously. First, parts of Chapter Six were originally published in an article in the *Journal of the Australian Naval Institute*, Volume 23, Number Two, of April/June 1997. Second, Chapters Eight and Nine were supplied on request in May 1999 to the Prime Minister’s Task Force on Coastal Surveillance. Third, a condensed version of Chapter Nine was published in the May-June 2002 edition of *Maritime Studies*, the journal of the Australian Centre for Maritime Studies.

Some unattributed material relating to current and past operations of defence forces and other related government agencies is prior and assumed knowledge. The writer was, for the years of 1993-99, an Intelligence Analyst of officer rank in the Royal Australian Navy, working part-time as a Reserve Officer at Joint Intelligence, Headquarters Northern Command, Darwin. As such, he was exposed to classified data related to the area of study. Agreement was reached with his superior officers regarding this research, and he undertook to follow the appropriate channels necessary for declassifying any research pertinent to his own study. The writer also was the Naval Historian for the Northern Territory for that time. In the 1980s the writer worked for four years in a part-time capacity in the scuba diving industry in Queensland. At the time of submission he was a full-time naval officer.
Glossary

ACS  Australian Customs Service

ADF  Australian Defence Force, a tri-service organisation composed of the Royal Australian Navy, the Australian Army, and the Royal Australian Air Force.

AFP  Australian Federal Police. Originally entrusted with policing operations within Australia's Territories (as opposed to States) but now with increased scope to carry out federal operations within States and offshore.

al-Qaeda  Arabic name for terrorist organisation - translation "The Base", led by Osama bin Laden, and generally identified as the organisation that carried out the terrorist assaults on the New York World Trade Centre and other targets in September 2001.

AQIS  Australian Quarantine and Inspection Service

Australian Democrats  a minor party existing at (with one exception as of 2003) Federal level in Australian politics. Generally associated with left wing politics.

"boat people", or person  Colloquial name given to marine-borne personnel seeking to be accepted by another country

Business Activity Statement  A Statement which summarized a business's dealings for a certain period, introduced with the Goods and Services Tax by the Australian Federal Government of John Howard, from 1996.

Coastwatch  The flying arm of the Australian Customs Service.

Exclusive Economic Zone  The concept of a zone declared by a country in which it reserves for itself the right to carry out economic activity, or to license the same.

FCPB  Fremantle-class Patrol Boat, a minor war vessel of the Royal Australian Navy.

FLIR  Forward Looking Infrared – a detection system used by Coastwatch aircraft.

GBRMPA  Great Barrier Reef Marine Park Authority

GPS  Global Positioning System

Greens Party  Australian Greens Party, a minor party existing at State and Federal level in Australian politics. Generally associated with
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<th>Term</th>
<th>Definition</th>
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<tr>
<td>Hydrographic work</td>
<td>In general, the mapping of the ocean floor, usually using a specifically equipped vessel for the purpose.</td>
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<tr>
<td>JORN</td>
<td>Jindalee Over-the-Horizon Radar</td>
</tr>
<tr>
<td>Interpol</td>
<td>International Police &quot;clearing house&quot;, based in Europe.</td>
</tr>
<tr>
<td>Labor Party</td>
<td>The Australian Labor Party, one of the two biggest and most powerful political parties within Australia at the time of writing. Generally associated with labor politics. It exists at federal and state level. (Note the different spelling from the British Labour Party)</td>
</tr>
<tr>
<td>Liberal Party</td>
<td>The Australian Liberal Party, one of the two biggest and most powerful political parties within Australia at the time of writing. Generally associated with conservative politics. It exists at federal and state level.</td>
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<tr>
<td>LOSC</td>
<td>Law of the Sea Convention</td>
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<tr>
<td>Mabo Judgement</td>
<td>Watershed Australian High Court case in Aboriginal Affairs</td>
</tr>
<tr>
<td>Machiavelli</td>
<td>The Italian writer (1469-1527) of <em>The Prince</em>, which set out ruthless methods for achieving political ends</td>
</tr>
<tr>
<td>Minesweeper</td>
<td>Naval vessel employed primarily to sweep the sea for mines, generally using a system of lines and paravanes, but nowadays more often using sophisticated detection systems. This type of vessel also is used for general patrol work, sometimes even including anti-submarine warfare.</td>
</tr>
<tr>
<td>NVG</td>
<td>Night Vision Goggles</td>
</tr>
<tr>
<td>OTHR</td>
<td>Over-the-horizon radar</td>
</tr>
<tr>
<td>P3C</td>
<td>P3C Orion aircraft - four-engined, generally maritime strike and reconnaissance tasked</td>
</tr>
<tr>
<td>RAN</td>
<td>Royal Australian Navy</td>
</tr>
<tr>
<td>RAAF</td>
<td>Royal Australian Air Force</td>
</tr>
<tr>
<td>SAS</td>
<td>Special Air Service - a section of the Australian Army</td>
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<td>SIEV</td>
<td>Suspected Illegal Emigrant Vessel</td>
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<tr>
<td>SUNC</td>
<td>Suspected Unlawful Non-Citizen</td>
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<tr>
<td>UNCLOS</td>
<td>United Nations Conference on the Law of the Sea</td>
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<td>Wik Judgement</td>
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Effective Surveillance and Interdiction?
An evaluation of Policy Failure in Canberra's Response to Illegal Fishing and Immigration in Australia's Northern Waters

Abstract

Australia has experienced fishing attempts and efforts by refugees to gain entry through its northern waters. Detections and detentions of both types have steadily increased, and this has attracted vigorous discussion, responses and policy formulation. A host of agencies and departments have driven policy and operations. This study outlines the development of some agencies and their changing roles, and assesses their efficiency.

The central points are that governments - up until the arrival of the ship *Tampa* in Australian waters - have failed to act proactively in a key area of security. Policy has been made largely by events dictating change, and this mindset and behaviour continue today.

The thesis examines conceptual and methodological models of policy development and analyses policymaking within federal politics, establishing that confusion and mismanagement have beset policies and management of surveillance and interdiction. It suggests these problems still exist; figures representing some surveillance and incursion activities are inaccurate, and there are further solutions to many of these problems.

The thesis takes as its benchmark the years of 1990-2000, when detections and detentions of illegal fishing and illegal immigrant vessels markedly increased. The legal context related to offshore estate management is outlined. The thesis defines the players and agencies, aggressors such as foreign fishing vessels and illegal immigrant vessels, reactors in the shape of Coastwatch, the Royal Australian Navy, and neutral parties such as the fishing industry. Media and public attitudes are measured, both areas seen as policy change agents.

The thesis is concerned with explaining the causes of inadequacy (or failure) in a key area of national public policy. The key research questions are establishing what policies
have been formulated; how policy came about, and why policy and operations have failed. The work concludes with proposal for policy reform.

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Chapter One: Aims; Significance of this Study; Methodology and Approach
Chapter 1. Aims and Significance of this Study and its Methodology and Approach

This thesis sets out to examine and explain the inadequacies of Australian government policy responses to the challenge in regard to sovereign control exercised over Australia's northern maritime frontier. This challenge is represented by persistent and repeated illegal incursions into Australia's maritime zone from fishermen and often-smuggled aliens. The central purpose of the thesis is to offer an explanation of how and why the issue of control of Australia's northern waters has developed as such an intractable public policy issue for Australian governments. Further, it offers an explanation of how and why Canberra's policy response to this issue has been – at least up to 2001 - inadequate and irresolute. The thesis proposes that the management of Australia's northern sea borders evolved in a haphazard fashion, using a variety of policy developmental models, and that this management is still characterised today by a confused approach.

The study of this public policy issue is significant for several reasons. First, the issue of illegal incursions into Australia's northern waters engages with deep-seated anxieties that many Australians have held over time regarding their geo-political location as a mostly white, largely affluent national community in Southeast Asia. These sensitivities have risen steadily over the last few years. The International Maritime Bureau's Transit Fraud Department warns: "Illegal immigration is on the rise, and across the world, shipping agencies, organizations and governments are realizing that a global approach is needed to tackle the problem."1

Secondly, the challenge of establishing effective sovereign control over the maritime frontier involves major questions regarding Australia's capacity to manage its resources to exercise its sovereignty over a vast maritime frontier.

Thirdly, this public policy issue, involving a multitude of national agencies, is an instructive case study in discerning the obstacles to achieving coherent policy where the policy issue is inherently multifaceted. As Peter John (1998: 27) remarks, "the more decision-points there are, the greater chance a policy fails".

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Lastly, the public policy issue of illegal incursions into Australian territory is one that arouses public anxiety and recurrent critical media attention. It is a policy issue that involves questions of Australia's foreign, defence and strategic relations with its neighbours. National governments, it is suggested, tend to handle such questions, as far as they can, by reserving them for "expert", in-house policy processes. Canberra's policy response to the problem of illegal incursions provides an informative case study of the extent to which policy making in this area is "closed" or relatively open to democratic political processes.

The thesis examines the historical and geo-political context of this challenge to Australian control of its maritime approaches. It provides an analysis of how this national policy issue developed.

In general terms, it may be said that Australia owns "offshore estates" - that she is the sole possessor of an area of seawater. This area might be loosely defined as merely that between the coastline and a line in the sea, although that is simplistic and will be further defined later. The concept is not one that Australia is alone in holding. For many years, as will be seen, countries around the world have subscribed to a similar view, differing only in dimension. However, this is not to say that the concept of sea ownership is a simple one, nor is its definition universally agreed. Within Australia border protection legalities have provoked some sections of society - political parties such as the Greens; church groups and so on - who have raised concerns about humanitarian issues. The Timor Gap Treaty with Indonesia (1989) and with East Timor (2001) is embroiled in the pre-1992 "continental shelf" versus the post-1992 "median point" demarcations of our northern borders, for example. So too, the South China Sea is an area which has been hotly contested by a number of nations over many years.

The thesis then proceeds to explain the way policy evolved in this area, drawing on a number of explanatory approaches to policy making in the literature on public policy studies. The study will apply these explanatory approaches to policy making by Canberra on the control of illegal incursions into Australia's northern Exclusive Economic Zone.

The thesis will consider the role of public opinion and the media in driving government policy in this area and assess the relative openness of the policy making network on surveillance and interdiction to democratic processes in this area of public policy in Australia. Finally, the thesis will advance reasons for the inadequacy and even relative
failure of policy making in effective surveillance and interdiction of illegal incursions into our northern waters.

As a future chapter outlines, the history of how concepts of territoriality came about is essential to our understanding of what a nation-state owns and therefore controls. For centuries the concept of ownership of land has been an accepted one in human society, and it has been an understanding which has been proven through material means: the maintenance of physical boundaries, be they fort, castle, border or defended natural boundaries - such as rivers, for example. Some barriers were immense and required massive societal organisation to build: the Roman construction in Britain of Hadrian's wall, for example.

The concept of owning the sea is not such an ancient one, but rather a concept which slowly was formulated and tested. The concept of this barrier has been much misunderstood, however, both deliberately and through misunderstanding. This is understandable to a degree - the cannon shot of control was a physical reminder of a nation-state exerting its authority. Beyond that, the fluidity of the sea defies definition. So a fundamental problem of today's control is that the sovereignty of this area is breached, not only in law but in actuality. How does Canberra and its federal government deal with this problem? This study discusses that, but is also concerned with the perceptions and judgements as to whether that is being done effectively. The peculiar nature of the problem is discussed - what is a "line in the sea", for it is not the same as a line in the sand, being invisible, and as such, much more arguable. The rationale for the development of Australia's surveillance and enforcement of this border are outlined, not to question it, for it is a fait accompli. Indeed, it is a situation from where there is no retreat - unless Australia abandons international treaties already signed and withdraws from its role as a state allied with those nations who subscribe to UN policies. Rather, the strategies behind the development of these policies are discussed. What is not being discussed here in detail is the tactics of the argument: the preference for one patrol platform over another; the mechanics of halting intruders at sea, and so on.

The study is concerned with the reasons behind how the government policy in this area came into being, and what factors are exerted on the key players in the game, and the changes in policy that have been charted and which may lie ahead. In the opening chapters it is necessary to set out some historical background, along with an examination of the causal factors behind the present policies. How have these policies
been arrived at? This study establishes that in fact they have not been the subject of careful debate, but rather arrived at through reactions to the situation. Models of policy arrival, following Heywood (1997) are discussed, and it is suggested that this is "demand driven" policy, as outlined by Considine (1994) and that this is what characterises Australia's management of its offshore assets.

This model suggests that demand-driven interest networks are self-developing and consensual and make policy which is determined by those "strong values" which encourage interest networks to carry forward their policy agendas despite opposition. It is this study's conclusion that the present government's policy of border protection has produced a web of various agencies, all operating with their own perception of what is the best way forward and what should be the future direction of any policy, and stemming from that, operations.

The policy arrived at, before 2001, essentially failed, however. It is necessary of course to contrast the reality of the situation with a theoretical and conceptual explanatory model. In doing so, we can determine the why and wherefore of such failure. Is policy inadequacy in this area a result of institutional failure? Is it perhaps the symptom of a divided policy community or 'network' that has failed to act in unison? Are the politics of resource allocation into effective surveillance and interdiction simply too resource expensive? Perhaps they have been sacrificed in the past and in the present to even more urgent demands on government.

The following chapter will more critically examine these questions in terms of contemporary public policy theory. Such an examination may help clarify the answers to such questions as what drives government interest in securing Australia's northern waters? It will become clear that popular disquiet about failures in surveillance and interdiction are a compelling factor – for any government, of course. Furthermore, the consequences of these incursions: marine resource depletion, the injection of an illegal population into Australian society and the undermining of state sovereignty are in themselves strong driving factors. There are larger international factors, too, which underline the importance of policy in this area. The phenomenon of global population movements, of "push factors" such as war in Afghanistan and in the "war against terrorism", and fact that Australia is bordered to its north by Indonesia, a state beset by corruption and poor security – all of these have effects on our border policy. How the policy emerged is sketched out, as well as how the institutionalization of the policy took
place. The policy "community" or network of policy actors that are involved in policy implementation is outlined, and then also the policy outcomes within the study period.
Chapter Two: A Policy Matrix
Chapter Two. A Policy Matrix

This chapter takes up the question of the way policy evolved in the area of surveillance and interdiction introduced in the previous chapter. It will elaborate and assess the various conceptual and methodological approaches towards understanding how policy is made in this area of Australian federal politics. To understand the process behind, and the reasons why, the issue of control of Australia’s northern waters has developed as an intractable public policy issue for Australian governments involves drawing on relevant public policy literature. In this way a number of explanatory approaches to policy making in the literature on public policy studies can be examined to provide a point of departure for the analysis of policy on interdiction and surveillance in subsequent chapters. In particular, this chapter will enlarge upon specific issues of policy analysis identified in the preceding chapter and apply aspects of contemporary policy studies theory in order to clarify the processes shaping policy making in this area.

Various models of policy arrival are discussed and from this is derived the conclusion that this is a ‘demand driven’ area of policy development. A study is made of demand-driven interest networks and how they are self-developing and consensual and make policy by having ‘strong values’ which are carried forward despite strong opposition. Finally, the suggestion that policy inadequacy in this area is a result of institutional failure is examined, along with the possibility that the policy making process has failed in the past because it is simply too resource expensive. Some key concepts to be discussed in applying relevant public policy explanatory models will include ‘demand-driven interest networks’, ‘institutional failure’, and a discussion of ‘rationality’ versus ‘incrementalism’; that is, policy as public interest-driven or as politics-driven.

It is useful to draw on recent overviews of policy analysis to help locate relevant conceptual and explanatory theories to Canberra’s policy on surveillance and interdiction. Peter John’s analysis (1998) provides such an overview and has been used as a benchmark to outline the different models of public policy development to see where these can help clarify the nature of the policy problem in this area. Models of policy analysis have useful implications in understanding how offshore estate management policy evolved in the three decades of overt scrutiny and policy development. Some limitations need to be put on the scope of the discussion at this point. We are talking about policy-making in — to use a loose definition — the liberal democracies of the West. Lindblom (1980, 56) points out the characteristic constraints
of policy making in such polities. Adults can all play a part in the decision-making process, with some limitations on participation. Some people will make a career out of this, in various capacities. A set of agreed rules govern the methodology of policy-making: preventing assassination or other Machiavellian methods; limiting corruption and ensuring a process is adhered to for the framing of legislation. Various conventions of constitutional democracy are adhered to: the influence of representative processes (such as elections, the media and interest groups) are defined; the independence of the judiciary is established in the country’s framework, and so on.

First, decision making in the area of surveillance and interdiction policy has not adhered to a simple sequential stage model, where policy development occurs in straightforward and logical steps. Within such a model a member or group within a government decides on a policy; it is made into law after some negotiation with opposing groups, and then the new policy is implemented. For example, in the later 1990s the government of the state of New South Wales in Australia perceived that many people were going armed with knives in public places. This was held not to be beneficial to society, and not necessary for the individual, and so an Act was introduced to ban such acts.\(^1\) The Opposition largely agreed and the bill was passed into law.

This is a basic and easy to understand model which admittedly does correspond to many human and natural processes. Examples of modern policy development modelled around the sequential archetype are perhaps the most often seen by the public, albeit through the media’s reduction to fit news limitations. The “30-second grab” that many TV stations and radio outlets reduce their news items to demand such succinct examples. Therefore the policy as communicated by the media creates a perception of rationality that may in fact be lacking in the real world of policy formation.

The weaknesses of the sequential model are largely converse to the attractions. First, it is simplistic. Even a cursory overview of policy making within the area of offshore surveillance and interdiction does not support any supposition that policy was made this way – as subsequent chapters will show. Secondly, sequential model policy modeling does not take account of failure at any stage – for example, the failure of a government to actually go ahead with a policy for various reasons. Thirdly, it does not take account of changes that may take place in the policy-making process that may occur at any time.

– for example, a sudden rewrite at the end of the negotiation stage which completely
negates initial formulation. Lastly, the sequential model does not correspond to reality –
for example, in that policy decisions may have realistically already been made by a
government in limiting future funding to an area.

But it might be supposed that policy making in the area of coastal surveillance and
interdiction in Australia’s offshore estate would be relatively straightforward, and
follow at least generally the model given above. Is this the case? There are plenty of
signposts to suggest governments have indeed made such straightforward policy
decisions. Rothwell (1995, 5) notes that Australia has long had the legal framework to
confirm the “Commonwealth Parliament’s extraterritorial competence”. A continental
shelf was proclaimed in 1953, thus being one of the first regulatory devices to control
the offshore estate. Australia also passed the Fisheries Act of 1952 in order to allow
regulation of its own people and their fishing activities. In 1967, as Rothwell again
notes, the Commonwealth enacted the Petroleum (Submerged Lands) Act to govern
exploration and exploitation of petroleum resources of the continental shelf, with States
passing similar legislation in co-operation.

In November 1990, Australia announced its intention to extend, as allowed by Article 3
of the 1982 UN Law of the Sea Convention (LOSC)² its territorial sea from three to
twelve nautical miles. A country has full sovereignty in its territorial sea qualified only
by the duty to allow ships of all nations the right of innocent passage in that zone. In
1994 Australian legislation brought into being both an Exclusive Economic Zone and a
contiguous zone extending 12 nautical miles beyond the territorial sea. The contiguous
zone is established in accordance with LOSC Article 33, and in such a zone, the coastal
State is allowed to prevent infringements of its customs, immigration, fiscal matters and
sanitary laws.

The decision to patrol these assets and beyond has not been made, however, in a simple
lock-step as outlined in sequential modeling. It is worth noting at this point that there
have been various reviews into coastal surveillance and interdiction, and these have
generally been brought about by realpolitik - that is, the events of the real world
impacting upon government in a demand-driven situation. So in 1978, for example, a
Committee of Permanent Heads, as Kim Beazley (1983) described it, was appointed to
study the overall picture. Federal Minister Kim Beazley’s 1983 Review explained why

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that 1978 Review took place: "...there was heightened public concern over coastal surveillance..." Beazley also noted in Chapter Four of his Review that the study was taking place because of the expressed concerns of State governments. (Further outline of the changes and reviews within the surveillance and interdiction areas are given later in this work; particularly in Chapter Six.) This series of processes hardly follows the sequential model.

Has policymaking in this area followed the sequential model developed a little further – that is “in the round”, or what is known as the implementation analysis model? This sees the policy-making process as not one of sequential stages but rather one which takes a circular approach of those stages with constant input into the product. Lindblom (1980, 65) notes that implementation is a confusing term to a degree. No policy-maker makes a policy and then sees it implemented fully, as policy implementation is not carried out by the policy-makers: consider the implementation of a speeding law, for an example, with the police as the final implementation stage having to interpret how rigidly they enforce the new law.

The formation of “low-level” agencies as given in the model above does have some relationship to the offshore estate’s policy formulation. With the development of Coastwatch as a subset of Australian Customs there was a key stakeholder within the policy model – yet it was a “low-level” player for all of that. Today, Coastwatch, a section of Customs, operates daily airborne surveillance flights using aircraft under charter from Surveillance Australia, a subsidiary company of National Jet Systems. Coastwatch’s raison d’être is to fly such surveillance flights. However, now-as was the case when it was formed – it is a sub-contracted part of Customs, and indeed Customs itself “seconds” its own people to work within this department. As such, one would not expect Coastwatch to have much weight in a “punching match” for policy change. Yet an esprit de corps has developed – as this researcher has found - and will become apparent in later chapters which sketch Coastwatch’s historical development.

Has policy making in the area followed an Institutional Approach? This model sees a framework of policy-making in the West evolving from ancient times to become the model of policy both in the present and foreseeable future, with the “New Institutionalism” of the 1980s, as Jones (1998,17) points out: “reasserting the

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importance of the state and the salience of routines in politics". Examples of institutionalism at work include the British system of "Westminster" government, and the US system derived from the days of the Founding Fathers. Policy making is made primarily through the "cabinet" concept (Lovell, McAllister, Maley, Kukathas: 1995) which sends policy in the shape of proposed legislation through a lower house in a bicameral system; to a review stage in the upper house, and then on to manifest itself as "government" directing the country.

Jones notes varying models do exist: the parliamentary system and the presidential system, for example. The US model has been criticised in that a divided government – i.e.: a President not in control of Congress - as President Clinton experienced from 1994 - can be seen as a failure of this model. However, even a divided government can still process ample amounts of legislation. The model does not have much significance for the offshore estate's management policy development, yet it is worth noting that a "reverse thrust" policy pressure may result from the firm application of this model: the judiciary is not too much of a political part of Australia, although decisions such as the "Mabo" and "Wik" judgements within aboriginal affairs might signify a growing role. This is because the Westminster model of government does have significant weight within Australia's governmental systems – and the judicial sector is becoming increasingly concerned with policy decisions in illegal immigration. However, these in general at the time of writing and in the past have impacted upon detention of illegal migrants when on shore, and were not much concerned – until 2001 - with the management of the interdiction systems that result in those migrants being detained. After the Tampa action, however, courts began to be increasingly concerned, as government enacted policy decisions in making, for example, islands off Australia's coast outside Australia's migration zone. Actions such as this are discussed in more detail in later chapters.

A Bureaucratic Politics Model has some explanatory relevance in understanding the way interdiction and surveillance policy is – or is not – implemented. Here a multiplicity of departments develop policy in a competitive but co-operative model. It will be noted in future chapters that the subject matter of this study is dominated by bureaucratic systems. Indeed, in Chapter Six, it will be seen that 23 different agencies

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4 For an example, see "Judges there to serve the law, not make it". Albrechtsen, Janet. 2001. Sydney Morning Herald. 9 April. 11. The cases referred to above are: Mabo v Queensland (1988) 166 CLR 186 Mabo v Queensland (1992) 175 CLR 1, and Wik Peoples v Queensland (1996) 187 CLR 1.
are concerned with the management of the area. Therefore, this model does have relevance to this analysis. But is bureaucratic process the complete picture? The evolution in Canberra of policy on surveillance and interdiction reveals the interplay between what Matheson (following Colebatch, 1998) identifies as ‘vertical’ and ‘horizontal’ axes of the policy process (Matheson: 1998, 44). Policy here is the outcome of those authorized to formulate policy within the responsible government institutions (the vertical dimension) and ‘the cross or intra-organisational relationships which involve negotiation, cooperation and continuing interaction between multiple participants’, that is, the horizontal dimension (Matheson: 1998, 44).

There are of course, a number of actors in the horizontal plane. These might be organisations, individuals, or intangibles such as “media pressure” – this being formed from a combination of opinionated pieces within media publications: articles, editorials, letters – even cartoons. To comprehend this is important for an understanding of how the relative openness of the policy making network relates to democratic processes. The pressure media operatives can bring to bear is a key factor in understanding how policy is made in present times. Anecdotally, the “Murdoch and Packer influence” within Australia is seen by some as a factor; and pressure groups within the wider community – within this area predominantly “humanitarian” and “protectionist” lobbies - can and do drive their viewpoint forward through media pressure.⁵

Further actors includes any group of professional operatives: fishermen; the tourist industry which relies upon the sea, and so on. The inputs of these actors are revealed in further chapters. However, the inclusion of the “horizontal” axis of policy making may well be a correction to an exclusive preoccupation with the vertical, formal, hierarchical, bureaucratic axis of policy making. It is worth noting that the relationships between the actors on the axes may be different too: Matheson (1998, 45) points out that “The vertical axis comprises relations of command and obedience whereas the horizontal axis comprises relationships of persuasion, negotiation and bargaining”.

Following Matheson’s approach, we need to delve into the nature of the actors who inhabit the vertical axis. It is probably the case that - despite public concern and public

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⁵ Most of the media in Australia, at the time of writing, are owned by the Rupert Murdoch-owned News Limited organisation; the Kerry Packer-owned organisations, and the Fairfax family-owned media outlets. Various commentators – often via the government-owned Australian Broadcasting Corporation – have lamented this, making suggestions of bias and control. The lobbies referred to include organisations such as the Australian Greens political party and A Just Australia – see http://www.ajustaustralia.com/home.php
pressure regarding illegal entry into northern Australian waters - the policy process is in fact largely vertical and bureaucratic. One of the problems that will be revealed through this examination is that there are a wide variety of governmental and quasi-governmental organizations which are responsible for policy-making in this area. Thus, while following Matheson's example is useful, it will be difficult to determine the vertical axis powerbrokers as opposed to stakeholders. Matheson notes (1998, 45) that "...superiors are usually ratifying the advice of their subordinates rather than taking the decisions themselves". This has implications for our study: Royal Australian Navy members are not making decisions on who to arrest and how to arrest illegal fishermen but strictly following the guidelines laid down by their superiors.

Even the approval process of estimating whether the final product is satisfactory will be different according to this model. Matheson notes (1998, 45) that the "...vertical axis generates policies that meet with the approval of hierarchical superiors whereas the horizontal axis generates policies that meet with group assent". Thus a measure of "satisfactory" policy depends on the audience: for the bureaucratic model satisfactory policy may well be that which behaves in the predicated manner forecast by the stakeholders.

It might be noted here too that the idea of "shareholders" - as defined by Mark Considine (1994) in his work Public Policy - a critical approach - has some significance. This is a simple outline of policy development – and uses one variable set of terms - out of a range6 of models. Considine outlines a world of participants: shareholders; consumers; stakeholders; community actors and citizens in a network of policy changes. Considine's shareholders are defined in the same way as a shareholder in any company: they might participate in an election of the board of directors; they might have certain legal rights for damages if property rights are ignored. But Considine points out (1994, 145) that "there is no place for direct involvement in decision making". This is significant for this study, for here are besides the multiple agencies interested in this field a range of other shareholders: professional fishermen, for example, who have very little input into the management structure and policy formation as utilised by the agencies charged with surveillance and interdiction.

Another subset might be charter boat operators, who offer recreational activities - scuba diving, snorkeling, coral viewing etc - and they too are possibilities for inclusion in the

6 For example, the "Rhodes Model" as outlined in Marsh and Rhodes' Policy Networks in Britain. (pp. 10-15). Rhodes and co-author David Marsh suggest a model which utilizes "policy communities", "professional networks", "intergovernmental networks", "producer networks" and "issue networks".
interest groups. This is a wide and varied spectrum: as Lindblom (1980, 84) has noted, “...the term ‘interest group’ is not at all precise.”

Before departing from this study of vertical actors we should note one of the most influential groups within the sphere: that of the ruling Federal Parliament’s Cabinet, and even the “shadow Cabinets” of opposition parties. The area of border policy can be seen to be a background issue in the discussions of these groups prior to 2001. However, in that year the Howard Government set it firmly on the electoral agenda with its action on the *Tampa* incursion. This is not the place to discuss the mechanics of decision-making within the roles of Cabinet and Government Executive. However, in terms of being a critical variable on the vertical axis the central powerbrokers of the major political parties are an important factor to consider.

The “Institutional Model”, in particular, the “New Institutionalism” approach derives from a revisionist approach to policy studies taken in the 1980s, and has some relevance to this study. Broadly, it places further categories in the picture of the processes of the state and its apparatus: the economy, stakeholders with societal and state-oriented perspectives, and other interest groups. In the themes emerging from this study – the two main areas of illegal fishing and transgression of Australia’s sea borders – we can see the Institutional Model demonstrated by the inclusion of environmental groups; economic pressure lobbies; “refugee” and immigration groups, and more. Some of these groups pertain directly to an input of how resource-weighted the measures demanded are: do measures to cope with “illegal immigrants”, for example, bear directly on the monetary impact new displaced citizens might have on Australian society?

John (1998, 65) criticises this inclusion of ideas, norms and interests as “...turning too much of politics into a set of formal processes” and further finds some fault with the New Institutionalism model. First, it does not take account of how countries and policy sectors are different. John points out that the City of London is a powerful factor in British policy-making. If we extrapolate this further, we can compare it with Australian policy making: the city of Sydney, for example, is a powerful factor in both New South Wales – its state – and in Federal policy-making. However, Sydney is very different from “the City” – that institution of London which dates back to medieval times in its

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uniqueness. How, therefore, is the unique set of circumstances in northern Australian waters for fisheries patrols, for example, taken into account in this political model or indeed any political model. The set of country interests is unique – Indonesia, Papua New Guinea, Australia and in recent years, East Timor; the type of fishing vessels used are unique and too are the fishermen – and so on. In other words a model derived from a unique British perspective may not work well in a different culture.

John’s critique of New Institutionalism includes looking at its broadness as a fault. If societal values and norms are part of the equation, the equation is so too massive to be a useful model. We can see here how a topic of interest to many Australians – immigration – can be included. But immigration is an enormous topic: it includes legal and illegal immigration, “push and pull” factors – reasons why people are driven from a country or attracted to a country, economic factors which influence a country’s demands or rejection of immigrants, and so on.

However, there might be some relevance for this study if the broadness of the institutional approach is played down. If we can include policy-driving aspects of the media within those groups – editorials, letters to the editor, articles of opinion, even “editorial cartoons” – then these are factors that may indeed carry some weight in policy-making pressure sources. This study embarks on an examination of those factors in later chapters in order to examine their implications.

Group and network approaches have enjoyed considerable recent attention in the policy studies literature.¹ These approaches to policy analysis have particular application to surveillance and interdiction policy given the multitude of agencies and interests engaged in the area. Group and network approaches may be defined as loose patterns of association which characterize policy developmental stages. Groups are seen as sources of policy ideas, and John also sees them as reflecting the nature of the real world: they are part of a society that has to live with policies, rather than being a policy world of governments and bureaucrats which move on after their policy-formulation is done.

Konig and Bräuninger (1998, 387-88) make some interesting observations about policy network relationships which are worth while outlining here and which will be taken up later to explain the actual working of the policy. For example, they suggest that: “the greater actors' similarity, the more likely they are to establish information network contacts”. As may be seen in the forthcoming chapters, it is indeed the case that the quasi-military group Coastwatch have established strong ties with the military units deployed in the surveillance and interdiction areas. However, Coastwatch does not have such strong ties with the Department of Immigration and Multicultural Affairs (DIMA), an organization that is dissimilar in structure and outlook to Coastwatch: they are not uniformed; they do not use the tactical jargon of detection and interception; they come into close contact with their target groups – all measures of DIMA's dissimilarity to Coastwatch.

John notes variants on the model: the thoughts of Lindblom (1960, 68), for example, who sees decision-making as unplanned, disjointed and irrational. Samuel Beer (1965) defines the groups as producer and consumer groups, and John develops his distinctions further by noting how groups can be made important – or not – in the decision-making process; as relevant or irrelevant actors depending on the power of other groups. We can extract from this the notion that the Australian electorate may be viewed as consumers of border protection policy. This provides for some thoughtful analysis when viewed in the light of Richardson and Johnson (1979), who outlined the especially British - group process further in that the main determinants of decision are the groups within the executive and the civil service. However, John (1998, 72) notes how that analysis was somewhat wrecked by the advent of the Thatcher government in Britain. The incoming government policy development model emphasized groups, but thought outside the framework as understood by Richardson and Johnson: it promoted “can-do” individual civil servants; lifted policies from new right groups and think-tanks, and policy was announced in a manner very different from that previously experienced.

John also identifies (75-77) strengths of the group approach. It is more akin to a “real” world than other approaches; and the emphasis is on relationships rather than groupings because it would be rare in a real world for all groups to be equal in their access to policy. For example, Cabinet, and the border protection agencies such as the Navy, Customs and so on all receive different information and impressions on a developing policy, and all bring different sets of loyalties and drivers to the same operating table where policy is being assembled like Frankenstein's monster. However, the limitations
of a group approach are first that it has little to say about issues – the same issue can be handled very differently within policy formulation in alternative countries even though the groups are similar. It says little about group interaction, and does not say why some groups are strong and others weak. Secondly, the group approach is a circular argument with no difference between cause and effect – groups are all. Thirdly, institutions and the state are underrepresented in this model – they have “...rules and practices that are separate from the actions and projects of the groups outside them”.

Developing further the group idea of policy development is the network approach. This focuses more on the relationships than the groups. The work of Heclo (1978, 79) undertook examination of the disruption of models of policy-making by the rapid growth of protest; breakdown of old institutions and a “...loss of certainty and optimism”. More demands were placed on decision-makers and policy-making became, in John’s words (80) “...less predictable and more changeable as a result”.

Some analysis of the group and network ideas of policy development is pertinent to this discussion. There are obviously many groups at work within the policy framework, but this approach might also allow the inclusion of even the opinions of the general public as a factor. After all, if public opinion drives letters to the editor; if it drives approaches to one’s Member of Parliament, then should not its influences be taken into account? While admitting that the term “the general public” is far too broad to be useful, indicators of the public’s feelings such as opinion polls, letters to the editor and so on are a useful gauge of policy pressure, and as such, measurement of public opinion has been undertaken within this study.

A quantitative and scientific approach to policy development can be found in network analysis. In this model, relationships can be measured for density; identifying the centre of the network; what are its structures and what are its cliques. John (81) notes too that much of this is “common sense” but this approach can be useful simply to provide figures. (A motto of some policymakers is “If it can’t be measured it isn’t worth talking about...”) A reading of some of these studies, however, leads one to a conclusion that all of the policy development models are at least: a) highly complex and b) highly different.

The policies within the study area have developed steadily through the last 30 years of Australia’s attempts to cope with the problem, and such developments seem apart from
uniqueness. How, therefore, is the unique set of circumstances in northern Australian waters for fisheries patrols, for example, taken into account in this political model or indeed any political model. The set of country interests is unique – Indonesia, Papua New Guinea, Australia and in recent years, East Timor; the type of fishing vessels used are unique and too are the fishermen – and so on. In other words a model derived from a unique British perspective may not work well in a different culture.

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The policies within the study area have developed steadily through the last 30 years of Australia’s attempts to cope with the problem, and such developments seem apart from
the socio-economic conditions of the Australian economy. It is worthwhile noting that the larger context of policy making is broader societal change and socio-economics factors reshaping society.

John notes the arguments (Clark and Goetz: 1994) which point out that not all countries, states and cities make policy to gain capitalism benefits. Other arguments (Hirst and Thompson: 1996) point out that the state is still the central unit of policy development. This approach is not particularly useful in considering the subject matter under discussion here, but it is worth a mention in that it has bearing on the argument that Australia’s well-being in economic terms has some tie with immigration. Some of Thatcher’s thoughts (1998: 391, following Heclo: 1978) upon issue networks are therefore pertinent, particularly with the rise of the Internet to co-ordinate activist “events” such as the S11 and M1 demonstration/riots in 2000 and 2001 respectively. The potential for the politics of refugees and immigration may well be taken up by future issue networks, in which case these arguments will need re-visiting.

Assessed as a whole, the subject matter does indeed seem dominated by Bureaucratic Politics, with some reference useful to “New Institutionalism”; in its reference to further groups within the picture. These include the economy; societal and state-oriented perspectives, and interest groups. That is of course, not to decry the influence of the centralist government of Australia. Nevertheless, the model put forward in this study – while relying on these policy-development frameworks - does posit a “chaos-theory” approach that suggests that present policy in the discussion area has not derived from one clear model. As Chapter One first suggested, the problem of illegal immigration, for example, has become more important for governments in the last few years, as it steadily rises quantitatively and demands response.

Chaos-theory modeling is not as alien as one might suppose. Lindblom (1980, 5) notes that “...a policy is sometimes formed from a political compromise among policy makers, none of whom had in mind quite the problem to which the agreed policy responds”. Furthermore, Lindblom sees policy-making as “...an extremely complex process without beginning or end and whose boundaries remain most uncertain”.

Matheson (1998, 60) has identified a variety of iconic tendencies within Australian politics over the last thirty years. Although defining the overall model as one of “incrementalism rather than the rational comprehensive model”. Matheson points out:
“Policy-making is therefore the outcome of a process of negotiation and bargaining between a multiplicity of actors rather than of a rational calculation made by a single authoritative agent”. Further, “...decision making is therefore often the outcome of a process of persuasion, negotiation and compromise rather than of rational analysis”.

Although this is material upon which the chaos-model theory might lean, positing a world of confusion within policy determination, Matheson goes further. He suggests (60-61) that “...policy is reactive....government often operates in a crisis management mode” and suggests that funding (or the lack of it); the “preferences of bureaucrats themselves” and a “tendency for public servants to avoid risk” is part of the norm.

Is this in fact the road that Australian governments have taken in secondary areas such as border protection? No-one could seriously suggest that the major parties of Australia do not have some values close to their hearts, but what is their attitude on background matters that seem non-essential – at least until Tampa comes into view or “boat people” numbers rise dramatically? After all, the more of a policy platform there is to examine before an election the more there is to allow close examination of the true nature of a party – and therefore the more to have criticized and to be defended. Most political parties in the Western world at least seem to focus on a single-issue if they can – and therefore are able to concentrate on one argument rather than many. “It’s the Economy, Stupid”, was what Bill Clinton chose as his main issue for his election, and there are many such examples: the incoming Labour Government of Britain after WWII – who focussed on the returning troop’s welfare – the election of Ronald Reagan as a defence against Russia, and so on. What we are seeing, therefore, in border protection policy-making up until 2001 is reactive decision making, rather than thoughtful long-term analysis and platform formulation.

That reactive policy-making is alive and well can be demonstrated by the Howard government’s actions in early 2001. The government at that time, despite performing well economically in holding Australia out of a possible recession; avoiding the fallout of technical stock crashes, and keeping distant from the woes of South-East Asia’s business gloom, was out of favour with the federal electorate, at least so far as opinion polls went. And so, listening to the voters, they reacted, in contrast to the former Labor Party Keating government. Mike Seccombe noted in The Sydney Morning Herald:

Once Paul Keating’s course was set, he was like the captain on the Titanic: damn the icebergs. “Have some pride in your craft,” he would say when minders
suggested he change direction, at least a little, in response to the drifting mass of opinion. “We don’t want to get into that sort of caper.” .... Another ex-adviser says: “Paul would never accept that we were in danger. He only listened to those who said, ‘Howard can’t win’.”

Seccombe contrasted this attitude with that of Prime Minister John Howard, at a similar point in his prime ministership and behind by a similar amount in the polls. 

Seccombe’s point is that this is policy-making without a philosophical or political-science model with which to navigate – policymaking on the run.

Seccombe went on to list policies and reverses. The causes are generally electoral reverses in by-elections, and opinion polls. The policy “backflips” included:

• Changes to the unpopular Business Activity Statement.
• Abandonment of plans to tax trusts as companies.
• Scrapping of 1.5 cent a litre petrol excise rise.
• Doubling of first home-owner grant.
• Government blocks Shell takeover bid of Woodside Petroleum
• Budget benefits to self-funded retirees.
• Abandonment of over-payments to family welfare recipients.
• Abandonment of plan to pursue contractors avoiding PAYE.

Such attitudes are not unnoticed by other media outlets, as The Australian cartoonist depicted a week later:

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The *Tampa* incident of later in the year was indicative of similar policy-making decisions: one that seemed born of hasty decision making, melodrama and overkill. The decision to use the Australian Army's Special Air Service in a constabulary role is but one symptom of this approach. However, it should be noted that once the new policy did emerge, the Liberal Party grasped it with determination, saw it through some challenges, and may even have set a long-term policy imperative in this area.

Therefore, policy-making with a "model" of chaos-theory reactive policymaking is something which is alive and well, if an oxymoron. Furthermore, it is now suggested that it will be readily perceived throughout policy-making attempts in the areas under study here. There are indeed peculiar challenges towards determining how policy was resolved and formulated in this area. These challenges are outlined throughout subsequent chapters. This chapter has provided some approaches and methodology blueprints, while subsequent chapters will spell out the detail.

Finally, some closer comment upon an incident which has been the subject of previous brief reference: the *Tampa* incident of September 2001. In summary, the Norwegian freighter *Tampa* in August 2001, on the high seas, took some Suspected Unlawful Non-Citizens (SUNCs) off a Suspected Illegal Immigrant Vessel (SIEV) and was intending to take them to the nearest port – in Indonesia. However, some of the SUNCs pressured the vessel's Captain to head for Australian territory, specifically Christmas Island. When the vessel – despite being warned off by government authorities - entered Australian waters it was intercepted and boarded by troops from the Australian Army's Special Air Service. The ship was denied entry into Australian waters, and eventually the SUNCs were transferred to the Navy ship *Manoora*, and then taken to the island of Nauru, which had agreed to process them to determine refugee status.

The incident reveals a culmination of a policy agenda that previously had been frustrated. The policy was basically one of deterring SUNCs who were being brought to Australia by "people-smugglers" who were, at this time, using Indonesia as a holding port while arranging boats to transport their clients to Australian territory. Once inside Australian territorial waters, the SUNCs were released by their people-smugglers. Often this Australian territory was Christmas Island or Ashmore Reef, both considerable distances from the Australian mainland, but both useful for the people-smugglers because it saved them considerable transfer distances; ie: the rest of the trip
to Australia was provided by Australian Navy vessels or other platforms of the Australian government.

The *Tampa* incident represents a watershed change in policy of the Australian Federal Government. It highlights a long and drawn out developmental period in managing surveillance and interdiction in the offshore estate, and one that has been marked by rapid policy change, with policy-makers reacting to events, and lacking any coherent overall plan.

To what extent the *Tampa* incident was a ‘political’ decision and/or a ‘rational’ policy choice needs to be judged. Among other things, however, the policy of late 2001 which embarked on a course of refusing to allow asylum seekers to land signals a shift in the public values espoused by the Australian state. In assessing societal values, refugee movement and the demand for asylum provoke strong emotions and often engage rival sets of values and interests between groups at intense levels. This is a major policy challenge for an Australian government because it actually involves redefining the values of a significant area of public life.

In summary, policy development within this area is contentious, difficult and directionless. In further chapters the background to offshore surveillance and interdiction is explored further, and further evidence is given of this chaos-model.

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Chapter Three: The historical development and geo-politics of Australia's maritime policies
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This chapter addresses the geo-historical and geo-political character of Australia’s northern maritime frontier. The unique and demanding nature of this maritime frontier helps explain why policy development within this area is contentious, difficult and directionless, at least up until 2001. The previous chapter has reviewed the relevant policy studies literature to elucidate the nature of the policy challenge for interdiction and surveillance. The context is shaped by a multitude of factors, ranging from physical geography, the peculiar nature of the northern maritime frontier between 'white settler' Australia and the Indonesian-Malay-Melanesian arc of peoples spanning our north, and more recent issues of asserting sovereignty and control and ownership of maritime territories and resources.

Many historical and geopolitical factors make our northern maritime frontier a 'soft' zone, difficult to control and a complex challenge for effective policy. The following discussion links together such issues as piracy, law of the sea, control of maritime territories and more. Why have we arrived at the present set of concepts embracing how we control "our" country's seas? In fact, in a rare display of unity, most of the countries of the world have adopted this present set of practices. Consequently, we might assume they are the most logical and the most workable practices. What then, is the background to the idea of sea ownership? The idea behind freedom of the seas dates back many years. For many years it was set by the distance a cannon could fire a shot from a country's coast. This was about three miles, and hence the term "three mile limit" came into being. Today we have three main maritime borders in Australian waters: that of 12 nautical miles from our coasts, in which we maintain jurisdiction; that of 200 nautical miles, in which area we maintain the rights to economic ownership of marine life, and finally to 350 nautical miles, in which area we maintain ownership of all sub-surface oil and gas and seabed materials. However, there are caveats to this simplistic description.

Policy-making to govern the sea has a long history, and an understanding of it helps understand the unique historical and geo-political context in the Australian north and

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1 This historical section draws upon many readings for sources, but also upon the writer's own knowledge, acquired over some years as a Royal Australian Navy officer and naval historian.
2 A nautical mile is 1.15 land miles.
3 For example, lines are drawn from coast to an offshore island, and thus the border line extends from that vector, thus extending the offshore estate. Furthermore, although we maintain the rights to marine life ownership, LOSC allows for other parties to lay claim to what we cannot guard. Further, seabed materials also extends to describe shellfish and the like lying on the ocean bed, or indeed more than oil and gas which may lie beneath – mineral mining, for example, is permitted.
how it impacts on policy today. Phillipson (1911) suggests that early concepts of control over the sea can be found in Ancient Greece. He compares the Greeks' idea with similar ones existing in Minos, but makes the point that while the Atheniens were willing to battle for sea supremacy, they were more interested in trade, and indeed, preferred the seas to be free.\(^4\)

Potter (1924) makes the point that while Rome enjoyed domination over the seas in her Empire, it was one exercised simply by might alone and by the presence of Rome's Navy. Rome's influence was not so much a matter of policy - for Potter makes the point that sea dominion was not written into treaties with other countries - but simply exercised because Rome had a navy, and after her conquest of a country, that new vassal did not. Conversely, for Australia, as a member of the Western group of nations that sees colonialism as out of political fashion, our domination of the sea that washes our shores is largely controlled by diplomatic effort rather than force exercised in the maritime or land theatres. However, Australia is positioned next to another state - Indonesia - and we do have to exercise domination in a real world of illegal fishing, border transgression, and piracy. The theme of domination by force is perhaps not so far away in a South-East Asia that is beginning to be splintered by separatist movements, ethnic and religious dissent and militant Islam. These have led to conflicts in Bougainville, East Timor, the Solomon Islands, Fiji, Ambon, Aceh and more. In late 2002 the bombing of the Sari Nightclub in Bali was the most recent and most bloody demonstration of volatility to our north as far as Australia was concerned.

Similarly the problems Rome experienced with pirates were not diplomatic arguments, but rather ones of an annoyance being met with force; not an argument between nations but rather conflict between "owner and burglar". The Roman Empire of the early second century had many problems with pirates conducting raids on their trade ships in the Mediterranean. Three large expeditions were launched over half a century to eradicate the menace, the last one being led by Pompey the Great, wiping out that pirate group completely. This led to a period of peace as far as piracy went in the region that lasted 250 years.

Piracy is relevant to this discussion because it is a problem that impinges upon a country's management of its sea resources. If we look at the incidences of piracy

\(^4\) It is an interesting reflection on today's policies that the countries of those ancient times did not appear to be disputing the rights to exploit the sea, but rather saw the seas as a transport avenue. For example, disputes between the Greek and Persian Empires of around 700 BC centred on shipping attacking coastal towns. The battle of Marathon some three hundred years later can be seen as the culmination of those disputes.
throughout history, we note that its prevalence is a symptom of a "soft" maritime policy in the sea area controlled by a country.

Piracy persisted, and over the centuries was a serious problem for many nations. The medieval period saw Viking raids throughout the North Atlantic. These, although largely against land targets, were also often conducted against ships encountered at sea. In the Middle Ages, the Barbary pirates, based on the North African coast, were notable for their savagery, and in the once-peaceful Mediterranean pirates of both the Muslim and Christian faiths fought each other as well as preying on trade ships. It is interesting - and indicative of the timeless attractions of piracy - that it still exists today, albeit in a form characterized by speedboats and sophisticated weaponry but still with the same ruthless attitude towards life and property.

The problem is relevant to Australia in that our northern waters pose an extremely difficult security situation. Although Australian waters have been free of this problem in recent decades, incidents of piracy are steadily increasing around the world:

![Pie chart showing piracy attacks 1984-97](chart.png)


Reports on Piracy - Fifty-third session Agenda, 1998: Report of the Secretary-General

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However this figure appears to be extremely optimistic, as a United Nations report\(^6\) goes on to explain:

The International Maritime Bureau and the International Transport Workers’ Federation (ITF) believe that the official reports account only for 50 per cent of the attacks, because shipowners are hesitant to report an incident for fear of having their ships immobilized during an inquiry (which could cost them up to $10,000 a day) and could also result in the loss of clients. The insurance companies settle cases discreetly and simply increase premiums in high-risk regions.

The location of attacks in recent years has shown a recurring pattern: that is, it is occurring primarily in South-East Asian waters:

![Piracy Attacks by Country - 1999](chart3.2.jpg)

This trend is worsening: the majority of attacks in 1998 and 1999 were in Asian waters, and piracy in 1999 with 192 attacks was up by 40% over 1998; almost triple the attacks of 1991, according to the International Maritime Bureau.\(^7\) In the year 2000 the International Maritime Bureau concluded that “The waters around Indonesia are now overwhelmingly the most pirate-infested in the world.”\(^8\) The Bureau reported 469

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attacks in that year. In 2002 the figure was down to 335 pirate attacks, with 91 occurring in the seas around Indonesia and East Timor. Although this figure shows less attacks - due to increased naval patrolling - all but one of the 21 murders committed during acts of piracy occurred in these waters. In 2003 the trend was continuing, with 28 attacks recorded in the first three months of the year in Indonesian waters out of a total of 103.

The reasons behind this geographical factor are difficult to discern. It may be that modern pirates are simply following in a great local tradition - Javanese waters in particular were the home to great pirate fleets last century. It may be that there is a difference in cultural attitudes towards such acts - attitudes that will be revisited later. Further, the cause may be associated with the weakening of central state control in Indonesia since 1997-1998, coupled with the uneasy situation of successive presidents within Indonesia, and perhaps disaffected elements associated with the East Timor conflict.

Chalk (2002, 13) identifies four major threats produced by piracy. First, a threat to personal safety and loss of life amongst maritime personnel. In the years from 1991 to 2001, he identifies 2058 persons who were taken hostage, 280 killed and 275 seriously injured with hundreds more injured in a minor way. Secondly, there is the matter of direct economic impact. Chalk reports estimates of up to a $1US billion lost each year. Thirdly, piracy acts as an encouragement to official corruption, and fourthly, there is a considerable environmental threat posited by pirated shipping which is ransacked and then left to drift.

Given that piracy is a worsening problem, and is most prevalent in waters to Australia’s north, it follows that it must be of interest to our surveillance and interdiction efforts. It may grow as a concern so that it involves Australia’s armed forces, which are already heavily concerned in this frontier. A recent CSS Strategic Briefing Paper (2000) noted:

Piracy has traditionally been dealt with as a law enforcement issue and has been regarded only marginally as a matter for defence and security authorities. Now, however, military forces of individual countries are becoming more directly

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involved and co-operation on piracy among the security forces of two or more
countries is now occurring. Japan has called for the establishment of a United
Nations coast guard to deal with piracy. Among those who study strategy and
security, the definition of security has been broadened from the traditional issues
of defence of territory, protection of the sea lanes, and so on, to include piracy,
the smuggling of people, human rights, some environmental issues, drug
running, other transnational crimes, and major diseases such as AIDS. These
issues are recognised as requiring co-operation across borders.

What is piracy to some might not be to others, however. It may indeed that the South-
East Asian waters piracy is simply seen by some local inhabitants as a continuation of
the semi-legitimized theft that has been their livelihood for centuries. In this they are
carrying on an old tradition of semi-legitimized country-sanctioned attacks on the
shipping of other nations. An illustration of this may be derived from a brief description
of what some commentators have called a type of piracy – privateering. This began
with some nations sanctioning armed ships to attack enemy ships, usually vessels of
commerce. The *Encyclopedia Britannica* (1997) notes:

> Privateering was carried on by all nations from the earliest times until the 19th
century. Crews were not paid by the commissioning government but were entitled
to cruise for their own profit, with crew members receiving portions of the value
of any cargo or shipping that they could wrest from the original owners.

Frequently, it was impossible to restrain the activities of privateers within the
legitimate bounds laid down in their commissions. Thus, it often became difficult
to distinguish between privateers, pirates, corsairs, or buccaneers, many of whom
sailed without genuine commissions.

In 1856, with the Declaration of Paris, Great Britain and the other major European
countries (except Spain) declared privateering illegal. The U.S. government refused to
participate, on the grounds its small Navy made reliance on privateering necessary in
time of war. America eventually reversed this stance, and Spain agreed to the ban in
1908.12

12 While the privateers were often honest patriots who remained loyal to their country, in some cases
they could turn pirate themselves if they were too tempted by opportunity. Some privateers operated on a
"no victory/no wage" policy, and were driven to piracy by a lack of success if competing against well-
armed pirate ships. Edward Teach, or "Blackbeard", an Englishman, is perhaps the most famous example
of the privateer turned pirate. Drake's expedition (Lockyer: 1964) of 1577 is perhaps the most famous
example of privateering, for he captured a rich Spanish treasure ship; circumnavigated the globe, and
returned to his backers a profit of 5000%! Sir Henry Morgan was one of the most famous pirates,
At the Hague Peace Conference of 1907 it was then stipulated, and has since become part of international law, that armed merchant ships must be listed as warships, though there have been various interpretations of the word armed. This has its roots some 700 years ago. Fulton (1911, 11) outlines developments in the 1300s where countries asserted their rights to jurisdiction over areas of sea adjacent to their lands. He makes the point that "...in most cases...the appropriation of the sea was effected by force and legalized afterwards". Venice began levying tribute on ships that traversed her waters. This practice was adhered to for many years, and it seems was copied by other nations. Fulton further outlines Scandinavian claims of later years; claims which led to many disputes and "several wars" and which to Denmark still adhered until half way through the 19th century, levying a toll on ships passing through her offshore waters.

These examples demonstrate attempts by countries to control two aspects of their sovereignty. First, they wish to protect their own property - their ships at sea. Secondly, they are starting to assert that the waters which wash their shores are also theirs, at least to a degree. It is notable that so many countries - as will be seen below - were coming to embrace the same ideas. Eventually we will arrive at our own times, and the culmination of all seafaring nations' theories into one unified policy.

By the late Middle Ages there were advanced sea codes in effect in several areas in Europe. A famous landmark was Eleanor of Aquitaine's Laws (or Rolls) of Oleron, proclaimed in 1160. Other compilations included the Consolato del Mare (Consulate of the Ocean) and the Black Book of the Admiralty. Other notable legal documents pertaining to sea passage included the Laws of Wisby and the Laws of the Hanseatic League, a loose confederation of German towns (Lockyer, 1964), who were trying to protect their sea trade. The concept of the "high seas" began to be accepted as a standard for all countries, along with the idea that piracy was a crime against all humanity, and therefore pirates should be dealt with summarily wherever they were encountered.

O'Connell (1982, 14) suggests that James I:

...brought with him to England the Scottish notion of land-kenning, according to which the King of Scotland was deemed to possess whatever lay within the range although he later reformed to a degree and became the governor of Jamaica, hanging his former comrades in arms with enthusiasm.
of vision of a ship in sight of the coast. That was probably not a doctrine peculiar to Scotland, but one common to the northern countries.

This is a concept interesting in its flexibility, for the distance one can see at sea depends on the height of the deck above the water, and of course from the top of the highest mast.

The doctrine of *freedom* (author’s emphasis) of the seas was put forward by the Dutch lawyer Hugo Grotius in *Mare Liberum (Open Sea)* in 1609, co-incidentally, as O’Connell (1970) notes, at the same time as James I issued a proclamation prohibiting Dutch fishermen from operating off the British coast. The ideas of Grotius seem to have been the flashpoint for much discussion of fishing rights, and the concept of sea ownership with it. From that time the commercial and colonial interests of the major powers, backed up by the growth of naval forces, began to want to ensure freedom of the seas during peacetime but at the same time, it seems, the concept of ownership of seas near their coasts was also in mind. In particular, the growth of far-flung empires might also be seen as the end of large-scale piracy, with powers such as Britain, Spain and France wanting to ensure their dominion of valuable mines and overseas resources not imperiled by sea bandits. Navies began to be more organized and to take savage action against pirates wherever they were found, and governments often supported semi-legalized summary action against known trouble spots of pirates - Sir James Brooke’s campaigns in Sarawak in the 19th century being a prime example.\(^{13}\) However, the concept of who owned seas around nations did not become defined at all - O’Connell (1982) notes a withdrawal of the concepts until the early 1700s, with "Bynkershoek’s principle" coming into vogue; that is: a nation’s authority extends as far as its force of arms extends. From this the idea of a cannon-shot - at its greatest being three miles - marking a limit seems to have developed.\(^{14}\)

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\(^{13}\) Brooke was a Victorian Briton who went to the Borneo area for adventure and stayed on to become its ruler. Later known as the White Raja, he carried on a campaign against the pirates of the islands aided by a number of friends and occasionally government help in the form of the Royal Navy. After winning many battles, he succeeded in bringing trade and Western law and civilization to the area. His family ruled the area until WWII. (Personal knowledge of the author gained through visits to the Borneo area.)

\(^{14}\) The term "cannon" here is used loosely to mean a smooth-bore weapon that flung a round shot. In fact, an enormous variety of guns existed in the artillery world, with naval gunnery developing somewhat separately from the army-based weapons, most of which were horse-drawn from the days of earliest use in the Wars of the Roses. To propel a round shot three miles would be difficult indeed, and would require a long-barreled gun - perhaps an 18-pound weapon - rather than the "carronade" which although it fired with a much greater measure of powder to propel its 32-pound ball, had a much shorter range because of its short barrel. See discussions on naval gunnery of Nelson’s era in *Broke and the Shannon* (1968) by Peter Padfield, and also N.A.M. Rodger’s *The Wooden World* (1986).
O'Connell again notes that the three-mile limit began to be adopted throughout the 1800s by various countries, with some occasional reversals or variations: Spain tried a six-mile limit in the 1820s, for example. Churchill and Lowe (1988) note that a suggestion was made by one Galiani in 1782 to adopt a limit of three miles along coastlines irrespective of the presence of coastal batteries. Britain, perhaps by virtue of its status as a paramount naval power, seems to have begun to be seen as a model for other sea-going nations, but interestingly sheered away from defining the three mile limit in much of its legislation. Towards the end of the century, as O'Connell suggests, there was a great deal of arbitration to define certain rights - of sealers; the seizure of fishing vessels; the exact marking of the three mile limit, the rights of a vessel seizing a slaver, and similar matters.

International laws began to become more formalized in the twentieth century, despite initial setbacks. Churchill and Lowe (1988, 66) point out that The Hague Conference of 1930...attempted to reach agreement on the width of the territorial sea, and failed...twenty States sought territorial seas of three miles, twelve sought six miles, and the four Scandinavian States sought recognition of their own historic four-mile claim; of these States, several wanted the right to claim contiguous zones beyond the territorial sea. No general agreement was reached.

O'Connell (1970, 20) notes that the 1958 and 1960 Geneva Conferences on the Law of the Sea were not conclusive, for a variety of reasons. However, they at least brought countries together, in spite of an enormous amount of differences, and while "...no agreement was reached...on the extent of the territorial sea...conventions were adopted on most other aspects of jurisdiction on the high seas and in territorial waters".

In the 20th century coastal states began to assert varying claims to territorial waters extending to various distances: six, 12 or 20 miles were all declared. In 1945, the United States claimed control of the seabed and subsoil resources of its continental shelf for a distance of 200 miles. Some nations - Peru, Ecuador, and Chile, amongst others - have claimed absolute control over waters extending as far as 200 miles from shore, amongst heated debate with their neighbours.¹⁵

As previously noted, Rothwell (1995, 5) shows that Australia— in modern times— long has had the legal framework to confirm the "Commonwealth parliament's extraterritorial competence". The continental shelf was proclaimed in 1953. Australia's implementation of the Fisheries Act of 1952 allowed regulation of its own people and their fishing activities. In 1967, as Rothwell again noted, the Commonwealth enacted the Petroleum (Submerged Lands) Act to govern exploration and exploitation of petroleum resources of the continental shelf, with States passing similar legislation in cooperation. As a precursor to impending changes Australia (Bergin: 1996, 17) announced a 200 mile fishing zone in 1979.

In 1983, the Federal Government (Bergin: 1996, 5) acted under Section Seven of the Seas and Submerged Lands Act 1973, and proclaimed, for the purposes of international law, the position of the baseline from which Australia's territorial sea is measured. This is also the baseline from which the 200 nautical mile limit of the Australian Fishing Zone and Exclusive Economic Zone are measured.

In November 1990, Australia announced its intention to extend, as allowed by UNCLOS III, its territorial sea from three to twelve nautical miles. A contiguous zone was declared (Bergin: 1996, 16) in 1994 as a result of the Maritime Legislation Amendment Act. In this zone the country is allowed to prevent infringements of its interests within customs, immigration, fiscal matters and sanitary issues.

Freedom of the seas is not absolute: the accepted rules of international law require states to use the high seas with reasonable regard for the rights of others. For example, causing pollution, even on the high seas, has been argued as being illegal for all countries. However, not all countries accept this; not all countries construe it as illegal, and not all countries enforce it. The UNCLOS ideas are only a few decades old, and are not enshrined "in stone".

The United Nations' deliberations on the Law of the Sea now assume a more important role. Over the last half of this century, perhaps relating to increases in population, the rights of a country over its coastal waters has become increasingly debated. At present, many countries across the world are signatory parties to the 1982 United Nations Convention on the Law of the Sea, usually known as UNCLOS. This is an international treaty governing uses of the oceans. The United Nations first began drafts on the treaty

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in 1958, with four treaties resulting. In 1973 the proposed treaty was expanded to cover new means of exploration and resource gathering.

In 1982 the final discussions on the Law of the Sea were concluded. During its final working session, Third World nations adopted the treaty while the United States and several other countries rejected the code. Nevertheless

On 10 December 1982, the United Nations Convention on the Law of the Sea was opened for signature at Montego Bay, Jamaica. This marked the culmination of over 14 years of work involving participation by more than 150 countries representing all regions of the world, all legal and political systems, all degrees of socio-economic development....On that first day, signatures from 119 delegations comprising 117 States, the Cook Islands (a self-governing associated state) and the United Nations Council for Namibia, were appended to the Convention.\(^{17}\)

Subsequently, additional nations adhered. In time, 189 countries, including Australia, became a party to UNCLOS, with 127 countries ratifying it by 9 July 1998.\(^{18}\)

The 1982 treaty establishes a 12 nautical mile limit to the territorial waters of all nations. In Part V, Article 57 defines the "exclusive economic zone" of 200 nautical miles (370 km). Within this zone, according to Article 56 (18): "...the coastal state has: (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources..." The treaty, providing some geological conditions are met, also guarantees sole rights to oil and gas lying within 350 nautical miles of the coast.

It should be noted however, the original concept of the Convention was that countries such as Australia who are signatories to the convention have an obligation to allow foreign fishing vessels the right to harvest surplus fish, as Kwiatkowska (1989, 60) points out:

Foreign access to the EEZ is, under Article 62, para 2 of the LOS Convention, of a basically temporary nature; it depends on the availability of a surplus of the


allowable catch and is possible until a coastal state reaches the capacity to harvest the entire TAC in its zone.

However, as a country sets its own definitions of what is "allowable", that concept appears to have been gone disregarded by many countries, including Australia. Passage rights are allowed under the treaty straits which fall within the 12 nautical mile limit. Where nations are close to one another, the Law provides that a maritime boundary be established. This may be a median line but this is not necessarily so.\footnote{See footnote three of this chapter for a further explanation.}

The adoption of UNCLOS has presented new challenges for policymakers within Australia's federal system. For example, the economic zone has assumed significant input into the country's economy. In 1983-4, to look at just one year for comparison to today, according to Bain (1985) in "Australia's Fishing Interests", the gross production value was in excess of $454 million. Present figures for marine industries show how this has grown, as the Australian Government's Oceans Policy points out: "These industries are important to the economy, contributing around $30 billion a year or eight per cent of gross domestic product".\footnote{Commonwealth of Australia. 1999. Australia's Oceans Policy: http://www.environment.gov.au/marine/ocopoly/policy_docs/aop/aop_01.html}

As previously noted, in 1990 Australia extended its territorial sea from three to twelve nautical miles. It might be noted that the declaration of such limits may have led, and may in future lead, to countries attempting to claim outlying distant islands in order to extend their economic zones. The most notable example at present is perhaps the Spratly Islands in the South China Sea. These islands are claimed by China, Malaysia, Indonesia, Vietnam, the Philippines and Brunei. In the Mediterranean both Turkey and Greece have argued over possession of an island. Korea and Japan are both disputing their cases for possession of rocky islets in the sea between them. Might it be the case that some of Australia's offshore possessions would become the subject of rival claimants with subsequent entanglement and engagement? This has been recently seen with the creation of East Timor and the subsequent need to rewrite old treaties made with Indonesia\footnote{Commonwealth of Australia. 1991. Treaty between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and Northern Australia [Timor Gap Treaty] 11 December. Canberra: Australian Government Publishing Service.} when East Timor was a province of that country rather than an independent state. Considerable argument may be forthcoming over a redefinition of something that was seemingly "cast in stone" only 20 years before East Timor came into existence:
The Federal Government yesterday announced it would no longer submit to international legal rulings on maritime boundaries after lawyers advised East Timor it stood to lose tens of billions of dollars in oil and gas revenue to Australia under the renewed Timor Sea treaty.22

It is notable that even once sea boundaries have been set they may be liable to change - as is the case when a “new” country has been born. After the creation of East Timor the Australian Foreign Minister was of the opinion that

...Australia would dismiss any proposals from newly independent East Timor to radically change seabed boundaries because it would risk unraveling thousands of kilometres of boundaries that have already been settled with Indonesia.23

In Australia it has been argued by some aboriginal interest groups that the sea may be owned by various tribal groups. In some of these cases, it may not be the seawater area or island that is of prime importance: what is sought instead are the sub-sea resources that accompany that island’s possession. In other cases it may be that the claimants attach spiritual or other significance to the land or the sea or indeed its creatures.

Further offshore, it may be that the importance of economic zones will present special challenges for Australia’s policymakers. The islands off Australia’s north-west, for example Christmas Island, present an attraction for other nations that may well lead to arguments over sovereignty if Australia does not safeguard its interests. This country has seen the significance of what constitutes Australian land with the arrival of “asylum seekers” or “boat-people” in offshore territories such as Ashmore Reef and Christmas Island. The arrival and subsequent processing of such people led to a change in the Migration Act in 2001. Special notice will be taken of these developments – and their challenges for policymakers - in subsequent chapters.

Of concern, insofar as the realities of the UNCLOS agreement are involved is the tendency of countries to have signified agreement, but not ratified the treaty. Larkin (1993, 11) pointed out:

...the Convention needs to also be ratified by at least 60 of the signatory nations if it is to become a formal instrument of international law. As of May 1991, only

43 nations had signed it... Technologically powerful nations such as the United States (which did not sign the Convention), were opposed to its collective regime for deep seabed mining beyond continental shelves. Other nations balked at the financial contribution required...

However, slow progress was made. By 1996, the Convention had been ratified by 85 nations, including Australia. Over the next three years there was a rush of nations to "sign up" - as noted previously, by the end of the millennium, 127 had ratified the Convention. China's recognition of the Convention has added to the tension over the ownership of the Spratly Islands.

The status of the high seas therefore increasingly became a concern of the United Nations, as can be seen in the UN Law of the Seas Conferences of 1958 and 1960 and annually from the late 1970s. Proliferating oceanographic experiments, along with increasing exploitation of seabed resources, all raised complicated international issues concerning territorial rights. Australia, like many other countries, took matters into its own hands and in 1968, declared a 12 mile Declared Fishing Zone, which it began policing.24

3.4 The eventual size of the Australian Fishing Zone, with its ultimate 200nm zone illustrated - courtesy AFMA

The edge of the zone has become a "line in the sea" for illegal fishermen. The diagram below illustrates sightings of vessels for the Gulf of Carpentaria edge of the zone during 1996. The red dots indicate foreign fishing vessel sightings. The implications of all of this are discussed later in the chapter on Illegal Fishing.

3.5 Sightings of vessels in the Gulf of Carpentaria on the edge of the AFZ during 1996. (Coastwatch)

In 1994 Australian legislation brought into being both an Exclusive Economic Zone and a contiguous zone. The following diagram illustrates the present arrangement:
In conclusion, we can see that the Law of the Sea has slowly evolved over two millennia - but very quickly over this century - to encompass a shared international understanding that a nation-state owns in almost every sense of the word the water and what lies in it and under it from its shores to 200 nautical miles out to sea. This study rests upon that assumption to question now the efficiency of the mechanisms that Australia has put into place to safeguard its international entitlements. As a nation, Australia has said it wishes to enjoy these entitlements, and its government would not be fulfilling its obligations to its people if it did not maintain that security.

Further, Australia has international obligations. This was pointed out by Judge McNair, presiding over the Anglo-Norwegian Fisheries case of 1951, and reproduced in Churchill and Lowe (1988):

International law does not say to a State: "You are entitled to claim territorial waters if you want them". No maritime State can refuse them. International law imposes upon a maritime State certain obligations and confers upon it certain rights ... the possession of this territory is not optional, nor dependant upon the will of the State, but compulsory".25

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So how well is the Australian government carrying out its duty, both in perceived success and in reality; a duty it owes to both its people and the world? We can see that there is a complex tangle of geopolitical, historical and legal factors that make control of our northern waters such a particularly challenging policy area.

Finally, we have seen countries develop, over the last two millennia, various measures to control two aspects of their sovereignty. First, they sought protection for their own property - their ships at sea - and developed laws concerning piracy; ships' own sovereignty and what rights those ships had. Secondly, they claimed the waters which abounded their shores as theirs, arguing only about the degree of that control. Given that we have so strongly arrived - as a collection of nations - at this point, we can presume the present system is here to stay, and the matter which remains is how well we as nations are managing what all agree to be ours. In many ways, therefore, we are evaluating through this discussion our own capacities as a nation.
Chapter Four: Australia and the "Boat-People": from Containment to Expulsion
Chapter Four. Australia and the "Boat-People": from Containment to Expulsion

The purpose of this chapter is to outline the development of policy in the area of border control in both its historic aspects and to present an examination of policy developments. In recent years, the issue of the control of groups which have attracted a diverse range of labels - "asylum seekers"; "refugees"; "illegal immigrants" - through our maritime north has become a most dramatic challenge for Canberra to produce an effective yet supportable policy.

The developments of policies of rigorous border control - in particular in recent times - while having widespread support, has aroused serious opposition from influential sectors of Australian society - (from 1996) - Opposition Parties such as the Greens and Australian Democrats, churches, parts of the legal profession, non-government agencies, human rights groups - as well from outside agencies such as the United Nations, and criticism from some foreign governments. It has provoked a whole range of sensitive issues, such as allegations of Australian racism. The policy challenge to Canberra in terms of the Tampa affair and the subsequent 'Pacific Solution' - a policy of stopping potential migrants and sea and transporting them to other countries - points out the complex and intransigent nature of the policy problem presented in trying to control the northern borders.

In the area of surveillance for illegal immigrants entering through Australia's coastline, and in the interdiction of the same, Australia has a confused history which persists to the present day. Not only has policy been driven by events rather than planned, the current situation of surveillance and interdiction is often, but not always, one of confusion, indecision and mistakes.

The movement of people across borders by informal means, whether they are refugees or not, has become one of the biggest world-wide "crime" problems1 of recent years. In 2001, Interpol suggested: "People smuggling is the third most profitable activity for organized crime worldwide, bringing in $A61 billion a year..." The agency also suggested the problem "...is likely to mushroom in coming years...".2

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1 "Crime" may not always accurately describe this situation: the movement of people across borders is not always against the countries in question's laws; international law does not impact upon this area, and once a "refugee" is accepted, they are not viewed as a criminal.

Refugees are defined by the Australian Department of Immigration and Ethnic Affairs according to the United Nations Convention (and 1967 Protocol) Relating to the Status of Refugees. The wording of what defines a refugee is given as a person who

...owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country...

With the penetrating and effective media coverage of television and popular newspapers, refugees in the 20th century are now more visible than they ever have been, although, of course, they have always existed. Given the 20th century's massive wars, however, both displaced people and refugees have appeared near the world's trouble spots in huge numbers, perhaps surpassing any previous century's problems.

The World-wide Nature of the Refugee Problem

A number of factors may cause “the refugee problem” to be one that increasingly dominates our world's future. With population increases and more pressure on economic resources, with the political instability caused by the end of the Cold War, and with increasing ownership of powerful weapons by a myriad of countries, it may well be that refugee questions will be an international problem in the future on a massive scale.

The sources of those persons designated as refugees changes with time: political and economic circumstances; warfare, religious pressures, famine and more. The following table, drawn from the US Committee for Refugees, details the source countries as of December 31, 1996:

<table>
<thead>
<tr>
<th>Country</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palestinians</td>
<td>3,718,500 *</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>2,628,550 *</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>1,006,450 *</td>
</tr>
<tr>
<td>Liberia</td>
<td>755,000 *</td>
</tr>
<tr>
<td>Iraq</td>
<td>608,500 *</td>
</tr>
<tr>
<td>Somalia</td>
<td>467,100 *</td>
</tr>
</tbody>
</table>

---


Sources vary widely in number reported.

As of December 31, 1998:

<table>
<thead>
<tr>
<th>Country</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Palestinians</td>
<td>3,816,000</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>2,600,000</td>
</tr>
<tr>
<td>Iraq</td>
<td>2,380,000</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>480,000</td>
</tr>
<tr>
<td>Bosnia and Hercegovina</td>
<td>424,000</td>
</tr>
</tbody>
</table>

---

The number of refugees across the world is not necessarily increasing steadily. However, it might well be the case that the number of would-be border transgressors in increasing, and therefore we see the increasing attention governments around the world were paying to the situation by the end of the 1990s. The problem also has perhaps

<table>
<thead>
<tr>
<th>Country</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Somalia</td>
<td>421,000*</td>
</tr>
<tr>
<td>Sudan</td>
<td>352,000</td>
</tr>
<tr>
<td>Eritrea</td>
<td>323,000*</td>
</tr>
<tr>
<td>Liberia</td>
<td>310,000</td>
</tr>
<tr>
<td>Croatia</td>
<td>309,000</td>
</tr>
<tr>
<td>Angola</td>
<td>302,000</td>
</tr>
<tr>
<td>Burundi</td>
<td>281,000</td>
</tr>
<tr>
<td>Vietnam</td>
<td>281,000</td>
</tr>
<tr>
<td>El Salvador</td>
<td>250,000**</td>
</tr>
<tr>
<td>Burma</td>
<td>238,000</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>218,000</td>
</tr>
<tr>
<td>Armenia</td>
<td>180,000</td>
</tr>
<tr>
<td>Guatemala</td>
<td>151,000**</td>
</tr>
<tr>
<td>Yugoslavia</td>
<td>145,000</td>
</tr>
<tr>
<td>Congo-Kinshasa</td>
<td>136,000</td>
</tr>
<tr>
<td>China</td>
<td>125,000</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>126,000*</td>
</tr>
<tr>
<td>Bhutan</td>
<td>115,000</td>
</tr>
<tr>
<td>Western Sahara</td>
<td>105,000*</td>
</tr>
<tr>
<td>Cambodia</td>
<td>51,000*</td>
</tr>
<tr>
<td>Philippines</td>
<td>45,000</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>45,000</td>
</tr>
<tr>
<td>Algeria</td>
<td>40,000*</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>40,000</td>
</tr>
<tr>
<td>Iran</td>
<td>40,000</td>
</tr>
<tr>
<td>Mauritania</td>
<td>30,000</td>
</tr>
<tr>
<td>Georgia</td>
<td>23,000</td>
</tr>
<tr>
<td>India</td>
<td>22,000</td>
</tr>
<tr>
<td>Turkey</td>
<td>22,000</td>
</tr>
<tr>
<td>Congo-Brazzaville</td>
<td>20,000</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>19,000</td>
</tr>
<tr>
<td>Chad</td>
<td>16,000</td>
</tr>
<tr>
<td>Tajikistan</td>
<td>15,000*</td>
</tr>
<tr>
<td>Laos</td>
<td>12,000*</td>
</tr>
<tr>
<td>Rwanda</td>
<td>12,000*</td>
</tr>
<tr>
<td>Uganda</td>
<td>12,000*</td>
</tr>
<tr>
<td>Ghana</td>
<td>11,000</td>
</tr>
<tr>
<td>Namibia-Rhodesia</td>
<td>11,000</td>
</tr>
<tr>
<td>Senegal</td>
<td>10,000</td>
</tr>
</tbody>
</table>

* Sources vary widely in number reported.
** Includes asylum cases pending in the United States; USCR approximates the number of individuals represented per case.
changed in the last decade to be one where international criminals are controlling the situation, and exploiting it. The following figures\(^6\) show the number of refugees and asylum seekers across the world at each year’s end:

### 1990 to 1998

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of People</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>16,700,000 people</td>
</tr>
<tr>
<td>1991</td>
<td>16,600,000 people</td>
</tr>
<tr>
<td>1992</td>
<td>17,600,000 people</td>
</tr>
<tr>
<td>1993</td>
<td>16,300,000 people</td>
</tr>
<tr>
<td>1994</td>
<td>16,300,000 people</td>
</tr>
<tr>
<td>1995</td>
<td>15,300,000 people</td>
</tr>
<tr>
<td>1996</td>
<td>14,500,000 people</td>
</tr>
<tr>
<td>1997</td>
<td>13,600,000 people</td>
</tr>
<tr>
<td>1998</td>
<td>13,500,000 people</td>
</tr>
</tbody>
</table>

Broken down into regions, we can see changes across two years. As outlined above, these might be due to a number of causes. For example, the decreases in refugees in the African region might be due to a lessening of hostilities in the numerous conflicts of the early 1990s, such as Somalia, Ruanda and so on.

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of People</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>3,684,000</td>
</tr>
<tr>
<td>Europe</td>
<td>2,479,000</td>
</tr>
<tr>
<td>The Americas and the Caribbean</td>
<td>233,000</td>
</tr>
<tr>
<td>East Asia and the Pacific</td>
<td>450,000</td>
</tr>
<tr>
<td>Middle East</td>
<td>5,841,000</td>
</tr>
<tr>
<td>South and Central Asia</td>
<td>1,795,000</td>
</tr>
</tbody>
</table>

(as of December 31, 1996)\(^7\)

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of People</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>2,944,000</td>
</tr>
<tr>
<td>Europe</td>
<td>2,020,000</td>
</tr>
<tr>
<td>The Americas and the Caribbean</td>
<td>616,000</td>
</tr>
<tr>
<td>East Asia and the Pacific</td>
<td>535,000</td>
</tr>
<tr>
<td>Middle East</td>
<td>5,708,000</td>
</tr>
<tr>
<td>South and Central Asia</td>
<td>1,743,000</td>
</tr>
</tbody>
</table>

(as of December 31, 1997)\(^8\)

However, these statistics change quickly. Although the US Committee has not current figures, it would not be surprising to find the Middle East statistics changing (with the Israel-Palestine conflict of 2001-2002, and the Iraqi war of 2003), and similarly the figures for Central Asia changing with the US-led coalition war on Afghanistan, beginning in late 2001, and following the 11 September 2001 al-Qaeda attacks on the World Trade Centre, the Pentagon and the abortive attempt to fly an aircraft into the White House. As far as Australia is concerned, refugee flows have recently increased within our region. Some of these have not impacted directly on Australia, in that people have not arrived on our shores: the displacement of people in eastern Indonesia, for example, has not produced flows to Australia. Indeed, the flow of refugee places in the official Australian program has not increased over the last five years: in 1998-9 we

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\(^7\) US Committee for Refugees. 2002. \(\text{http://www.refugees.org/world/statistics/wrs97_table3.htm}\)

\(^8\) US Committee for Refugees. 2002. \(\text{http://www.refugees.org/world/statistics/wrs98_table3.htm}\)
granted access to 15,290 people; in 1999-2000 there were 11,940 places allocated, and then 13,750 in 2000-1 and finally 12,349 places in 2001-2.9

The Australian Experience of Boat-People

It may be that Australian insecurity over “illegal immigration” has deep roots indeed. Burke (2002, 7-8) contends that the new arrivals in the days after the First Fleet were making new settlements in part to frustrate other countries’ claims on the “new” continent, in particular those of the French.10

Burke also notes Alfred Deakin’s speech to the Australia Natives Association in March 1898:

Let us recognise that we live in an unstable era, and that if we fail in the hour of crisis we may never be able to recall our lost national opportunities. At no period during the first hundred years has the situation of the great Empire to which we belong been more serious. From the far east and far west alike we behold menaces and contagion...Happily your voice is for immediate and absolute union.11

After World War II Australia provided a home to refugees meeting both criteria: being outside their country of nationality or their usual country of residence and fearing persecution.

Following the 1938 Evian Conference, at which countries agreed on a policy for resettling refugees and displaced persons who were fleeing the European upheavals, “Nearly 7500 (refugees)...arrived in Australia in the 12 months to mid-1939”. After the end of hostilities in World War II, “170, 700 refugees came to Australia between 1947 and 1952”.12

However, the arrival of refugees following the Vietnam war introduced a new factor into Australian immigration - that of illegal arrival. The influx of refugees prior to this had been accompanied by strict control on entry into Australia, primarily to prevent the

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immigration of criminals and people who might not fit the political policies of the time. The arrival of the first of the "boat people" as they became known, due to their arrival on small, usually wooden boats, came as a surprise.

As outlined in *Wrecks in Darwin Waters* (Lewis, 1992) the first "boat-people" to arrive in Australia were on board a small wooden fishing boat that entered Darwin harbour unnoticed on the morning of 26 April 1976. On board were the Vietnamese captain, Lam Binh, his brother, and three friends. Together with Lam Binh's parents, his two sisters, and two other brothers, the group had set off from Vietnam some two months previously. When harsh weather and sea conditions rendered the majority of Binh's family unable to go on, they had been landed in Thailand, and the rest of the group had decided to seek refuge in Australia. By contrast with the host of refugees that had traveled to Australia after World War II, these new arrivals were unauthorized immigrants.

The first wave of refugees to flee the South-East Asian war were Vietnamese from South Vietnam who were so closely linked with the American presence in Vietnam that they had to leave with the departing troops. These people, who left in the final chaotic days of the war, were taken out of the country by a variety of methods, but universally were transported to America. The "second wave" were different - they were refugees from the new united country. The conquered Vietnam experienced a number of changes at the end of the 30 year war - some people's "conquered" is another people's "liberated" - which concluded on 30 April 1975. Some of these changes involved a huge upheaval in the Vietnamese society - an upheaval that was not welcome to many.

Political re-education was one of the most significant changes. A revised method of thinking was designed by the new masters of the country to enable citizens to fit into the communist state. While for some citizens this was a short affair - previous South Vietnamese soldiers, for example, had to undertake a course of only a week - for others a revolutionary program was ordered which could take up to a year, or even longer if they were considered not amenable to the new government's ideas.

Economic re-organisation on a vast scale was also experienced, with "new economic zones" set up to take advantage of the millions of cheaply-available labourers - many of them ex-Army soldiers - who now flooded the market. Often this resulted in a big

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reduction in wages for many professional people who did not fit the re-organized industry now being set up in Vietnam.

Thirdly, the general state of existence in the new Vietnam was an unpleasant physical contrast to their old life for many in the new unified country. Health problems began to rise, prices too, and for many their old circle of influence disappeared with the arrival of new powerbrokers from the north.

So many Vietnamese began to look for a way out. The choices for movement were not many. Vietnam was surrounded by countries that were not sympathetic to immigration from their neighbour. Immigration to even farther shores was difficult: most Vietnamese who had an American family member had left in the "first wave" immediately before the end of the war. However, the sea offered a possibility. Utilizing a variety of secretly-made preparations, many Vietnamese decided to take the opportunity of throwing themselves on the mercy of any country who would take seaborne refugees.

Many of the countries who received these first boat people were unsympathetic to their arrival. Singapore towed boats back out to sea with police and Navy vessels. Malaysia and Indonesia often gave arriving boat-people fuel, water and food, but refused to let them land. The Israeli freighter Yuvali, picking up a load of over 60 boat-people whose vessel was sinking off the Vietnamese coast, was denied permission to land its human cargo in Taiwan, Japan, Hong Kong and Thailand, and eventually the refugees were settled in Israel. The hard-hearted attitude was bolstered by stories that began circulating about the resources of some of the boat people, some of whom brought wealth with them or had paid handsomely for their passage.

Bruce Grant's *The Boat People* (1979, 54) gives some idea of the numbers fleeing Vietnam in the "70s:

Since the American evacuation of Saigon in 1975, when the first wave of Vietnamese left, the exodus of boat people from Vietnam had been only a trickle; by 1977 it became a flow - 21,276; by the end of 1978, a flood - 106,489; and in the first six months of 1979 a torrent - 166,604....By the end of July 1979 the number of people who had left Vietnam on boats or ships since 1975 amounted to a staggering total of 292,315.
Over the next few years as the number of boat people leaving Vietnam increased, so too did the attitude of countries that offered potential for resettlement also change. Some countries - Panama, Greece, Honduras, Liberia - instructed their ships' captains not to stop to pick up boat people, as the country owning the ship would then become liable. Other countries guaranteed resettlement - the USA, Belgium, Italy, Australia, Norway, Holland, West Germany, Denmark and France - while others - Brazil, Britain, Israel - had a policy of dealing with each case on its merits. Some countries, such as Singapore, Thailand and Malaysia, closer to the source and therefore under more pressure, persisted with a policy of refusing entry to refugee vessels. Many people perished at sea, as Grant (1979, 80) once again outlines:

We know that 292 315 people who left by boat from Vietnam between May 1975 and mid-1979 reached other countries. But no one knows, although Vietnamese authorities may have a rough idea, how many people actually set out in boats. Nonetheless, estimates of an overall death rate of 50 per cent, or even higher, appear to be exaggerated. On the basis of numbers that arrived, this would have meant a figure of nearly 150 000 lost.

This account went on to argue that refugees heading to Hong Kong had a low death rate; that many boat people towed back out to sea by the Malaysian Navy returned to safe shores; and that some Western government spokesmen may have heightened the tragedy to aid resettlement programs or blacken Vietnam's name. It concludes that perhaps some 30-40,000 people perished on their voyages.

The arrival of the boat-people was accompanied by some harried decision making in the Federal Government. Australia was a "last hope" for many: Malaysia was not welcoming, if not aggressively protectionist, as were other countries - Hong Kong, the Philippines, and Singapore all tolerated groupings of transients only temporarily. America took in 15,000 of an estimated 80,000. Australia made policy hurriedly under the Fraser government - perhaps sympathetic to a group whose way of life the country had fought to save - to cope with boat people who were setting off even as admittance procedures were being debated.14

Many of the Vietnamese "boat people" did settle in Australia. A report from the Senate Standing Committee (1982, 6) on Foreign Affairs and Defence: "Indochinese Refugee

Resettlement - Australia's Involvement”, noted: "By February 1981, Australia had accepted 47 000 refugees in the period since 1975."

The main activity of arriving boats, at least those that were detected, was from 1976 to 1979, the last arrivals in that period, as the NT News noted, being from the British tanker Entalina, which landed 150 Indo-Chinese - the largest number on one vessel - in December 1979. In the period of activity up to self-government of the Northern Territory in 1978, as Mike Bartlett (1991, 462) chronicled in his history of the port, 45 boats holding 1,611 people arrived in Darwin. Some boats arrived undetected, but many were sighted by Royal Australian Navy Grumman Tracker aircraft, and usually intercepted by Navy patrol boats - incidentally these being the Attack-class boat, substantially smaller than the Fremantle-class vessel used today.

In 1981 the first “boat people" for two years broke a quiet period of arrivals. A 16 metre vessel was detected north of Bathurst Island by a coastal surveillance Nomad aircraft and, as the NT News, noted, was brought to Darwin by HMAS Adroit. 30 people were found to be on board with their place of origin being Vietnam. The NT News of 12 April used the arrival as a rationale for more surveillance assets, particularly advocating the return of the Navy's Grumman Tracker aircraft, which were withdrawn from Top End service in 1980:

We would welcome a return of the RAN's Tracker aircraft which are able to scan vast areas of ocean at much greater distances....The Federal Transport’s Department Coastal Surveillance Centre in Canberra should consider a watch at much greater range...

It is notable here that this is an example of one of the central arguments of this work: that policy in the area was driven by events, rather than the government of the day analysing the situation and then arriving at a policy. Evidence of this is given not only by the government reacting to media – as will be seen – but by the lack of formal inquiry instruments.

According to the Department of Immigration and Ethnic Affairs 54 vessels arrived on Australia's northern shores in the period up to April 1981, carrying a total of 2087 people. It is worth noting at this point the relationship between federal government policy and the media. It was the media, and perhaps many readers of the NT News, who

were urging a change in government attitudes and eventually legislation. The Government was not being proactive in policy development; rather, it was being urged to react to events.

All through the period between 1981 and 1989 there were occasional illegal immigration arrivals. Whether it was accidental or deliberate, the discovery of six refugees on Melville Island brought out the wrath of the local Darwin paper again. The *NT News* protested vigorously in its editorial on 6 March 1986:

> A broken-down Indonesian prau can land undetected on Melville Island and disembark six Indonesian refugees...there is nothing here except a badly undermanned Norforce...the Federal Government has put the knife into defence spending...

Although the flood of Vietnamese refugees fleeing their country did lessen in the early 1980s, Australia from November 1989 has been receiving refugees from other sources. *Asians in Australia* (Inglis, 1992: 75) outlines some of the statistics:

> Since the communist victories in Indochina in 1975, more than two million Indochinese have fled their homelands...it is clear that the Vietnamese refugees have dominated the Australian Indochinese refugee resettlement programme.

**Country of Origin**

Department of Immigration and Ethnic Affairs (DIEA) figures showed that 2087 Indochinese people arrived in the “Vietnam period” as "boat people". In these cases, too, the method of transport has been largely the same: small boats which use rudimentary navigation methods and arrive unheralded except for limited intelligence or surveillance gained by authorities charged with their detection. In the late 1980s and early 1990s these refugees have been from a mixed background. Although their ethnicity is not of prime interest to this paper, it is important in that from such information the travel routes can be planned, and from those, surveillance targeting defined. The immigrants were, at that time, largely from South-East Asia, as DIEA figures\(^\text{16}\) pertaining to a four year period of 1989-1992 showed:

<table>
<thead>
<tr>
<th>Country</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sino-Vietnamese</td>
<td>931</td>
</tr>
<tr>
<td>Chinese</td>
<td>452</td>
</tr>
<tr>
<td>Cambodian</td>
<td>315</td>
</tr>
</tbody>
</table>

---

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vietnamese</td>
<td>154</td>
</tr>
<tr>
<td>East Timorese</td>
<td>18</td>
</tr>
<tr>
<td>Polish</td>
<td>12</td>
</tr>
<tr>
<td>Romanian</td>
<td>11</td>
</tr>
<tr>
<td>Macau citizens</td>
<td>8</td>
</tr>
</tbody>
</table>

The ethnic origin of arrivals then changed to be dominated by Chinese.

In the late 1990s it started to change to predominantly Middle Eastern:
Although DIMA "country of origin" figures are not available after this period in much detail, the Department did advise in 2002 that for the three financial years of 1998-2001: "The main groups have been from Iraq (1009) and Afghanistan (2270)." It is impossible to determine, but is of interest to muse over whether policy "harshness" or not is related to perceptions that various ethnic groups would make more "harmonious" citizens for Australia....

The Immigration Department has identified a number of "push" and "pull" factors that either urge emigrants to leave their country, and/or urge them to immigrate to a particular country. An example of the former might be persecution on religious grounds; while an example of the latter might be the prospect of a well-paid job in the country of choice. Country "push and pull" factors were identified in 2002 as illustrated below:

4.7 Immigration Malpractice. Department of Immigration, Indigenous and Ethnic Affairs Presentation, by Mr Jim Williams, to the Royal Australian Navy’s Junior Officers Strategic Studies Course, Department of Defence, 22 May 2002. (author present). Used with permission.

**Total Numbers**

Over the following years the total of refugees arriving has climbed. Appendix One ¹⁸ shows the numbers of vessels and the numbers of people arriving. The following table summarises the arrivals:

<table>
<thead>
<tr>
<th>Year</th>
<th>Boat numbers</th>
<th>People numbers</th>
<th>Year</th>
<th>Boat numbers</th>
<th>People numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1989</td>
<td>1</td>
<td>26</td>
<td>1996</td>
<td>19</td>
<td>660</td>
</tr>
<tr>
<td>1990</td>
<td>2</td>
<td>198</td>
<td>1997</td>
<td>11</td>
<td>339</td>
</tr>
<tr>
<td>1991</td>
<td>6</td>
<td>214</td>
<td>1998</td>
<td>17</td>
<td>200</td>
</tr>
<tr>
<td>1992</td>
<td>6</td>
<td>216</td>
<td>1999</td>
<td>86¹⁹</td>
<td>3722</td>
</tr>
<tr>
<td>1993</td>
<td>3</td>
<td>81</td>
<td>2000</td>
<td>51</td>
<td>2909</td>
</tr>
<tr>
<td>1994</td>
<td>18</td>
<td>953</td>
<td>2001</td>
<td>32</td>
<td>3690</td>
</tr>
<tr>
<td>1995</td>
<td>7</td>
<td>237</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4.8 Source: Department of Immigration and Ethnic Affairs Fact Sheets


¹⁹ 84 separate events were noted by DIMA, but these total 86 separate boats – three arrived together in event numbers 135-137.
The number of vessels arriving is shown graphically below:

![Numbers of boats arriving by calendar year 1989-2001](chart4.8.png)

Chart 4.8  Source: Department of Immigration and Ethnic Affairs Fact Sheets

The number of personnel arriving is shown graphically below:

![Numbers of boat-people arriving by calendar year 1989-2001](chart4.9.png)

Chart 4.9  Source: Department of Immigration and Ethnic Affairs Fact Sheets

A contrast should be made between the number of illegal arrivals by air, and those arriving by boat. Differences are that in general the air arrivals are identified by
passport whereas many boat people do not have documents, either by design or circumstance; air arrivals enter in an open rather than a (sometimes) covert manner, and the air arrivals tend to become illegal by overstaying their (usually tourist) visas. Air arrivals have traditionally been higher in numbers than boat-people; although this trend was overtaken in 1994-5, and again in the steady rise of the latter in the later 1990s:

4.10 Trends in Illegal Arrivals. Department of Immigration, Indigenous and Ethnic Affairs Presentation, by Mr Jim Williams, to the Junior Officers Strategic Studies Course, Department of Defence, 22 May 2002. (author present). Used with permission.

In general the air overstayers have been from countries that traditionally supplied large tourist numbers to Australia. In 1989 and 1990, for example, there were 9,446 and 10,200 overstayers from the United Kingdom.20

The refugee vessel is generally known as a SIEV - Suspected Illegal Emigrant Vessel - although in 1996 the Department of Immigration and the Australian Defence Force began using the term SUNC - Suspected Unlawful Non-Citizen - to describe the people on board. (This appeared to be headed for change in late 2001 – The Australian reported that “Offshore Entry Person” would be brought in to use instead.)21 In previous years the definition of “illegal entrant” went through a number of changes: “prohibited

immigrant” was used from 1958-83; “prohibited non-citizens” from 1983-89, and from December 1989 the term “illegal entrant” was utilised.22

Of interest to this paper is the steady rise in numbers of arrivals, which may indeed have been a major driver in the development of the changes in government policy in the years of 2000-2002. In December 1994, 304 people arrived on Australia's northern shores, and in the following month - January - 431 people arrived, the biggest number at that date or any other to reach Australian shores in any month since records began. That year was the first “boom year” of illegal immigration persons in the “second wave” which followed the Vietnam exodus. 1999 however, outstripped 1994 by a huge margin, and was probably the catalyst for generating the changes in government policy which led to the harder attitudes towards border security in successive years.

The largest (known) single arrival of boat-people has been the MV Tampa of 26 August 2001. This ship, of which more will be said later in this chapter, carried 434 people23 who were attempting to reach Australia, but who were ultimately unsuccessful. Prior to that the largest number of persons attempting to enter Australia occurred during 1999. Three hundred and fifty-two people arrived on a cargo vessel at Ashmore Reef on 1 November. The ABC noted: "Most on board were of Middle Eastern origin and had been ferried to Australia by three Indonesian crew".24 The year of 1999 began to show early signs that it would be the record period for suspected unlawful non-citizens, with over 200% more than the previous premier year of 1994. 2002 would have been the

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record year, however, if the arrivals on board the *Tampa* and a successive vessel had been allowed to enter the country. However, they were not – and the government action over the *Tampa* and its successor saw an end to boat people numbers for that year, and perhaps beyond, for there were no arrivals in 2002.

4. 12 Overcrowded SIEV – Coastwatch still

Diplomatic attempts to stem the flow were increased in 1999. The Immigration Minister – Philip Ruddock – embarked upon a series of overseas trips to source countries, in an attempt to dissuade potential emigrants – an effort which continued into 2000. The Minister toured Singapore, Malaysia, Thailand, India and France to discuss people smuggling. 25 His efforts in gaining co-operation from other countries had some success. 26 In March 2001 Hong Kong jailed an Indonesian for four-and-a-half years for smuggling 23 people from China's eastern province of Fujian to Cairns. The illegal immigrants were arrested on arrival after several weeks at sea, following a joint operation between Australian and Hong Kong law enforcement agencies. Hong Kong Customs also increased searches of containers for illegal immigrants.

Comparing 2000-01 to 1998-99 shows an increase of 349% more SUNCs arriving by boat, even though only 12 more boats arrived. 27 Further rapid policy change resulted, with the Federal Government reacting to the large rise in illegal immigrants being

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brought into the country by "people smugglers" by increasing the penalties. Between 1991 and 1999 only about 283 people smugglers were prosecuted in Australian courts. The maximum penalty under the old laws was two years jail. Since mid-1999, 242 of the people sentenced in the courts received sentences of more than two years. Three of those found guilty were sentenced to seven years of confinement while five others received six-year sentences.\(^{28}\)

These changes were rapidly brought about primarily by the Immigration Minister and his department. Amendments were made to the Migration Act (1958) which came into effect in July 1999 to counter the huge increase in illegal immigrants of that year.

The above figures, however, must be treated with caution. They are the known numbers of boats and personnel arriving through the coastal barrier (excluding airports) and therefore exclude unknown arrivals; that is, boats arriving in Australian waters undetected, and personnel arriving on Australian soil undetected. Whether or not there are such arrivals will be referred to in chapter seven.

It is of interest to note the costs of reception, detention and removal of boat people, because such costs, added to the costs of surveillance and interdiction, motivate the general public's feelings, which are, as will be shown later, of interest to this paper. Figures from the Department of Immigration and Multicultural Affairs, therefore, are listed below indicating what repatriation costs Australia each financial year for a select group of four years:

<table>
<thead>
<tr>
<th>Year</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992/93</td>
<td>$8,608,340</td>
</tr>
<tr>
<td>1993/94</td>
<td>$6,484,215</td>
</tr>
<tr>
<td>1994/95</td>
<td>$13,351,042</td>
</tr>
<tr>
<td>1995/96</td>
<td>$24,470,003</td>
</tr>
</tbody>
</table>

Represented graphically, we can see the following trends:

In a later costing, one estimate of the expense of illegal immigrants on a per person basis was $50,000 (in Australian 2002 dollars), measured from arrival to departure or discharge.29

There have been many arguments over the rapid development of policy following the MV Tampa situation. The Tampa incident is quite a pivotal episode in the policy formulation surrounding the subject of this paper.30 The Norwegian freighter transferred over 400 SUNCs from a sinking SIEV north west of Australia. The vessel was en route for Singapore and the master intended unloading his newly acquired human cargo in Indonesia, at the nearest port. However, he was convinced by some of the more resolute members of the new passengers to change course for the Australian Territory of Christmas Island.

The Australian Federal Government denied the ship permission to enter the country’s territorial waters. When it did threaten to enter, it was boarded by Army troops. The freighter was then held off Australian waters until the SUNCs were transferred to a

30 The Australian. 2001. Summarised from the issues of 26-29 August.
Navy vessel - the Manoora - for transfer to two countries who agreed to process their claims: New Zealand and Nauru.

This was a watershed in interdiction: never before had a vessel been stopped from entering Australian waters by force; never before had boat-people been diverted from their intended destination to another country, and never before had the Federal Government made such a resolute stand in interdiction. There are some indication though, that the decision to use naval forces was not thought through: further evidence of policy-making "on the run" by the Federal Government. This does have problems, as one critic (Kusovac, 2002) pointed out some months later:

One of the short-term solutions proposed to stop illegal immigration is to use naval interdiction. Attractive as this may sound to politicians, pressed by dramatic images of ships loaded to the brim with human cargo, the viability and cost-effectiveness of this approach need to be examined carefully before countries commit their fleets to dealing with the problem.

The Tampa incident will therefore be referred to in future chapters in further detail.

The Federal Government continued its strong stance against border incursions in the Budget of the following financial year, brought down on 14 May 2002. The Budget saw funding increases for this purpose to both the Defence Force and Customs. An extra $22.3 million was provided for 2002-03 to allow the ADF to continue operations to deter unauthorized boat arrivals. This was in addition to $18.7 million that was provided in the 2001-02 Additional Estimates for this initiative. The money was spread across a number of Government departments, including Immigration, the Attorney-General’s Department, Foreign Affairs, Defence and Regional Services. A new immigration processing centre was begun on Christmas Island, with money saved from the move to offshore asylum seeker processing to provide this. The Australian Customs Service was given increased funding of almost $80 million for its surveillance operations, which was expected to more than double its surveillance capacity for the next five years.


In summary, illegal immigration through the coastal region has been a known problem since the 1970s, with the arrival of Vietnamese people. In the 1990s, it began to once more become a problem, with numbers of Chinese now forming the predominant ethnic group. In the late 1990s, a Middle Eastern focus began to emerge. By the year 2000 Australia was experiencing a boom in illegal immigrants transiting through the coastal barrier.

Throughout the process of controlling policy and operations in its early years Government policy was made in reaction to the problem, rather than with forethought and planning. However, a more rigorous approach to policy was heralded by the *Tampa* incident, although the Federal Government of the Howard Prime Ministership was beginning to show, earlier than that incident, that they were taking a firmer line on border control. The next chapter will provide a further analysis of policy making in the area of illegal fishing incursions.
Chapter Five: The policy challenge of illegal fishing in Australia’s north
Chapter Five. The policy challenge of illegal fishing in Australia’s north

The issue of illegal fishing is a particularly challenging policy issue for Australia, given the peculiar nature of the maritime frontier between Australia and its neighbours. Part of the peculiarity of this frontier derives from its history. Before European settlement of the northern coastline, this was an area much visited by foreign fishermen for many hundreds of years. In the first days of British colonial settlement the principle that was widely adhered to was that the country’s maritime property stopped at three nautical miles from land. Notably – and relevant to the theme central to this study – there was a distinct lack of federal policy on control. Prior to the arrival of the British, historian Alan Powell has noted in *Far Country* (1982) that Malay fishermen camped along the northern coasts while they were harvesting trepang. Campbell Macknight in *The Voyage to Marege* (1976, 17-26) cites references to show that in 1803 the navigator Matthew Flinders encountered Macassan praus in the waters around the Northern Territory, which voyaged there on a yearly basis in search of trepang. Macknight also mentions accounts of 1838 and 1859 which describe vessels crewed by other natives of the Celebes. James J. Fox (1998, 111) suggests the Bajau people, from eastern Indonesia, sailed in the past to Ashmore Reef “and, eventually, to the coast of Australia”, with visits dating back to the first quarter of the 18th century”. He also cites references (118) to show they were observed in numbers near Roti in 1728.

Later, after the British colonization of Australia, navigators charted northern coastlines and the colony became more aware of the riches to the north. In 1911, as described in *Maritime Power in the 20th Century* (Stevens, 1998), the naval vessel Gayundah was dispatched to the northwest coast to arrest Dutch luggers whose crews were illegally fishing for trepang. Comparatively recent illegal large-scale modern fishing became a challenge requiring yet further policy responses. This chapter will explain the nature of the problem of illegal fishing and evaluate the way policy has developed in response to the problem.

In the late 1800s pearl shell was discovered off Darwin. With the introduction of Indonesian and Japanese divers and the quality of the pearls being farmed the industry was effectively advertised internationally. While the industry worked well using foreign labour the scene was set for some conflict, as Douglas Lockwood (1977, 128) describes in his book *The Front Door*:
Clashes between the pearling crews and the Aborigines were frequent in the 1920s and 1930s. Several ended in slaughter. The Japanese crews of Australian-owned luggers were not allowed to go ashore on the coast of Arnhem Land, an Aboriginal reserve. But they often did so.

In 1923 (Fox: 1998, 116) the Western Australian government complained about Indonesian fishermen fishing off Ashmore reef, north west of Australia. The Reef was then under the control of the British government, but following the complaint it was handed over to Australia in 1931.

In 1936, the ex-RAN officer and air pilot CTG Haultain was chosen, by the Federal Department of the Interior, to supervise and operate a northern coastal patrol service. This was founded for three reasons, as he details in *Watch off Arnhem Land* (1971). The first was to ward off the Japanese pearlers who worked the northern coastlines of Australia, particularly in waters around Darwin. The pearlers, while then legally able to fish waters up to within three miles off Australia's coastline, preyed on Aboriginal women, who were often sold, as Haultain observes, into sexual slavery by their menfolk. The pearlers were also a target of the patrol because of the risks of disease that they brought to the coast. In a secondary role, the patrol would also protect the interests of the Australian pearling interests, who were competing against the Japanese. The third reason for the patrol's foundation was to act as an air-sea rescue for the increasing numbers of flights made by aircraft between Darwin and points north.

5.1 & 5.2. *Larrakia* pictured within Darwin Harbour (*Watch off Arnhem Land*), and (below) from the same book, captured Japanese fishing vessel with two handcuffed crew (centre) off the Queensland coast.
This early patrol effort is an interesting reactive idea to the perceived problems occurring around Australia’s coastline. As will be seen, it was a forerunner of the attitude that governments of the day would react to problems rather than give some planning towards future situations.

Equipped with a fast launch and a crew of four, as Haultain details, the patrol operated in the waters off the Northern Territory for several years with mixed success, the machine-gun mounted on the launch’s forecastle often being deployed to back up words with force. The Japanese pearlers were present in large numbers, and the launch Larrakia was often hard-pressed in her dashes to and fro along the lengthy coastline, on one memorable occasion intercepting 15 boats at anchor, only to find another 35 steaming over the horizon towards the coast. Although frustrated by a lack of proper maintenance facilities and the reliance on a single vessel, the efforts of Haultain and his men did not go without impact. The aboriginal population became increasingly protected from the incursions of pearlers; a governmental presence was established, and valuable knowledge gained about the largely uncharted northern waters.

In 1938, shortly before World War II hostilities commenced, the Larrakia was replaced (Jones, 1998) by a bigger vessel, the Thornycroft-built Kuru. This was an 80 foot Harbour Defence Motor Launch (the class were known as HDMLs) and served, as RAN historian JH Straczek (1996) notes, until 1951. On the Queensland coast the customs cruiser Vigilant carried out similar patrolling duties. After the war, another Harbour
Defence Motor Vessel carried out patrols – co-incidentally another Kuru - although this duty, commissioned by the authorities of the Northern Territory, was halted in 1950 and replaced by naval patrols carried out by the 98' tug HMAS Emu.¹

The policy – or rather, policies – of surveillance can therefore be seen from early days to be one of haphazard arrangement. Indeed, there were differences in determining whose responsibility the situation was – that of the State governments, federally-commissioned Territorial authorities, or the Federal government. So, the early years of northern patrol were firstly handled by the federal ship Gayundah, then by the Larrakia – employed² by the Department of the Interior but with the vessel owned by Defence - then during the war the RAN ships Kuru and Vigilant, then by the NT authorities' Kuru, then by the Navy again.

Meanwhile, the application of maritime law in Australia's north was reaching new practicalities. Douglas Lockwood (1977, 133) who lived for many years in the Territory, and published a number of books detailing the Top End history, comments again in The Front Door on the post-war return of the pearling fleets:

    Pearling was interrupted by the war but resumed shortly afterwards. Australian luggers operating from Darwin were joined in the Arafura Sea in 1953 by a Japanese fleet. The Navy provided a frigate to maintain patrols and prevent violation of territorial waters and fraternisation with the Aborigines. But this seaborne vice squad was confronted with insuperable problems, just as Captain Haultain had been.

    The Navy ships were too big for the job. Their draft prevented them from going close inshore, and they could be seen for miles before they could see the pearling fleet. So it was not long before crude dugout canoes began to reappear in their anchorages and the profitable fun was resumed.

It seems there were some naval patrols in smaller vessels, largely from Fremantle, as the NT News noted in a historical feature in 1979: “...Captain McKenzie was posted on a mine sweeper operating from Fremantle to check on Japanese pearl fishermen in north Australia. In those days there was no support crew stationed in Darwin and breakdowns

¹ Bateman, Sam. 2003. Executive Officer of the ship. Personal communication.
² Haultain, CTG. 1971. Watch off Arnhem Land. Canberra: Roebuck. 13. The author notes throughout the book the difficulties of working for a number of interests. Indeed, his immediate supervisor was the Northern Territory’s Administrator.
caused massive problems.\footnote{Northern Territory News. 1979. Historical Feature: “Target north Australia”. 28 November. 44.} Fox (1998, 116) cites a CSIRO fisheries survey of 1949 which observed 23 boats at anchor near Ashmore Reef, with signs of occupation on the reef, busy harvesting fish and clams. Stevens (1998, 281) notes that in 1950: “HMAS Bataan visited reefs off the northwest coast to investigate reports of smuggling and gun-running, and act as a deterrent to illegal fishing. Throughout the 50’s further RAN patrols were carried out by vessels on rotation”.

Post-WWII saw a number of developments in the countries to Australia’s north - changes which complicated the policy position on border patrolling. The creation of new states - Indonesia; Malaysia and Singapore - changed the nature of the maritime neighbourhood, giving it a new political significance. Papua New Guinea too became a neighbouring sovereign state. The traditional fishermen – once somewhat stateless - crossing into Australia’s maritime territory were now nationals of new, independent Asian states, a significant factor which changed the policy dimensions of the problem. Policy now had to come to terms with the complexities of bilateral relations between adjoining sovereign states. In post-WWII years illegal fishing became one of many bilateral issues: people smuggling, the division of maritime resources, the Timor Gap Treaty, drug smuggling, and more. This complicated Canberra’s policy position.

An interview with one of the Royal Australian Navy’s officers commanding patrol boats in the 1960s - the now-Commander Ian Gibson - revealed that there probably has been fishing in Australian Territorial waters for many years, although it should be noted the paucity of regular patrols after World War II makes this hard to determine. Naval patrols were irregular at best. Although in Darwin on many occasions with the RAN in the 1960s, Commander Gibson stated that he was "not aware of any fishing boat arrests during that time". Thus, the regular patrolling of pre-WWII seems to have petered out. The RAN presence, while largely confined to survey work, visits to missions, and visits to the Coastwatcher\footnote{A network of civilian “Coastwatchers” was spread by the RAN throughout the north of Australia and in colonial possessions beyond that before WWII. The Coastwatchers, mostly brought into naval service to give them military status in case of capture, gave invaluable early warning advice of enemy operations throughout the war. The network is retained today. (Knowledge derived from the author’s experience working within the RAN)} network scattered across the north of Australia, however did see some patrolling with available craft. The tug \textit{HMAS Emu}, as her previous commander Michael Rayment RAN\footnote{Personal communication with the author, 1997.} noted, was for some years the sole RAN vessel based in Darwin, and carried out some surveillance work in the 1950s. In 1960 (Jones, 1998) the...
General Purpose Vessel *HMAS Banks* arrived in the Northern Territory to carry out coastal patrol duties.

While the patrol of Australia’s northern waters continued in this haphazard fashion, the geo-political character of this region were undergoing a fundamental transformation. On Dec. 27, 1949, the United States of Indonesia was established. Many other former colonies of South-east Asia in turn became new, independent states in the decade following the Pacific war. The security of Australia’s northern waters was now an issue in bilateral relations between Canberra and its new neighbours. The key bilateral relationship in terms of Australia’s maritime security was that with Indonesia.

The growth of Communism in Indonesia was linked to Russia (Jones, 1998) by naval contacts, and with the creation of the Federation of Malaysia, and President Sukarno’s call for *confrantasi* or "Confrontation", a threat was perceived to Australia's north. In April 1964 Australia deployed first two, then four Ton-class minesweepers to northern waters - *HMAS Teal* actually seeing action on 13 December 1964 in a short fight with Indonesian forces which saw three of the enemy personnel killed and their eight-metre speedboat captured off Singapore harbour. The relationship between Canberra and Jakarta progressed from what was known as *confrantasi* with President Soekarno’s Indonesia in the early 1960s to the better - but still difficult - relationship with President Soeharto’s New Order Indonesia, dating from the late 1960s.

It is of relevance here to raise the question of how the various countries in the region – some of whom have come into conflict with Australia over illegal fishing - perceive such matters as national security. Do they perceive their own borders in the same way as we do; do they feel a responsibility to do something about members of their country transgressing the laws of another - as we might? The Australian-Asian Perceptions Project, in *Comparing Cultures* in the mid-1990's, (Milner and Quilty: 1996, 167) identified important differences in national security perceptions. It noted the different models of government: classifying them by their military and civilian components. There are obvious differences:

Civilian control is established in Australia, Singapore and Malaysia. Military control seems strongest in Indonesia and Burma. In the communist states - China, North Korea and Vietnam - the military are subordinate to the civilian-led Communist Party, but the military’s role in society is greater than in Thailand,

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South Korea and the Philippines, where the military tends to dominate the security community.

We might reflect that given such an attitude those in the foreign countries’ military arms might not perceive border security in other countries in the same way we do in Australia. First, a government dominated by the armed forces and by military thought might see ongoing management in terms of military victory with a clearly-defined "enemy" and a clearly-defined outcome - even though that in itself is fairly flawed military thinking. If such an attitude is perpetrated however it might not see a clearly-defined target in border transgressions, but instead some of its citizens involved in their own entrepreneurial activities.

Secondly, that problem might be seen as one of being a policing matter rather than a military matter. That distinction has been a blurred one in many South-east Asian countries, but being perceived as a police matter might enable it to fall below the event horizon of a military mind. It is worth noting here that in Australia the role of the defence forces has been one that is slow to realise change. Before we return to developments of the 1960s it needs to be realized that at that time the Australian armed forces existed mainly to counter a declared military threat - that was, a war. Today the role of the military has changed to embrace that of border policing; peacekeeping forces, and aid to the community\(^7\) in many forms, while still retaining a central raison d'etre of warfighting.

Sherwood (1992, 172) gives further analysis of the attitude Indonesia brings to its government roles:

The doctrine of national resilience, which forms the concept of Indonesia’s Security, is based on the philosophical approach of Pancasila and the historical experiences of the struggle for independence and bringing the archipelagic state together as one whole. It is a concept which includes not just the military dimensions of security, but also the other inseparable and essential components such as domestic political stability, economic development and a sense of national pride and mission.

\(^7\) It might be argued that the armed forces' aid to the community in the wake of Cyclone Tracy was a watershed in terms of such thinking.
Fox (1998, 131) has an interesting comment on the fate of those boats Australia captures in interdiction activities. The “public burning of boats” on a regular basis in Darwin’s harbour “…does nothing to enhance Australia’s reputation”, and he suggests Indonesians regard such activities as “a symbolic outrage”. He notes the irony of giving aid to eastern Indonesia while at the same time destroying some of their livelihood.

Sherwood also notes (173-4) what Indonesia sees as important in its naval activities. The four roles are seen as safeguarding straits; multi-national exercises, hydrographic survey, and safe navigation. Sherwood usefully suggests that Indonesia "looks north" in its main stance towards other countries. However, there has been some co-operation from Indonesia in taking its part in controlling disputes with Australia. As people smuggling grew as a problem Indonesia came to the conference table in late 2001, and followed talks with an international conference the following February. *People-Smuggling, Trafficking in Person and Related Transnational Crimes*, grew out of the joint agreement signed by the two countries in an effort to deal with the entry of illegal Middle East immigrants to Australia. 35 countries participated in the event. 8

Indonesia has also discussed reining back illegal fishermen. The (1993, 121) Report of the Joint Standing Committee on Foreign Affairs Defence and Trade noted that

Discussions have been held with Indonesian authorities about illegal fishing. In 1991, the Director-General of the Fisheries Directorate was brought to Australia, to be briefed about the seriousness of the problem and management of fish stocks. Indonesian authorities have followed up Australia’s expressed concerns by getting local harbour masters to control departures.

There have been cooperative projects since then between Indonesia and Australia, in the area of diverting fishermen from offending. For example, offenders from the Papela region have a 12-month ban enforced on them fishing again enforced by the local government upon return to Indonesia. Encouragement to find alternatives to fishing have also been made. In 1999-2000, AusAID gave approximately A$121.1 million to Indonesia in projects such as the Basic Education Project (Pipeline): A$662,186 – to assist in curriculum development, teacher training and distance education for basic education in Eastern Indonesia; Environment – with the Eastern Region Institutional Strengthening Project) and COREMAP (Coral Reef Management and Rehabilitation

Project), and in the Health area, with a tuberculosis program; polio and measles vaccinations and Vitamin A supplements, women’s health and family welfare.  

Australia has also helped the Indonesian National Police patrol the thousands of kilometres of Indonesian coastline serving as havens for people smugglers. $1.5 million was allocated in the 2002-03 Budget over four years for five boats for use by small units within the Police. 

Indonesia’s position on its maritime borders with Australia have, however, entered troubled waters in the post-Soeharto era. The Indonesian state since 1998 is experiencing a number of difficulties in the transition from an authoritarian to a more democratic polity. Indonesia is under strain and this has consequences for its capacity to police its borders and properly regulate its territorial interaction with northern Australia. The 1997 financial crisis, the collapse of the New Order system, the uncertain transition to a more open form of government, the succession of presidents (three in four years after one president in office for 21 years) and internal problems of separatism (as in Aceh); communal and religious conflict, the East Timor crisis in 1999, and Islamic extremism (the Bali bombing): all these introduce a new uncertainty into bilateral cooperation over the shared maritime region. The specific impact of this situation on the issue of illegal fishing may not be precise and clear but in general terms there is probably a connection. Indonesia’s capacity, through its police and navy, to patrol its southern waters have been affected. For example, Indonesia’s naval forces in 2002 have much less capability than they did before the end of the Soeharto era: its two submarines are obsolete, and many of its ships are in a semi-laid up state. Jakarta now has less capacity - if it has the will as well - to effectively address the issue of illegal fishing.

In summary, Indonesian attitudes diverge from what Australia expects them to be, and the reverse is probably true as well. Its maritime forces are not geared for restraining their own fishermen from committing offences against Australia, nor might we expect them to act in this way. However, it is worth noting that Australia has tried to be accommodating in these areas; both Indonesia and Australia are signatories to UNCLOS, and therefore there is little choice for Australia in its decisions to protect its

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fisheries – indeed, it would be remiss if it did not. As Tsamenyi and Bateman (1996, 181) point out, such activities "pose a threat to the conservation and protection of endangered species under the jurisdiction of Australia".

To return to the development of interdiction forces, the 1964 Defence Review saw the introduction of dedicated patrol vessels - the Attack-class of at first 14 hulls; later raised to 20 boats. In December 1967, the first Attack-class patrol boat for northern service arrived in Darwin. This was followed by the deployment of two more: Advance and Assail, while Barbette, Barricade and Bayonet were based in Cairns. However, the emphasis was not primarily on northern waters patrolling: the majority of the patrol boats were based in the south, on various duties including air-sea rescue, and Bass Strait oil rig patrols. 11

Jones (1998) details one of the hallmark confrontations between foreign fishing vessels and the RAN in those days. In June 1968, the 5000-ton Russian trawler Van Gogh arrived in the fishing waters of the Gulf of Carpentaria - an unusually large vessel which perhaps would have demanded a thoughtful policy response. Aggressive harvesting of the local fish followed, with Australian trawler skippers dwarfed in their much smaller boats, and on one occasion rifle shots being fired in frustration at the Van Gogh. There is some suggestion that HMAS Attack, together with Advance shadowed the ship. 12 Following this the infrequent patrols from RAAF Neptune aircraft and the RAN patrol boats were increased, and the trouble ceased.

The predatory tactics by Taiwanese fishermen on the Barrier Reef the previous year (Jones: 1998, 161) had also aroused attention:

The problem of Taiwanese boats involved in the wholesale stripping of marine life on protected sections of the Barrier Reef and in other northern waters was certainly a worry by late 1967, but in the absence of adequate force, nothing could be done about it. In that year the crew of the Nam Wai defiantly posed for photographs of themselves with the sooty terns and clams they had illegally taken...even on the sands of the tourist resort, Green Island...

Jones goes on to detail further incursions by the Taiwanese, and charts the steady escalation of force and the involvement of defence elements in fisheries protection.

Despite that, it would be fair to say that surveillance and interdiction of Australian waters was not a primary item of concern for the defence forces until the mid-1970s. The arrival of boat people in the middle of that decade, sailing unannounced into Darwin Harbour, was an embarrassment for the Federal Government of the day and for the Defence Force as well, even though it was not part of the operational role of the latter. In the minds of many members of the public, the duty of the ADF should have included surveillance and interdiction over illegal fishermen and boat people, and their feelings were expressed vehemently in letters to the editor of various newspapers. The same feeling manifests itself today, as will be seen in a later chapter. The editorial writers of the day, sensing the public mood, were also not slow to voice an opinion.

Therefore, we can see that events drove defence policy in the areas of interdiction platform acquisition. For example, it is notable that the Defence Review of 1964 was the first indication that "patrol" vessels were needed in the RAN, with the exception of harbour "examination vessels" utilised during WWII, which examined the credentials of visitors to Australian ports. The change of the ADF's role into adding the protection of Australia's coastline in a constabulary role was controversial. As Commodore Sam Bateman has pointed out in "Strategic Change and Naval Roles" (1993, 33) the role of a navy is usually perceived to be "...the warfighting one - to deter, and if necessary fight and win engagements at sea, in defence of sovereignty and national interests". He then goes on to explain that "...maritime operations are required to protect a country's own economic vulnerabilities,...to embrace the whole gamut of a nation's offshore commercial interests". For some, there is an inherent problem with a country that possesses a navy and maritime interests – is that navy to be used to further those interests? Is it "merely" to wait in a sort of reserve capacity in case there is an armed conflict? This difficult subject is revisited in later chapters, and it is argued that indeed the Royal Australian Navy does have further duties beside warfighting or preparation for the same.

Illegal fishing was probably largely confined in the post-war period up until the 1970s to small boats operated by Indonesian villagers, as well as those larger Taiwanese visitors noted above. Legal fishing was allowed, as the Australian Government's Fisheries Department advises in its on-line history:

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13 The enormous length of Australia's coastline, coupled with the infrequency of coastal habitation and the comparative lack of surveillance makes such a conclusion speculation rather than fact.
14 Department of Primary Industries and Energy. (1998)
From 1972, Taiwanese and Thai operators fished off the northern and north west coasts until 1991 for trawlers, and 1986 for gill netters. Catches ranged from 30,000 to 80,000 tonnes a year. At that time there were few Australian boats operating in the region and the catch was shipped to Taiwan. These operations ceased when it was evident that these intense fishing efforts were leading to depletion of the stocks of certain tropical fish and shark species, and Australia’s capacity to fish the resources had increased.

However, when the arrests of large commercial foreign fishing vessels began to occur in that decade, and these incursions made their way into the media, they provoked debate as to the effectiveness of surveillance and interdiction and the effectiveness of penalties. Public debate therefore drove these policy changes, although at first there was vigorous debate as to what judicial process would eventuate. One of the first incidents illustrates this quite well. On Sunday 10 December 1972, in command of the patrol boat HMAS Assail, the then-Lieutenant Ian Gibson wrote in his Report of Proceedings:

At 1829 course was altered to investigate a trawler to the NW, which was positively identified at 1843 as a Taiwanese fishing boat...half a mile inside the DFZ. A fully armed boarding party was put aboard the boat at 1905, and at 2025 the vessel was正式 taken into custody, following discovery of evidence that the vessel was actually engaged in fishing, as defined in "Procedures".

However, the boat - identified as the vessel Sing Shing -was subsequently released, as according to a signal to the Officer Commanding Northern Australia, the Commonwealth Crown solicitor was of the opinion that it was "doubtful whether a conviction could be obtained" and "even if convicted it was probable that magistrate would not view transgression as deliberate and therefore would impose minimal fines and not order forfeiture".

As the naval officer concerned recorded\(^\text{15}\) in his journal, the foreign fishing vessels "...kept coming". However, the growing problem of "boat people" arriving from Vietnam in the mid-1970s would soon be enough to submerge the fishing problem, although the effectiveness of Australia’s coastal patrols would also become a subject of debate in that area too. Hugh Hudson (1988, 1) noted that “During 1973 and 1974, the

\(^{15}\) This RAN Officer was interviewed by the writer. He had several scrapbooks of his career, which the author was allowed to inspect and from which notes were made.
activity of foreign fishing vessels significantly increased in Australian waters.” He cited 285 boats being sighted in the first year, with 421 in the next.

On 7 November 1974 Australia signed a Memorandum of Understanding with the Indonesian Government. The full title is significant: *Memorandum of Understanding between the Government of Australia and the Government of the Republic of Indonesia Regarding the Operations of Indonesian Traditional Fishermen in Areas of the Australian Exclusive Fishing Zone and Continental Shelf*. A list of points was decided. These allowed "traditional fishermen" access to the areas of Ashmore Reef, Scott Reef, Browse Island, Seringpatam Reef and Cartier Island, all areas claimed by Australia and roughly halfway to Indonesia. Fishing was allowed as being largely for trochus, trepang, abalone, green snail, sponges and molluscs on the seabed. Turtles were excluded. Traditional fishermen were defined as: “The fishermen who have traditionally taken fish and sedentary organisms in Australian waters by methods which have been the tradition over decades”. Landings were permitted for water on two points of Ashmore Reef. The MOU also cited the latitudes and longitudes of the areas under dispute.

However, the MOU was not in effect for long before it became clear that it had difficulties. In 1983 (Fox: 1998, 116) the area of Ashmore Reef was declared a National Nature Reserve and Indonesian fishermen were excluded from this area, in response to their harvesting of seabirds and turtles, despite the prohibition on such activities.

In 1989 (Tsamenyi and Bateman: 1996, 181) repeated violations by Indonesian fishermen resulted in a more rigorous approach to law enforcement. The Foreign Affairs Ministers of both Australia and Indonesia met to try to resolve difficulties in administering the MOU; specifically that Indonesian fishermen were continually violating the memorandum. Engines of any sort were not to be used; all fishing activities near the Ashmore Reserve were prohibited for a time— to let the depleted stocks recover— and any landings on Ashmore except for one water supply location, were forbidden. However, Tsamenyi and Bateman note that the following year illegal fishing activities reached an all-time high; perhaps the fishermen excluded from the area were moving elsewhere.

Returning from the MOU to 1975, that year saw two large (55 metre) Taiwanese trawlers arrested off the north-west coast of Australia by *HMAS Adroit*. A third trawler - the *Feng Whi No. 51* - escaped apprehension, with the *NT News* noting: “Taiwanese:
two down while one got away . Subsequently Operation Trochus 75 was put into action, aimed at keeping a watch on foreign fishermen in Australian waters. It was subsequently declared a success, with “Foreign fishermen getting the message” as the *NT News* put it on 11 August, with foreign vessels reported as keeping clear of the Australian Fishing Zone, at that time set at 12 miles from the coast.

Similarly in March 1976 RAN and RAAF patrols in northern waters were increased, this time primarily in the Gulf of Carpentaria when a “prawn war” was threatened between local vessels and Taiwanese trawlers. Subsequently a trawler was arrested in the area, bringing the year total to date to 12 vessels. Also that month the RAAF began using searchlights in night operations from its Neptune maritime patrol aircraft. 1976 saw even more Taiwanese arrests, particularly in waters around Darwin.

The proclamation of the 200 nm Australian Fishing Zone on 1 November 1979 saw an understandable immediate increase in the number of arrest for incursions into the zone, although (Bartlett: 1991, 460) fishing arrangements had been made with Taiwan for some of that country’s vessels to operate in the zone. The first unlicensed foreign fishing master to be prosecuted was Tseng Seng Tsao, master of the Taiwanese vessel *Taishaing No 1*. This boat, and others as subsequently reported in the *Northern Territory News*, was spotted by a Navy Tracker aircraft about 20 kilometres north of Melville Island on 3 November and subsequently arrested by a Navy vessel later that day. This first arrest resulted in fines to the value of $3350 but the boat and catch were released. Two more Taiwanese vessels - the *Haw Herng 51* and *52* - were detected and arrested in March of the following year, with *HMAS Assail* escorting them back to Darwin.

The declaration of the zone seems to have brought about a greater consciousness of the dangers foreign fishing posed to Australia. In April 1980 it was revealed by *The
Australian newspaper - “WA invaded by foreign fishing boats” - that Indonesian fishermen were in fact living along the north-west of Australia while they waited for favourable weather in which to fish. In some cases confrontations were reported with local aboriginals. A little later that year the relevant authorities began to adopt a tougher line towards incursions: whereas in the past it had been observation, warnings and occasional arrests, now more apprehensions were the order of the day. Around this time – on 21 March 1980 – as James J. Fox (1998, 113) notes, Indonesia also proclaimed a 200 nautical mile Exclusive Economic Zone.

The withdrawal of the RAN’s Grumman Tracker aircraft from the north in 1980 was seen by many as a retrograde step. Surveillance was to be taken over by Transport Australia’s contract to Northern Airlines, which would be using Nomad aircraft. However, the Trackers were seen as “not redundant” by the Northern Territory News editorial writers, and they urged, unsuccessfully, that the aircraft be retained in the Top End to concentrate on long range surveillance.

1981 saw some highlighting of the inadequacy of the forces guarding the coastline. The RAN’s small contingent of Attack-class patrol boats was deemed “a pitifully small force” in a large feature article in The Sydney Morning Herald, with the writer commenting that: “You cannot escape the reality that Australia’s northern coastline is a vulnerable flank...wide open to abuse.” In March 1985, according to Mike Bartlett’s (1991, 460) Port of Darwin: 150 years, two Indonesian fishing vessels were arrested north of Melville Island after being spotted by RAAF reconnaissance aircraft. Part of a group thought to number at least 20 and perhaps as many as 30 vessels, the two were intercepted by both police and Navy vessels, and towed back to Darwin. A few days later another two were arrested.

The outcome of this action was expensive for the Commonwealth. After a court appearance in which their fishing gear and catch were confiscated, the four vessels were towed to the edge of the 200 mile fishing zone by the charter vessel Pacific Adventurer and released. Co-incidentally, as Bartlett (1991, 462) notes, another Taiwanese vessel had also been detected in the same month fishing off Ashmore Reef and towed into Darwin.

One of the primary reasons why the illegal fishing problem was pursued was of course to protect the Australian industry. The Australian fishing industry consists of thousands
of boats and many thousands of personnel to crew them. A survey by WAG Dovers (1996) found the following totals of boats by state:

- New South Wales - 869 (plus 1, 108 estuarine or inland waters craft) with 13 interstate vessels licensed to fish in NSW waters
- Victoria - 804 (no mention of interstate vessels)
- Tasmania - 941 with 145 interstate vessels
- South Australia - 1,527 with 46 interstate vessels
- Western Australia - 1,628 (no mention of interstate vessels)
- Northern Territory - 161 with 227 interstate vessels
- Queensland - 3,790 (no distinction made between vessels from Queensland and those from other states)

Dovers also identified foreign fishing vessels licensed to fish the surplus from the Australian AFZ - as it was then:

- 352 foreign vessels were licensed to fish in the zone in 1985-86 as follows:
  - Japan 264 longliners
  - Taiwan 50 pair trawlers and 11 gill netters
  - Korea 4 squid boats
  - Thailand 7 gill netters and 5 stern trawlers

On the illegal fishing front, all was somewhat quieter until October 1987. The beginning of illegal fishing incursions in that year heralded a steady stream which has continued to the present day. Some of this might be thought to have been caused by the introduction of Coastwatch flights in 1988 - as outlined in Chapter Seven. However, it is noteworthy that RAAF flights were conducted steadily, although not with as great a frequency, in the years before the actual arrival of Coastwatch patrolling. Thus the RAAF flights might be seen to have provided a base indicator of incursions - although their flight times were not extensive. In October 1987 an Indonesian prau, the Bunga Raisa, was found in Australian waters off New Year Island. Her master, as Bartlett (1991, 459) notes: "...was given a two year suspended sentence, while his craft was forfeited and later auctioned." In November 1987 a dispute arose between a Taiwanese and Indonesian fishing vessels in the Arafura Sea, with shots being fired, apparently by the Indonesian boat. The Taiwanese vessel, the Li Chyun 1, made for Darwin, where
many interested spectators viewed several holes in the boat's bow, allegedly caused by the incident.\textsuperscript{16}

In June of the following year the \textit{Karya Sama} was caught by the patrol vessel \textit{Ocean Reaper} at Ashmore Reef. The six men on board (Bartlett, 459) were charged with "interfering with eggs and killing rare birds" and while they were released with two year good behaviour bonds, the vessel was confiscated. Throughout the rest of 1988 nearly 40 more fishing vessels were detected and apprehended, and then taken to Broome, Darwin or Thursday Island. A mammoth effort was made by the interdiction authorities in the fisheries protection area in 1991, with five patrol boats working with Coastwatch, as noted in Stevens (1998). \textit{HMAS Gladstone} made a record 12 arrests in one day.

Fishing incursions in the 1980s and 1990s seem to have been largely Indonesian based. In 1992, Professor Anthony Reid and Dr James Fox, both from the Research School of Pacific Studies at the Australian National University, wrote a paper entitled "Illegal Entry!" which identified fishermen arrested in the period of 1988 to mid-1990. Professor Reid, writing in his half of the report, found that of the 35 vessels arrested in the period, four came from the Roti or Kupung area, and the rest from three islands in the South East Celebes. Although identifying the former group as from the Muslim community of Papela, and the latter as Butonese, both these areas come under the aegis of the Indonesian government. All the boats apprehended were fishing for trochus. In many cases the reason for fishing illegally in Australia's waters appears to be primarily economic - the fishermen are earning their living - and secondly due to a lack of management in Indonesia's own waters. The article "Beached in Broome" (Wilson: 1990, 18) describes how arrested Indonesian fishermen were interviewed in Broome Regional Prison:

\begin{quote}

The men we spoke with all anticipated coming back to Australia as economically they have little choice. The villages they come from are particularly poor and pressure on fishing stocks has increased. There are no longer any reefs worth fishing for trochus closer to home...
\end{quote}

It is worthwhile here returning briefly to a discussion of how different cultures perceive, or indeed, do not perceive a problem. Writing in \textit{Comparing Cultures} (1996, 179), Milner and Quilty suggested:

\begin{quote}

\textsuperscript{16} Royal Australian Navy unidentified patrol vessel linebook. Historical Collection, \textit{HMAS Coonawarra}.
\end{quote}
Within the blocs themselves, Indonesia's view of its own role is, to some extent, traditional: it sees itself not so much as a territorial nation-state with clearly demarcated borders but as a centre or focus that, over time, radiates power and prestige over larger or smaller regions...

If this is so then it suggests Australia's problem with Indonesia over illegal fishing will continue, for if the common border is blurred then it is not something Jakarta will see as a problem. This probably explains the attitude of the Indonesian government to illegal fishing: while Australia patrols its sea border vigorously and enforces its EEZ, the Indonesian government has adopted a relaxed attitude towards the problem, if indeed it can be said to have an attitude at all.

The Britain-Iceland "cod war" of 1975-6, by contrast, resulted in fishing disputes being defended by the armed forces of both countries and each of the governments made strong representation to the other for its fishermen's rights. Indonesia, by contrast, appears to have no interest in reining in its own fishermen or indeed managing its own fishing resources. Further, if the attitude of Jakarta towards its affairs is one, as the Comparing Cultures Project (179) perceived, of "...gravitas, a sense of playing a dignified, central role" then there will be no change in Indonesia's non-representation of its fishermen, probably because Jakarta realises it has limited abilities to control fishermen from outlying villages and would rather be seen as not trying than not succeeding. Indeed, the Project noted (183) that:

In this Javanese tradition, in which the state is defined by its centre, "security" disturbances or economic deprivation on the periphery are thought of primarily as indicators of the relative power or weakness of that centre.

In summary, the illegal fishing problem Australia is facing in its northern waters is not going to be resolved by the country from which the majority of the illegal fishermen come.

The RAN has classified the boats concerned into various types as follows:

- Type III - motorised Indonesian fishing vessel;
- Type II - fishing boat equipped with a sail;
- Type I - small fishing boat, may be equipped with a sail or oars, paddles etc.
It is worth noting that there is a little confusion over these terms and that they are in a process of revision from time to time. For example, in the mid-1990s Coastwatch and the RAN encountered many vessels which would be categorised as Type II’s, but were later equipped with an engine, sometimes an outboard motor. Were these Type III’s? It seems they are, but to some Navy members they have been known as a “Type II-and-a-half...”

A further two types are the “longliner” and the “mothership” sometimes referred to as an “iceship”, although this term can be misleading. The first is a motorised small ship with mechanised fishing lines, sometimes several kilometres long, and running thousands of baited hooks. The second is a freighter which waits in neutral waters, where it is used by smaller fishing vessels to store their catches, usually in ice freezers. The term “iceship” also seems to have been loosely used from around 1996 to describe any fishing vessel which uses ice to store its catch.

From 1988 sightings of vessels alleged to be illegally fishing within Australian waters have steadily increased. The following graph, calculated from figures supplied by Coastwatch and HQNORCOM, outlines the trend:
The number of apprehensions - that is, actual arrests - made each year has increased over the years from 1988 to an all-time high in 1994. Since then the number of vessels intercepted has dropped a little.

The illegal fishing follows a seasonal pattern. This seems dependent upon a number of seasonal weather variables. The tropical cyclone season of October to May is stable enough in its early months until December to make sea voyages in small fishing boats
safe enough. After that the possibility of a cyclone and its attendant area of rain and wind take over, and this unstable period lasts until around March of the following year. The "doldrums" then begin again until about the end of May, although cyclones have been known until the official end of the Wet on May 1. Around June and until August the weather becomes more settled, but with strong winds and choppy seas making conditions less suitable for small fishing vessels.\(^\text{17}\)

The following graph, which illustrates the description above, shows the averaged total of suspected illegal fishing boats sighted by Coastwatch each month. This is for a period of seven years, for the period October 1988 to September 1995.\(^\text{18}\) The sightings have peak periods and low periods, according to the weather. Of course, these are not always steadily predictable. For example, a persistent cyclone which stays in an area for a period of weeks, which is not unknown in northern tropical waters, would cause most foreign fishermen to remain ashore, but this is unusual. The cyclone season itself often produces rough weather, which accounts for the dip in the monthly sightings as shown below. The dip in the months of July and August, according to interviews\(^\text{19}\) conducted with captured illegal fishermen, is because of prevailing north-easterly winds which blow against the fishing boats' track, making journeying south into Australian waters difficult.

\[
\begin{array}{c|c|c|c|c|c|c|c|c|c|c|c}
\hline
\text{Month} & \text{Jan} & \text{Feb} & \text{Mar} & \text{Apr} & \text{May} & \text{Jun} & \text{Jul} & \text{Aug} & \text{Sep} & \text{Oct} & \text{Nov} & \text{Dec} \\
\hline
\text{Total averaged by month} & 126 & 189 & 182 & 252 & 315 & 378 & 441 & 504 & 567 & 630 & 504 & 126 \\
\hline
\end{array}
\]

5.7 Source: Coastwatch, as supplied to HQNORCOM

\(^{17}\) From personal conversations with RAN Lieutenant CK Jones, HQNORCOM, 3 November, 1995. Lieutenant Jones served aboard Fremantle-class patrol boats patrolling the Australian Fishing Zone in the early to mid 1990s, as well as in organisational roles at Headquarters Northern Command.\(^\text{18}\) It might be expected that the month of September would show an aberration which would translate as being slightly too high. This is because an average for each month is taken over the same month for seven years, except for September 1988, as Coastwatch did not begin compiling figures until then. However, the average for the months of September is only averaged from 1989 rather than 1988.\(^\text{19}\) Interviews conducted with three crews on board three captured Indonesian Type III fishing boats: Horizon II, Bintang Pelabuan and Hasir Tani, by Sergeant Kim E Smith, with the writer accompanying, 17 April 1997.
So we can see that using the information above, it makes sense to concentrate surveillance and interdiction operations according to when maximum incursions could be anticipated. The agencies concerned are well aware of this and do indeed organise their resources accordingly.

Finally, the illegal fishing problem Australia is experiencing may be expected to remain serious, and indeed it obviously is, if we inspect graph 5.6 above. A parliamentary inquiry in September 2000 confirmed the problem was steadily getting worse. There was said to be little chance of Indonesian fishermen being caught when they illegally entered Australian northern waters. Figures provided to the Australia's Fisheries Management Authority inquiry into Coastwatch showed 1,500 Indonesian boats were sighted in 1998 between Cape York and Broome, but only 50 were apprehended.\(^{20}\)

Problems encountered in the administration of the MOU area have not been overcome, although they represent a small part of the situation. Indeed, Australia seems to have been more than tolerant in this regard. In late 1995, Professor Martin Tsamenyi presented a paper “Managing Indonesian Traditional Fishing Activities in Australian Waters: An Australian Perspective” at the Conference “Neighbours at Sea - The Shared Interests of Australia and Indonesia in the Timor and Arafura Sea”. Professor Tsamenyi suggested (7) that:

> Australia is not obliged to grant access to Indonesian fishers in its territorial sea...the fact that Indonesians have fished in the waters now constituting Australian territorial sea and EEZ from time immemorial is immaterial. In this respect, the MOU and associated documents, represented political goodwill on the part of Australia.

James J. Fox (1998, 114) also notes that:

> ...Australia, under no international obligation to do so, has consistently endeavoured to recognise some form of traditional Indonesian fishing within its waters. Numerous problems have arisen as a result of this seemingly well-intentioned endeavour.

It is useful to note the costs of repatriating illegal fishermen, because such costs, added to the costs of surveillance and interdiction, motivate the general public’s feelings, which are of interest to this study. Figures obtained from the Department of Immigration and Multicultural Affairs therefore are listed below indicating what repatriation cost Australia for the financial years of 1992-96 inclusive:

<table>
<thead>
<tr>
<th>Year</th>
<th>Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992/93</td>
<td>$31,850</td>
</tr>
<tr>
<td>1994/95</td>
<td>$361,261</td>
</tr>
<tr>
<td>1993/94</td>
<td>$85,725</td>
</tr>
<tr>
<td>1995/96</td>
<td>$202,435</td>
</tr>
</tbody>
</table>

Represented graphically, this gives the following trend:

In summary, we can see that the history of illegal fishing within what was once regarded as high seas; then as Australia's coastal waters, and is now Australia's Economic Exclusion Zone is multi-faceted and varied. Many groups have laid claim to its riches, and some of those claims have been rejected while others have been embraced.

Australia's management of the resource has been quite haphazard and usually events have driven policy in the area, rather than the reverse, which would have been preferable, simply because to be "on the back foot" means the competition drives the strategy, and while Australia is busy reacting; making policy, and putting tactics into effect, the resource is being plundered.

Some of our neighbours may not see the laws that we proclaim here as relevant to them. But one thing is perhaps being made clearer: Australia's maritime domain is now more
legislated for, yet more fought over, than ever before. In a world with an expanding population and diminishing resources the management of this particular resource in the future will become more and more important to Australia.
Chapter Six: Different Directions within Australia’s Offshore Surveillance and Interdiction Organisations
Chapter Six. Different Directions within
Australia’s Offshore Surveillance and Interdiction Organisations

It is now intended to outline the developments within surveillance and interdiction that led to the situation we now see today, and along the way, further the picture of a situation that has been a model of reaction, rather than forward planning. The developing challenges for surveillance and interdiction of Australia’s maritime approaches promoted a sometimes haphazard series of policy responses rather than the formulation of a coherent policy regime to manage our northern seas.

Today, we have in the area of coastal surveillance and interdiction a multi-agency approach which, it will be seen, has been responsible in part for the failings of the present system. No one agency takes responsibility for anything; it is easy and politic to shift blame for failure, and indeed there is no clear mission statement in anyone’s terms for an overall solution. It would be preferable to see statements of agencies missions, perhaps, contain words to the effect of: "...to carry out all surveillance and interdiction for the Australian coastal estate". And as no one agency "owns" the problem, no one agency sees it as their own unique responsibility.

Peter John (1998, 27) provides a theoretical explanation of the problems arising from a multi-agency approach that nicely describes the situation facing coastal surveillance and interdiction:

Rather than a simple enactment of political decisions, implementation analysis suggests the relationships within and between public agencies are highly complex and difficult to manage. What appears to be a neutral and straightforward mechanism to translate intentions into reality is in fact a complex matrix of public, quasi-public and private decision-making bodies, all of which are involved in the policy process but which have their own autonomy, interests and values.... the more decision-points there are, the greater chance a policy fails.

The flaws inherent in a multi-agency system of surveillance and interdiction are compounded by the fact that there was never a specific moment when policy makers determined how this system would operate. Hugh Hudson, in a report to the Federal Government entitled Northern Approaches (1988), claimed that a formal surveillance of Australia’s coastlines began in 1968. This was in response to a request from the Department of Primary Industry to defence sources to survey “the newly declared
twelve nautical mile (nm) fishing zone”. Hudson cites the surveillance as being carried out with aircraft from the RAN and RAAF. However, no real decision to arrive at the model of today’s surveillance and interdiction process seems to have been made in 1968. Rather, the present policy has been arrived at through the pressures described previously, and through the model of public pressure becoming political pressure, which results in ministerial decision-making and public service action. Therefore, over 30 years we have arrived at today’s situation; not through determination of where we should be in the future, but through slight change brought about by constant pressure.

Hudson’s contention that the ‘formal’ beginning of surveillance started in 1968 ignores the previously arranged patrols by the RAN and by Haultain. Demonstrably, the federal authorities themselves did not know in 1968 what their own past procedures were. The situation in reality was instead the adoption of a series of small steps which resulted in today’s situation, and 1968 was merely another one of these. Moreover, there is no evidence that this was incremental policy-making, for no document has been uncovered which suggests a scenario that would be arrived at through policy implementation. No policy document has been sighted which suggests that Australia would one day use warships to interdict Suspected Illegal Immigrant Vessels. No one policy document suggests that Australia would or should allow foreign traditional fishermen access to traditional areas. Instead, our policies of surveillance and interdiction simply evolved over time as a reaction to events. What is lacking in the whole scenario is vision.

Policy development in an *ad hoc* means is not unusual. The British defence policy of the 1920s, as outlined by Peter Elphick (1995, 11) in *Singapore: The Pregnable Fortress*, dictated that the Empire would assume it would not be engaged in any major war in the next 10 years. This major plank of defence policy was arrived at in a somewhat carefree way:

...it is interesting that N.H.Gibbs should note in his volume of the Official History of the Second World War, that "the process by which a decision on it was reached, appears to some degree casual".

This is government decision-making by lack of making decisions; what Abraham Lincoln declared perhaps satirically: “My policy in this matter is not to have a
policy”. This has been the situation with Australia’s northern surveillance and interdiction.¹

To suppose that lack of policy in northern surveillance and interdiction is unusual is to disregard the picture of much of the Australian political system. Policy-making on the run is indeed alive and well in modern Australia. An example of contemporary practice can be gained from observing the "policy backflip" as The Australian called it, made during the European Kosovo War of early 1999.² By the second week of that war, a refugee problem had arisen, involving refugees being displaced from their (disputed) homeland. Columns of forlorn people were featured prominently on the world’s television sets. A call arose in the West to "do something" about this situation. Australia was one of several countries proposed to give refugees sanctuary, against the current immigration policy. The then-Immigration Minister, Philip Ruddock, held the line in maintaining the policy would be maintained. He was steadfast in his stand, with absolutist comments such as "Temporary outcomes have never been successful in terms of moving people..."³

That comment was made in the early hours of Tuesday 6 April 1999. On the same day Cabinet reversed Ruddock’s position; in the words of the national newspaper: "Its eventual adoption left Ruddock on the beach, high and dry..."⁴ The decision was pushed by cabinet members who had perceived through their analysis of newspaper reports and talkback radio that they were not being treated kindly by the media and perhaps the people. And so, in the space of a few days, policy was reversed for a variety of reasons: the Prime Minister later spoke of a "moral obligation", and there were a variety of reasons put forward for the decision, including a need for Australia to act independently from NATO. However, the point is amply illustrated: policy making, even at a high level, can be and indeed often is made hurriedly.

This, then, is the present system: a multi-agency approach which sees network players striving to apportion blame to others; increase their own power and resources at the expense of others, and generally sit back in the knowledge that one’s own agency is not exclusively responsible for the overall picture. It is a policy which has seen

¹ As an aside, we might note that even contemporary satire acknowledges that policy is often not the Minister or party-in-power’s initiative. As one of Sir Humphrey’s colleagues points out in the popular television series Yes Minister: "We should never let Ministers get so deeply involved. Once they start writing the draft, the next thing we know they'll be dictating policy.” Yes Minister (1983) "The Writing on the Wall" BBC Productions: London.
² The Australian. 1999. Article, "Anyone who had a heart”. 10-11 April. 27.
³ ibid.
⁴ ibid.
problems. Anthony Bergin notes in "Inter-Departmental Coordination: The Australian Experience" (1995, 118) that:

One ocean policy area which has had its fair share of policy conflicts, jurisdictional gaps and charges of management inefficiencies and overlaps over the years has been that of civil maritime surveillance and enforcement in Australia. Some eight Commonwealth reviews have been held on civil surveillance since the declaration of a 12 mile fishing zone... Responsibility for surveillance has shifted from department to department...

Here, as an example, is what two of the various agencies involved perceive their mission to be today:

The Navy Mission, as given in their 1999 Web site, is:
To contribute to the security of Australia, and to the protection of its people and interests at sea.

The Navy Goals
1. Achieve outstanding operational efficiency in joint and combined maritime operations.
2. Recruit, educate, train and motivate people, capable of operating and supporting the Navy professionally and effectively.
3. Be recognised nationally as offering challenging and rewarding careers for our people.
4. Be regarded by our people and their families as a caring employer.
5. Achieve world class leadership and management skills and professional standards.
6. Influence the development of a powerful Navy capable of serving the nation’s interests at sea.
7. Earn public support and pride for the Navy, and develop a greater public understanding of the importance of the sea for the prosperity and security of Australia.
8. Introduce best practices as a corporate citizen, including management of the natural environment.
9. Build effective relationships with Australian industry to support and sustain maritime operations.

Points one, six and seven seem relevant to the policy area under discussion. However, point one’s “joint and combined” should not be taken as meaning the RAN’s mission is to co-operate in operations with Coastwatch, DIMA and other government agencies. “Joint” in military parlance means to work with either or both of the other two arms of the ADF: the Army and the RAAF. “Combined” in military parlance means to work with other countries’ forces. It is notable that here is one
government department - the RAN - which has a major role in the surveillance and interdiction process; indeed, it is responsible for almost all of the latter. Yet it is not cited in the Navy's statement in direct terms, rather only indirectly in points one and six. (Although somewhat changed, the same could be said of the Navy's Mission Statement of 2003.)

The RAAF's mission statement, as given in their 2000 Web site, is: "Prepare for, conduct and sustain effective air operations to promote Australia's security and interests".

It is not surprising, perhaps, that the RAAF site makes no mention of surveillance and interdiction against illegal fishing and illegal immigration and border control et al, as their aircraft carry out very little of the surveillance. It is notable too that both the RAAF and the RAN key organizational statements do not identify their role in interdiction and surveillance and/or their collaboration with each other and other agencies in this area. The problems of the inter-agency approach will be expanded upon in the following two chapters as support for the central thesis of this study.

The beginnings of Coastwatch
Anthony Bergin and Richard Wilson have further detailed the origins of Australia's coastal surveillance in their 1992 report: "Australia's Coastal Surveillance: the Beginnings, Beazley and Beyond." They noted that the present Coastwatch is a civilian surveillance operation originally set up, though not under that name, in 1978 with three aircraft. In December 1981 a review of procedures recommended, as the report noted, the: "...identification of surveillance aircraft and crew as 'Coastwatch' to increase their deterrent effect and the public profile".

A brief but quite comprehensive study was carried out into surveillance in 1978 by, Commodore KD Gray DFC, RAN (Rtd.) Gray summarized the-then state of border patrolling in terms of surveillance of military threats, and broadened that approach to assess what would be needed if patrol of civil requirements were necessary. He recommended aircraft and ship requirements for that role in the future. He concluded

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5 "Our Mission is to fight and win in the Maritime Environment as an element of a joint or combined force to assist in maintaining Australia's sovereignty and to contribute to the security of our region". As given in various publications, for example: http://www.apan-info.net/maritime/natl_orgs_view.asp December 2003.


that “Surveillance of our maritime surrounds should be the cornerstone of our security preparedness. A this stage Australia’s military surveillance capabilities are adequate...” to provide a watch for military threats, but “They are not adequate to respond to a major upsurge in that activity” and they would not be adequate if civil surveillance was added to the military's role.

Although this seemingly advocated a Coastguard option, Gray disagreed with that conclusion on the grounds that force would be necessary in apprehension operations – that necessitating a military role – and that furthermore duplication of what the armed forces already had available would be “grossly wasteful of limited resources”. He therefore proposed a “Joint Surveillance Command” within the three Services.

Following this the Beazley Review was commissioned in 1983 by the Hawke government, under Kim Beazley, then Minister for Aviation. The Review found (1988, 3) in Hudson’s words, that:

...although the existing system was sound, it could be made more effective. This was to be achieved by focusing more attention on activities relating to the interdiction of illegal entry of narcotics, while maintaining effective levels of surveillance against breaches of quarantine, fisheries, environmental and immigration laws.

Further resolution of the role of Coastwatch occurred in August 1988 with the establishment of the agency as a semi-autonomous body with the Australian Customs Service. The original contract for the service was awarded, in December 1989, to Skywest Aviation, based in Perth. The contract for helicopter support was given to City and Country Helicopters, based in Caloundra, Queensland, in the following July. In 1993 the principle of nine-year contracts for fixed wing and rotary wing surveillance was approved by the Federal Government. Coastwatch missions today patrol various sections of Australian coastline and the Economic Exclusion Zone. The patrols are directed to a degree by Coastwatch's client agencies; that is, those agencies whose task it is to interdict vessels who are infringing on Australia's interests. As Peter Naylor (1997, 2) from Coastwatch outlined, these include:

Australian Fishing Management Authority (AFMA);
Australian Quarantine and Immigration Service (AQIS);

However, these eight are only a sample of the customer base. Rear-Admiral Shalders, the Director-General of Coastwatch, suggested (2000, 35) in the *Journal of the Royal United Services Institute of Australia* that the organisation serviced: “…23 separate agencies which use Coastwatch on a routine basis”. It is worth noting that despite the previously-suggested scenario of slight pressure on policy bringing about change, and no clear “vision” being seen by governments of the past, what we now have is a status quo. The present arrangement of coastal patrol has remained locked into its systemised form for around 15 years. Perhaps it is not surprising that the situation has stagnated. Peter John (1998, 26) suggests that this is normal:

> Policies often continue by the force of their own longevity, and develop legitimacy in a political system. Interest groups become integrated into the decision-making process and increasingly depend on government expenditure and regulation.

Analysing the mechanics of the situation; Coastwatch patrols follow patterns and frequency dictated by needs and also the operation of "routine" patrols. Normal patrol procedure would see an area of coast checked three times per week. However, aircraft can be relocated as needs permit, as Naylor (1997, 5) again outlines:

> A key aspect of this national approach is that Coastwatch aircraft are not allocated to specific locations. Rather, aircraft are located strategically at areas where they can be used to best effect and the aircraft are relocated to meet changing circumstances as they arise.

Other agencies, such as Immigration, become involved in surveillance - and to a certain extent, interdiction - when their intelligence indicates incoming Suspected Illegal Immigrant Vessels (SIEVs). The Australian Federal Police keep an active interest in criminal activities such as the running of drugs and guns across our international borders. One of the biggest users, the Australian Quarantine and Inspection Service, is concerned with the essential role of keeping many Australian organisations disease-free. The Australian Defence Force is obviously also interested in maintaining a watch over our borders and area of interest, and does this primarily
through efforts co-ordinated at Darwin's Headquarters Northern Command (HQNORCOM).

All of these organisations and more (see diagram below) generally funnel most of their information into the Australian Defence Force's intelligence network. This is necessarily so because Intelligence, through its presence in Maritime Headquarters, Sydney, and at Northern Command, Darwin, and to a lesser degree in Cairns, Queensland, provide information to the "sharp end" of the organisation. This is the Navy's patrol boat fleet, which make up the bulk of the interceptions of illegal fishing boats and SIEVs. On occasion Customs will use their own vessels to make an interception, as will the AFP. But the vast majority of interdictions utilise the 15 Fremantle-class patrol boats operated by the Royal Australian Navy.

6.1 The dashed lines indicate the tasking of Customs vessels by Customs, as outside the general surveillance/analysis/interdiction flow, which utilises RAN assets. Similarly, any of the 23 client agencies, as detailed by Shalders (above) might task platforms hired by themselves.

So occasionally the normal cycle of surveillance and interdiction is bypassed. For example, AFP Intelligence may gain information about drug-running through the Torres Strait. Since 1996, as the Resident Naval Officer on Thursday Island confirms⁹, the AFP has stationed a permanent officer in the Strait to deal with this

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⁹ Conversation, 4 July 1997. NORCOM.
growing problem. In the event of gaining information about a small problem that could be handled by this one officer, it is probable that the AFP would simply instruct their officer to make the interception. However, if the operation involved the detection of a large group, then the AFP would enlist the help of the RAN and that operation would revert to the normal cycle.

Indeed, the “whole-of-government” approach is seen as being the norm after many decades of coastal surveillance and interdiction. This diagram was being used by the Department of Immigration, Ethnic and Aboriginal Affairs in 2002:

6.2. Department of Immigration, Indigenous and Ethnic Affairs Presentation, by Mr Jim Williams, to the Junior Officers Strategic Studies Course, Department of Defence, 22 May 2002. (author present).

Used with permission.

To return to the analysis of the single-agency breakdown, it is of note that Customs have operated some launches of their own. For some years these were four large Minister-class vessels, capable of work outside harbours, with the remaining thirteen limited to sheltered-water operations.\(^\text{10}\) In 1998 Customs announced the building of eight new vessels, to be known as the "Bay" class, with the first later delivered in 1999.

\(^{10}\) “To assist Customs carry out its activities it currently has 17 marine vessels at various sea ports” - http://www.customs.gov.au/ac03.htm (24 Oct 1996)
6.3. Australian Customs Bay-class vessels (Courtesy Austal ships)

In the event of a Customs launch being in the area of a suspect target sighting, the information could go straight from their own contracted surveillance platform - one of the chartered National Jet System aircraft operating as Coastwatch. It is probable in both situations that ADF Intelligence would supply additional information if requested, thus occasionally seeing the normal cycle reversed.

Interdiction Policies

The Royal Australian Navy has provided, for many years now, 1800 patrol days a year from its fleet of fifteen Fremantle-class patrol boats, in support of its Civil Surveillance Program. These patrol boats are a diesel powered vessel powered by two 16 cylinder engines, with a third 12 cylinder engine for auxiliary propulsion. They entered service\(^\text{11}\) from 1979 to 1985 with the Navy, with fourteen built in Australia, the first boat of class - HMAS Fremantle - being built to a British design and constructed in Britain.


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A discussion of the interdiction platform is especially relevant here because again the present choice has not been arrived at through conscious policy-making for interdiction within the EEZ, but rather through a range of factors. The reality of the matter is now, for example in Darwin, that the once six – then ten, now 12 to all 15 - resident patrol boats spend almost all of their time on fisheries patrols. 12

This makes for interesting contrast with the perceived role of the first patrol boats bought by the RAN in 1964. These were the Attack-class vessels deployed on fisheries patrols in the 1970s, as outlined here by Michael Wilson (1995, 38):

The decision to produce a new patrol boat for the RAN was approved by Parliament in 1964 with nine all-purpose craft being ordered to replace vessels reaching the end of their useful and economical lives. The new boats were designed to satisfy patrol duties such as those carried out by the minesweepers in Borneo waters during the Indonesian confrontation period. (italic emphasis added).

Therefore, we have another example of measures utilised in the coastal surveillance / interdiction area not being part of policy development, but rather being available in an accidental way and eventually adapted for this purpose. No decision seems - given the available evidence - to have been ever made in recognisance of the fact (or possibility) that the patrol boat fleet would spend much of its time on illegal fishing patrol.

The replacement vessels, the Fremantle-class, have had a variety of roles, as Desmond Ball (1988, 12) outlines: "The roles of the Patrol Boat Squadron include coastal surveillance and fisheries protection, search and rescue, and general naval

12 Personal observation through Navy and NORCOM employment.
tasks" It is accepted that there are two compromises here. The first is the Navy’s understanding that it is primarily a war-fighting organisation, but one tasked with other roles too. Therefore, its vessels must fill a variety of needs. The other compromise is that which governments make with their armed forces - how much money must be spent in that area with all of the other pressing demands of a country.

In fact, it is suggested that the patrol boats’ role has grown in an *ad hoc* fashion. The original starting point in the 1960s was the Navy needing small vessels which could be "maids of all work" - as were its corvettes in WWII - and capable of a variety of roles: minesweeping; oil rig protection; anti-submarine patrolling, and so on. While those needs are still there, to it has been added another role of offshore interdiction being a major part of the patrol boat fleet vessels’ *raison d’être*. As a further example of policy being driven by events, as illegal fishing and suspected illegal immigration became bigger problems through the 1990s, so too did pressure grow on the Navy to move more patrol boats north. In 1999 and 2000 this saw patrol boats moved from a home base of Sydney and Cairns to Darwin, so that the northern “FFV and SIEV capital” became home to 10 of the 15 patrol boats. From 2000 it began to be an expectation that the 15 patrol boats would be slowly moved to Darwin, and indeed in 1993 ten were based there, with the remaining five in Cairns.

The patrol boats have a crew of 22, with generally three to five officers embarked. Accommodation space is limited - the wardroom, for example, is about 1.5 metres in width and about three metres in length. This space - about the size of an average bathroom - serves all of the embarked officers and is sometimes converted to sleeping accommodation. The wardroom is fitted onto the weather deck, and down below are two messes for senior and junior sailors, as well as sleeping accommodation.

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13 60 of these vessels were built in Australian shipyards during the war - 56 for the RAN and four for the Indian Navy - and they carried out a variety of duties, ranging from convoy escort to troop transport and the occasional mine-sweep, for they were similar to the British "Bangor" class which had started off designed as a minesweeper. Named after Australian towns, the first was named after Bathurst, so the corvettes became the Bathurst-class. Many of the ships were produced in Sydney or Melbourne, but as the war went on they were produced in many areas, with 1944 seeing one corvette being launched every 26 days. (Author’s comment) The corvettes were built from steel, had a displacement of 650 tons, and were 186 feet in length. Their beam was 31 feet, and they had a draught of eight feet, six inches, making them particularly suitable for work close to shores. Armament was either one 4” gun or a 12 pounder gun, one 40mm gun, and five or six machine guns. (From the author’s Sensuikan I-124)

14 The wardroom is that space on a warship that serves as the eating and entertainment space for the ship's officers. By tradition, the Commanding Officer of a vessel is not a member of the wardroom - a procedure that allows the subordinate officers a space to "let off steam" about anything. In a small vessel, however, it is necessarily the case that the CO must be a quasi-member of the wardroom, if only to allow him/her somewhere to eat meals.
Armament is limited: a general purpose 40/60mm Bofors gun, an 81mm mortar mounted on the stern, and two or three .50 calibre machineguns.

These weapons do not mount sufficient firepower to make the Fremantle into a formidable warship. The Bofors gun, while being able to maintain a rate of fire of about 120 rounds a minute, lacks the calibre or range to attack a heavier warship. It is also manually aimed, as are the machineguns. The Fremantle is not a useful warfighting ship for many reasons: it is not a submarine hunter – lacking the necessary sensors or weapons; it does not have the missiles or gun systems capable of attacking a bigger warship, and it is vulnerable to air attack, being without air-search radar or Surface to Air Missiles (SAMs). However, the Fremantle is quite useful in a patrolling role, having a good turn of speed - around 26-30 knots - and a sea search radar. The vessel has communications capable of maintaining contact with both air assets such as those employed by Coastwatch, and RAN communications ashore. Its seakeeping qualities, however, are not remarkable. In his article “The Naval View” (1993, 141) Rear Admiral Rob Walls commented:

...we have found with our Fremantle operations that the present boats are not long enough, and we have a sea-keeping problem with them; their replacements ought to be able to range safely in the cyclone season into the South Pacific, and out into the Indian Ocean, and in winter into the Southern Ocean.

There has been some discussion about replacing the Fremantle with a new "Offshore Patrol Combatant".

6.6 RAN artist’s conception of the once-planned OPC
One model put forward was a much more capable platform in many terms: seakeeping, surveillance - a helicopter was to be embarked, and accommodation - the vessel is much bigger at 75 metres - as opposed to a Fremantle’s 42 - with accommodation for up to 100 personnel.

However, the OPC idea was eventually dropped, as it was envisaged as being built along with a Malaysian order for a quantity of the same ship, which did not eventuate. A “Life-of-Type” extension was proposed for the Fremantle-class patrol boats, but this in turn was discarded as being too expensive in relation to the eventual life extension. Some new sort of vessel was proposed for the RAN under Project Sea 1444, which released its bids for tender in May 2001. The new vessel, according to a Navy communication:

...will be equipped with two capable seaboats, a 25mm stabilised gun and accommodation for a crew of up to 25, four sea riders and 20 austere bunks. They will have much improved seakeeping over the FCPB, being able to conduct boardings to the top of seastate 4 and surveillance to seastate 5.

In the meantime the Fremantle-class is being worked hard in Australia’s northern waters. However, the OPC or its equivalent will not alleviate problems that are discussed in the next chapter, for reasons that will become obvious there. The policy decision not to commit the funds for the OPC tells us something about the fiscal constraints on policy options for interdiction and surveillance. A dedicated class of vessel has been a long time coming, and even with the provision of new patrol craft the diverse demands of the Navy and the need to interdict within the offshore estate are obvious. To give further emphasis to this, the Tampa incident of 2001 saw warships deployed to patrol Australia’s north – a case of “overkill” and one that ironically saw some commentators calling for the introduction of a vessel very similar to the OPC: Sam Bateman and Anthony Bergin outlined the characteristics of such a vessel in their article “Flaws in coastal armour” in The Australian.
Interdiction figures have been a major business for the Navy over the years. In the ADF, this process is known as "apprehension", with "sightings" and "boardings" being the precursor. The latter is to give a warning to a vessel found for the first time in the EEZ.

This work is not examining in depth the operational efficiency of the workings of surveillance or interdiction. Rather, it makes some examination of the perceptions of whether our surveillance and interdiction processes are effective. Public perceptions, in our liberal democracy, to a large extent drive policy. The following two chapters examine some organisational problems related to our surveillance and interdiction policies which impact upon our maritime responsibilities.

In concluding this chapter, we can see that the present policies of surveillance and interdiction have been arrived at by ad hoc methods; where events drive changes in policy from a number of players. The nature of the policy challenge is complex. It is resource intensive; Australia has an extremely large area to patrol; the country has had to cope with a fairly recent and considerable phenomenon of people smuggling; the nature of the border with Indonesia is a peculiar and extraordinary one; and controversies have raged over the human consequences of border protection. This complexity encouraged Canberra over time to adopt a multi-agency approach. This in itself is a problem: to reiterate in Peter John's (1998, 27) words: "the more decision-points there are, the greater chance a policy fails". The thesis demonstrates that this has happened: and that policy has been developed at agency level, fragmented, insufficiently coordinated. The agencies concerned with this aspect of government lack focus on the problem, in many cases because they have arrived at their present position gradually and incrementally. The platforms used for the mission have to satisfy - in the Navy's case - a variety of other roles too, and indeed these platforms are "lent" to the program by the Navy. Confusion has been noted between the RAN and Customs, the other interdicting agency. In essence, the overall picture of interdiction resembles a jigsaw of pieces assembled by a variety of people, rather than a scenario painted by one artist to one theme.
Chapter Seven: The Surveillance Process: How Events run Policy
Chapter Seven. The Surveillance Process: How Events run Policy

Surveillance of Australia's coasts has grown sporadically over the years since any sort of patrolling began. Surveillance and interdiction are the actual implementation of border control policy. It is important to have an understanding of these measures as they are the difference between levels of policy formulation and implementation. The first level is that of resourcing border protection of such a vast maritime border. At this more general level, policy makers in Canberra have to make decisions regarding scarce public resources. At the next level of policy challenge, the challenge is to establish an effective, coordinated system of surveillance and interdiction that is cost effective while maximizing agency resources. This is in part a human resources issue. The third level is the issue of choosing the most effective and cost-effective technology and equipment.

Today, both surveillance and interdiction are organized and at a general level seem reasonably effective. Problems still exist, however, and one persistent problem -- that of measuring whether a total effectiveness is present -- has been consistently ignored, with sufficient hard evidence now revealed in this study to indicate that the surveillance effort is not detecting all of the border incursions.

To understand the present state of surveillance and interdiction, we need to understand the mechanics of the situation. This means gaining an understanding of the overall means of detection: whether we use aerial surveillance, maritime observation, satellites or other electronic means - and so on. Once we determine that, then we need an understanding of the specific platforms used within that overall system. W.A.G. Dovers (1988), in *Controlling Civil Maritime Activities in a Defence Contingency*, has usefully broken down the surveillance process into a number of steps: location, identification and tracking. He further breaks location into two parts: detection and localization. This chapter uses Dover's rationale in analyzing the tasks of the various agencies.

**Location - detection**

This is the initial detection of a vessel and the placement of it in a given broad area. The process of location is carried out in both a long-range and a coastal configuration by the assets discussed in the following pages.
Long range detection - Jindalee Over-the-Horizon Radar

This is a long-range radar operated by the Department of Defence. The radar needs to be at a distance from its target in order to work properly. For that reason, the JORN project is well spread out across Australia, and consists of two over-the-horizon radars (OTHRs) and a JORN co-ordination centre. One radar is located in the Longreach area of Queensland and the other in the Laverton area of Western Australia. The JORN co-ordination centre is located at RAAF Base Edinburgh in SA. While JORN is primarily used for detecting airborne targets, it is capable of detecting small surface vessels. The information gained is then passed on to appropriate bodies.

In the 2002-3 financial year budget the Federal Government announced the funding of “long-distance surface radar” to be operated by “Customs and Defence personnel”. The radar was said to be capable of detecting aircraft and ship targets at distances of up to 300 kilometres. This was supplemented in February 2003 with an announcement that the new system would be known as SECAR, and was the product of an agreement between the Defence Department and Daronmont Technologies, with a three-year $15 million contract signed for the provision, operation and support of the radar. The new system was said to allow 24-hour per day coverage.

Long range detection - P3C Orion aircraft, operated by the RAAF

RAAF Orions are a large four-engined, pressurized aircraft designed for anti-surface strike, anti-submarine warfare and maritime reconnaissance. They carry a crew of eleven, and are capable of sustained flight for lengthy periods. They operate at all heights, and often maintain time over target by shutting down an engine, thus conserving fuel. They are equipped with a sophisticated variety of sea searching sensors, although recent claims suggest the aircraft is not equipped for tasks such as locating small wooden vessels. Admittedly, the Orion’s primary use within the RAAF would be maritime strike utilizing anti-surface weapons or anti-submarine operations.

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4 “Catalyst”. 2001. Segment of the science-based show outlining surveillance technology. ABC-TV. 27 September. The program featured sections with a Mr “Lofty” Mason, who was described as being a former “Coastwatch Assistant Director”. He pointed out the Orion’s use of analogue radar as opposed to digital varieties, and said that such equipment “…would not pick up small boats.”
The RAAF’s description of the Orions’ maritime patrol duties note that they are used for coastal patrols as well as long range patrols into the Pacific, Indian and southern oceans. Orions are pressurized and air-conditioned for crew comfort on long missions. They can remain aloft for over 12 hours and can sweep up to 250,000 square miles of ocean, sensing what is happening in the ocean, on the surface and below it both by day and night. The two squadrons which operate the Orion are based at RAAF Edinburgh in South Australia.

The Royal Australian Air Force allocate 250 P3 Orion hours per annum for such patrols. It is worth noting here that the Orion is an expensive aircraft to operate, given its large crew, four engines, and sophistication. One suggestion has been that a Coastwatch Dash 8 (as detailed below), costs one-tenth of what a P3 takes to operate.

**Short range detection - Coastwatch Missions - organisation**

Coastwatch’s present role is described by the organisation as, from August 1988, providing surveillance of Australia’s coastal areas. A private contractor provides the aircraft and crews to maintain the surveillance service operated by Coastwatch. Coastwatch also uses Customs vessels and on occasion the services of the Australian Navy to assist in this surveillance task. A 24-hour operations room, the National Surveillance Centre is located in Canberra to coordinate activities for Coastwatch.

The surveillance is noted as being important in helping to prevent the importation of illegal drugs, other prohibited goods and the unlawful movement of people and cargo across Australia’s borders. Altogether, 37,000 kilometres of Australian coastline are

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7 Derek Woolner, Visiting Fellow, Australian Defence Studies Centre, during a speech at the “Protecting Australia’s Maritime Borders” Conference, 20 March 2002, Australian National University. (Author present)
surveyed. The patrols are carried out for a variety of customers, amongst them Customs - as "Coastwatch" is a contracted arm of that organisation - and including the Australian Quarantine and Inspection Service, Australian Fisheries Service, National Parks and Wildlife Service, Great Barrier Reef Marine Park Authority and other Government agencies. It patrols the 200 nautical mile limit of the Australian Fishing Zone including offshore areas such as Christmas Island, the Cocos Keeling Islands and Lord Howe Island. It also patrols the 20 nautical mile limit for movement of people and cargo into Australian territory.

The original contractors used Aero Commander Shrikes, Nomad Searchmasters and SeaScan jets for their work, while City and Country Helicopters utilised a single Squirrel machine to fulfil their contract. The missions today, following a change of contract, are flown by aircraft and personnel of Surveillance Australia, a private-sector company owned by National Jet Systems. This is contracted to Coastwatch, which itself is a section of the Australian Customs Service. Coastwatch today describe their role as: “The Coastwatch Mission: to safeguard our National interests through the delivery of an effective civil maritime surveillance and response service”. Identification of vessels is made by visual means, with unknown vessels photographed and further identified by radio contact. The GPS position of each vessel is plotted via a computer system.

Coastwatch draws upon a number of assets to fulfill its mission. At the time of writing these were:

- Fixed wing aircraft - 18500 hours. (Described as Surveillance Australia).
- Helicopters in Torres Strait - 1250 hours
- Reef Helicopters
- Customs ocean-going vessels - 1200 sea days
- Charter aircraft and vessels as needed

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8 Presentation by Rear Admiral Russ Shalders, Director General Coastwatch, to the RAN Maritime Studies Period of the Junior Officers' Strategic Studies Course at the RAN College, HMAS CRESWELL, 19 May 2001 (writer present during the lecture).
9 The writer undertook several Coastwatch flights in the mid-1990s as part of liaison work for Headquarters Northern Command. The list of aircraft and capacities here described are drawn from those experiences and also from a listing in the article “Coastwatch”, which appeared in the Journal of the Australian Naval Institute, in the July/September 1998 edition.
10 Shalders, Russ, Rear Admiral, RAN. Director General Coastwatch, 19 May 2001.
In 2003 Coastwatch added the RAN’s patrol boat hours into the “surveillance equation”.\textsuperscript{11} This is true to an extent: naval vessels have always kept a good watch out for maritime intruders, and to a certain extent they have often deployed to keep on station as a surveillance asset: patrol boats, for example, often patrolled a certain “box” in their operations from the 1976s onward. Ships’ helicopters are also a useful surveillance asset. Operation Relex, the border patrol operation initiated in 2001 by the Federal Government, also meant ships were on station to detect intruders. In the main however, aerial assets are the long-range eyes of the whole sphere of surveillance.

Coastwatch presently operate six types of aircraft. The aircraft are capable of a variety of missions. They all are known as Coastwatch Visual Locator and Radar Equipped Aircraft. The following gives some idea of their capacities.

**Bombardier (De Havilland) Dash-8 Series 2**

This is a high-wing aircraft that is capable of flights up to 6-7 hours at 185 knots. The search capacity is 80,000 square nautical miles at 300 nautical mile radius. Flying with a crew of two pilots and two observers, the three Dash 8 machines are located in Broome, Darwin and Cairns.

![Image of Bombardier Dash-8 at Darwin airport](7.2 Dash-8 at Darwin airport - author photo)

These aircraft replace the Seascal jet that Coastwatch employed up to 30 June 1996. The Dash-8 flies the longest missions both in terms of time and distance. The aircraft is equipped with a short-range surface surveillance radar; observation bubbles; still camera and GPS/Computer recording system. Like all other aircraft in the Coastwatch fleet, it is also equipped with gyro-stabilised binoculars. Its main observation system is a Forward Looking Infrared Radar (FLIR) which is linked to a video camera system in a

\textsuperscript{11} Coastwatch presentation, 2003. “Coastwatch”. Lecture to the RAN Junior Officers Strategic Studies Course 1/03. Customs House, Canberra. March. (Author present)
directional turret. The system is capable of recording observations made in daylight and at night. The aircraft is also equipped with Night Vision Goggles (NVG). The other aircraft types Coastwatch operates patrol more closely to shore, but are quite capable of extended flights over water.

**Pilatus Britten-Norman Islander PBN2B**

This is a high-wing, twin engine aircraft with a pilot and an observer on each side of the machine.

![Pilatus Britten-Norman Islander PBN2B](image1)

The "Norman Islander" has an endurance of five hours at 120 knots. The aircraft is equipped with observation bubbles; still camera and GPS/Computer recording system. This aircraft - Coastwatch now operate six - has largely replaced the Aero Commander Shrike - one of these remains at Broome. The Aero Commander has a range of 750 nautical miles; the Islanders 650.

![Pilatus Britten-Norman Islander PBN2B](image2)
Reims Vigilant F406

This is a low wing aircraft capable of flights up to 4-5 hours at 170 knots - 650-850nm from the coastline, with a range of 650 nautical miles. Crewed by one pilot and two observers, the Vigilants are deployed at Broome, Darwin and Cairns.

The aircraft are equipped with surface search radar and visual detection systems: binoculars, still camera equipment, and the GPS/Computer recording system. These aircraft replaced the Nomad previously used by Coastwatch.

Coastwatch acquired two Q200 turboprop aircraft in late 2000. The Q200 is equipped with long-range inner-wing fuel tanks; observation window inserts; a Raytheon SV-1022 search radar in a belly radome; FLIR and a daytime television camera. It has a range of around 1000 nm in low-level cruise configuration. Lastly, Coastwatch operate a Bell Longranger IV helicopter out of Thursday Island in the Torres Strait, which was joined in 2001 by a twin-engined helicopter.

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The single-engined helicopter, with its one pilot and one observer, has a range of 250 nautical miles and is equipped with cameras, and (for the observer) night vision equipment.

As illustrated above (7.6) the aircraft are deployed in four main bases around the northern coastline. For the financial year 2000-2001, Coastwatch was operating “18,500 hours of flying time”. Increases to both flying time and Bay-class sea time were announced before the November 2001 federal election, with “an extra 1,600 hours of Coastwatch surveillance flying” and the boats’ “…operational capacity doubled, with $72 million for additional crews”.

**Civilian Reporting**

Any civilian may report a suspicious vessel or aircraft to the Australian Customs Service’ Coastwatch. This service is manned 24 hours a day. The Operations Room runs a "Free Phone" telephone service (1800 06 1800) - which Manager Peter Naylor (1997, 14) advises receives "60 to 100 calls...each month" as well as taking reports from local Customs Houses, OTC Coast Radio, and monitoring VHF Channel 16. Members of the public are asked to "Report Unusual or Suspicious, Sea, Land or Air Activities". Coastwatch publishes a free brochure which contains a "spotter’s guide" to aircraft and ships, as well as a "fill in the blanks" report. Commercial radio advertising of this service, under the heading "Watchout for Australia" also takes place from time to time.

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The RAN Coastwatcher Network
Since before World War II, the Royal Australian Navy has operated a system of Coastwatchers around the northern coast. The operation uses a network of volunteer observers, who are recruited by the Navy according to their locale and their reliability. Volunteer observers have included teachers, policemen, community leaders, station owners, etc. The observers are issued with a guidebook which describes various types of aircraft and maritime vessel, and how to report seeing it. Access to a 24-hour free phone service is provided, and they are equipped with High-Frequency radio. The Coastwatchers are visited at least once a year by their naval co-ordinating personnel.

Although this system was designed for warfare, and worked exceptionally well in WWII, Coastwatchers often give valuable information to the RAN. They in turn pass it on to another agency according to the perceived demand: Department of Immigration for suspected illegal immigrants, for example, or the Australian Federal Police in the case of suspected drug smuggling.

A further Defence asset was added to the overall surveillance of Australian northern waters in mid-2002. This was a Navy Sea King helicopter and 20 crew deployed to Christmas Island from August for an unspecified period to supply surveillance.16

Location - Localisation
The deployment of these agencies and these resources includes sets of operational procedures that are intended to assure systematic and effective surveillance and interdiction. Location and localization is the process of refining the initial location down to a precise area. In all cases the initial detection places a vessel very broadly: if by JORN to within a broad grid area; if by visual or radar means virtually "over there near Melville Island" or the like. Localisation does, however, follow a pattern of "normalisation" – that is, looking for targets in areas where they might reasonably be expected to be. (The writer was concerned with much of this work in the mid-1990s.) Therefore patterns are produced such as those Coastwatch use for everyday patrols:

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As illustrated (7.7) above, surveillance concentrates on the areas where suspected infringements are thought to be taking place, rather than flying patrols of regular routine. The more definite localisation involves a process of placing an agency aircraft or vessel very close to the suspect vessel. This is done primarily by visual means: bringing a Coastwatch aircraft down to within 100 feet of the water, for example, and tracking in along the same course as the vessel, or conversely, 180° reciprocal of it. At the precise point of closest contact the GPS location of the agency platform is entered into a computer, and the suspect vessel shares that localisation.

**Identification**

Identification is the process of identifying the vessel positively. This is done as part of the localization process. At the point of closest contact the vessel is photographed, unless it is immediately known to the observer. The vessel is then if necessary called up by radio and questioned. All of the relevant details - name, registration port, last port, next port - are also entered into the platform's computer, including the more obvious visual data: white hull, type of yacht, etc.

**Tracking**

Tracking is the process of identifying the vessel along a track, updating the information from previous individual localization reports. If necessary, some inductive analysis of
localization reports is necessary. For example, given a radio-less yacht's track towards Darwin and its subsequent fairly similar identification and localization on two successive days, it can be induced it is indeed the same yacht.

**Identification of Illegal Fishing Offence**

If a vessel is identified as being within the AFZ, a number of actions are taken. The fishing boat is identified as closely as possible: by name, number, description of hull colour, identifying features such as other colours, mast arrangement, etc. Depending on the vessel’s location, that is, how far it is inside the AFZ, an interdiction action may be taken. Whether such an action is taken also depends on the location of available interdicting vessels. For example, if a fishing boat is one mile inside the AFZ, and there are no assets available to interdict it, then it is pointless despatching a patrol boat from the nearest port, as it may have a large distance to cover, and the chances of the fishing vessel remaining inside the AFZ for that length of time is doubtful.

**Identification of Suspected Illegal Entrant Vessel (SIEV)**

Whether a vessel is carrying refugees or not can be determined from a number of factors. First, the vessel is probably tracking directly for a pre-decided destination. This can be a port such as Darwin or Broome, or, if the passengers are intent on landing covertly, it could be an uninhabited destination. However, the directness of the vessel’s track is one indicator that it has a definite destination in mind.

Secondly, the vessel may be identified as a refugee vessel by the number and type of passengers. The presence of many women and children can be an indicator here. A fishing vessel will not be so crowded with personnel as to inhibit the activity of fishing. Lastly, a SIEV vessel may well advertise itself as such. In the case of the 1970s arrival **Song Saigon**, for example, the words "Show me the way to Australia" were painted on the vessel’s wheelhouse roof. In some cases the SIEV may respond to a radio call for identification, or indeed may make contact by radio itself with the Australian mainland, Australian aircraft or ships.

**Problems within the Surveillance Process**

Problems have been experienced over time by the fact that this process uses such a variety of agencies for its surveillance work. These problems may be itemized as

- problems in communications,
- personnel management,
- inter-agency squabbling,
- lack of expertise in gathering and processing intelligence,
• difficulties in applying funding, and
• the utilization and permanent deployment of civilian personnel in the area of what may one day become a disputed zone.

While these problems are discussed in detail below some solutions are also proposed. These are controversial and may well be the subject of dispute. Before that, some cases are outlined to illustrate the problems of Australian coastal surveillance and interdiction.

In 1988 Senator Grant Tambling of the Northern Territory, in a speech reported by the NT News, called for:

...northern Australia’s Coastwatch system to be handed to the defence forces. He said foreign fishermen saw our coastal surveillance system as a joke because it was full of gaping holes. “Civilian agencies simply do not have the equipment or manpower necessary to undertake regular and effective patrols…”

As noted in the same article, Senator Tambling’s call was backed up by the then-Federal Opposition primary industry spokesman, Mr Bruce Lloyd, who called the Coastwatch situation "a farce". Referring to reports that the Australian Customs Service allowed up to fifteen Indonesian fishing boats illegally poaching for trochus shells to escape, Mr Lloyd suggested that it was time the Government recognised the seriousness of the situation.

Three years later, and not for the first time, inter-agency sniping was out in the open. This time ten Indochinese boat people were escorted into Darwin around 8pm after being spotted, as the NT News put it: “…at sea by a Coastwatch aircraft in the afternoon”. Given the speed of these vessels it is interesting to ponder their distance from Darwin when they were spotted - Coastwatch advised it was some 25 km west of Darwin. Then followed some “ducking for cover” by both Immigration and Coastwatch.

A Coastwatch spokesman denied the vessel’s sighting was an ‘11th hour’ discovery. “We might not have found it ‘til it was near Darwin, but we found it” spokesman Brian Flanagan said yesterday....Immigration Department spokesman, Mr Gordon Benjamin, said he could not comment on the
circumstances surrounding the sighting. "It caught us by surprise but this department cannot comment. That is a Coastwatch matter" Mr Benjamin said.\textsuperscript{17}

The overall surveillance situation was described at the time in a paper from the Australian Defence Studies Centre as "a coarse mesh sieve in which only the amateur and the innocent are likely to be discovered". The paper further was of the opinion that "...existing Australian assets are inadequate for that task".\textsuperscript{18}

In 1992, over 56 illegal immigrants landed at Montague Bay, in Western Australia. They were undetected for some time, and eventually, at considerable cost, the wandering people were discovered at a variety of locations. The undetected arrival sparked some investigation. A number of allegations about the situation were made. The first of these, made in \textit{The Sydney Morning Herald}, was that the Immigration Department did not ask Coastwatch for special surveillance flights, despite persistent rumours that a boatload of 56 Chinese refugees was on its way. Another, reported in \textit{The Australian}, was that both the Customs Service and the Department of Immigration had been alerted to newspaper reports, in the Northern Territory and Indonesia in July, that a group of people, said to be Chinese, were making their way towards Australia. Yet the Asians were not discovered until more than 30 of them stumbled across a cattle station. This was disputed at the time by the two agencies, according to \textit{The Sydney Morning Herald}: "...a Coastwatch official has denied that any information about the boat's travel had been passed on to them."\textsuperscript{19}

At the time, there were calls for more efficiency, and indeed, the abolition of this inter-agency confusion. Retired Air Marshal David Evans said in \textit{The Sydney Morning Herald} that "Coastwatch operations were almost completely ineffective and should be handed over to the defence force". Senator Jocelyn Newman claimed in the same article that the boat involved "...had been in Australian waters for at least three weeks without being detected".\textsuperscript{20} Michael O'Connor, executive director of the Australian Defence Association, said in \textit{The Australian} that "none of the existing bureaucracies wants to surrender their fiefdoms". He suggested that "...over the years, a grab-bag of disparate bodies, more or less co-ordinated, have battled each other as much as offenders".\textsuperscript{21}

\begin{flushleft}
\textsuperscript{17} \textit{NT News}. 1991. "NT coast spotters almost miss boat 10". 11 May. 3.
\textsuperscript{18} Deane RJH. 1992. "The role of the sea-air gap in Australian security: moat or sieve?" ACT: Australian Defence Studies Centre. 11-12.
\textsuperscript{19} \textit{The Sydney Morning Herald}. 1992. "North ‘wide open to infiltration’". 21 January. 3.
\end{flushleft}
ensuing "Report on Investigation into arrival of Suspected Illegal Entrant Vessel (SIEV) into Montague Sound", compiled by members of the Customs, Immigration and Quarantine Departments (1992, 3, 11) at federal government request, was only slightly critical:

Surveillance of our coastline is performed on the basis that good clear intelligence and risk analysis must focus where and when to put aircraft into the skies. On this occasion the intelligence was not clear.

The report, while suggesting a lack of intelligence rather than anything else was to blame for the missed interception, did stress the need for inter-agency communication improvement:

Despite very good inter-agency communication there is strong support from Coastwatch, Defence, Immigration and Quarantine agencies to the proposition that liaison and cooperation arrangements could be even better structured and streamlined in anticipation of possible future incidents.

However, over time, the idea of separate agencies has become de rigeur. Indeed, it attracted substantial defenders. Bergin (1995, 128) went into some detail:

...one is tempted to conclude that the complex tangle of laws, programs and agencies results in policy gaps and management inefficiencies. However, greater centralisation of oceans policy away from sectoral agencies is not necessarily the best course. Centralisation, given the federal system, is likely to be a very complex problem politically...

The consequences of the Montague Sound incident might well have been expected to have some radical result. It did not, and the management of surveillance and interdiction did not change, and indeed today it is not substantially different to what it was then.

Further embarrassments were to take place. In November and December of 1994, a veritable flood of SIEVs proceeded south. On 22 November, as The Australian reported, at 4am in the morning, a Vietnamese "boat-person" flagged down a newspaper
delivery van in Nightcliff, one of Darwin’s beach suburbs, and then caught a ride to a public pay phone at a nearby Post Office. Thirteen people on board a small SIEV were later processed by Immigration, and subsequently returned to the Galang refugee camp off Indonesia from where they had come.

Coastwatch revealed they had been “diverted” to another boat, the third of three bigger vessels detected that month. It is interesting to wonder, however, at the intelligence link between Indonesia and Australia in this matter. Had the departure of the vessel from Galang Island been passed to Australia’s Immigration authorities? Had they passed it to Coastwatch? Had it been passed to Navy? With such a myriad of agencies it is perhaps inevitable that confusion occurs. This “miss” was highlighted by another: this time, in March 1995, an early morning jogger was the contact point for a group of boat people who had landed near Broome.

In March of the next year - 1995 - more embarrassment occurred. This time a SIEV with 52 people on board came within five kilometres of the Australian coast before being detected. On this occasion the vessel was much bigger, a 28 metre fishing trawler, thus bringing to mind unhappy images of foreign patrol boats of similar size approaching our coastline with ease. This time the weather was blamed: storms, according to Coastwatch, had blown the vessel “off the normal anti-entrant flying patterns” of the surveillance aircraft. This is interesting: given that SIEVs following such patterns are detected, and a good number of illegal refugees are returned to their place of origin, it would not take too much of a sea navigator to work out which patterns to avoid in the future. It is instructive to debate the unknown factor in SIEV landings – how many land on a Broome beach or the like and are met by a contact who spirits them into Australia?

In the March 1995 incident once again inter-agency problems seem to have been a factor. According to the Department of Immigration, the vessel had left “southern China in August last year, and had spent some time in the Philippines”. If this sort of intelligence was at hand, it is presumed that the intention to travel to Australia was at least anticipated. Was this information passed on?

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23 ibid.
However, it must be said that the overall detection program has not been unsuccessful. In a report given in November 1995, Peter Naylor, the National Manager of Coastwatch, pointed out that: "Since 1989 there have been 43 arrivals of suspect illegal entry vessels. Only four of these were not detected by Coastwatch prior to their arrival". Given that five examples of detection-or-not have been outlined above, what constitutes successful detection? Although this statement of success might be questioned - what of those arrivals who arrived completely undetected? - the present organisation seems to have some successes. Indeed, Bergin (1995, 127) has said that: "Right now, the judgement would appear to be that Coastwatch has achieved a high level of success in coordinating the national program". But how much more efficient could our surveillance effort be, both in operational terms and in cost-efficiency?

The problems, whether perceived or real, did not abate. In late December 1998 a large vessel carrying over 50 refugees bypassed surveillance and its inhabitants were found wandering the Coburg Peninsula. A few days later another, much smaller, vessel did the same some distance from the first. An internal Coastwatch inquiry was subsequently announced.

Some powerful organisations were making up their minds at the time that the surveillance and interdiction system needed radical overhaul. The Australian Labor Party's judgement by the late 1990s was that the situation was unsatisfactory, and they proposed as part of their policy framework the establishment of a Coastguard. That argument became a topical one in Canberra, even though a federal Inquiry into surveillance and interdiction refuted the suggestion. A parliamentary inquiry, the "Prime Minister’s Task Force on Coastal Surveillance", was set up in April 1999 after incursions by SIEVs on the eastern coast of Australia, specifically an undetected landing near Nambucca Heads by a SIEV. The Task Force was chaired by the Secretary of the Department of the Prime Minister and Cabinet and comprised agency heads from the departments and agencies of the Attorney-Generals Department, the Australian Customs Service, Australian Federal Police, Defence, Foreign Affairs and Trade

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26 First brought to the writer’s notice in a briefing by ALP staffers in Canberra’s Parliament House on the 2000 Royal Australian Navy Junior Officers Strategic Studies Course.
(DFAT), Immigration and Multicultural Affairs (DIMA) and the Office of National Assessments (ONA). The Task Force was directed to make recommendations on the strengthening of the coastal surveillance procedures and systems.

In finalising its report, the Task Force took into account the separate report by Air Vice Marshal Alan Heggen (retired) covering the landing by illegal immigrants at Cairns and Nambucca Heads in March and April 1999 respectively. Heggen's key recommendations were incorporated in the recommendations of the Inquiry. The Task Force also considered submissions from the states and territories and the public.

Eighteen recommendations were made in the Inquiry's final report. Many were to streamline procedural matters within the multi-agency approach. Intelligence coordination was boosted, with ADF officers seconded to Coastwatch. A Defence head of Coastwatch was recommended, and subsequently placed in the position, and - in the words of another Government report - the Inquiry suggested that: "The present Coastwatch organisation is working well, the challenges faced by Coastwatch are wide-ranging and demanding but they are being met effectively and there is no need for an Australian coastguard",28 (The arguments for and against a Coastguard will be examined further in this study.) The Committee found, in summary, that Coastwatch was "working well" and was "highly effective"; there was little or "zero" evidence of covert undetected vessels or unauthorised air movements entering Australia, and that a "stand alone paramilitary Coastguard" was unnecessary, and would duplicate existing resources and deplete Customs and Defence personnel.29

The Inquiry was criticised in public30 some time later, however, with what a TV program described as a "Canberra-based former Customs employee" saying that the process was flawed and calling for a full parliamentary review: "... Customs let the contractor get away with blue murder. If there was a full parliamentary inquiry into the operation there would be quite a few people who would have a lot to say". This suggestion was dismissed, with a Customs media spokesman describing the calls as "sour grapes".31

At the time of concluding this study, in March 2003, the multiple-agency approach was “alive and well” and the splintered model of controlling surveillance was proceeding along the path it has followed for many years. For example, Coastwatch advised in March 2003 that the Great Barrier Reef Marine Park Authority was presently undertaking its own surveillance patrols, to the surprise of Coastwatch operatives flying in the same area.\textsuperscript{32}

The “review process” is not a new one and gives credence to this study’s criticism of Canberra’s management of policy within the area. The attitude of conducting “reviews” whenever the heat of public pressure builds is a reactive style of management. The whole process lacks a long-term vision and seems focussed on events which have happened in the recent past rather than future trends over 20 years. Even as long ago as 1984 (in the area of Australia’s surveillance and interdiction and historical terms 18 years is a long time) the Parliamentary Review\textsuperscript{33} of that year noted there had been several reviews since 1970:

1970: Inter-Departmental Committee established by the Department of the Prime Minister.
1971: (June) Standing Inter-Departmental Committee (SIDC) on surveillance established.
1973: (March) Government request for closer interaction between Defence and Customs to tackle drug-smuggling
1975: (June) SIDC given more direct responsibility for surveillance and placed under Department of Transport.
1978: Committee of Permanent Heads to review civil coastal surveillance.
1981: Further review into surveillance.

Since then further reviews have taken place, as detailed elsewhere throughout this study.

The 1999 Inquiry was also exacerbated by the landing in Cairns on 12 March 1999 of more Chinese would-be immigrants. This time the occupants of the beached vessel, a small freighter, wandered into the bush and it was the arrival of some of them at a local newsagent’s shop which raised the alarm. A few days later The Australian revealed that

\textsuperscript{32} Coastwatch presentation. 2003. “Coastwatch”. Lecture to the RAN Junior Officers Strategic Studies Course 1/03. Customs House, Canberra. March. (Author present)
the track of the vessel had been known about, but nothing was done. The newspaper castigated Coastwatch in the same edition in an editorial of March 20-21: "For years, Coastwatch has been a travesty..." In a front-page article of the same edition headlined "How Coastwatch missed the boatload of illegals" the newspaper commented:

They knew about it, but did nothing. Coastwatch, the prime guardian of Australia’s vast coastline, was alerted three days before a rusty old boat loaded with 26 illegal Chinese immigrants made its way up the main shipping channel and beached itself on a suburban Cairns beach. They were told first by an arm of the Queensland government and yet again, a day later, by not one but two reef pilots....One of them even suggested a Coastwatch surveillance plane be sent to look at it.

Despite the implementation of many of the 1999 Inquiry’s recommendations, criticism of Coastwatch and the present system appeared over the next few years. Mr “Lofty” Mason made cutting comments on ABC-TV’s “Catalyst” in September 2001. Mr Mason – described as a “former Coastwatch Assistant Director” - alleged, amongst other criticism (see comments on Orions above in a footnoted within this chapter) that: “….over the last two years, the aviation specialists who designed this system have left in frustration” and they were replaced with “untrained, inexperienced officers”.

An example of how “events run policy”, a theme central to this thesis, can be seen from the way some sections of the media “found the problem” in July 2000 of the so-called “black flights”. These, sometimes known as Unidentified Air Movements, or UAMs, are flights by unidentified aircraft in areas not covered by radar. With an unknown cargo or passengers, they can therefore be transporting weapons, drugs, flora and fauna, illegal immigrants, and so on.

These flights have been a feature of northern airspace for many years and logically they must have been so, since Australia has never claimed to have total radar coverage of its coasts. The Australian ran a concerted campaign over the issue, with headlines such as “Coastal gaps unlikely to be plugged”, suggesting that as the problem had been raised by the newspaper, so now policy should immediately reflect that issue.

36 The writer first heard of black flights during work at Headquarters Northern Command from 1993 to 1999. They were not rated as secure knowledge in any way by the Australian Defence Force.
37 The Australian. 2000. “Coastal gaps unlikely to be plugged”. 11 July. 2.
Interestingly, federal funding in the 2002-3 Budget of new air and surface radar made reference to the "black flights", although the Customs Minister Chris Ellison also said at the same time that "A recent inquiry into Coastwatch did not find any evidence of black flights..." despite "limited anecdotal evidence" of them.38 Ironically, in September 2002 a newspaper article39 noted that the federal Government was giving in-principle support to compulsory installation of transponders in private aircraft across Australia's northern frontier. The reason was given as increasing detection of illegal "black" flights.

A further example of "events running policy" as affecting surveillance operations occurred in September 2001 as a by-product of the *Tampa* incident. Some days after the personnel seeking Australian entry were moved from the *Tampa* to *HMAS Manoora* for transfer to Nauru for processing, a move was made by the Howard government to make two areas of Australian territory non-usable in regard to illegal immigrants' landings.40

The change to the status of Ashmore Reef and Christmas Island sharply impacted on Coastwatch and the RAAF's surveillance efforts in making their defined area of necessary operations much smaller. (The secondary change in policy in not allowing SUNCs to land on Australian soil is outside the scope of this study, but is no less an illustration of rapid policy change as the amendment in surveillance scope.) Changes were also made to the government's power to stop and control ships. The subsequent Border Protection Bill, passed into legislation with retrospective effect to 29 August 2001: "...put beyond doubt the domestic legal basis for actions taken in relation to foreign ships within the territorial sea...". In summary, the Bill allows an "officer" to direct the master of a ship or any person aboard a ship within the territorial sea to take the ship outside the territorial sea.41 Reasonable means may be used to give such a direction. Where a direction has been given, an "officer" may detain the ship and take it or cause it to be taken, including by reasonable means or force, outside the territorial sea. An "officer" may also return persons to the ship.

This power extends to any ship within the territorial sea, regardless of whether it is carrying persons seeking asylum or is otherwise engaged in any activity which is

"prejudicial to the peace, good order or security" of Australia. The directions are not able to be reviewed in any Australian court, and the Bill overrides any other law; with a caveat acknowledged that the Bill may be challenged in the High Court. The definition of "officer" was widened to include various categories of government official, including members of the Australian Federal Police, and the Australian Defence Force. Therefore perceived problems with the surveillance and interdiction system were dealt with. However, this study proposes that these changes were only superficial, and do not deal with further problems as outlined below.

It is worth noting the attitudes political parties had to the attempts to make new laws. The Australian Labor Party, as the chief Opposition party, saw some political mileage in opposing the legislation, but even more political kudos to be lost by opposing it, given the perceived mood of the electorate. Consequently, after helping defeat the first Bill, the ALP changed its direction on re-introduced legislation, and helped pass it into law. The newly-elected third-term Coalition government later made political capital out of this, accusing Labor of siding with the government before the election, but changing its stance afterwards when the so-called "Pacific Solution" of detaining SUNCs on offshore islands was introduced, although Labor denied this. The Australian Democrats opposed the Bill on two grounds: first that it effectively "banned refugees" and secondly that it denied them access to the courts.

To return to the problems perceived in this thesis to exist within the offshore surveillance system, we can cite a number of specific areas that, it is suggested, are ineffectively administered.

Problems in Communications
Different agencies often use different languages. This is sometimes not apparent - an FFV (foreign fishing vessel) or a SIEV (Suspected Illegal Emigrant Vessel) is a common term that seems to be understood by all. But take another seemingly simple system - the rank structures of the different agencies, for example. What constitutes the non-commissioned officer status in Customs or in the AFP, for example, is a mystery to most people in the ADF, let alone understanding what constitutes the management

structure within a Federal Public Service agency such as Immigration. Does Commander X in the Federal Police rank the same as a Commander in the Navy, for example? Does the term "Chief" in the Navy signify the boss? These are small and simple things, but anything adding to confusion works to the detriment of the overall operation.

To detail further, each agency utilises a different system of security terminology, "Protected" in one; "Confidential" in another. Once inside that system, the paramount consideration a member adheres to is not to share classified information with someone who is not cleared for that level. Consequently, sharing intelligence information with personnel from another agency is not easily possible, and thus the agencies and their members become compartmentalised. ACS people, for example, or not cleared for any Defence matters. Common problems are discussed only by sanitising the information, or more commonly, not at all. There is little (Moore, 2002) similarity of training, with all of the organisations running their own, differing, courses in law enforcement.

Consider too that people move into these agencies as part of job turnover or - within the ADF - as a posting. Each new person entering the web of surveillance and intelligence has to learn all of the terminology in a very short space of time if he or she is to perform efficiently. Consider how much more efficient they could be in their agency's core business without such attendant learning curves.

The lack of communication is heightened even further by the fact that all of these organisations use different information storage procedures that do not "talk" to each other. For example, Coastwatch's target information for many years was passed to HQNORCOM via fax, and that information was then entered by hand into the Navy's databases. This is time-consuming and liable to input error as the data is transferred. Coastwatch too cannot feed data into the OBU system at the Maritime Information Centre. This problem has been with us for some time, as RAN Lieutenant Commander JA Jacobi (1991) noted some years ago. Discussing the "vast amount of information" collected by a multitude of agencies who handle maritime scientific data, he pointed out that: "Computer networks exist between most centres of higher education and learning...however there is no overall system of information storage and exchange". Similarly today we use computers to process and store huge amounts of data gained by the many agencies handling surveillance data. But how much today do these agencies

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44 Oceanline Base Upgrade - part of the tracking system of locating shipping carried out at Maritime Headquarters, Sydney.
share their data? To add to all of this is the problem of inter-agency security. Not only does an agency need to be happy about who is on the receiving end of its output, but also the “need-to-know” rule hovers in the back of the mind for many. This stipulates that information should not be passed on gratuitously, but rather only if an individual has a "need to know" of its existence. It means that people within one organisation are naturally reticent about discussing any matters with individuals from another organisation. However, by acting in this way, they may be unwittingly denying useful information to other parties.

A concrete example of how problems with communications hampers operations can be seen in a SIEV-related incident of early 1999. Landings of illegal immigrants at Cairns and Nambucca Heads were found by the Federally-commissioned Heggen Inquiry to be "...due to communications breakdown between Coastwatch and the Australian Maritime Authority". Although the vessel concerned had been sighted, Air Vice Marshall Alan Heggen found insufficient follow-up action had been taken, and consequently the ship slipped past further surveillance. Problems in inter-agency communication have not lessened over the years. A government audit in 2000 found: “...Coastwatch still relies on outside agencies to gather and assess intelligence. But the service providers did not follow a common methodology…”

Further breakdowns were alleged in 2002, with the evidence given to “A Certain Maritime Incident” Senate Inquiry being interpreted by one journalist – Tony Kevin - as indicating 353 persons on a SIEV being missed through inter-agency bungling. A vessel (later known as "SIEV X") which had left Indonesia bound for Christmas Island on October 18-19 2001 was sighted, he suggested, but that information was not passed to the appropriate agency, and 353 people drowned who therefore might have been saved. Kevin asked:

Why, at the height of Operation Relex – didn’t its commander, Rear-Admiral Geoffrey Smith…officially receive timely intelligence about a suspected illegal entry vessel (SIEV) carrying around 400 suspected illegal immigrants...

Why did Coastwatch receive information that Smith and Hatton did not: i.e., that this boat left Indonesia on October 18-19 and was overdue at Christmas Island by October 22. Testimony by officials, and a letter from Senator Robert Hill to Simon Crean, confirm that Coastwatch gave this information to Search and rescue

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on October 22 – three days after the boat sank. AUSSAR passed it to the
Australian Defence Force.

It’s indisputable that this intelligence, or part of it, got to Coastwatch – or else
Coastwatch would have had no basis for informing AUSSAR on October 22. And
yet it was not passed to Operation Relex and the Navy in a timely way.47

It might be noted that Kevin's claim was subsequently hotly debated, and the matter
became politicised. Many commentators chose to gloss over some of the situational
data - for example, SIEV X when it sank was quite close to Indonesia; was on the high
seas, and Australia does not survey those waters unless its agencies are looking for
something intelligence has indicated as a priority. Nevertheless, Kevin's suggestions do
highlight the interoperability problems within the multi-agency approach. A subsequent
Senate Committee report found that the border protection operation, then known as
Operation Relex "suffered serious breakdowns in the communication of intelligence
between the various military and government agencies".48

**Personnel Retention - a lack of a Career Structure.**

How many of these agencies offer a long-term career structure? Obviously some have
not had the time - Coastwatch has been through restructuring and it is also a young
agency. Nevertheless, it is useful to theorise about the long term thoughts of the pilots,
observers, and staff who make up that organisation. In the Immigration Department,
how many people have a long term view of their career? In the Federal Police, how
many officers have remained within sight for a substantial portion of their career of the
problems of surveillance and interdiction in Australia's EEZ?

Contrast this with the experience of personnel within the ADF, where even
interdepartmental postings mean working alongside similarly uniformed members who
share the same language, training and ethos. Many of these people remain within their
category for many years - it is not unusual to find officers in the Intelligence categories
who have served within their branch for over a decade. Some personnel also spend a
large percentage of their time working in the same location, building up a valuable store
of knowledge encompassing local climatic conditions, the habits of intruding fishermen
or SIEV skippers, and a knowledge of who does what, where and to whom that nothing
can replace.

This picture of normalcy is one that is essential to detect when something is different - and therefore needs to be investigated. Here is one example of expertise within Headquarters Northern Command. A Chief Petty Officer in Joint Intelligence has over 15 years of experience in the immediate area. Place names of obscure offshore reefs, re-offending fishermen, knowledge of the yearly climate and how it affects illegal fishing, where to get a spare radar part on a Friday afternoon - all are contained within those years of experience. This is valuable expertise that cannot be replaced by briefings or reading. The long-term usefulness of such people seems largely overlooked in the present multi-agency scenario. A suggested answer, however, may be found later in this study.

**Perceptions of Expertise and Inter-Agency Competition.**

Once enmeshed in the ethos and environment of a government agency - be it ADF, Coastwatch, Customs, Immigration, AFP - it does not take long for the new member to become submerged in the loyalty, terminology and accepted practices of that agency. Perceptions of that agency's capacities soon follow, and how many outsiders would agree that one agency is superior in its capacities over its sister agencies? This does not matter, for outside criticism is dismissed. Such loyalty is understandable, but it does not help. It leads to competition for funding, competition - sometimes - for publicity, which can dictate funding, and "buck passing". Sometimes this rivalry is long-standing: for example, the ADF intelligence organisations contain experience dating from before WWII, and resent their capacities being subsumed beneath the sister organisations which sometimes act in competition to the ADF.

Consequently, there is a distinct lack of a single vision within the process. The mechanics of finding and arresting illegal fishermen are split up between multiple agencies, as is the process of detecting and apprehending illegal immigrants. During the Christmas 1998 landing of suspected illegal immigrants on the Northern Territory's Coburg Peninsula, for example, there was no feeling within the writer's own sphere of operations at Northern Command that there had been a failure of the system. The landing was perceived as "Coastwatch's problem" and indeed why should Defence Force personnel feel guilt over such a matter.

In March 1998, the Report of the Ministerial Advisory Group on Oceans Policy was released. Significantly, in terms of the above, the Group, made up of 18 separate representatives, was unable to achieve agreement on "institutional arrangements".

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specifically in whether a Ministerial Council should be appointed to formulate Oceans Policy, or whether industries should be self-regulating. The Group also found in its recommendation 95, a need for "...better integration of effort between the various agencies involved". For reasons of cost, the Navy was recommended to continue to have a major role in "the conduct of patrol and enforcement activities...". As with so many other reports, difficulties were highlighted, but only minor changes resulted, and most significantly, the splintered multi-agency approach remained sacrosanct.

Problems in the surveillance process in 1999 - particularly with SIEV incursions - led to the Prime Minister's Inquiry, as highlighted earlier in this chapter. Flowing on from this, in late June 1999 a significant boost to funding for surveillance systems was announced, and with it some changes to the "system".

These changes can be summed up as:
- two more fixed-wing aircraft, and a night-vision equipped helicopter for Customs;
- closer co-ordination between the agencies;
- a new high-level committee to oversee operations;
- Coastwatch to be headed by an officer seconded from the ADF; and
- Immigration officials to be based at key overseas points.

The significance of the second-last point should not be overlooked. Inter-agency problems are one of the key factors in inefficiencies within the surveillance effort.

Perceptions and Reality - are offenders getting through the system?
How successful - in actuality - is our surveillance effort? While the previous chapters have established that the media and general public's opinions are not positive, it is worthwhile analysing some factual examples of the area.

It is not denied by the relevant agencies that there have been problems in policing possible fishing vessel poaching within the AFZ. An example of this is when a fishing boat detected within the AFZ leaves the AFZ when the presence of a Coastwatch aircraft, Australian warship or anything else resembling a policing platform is detected. For example, it is often the case that a fishing boat illegally fishing a mile or so inside the AFZ detects the Coastwatch aircraft well before it is overhead, sometimes up to 30 nautical miles away. The fishing boat then steams out of the zone, and by the time the

Coastwatch aircraft is overhead and plotting its position, the fishing vessel is outside the zone or on its edge. If arrested in such a position the chances of conviction are minimal. The FFVs detected are adept at fishing on the edge of the zone, as the radar plot (first seen in Chapter 3) illustrates:

Coastwatch 1996 Sightings

Coastwatch claim, as Peter Naylor (1997, 14) has outlined, a good success rate in their mission:

...since August 1988, when Coastwatch began operations as a branch of Customs, to February 1997 there were 546 foreign fishing vessels apprehended and 66 suspected illegal entrant vessels (SIEVs) detected.

This claim needs to be examined a little more closely, however. The apprehension of vessels is not within the Coastwatch brief – although they are involved in coordination of the response - nor is it achieved in actuality - that is usually the work of the Royal Australian Navy. Further, this may be a figure which cites only Coastwatch detection of the total, for some illegal fishing boats are detected by various other assets and agencies - the RAAF Orions, for example. Nevertheless it is certainly the case that Coastwatch carry out the majority of detections.

Of the 66 SIEVs arriving in the period cited, Naylor (14) observes that "...only 4 arrived on the Australian mainland undetected by Coastwatch". This must translate as a very positive track record for the surveillance agency:
However, it is worth repeating - what percentage of illegal arrivals are not included in this graph because they succeeded in their intention by landing covertly?

This factor is worth enlarging upon. In 1999, an Australian Broadcasting Corporation program - *Four Corners* - succeeded in tracking down some illegal immigrants who claimed to have arrived undetected. A transcript of the program\(^{52}\) shows two individuals; one a boat captain who claims getting into the country undetected is easy, and the other an illegal immigrant who agrees.

Chris Masters:

The nominated 50,000 illegals in Australia are those identified as having overstayed visas. The official estimate of illegal Chinese is around 2,000, yet the community’s estimate is around 10,000. The figures can’t account for those who might have arrived undetected, say by boat. While we acknowledge we intercept only a tiny percentage of imported heroin, we claim 100% success for catching seaborne human cargo.

Masters then interviewed two people, a Michael Williamson, described as an Australian Charter Boat Skipper, and a Bob Goulding, another charter operator based in Kupang.

Both agreed that they had knowledge of people bypassing the system. Then a person described as "Su", an "Illegal Immigrant", was interviewed, and he claimed to know people who had got past the system, and who were now in hiding. This was all countered by Andrew Metcalfe, from Border Control in the Department of Immigration, who advised that they had conducted extensive interviews with SUNCs who had arrived by SIEV, and there was no evidence of such arrivals.

Occasionally, too, there comes to light a finding of people who may be illegal immigrants who have breached the surveillance and interdiction network. ABC News in August, 1999 ran a news story about a group of "seven people of Vietnamese origin" - supposed illegal immigrants - found near Rockhampton. Another example came to light in late 1999, when a "roo-shooter"; one Ronald Nash, found four "well-dressed Afghan gentlemen wandering near Wallai Downs station, 350km south of Broome". The arrivals, who proclaimed themselves refugees, were part of a larger group of Afghans, piloted by two Indonesians, who had arrived undetected. Local inhabitants in Derby, WA, still think illegal immigrants are landing undetected, as they expressed in a 1999 article in The Bulletin: "The question this community wants answered is: What about the ones that are not being caught?"

In July 2000 three illegal immigrants at a Cairns shop, and 21 more found at a local "beach house", were arrested after apparently arriving in Australia on board a yacht organised by a "Chinese triad". According to the report, carried in the Sydney newspaper The Daily Telegraph, the would-be immigrants had paid $10,000 each to travel on board the yacht from the Philippines. The three had aroused the suspicions of the shop keeper after paying for cigarettes with an American $50 note, and then making phone calls to Sydney, which they believed was a short way down the coast.

The situation aroused the ire of the Federal Opposition and the Queensland Premier. The Opposition's then-Federal Immigration spokesman, Con Sciacca, described Australia's surveillance measures as inadequate and returned to the ALP's enthusiastic push for a dedicated coastguard service. He was joined by the Queensland Premier Peter Beattie, who described the system as inadequate, and proposed a strengthening of military presence in the Torres Strait and on Cape York.

53 ABC News Online 1999. Bi-daily bulletin mailing list NEWSMAIL@your.abc.net.au 31 August.
The situation occasionally re-occurs, sometimes without attendant publicity about the arrivals that slip through the net. In mid-April 2001, twenty-four Sri Lankan people landed on the northeast coast of WA, and were found by a Telstra worker. The landing was undetected, although agencies had some intelligence that the arrival would happen, from an anonymous telephone caller: “Despite the watch, the men on the boat managed to slip ashore undetected near the fishing and resort town of Coral Bay, south of Exmouth.”

The coverage did not stir editorial, article or letter to the editor – at least in the newspapers monitored by this study.

Another possible undetected arrival was outlined in August 2001 by The Australian newspaper: "At Bathurst Island, five ethnic Vietnamese on a rickety boat are on their way to Darwin, 80 nautical miles further south". The article suggested the five were missed by "Coastwatch, patrolling our shoreline with the help of the navy and the air force..." It went on to say the arrivals were intercepted by a local farmer, but did not give further detail, such as dates for the failure to intercept.

It might be worth noting in defence of the surveillance and interdiction effort that apocryphal accounts of mass landings of illegal immigrants make good media “copy” and, like the "Roswell UFO" stories, can be seen as a tale that persists despite lack of evidence to the contrary, in that the lack of evidence is seen by some as being evidence in itself. The principle of Occam’s Razor is dismissed by such gullible sources. For example, the 1990 Report of the Joint Standing Committee on Migration Regulations was told by one David Bitel “…in what may have been mere hyperbole, suggested in evidence to the previous Committee that hundreds of thousands of people would have entered here by deception in past years”.

The situation in regard to surveillance and interdiction effectiveness in the Torres Strait is similarly one which receives less publicity but is nevertheless significant. The situation where inhabitants from the hundreds of islands pass freely from island to island, and from Papua New Guinea to Australia, is an under-discussed topic within the area. Drug-trafficking and arms-smuggling are said to be taking place, and illegal

57 The Australian. 2001. “Mystery caller claims illegals are Tamil guerillas”. 2.
immigration could well be part of the situation. However, like undetected landings, which are also discussed within this study, the Torres Strait scenario is one that is perhaps a "can of worms" waiting to be opened. 21,000 movements across the international border in the 1995-96 financial year were reported to have grown to 45,000 for the 1999-2000 equivalent. These movements take place without passport inspection or any identification of the personnel involved.

If the situation of illegal immigrants being able to bypass the surveillance and interdiction organisation does actually exist then the problem facing the Government is probably much bigger than previously thought. A problem of course exists in quantifying the situation. Thirty illegal immigrants were detected in the Cairns region alone in the two incidents described above in less than a year. One or two or even 20 people who have got "through the net" is not too significant, but what if that was only over six months? Over 10 years that is 400. But by what basis could we arrive at this - perhaps it is much more. By late 2001 Coastwatch was being more open about the problem. In an Unclassified briefing to a Navy officers' course, Coastwatch's Supervisor of Planning, Policy & Liaison gave the figures for Aug 1988 - June 2001: "237 illegal immigrant vessels detected; 24 SIEVs Undetected, and 11, 695 SUNCs detected; 612 undetected." Whatever the true nature of the situation, there seems to be evidence that this side of the problem has been ignored in the past, and is only now beginning to be admitted.

Conclusion
A considerable degree of criticism has been leveled at the surveillance system when it fails. The faults within the system include problems in communications between the various agencies; the lack of a long-term career structure for its personnel; and inter-agency competition. Lastly, there is an interesting aspect of the system's effectiveness in that it only includes vessels sighted in its output, whether those vessels be SIEVs - Suspected Illegal Immigrant Vessels - fishing vessels violating Australia's EEZ; or other unauthorized activities - such as aircraft seeking to bring drugs into Australia or smuggle out wildlife. Knowledge of whether the system sees all vessels - the full

picture, or not - is difficult to judge. It is certainly the case that all illegal immigrants transgressing Australia's borders are certainly not being detected.

In summary, surveillance of Australia's maritime estate is carried out by a structured government effort using a variety of private agencies and government departments. These have grown in a haphazard way rather than to an overall plan. As outlined earlier in Chapter Two, Matheson's (1998, 60) suggestion has been shown to be true: "Policy-making is therefore the outcome of a process of negotiation and bargaining between a multiplicity of actors rather than of a rational calculation made by a single authoritative agent". Further, "...decision making is therefore often the outcome of a process of persuasion, negotiation and compromise rather than of rational analysis". It has been shown that there have been a number of problems in the surveillance system over the years it has been operating, although to a large extent it does function well. However, the system is not equipped with performance indicators to gauge the effectiveness of the response, and there well be more problems within surveillance effectiveness than appears at first examination.
Chapter Eight: The Interdiction Process
Chapter Eight. The Interdiction Process

As with the process of surveillance, we need to understand the present state of interdiction and the mechanics of the situation. This means gaining an understanding of the overall means of interdiction: whether we wait for say, illegal immigrants, to land on our shores, or do we interdict them at sea. Similarly, what platforms do we use to apprehend illegal fishermen? Further, we need to understand how are all these systems are co-ordinated.¹

In relation to the overall thrust of this thesis, interdiction, along with surveillance, is the key implementation strategy of border protection policy. This chapter identifies the general analytical issues raised by interdiction policy, including the role of the Navy in interdiction, the resources issue, and issues of domestic and international law and human rights raised by the interdiction process. The theme of reactive policy-making is referred to throughout the chapter.

This chapter discusses the usual process of interdiction as applied to both Suspected Illegal Immigrant Vessel or Suspected Illegal Fishing Vessels. Some reference is made to the process of warning, boarding and possibly detaining a SIEV vessel that originated with the naval patrols of September 2001, following the Tampa incident. In the usual procedure followed rigorously up to that time, once the process of surveillance has identified a vessel that may be either an inbound SIEV or a boat illegally fishing within the Australian Fishing Zone, the process of interdicting the vessel begins.

Australian Customs is the main federal agency charged with barrier control, and it maintains a body of personnel and equipment with which to do that. This consists of a small fleet of launches and the necessary licensed personnel. The boats were initially charged with performing 150 days at sea for Customs; in 2002 this was changed to 300.² The RAN also gives 1800 patrol boat days a year to coastal interdiction, although this has not always been met. For example, in the year 2000 the "days achieved" numbered 1688 – 112 short of the requirement; a shortfall caused by "...maintenance problems and crew illness", according to a Defence Department spokesman.³ The same

¹ Fieldwork for the depiction of the scenarios in this area involved sea time with the Royal Australian Navy.
² Customs Officer Keith Johnson, during a comment made after a speech at the "Protecting Australia’s Maritime Borders" Conference, 20 March 2002, Australian National University – author present.
commentator noted a forecast increase to 3000 days given a “...current requirement for 2690 days”.

The term interdiction here is used as meaning the apprehension of illegal fishing vessels and SIEVs. In fact, the defence agency - the Royal Australian Navy - which carries out the large majority of apprehensions also carries out boardings of offending FFVs. However, these boardings result in details being taken and warnings being given.

In the event of most interdictions, the Navy is the agency involved. For this one of the RAN Patrol Boats is usually used. The RAN’s patrol boats are based in Darwin, Cairns, and until around the year 2000, Fleet Bases East and West in Sydney and Stirling, WA. Those vessels were then largely moved north to cope with increased numbers of interdictions – the writer participated in the so-called “hurt statement” issued by Headquarters Northern Command in 1997 which recommended this. By late 20014 all of the 15 patrol boats of the Royal Australian Navy were based in the north: five in Cairns and 10 in Darwin.

8.1 HMAS Geelong in Northern Territory waters. (Photo RAN: http://www.navy.gov.au/)

Given the position of an illegal fishing boat, a Navy vessel, generally an Australian Navy Fremantle-class Patrol Boat (FCPB), proceeds to the given position and searches for the offending vessel with radar and by visual means. Once the vessel is sighted, the FCPB begins a series of steps to get the fishing boat to heave to and allow boarding.

These are all procedures that are loosely permissible under UNCLOS, although as Letts (1999) has pointed out, there has sometimes been some confusion over what is standard or acceptable practice.\footnote{Letts, David, Commander RAN. 1999. "Stop, or I shoot". Australian Defence Force Legal Office. (Unpublished paper at the time of review – since published in Maritime Policy). Commander Letts outlines a number of areas of confusion in the interdiction process, including non-specific sections of UNCLOS where "what type of force" and "how much force may be used" are not clarified.}

The process of convincing a fishing boat to stop is a lengthy one, and a process that does not always go smoothly. Fishing boats have used a number of methods in trying to escape, ignoring all requests to stop - including various weapons fired by the interdicting vessel - erratic steering to avoid being boarded, and in perhaps the most widely-reported, the 1998 ramming of HMAS Cessnock by a foreign fishing boat.

Once detained, a fishing boat is taken into port, either under tow or escort. Once anchored near the port’s quarantine buoy, the boat is handed over to the Australian Fishing Management Authority and the judicial process begins. If the vessel is a SIEV, Department of Immigration and Multicultural Affairs personnel are involved, with further agencies - Quarantine; Federal Police - being called in as necessary.

The problems of interdicting an inbound SIEV are somewhat different to that of interdicting a fishing vessel. Until the vessel enters into the territorial sea, which is fixed at 12 miles from land, it is maintaining innocent passage. Nevertheless, that limitation makes it difficult to effectively intercept in time; as a vessel may - as did the SIEV which landed on the NSW coast on Saturday 10 April 1999 - travel along a coastline for a certain time, and then make a dash for land. Interception in the short time a vessel making an unremarkable 8-10 knots would take to reach land is difficult, and would require an almost "over-the-top" presence by surveillance (and obviously interdiction) authorities.

A change in interdiction procedures (explained a little later) was seen post the Tampa incident of late 2001. Naval patrols boarded a subsequent vessel at sea after it ignored warnings to turn around. As the vessel was flag-less, it became a legal possibility to do this, and consequently the SUNCs on board were then transferred to the waiting large naval vessel HMAS Manoora, which already contained the Tampa SUNCs. The total were consequently then sent to Port Moresby and onto Nauru for processing as possible refugees.
Although any government must react to a developing situation such as that described above, it would certainly seem that this was once again policy made reactively, for no detailed overall strategic plan was announced at the time. The policy was challenged at the time in the Federal Court by a group of mixed citizens and interest groups; their challenge was upheld, but then overturned on appeal to the full bench of the Court. Further problems occurred when some of the SUNCs refused to leave the Manoora when it arrived at Nauru, thereby causing a “stand-off” situation which lasted some days.

As referred to in the previous chapter, following the Tampa incident, new legislation was introduced into the Federal Parliament. This followed an attempt to pass similar legislation during the incident – a proposal which was rejected by the “hostile Senate” the Government then faced. Supported by the Opposition Labor party, the Border Protection Bill passed into law in the week of 24 September 2001.

The new laws provided for some changes in the interdiction process. The Department of Immigration listed the new situation:

The laws are an important step towards the objective of deterring the activities of people smugglers. The main points of the new laws include the following:
the excision of certain territories from Australia’s migration zone in relation to unauthorised arrivals to those territories - people who cannot apply for a visa;
the possible detention and removal from those territories of unauthorised arrivals;

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measures to strengthen deterrence in relation to unauthorised arrivals, including
the introduction of a new visa regime and minimum terms of imprisonment for
people smugglers;
the possibility that an adverse inference may be drawn about claimed identity
and/or nationality where unauthorised arrivals fail to provide information to
support their claims;
guidance in relation to the meaning of "refugee" for the purposes of Australian
law;
limited grounds of judicial review in migration matters;
prohibition of class actions in migration litigation; and
measures to put beyond doubt the legality of the actions of the Government in
relation to the MV Tampa and the Aceng, and additional statutory authority for
future action.
The new legislative measures are in addition to ongoing prevention and
interdiction efforts.
This work includes efforts to disrupt departures, return boats and failed asylum
seekers, as well as positive leadership in the international arena.8

The Australian summed up the new situation neatly:

It empowers the Government to eject, where necessary, unauthorised boatpeople
who cross our borders. Reasonable force may be used. The bill provides for
mandatory sentencing for convicted people smugglers of five years’ jail for first
offenders and eight years for repeat offenders. In a related bill, the key territories
where most of the boat people land – Ashmore Reef, Christmas Island and the
Cocos (Keeling) Islands – are excised from Australia’s migration zone.9

Problems within the Interdiction Process

There are a number of problems that may be perceived within the interdiction process.
This chapter discusses these in turn. Later, some attempt at broad solutions is made.

First, the expertise of the agency making the majority of interceptions is subsumed by a
separatist approach. This sees the Department of Customs making interdictions apart
from those made by the Navy. Customs maintained through to the late nineties four

22 March.
large sea-going launches. In 1999 a new series of eight vessels\(^\text{10}\) were built. These were termed the "Bay-class", with the first of the series - Roebuck Bay - launched in April 1999. Interestingly, Commodore Sam Bateman (RAN, Rtd.) suggests their use "...may be leading to the ACS becoming a de facto coastguard." \(^{11}\) By September 2002 three of these vessels were operating out of Darwin.\(^{12}\)

This dual approach of conducting interdictions is another example of the haphazard policy-making which underlines surveillance and interdiction. It seems illogical to make interceptions at sea using any other force than the Navy, simply because of the dangers involved. The naval force which is trained for sea-going interception is one which is constantly rehearsed, prepared and used in such scenarios, and it seems strange to allow another agency to conduct operations in a very large and problem-prone sea.

Interestingly, the interception of the Norwegian freighter Tampa in August 2001 was carried out by troops from the Army's Special Air Service. The Tampa had taken SUNCs off a SIEV and was intending to return them to the nearest port - in Indonesia. However, some of the SUNCs pressured the vessel's Captain to head for Australian territory, specifically Christmas Island. When the vessel - despite being warned off - entered Australian waters it was intercepted.

The use of Army forces here is curious. Although SAS troops train\(^{13}\) for maritime interception, it would seem that naval personnel - skilled at rappelling onto moving vessels from many years on interception duty in the Persian Gulf - would be more suitable for the task. Indeed, the Navy has accepted its position in the constabulary role to the extent where it is now a defined part of its operations. The roles of diplomatic representation; military engagement, and constabulary operations are accepted by the RAN, and therefore carried out within its normal roles. Although the patrolling of borders for illegal immigration vessels has received much more publicity in the past few years - especially since the Tampa incident - as established in earlier chapters it is nothing new in RAN operations. As evidence of this, the following diagram\(^{14}\) appears in the Navy's guiding doctrinal manual:

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8.3 The Span of Maritime Operations, from *Australian Maritime Doctrine*.

That aside, a number of practical problems have been experienced in the interdiction process. Here are some instances from the last 10 years. First, problems with personnel on board apprehended FFVs can necessitate a halt to operations. An incident\(^\text{15}\) in January 1996 illustrates the point well. *Fremantle*-class Patrol Boat *HMAS Launceston*, together with Customs vessels *Austin Chapman* and *Andrew Fisher* were apprehending vessels inside the AFZ. *HMAS Launceston* was towing six apprehended vessels when it was discovered that one of the FFV's crew was apparently suffering from the bends, or decompression sickness. This is an injury experienced by divers when they ascend too fast or stay underwater too long. Indonesian fishermen divers, generally using primitive equipment and self-taught or poorly trained, are particularly susceptible. They are usually fishing for trochus.

\(^{15}\) As observed by the writer when working for HQNORCOM, 1996.
In this incident, *Launceston* cast off her tows to evacuate the fishermen to a nearby dive tender, the *Alliance*. Only able to make a few knots with the tows, she had to leave her charges in order to make better speed. The six fishing vessels left the area, and the fisherman in question was found later to not be suffering from the bends.

This situation could be exploited by masquerading fishermen in the future, and indeed it may have been possible that the *Launceston* incident was a deception. For the cost of abandoning one of their number - who will inevitably be flown back to Indonesia - the fishermen can exploit the humanitarian ethos of the arresting Australians.

The problem, according to the Australian Fishing Management Authority, got steadily worse. AFMA was reported in the *Courier-Mail* on 18 July 1998 as saying:

...in the last two years, the Authority had analysed a significant change in the behaviour of illegal Indonesian fishermen. "The owner-operator type is disappearing and being replaced by captains and crews working for owners", he said....the fishermen used a variety of tactics to escape arrest, including faking sickness, fleeing to international waters, sabotaging the boat or jumping overboard.16

The following incident is described in the words of John Farrell (1996), editor of *Australian Defender* magazine, significantly a publication which, while somewhat sensationalistic, enjoyed an Australia-wide circulation through newsagents at the time. *HMAS Gawler* was directed to a group of seven Type 3 fishing vessels. The FCPB's commander tried to stop a boat, but a lack of co-operation on the part of the Indonesian skipper meant the vessel eventually escaped:

Once alongside, the Boss switches on the ship's hailer and orders the Type 3 to stop and be boarded. The Indon captain continues to run for international waters...Gawler orders a slow escalation of force. First the ship's shooter is ordered to make himself visible with his Steyr17 on the bridge. The appearance of the Steyr gets no reaction, nor do repeated calls for the FFV to stop. A shot is then fired from the Steyr across the bow of the Type 3, which tries to cut across Gawler's bow in a dangerous game of cat and mouse.

17 The Steyr is the standard assault rifle of the ADF. A *Fremantle* carries several of these, as well as combat shotguns of different types and Browning 9mm pistols.
The escalation continues, with the Boss ordering the .50 cal manned and loaded. This does get a little reaction with the Indons heading below decks in a flurry. But the boat does not stop. The Boss orders a single round of .50 cal fired over the bow of the Type 3. Still the boat plods on.

Boarding a moving boat is never easy, boarding one at speed in rough seas with positive opposition is positively dangerous. Gawler's crew is pretty keen though and start volunteering without being asked. The Boss declines the offers; the life of one of his crewies is worth a lot more than a couple of kilos of fish.

The next move requires clearance from higher authorities at NORCOM for further instructions. The Gawler keeps up the pressure, cutting off the Type 3, and in turn avoiding being rammed by the wooden long liner. The Boss maintains his barrage of warnings in Indonesian over the megaphone until a flash signal arrives from NORCOM.

It's not the answer Gawler wants to hear. Someone in Canberra has decided to let these guys off the hook. The Gawler is to escort the Type 3 she has fired at out of Australian waters and make sure the others are heading out before heading home. The Gawler's officers and crew fume in silence.

The Type 3 that was fired upon has to be abandoned as Gawler turns towards the other six long liners, each of their crews frantically hauling in their precious long lines as Gawler prowls amongst them, ordering them to head west in Bahasa.

Back to the east, the original intercept was (sic) shows his contempt for Australian sovereignty by stopping the moment that Gawler switches her attention to the others...the Indonesian captain knows the score. He knows that the RAN has not fired on an FFV since HMAS Cessnock stitched up a Taiwanese long liner in 1989, and he also knows that if he refused to stop he would not be forced to. The Rules of Engagement run his way.\(^{18}\)

This situation is an interesting one. The very type of publicity that is being generated here - in this article and in others - while written in a positive light towards the RAN, is in fact helping to create a perception amongst foreign fishermen that they can defy Australian authorities. In a postscript to the action, the *NT News* reported that "...it is not the first time that a heavy-duty Indonesian vessel has defied the Gawler. It is understood the crew complained to Defence Minister Ian McLachlan when he visited the Territory last month".\(^{19}\)


However, the action adopted by the FCPB commander is the right one: there was certainly a possibility of injury or death if the patrol boat had used her small boats to attempt a boarding, or attempted to come alongside the FFV at speed and have her sailors board in that manner. Although generally FFV crews are not armed, there are often machetes on board, and there is also a risk of injury to RAN members through sailors ending up in the sea or crushed between hulls.

The Navy has survived relatively lightly - compared to Coastwatch - from public criticism, but they had their inadequacies highlighted in detail in 1998. This was when *HMAS Cessnock*, a Fremantle-class patrol boat, was frustrated in an attempt to board and stop a large Indonesian fishing vessel caught inside Australian waters. During a 16-hour, 550 kilometre chase, and a variety of warning shots being fired, the vessel deliberately on several occasions rammed the *Cessnock* or attempted to ram. The patrol boat's commander authorized an attempt to board from the *Cessnock's* inflatable boat, but this was called off after it was judged to be too dangerous.

Another problem can be when the vessel sinks under tow, or is sabotaged to sink. The following example serves as a general illustration. On Friday 9 August 1996 *HMAS Ipswich* apprehended the Indonesian fishing boat *Tenaga Baru* allegedly fishing in Australian waters. The vessel “was first taken under tow. But it was released, as the local paper described, after fears the boat would break up”. At the time the weather was steadily worsening. The FFV was in a “poor condition”, but an Australian naval crew was put on board to try to stop the vessel sinking. They were then withdrawn, as was the FFV crew, as the weather conditions decreased further. A radar watch was kept on the *Tenaga Baru*, but during the night it disappeared. The fishermen were transported back to Darwin.20

It is obvious from this situation that the Navy forces involved are caught in a situation where they are damned if they do and damned if they don’t. They necessarily have to arrest a fishermen obviously illegally fishing. However, the very action of towing a vessel may worsen its condition. Furthermore, might the vessel not have sunk if the original crew were on board? This is doubtful, given the skills of an RAN crew as opposed to the original sailors, but it might be considered by anyone wishing to make a case against the Navy.

This is happening with increasing frequency. A HQNORCOM brief states:

20 The author was employed at HQNORCOM at the time.
Based on discussion with AFMA personnel, the seaworthiness of FFVs has, and will continue to decline as vessels become older, and building materials and resources remain limited. This may serve to explain that in the past six months six boats have sunk under either tow or escort, which compares to only eight over two years.21

However, the vessels can also be deliberately sunk, as JH Farrell’s article illustrates:

...there is movement on the Type 2 bouncing through Gawler’s wake. The fishermen have been hard at it with the bilge pump - their pumping actions become frantic and catch the attention of the watch. The Boss calls, “All engines stop.” The Zodiac and a boarding team are soon away to investigate the problem.

"About 30 cm of water in the bilges," the XO reports after an inspection. A minute or two later the XO is back, reporting, “...a nice neatly chopped fresh hole in the hull.”

...the Boss gives the order for repairs and a couple of wedges and a hammer are soon ferried aboard the Type 2. With the game over, the annoyed fishermen shove a T-shirt in the hole which immediately stops the leak. The bilge pumpers give up and move aft sullenly, the escape plan foiled....

To stop any further attempts to scuttle the boat, the Boss orders a steaming party aboard...Spending a night aboard a filthy fishing boat is not a Pusser idea of heaven, but the men are soon armed with pistols and aboard. Their issue torches glow red throughout the night as they lie on the Type 2’s thatched roof and read bestsellers.22

The same writer also outlined a situation in which the vessel’s hull was judged not to withstand towing:

...Gawler rounds up the second Type 2. With a little more reaction time than their mates, these blokes have got half their long line in. A huge pregnant tiger shark is being hauled aboard as the Zodiac moves in...The boarding party doesn’t

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have to try too hard this time; the Ship’s Master is questioned and the sharks aboard are photographed as evidence. Everything is just too easy until an inspection of the Type 2 reveals rotten boards in the hull - much too flimsy to consider towing...this one can’t be taken in.

The consequences of a vessel sinking under tow are serious, both in terms for the fishermen apprehended and the Australian taxpayer. NORCOM have noted:

The ADF has received two Third Party Claims from the Indonesian Embassy on behalf of Indonesian FFV Masters. DFAT drafted an appropriate reply in consultation with HQADDF and AFMA. Subsequently the courts found both masters guilty of breaching Australian law and forfeited their vessel, catch and gear as penalty.

There have been many suggestions over the years as to how to “fix” the problem of effectiveness. These range from the simplistic to the more complicated. An example of the former is the call to “turn the boats around' which sometimes surfaces – a recent example being Cabinet Minister Wilson Tuckey’s suggestion of 2 October 2001.23 He advocated sinking illegal fishing boats at sea and returning their crews to their country of origin. Only repeat offenders, he also suggested, should be brought before Australian courts.

Another more complicated but no less persistent suggestion is that Australia should form a Coastguard, similar in style and operations to the United States model – such as the Australian Labor Party’s proposal as briefly outlined in the last chapter. The Coastguard model is usually envisaged as being a separate force from the Royal Australian Navy, and would be primarily concerned with surveillance and interdiction.

There are a number of reasons which the supporters of a Coastguard put forward when proposing this model. The proposal for a separate force under this name was first suggested, according to Michael O’Connor, Executive Director of the Australian Defence Association, in 1967.24 Although it met with approval from a meeting of

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24 Michael O’Connor, Executive Director of the Australian Defence Association, during a speech at the “Protecting Australia’s Maritime Borders” Conference, 20 March 2002, Australian National University. (Author present)
associated organisations, no-one wished to surrender part of their Department’s budget to fund it.

The Labor Party was quite specific in outlining one of its first proposals in January 2000. “Labor’s Framework for an Australian Coast Guard” suggested:

An Australian Coast Guard is a symbol of national security. Its charter includes defence, quarantine, protection of our fisheries, a deterrent to drug smuggling, search and rescue, and general maritime safety. All these functions should be carried out by the one agency - the Australian Coast Guard.25

A Coastguard would also fulfill a variable role with which navies in some examples have difficulty. Many countries have followed the Coastguard model for reasons similar to this. Sam Bateman, for example, recently pointed out “…in many countries also, there are constitutional and political reasons why armed forces should not be involved in policing duties, particularly against the civil population”.26

Another argument is that a navy is furthermore not dedicated enough for this role, being otherwise engaged on exercise, or on real-life operational matters: peacekeeping; peacemaking; search-and rescue; overseas and local operational deployments – and so on. A further argument follows a cost rationale: that the expensive training process necessary for combat training would not be necessary in the less demanding role of maritime interdiction. However, this argument can work the other way. For example, the Parliamentary Committee looking into offshore surveillance patrolling which finalized its study in 2001 found the proposal by the ALP to form a Coastguard was “costly and duplicitous”.27

Those who urge against the formation of a Coastguard point to duplication of bureaucracy and resources, and the fact that the Navy is “here and now” – present within the Australian Defence Force - and it may as well “earn its living” by being tasked to engage in interdiction operations or whatever else is necessary.

The argument rose to a crescendo with the Federal Election of November 2001, with the then-Opposition Leader Kim Beazley highlighting the proposal during the high-profile

debate held with the Prime Minister on 14 October 2001. Consequently, the argument was highlighted in newspaper articles, with another argument against the proposal being brought forward in that the patrol boats only were used for 40% of their operations in "coastguard roles", and further that their loss within the Royal Australian Navy would lead to decreased command roles for junior naval officers. The Labor party subsequently seemed to make "policy on the run" stating that naval officers would be seconded to a new Coastguard, and that Navy would receive "additional, faster patrol boats... (by being able to) ...take over craft used by Customs". This ignored many factors being put forward for the replacement of the Fremantle-class patrol boats—for example, the lack of crewmembers available for a boarding party which becomes a steaming party—that is, an onboard escort and guard once the boat is apprehended. The ALP revised and proposed its Coastguard policy once again in November 2002, proposing a small fleet of vessels and continuing its ideas of a separate organisation. The Howard Government attacked the proposal, and pointed to the lack of SIEVs since the Tampa as evidence that the present system was working well.

It is of interest to see at the same time the much-vaunted US model was being seen in some circles as having become unsuitable. Retired Coast Guard Captain Bruce Stubbs pointed out in the US Naval Institute's Proceedings that:

> It is the only Federal Agency whose people are simultaneously maritime constables, lifesavers, warriors, environmentalists, and regulators. While this multi-tasking should be an organizational strength, it has backfired. Broad and varied missions generate a bewildering image to all - the public, Congress, and the White House....President George W Bush should act on the Hart-Ruddock recommendations and transform US agencies with home-land security responsibilities into a co-ordinated, mutually supportive whole...

To return to the overall scenario, in summary, there are operational problems involved with the interdiction process, though the general tone of the incidents outlined here supports the Australian public's opinion (as outlined in Chapter Nine) that their agencies are trying hard with the resources they have.

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28 The Australian. 2001. "Navy fires a volley at ALP Coastguard". 15 October. 5.
It is important to note the media reaction in these incidents, for it is partly from their reports that the perception is created that the interdiction process is inefficient, half-hearted or not genuine at all. And from this perception comes a hardening - or otherwise - of intention on behalf of illegal fishermen to defy interdiction authority. While Chapter 9 defines this quantitatively, it is instructive here to look at two incidents – that of Cessnock, and the case of the MV Tampa - as examples. The Cessnock incident, for example, produced a number of extremely negative reactions on behalf of letters to the editor-writers. A writer of 20 July 1998 suggested to The Courier-Mail that the Navy would be better off "patrolling no-swimming zones". Writers to The Sydney Morning-Herald suggested that the "British or US navies" be called in "to show us how to do the job", and that "word will quickly get around the Indonesian fishing fleet that they have little to fear from Australian warships". The NT Fishing Industry Council called for "a greater Navy presence" in the NT News of 28 July. However, some of the media comment was ill-founded: the Federal Opposition pronouncing the patrol boats employed not up to the job, with the NT News agreeing in its editorial, arguing that "Had the Cessnock the horsepower of a faster boat, then perhaps the crew could have easily convinced the offending boat into giving up the chase". This is a curious argument, with the patrol boat in fact having more than double the FFV's speed.

Nevertheless, as was outlined in an earlier chapter, the Fremantle-class patrol boat, while largely suitable for its role, does have some problems. In concluding remarks on the class, it is worth outlining that the Fremantle-class’s inadequacies have been highlighted in an interesting way, for its role as a vessel for carrying out apprehensions of illegal fishing boats is being seen as its major function. A.W.Grazebrook, writing after the Cessnock incident, spent some time in his article "Decisions needed for RAN Patrol Boats" (1998) pointing out the problems within apprehension as outlined above. It is interesting that the Life of Type Extension and the discussion of the Fremantles' eventual replacement centred exclusively around its FFV interception requirements. This is further evidence of course, of the suggestion made previously that Australia’s policies on surveillance and interdiction have been driven by events, rather than forward planning.

The second incident concerns the Tampa freighter drama of August 2001. The Norwegian freighter had transferred its hundreds of SUNCs from their own sinking SIEV north west of Australia. The vessel was en route for Singapore and the master

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intended unloading his newly acquired human cargo in Indonesia, at the nearest port. However, he was convinced by resolute members of the SUNCs to change course for the Australian Territory of Christmas Island. The Australian Federal government denied the ship permission to enter Australian territorial waters. When it did threaten to enter, it was boarded by Army troops, held off Australian waters, and the SUNCs transferred to another Navy vessel for transfer to two countries which agreed to process their claims: New Zealand and Nauru.

A strengthening of Australia’s surveillance and interdiction was announced in the closing stages of this scenario, with the Prime Minister announcing an increase in coastal surveillance. A Foreign Affairs delegation discussed the use of Indonesia as a departure point for would-be immigrants. Five Navy ships and four P3 Orion aircraft were deployed to patrol the waters in-between Australia and Indonesia – the aircraft a tacit admission that Coastwatch could not fully contain the situation. Further detail, as supplied in The Sydney Morning Herald, revealed that three frigates and a supply vessel would be used, with the fifth vessel being the amphibious landing platform Manoora once it had returned from its duty transferring SUNCs around the Pacific.

Such a change in interdiction forces – that is, the heavier ships of the RAN – is an interesting move, and one that is indicative of the chaos-theory model of policy formulation this study pursues. The increased numbers of ships are unsustainable in the long term, given the personnel and ship numbers of the Navy at the time. Furthermore, the frigates were a mix of one very effective surface warfare ship – the Newcastle – and two less-effective Anzac-class anti-surface frigates. The supply vessel – the Westralia – would not be effective in any way at interdiction, and was obviously there to allow the frigates to remain on station. How would these vessels interdict small people-carrying SIEVs? The Newcastle has two helicopters and the Anzac-class ships one each. They are all equipped with a multiplicity of small boats. They are also a weapons platform: carrying anti-ship and anti-air missiles; heavy guns and lighter weapons systems such as heavy machine guns. But these are all very much warships. To give an example readily understood by anyone not well-versed in modern navy capacity, each of these frigates can easily destroy a WWII battleship such as the Bismarck, without that vessel even getting close to effective gun range. Their deployment is both an example of the gap in capacity the RAN experienced at the time and the ad hoc nature of policymaking.

These could be used to put a boarding party aboard incoming vessels, but where would those vessels be? They would have to be inside Australian territorial waters to be stopped, although they could be legally boarded for information-giving purposes outside that limit, or indeed, if flagless, also be legally boarded, perhaps for interdiction. But assigning extremely capable warships to this interdiction tasks is a dubious measure. These platforms are equipped for destroying enemy ships via missile and gun, and so are a case of too much force in this situation. Further, they are extremely expensive in both capital and operating costs, and in use for operations such as this not an cost-efficient deployment: each ship would use a fraction of its near two-hundred crew in running the helicopter flights and operating the ship.

Incidentally, we may note the Australian government is not the only example of countries using their navies in this manner. In past emergencies, navies have been used to assist in combating illegal immigration. In 1991 Italy (Kusovac, 2002) despatched the 22nd Naval Group to stem the influx from Albania, and again in 1997, this time using the 28th Naval Group. However, these were specific situations, and they proved that, unless as a very last measure and a stop-gap measure, modern navies are not really geared towards combating seaborne illegal immigration due to the complexities of using non-purpose built vessels away from home ports.

Kusovac went on to point out that politicians did not really understand this, and that in early February 2002 the Italian Navy was being re-tasked to battle illegal immigration. However, the Navy’s ships were too big for shallow water work, not maneuverable
enough to chase small craft, and there were not enough of them anyway. Nevertheless, also in 2002 the British Navy was reported as also being considered for deployment against illegal immigration: “The Ministry of Defence has been asked if it is possible ‘for Navy ships in the eastern Mediterranean’ to intercept people traffickers operating in Middle East sea routes who have targeted Britain.” And in mid-2002 a European Union interior ministers meeting agreed to “create a multinational European border control” in the face of mounting numbers of people moving illegally between countries. To return to the Australian situation, in fact, the Manoora, with its capacity to carry many helicopters, would probably have been more suitable for the task discussed above. Its sister ship, the Kanimbla, was not utilised, nor the Tobruk, with a smaller but still useful capacity in helicopters and landing craft.

It was not surprising that the new approach drew criticism. Sam Bateman and Anthony Bergin, writing in The Australian, proposed the situation “…suggests serious deficiencies in our maritime security in terms of capabilities and organization”. In addition, the move drew instant fire from legal commentators, who pointed out its difficulties. Associate Professor Don Rothwell, of Sydney University, said Australia needed to be able to block Indonesian-flagged vessels carrying boat people outside Australian waters to significantly reduce the traffic in smuggled people, but as Associate Professor Anthony Bergin pointed out, this would need some sort of concession from the Indonesian Government, according to another maritime law expert, as Australia could not stop vessels on the high seas. The Australian Defence Association's executive director, Michael O'Connor, pointed out the benefits of upgraded deterrence were questionable when suspect vessels on the high seas already ignored warnings and, in some cases, appeared to start sinking in order to be rescued by Australian ships.

In a further development on 6 September 2001, a Federal Government request was made for “…RAAF Orion P-3 aircraft to land and ships to berth in Indonesia”. The

request was subsequently denied. On the weekend of 15-16 September the *Tobruk* was belatedly announced as sailing for the north to join the effort.

The new policy of "turning around" or "warning off" was soon tested with a vessel on 6 and 7 October 2001. Two hundred and fifty people on board an Indonesian-flagged vessel were intercepted and warned not to enter Australia waters. When they did the vessel was boarded, with several persons on board then jumping into the water and reportedly also throwing children into the water in protest – although all were apparently wearing life-jackets. However, the vessel was deterred, as it reversed course and began heading back to Indonesia. The SUNCs may then have sabotaged it, according to some reports. Immigration Minister Ruddock pointed out the asylum seekers' boat rather suddenly and probably opportunistically began to sink.

The new policy looked set to continue, with another vessel being warned off – but at first unsuccessfully – on 15 October 2001. An Indonesian boat carrying about 200 people, most of them believed to be from Iraq, was turned back. The vessel did return to Indonesian waters a week later, with the incident – the first where a boat was turned around and returned to its source – being hailed as a success by the government. The new policy was later proclaimed a success after no further SIEVs were detected and intercepted for over three months.

However, the government's reaction to these incursions and to the *Tampa* incident seems once again, policy made on the run, and not very good policy at first, with major warships deployed in an expensive operation; the Army used in what was perhaps "overkill" on the *Tampa*, and a policy of "see if it swims" seemingly used to test the measures employed to turn back SIEVs and SUNCs. Indeed, according to an article in

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The Sydney Morning Herald, the operation, codenamed “Reflex”, “...has been dubbed by some ‘Operation Kneejerk’”.46 (Incidentally, it is named Relex, not Reflex...) However, it must be admitted that if the Federal Government’s intention was to send a message to people smugglers, perhaps it was an effective message: certainly no boat people vessels were detected in the months after these incidents.

In summary, Australia’s policy of interdiction over the years has been largely dictated by events, rather than careful planning with forethought.

Chapter Nine: Public Perceptions of Australia's Surveillance and Interdiction Effort
Chapter Nine. Public Perceptions

"Governments have always rested...on the silent acquiescence of the numerical majority." James Bryce

Previously it was made clear that public attitudes are an important factor in modern democratic governmental systems. Estimating public opinion has obviously been a characteristic of anyone standing for a leadership position since humans first formed tribes. With the birth of democracies in ancient Greece it must have become more important, but it has not become a matter of scientific measurement until comparatively recently. The researcher Charles Booth, working over 100 years ago, is credited with having implemented what we understand by a modern survey. In 1886 he conducted an inquiry into poverty in London; the findings being published in seventeen volumes towards the end of the century.

During the 1930s (Parten: 1950) the United States Department of Agriculture set up a program of surveying farmers for their reactions to various programs. This federal approach was the forerunner of many other governmental survey campaigns. During WWII public opinion was constantly monitored in the US by such methods.

Hitler's success in mobilising German public opinion in the 1930s is an extreme example of the new interaction between political leadership and public opinion in the mass politics of late industrial society. In the early 1940s the Nazi party had embarked on a systematic program of exterminating its enemies. In Hitler's Willing Executioners, Daniel Jonah Goldhagen makes the point that it was the will of the nation that allowed such a program to exist and operate:

Germany during the Nazi period was inhabited by people animated by beliefs about Jews that made them willing to become consenting mass executioners.... Domestically, the Nazi German revolution was, on the whole, consensual.

And so - on a tide of public opinion - Hitler and his followers changed history. Could there be a more significant example of the force of feeling? Measuring public opinion

within the field of politics was deemed to be an important measurement of intention in the 1950s, with candidates for the United States Presidential elections being assessed as to their public standing by opinion sampling.

Today, gauging public opinion is a fact of life in both national and local politics in many countries of the West; in consumer product design and marketing; in assessing whether a workplace's employees are satisfied; whether university students are happy with lecturers - the list is lengthy. In some cases an opinion poll may be enough for a government to "go to the people" in election. It is notable that the polls which sought Australian public opinion after the Tampa incident may indeed have precipitated planning thoughts along these lines by the Howard government in 2001. In that scenario the poll indicators were extraordinary. The Sydney Morning Herald summed up the situation in one poll:

A whopping 77 per cent of Australians support John Howard's decision to refuse the Tampa asylum seekers entry to Australia and 74 per cent approve of his handling of the subsequent crisis.4

One retired Minister for the Hawke government – Peter Walsh – noted later that those advocating change in the Howard government's hard-line approach to border security were thoroughly misunderstanding public opinion. It is significant that he highlights the importance of majority opinion in policy-making:

What had been revealed by the asylum-seeker and mandatory detention issues, especially post-Tampa, is how out of touch our self-appointed moral guardians are with the large majority of Australians. The guardians' self-esteem may be enhanced by that, but if they wish to influence or change public policy they should seriously consider whether they – not the rest of the army – are out of step.5

In support of that, we might note a poll run in Australia in December 2002 continued to illustrate that strong public support on the issue.6 It is true that the Walsh example can be challenged, and indeed it is acknowledged that there is an art in asking the right

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5 Walsh, Peter. 2002. “It pays not to give in to blackmail”. The Australian. 11 May. 25.
6 The Daily Telegraph. 2002. In a "phone-in" response line survey, on the question "With no boats containing asylum seekers arriving in the last year, has the policy of detention and off-shore processing been a success?" 299 respondents answered, with 96% saying "yes". 11 December. 36.
question to get the answer one desires. It is further acknowledged that there may be other reasons behind a public response than what is perceived at first glance; for example a question asked of the general public on immigration levels might produce the same answers for a variety of reasons: concerns about the economic effects, or because the respondent is racially motivated either for or against, or because the respondent is concerned about the environmental effects of further immigrations, and so on. However, what is intended here is to show that public opinion is a powerful and important factor in policy making.

It has been expressed previously in this paper that governments make policy change for a number of reasons. The level of public satisfaction with our surveillance and interdiction systems has, to the writer's knowledge, been tested previously in a limited way. Richard Wilson in 1984 with "Coastal surveillance: public opinion and government perceptions" surveyed 125 people in two locations – Cairns and Canberra – about their knowledge of coastal surveillance. Unfortunately the questions he used were not defined within the subsequently produced article, but some reference will be made to Wilson’s findings later. The Tampa incident opinion poll was therefore one of the other initial studies, and it consisted of generalized questions. While acknowledging those polls, this paper is concerned with a more in-depth analysis. What does the public really think about the whole scenario, and what effect will that have on government policy? To gauge in detail the level of satisfaction in our surveillance and interdiction systems a comprehensive survey of public opinion was carried out for this paper.

Public opinion exists in many forms. Perhaps the most immediate indication of how the public thinks on a day to day basis is presented by talkback radio. However, these expressions of public opinion are a doubtful measurement: the calls are screened; a very small sample of the listening public is able to get through, and there are an interesting range of psychological factors at work - for example, how many callers actually agree with the host because they are in awe of the well-known public voice and face?

Newspapers, although also flawed as a measure of uncensored opinion in that they are edited, provide a further means of expressing public opinion, and different aspects of

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8 The writer worked in the early 80s for ABC Radio as a part-time researcher, and occasionally manned the switchboard for a talkback radio show. It was common practice to let some callers through; place persistent “low-value” frequent callers on “hold”, and generally determine which callers to let through to create an interesting program.
typical newspapers are used in the next chapter to carry the study further. In this chapter, however, the conduct of a survey which questioned members of the public is outlined, as it was felt that this method of finding opinion was direct, straightforward, and not subject to various controls from the survey presenter. The results were then analysed to see how strong an opinion they give about issues of national coastal surveillance and interdiction.

The survey was carried out on 23 March 1998 at four suburban shopping centres in Darwin, Canberra, Sydney and Melbourne. The clientele thus surveyed is considered to be fairly representative of a cross-section of Australian society: the day in question was not a work day, and the hours chosen - in between 8.30am and 4.30pm - can be considered to be the hours when a cross-section of adults are doing their shopping and conducting leisure activities.

A flyer was available for survey recipients to take if they wished:

```
<table>
<thead>
<tr>
<th>Thank you for participating in our survey</th>
<th>Is our Maritime Surveillance and Interception Effective?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>This was a survey for the Doctorate of Philosophy in Politics</td>
<td></td>
</tr>
<tr>
<td>for the thesis of Thomas A. Lewis, ph 08 89451323, Internet: <a href="mailto:lewis@pegasus.org">lewis@pegasus.org</a></td>
<td></td>
</tr>
<tr>
<td>Supervisor: Dr. Denis Shorenburg, Northern Territory University</td>
<td></td>
</tr>
<tr>
<td>Associate Supervisor: Commissioners Sam Buterman, University of Wollongong</td>
<td></td>
</tr>
</tbody>
</table>
```

A sample of the survey may be found at Appendix Four. Two hundred surveys were carried out in total in each centre, totaling 800. According to advice gained from the research company McNair Andersen, this number presents a total which will give an error percentage of around 7.5%. This company, which carries out national surveys on a regular basis, advised that their methodology suggested a national survey of 100 people would present a deviation of 20%. That is, if 60 people out of the 100 suggested they thought in a certain way, the amount of people surveyed is so small that in actuality only 40% of people might think that way, or in fact 80% might think the other way. (The Wilson
survey referred to earlier therefore used a very small sample size in its study. Its findings are generally discounted here except to summarize them: the public had considerable awareness but little knowledge or understanding of surveillance.)

The original intention was to survey 1600 people to achieve a lower 5 per cent deviation but for logistical reasons this proved impractical. The deviation of 7.5 per cent is taken into account in analyzing the end result.

**Analysis Methodology - Question One and Two answers**

1. Who do you think carries out surveillance in or over our maritime areas under Australian jurisdiction?
2. Who do you think carries out enforcement (if necessary stopping and arresting intruders) in our maritime areas?

These answers were selected from a list which was composed as the surveys were entered to the database. Due to the variety of responses a lengthy list was achieved:

```
Costwatch
Costwatch/Navy
Costwatch/ADF
Costwatch/Navy/RAAF
Costwatch/Navy/RAAF/ATMA
Costwatch/Navy/Fisheries
Costwatch/Navy/Fisheries/Police
Costwatch/Navy/Fisheries/Police/AMS:
Costwatch/Navy/police
Costwatch/police
Customs/Navy
Customs/ADF
Customs/ADF/coastal communities
Customs/Navy/public
Customs/Navy/police
Customs/Navy/RAAF
Customs/Navy/Immigration
Customs/Navy/AMS:
Customs/police
Customs/Immigration
Customs/fisheries
Customs
Navy
Navy/Police
Navy/Police/AQIS
Navy/RAAF
Navy/Fisheries
Navy/Fisheries/general public
Navy/Civil contractors
Navy/Civil contractors/AQIS
Civil contractors

Police
RAAF
RAAF & Customs
Maritime Services Board
Coastguard
Coastguard/Navy
Coastguard/Navy/RAAF
Coastguard/Navy/Police
Dep of Fisheries
Commonwealth Gov
Commonwealth Gov contractors
Commonwealth Gov/citizens
Specific surveillance unit/public/ADF
ADF
ADF/Contract
ADF/Police
ADF/Immigration/Police
ADF/AAC Fishing Management Authority
ADF/Fisheries
Ace Maritime Safety Authority
Ace Maritime Safety Authority/ADF
Ace Maritime Safety Authority/Police
Ace Maritime Safety Authority/AQIS
Navy/Immigration/Police

- Navy/Immigration
Immigration/Police/AQIS
Immigration/Police
Council
Satellite
Other...
Ed...
```
The "Other" entry at the bottom of the right hand list (the two lists made up the one pulldown menu, but they have been split for the sake of the layout on these two pages) allows checking for blanks and so on in database searches, and the "Edit" entry below that was used to enter new answers as the surveys were processed.

In retrospect it may be concluded that a list of possibilities would have served the survey better. However, at least this list composition shows the enormous variety of thought in the community as to who does what in terms of our coastal surveillance and interdiction.

A distinction was made for questions one and two between “Coastwatch” and “Customs”, even though they are largely the same, because this gives some indication of how prevalent in the minds of the public is the former term. Similarly the response of “Coastguard” was recorded as such, even though a Coastguard does not exist in Australia. This was because a response such as this gives some insight into the perceptions of people: if a Coastguard was formed, as some analysts have recommended, would this create even more confusion in the minds of the general public? It is felt that recording such a response is important: if the general public’s perception of coastal defence is that it is non-existent, for example, that would also create a perception that smuggling or similar illegal activities is easy.

While some interpretation was needed in people’s answers there was a little discretion as to how far one should go in interpretation. For example, in Canberra # 89, the response to Question 2 was “Water Rats”. This was taken as meaning “Police” as this is the agency featured in the popular TV show of the name. In this event, the response was included as “Police”. The same responses were encountered in Canberra # 111, Canberra # 179, and Sydney # 18. No distinction was made between answers that specified “Police”; “Water Police” or “Australian Federal Police”.

Conversely, with Canberra # 110, the answers to question one and two were given respectively as “Waterways Commission” (sic) and “Union Busters”. In neither case were these answers entered into the data. Canberra # 181 gave the answer of “Patrol Boats” to question two. This was not recorded as an answer, as many agencies have patrol boats and it was unclear as to whether it was Navy patrol boats; Customs’ or anyone else’s. Canberra # 194 gave the answer of “Australia” to both question one and question two. These were categorized as “Commonwealth Government” responses. Some answers were not used and a blank response was recorded. This was because the answer was the only one of its kind, as was the case with "Defence Department" in
answer to question one and two. Sydney # 5 gave the answer "State sponsored, senior public servants" to question one - "Who do you think carries out surveillance in or over our maritime areas under Australian jurisdiction?". Although the imagery produced from this was interesting, the answer was not used. Some answers were clearly a joke: Sydney # 7, gave the response "Drug traffickers" - this also was discarded, as was "John Howard" in answer to question one in Sydney # 438. Sydney # 22 gave the answer "Navy, ASIO" to question one - this was recorded as "Navy".

Many respondents in NSW gave an answer of "Maritime Services Board" to question one and two. The NSW surveys were entered third behind Darwin and Canberra - a few in that 400 gave a similar answer which at the time was not entered. The number of respondents in NSW who gave this answer meant a revision of the possible categories for questions one and two and then those surveys' answers were entered retrospectively. The "Maritime Services Board", as Sam Bateman advises:

The Maritime Services Board is the old name for the former NSW State agency responsible for maritime matters at the State level, ports, harbours, boating safety, environmental protection, etc. It ceased to exist about five years ago. With the corporatisation of the main ports it has been replaced by three separate port authorities (Newcastle, Port Kembla and Sydney/Botany Bay), the NSW Waterways Authority (minor ports, rivers, safety, etc) and a small policy office in the Government. 9

The answers given for question three were selected from a pull-down menu. Similarly the answers for questions four to ten were also drawn from a pull down menu, as was question 11 from a third pull-down menu. The three menus are illustrated below:

```
Taken in overwhelming quantities
- Taken in very high quantities
- Taken in quantity
- Taken in limited quantities
Not taken at all

Agree very strongly
- Agree strongly
- Agree
- Disagree
No opinion

Yes, we should spend more money;
- The amount of money spent is about right
- No, we should not spend more money
```

9 Bateman, Sam, Commodore, RAN. (Rtd.) 1998. Email correspondence on Maritime Services Board structure. 4 May. Dr Sam Bateman, RAN (Rtd.) was an officer and eventually Commodore in the Royal Australian Navy, and is now a staff member of the University of Wollongong. He acted as an co-supervisor to the writer in the writing of this thesis.
Respondents’ Further Comments

Respondents’ comments were categorized into seven broad fields to allow analysis of answering trends. These are:

- Penalties on fishermen should be a lot harsher.
- Penalties against illegal immigrants should be a lot harsher.
- Penalties on fishermen and illegal immigrants should be harsher.
- Better and more effective forms of management.
- Spend more money.
- We can accommodate illegal fishing and immigration.
- Advertise system more.

If the respondent made a comment on the form in an area other than in the “further comments” section that was taken into account. An example is Canberra survey # 49 where next to question four the respondent had written “Navy funded nowhere near enough to do job properly”. This meant a response was generated in the comments list of “Spend more money”. Examples of categorization follow below.

Various responses were categorized into: "Better and more effective forms of management". They included answers such as "More effort on 1. Over the Horizon radar, 2. Deep ocean listening devices to track motorised vessel incursions", (Canberra #81); "More on coastal patrol, less on warfare technology and hardware" (Canberra #140); and "The whole issue is about finding a balance. Obviously Australia as a continent has a vast coastline and with limited resources is difficult to patrol fully. I believe that the government while having a responsibility to take care of such matters, needs to concentrate on the matters that are more closely affecting Australia - health, education and employment". (Canberra #157)

Also included in this section were "The length of coastline + area of jurisdiction (200 mile zone) dictate we should have an effective coastguard as the USA does" (Canberra #161) and "I have very strong opinions on this subject as they pinch all the fish I wanna (sic) catch". (Canberra #167)
Categorized into "Penalties on fishermen should be a lot harsher" were responses such as "The fishermen are naughty - the navy should use their boats as target practise". (Canberra #131)

A category was created of "Penalties against illegal immigrants should be a lot harsher". An example of the type of response was is the comment of Darwin respondent # 26: "If we spend less money on taking care of these people we would have more money to patrol. We mess around too much they should be sent home with warning of further serious consequence". This has been classified into this category because to spend "less money on taking care of these people..." would translate as treating them more harshly within detention centres and/or prisons.

Further examples of responses included in this category were "I have been asked before to marry someone for money, in return so that they could live here legally that is not right. They still get though (sic) even if its (sic) not by sea. STOP THAT." (Canberra #37); "Boat people should be drowned" (Canberra #179), and "Blow boat people up, this would in effect give money" (sic) (Canberra #18).

A category of "Penalties on fishermen and illegal immigrants should be harsher" - that is, both categories, was created. Into this were placed responses such as "The things talked about above are a bit pointless without enforcing full military jurisdiction on all coastal areas" (Canberra #78); "Harsher penalties (sic) by courts" (Darwin #204); "If we spend less money on taking care of these people we would have more money to patrol. We mess around too much they should be sent home with warning of further serious consequence" (Darwin #226) and the fervent "Nuke the bastards" (Darwin #365)

A category of "Spend more money" was created for comments such as "Navy funded nowhere near enough to do job properly". (Canberra # 49) Some comments were received which could not be categorized into these five areas.

Examples are:

- Our marine life and oceans are far too precious for us to abuse. It's good to see a survey of this kind! Keep up the good work. (Canberra #38)
- International conventions make unilateral actions difficult. Illegal immigrants (eg: refugees) cannot be effectively deterred. Illegal fishing can be deterred but due to size very costly (probably too costly). (Canberra #169)
I am concerned at the lack of importance that the Government seems to place on regulating the fishing and whaling and pollution (from tankers) in Australian waters. (Canberra #178)

I don’t mind a few illegal fishermen here and there - or immigrants for that matter, we can accommodate them. (Darwin #83)

Illegal flights are being made into Aus-what is being done about it? (Darwin #13)

Illegal fishing and illegal immigrants will continue until they become a major election issue. (Darwin #170)

The system for determining refugee status should be reviewed. (Darwin #178)

The responses quantified and commented upon.

Respondent statistics

Sex

415 respondents identified themselves as "Female"; 355 as "Male", with 30 not answering the question.

![Respondents by sex](chart.png)

Chart 9.5

The dominance of female respondents was the case in all four survey areas.

Age

81 respondents identified themselves as aged 15-18 years; 231 as being 18-25 years; 236 as being in the 25-39 year bracket; 247 identified themselves as aged 40+, and five gave no answer.
Occupation

235 respondents identified themselves as "Professional"; 95 as "Tradesman/woman"; 87 as a "Manager"; 176 as "Student"; 55 as a "Home worker/carer"; 27 as a "Labourer"; 35 as "Unemployed", and 90 as "Other".

With only four percent identifying as "unemployed" this was well under the national average (at the time around 8%).\(^\text{10}\) However, this may be explained by the locale of the

\(^\text{10}\) ABS CATALOGUE NO. 6202. LABOUR FORCE, AUSTRALIA, PRELIMINARY, APRIL, 1998

<table>
<thead>
<tr>
<th>Employed persons (000)</th>
<th>Mar 98</th>
<th>Apr 98</th>
<th>change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>8 539.1</td>
<td>8 547.6</td>
<td>0.1 %</td>
</tr>
<tr>
<td>Unemployed persons (000)</td>
<td>749.0</td>
<td>745.4</td>
<td>0.5 %</td>
</tr>
<tr>
<td>Unemployment rate (%)</td>
<td>8.1</td>
<td>8.0</td>
<td>0.0 pts</td>
</tr>
</tbody>
</table>

Chart 9.6

Chart 9.7
surveys: unemployed people generally not having too much money to spend at shopping centres. The category of "student" is over-subscribed, and some of this may be explained by the proximity of the Darwin and Melbourne survey sites being located fairly close to universities. In fact, further analysis reveals that 70 out of the 200 respondents in the Melbourne survey identified themselves as belonging in that category. Only 32 of the respondents in the NT survey did the same.

In general therefore, we can say that the responses were from an educated public, with a fairly representative sample of the Australian population as regards sex and age.

The public's knowledge of the role of surveillance agencies

Question One of the survey asked: "Who do you think carries out surveillance in or over our maritime areas under Australian jurisdiction?". As detailed in previous pages, the respondents' answers were quite complex and resulted in a large spread of possible answers. These have been divided into broader categories for ease of interpretation:

• 115 people did not answer this question.
• 55 people suggested Coastwatch alone carried out surveillance.
• 95 people suggested Coastwatch and another agency, and therefore knew one part of the correct answer, which is that surveillance is carried out by a mixture of Coastwatch and RAAF operations, largely the province of the former. 10 suggested "civil contractors" - a partly right answer.
• Only five people suggested the RAAF carried out the surveillance in part; two alone suggesting the RAAF did the work by themselves.
• 30 suggested the ADF.
• 72 people suggested that Customs carried out the surveillance, which as Coastwatch is a part of Customs is correct to a degree.

The rest of the answers for this first question were a mixture. The Navy was suggested as a part of 222 answers; 189 thinking that it was only the Navy that did this work. 57 people thought "a Coastguard" carried out part of the surveillance, with 37 thinking only a Coastguard did this.
• 42 thought "the police" did it alone.
• 96 suggested the Commonwealth Government.
• 26 thought the Maritime Services Board did the work.
• 15 suggested the "Department of Fisheries".
The public’s perception of how much surveillance is taking place in Australian waters is an important part in deterring this offence. If all Australians think we have a 100% knowledge of what goes on in our Exclusive Economic Zone, then that knowledge will be widespread, perhaps deterring illegal fishermen and illegal immigrants from trying to covertly gather fish and gain entrance.

The perception of who carries out surveillance is continually confused by the media, and probably much of the general public’s confusion comes from that. For example, in the “Tampa incident” of 2001 the ABC labeled the Federal Government’s increase in the forces for both surveillance and interdiction as just the former. Headlines “PM announces increase in coastal surveillance” were followed up in the body of the article that the operation would be conducted by “Five navy ships and four P3 Orion aircraft”. The naval ships would be of extremely limited use in surveillance: it is in interdiction they would be doubtless utilised; tasked for this by Coastwatch and or RAAF assets.

Similarly in the case of “SIEV-X”, which attracted much media attention in 2001-2, the national newspaper – The Australian – headlined one of its articles “Navy missed doomed boat”. It then went on to begin the story with the words: “An Australian P3 Orion spy plane flew over the area...” and continued: “But the navy says the plane did not spot any survivors...” thus giving the impression that the Orion was a Navy aircraft.

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However, Australia's Orion fleet belong, and always have belonged, to the Royal Australian Air Force.\textsuperscript{12} From the following Monday – although it published no letters advertising its fault – the paper ran continually with the phrasing of "...an Australian air force P3 Orion".\textsuperscript{13}

The public's knowledge of the role of interdiction agencies

In Question Two respondents were asked: "Who do you think carries out enforcement (if necessary stopping and arresting intruders) in our maritime areas?"

The "Royal Australian Navy" was the most popular answer, with 279 respondents saying only the Navy did this, with another 31 saying the Navy and another agency. 10 people thought interdiction was carried out partly by Coastwatch; 91 thought it was carried out partly by Customs, with 36 believing it was only Customs. 77 people thought the Commonwealth Government was responsible. 38 people think we have a Coastguard already, an interesting finding especially coupled with the 57 answers for Question One suggesting that a Coastguard carried out part of surveillance duties, with 37 thinking only a Coastguard did this. 33 think the ADF is responsible for interdiction. Only 30 people were able to answer correctly that the Navy and Customs carry out the interdiction process. A high 87 people could not answer.

![Chart 9.9](chart.png)

The high percentage of respondents who think the Navy alone carries out interdiction is probably due to the publicity surrounding the Navy's role in this area. Many residents of northern Australia would be familiar with the television and newspaper pictures of Navy

\textsuperscript{12} \textit{The Australian}. 2002. "Navy missed doomed boat". 29 June. 1.

patrol boats towing captured fishing boats to port. Indeed, when that answer is broken down along the four survey areas that bias is immediately apparent:

![Graph showing respondents who thought RAN was responsible for interdiction broken down by area]

Chart 9.10

Perhaps this suggests that the closer the public is to "the action", the more accurate is their picture of what is happening in our offshore estates.

**The public's perception of how much our waters are being poached**

The respondents were asked in Question Three: "To what extent, if any, do you think that Australian fish and other sea creatures are being illegally taken?" The overall finding was that Australians think our waters are being heavily poached. 125 respondents thought our resources were "being taken in overwhelming quantities"; 311 thought they were "being taken in very high quantities"; 252 thought they were being "taken in quantity"; 81 respondents thought our resources were being "taken in limited quantities" and eight respondents thought they were not being taken at all. Only 23 respondents did not answer that question.

![Graph showing extent of perception of poaching]

Chart 9.11
The perceptions were skewed by State and Territory. Forty-four Canberra respondents thought our resources were "being taken in overwhelming quantities"; 86 thought they were "being taken in very high quantities"; 52 people thought they were being "taken in quantity"; 12 respondents thought our resources were being "taken in limited quantities" with no respondents thought they were not being taken at all. Six Canberra respondents did not answer that question. This response can be compared with the other three survey centres:

<table>
<thead>
<tr>
<th></th>
<th>Canberra</th>
<th>Sydney</th>
<th>Melbourne</th>
<th>Darwin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taken in overwhelming quantities</td>
<td>44</td>
<td>19</td>
<td>31</td>
<td>31</td>
</tr>
<tr>
<td>Taken in very high quantities</td>
<td>86</td>
<td>50</td>
<td>94</td>
<td>81</td>
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<tr>
<td>Taken in quantity</td>
<td>52</td>
<td>71</td>
<td>55</td>
<td>74</td>
</tr>
<tr>
<td>Taken in limited quantities</td>
<td>12</td>
<td>44</td>
<td>15</td>
<td>10</td>
</tr>
<tr>
<td>Not taken at all</td>
<td>0</td>
<td>5</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Nil response</td>
<td>6</td>
<td>11</td>
<td>4</td>
<td>2</td>
</tr>
</tbody>
</table>

It is interesting to note the similarity of the Darwin and Canberra responses compared to that of Sydney. Canberra and Darwin citizens perceive that Australian fishing resources are being illegally taken in greater quantity than do Sydney residents. Is it the case that the residents of Darwin and Canberra are exposed to news of illegal fishing more than the residents of Sydney? Both of the territorial cities have one newspaper, whereas Sydney has a multiplicity. Perhaps this too is an example of the "city versus country divide" that is often perceived to run through Australian politics.
The public's perception of how well offshore surveillance agencies are performing

Question Four offered the opinion: "The various agencies given the task of conducting surveillance in our offshore area for intruders are doing an excellent job" and asked for a response. The finding in brief for this question was that most Australians think those who conduct surveillance are doing a good job.

Thirty-two respondents stated that they "Agree very strongly" with that statement; 99 stated that they agreed strongly; 293 agreed, and 222 disagreed with the statement, while 154 either did not answer that question or stated they did not have an opinion.

Expressed in percentage terms that response looks like this:

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**Chart 9.13**

How Australians feel about the statement "The various surveillance agencies given the task of conducting surveillance in our offshore area for intruders are doing an excellent job"

- No opinion/no answer: 19%
- Disagree: 28%
- Agree: 37%
- Agreed strongly: 4%
- Agree very strongly: 12%

**Chart 9.14**

Levels of satisfaction with our surveillance agencies in percentage terms
Slightly over half of the respondents think a good job is being done. However, the dissatisfaction percentage is significant: over a quarter of those surveyed are not happy with our surveillance.

**The public’s perception of how well offshore interdiction agencies are performing**

When it came to interdiction the respondents were asked how strongly they agreed with the statement: "The various agencies given the task of apprehending possible offenders in our offshore area are doing an excellent job." Twenty-seven people very strongly agreed with the statement; 117 strongly agreed; 289 people agreed with the statement; 226 disagreed with the statement, and 142 could not give an opinion.

![Chart 9.15](chart915.png)

This measure of opinion is quite similar to that expressed in answer to the previous question. A substantial degree of dissatisfaction can be seen, but overall the majority of people think those charged with interdiction are doing a good job.

![Chart 9.16](chart916.png)
The public's perception of how effectively court processes are being administered

Question Six asked respondents whether they agreed with the statement: "The court process applied to possible offenders in our offshore area is being administered effectively".

Seventeen people said they agreed very strongly with the statement; 61 said they agreed strongly; 274 said they agreed; 341 said that they disagreed with the statement, 34 gave no answer and 151 marked "No opinion", giving a total of 185 who could not answer this question. Expressed graphically this looks like the figure below:

![Chart 9.17](image)

Of interest here is the large expression of disagreement with the statement, reflecting a large measure of dissatisfaction with the court process. If we look at the total agreeing as opposed to the total disagreeing we can see that they are almost the same.

![Chart 9.18](image)
This finding perhaps reflects general public disillusionment with the court system. There is some 1997 statistical evidence from Roy Morgan Opinion Polls\textsuperscript{14} that the general public does not rate lawyers highly, in that they received a rating of 29% "for maintaining high or very high standards of honesty and ethics". This rated down the scale after nurses (86%), pharmacists (80%), doctors (66%), bank managers (32%), Ministers of Religion (55%), opinion pollsters (29%) - here were lawyers (29%) - rating above TV reporters (11%), State Members of Parliament (9%), Federal Members of Parliament (9%), newspaper journalists (7%), car salesman (3%), newspaper journalists (7%) and advertising people (8%).

Lawyers have been steadily falling in the public's estimation, according\textsuperscript{15} to Roy Morgan, since polling began:

\begin{verbatim}
Year:    76, 79, 81, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97
Approval: 43, 41, 38, 41, 44, 41, 39, 41, 41, 37, 38, 34, 32, 30, 32, 29, 29
\end{verbatim}

Although dissatisfaction with lawyers in not showing beyond doubt general dissatisfaction with the judicial process as a whole, perhaps it is indicative of some disquiet.

Question Seven asked for opinions on the statement: "The penalties applied to arresting illegal fishermen in our offshore area are effective in deterring repeat offences".

17 respondents agreed very strongly with the suggestion; 26 agreed strongly; 143 agreed that "the penalties applied to arresting illegal fishermen in our offshore area are effective in deterring repeat offences". However, 463 disagreed with the suggestion, while 110 marked "No opinion" and 31 left the question unanswered. In summary, we can say that Australians in general think penalties applied to arrested fishermen are not effective in deterring further offences. Graphically, this looks as follows:

\textsuperscript{15} Roy Morgan web site http://www.roymorgan.com.au
The extremely strong disagreement factor can be judged more effectively if it is compared to the total number of those agreeing with the statement:

Question Eight asked respondents to what extent they agreed with the statement: "The costs involved in arresting and detaining illegal fishermen in our offshore area are an effective use of government funds".

Sixty-eight agreed most strongly with the statement; 116 agreed strongly, with 253 agreeing. 248 disagreed with the statement; 79 marked "No opinion" with 36 not answering at all.
On a comparison of agreement with the question to those who disagreed, we can see that expressed graphically:

Australians in general think spending money in this area is right and proper.

The public's perception of the effectiveness of penalties applied to illegal immigration

Question Nine asked respondents how strongly they agreed with the statement: "The penalties applied to arresting suspected illegal immigrants in our offshore area are effective in deterring repeat offences". The result was a polarization towards the
negative: 16 agreed very strongly with the statement; 40 agreed strongly, while 131 agreed. However, 484 people disagreed with the statement. 95 marked "No opinion", and 34 did not answer the question. Expressed graphically this looks like:

![Chart 9.23](image)

Comparing the total of people who agreed in one form or another with those who disagreed with the statement produced:

![Chart 9.24](image)

As with illegal fishing, Australians think the penalties applied to illegal immigrants do little to dissuade further immigration attempts.

**The public’s perception of the effectiveness of the costs applied to illegal immigration detection and arrest**

In Question 10 respondents were asked to what extent they agreed or disagreed with the statement: “The costs involved in arresting and detaining suspected illegal immigrants in our offshore area are an effective use of government funds”.

The answers were a strong sentiment of agreement, but an almost equally strong sentiment of disagreement. 50 respondents agreed very strongly with the statement; 74 agreed strongly, and 258 agreed. 293 people disagreed, and 89 said they could not express an opinion, while 36 did not provide any answer. Expressed graphically, this looks like:

The percentages of total agreement statements as opposed to disagreement look like this:

In interpreting this answer, it is interesting to ponder that a statement of disagreement does not necessarily mean the respondent thinks government funds should not be used in this manner. They may think that methods used are not effective enough, for example. This might be the case throughout this question and the previous five.
The public's feelings on spending more money on the problem

Question 11, the final question, asked for respondents' feelings on the question: "Presuming it was spent on more patrol time or the purchase of more equipment, how would you feel about spending more government money on patrolling our offshore area?".

Four hundred and sixty respondents said: "Yes, we should spend more money"; 166 said: "The amount of money spent is about right", and 106 respondents said: "No, we should not spend more money". 62 respondents did not answer the question.

Expressed graphically, this looks like:

Chart 9.27

Given that the second and third responses could have been better phrased and are much the same question, the answer can be reshaped to ask if we should spend more or keep spending the same. Expressed graphically in that form without the "no opinion" section, that looks like:
Broken down by State or Territory, the feeling was almost equally strong in Melbourne and the Northern Territory, with the strongest feeling being in the ACT and the lowest in NSW. Again, this strong response within the nation’s capital may indicate an awareness of Australia’s situation as a nation, as opposed to an insularity within Sydney residents.

It should be noted that a response of "No, we should not spend more money" does not necessarily mean that the respondent thinks the money is foolishly spent or that illegal fishing and/or immigration is a good thing for Australia. For example, Sydney
respondent #32 commented: "Should cut down spending as it's not effective". This seems to indicate a degree of resignation towards the problem.

Interestingly, in another survey, relating to the *Tampa* incident of 2001, the attitudes of respondents in NSW were significantly closer to the attitudes of the "border states" of Western Australia and the Northern Territory. A total of 2058 respondents were asked by phone the question:

Last Monday, the Prime Minister, Mr Howard, refused to allow a ship carrying over 400 asylum seekers to enter Australian waters. Do you agree or disagree with Mr Howard's decision? Is that strongly agree or agree/strongly disagree or disagree?

*The Sydney Morning Herald* reported: "There are significant differences across the States, with the ACT and Victoria more likely to oppose the decision, and Western Australia and Queensland the most strongly supportive". 

<table>
<thead>
<tr>
<th></th>
<th>Agree</th>
<th>Disagree</th>
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<tbody>
<tr>
<td>WA</td>
<td>82%</td>
<td>14%</td>
</tr>
<tr>
<td>Qld</td>
<td>79%</td>
<td>17%</td>
</tr>
<tr>
<td>NSW</td>
<td>78%</td>
<td>20%</td>
</tr>
<tr>
<td>SA/NT</td>
<td>76%</td>
<td>22%</td>
</tr>
<tr>
<td>Tas</td>
<td>75%</td>
<td>25%</td>
</tr>
<tr>
<td>Vic</td>
<td>73%</td>
<td>24%</td>
</tr>
<tr>
<td>ACT</td>
<td>51%</td>
<td>47%</td>
</tr>
</tbody>
</table>

**Respondents' Further Comments**

The final category of respondents' opinions was the comment they could make at the end of the survey. As explained in the previous chapter, those comments have been sorted into seven different categories. Those categories gave the following numerical response:

- Penalties on fishermen should be a lot harsher - 12
- Penalties against illegal immigrants should be a lot harsher - 11
- Penalties on fishermen and illegal immigrants should be harsher - 44
- Better and more effective forms of management - 46
- Spend more money - 18

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- We can accommodate illegal fishing and immigration - 7
- Advertise system more - 8

The number of respondents who made a comment out of the total number is not a large percentage of the whole:

![Chart 9.30](image)

Charted against each other the answers may be seen as:

![Chart 9.31](image)

Therefore it may be seen that there is a large percentage of the respondents who made a further comment who wish to see heavier penalties against illegal fishermen and illegal
maritime border transgressors. A slightly higher number wish the agencies charged with our coastal protection to be better managed.

To begin summarizing, Australians (in the survey period) are largely confused about who conducts Australia's surveillance. They also have some strong feelings on it.

- Most people (wrongly) think the Navy carries out coastal surveillance.
- Most people (correctly) think the Navy carries out coastal interdiction.
- Australians think our waters are being heavily poached.
- Most Australians think those who conduct surveillance are doing a good job.
- A majority of Australians think those charged with interdiction are doing a good job.
- Most people think the court process as applied to possible offenders in our offshore area is being administered effectively.
- Australians in general think penalties applied to arrested fishermen are not effective in deterring further offences.
- Australians in general think spending money in the area of detecting and apprehending illegal fishermen is right and proper.
- Australians think the penalties applied to illegal immigrants do little to dissuade further immigration attempts.
- Australians think the costs involved in arresting and detaining suspected illegal immigrants in our offshore area are an effective use of government funds.
- Presuming it was spent on more patrol time or the purchase of more equipment most Australians feel we should spend more government money on patrolling our offshore area.
- A large percentage of Australians wish to see heavier penalties against illegal fishermen and refugees.
- A large percentage of Australians wish the agencies charged with our coastal protection to be better managed.

One aspect of the whole survey is that if government policy has been largely reactive and that public opinion has been an important influence on government policy, it is significant that public opinion, while strong on the issues of surveillance and interdiction, is poorly informed on these issues. Governments may well have been receiving some scrambled signals.

Another implication of the survey is that a deterrent factor in patrolling the EEZ is important. For example, if certain members of the general public are in doubt about the
effectiveness of surveillance and interdiction, then they might co-operate in the construction of an illegal immigration "racket". It is would seem to be the case – as indicated elsewhere in this paper - that suggestions of this nature have been made in the case of Chinese illegal immigrants. The scenario might be likened to that of the visibility of police on the streets - if the police are visible then crime is contained.

Third, the public are vehemently opposed to anyone illegally fishing in Australia's waters or bringing in illegal immigrants. Further, the public thinks that the judicial system is too lenient on such offenders. Lastly, the public wants something done about the situation, and it is willing to see governments spend money on the problem.

It is interesting to examine whether indeed such public reactions are indeed drivers of government policy reaction and change. John, citing Heclo and Wildavsky (1974, 82), says that "policy emerges through the roles and values of the participants rather than through debate in the wider democratic process". In this case it may well be that the general public are participants rather than mere disinterested observers. We might well reflect on the extremely wide and vehement debate that surrounded the *Tampa* scenario. Public opinion is therefore identified as a powerful actor in the model of "vertical" and "horizontal" axes of the policy process. It is suggested that those authorized to formulate policy within the responsible government institutions (the vertical dimension) are affected by "the cross or intra-organisational relationships which involve negotiation, cooperation and continuing interaction between multiple participants", that is, the horizontal dimension (Matheson: 2000, 44). Such is the measure of the power of public and the media opinion on the modern governments of Australia.
Chapter Ten: Reactions to Australia's Surveillance and Interdiction Effort as expressed in the media
Chapter Ten. Reactions to Australia's Surveillance and Interdiction as expressed in the media

The media, particularly within liberal western democracies such as Australia, Britain and the USA, exert a considerable amount of strength in their ability to make government policy. The words government policy are used deliberately here, and to illustrate the amount of strength the media has, an example will be discussed at some length. Prior to that however, the structure of the media and the ramifications upon its strength of that structure is analysed.

The ownership of the media within Australia is a factor bearing upon its power to influence public opinion, and through that, government policy-making. A 2001 Federal Parliament report noted: "...effective functioning of a democracy requires a diverse ownership of the daily mass media to ensure that public life be reported in a fair and open manner".¹ The concentration of the media within the hands of a small group of owners can, many suggest, allow their political leanings to be ingested, both overtly and subtly, by consumers, sometimes without question, as factual reporting within the medium. The Commonwealth's legislative controls on media ownership can be divided into two broad categories: specific controls relating to broadcasting contained in the Broadcasting Services Act 1992, and generic controls relating to commercial activity such as those contained in the Trade Practices Act 1974 and the Foreign Acquisitions and Takeovers Act 1975. The former controls derive from the Commonwealth's power to make laws with respect to electronic communications under section 51(v) of the Constitution, and the latter from the Commonwealth's powers regarding trade and corporations.²

Australia has a wealth of media outlets, including the Government-owned (but not controlled) Australian Broadcasting Corporation, and the Special Broadcasting Service. Of the private media ownership, the most powerful actor is News Limited, the Australian subsidiary of News Corporation, chaired by Mr Rupert Murdoch. It has interests in more than one hundred national, metropolitan, regional and suburban newspapers throughout Australia. In terms of its (2001) share of circulation, News Limited has 67.8 per cent of the capital city and national newspaper market; 76.1 per

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cent of the Sunday newspaper market; 46.6 per cent of the suburban newspaper market, and 23.4 per cent of the regional newspaper market. Other significant owners are Publishing & Broadcasting Ltd (Chairman, Mr James Packer), which owns the Nine Network and the magazine publisher, Australian Consolidated Press. PBL controls one regional and three metropolitan television licences, giving it a reach of 51.5 per cent of the potential audience. In pay TV, it has a 25 per cent interest in Foxtel and a 33 per cent stake in Sky News. It publishes over 65 magazines and its share of the circulation of the top thirty Australian magazines is 41.5 per cent. A third major actor is John Fairfax Holdings Ltd, an Australian publishing group which owns 21% of the capital city and national newspaper market; 23% of the Sunday newspaper market; 18% of the suburban newspaper market; and 15% of the regional newspaper market. They also own AAP Information Services, three magazines, and the (online) Fairfax Interactive Network.

Although there are around 15 other organisations which “own” the media within Australia, it can be seen that the majority of information consumers are given comes from the key players as outlined above. Although the Internet has reached maturity in the last five years, significantly, Australian Broadcasting Authority research in 2001 indicates that most people still rely on the traditional media as their source of news and current affairs. The ABA study reveals that 88 per cent use free-to-air television as a source of news and current affairs; 76 per cent use radio; 76 per cent use newspapers; 10 per cent use pay television; and 11 per cent use the Internet.

The ABA has undertaken research into how program content is affected by the media proprietors' commercial interests. The ABA study involved a survey of 100 news producers and in-depth interviews with 20 key news producers and media experts. Among its conclusions were that it was broadly accepted that news producers will be influenced by their proprietors' interests. However, news producers seemed eager to compartmentalise occasions where they might compromise their editorial integrity (for example, the commercial operations of their own outlets) and also stated that they have an independent judgment of newsworthiness on all other issues. Ownership interference was sometimes explicit, but more often described as a subconscious pressure which led to self-censorship. Some news producers reported no experience of ownership pressure.
The media and the timing of the pressure it can exert has changed, and is changing, over the years, due to changes in technology, particularly given the partnership of radio and modern communications. Now, opinions can be mobilised by a fiery debate on radio; telephones employed to a) contribute to the debate, and b) generate further pressure with calls to policy actors, such as politicians and bureaucrats. Now, as The Australian's senior journalist Paul Kelly says: “There was once a time when public opinion was mobilised at street rallies, town halls, from the pulpit or around the trades hall. Forget it. Radio jocks are the new mobilisers and organisers of mass opinion”.

The standards of the media within Australia are also often, according to some commentators, suspect indeed. Former Prime Minister Paul Keating thought: “It is an industry that operates behind a cloak of secrecy and insider knowledge. It is riddled with nepotism, back-scratching and interlocking interests in a way that would bring snorts of admiration from the members of the Melbourne Club in 1960”. The Australian's Paul Kelly outlined some of this further in his discussion of how some media personalities manipulated their audiences: “The savagery of their language not only reflects the anger within the community - it magnifies and inflames that anger. They manipulate the outrage.” He concludes: “The jocks delegitimise the politicians to build their own credibility and ratings. Remember: all demagogues claim to speak for the people.”

The chapter will explain how, in the case of reporting the Collins-class submarines, for instance, the media pursued a slanted presentation of the issue despite evidence to the contrary. Many commentators claim that the media is biased. For example, in the recent war against Saddam Hussein, commentator Gerard Henderson suggests “…it appears that most (but not all) members of the Canberra press gallery privately disagreed with the Howard Government’s decision to deploy, and subsequently commit, the ADF to war”. Henderson then went on to document various examples of media hostility. He cited the ABC television program The 7.30 Report on March 13, March 18 and March 31, and Catherine McGrath on ABC Radio’s AM on January 24 and January 30 to demonstrate the point. He referred to “the bad language expressed by some veteran

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media commentators”. Alan Ramsey, Phillip Adams, and Terry Lane were named, all of them veteran reporters with a left wing bias, and Henderson suggested that their opinions “conflict with the basic patriotism of the vast majority of Australians”.

However, for all of the above, it is possible to find instances where a left-wing government accuses the media of unfair treatment. For example, the-then Leader of the Labor Party, Kim Beazley, gave in February 1998 what his senior party member Gareth Evans described as “the most important and substantial economic speech of his time as Opposition Leader”.\(^{10}\) It contained three policy commitments: to produce Budget surpluses throughout a Labor government’s first term; to produce monthly reports on the Budget implications of new outlay and revenue measures; and to support the Reserve Bank’s underlying inflation rate target of 2-3 per cent over time. The speech was given saturation distribution. Yet this produced no more than a few inside-page inches in the print media, except for an editorial in the Brisbane Courier Mail, and business page coverage in The Australian. A little appeared on ABC radio, but Evans was of the opinion that it was “more or less invisible on commercial radio”.

Indeed, the media quite often can be accused of bias towards a political party by both sides at once. For example, the editor of the Tasmanian Examiner cites his experience of his newspaper being labeled a major cause of the Tasmanian Labor Party’s defeat in 1969, only to be accused six months later of trying to destroy the new Liberal government.\(^{11}\) Of course, if a newspaper, radio station or television station is indeed biased, then it is easy to see why many community members would be concerned, for the power of the media is considerable. This chapter will demonstrate that power in the case of making border protection a major issue for government. It is difficult to measure, but Sarah Pinto (1997) points out some degree of this:

> ...if the media indeed promotes slanted news which is permeated by the views and opinions of the Government of the day, it would effectively corrode the ability of the public sphere to carry informed, unbiased and unslanted debate. Rather, the media would tend to set an agenda which is primarily that of the Government, regardless of their policies....The implications for democracy are enormous.\(^{12}\)

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And indeed, the content matter of the media, as Keith Windschuttle (1984, 242) notes, is extremely significantly. 45% of the content matter of talkback radio in one survey was about politics. A survey on any one day of the larger Australian newspapers such as The Australian, The Sydney Morning Herald, and even the "tabloid" press such as The Daily Telegraph supports the suggestion that much of their "news" content is about current political matters, even though some of this takes a discerning eye to realise. For example, an article implying a judicial sentence is too light may actually be a criticism of the politics of a current government. Public opinion as expressed in the "Letters to the Editor" columns becomes an aspect of media power in so far as this is accepted as a gauge of the popular view.

An example of the impact the media have on government policy-making is now given. It is shown how:

- the building, deployment and operations of the Collins-class submarines for the Royal Australian Navy were distorted by the national media of Australia into effectively lessening the deterrent value of the submarines;
- the submarine construction company were effectively denied overseas sales;
- the morale of the submarine crews was effectively decreased to disastrous levels;
- the submarines were altered in the Australian public's view as capable weapons.

The Collins-class submarines arrived at a situation where they are most likely seen as "dud submarines" because of negative reporting made by a large section of Australia's media. The project was an ambitious one: to build submarines for Australia's Navy, although the country had never done this before, and moreover to deliver an efficient "hunter-killer" submarine that would have considerable range, power and efficiency. Although high parameters were therefore set, when the vessels experienced problems they were set upon by the media mercilessly. Headlines were seen such as:

- "More flaws in sorry subs". (The Sun-Herald. 8 August 1999)
- "The Collins sinks to the bottom of the class". (The Sydney Morning Herald. 26 May 1999)
- "Dud subs. $5bn stealth boats loud as rock concert". (The Daily Telegraph. 8 October 1998)
All of the media reports illustrated above were ill-informed, inaccurate and often simply wrong. Occasional pieces did seek to correct the perception. However, the reporting was generally one-sided: the submarines were badly-designed; riddled with faults, and would not – if ever – work properly.

This is quite contrary to reality. In noise terms the Collins was simply not as quiet as it might have been. To read the articles in the newspapers, a member of the public would be excused for thinking that a generic “any warship” would be able to hear the submarines underwater. Yet it would take a very capable sonar suite to detect the Collins-class boats even then. The Collins-class was simply not “state of the art”.

There were indeed problems with the combat software, and they seem to have emanated from the contract which specified it being written in restrictive terms, which meant the fitted software was old by the computing standards in parallel industry. These problems were all remedied.

On Friday 7 July 2000 the Financial Review carried a piece entitled: “Collins-class sub shines in Hawaii war games”. The article reported that the submarine Waller:

...penetrated powerful surface and underwater defences to take close-in photographs of the US aircraft carrier Abraham Lincoln through its periscope during last month’s RIMPAC 2000 naval exercise off Hawaii. HMAS Waller also managed to avoid detection by both surface ships and US Los Angeles class nuclear powered attack submarines throughout the RIMPAC exercises....it evaded US, Japanese, Canadian, Chilean, Korean and British forces – and provided photographic proof that it was well within torpedo firing range of a major and heavily defended US prize.

Notably the article appeared in no other newspapers at the time, yet presumably they had the same access to Navy information that the Financial Review did. It would appear that many of the newspapers had their own agenda: to permanently report the submarines in the same thematic light that they always had used. The media effectively had driven the Australian government and the RAN into damage control mode; meaning that deciding on more submarines of the Collins-class would be a risky political decision, and effectively closing the door to export sales. It is important to note that in the last two cases successive federal governments would be driven to making policy decisions governed by voter backlash rather than security of their nations. In other words, the Australian government might have perceived that security-wise we would be
better off with say, 12 submarines, but that it would not make that decision because the Collins-class were seen as poor value. Similarly a foreign government would be alienated from considering the Collins boats as a purchase because of the bad press.

To summarize the above, it is suggested that the media in Australia are powerful enough to influence government policy. Furthermore, it is suggested that public policy in the area of coastal surveillance and interdiction has been driven by public alarm generated by media pressure, which is at times illogically argued. It is further argued that the print media provides a very strong indicator of public feeling.

The first measure of this role that has been chosen for discussion here is letters written for the media by members of the public; generally appearing as what are known as "letters to the editor". To get such a letter into print is quite a lengthy process, and indicates unusual determination on the part of the writer. First of all the writer has to feel strongly enough about the issue to find the time to write the letter - for those of who do not write regularly that may indeed be a barrier. The letter must be physically mailed. That can be done through the regular postal service, necessitating finding the envelope, addressing the letter and investing the (at the time of writing) forty-five cents necessary, at least in Australia, for the letter to be handled by the postal service. Today there is also the possibility of transmission via facsimile or email, but to use those one must have access to the appropriate technology.

To add to this measure of difficulty one's letter must arrive on time for the issue to be still in the public eye, and the letter must compete for space against other issues and other writers' attempts. There may indeed be a vetting process operated by the letters editor to ensure enough of a certain type of letter is published to fit the newspaper's political stance, if it has one. Eventually it may be published.

All of this might sound simplistic. However, when the literacy of the general public is determined - and we can therefore discount many who might like to get a letter into print, but who lack the means to do so - and also the time demands placed on many adults in modern society, we can assume it is a determined effort on the part of the letter writer to express an opinion. The weight of opinion of letter writers is therefore deemed important to this study, and it has thus been measured.

There are further indicators of public opinion employed every day in the newspaper media. Articles commissioned from journalists by the newspaper's editing staff;
editorials written by senior reporters, and editorial cartooning are all indicative of public opinion. An issue will only receive an article's licence in a newspaper if it is judged there is sufficient current public interest in it; similarly too an editorial comments on current matters, and so too does a cartoon receive its significantly placed space allowance.

It is further important to note that the selection of a topic by a newspaper indicates its currency. What is featured in The Australian, for example, is editorialising, writing and cartooning on matters that interest the public at the time an event takes place. The choice of theme in this type of media is different to the choice of content in a "gossip" magazine such as Who Weekly, and to a certain extent different to even a current affairs magazine such as The Bulletin. For the latter to commission space about a subject it must already be of considerable importance.

Newspapers, although flawed in that they are edited, therefore provide a further means of expressing current and developing public opinion, thus contributing to an examination of policy development. Different aspects of a typical newspaper were used in this study to measure that opinion. Media is further important in that it shapes the public perception of societal events and whether or not they need change. To refer to the model set out in Chapter Two, we can recall that the general public's feelings are important in making a political party sense change is necessary. The public is largely informed by the media - one of the reasons media control is an important and often controversial issue.

To gauge media comment on the effectiveness of our surveillance and interdiction mechanisms four newspapers were surveyed for these four types of comment on a range of illegal fishing and immigration incidents.

The incidents were:
- 1976 Taiwan fishing trawler arrests
- 1978 Korean/Taiwan fishing rights argument
- 1980 news as a result of the 200 mile limit proclamation
- 1981 Immigration arrivals
- 1989 April -11 foreign illegals
- Bangladeshi illegal immigrants
- 1989 April illegal fishing surge
- 1991 March illegal fishing surge
- 1979 Refugee influx
- 1981 Fishing incursions
- 1986 Indonesian refugee landing
- 1988 October illegal fishing surge
- 1989 October illegal fishing surge
- 1992 Montague Sound SIEV
• 1994/5 Dec/Jan SIEV influx
• 1994 November Nightcliff SIEV landing
• 1994 SIEV 5km off Darwin detection
• 1995 March SIEV Chinese "miss"
• 1997 Sri Lankan SIEV landing

Methodology

The methodology of inclusion saw articles taken from the media within 14 days of the incident first appearing in the media. All newspapers included their weekend editions; and the articles used were those expressing opinions, rather than reporting fact. Editorials, letters to the editor and cartoons were taken as expressing opinion.

10.1 - example of a typical editorial
10.2 - example of a typical article of opinion
Duplications of an article in another publication were interpreted as only one mention of the article - for example, *The Australian* and the *Northern Territory News* are both newspapers in the Murdoch stable and this therefore means that the same article might appear in both publications.

The opinions were sorted by means of a specially written database. The methodology utilised may be inspected at Appendix Five. The process of collection necessarily took a great deal of time to complete, as the individual newspapers had to be perused manually for a period after the incident. It should be noted that articles which did not deal with the topic of this paper were ignored – therefore an article which dealt with illegal immigrants’ repatriation was not included, as this paper deals with the processes before determination of illegal immigrants’ status; incarceration and eventual release or repatriation. Six samples of the tabulations may be inspected at Appendix Three.

Eighty media comments from four publications were analysed. These newspapers were *The Australian*, *The Courier Mail*, *The Sydney Morning Herald*, and the *Northern Territory News*. 19, 15, 5 and 41 respective comments were collected. The disproportionate number of articles found in the *Northern Territory News* reflects the immediate impact of illegal fishing and illegal immigration on the Northern Territory. Many of the incidents had a local impact on the Northern Territory, with captured fishing boats being a daily sight on Darwin Harbour, and with illegal immigrants even occasionally coming ashore in the Northern Territory, to the surprise of locals.
The 80 newspaper items were sorted into the categories of article; letter to the editor; editorial and cartoon. 36 articles; 16 editorials; 17 letters to the editor and 11 cartoons were obtained.

When analysis of the writers’ opinions were measured it was found that they were universally critical. This is not surprising, as people can be said to be usually not motivated to write to a newspaper congratulating an organisation for simply doing its job. Rather, as the list above illustrates, these opinions were all motivated by a breakdown in the usual procedures of surveillance and methodology.
The recommendations of the various commentators are itemised as follows:

12 - Greater penalties
3 - More Coastwatch resources
5 - More Defence efficiency
2 - Better intelligence
11 - More Coastwatch efficiency
9 - Improve efficiency and resources all round
5 - No real recommendation
2 - Change Immigration Policy to let illegal immigrants stay

It was previously suggested that the public alarm generated by the media which influences government policy was sometimes illogically thought out. The absence and accuracy of media comment also gives some interesting insights. On 11 November
1996 the *Northern Territory News* reported "36 Iraqi boatpeople nabbed at Ashmore". The article occupies two-thirds of a page and contains two photographs and a cartoon. But it is only at the end of the article that we find that a Commonwealth vessel is stationed at Ashmore Reef and the arrival of these illegal immigrants was noted and acted upon in full accordance with procedure. Yet to look superficially at the article the reader would be excused for thinking that yet another illegal incursion had been made in defiance of the best efforts of the authorities.

It might be said upon further analysis that a fairly sensationalistic line of journalism has been taken in the coverage of illegal fishing and immigration surveillance and interdiction breakdowns. The text of the majority of articles is one of excitable generalization, with an incident from early 1992 providing suitable examples. These are all articles of opinion or editorials:

"...the 56, whom the authorities almost certainly knew were en route to Australia, were able to avoid naval patrols and Coastwatch flights". *Sunday Territorian*. 1992. "Australia must face up to tidal wave of poor". 26 Jan. 17.


"There is a lesson here. It is that if a few dozen Asian boat people have no trouble landing here, neither would a...squad of commandos...or for that matter, drug runners...". *Northern Territory News*. 1992. “North Open to Attack”. 18 Jan. 11.

"Those rescued looked too healthy....anyone who enters this country illegally is...abusing our system...Australia doesn’t have a hope in hell of successfully defending its vast coastline". *The Courier-Mail*. 1992. “Don’t burn the boats, we may need them!” 25 Jan. 15.

...border posts should be established...and manned by a combined force of Customs, Aboriginal trackers and Reserve forces". *The Courier-Mail*. 1992. “Heart must give way to head on illegal immigrants”. 23 Jan. 8.

But a look at these serious extracts gives a universal tone of throwaway solutions. "...able to avoid naval patrols and Coastwatch flights..." implies the target boat
possessed a subtle means of avoiding minor war vessels and aircraft, most of which would not be targeted onto the vessel until a patrol had spotted it.

"...the failure to spot the marooned Chinese confirmed the appraisal of defence experts..." Which "experts"? they are not named or even hinted at in the article. Is there indeed anyone who works for "Defence" who is not an "expert" in one way or another?

"There is a lesson here. It is that if a few dozen Asian boat people have no trouble landing here, neither would a...squad of commandos..." An attack by another country on Australian soil with "commandos" would doubtless be made in time of heightened conflict when the defence scenario would be vastly different. Similarly, if the next article is implying a lack of defence readiness with "...Australia doesn't have a hope in hell of successfully defending its vast coastline" then this again is a strange piece of analysis. If it is suggesting that enemy groups of soldiers could penetrate our coastline undetected in time of conflict then that presupposes a vast knowledge of combat surveillance systems which are not illustrated in the article.

Some more examples. On 4 and 5 July 1997 ABC Radio and - briefly - the Northern Territory News, reported that 15 Sri Lankan boat people had landed in the Pilbara region of WA. They had apparently been delivered by a Taiwanese trawler after paying 300,000 "ruppea" - around $7,000 - each for the voyage. They spent three days wandering before being detained by Immigration officers. While a nearby station owner, Mrs Carol French, criticised the Immigration Department for not acting sooner, only one letter to the editor - in The Australian - was recorded by the four newspapers under study here.

This would suggest that the media by 1997 were taking illegal landings as part of a normal pattern. Whether that meant that people were writing less letters to the editor or having the same amount on that subject filtered out is impossible to tell, but any subject becomes not so newsworthy with constant exposure. Perhaps a process of media fatigue is at work here.

The media survey did not cover items relating to boat people and illegal fishing which were not concerned with commenting on the surveillance and interdiction process. So, for example, the entry of 135 boat people through Torres Strait in June 1997 was not covered, as the vessel was intercepted in a straightforward manner by a Customs launch.
There were no suggestions of inefficiency or for that matter, special efficiency, in that incident.

The generalized comments have continued to the present. *The Australian* newspaper noted in August 2001: “At Bathurst Island, five ethnic Vietnamese on a rickety boat are on their way to Darwin, 80 nautical miles further south”. The article suggests the five were missed by "Coastwatch, patrolling our shoreline with the help of the navy and the air force..." Of course, Navy does not act primarily in a surveillance role – they act in interdiction as requested by Coastwatch.

In general, therefore, media opinion on matters of illegal fishing and immigration surveillance and interdiction has been universally negative. Sometimes, however, they are a little ill-informed. In general, as regards coastal surveillance and interdiction, the writers want greater efficiency from the agencies concerned, and more resources allocated to the problem.

The perception of whether of not our surveillance and interdiction efforts are effective is important in maintaining a credible presence. If it perceived that Australia cannot patrol its borders; cannot sight illegal immigrants, illegal fishermen; smugglers and other criminals; and cannot interdict the same, then this acts as encouragement for others who would like to try the same routes and methods. Furthermore, a Federal Government that has signed Australia to international agreements on Conventions such as the Law of the Sea, will not be fulfilling that agreement, and will also be failing in its duty to its own citizens.

Reviewing the previous chapters, it can be seen that there is a substantial degree of public dissatisfaction with our coastal surveillance and interdiction process. There is a perception, rightly or wrongly, that the service is inefficient and cumbersome. On occasions this manifests itself in more than the already-analyzed media-expressed calls for action. For example, in mid-2001 advertisements in Western Australia called for vigilant patrols of the high seas. A group calling itself "Frontline Australia" advertised in the press saying it wanted to undertake patrols in international waters "without the constraints of political correctness". It called for people who believed in the cause, particularly those with military experience, to take part. The federal government's reaction was strong, warning of illegalities including piracy.14

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Public perceptions of the need for such measures as those advocated by "Frontline Australia" is fuelled by any failure on the part of the process, for despite a long and substantial track record of reasonable success, the successes within the surveillance and interdiction fields receive comparatively little publicity compared with the failures. Constant, usually inaccurate sniping from within the media has built a picture that is at odds with the steady success rate shown by the process in its manifestations of Coastwatch, Navy, Air Force, Immigration and occasional input from other agencies.

Two recent cases can be used as examples. The first concerns the landing by nine Bangladeshi nationals on the coast of East Arnhem Land on the weekend of 9-10 May 1998. These men claimed they were dropped off by a ship and had wandered along a beach for two days. They were eventually picked up by a Gove bus operator and taken to the Nhulunbuy police station.

In an editorial on 12 May 1998 the Northern Territory News headlined the case "Coastwatch red-faced" and suggested: "That they managed to slip in beneath the guard of Coastwatch and the navy must cause some embarrassment to officials in Canberra - something the illegals probably don't need". Presumably meaning that only if Canberra was embarrassed might they do something about the supposedly porous border. The editorial comment clearly shows a lack of understanding of how our coastal surveillance and interdiction systems work. Coastwatch do not have a brief to stop and search any ship transiting through our waters. The Bangladeshi nationals' claim that they were "dropped off" by a ship may well mean they were on board a small freighter transiting the Torres Strait - one of hundreds who do so every year. How Coastwatch are supposed to be able to see beneath the deck of any ship is a mystery that only the editorial writers of the Northern Territory News can reveal. Nor does the Navy have a brief of stopping transiting ships - something that would not sit well with Australia's UNCLOS understanding. Yet editorials such as this persist, and they manage to establish a picture that translates into a perception that our coastlines are "wide open".

This perception was probably what was on the mind of a commentator who spoke about an interesting domestic case which, it was suggested, had implications for coastal surveillance and interdiction. This was the tracking and eventual recapture of Australian jail escapees Brendan Abbott and Brendon Berichon. The case was described in a 19 May 1998 article in The Bulletin, which discussed a supposed "underground railway" out of the country:
A senior Australian police investigator, who asked not to be named, says:
"Coastal surveillance in northern Australia is a joke. The boats that bring the cannabis down from PNG will take you back if you've got the cash. Or you can jump a speedboat to Bathurst Island [north of Darwin] and get picked up from there".

It is not surprising that the "investigator" was unnamed. The supposed cannabis route is quite heavily patrolled, and it would be an interesting exercise for a criminal fugitive to travel to far north Queensland, find someone who was making a regular transit to PNG, and then travel there - to land where and to travel to where? Similarly, while arranging a speedboat ride to Bathurst Island would not be out of the question on the Darwin waterfront, it would be a very lengthy ride – probably at least three to four hours each way - and Bathurst Island is a large, quite well-populated island which is not exactly home to a strange southerner. Would the fugitive know the geography of the island so well as to be able to arrange to be at a presumably lonely beach where his ship-ride to unknown parts would make landfall? The fact of the matter is also that Bathurst and Melville Islands are directly in the transit route for many Royal Australian Navy patrol boat movements, and both islands are regularly overflown by Coastwatch. Yet with a throwaway remark gleefully reported in a national magazine the image of our insecure coastline is perpetuated again.

It is concluded therefore that the media is an important player in generating policy development on northern surveillance and interdiction. Spending funds on publicity should be an important part of the budgets of the various agencies if they continue to be the solution for the overall problem. Coastwatch itself might very well combine with its client agencies, as well as the Navy and the Air Force, to commission explanatory articles for various magazines and newspapers. They might also prepare the case well beforehand in clear explanatory media releases which could be supplied to journalists brought into the exercise. Indeed, a Review of Coastwatch, conducted by the Joint committee of Public Accounts and Audit, recommended this in 2001, although little sign of its suggestions have been sighted. It is clear an overhaul of the multi-agency process presently used is needed, and it might well produce better results. That is discussed in the next and final chapter of this work.

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15 From the author's personal experience within the RAN and in flying with Coastwatch.
Chapter Eleven: A Proposal for More Effective
Surveillance and Interdiction
Chapter 11. Proposals for More Effective Surveillance and Interdiction

This study examined and explained the inadequacies of Australian government policy responses to the challenge in regard to sovereign control exercised over Australia’s northern maritime frontier. It has been shown how the challenge was represented by persistent and repeated illegal incursions into Australia’s maritime zone from illegal fishermen and often-smuggled illegal aliens. It has been explained how and why the issue of control of Australia’s northern waters has developed as such an intractable public policy issue for Australian governments. Canberra’s policy response to this issue has been – at least up to 2001 - has been inadequate and irresolute. The management of Australia’s northern sea borders evolved in a haphazard fashion, using a variety of policy developmental models. "Demand driven" policy characterises Australia's management of its offshore assets. The management is still characterised today by a confused approach, although resolution has been seen since the *Tampa* incident.

The study has shown how Australia has through its history experienced incursions into its national waters and its internationally recognised zone of economic operations. It has summarised the two major types of incursion: fishing attempts and efforts by economic and political refugees to gain sanctuary or entry into Australia. Over this period under study, the number of detections and detentions of both illegal fishing boats and suspected illegal immigrant vessels has steadily increased in waters to Australia’s north. The increase attracted media and public questioning of aspects of Australia’s policy-making in this area.

The thesis examined infringement scenarios which confront Australia's security. During the period under discussion these problems have seen Australia make considerable policy, and responses to the problems. It has been shown how a host of agencies and departments have been formed or co-opted to formulate policy and carry out surveillance and enforcement roles. The study outlined the development of some of these agencies and their changing roles, and assessed their efficiency. To a minor degree, it outlined some reactions to similar problems within other countries.

It has been shown that Australian governments of the past and present, up until the arrival of the ship *Tampa* in Australian waters, have failed to act proactively in a key area of securing Australia; that policy has been made largely by events dictating change, and that this mindset and behaviour continue today, although this has changed to a degree with the *Tampa* incident.
The thesis examined the alternative models of policy development available to governments and analysed conceptual and methodological approaches towards policymaking in this area of Australian federal politics. The thesis established that confusion and mismanagement have beset the policies and management of surveillance and interdiction; that these problems still exist and, indeed, are in a state of flux, sometimes improving, and then lessening in effectiveness. It showed that figures representing some of incursion activities within the areas of surveillance and interdiction are inaccurate.

The thesis examined how public policy has been made in these areas. It shows that past and present federal governments have made policy in this area largely through events dictating change. It has been shown that confusion and mismanagement have beset policies and management of the offshore estate. The arrival of the *Tampa* was examined as a watershed for policy development in the area. It was shown that the policies governing surveillance and interdiction have been made in a manner whereby events dictated government action, attitudes and legislation, largely through reaction to public perceptions, attitudes and pressure.

The thesis studied detections and detentions of both illegal fishing boats and suspected illegal immigrant vessels within 10 years in Australia's northern waters. It outlined how a multitude of agencies, organisations and forces have been utilised in surveillance and interdiction, and showed that while the multi-agency approach has been somewhat effective, considerable confusion, distrust and competing agendas have resulted. The area of policy development in the area of border protection was shown as having become progressively more politically controversial over the period under study, and provoked considerably concern among some sectors of Australian society.

The legal context related to management of the offshore estate was outlined. The thesis defined the actors and agencies involved in the scenario, aggressors in the shape of foreign fishing vessels and illegal immigrant vessels, reactors in the shape of Coastwatch, the Royal Australian Navy, and neutral parties such as the Australian fishing industry.

The thesis charted statistically illegal immigration and illegal fishing activities as concentrated in waters to Australia's north and examined the dynamics of those nations' vessels violating Australian waters. The thesis outlined the history of both fishing and
immigrant incursions looking back into the earliest known charting of such activities within the country's history. A history of Australia’s surveillance and interdiction policies was presented, with examination of the formation and efficiencies of the agencies and actors involved in these areas. The mechanics of management were examined in a critical light. Fieldwork undertaken in surveillance and interdiction was drawn upon to give insight into the areas. The multi-agency approach to management was analysed; investigated and criticised. An outline of the multiplicity of agencies which have a stake in the surveillance process was mapped. Problems within the interactive process were outlined. The interdiction process was also demonstrated and analysed for problems.

Public attitudes and opinions expressed in regard to the history and effectiveness of Australian actors and agencies were measured through analysis of media players. A database of opinions was illustrated, drawn by survey of the Australian public, with emphasis on this area as a source for policy change pressure. The thesis proved the present situation derived from a model of reaction to such pressures, rather than forward planning. The opinion of the public into the capacities behind the surveillance and interdiction systems inherent in managing the offshore estate was charted, and it as established that it is generally negative. A strong degree of confusion within the consciousness of the general public was proven. The effects of such public opinion on policy making was shown. Mapping of opinions expressed in four newspapers in a variety of forms was shown. An analysis of media comment was made in complement to the public opinion survey.

In summary, it has been established that there is a long and diverse history of surveillance and interdiction in Australia's northern waters. These governmental efforts have been substantially challenged by illegal fishing and illegal immigration in the form of border crossing. Policy development to combat these problems has been reactive; divided, and sometimes ineffective. The general public of Australia and a substantial section of the media remain confused about the reality of the situation. Nevertheless, there is substantial determination within those sectors that the situation needs improvement. Despite improvements, a splintered and sometimes haphazard approach remains today in management of the situation.
A Proposal for more Effective Surveillance

One of the solutions to this multiplicity of agencies and the inevitable ensuing problems could be solved by the implementation of two changes. The first would be the development of a National Surveillance Policy, setting out target priorities, minimal and maximum engagement by the surveillance and interdiction platforms, procedures and policies. So, for example, coastal surveillance aircraft would be given a minimum amount of hours to be spent over a defined area, which would then be deemed to have effective coverage. This would be a precursor to the necessary second step.

The second solution is to hand over all surveillance and interdiction to the Australian Defence Force, and form a new bi-service department within Navy and Air Force - Coastguard. Secondment to this department should be as with any other department within the ADF - by posting - and the identification of where members are serving should not be by any other means than the norm: the wearing of sleeve insignia, for example. Special consideration should be given in the coastal surveillance area to the long-term retention of part-time personnel, who will provide local knowledge and advice.

Within the operations of the new "Coastguard" - for want of a name - where necessary for the legalities of interdiction, officers from the relevant civilian departments would be carried. Coastwatch would be closed down entirely, and their aircraft and equipment, in the main operated by National Jet, offered to the RAAF. Their pilots could be offered short service commissions within that arm of the ADF, and future training of RAAF pilots would not overlook streaming pilot personnel into the Coastguard. The expertise of presently employed pilots and observers should not be dismissed in the process of the new organisation – such staff could and should be inducted into the RAAF. Attention could be paid, too, to the role of pilots within the RAAF - why is it necessary for all RAAF pilots to be officers, leaders and managers, with the significant training cost those roles entail? Why not, perhaps, resurrect the role of sergeant pilot that was used capably by several air forces within World War II? These pilots could fly the less demanding coastal surveillance aircraft.

The new Coastguard might therefore be made up of:

- the Darwin-based patrol boats;
- the Cairns-based patrol boats;
- other designated naval vessels on a permanent basis;
- aircraft stationed at various RAAF airfields.

All of this would be funded by a separate budget which would not be part of the defence “vote” – rather it would be a separate item given to the Navy and the RAAF to utilise their assets in this way. The topic of funding is covered in more detail further on.

ADF elements could be deployed to work within Coastguard with funding transfers made as necessary to allow Coastguard to “pay” ADF departments for their expertise. In this way the warfighting funding would be left as sacrosanct and Coastguard deployment remains a secondary role for ADF elements outside Coastguard.

For example, a solution to the “black flights” problem may well be the radar detection of such offending aircraft by RAAF Airborne Warning and Control aircraft (AWACs) and/or JORN and then a subsequent direction for interception by Army Blackhawk aircraft.

![B737-700 IGW Aircraft and S-70A Blackhawk (Courtesy RAAF)](image)

The radar range\(^1\) of the (possibly) soon-to-be-acquired AWAC is at least 200 nautical miles – a considerable distance that would see light aircraft coming from a distance in enough time to be able to get an intercepting helicopter off the ground. Given that the cruising speed\(^2\) of the Blackhawk is greater than many light aircraft, a helicopter could “tail” the black flight aircraft, and vector in on it as it lands. The Blackhawk could carry tactical personnel for its own protection and for arresting purposes.

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1 B737-700 IGW Aircraft:
Max Take-off Weight > 171,000 lb; Dash Speed > 460 Knots; Cruise Speed > 400 Knots; Loiter Speed > 300-345 Knots; Operating Altitude > 29,000 ft. MESA Radar Long Range (200 nmi); 360 degree coverage in less than 10 seconds; Integrated IFF; Beam Steering; Interleaved multi-mode operation.

2 S-70A BLACK HAWK - SPECIFICATION. Performance figures at 16,864 lbs Missions Gross Weight: Maximum Cruise Speed at 5,000 ft 162 kts; VNE (not to exceed speed) 190 kts; Service ceiling 19,000 ft; Hover ceiling, out of ground effect (OGE) 10,600 ft; Maximum range at 5,000 ft 304 nautical miles. Source: RAAF Web site: http://www.dod.gov.au/RAAF/ 14 July 2000.
In essence, this simply changes which federal department runs surveillance. By uniting the two departments that presently carry that out - Coastwatch and RAAF - it is suggested there will be greater efficiency in the overall operation. (This is a timely reminder of the organisational problems the US Coastguard has had – see Chapter Eight.) RAAF operations could be further helped by moving one squadron of Orions north from South Australia to the Northern Territory. (This placement was previously criticised in the "Beazley Review"\(^3\).) While the Orions are necessarily a platform useful for surveillance of southern waters - including the distant Antarctic possessions and Macquarie; Kerguelan; Heard and McDonald Islands - having one squadron closer to the northern frontier would minimise non-useful flying time and maximise time over the EEZ. Admittedly there would be higher maintenance costs – the “washing” of Orions, for example, is a specialised function that requires certain equipment. (It might be noted that four Orions were deployed around the “Tampa period” for surveillance, and were based at Curtin RAAF Base.\(^4\))

All surveillance is therefore carried out by RAAF platforms, and any incidental intelligence affecting possible illegal immigrants, fishing, smuggling and other incidents involving surveillance and interdiction is passed directly to the ADF Intelligence centres. The ADF becomes responsible for all interdiction entirely, with Customs divesting itself entirely of coastal patrol boats, as does any other agency. The ADF's esprit de corp - which is well developed and very strong - would be a plus factor here too, and the tri-service mentality the ADF has been steadily fostering over the past decade with the innovation of bases such as Headquarters Northern Command would replace the alienated sectionalised approach which presently sees the relevant departments simply ensuring they are not in the firing line when - inevitably - something goes wrong.

Does this solve problems outlined previously within the surveillance process? They were defined as problems within communications, with personnel management, inter-agency squabbling, lack of expertise in gathering and processing intelligence, difficulties in applying funding, and the utilisation and permanent deployment of civilian personnel in the area of what may one day become a combat zone.


Communications within Defence - even amongst the three arms of the services - are streamlined to a much greater degree than they are with a multi-agency approach. The ADF has approached personnel management with innovative measures in the last ten years: exit interviews; retention bonuses; Quality Management Programs and more are all a fact of life within that organisation.

The ADF utilises its own Intelligence sections, which are largely integrated with a tri-service approach. These Intelligence sections have worked closely with outside agencies for a number of years, but more importantly, they are an integral part of the operational side of the Defence Force.

Finally, there is more than this which can be applied to overhaul Australia's coastal surveillance effort. Further innovative ideas could be encouraged and researched, and there are some in evidence. For example, Dr. John Bruni has recently outlined a role for airships in the surveillance process, in his article "Back to the Future: Airships in the Defence of Australian Sovereignty."

Surveillance is a task that requires neither speed nor manoeuvrability. What is needed is a crew that can stay on station for great lengths of time. For this, the rigid airship is ideal...It is fuel efficient, lightweight and can be supported by state of the art avionics...5

There is much more than this in Dr. Bruni's article; all of it logical and thought-provoking. It is an example of some of the innovative thinking that Australia might well apply to the problem. Similarly remotely-monitored underwater surveillance system such as that made by Sonacom might be trialed. These integrated sonar and communications systems could be laid in networks to monitor vessel approaches without the need for a human presence nearby.6

As this thesis was written events began to move in interesting directions. Recently, readers of The Age would have seen "Defence to test spy in the sky", a proposal to evaluate the pilotless Global Hawk “to watch coastal waters for illegal activities”.7 The aircraft received widespread further publicity on television.

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A Proposal for More Effective Interdiction

The current interdiction legislation does need review within the implementation of such change. The Fisheries Act, which empowers ADF personnel, and also ADF practice as approved by the Federal Government would need some reworking. Lieutenant Commander Cameron Moore (2002) has highlighted the legal possibilities of such a transfer of roles, and from his analysis, the legal situation can certainly be resolved satisfactorily. Matheson's argument (1998, 60) that "Policy-making is therefore the outcome of a process of negotiation and bargaining between a multiplicity of actors rather than of a rational calculation made by a single authoritative agent" can be seen to be well-illustrated. But once moving beyond that, this proposal would simplify and streamline the process: the ADF proposal aims at a "single authoritative agent" model.

The procedure whereby vessels are towed back to port would also need some rethinking to mitigate against any legal ramifications from the possibility of the arrested vessel sinking, as a 1996 Maritime Headquarters minute pointed out. This thesis has previously alluded to Commander David Letts' work on the subject, and it is worth noting that he concluded that "...there is no clear authority in international or municipal law, for the RAN to use force in support of fishery operations, despite the fact that the RAN has employed the regime of 'graduated escalation' for nearly thirty years". That anomaly has only been corrected in recent years. Some sort of legal rationalisation might be considered where the long laborious process of subjecting these fishermen to a lengthy expensive stay in various harbours is revised. For example, perhaps a summary offence (and subsequent penalty) could be enacted to keep the interdiction platforms longer on station. (It is noted that the RAN began the process of moving all of its patrol boat fleet north in 2001.)

This suggestion could be expanded upon to move all judicial processes literally offshore but still within Australia's EEZ and utilising Australia's legal processes. By using a fixed platform - perhaps a moored large freighter or an oil rig - the patrol boats would

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8 Minute: "Losses of Foreign Fishing Vessels under Tow or Escort". Headquarters Northern Command, Darwin, 19 July 1996. The minute noted that determining a vessel as unsuitable to tow would "create a class of vessels that would not be apprehended, diminishing the deterrent to fishing illegally within the AFZ".


10 Unclassified RAN signal of 12 March 2001: Relocation of WATERHEN and STIRLING Based FCPBs.
have a base to which they could bring captured fishing vessels. The judicial process would then be carried out at sea, perhaps by flying out magistrates, prosecution and defence lawyers to the site. Courts could be held on a regular or irregular basis and once guilt is decided (or not) the captured illegal fishermen could be brought onto one captured FFV, which would have been stripped of its fishing gear. They would then be towed back to their own waters. The captured FFVs would be sunk after due environmental processes or towed back to Australia.

Given such a scenario as that depicted above, the interdiction process is improved simply because the instrument of interdiction - the patrol boat - remains on station where it is needed the most. Crew morale would improve with two efficiency factors realised: the long, slow journey back to the mainland would be lessened or eliminated, and the frustration of knowing illegal fishing is going on "behind your back" as the patrol boat leaves with arrested vessels would disappear. This study recommends that the above scenario be investigated in actual detail: the logistical side; the judicial process; the costs involved.

From the viewpoint of possessing long-term strategic intelligence, we all realise that it is necessary for the ADF to retain its warfighting role in necessary capacities: the possibility of high-level conflict cannot be dismissed. Some critics may therefore argue that the extra responsibility of taking on further roles in areas of policing will divert money away from that important core function. The purchase of more Dash-8 aircraft might be prioritised over the purchase of F-18 upgrades, for example. The Navy might argue that they would be forced to purchase more Patrol Vessels as against two more submarines. In short, the country's long term ability to defend itself might be subsumed against a short-term need to police its borders and protect its maritime interests.

These are very valid concerns, and ones that must be handled in the introduction of a new responsibility, and constantly after that. To highlight and to cope with an extended role for the ADF separate budgeting\(^\text{11}\) of the coastguard function would have to be a necessity. Such an amount should be described in exactly that terminology - Coastguard. This emphasis and possible subsequent exhaustion of the funds will

\(^{11}\) This study accepts wholeheartedly arguments put forward in "Responsibility for Civil Coastal Surveillance: Why not the ADF?" by Squadron Leader Noel Tesch (1995). Tesch pointed out illogical cost arguments against the manning of coastal surveillance by the ADF. In addition, such arguments also usually fail to take into account the 24 hour per day crewing availability by ADF personnel - at no extra cost if their services are required for more than a normal working day. It would be interesting to see the total cost of rescuing Round-the-World sailor Peter Bullimore if a civil organisation had undertaken the rescue.
highlight for the ADF, its political masters and the general public, exactly what stresses and strains the policing of the country's borders is undergoing. The amount of funding given should be not less than the amount supplied at present to operate Coastwatch; should take into account the lessened expenditure of other agencies hitherto tasked within the area, and furthermore for the first tri-annual period should receive seed funding to establish new routines, equipment and personnel training. It would be necessary to lift numbers of uniformed Defence personnel in order to absorb the personnel necessary for the new effort - another recognition that the Coastguard program would exist beside, if not above and beyond the ADF's warfighting role.

If the policing role is overly strenuous and in any one period of budgeting the costs involved run over budget, then the new ADF version of Coastguard either comes to a halt or receives top up funding. Its personnel, their salaries known and offset for the year, are safeguarded, but if aircraft and patrol boat maintenance budgets, or flying or sailing costs are overrun due to unforeseen bursts of SIEV or fishing activity then those operations are stopped. These budgets are not supplemented by tapping into the warfighting role of the ADF. Only with such budget management would the essential core function of the country's Defence Force be safeguarded.

The reactive model of policy-making is therefore avoided. The multiple-actor approach is discarded. Policy becomes "a rational calculation made by a single authoritative agent", to echo Matheson again.

Such a change should not detract from the dedication and various successes the multi-agency approach has had. Over the last 20 years, there has been much to praise in the operations carried out by the personnel involved in the role of policing the country's borders. Nevertheless, the present arrangement has been largely dictated by events - as this study has repeatedly shown - rather than arrived at through logical analysis. The next 20 years may well see more of a threat posed for Australia's coastal security - and it would be well to plan for that threat now by wholesale revision rather than reaction.

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Appendix One – Arrivals of Suspected Illegal Emigrant Vessels and Suspected Unlawful Non-Citizens across Australia’s northern borders 1989-2001

The following DIMA lists show both the number of vessels and the number of people. Each entry gives the date, arrival location, codename of the vessels, and the number of people together with their ethnic origin. It also lists their fate - detention, return to country of origin etc. The author’s summarized totals for each year are listed in bold type next to the year.

1989 1 boat; 26 people

1.28 November 1989, Broome (Pender Bay) 26 – 20 adults, 6 children – plus 1 baby* (8 Chinese, 10 Vietnamese, 9 Cambodian). 18 refugee status, 1 humanit, 2 entry, 6 departures.

1990 2 boats; 198 people

2.31 March 1990, Broome (Beagle) 119 – 92 adults, 27 children – plus 16 babies* (34 Chinese, 9 Vietnamese, 92 Cambodians). 34 refugee status, 3 humanit, 18 entry, 80 departures.


1991 6 boats; 214 people


5.6 March 1991, Darwin (Echo) 35 – 18 adults, 17 children – plus 2 babies* (1 Vietnamese, 36 Cambodians). 26 refugee status, 1 humanit, 2 entry, 8 departures.


1992 6 boats; 216 people


13.28 October 1992, Dauan, Torres Strait (Mastiff) 11 – 9 adults, 2 children – plus 1 baby* (Romanian). 2 refugee status, 10 departures.


15.3 November 1992, Torres Strait (Otter) 2 adults (1 Somali, 1 Nigerian). 2 departures.

1993 3 boats; 81 people


17.5 December 1993, Broome (Quokka) 24 – 20 adults, 4 children – plus 3 babies* (Chinese). 9 refugee status, 6 humanitarian entry, 12 departures.

18.20 December 1993, Troughton Is, WA (Roger) 4 adults (Turkish nationals). 4 refugee status.

1994 18 boats; 953 people

19.1 February 1994, Cape Talbot, WA (Sting) 4 adults (Bangladeshi). 2 refugee status, 2 departures.


22.7 July 1994, Broome (Vagabond) 17 adults (Vietnamese ex-Galang). 5 refugee status, 2 entry, 10 humanitarian.

24.9 September 1994, Cape Leveque, WA (Xenon) 31 – 27 adults, 4 children (Vietnamese, ex-Galang). 30 departures, 1 escapee.


26.26 October 1994, Broome (Zebra) 22 adults (Vietnamese, ex-Galang). 22 departures.


34.23 December 1994, Darwin (Heron) 90 – 51 adults, 39 children (Sino-Vietnamese). 90 departures.


1995    7 boats; 237 people


42.29 May 1995, Darwin (Quail) 18 – 16 adults, 2 children (East Timorese). 18 bridging visas.

43.25 August 1995, Ashmore Islands (Rosella) 6 adults (Turkish). 6 refugee status.

1996 19 boats; 660 people

44.17 January 1996, Ashmore Islands (Sandpiper) – 4 adults (Iraqi). 4 refugee status.


51.19 May 1996, Ashmore Islands (Correa) 6 adults (Sri Lankan). 6 departures.


54.5 June 1996, Christmas Island (Freesia) 86 – 58 adults, 28 children (85 Chinese, 1 Sino-Vietnamese). 86 departures.


57.7 September 1996, Ashmore Islands (Iris) 7 adults (Iraqi). 7 refugee status.

58.9 September 1996, Ashmore Islands (Juniper) 5 adults (Iraqi). 5 refugee status.


60.3 October 1996, Ashmore Islands (Lambertia) 8 adults (Iraqi). 8 refugee status.

61.8 October 1996, Ashmore Islands (Melaleuca) 24 – 23 adults, 1 child (16 Iraqi, 8 Pakistani). 16 refugee status, 8 departures.

62.11 December 1996, Ashmore Islands (Nandina) 12 adults (10 Iraqi, 1 Algerian, 1 Moroccan). 11 refugee status, 1 depart.

1997 11 boats; 339 people

63.15 January 1997, Saibai Island (Oleria) 4 adults (Iraqi). 4 refugee status.

64.10 February 1997, Ashmore Islands (Pilliga) 7 adults (2 Iraqi, 1 Iranian, 4 Algerian). 7 refugee status.

65.6 March 1997, Darwin (Quercus) 70 – 54 adults, 16 children (70 Chinese). 70 departures.

66.23 March 1997, Christmas Island (Red Gum) 9 adults (Iraqi). 9 refugee status.

67.30 April 1997, Darwin (She Oak) 44 – 36 adults, 8 children (Chinese). 44 departures.

68.13 June 1997, Torres Strait (Telopea) 139 – 132 adults, 7 children (Chinese). 139 departures.

69.30 June 1997, Coral Bay, WA (Urtica) 15 adults (Sri Lankan). 15 departures.

70.25 July 1997, Christmas Island (Viola) 15 adults (8 Iraqi, 1 Afghani, 4 Algerian, 1 Sudanese, 1 Bangladeshi). 13 refugee status, 2 detention.

71.4 September 1997, Christmas Island (Waratah) 25 – 17 adults, 8 children – plus 1 baby* (3 Iraqi, 18 Afghani, 4 Algerian, 1 Sudanese). 24 refugee status, 1 detention, 1 depart.
72. 11 September 1997, Darwin (Xyris) 3 adults (2 Algerian, 1 Moroccan). 3 departures.
73. 14 November 1997, Ashmore Islands (Yulbah) 8 adults (Afghans). 8 refugee status.

1998  17 boats; 200 people

76. 7 February 1998, Ashmore Islands (Barcoo) 4 adults (1 Algerian, 1 Moroccan, 2 Senegalese). 3 departures, 1 refugee status.
77. 19 February 1998, off NW Kimberley Coast (Clyde) 11 – 10 adults, 1 child (11 Chinese). 11 departures.
78. 21 February 1998, off NW Kimberley Coast (Diamantina) 7 adults (Chinese). 7 departures.
79. 9 April 1998, Ashmore Islands (Eyre) 6 adults (Bangladeshi). 6 departures.
80. 9 May 1998, Gove (Fitzroy) 9 adults (Bangladeshi). 9 departures.
81. 27 May 1998, Ashmore Islands (Glenelg) 7 adults (Bangladeshi). 7 departures.
82. 5 June 1998, Ashmore Islands (Hawkesbury) 10 adults (Bangladeshi). 10 departures.
83. 3 July 1998, Ashmore Islands (Indulkana) 5 adults (4 Bangladeshi, 1 Indonesian). 5 departures.
84. 6 July 1998, off NW Kimberley Coast (Jardine) 3 adults (2 Bangladeshi, 1 Indonesian), 3 departures.
85. 4 September 1998, off NW Kimberley coast (Kiewa) 6 adults, (Bangladeshi). 6 departures.
86. 9 September 1998, Torres Strait (Lachlan) 4 adults, (1 Bangladeshi, 3 Indians). 1 refugee status, 1 departure, 2 detention.
88. 24 November 1998, Ashmore Islands (Namoi) 7 adults (Sri Lankan). 7 departures.
89. 30 November 1998, Ashmore Islands (Ord) 15 adults (4 Iraqi, 11 Turks). 14 detention, 1 departure.


1999  862 boats; 3722 people

91. 4 January 1999, off NW Kimberley coast (Queen) 9 - 5 adults, 4 children (Iraqi). 9 refugees.

92. 4 January 1999, Coburg Peninsula, NT (Roper) 3 adults (Iraqi). 3 refugees.

93. 4 January 1999, Townsville, QLD (Snowy) 2 adults (1 Kazakhstani, 1 Papua New Guinean). 2 departures.

94. 12 January 1999, Port Hedland (Tumut) 4 adults (Chinese). 4 departures.

95. 3 February 1999, Hammond Island (Uriarra) 5 adults (Afghan). 5 refugees.

96. 15 February 1999, Ashmore Islands (Vanrook) 10 adults - 9 adults, 1 child (5 Afghan, 3 Algerian, 1 Iraqi, 1 Pakistani). 2 detention, 7 refugees, 1 departure.

97. 21 February 1999, Ashmore Islands (Warrego) 32 adults (Turkish). 18 refugee status, 2 detention, 12 departures.

98. 21 February 1999, Christmas Island (Xavier) 13 adults (9 Iraqis, 4 Algerians). 13 refugees.

99. 24 February 1999, Cockatoo Island, NW Kimberley coast (Yarra) 3 adults (Bangladeshi). 3 departures.

100. 10 March 1999, off NW Kimberley Coast (Zetland) 12 - 5 adults, 7 children (Afghani). 12 refugees.


103. 26 March 1999, Ashmore Islands (Constantine) 8 adults (2 Iraqis, 2 Kuwaitis, 3 Afghans, 1 Bangladeshi. 5 refugee status, 3 detention.

104. 10 April 1999, Scott's Head, Macksville, NSW (Dandenong) 60 adults (Chinese). 60 departures.

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2 84 separate events were noted by DIMA, but these total 86 separate boats – three arrived together in event numbers 135-137.
105. 13 April 1999, Broome (Essendon) 10 - 9 adults, 1 child (Afghani). 10 refugee status.

106. 16 April 1999, Cape Leveque (Franklin) 3 adults (Bangladeshi). 3 departure.

107. 21 April 1999, Ashmore Islands (Gambier) 3 adults (Turkish). 3 detention.

108. 24 April 1999, Ashmore Islands (Hotham) 15 adults (1 Bangladeshi, 2 Pakistani, 12 Iraqi). 11 refugee status, 2 detention, 2 departures.

109. 7 May 1999, Ashmore Islands (Isa) - 53 adults, 1 child (43 Turkish, 6 Iraqi, 4 Afghani, 1 Kuwaiti). 32 detention, 17 refugee status, 5 departures.

110. 12 May 1999, Christmas Island (Jagunal) - 18 adults, plus 1 baby* (12 Sri Lankan, 4 Pakistani, 2 Indians, 1 Iranian). 15 detention, 4 departures.

111. 17 May 1999, NSW coast, adjacent to Port Kembla (Kosciusko) - 83 - 81 adults, 2 children (Chinese). 83 departures.

112. 19 May 1999, Christmas Island (Lofty) - 20 adults (Iraqi). 19 refugee status, 1 detention.

113. 20 May 1999, Ashmore Islands (Majura) - 7 adults (Bangladeshi). 6 detention, 1 refugee status.


115. 27 May 1999, Doughboy River (Ossa) 78 - 77 adults, 1 child (Chinese). 78 departures.

116. 1 June 1999, Cape Leveque (Pinnacle) 9 adults (Bangladeshi) 9 departures.


118. 7 June 1999, Ashmore Islands (Roe) 10 adults (Afghani). 10 refugee status.

119. 11 June 1999, Christmas Island (Selwyn) 8 - 7 adults, 1 child (Afghani). 8 refugee status.

120. 12 June 1999, Ashmore Islands (Tabletop) 76 adults (57 Turkish, 10 Afghani, 9 Iraqi). 25 detention, 28 departures, 23 refugee status.

121. 13 June 1999, Yam Island (Urah) 3 adults (3 Chinese). 3 departures

122. 22 June 1999, Saibai Island (Vigors) 2 adults (Sri Lankan). 1 departure, 1 detention.

124. 29 June 1999, Ashmore Islands (X-Keten) 53 - 50 adults, 3 children (40 Iraqi, 12 Afghan, 1 Algerian). 48 refugee status, 5 detention.

125. 12 July 1999, Ashmore Islands (York) 6 adults (Indian). 5 departures 1 detention.


127. 20 July 1999, Christmas Island (Augustus) 5 - 4 adults, 1 child (Sri Lankan). 5 detention.

128. 21 July 1999, Ashmore Islands (Buller) 7 adults (5 Afghani, 2 Iranian). 6 refugee status, 1 detention.

129. 28 July 1999, Ashmore Islands (Calder) 14 adults (Turkish). 14 departures.

130. 31 July 1999, Ashmore Islands (Druitt) 44 adults (30 Iraqi, 6 Afghani, 5 Kuwaiti, 2 Iranian, 1 Sri Lankan). 42 detention, 1 refugee status, 1 departure.

131. 11 August 1999, Ashmore Islands (Eliza) 16 adults (11 Afghan, 4 Sri Lankan, 1 Pakistani). 13 detention, 3 departures.

132. 14 August 1999, Christmas Island (Fox) 140 - 126 adults, 14 children (137 Iraqi, 2 Kuwaiti, 1 Kurdish). 139 detention, 1 departure.

133. 23 August 1999, Ashmore Islands (Grenfell) 8 adults (Iraqi). 8 refugee status


135/136/137. 3 September 1999, Ashmore Islands (Ida, Jagged, Kembla - boats were located and intercepted together) 145 - 129 adults, 16 children (70 Iraqi, 56 Afghan, 9 Iranian, 4 Syrian, 3 Sri Lankan, 2 Kuwaiti, 1 Bahrainian). 145 detention.


139. 17 September 1999, Ashmore Islands (Macedon) 6 adults (4 Iraqi, 1 Bangaldeshi, 1 Myanmar). 6 detention.

140. 19 September 1999, Asmore Reef (Nebo) 8 adults (Turkish). 8 detention.

141. 21 September 1999, Ashmore Islands (Owen) 6 adults (Pakistani). 6 detention.

142. 24 September 1999, Ashmore Islands (Panorama) 49 - 47 adults, 2 minors (30 Iraqi, 10 Bangladeshi, 7 Afghans, 1 Syrian, 1 Indonesian). 48 detention, 1 departure.
143. 26 September 1999, Ashmore Islands (Quaker) 8 - 7 adults, 1 minor (6 Indian, 2 Indonesian). 8 departures.

144. 2 October 1999, off NW Kimberley Coast (Richmond) 21 adults (Afghan). 21 detention.

145. 5 October 1999, off NW Kimberley Coast (Stromlo) 24 adults (Afghan). 24 detention.

146. 7 October 1999, Scott’s Reef (Tamborine) 62 - 56 adults, 6 minors (51 Afghan, 6 Iraqi, 3 Sri Lankan, 2 Syrian). 62 detention.


148. 13 October 1999, Kuri Bay, off NW Kimberley coast (Victoria) 12 - 10 adults, 2 minors (Afghan). 12 detention.

149. 18 October 1999, Broome (William) 24 - 22 adults, 2 minors (Afghan). 24 detention.

150. 22 October 1999, Ashmore Islands (Xarag) 3 adults (2 Sri Lankan, 1 Pakistani). 3 detention

151. 22 October 1999, Ashmore Islands (Yule) 140 - 136 adults, 4 minors (126 Afghan, 14 Iraqi). 140 detention

152. 24 October 1999, off NW Kimberley Coast (Zephyr) 25 adults (Afghan). 25 detention


154. 5 November 1999, Ashmore Islands (Bogabilla) 75 (63 Afghan, 12 Iraqi). 75 detention

155. 7 November 1999, Ashmore Islands (Cootamundra) 82 (Middle East). 82 detention

156. 8 November 1999, Ashmore Islands (Dapto) 25 (Afghan). 25 detention

157. 9 November 1999, Christmas Island (Eumungerie) 159 (Middle East). 159 detention

158. 10 November 1999, Ashmore Islands (Finley) 22 (Afghan). 22 detention

159. 17 November 1999, Ashmore Islands (Goodoonga) 31 (27 Afghan, 4 Iraqi). 31 detention

161. 18 November 1999, Ashmore Islands (Henty) 33 (Middle East). 33 detention
162. 19 November 1999, Ashmore Islands (Jerilderie) 23 (Middle East). 23 detention
163. 19 November 1999, Ashmore Islands (Kyogle) 24 (Afghan). 24 detention
164. 26 November 1999, Ashmore Islands (Lockhart) 152 (Middle East). 152 detention
165. 26 November 1999, Adele Island, NW Kimberley Coast (Mudgee) 27 (Middle East). 27 detention
166. 28 November 1999, Christmas Island (Nimitabel) 180 (Middle East). 180 detention
167. 1 December 1999, Ashmore Islands (Orange) 6 adults (Indian). 5 detention, 1 departure.
168. 6 December 1999, Ashmore Islands (Pokataroo) 135 - 114 adults, 21 children (Iraqi). 135 detention
169. 8 December 1999, Ashmore Islands (Quirindi) 7 adults (Afghan). 7 detention
170. 16 December 1999, Ashmore Islands (Rappville) 127 - 119 adults, 8 children (Afghan, 22 Iraqi, 1 Pakistani). 127 detention
171. 16 December 1999, Vanistaat Bay, NW Kimberley Coast (Scone) 58 - 31 adults, 27 children (Afghan). 48 detention, 10 TPV.
173. 20 December 1999, Christmas Island (Ulladulla) 228 - 162 adults, 66 children - plus 4 babies* (195 Iraqi, 26 Iranian, 4 Afghan, 2 Kuwaiti, 1 Syrian). 230 detention, 2 TPV
174. 21 December 1999, Christmas Island (Valentine) 73 - 67 adults, 6 children (Chinese). 73 departures
175. 21 December 1999, Ashmore Islands (Warrawee) 35 - 20 adults, 15 children (Iraqi). 35 detention
176. 21 December 1999, Powerful Island (Xmas) 4 (Iraqi). 4 detention

2000 51 boats; 2909 people

177. 5 January 2000, Ashmore Islands (Yanco) 118 – 103 adults, 15 children. 12 det, 105 TPV, 1 depart.
178. 7 January 2000, NW of Darwin (Zahlie) 44 – 42 adults, 2 children. 44 TPV.

179. 17 January 2000, Hibernian Reef (Albany) 25 – 23 adults, 2 child. 25 TPV.

180. 22 January 2000, Cape Fourcroy (Busselton) 54 – 47 adults, 7 children. 39 departs, 15 humanit.

181. 26 January 2000, Cape Bougainville (Caiguna) 38 – 32 adults, 6 children. 4 det, 34 TPV.


183. 11 February 2000, Ashmore Islands (Eneabba) 47 – 41 adults, 6 children – plus 1 baby*. 3 det, 45 TPV.

184. 16 February 2000, Christmas Island (Fimiston) 22 – 21 adults, 1 child. 5 det, 17 TPV.

185. 16 February 2000, Ashmore Islands (Gnowangerup) 14 adults. 1 depart, 13 TPV.


187. 6 March 2000, Ashmore Islands (Iluka) 21 – 21 adults. 1 det, 11 TPV, 9 departs.

188. 19 March 2000, Ashmore Islands (Joondalup) 47 – 31 adults, 16 children. 3 det, 44 TPV.

189. 22 March 2000, Cape Leveque, WA (Kalgoorlie) 34 – 24 adults, 10 children. 5 det, 29 TPV.

190. 26 March 2000, Ashmore Islands (Leederville) 70 – 62 adults, 8 children – plus 2 babies*. 26 det, 45 TPV, 1 depart.

191. 28 March 2000, Ashmore Islands (Manjimup) 19 – 19 adults. 19 TPV.

192. 03 April 2000, Ashmore Islands (Nannup) 62 – 46 adults, 16 children – plus 2 baby* 14 det, 2 bridging visas, 47 TPV, 1 depart.

193. 24 April 2000, Ashmore Islands (Ongerup) 4 – 4 adults. 2 det, 1 depart, 1 escape.

194. 26 April 2000, Ashmore Islands (Pingelly) 75 – 72 adults, 3 children. 9 det, 63 TPV, 3 depart.

195. 09 May 2000, Ashmore Islands (Quinninup) 66 – 52 adults, 14 children – plus 1 baby*. 6 det, 1 ref, 60 TPV.
196. 16 May 2000, Ashmore Islands (Rockingham) 17 – 15 adults, 2 children. 17 TPV.

197. 01 June 2000, Ashmore Islands (Stonyville) 36 – 32 adults, 4 children – plus 1 baby*. 9 det, 27 TPV, 1 depart.

198. 19 June 2000, Ashmore Islands (Tambellup) 112 – 84 adults, 28 children. 32 det, 78 TPV, 2 depart.

199. 27 June 2000, Christmas Island (Utakarra) 3 – 3 adults – plus 1 baby*. 4 det.

200. 10 July 2000, Ashmore Reef (Varley) 30 – 30 adults. 16 det, 13 TPV, 1 ref.

201. 11 July 2000, Ashmore Reef (Wagerup) 36 – 33 adults, 3 children. 16 det, 14 TPV, 6 depart.

202. 11 July 2000, Cairns (Xwa) 23 – 22 adults, 1 child. 23 departs.

203. 17 August 2000, Ashmore Reef (Yakamia) 74 – 54 Adults, 20 Children. 68 det, 6 TPV.

204. 04 September 2000, Ashmore Reef (Zanthus) 77 – 69 adults, 8 children. 31 det, 46 TPV.

205. 14 September 2000, Water North West Western Australia (Augathella) 101 – 71 adults, 30 children – 1 baby*. 15 det, 87 TPV.

206. 24 September 2000, Ashmore Islands (Bedourie) 2 adults. 2 TPV.

207. 27 September 2000, Ashmore Reef (Charleville) 47 – 37 adults, 10 children. 38 det, 9 TPV.

208. 02 October 2000, Ashmore Reef (Dirranbandi) 14 – 10 adults, 4 children. 1 det, 13 TPV.

209. 07 October 2000, Ashmore Reef (Emerald) 94 – 84 adults, 10 children. – 1 baby* 64 det, 25 TPV, 6 depart.

210. 15 October 2000, Ashmore Islands (Fruitgrove) 33 – 28 adults, 5 children, 20 det, 12 TPV, 1 depart.

211. 25 October 2000, Ashmore Islands (Gargett) 32 – 25 adults, 7 children, 4 det, 26 TPV, 2 depart.

212. 28 October 2000, Ashmore Islands (Helidon) 116 – 98 adults, 18 children, 70 det, 46 TPV.

213. 02 November 2000, Ashmore Islands, (Innisfail) 69 – 62 adults, 7 children. 64 det, 5 TPV.
214. 10 November 2000, Ashmore Islands, (Jondaryan) 24 - 9 det, 15 TPV.
215. 16 November 2000, Ashmore Islands, (Kilkivan) 48 – 22 det, 26 TPV.
216. 28 November 2000, Ashmore Islands, (Leichardt) 96 - 51 det, 45 TPV.
217. 15 December 2000, Boigu Islands, (Nambour) 3 - 3 det.
218. 16 December 2000, Ashmore Islands, (Maroochydore) 117 - 84 adults, 33 children. 117 det.
219. 17 December 2000, Ashmore Islands (Ormeau) 92 - 72 adults, 20 children. 74 det, 18 TPV.
220. 18 December 2000, Ashmore Islands, (Proserpine) 35 - 35 adults. 35 det.
221. 18 December 2000, Ashmore Islands, (Quinalow) 97 - 78 adults, 19 children. 97 det.
222. 21 December 2000, Ashmore Islands, (Rosalie) 32 - 30 adults, 2 children. 32 det.
223. 21 December 2000, Ashmore Islands, (Sapphire) 30 - 26 adults, 4 children. 30 det.
225. 27 December 2000, Ashmore Islands, (Urangan) 49 - 38 adults, 11 children. 49 det.
226. 30 December 2000, Ashmore Islands, (Virginia) 177 – 108 adults, 69 children. 173 det, 4 TPV.
227. 31 December 2000, Ashmore Islands, (Wallangarra) 68 - 49 adults, 19 children. 40 det, 28 TPV. 2001

2001  32 boats; 3690 people

228. 03 January 2001, Ashmore Islands, (XQLD) 51 - 34 adults, 17 children. 5 det. 45 TPV 1 depart.
229. 06 January 2001, Christmas Island, (Yarrabah) 84 – 63 adults, 21 children. 8 det, 72 TPV, 4 depart.
231. 30 January 2001, Ashmore Islands, (Aberfeldie) 49 – 39 adults, 10 children. 3 det, 45 TPV, 1 escape.

232. 6 March 2001, Ashmore Islands, (Birchip) 111 – 79 adults, 32 children, 11 det, 98 TPV, 2 departs.

233. 7 March 2001, Ashmore Islands, (Culgoa) 179 – 151 adults, 28 children. 23 det, 156 TPV.

234. 8 March 2001, Ashmore Islands, (Darlimurla) 62 – 46 adults, 16 children. 9 det, 53 TPV.


237. 27 March 2001, Christmas Islands, (Gelantipy) 22 – 18 adults, 4 children. 21 TPV, 1 depart.

238. 27 March 2001, Torres Strait, (Hesket) 14 – 4 adults, 10 adults. 14 TPV.

239. 9 April 2001, Ashmore Islands, (Illowa) 82 – 56 adults, 26 children. 4 det, 76 TPV, 1 depart, 1 escape.

240. 13 April 2001, Ashmore Islands, (Jumbunna) 43 – 35 adults, 8 children. 9 det, 2 depart, 32 TPV

241. 18 April 2001, Exmouth, (Kinnabulla) 24 – 24 adults, 5 det. 10 depart, 9 TPV

242. 18 April 2001, Ashmore Islands, (Lillimur) 94 – 82 adults, 12 children, 7 det. 87 TPV.

243. 20 April 2001, Ashmore Islands, (Mallacoota) 120 – 85 adults, 35 children, 35 det, 75 TPV.

244. 23 April 2001, Christmas Islands, (Nullaware) 198 – 166 adults, 32 children, 10 det. 1 depart, 185 TPV, 2 escapes.

245. 4 May 2001, Ashmore Islands, (Outtrim) 65 – 38 adults, 27 children, 19 det. 46 TPV.

246. 4 May 2001, Torres Straight, (Patchewolloc) 2 – 2 adults, 1 depart. 1 escape.

247. 9 May 2001, Christmas Island, (Quambatook) 131 – 110 adults, 21 children 131 TPV.

248. 20 May 2001, Ashmore Island, (Rokeby) 1 adult, 1 det.
243

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249. 4 June 2001, Ashmore Island, (Serpentine) 54- 29 adults, 25 children 8 det. 46 TPV.

250. 5 June 2001, Bathurst Island, (Tamluegh) 5 adults, 5 Depart.


252. 14 June 2001, Christmas Island, (Vinifera) 231- 181 adults, 50 children, 10 det. 221 TPV.


254. 2 August 2001, Ashmore Islands (Xvic) 76 -64 adults, 12 children. 28 det. 48 TPV.

255. 4 August 2001, Christmas Island (Yambuk) 147 -97 adults, 50 children, 2 det. 145 TPV,

256. 13 August 2001, Ashmore Island, (Zvic) 60 - 47 adults, 13 children. 18 det. 42 TPV,

257. 16 August 2001, Christmas Island, (Alonnah) 345 - 191 adults, 154 children. 21det. 324 TPV.

258. 20 August 2001, Ashmore Island (Bacala) 225 - 152 adults, 73 children. 3 departs, 45 det, 175 TPV, 2 escapes.

259. 22 August 2001, Christmas Island (Conara) 359- 264 adults, 95 children. 125 det, 232 TPV, 2 escapes.

Note: the MV Tampa and a successive vessel were not included in these statistics, as according to the Department of Immigration those vessels had not entered Australian waters and therefore were not “boat-people”.

---

3 Telephone conversation with Department of Immigration (Public Affairs Office) on 13 May 2002.
Appendix Two: Six samples from the public opinion database
Results - Is our Maritime Surveillance and Interception Effective?

<table>
<thead>
<tr>
<th>Number</th>
<th>State of origin</th>
<th>Sex</th>
<th>Age group</th>
<th>Occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>75</td>
<td>Canberra</td>
<td></td>
<td>40+</td>
<td>Home worker/carer</td>
</tr>
</tbody>
</table>

- Do you think carries out surveillance our maritime areas under Australian jurisdiction?
- Do you think carries out enforcement (by stopping and arresting intruders) in our maritime areas?
- To what extent, if any, do you think that Australian sea creatures are being illegally taken?
- Various agencies given the task of conducting surveillance in our offshore areas for intruders are doing an excellent job.
- Various agencies given the task of apprehending possible intruders in our offshore area are doing an excellent job.
- The process applied to possible offenders in the area is being administered effectively.
- Maltese applied to arresting illegal fishermen? Offshore areas are effective in deterring repeat offences.
- Costs involved in arresting and detaining fishermen in our offshore areas are an effective use of government funds.
- Maltese applied to arresting suspected illegal immigrants in our offshore area are effective in deterring repeat offences.
- Costs involved in arresting and detaining suspected illegal immigrants in our offshore area are an effective use of government funds.

Penalties against illegal immigrants should be a lot harsher.

- Yes, we should spend more money; or
- It was spent on more patrol time or the purchase of more

---

State of origin: Canberra  Sex:  Age group: 40+  Occupation: Home worker/carer

Dep of Fisheries
Customs/Immigration
Taken in overwhelming quantities
Agree very strongly
Agree strongly
Agree very strongly
Agree very strongly
Agree strongly
Agree strongly
Agree strongly
Agree strongly
Yes, we should spend more money;

Penalties against illegal immigrants should be a lot harsher.
### Results - Is our Maritime Surveillance and Interception Effective?

<table>
<thead>
<tr>
<th>Number</th>
<th>State of origin</th>
<th>Sex</th>
<th>Age group</th>
<th>Occupation</th>
<th>Answers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Canberra</td>
<td>Female</td>
<td>25-39</td>
<td>Home worker</td>
<td>Navy</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Navy</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Taken in very high quantities</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Agree</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td>Disagree</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td>Disagree</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Disagree</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>Agree</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Disagree</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Agree</td>
</tr>
</tbody>
</table>

- **You think carries out surveillance?**
  - Navy

- **You think carries out enforcement?**
  - Navy

- **To what extent, if any, do you think that Australian sea creatures are being illegally taken?**
  - Taken in very high quantities

- **Various agencies given the task of apprehending possible intruders in our offshore area are doing an excellent job.**
  - Agree

- **Various agencies given the task of apprehending possible intruders in our offshore area are doing an excellent job.**
  - Disagree

- **Nautical process applied to possible offenders in our area is being administered effectively.**
  - Disagree

- **Nautical applied to arresting illegal fishermen in our offshore area are effective in deterring repeat offenses.**
  - Agree

- **Costs involved in arresting and detaining illegal fishermen in our offshore area are an effective use of government funds.**
  - Disagree

- **Costs involved in arresting and detaining suspected illegal migrants in our offshore area are effective in deterring repeat offenses.**
  - Agree

- **Costs involved in arresting and detaining suspected illegal migrants in our offshore area are an effective use of government funds.**
  - Agree

- **Penalties applied to arresting suspected illegal migrants in our offshore area are effective in deterring repeat offenses.**
  - Yes, we should spend more money;

- **Penalties applied to arresting illegal fishermen in our offshore area are effective in deter罪 repeat offenses.**
  - Yes, we should spend more money;

- **Penalties applied to arrested illegal fishermen in our offshore area are an effective use of government funds.**
  - Yes, we should spend more money;

- **Penalties applied to arrested illegal fishermen in our offshore area are effective in deterring repeat offenses.**
  - Yes, we should spend more money;

- **Penalties applied to arrested illegal fishermen in our offshore area are an effective use of government funds.**
  - Yes, we should spend more money;

- **Penalties applied to arrested illegal fishermen in our offshore area are effective in deterring repeat offenses.**
  - Yes, we should spend more money;

- **Penalties applied to arrested illegal fishermen in our offshore area are an effective use of government funds.**
  - Yes, we should spend more money;
<table>
<thead>
<tr>
<th>Results - Is our Maritime Surveillance and Interception Effective?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number</strong>: 11</td>
</tr>
<tr>
<td><strong>Do you think carries out surveillance in our maritime areas under Australian jurisdiction?</strong></td>
</tr>
<tr>
<td><strong>Do you think carries out enforcement (any stopping and arresting intruders) in our maritime areas?</strong></td>
</tr>
<tr>
<td><strong>To what extent, if any, do you think that Australian other sea creatures are being illegally taken?</strong></td>
</tr>
<tr>
<td><strong>Various agencies given the task of conducting surveillance in our offshore area for intruders are doing an excellent job.</strong></td>
</tr>
<tr>
<td><strong>Various agencies given the task of apprehending possible intruders in our offshore area are doing an excellent job.</strong></td>
</tr>
<tr>
<td><strong>Court process applied to possible offenders in our offshore area is being administered effectively.</strong></td>
</tr>
<tr>
<td><strong>Penalties applied to arresting illegal fishermen in our offshore area are effective in deterring repeat offences.</strong></td>
</tr>
<tr>
<td><strong>Costs involved in arresting and detaining illegal fishermen in our offshore area are an effective use of government funds.</strong></td>
</tr>
<tr>
<td><strong>Penalties applied to arresting suspected immigrants in our offshore area are effective in deterring repeat offences.</strong></td>
</tr>
<tr>
<td><strong>Costs involved in arresting and detaining suspected illegal immigrants in our offshore area are an effective use of government funds.</strong></td>
</tr>
<tr>
<td><strong>Assuming it was spent on more patrol time or the purchase of more equipment, how would you feel about spending more government money on patrolling our offshore area?</strong></td>
</tr>
<tr>
<td><strong>Better and more effective forms of management</strong></td>
</tr>
</tbody>
</table>
### Results - Is our Maritime Surveillance and Interception Effective?

<table>
<thead>
<tr>
<th>Survey Number</th>
<th>State of Origin</th>
<th>Sex</th>
<th>Age Group</th>
<th>Occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>34</td>
<td>Canberra</td>
<td>Male</td>
<td>18-25</td>
<td>Tradesman/woman</td>
</tr>
</tbody>
</table>

1. Do you think carries out surveillance in our maritime areas under Australian jurisdiction?
   - Disagree

2. Do you think carries out enforcement (e.g., stopping and arresting intruders) in our maritime areas?
   - No opinion

3. What extent, if any, do you think that Australian authorities are being illegally taken?
   - Disagree

4. Various agencies given the task of conducting surveillance in our offshore area for intruders are doing an excellent job.
   - Disagree

5. Various agencies given the task of apprehending possible offenders in our offshore area are doing an excellent job.
   - Disagree

6. Court process applied to possible offenders in offshore area is being administered effectively.
   - Disagree

7. Penalties applied to arresting illegal fishermen in our offshore area are effective in deterring repeat offences.
   - Agree

8. Costs involved in arresting and detaining fishermen in our offshore area are an effective use of government funds.
   - Disagree

9. Penalties applied to arresting suspected immigrants in our offshore area are effective in deterring repeat offences.
   - Disagree

10. Costs involved in arresting and detaining suspected illegal immigrants in our offshore area are an effective use of government funds.
    - Yes, we should spend more money.

11. Assuming it was spent on more patrol time or the purchase of more Sharks, how would you feel about spending more government money on patrolling our offshore area?
    - Other
    - Yes, we should spend more money.
Key Results - Is our Maritime Surveillance and Interception Effective?


Do you think that we carry out surveillance in our maritime areas under Australian jurisdiction?

Do you think we carry out enforcement (e.g., stopping and arresting intruders) in our maritime areas?

To what extent, if any, do you think that Australian other sea creatures are being illegally taken?

Various agencies given the task of conducting surveillance in our offshore area for intruders are doing an excellent job.

Various agencies given the task of apprehending possible intruders in our offshore area are doing an excellent job.

Court process applied to possible offenders in our offshore area is being administered effectively.

Penalties applied to arresting illegal fishermen in our offshore area are effective in deterring repeat offences.

Costs involved in arresting and detaining fishermen in our offshore area are an effective use of government funds.

Penalties applied to arresting suspected immigrants in our offshore area are effective in deterring repeat offences.

Costs involved in arresting and detaining suspected illegal immigrants in our offshore area are an effective use of government funds.

Assuming it was spent on more patrol time or the purchase of more equipment, how would you feel about spending more government money on patrolling our offshore area?

Agree

Disagree

Agree

Disagree

Yes, we should spend more money;

Disagree

Disagree

Disagree

Yes, we should spend more money;

Disagree

Disagree

Disagree

Yes, we should spend more money;

Disagree

Disagree

Disagree

Yes, we should spend more money;
Results - Is our Maritime Surveillance and Interception Effective?

Key number 716  State of origin: Vic  Sex: Male  Age group: 18-25  Occupation: Other

1. Do you think carries out surveillance over our maritime areas under Australian jurisdiction?
2. Do you think carries out enforcement ofary stopping and arresting intruders) in our maritime areas?
3. What extent, if any, do you think that Australian other sea creatures are being illegally taken?
4. Various agencies given the task of conducting surveillance in our offshore area for intruders are doing an excellent job.
5. Various agencies given the task of apprehending possible intruders in our offshore area are doing an excellent job.
6. Court process applied to possible offenders in our offshore area is being administered effectively.
7. Penalties applied to arresting illegal fishermen in our offshore area are effective in deterring repeat offences.
8. Costs involved in arresting and detaining illegal fishermen in our offshore area are an effective use of government funds.
9. Penalties applied to arresting suspected immigrants in our offshore area are effective in deterring repeat offences.
10. The costs involved in arresting and detaining suspected illegal immigrants in our offshore area are an effective use of government funds.
11. Assuming it was spent on more patrol time or the purchase of more equipment, how would you feel about spending more government money on patrolling our offshore area?

Other: Coastguard

Not taken at all

No opinion

No opinion

No opinion

No opinion

Dissagree

No opinion

Yes, we should spend more money;
Appendix Three: Six samples from the media opinion database.
### Analysis of Opinions expressed in Print Media relating to incidents of failure to sight/apprehend Suspected Illegal Immigration or stop Suspected Illegal Fishing

<table>
<thead>
<tr>
<th>Amendment</th>
<th>Summarising quotation</th>
<th>Agreement</th>
<th>Disagreement</th>
<th>Agreement</th>
<th>Disagreement</th>
<th>Agreement</th>
<th>Disagreement</th>
<th>Agreement</th>
<th>Disagreement</th>
<th>Agreement</th>
<th>Disagreement</th>
<th>Agreement</th>
<th>Disagreement</th>
<th>Agreement</th>
<th>Disagreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>&quot;Opposition questioned the capability of Australia to defend its north&quot;</td>
<td>Agree</td>
<td>Disagree</td>
<td>Agree</td>
<td>Disagree</td>
<td>Agree</td>
<td>Disagree</td>
<td>Agree</td>
<td>Disagree</td>
<td>Agree</td>
<td>Disagree</td>
<td>Agree</td>
<td>Disagree</td>
<td>Agree</td>
<td>Disagree</td>
</tr>
<tr>
<td>None</td>
<td>&quot;More resources overall&quot;</td>
<td>Agree</td>
<td></td>
<td></td>
<td></td>
<td>Agree</td>
<td></td>
<td>Agree</td>
<td></td>
<td></td>
<td>Agree</td>
<td></td>
<td></td>
<td>Agree</td>
<td></td>
</tr>
<tr>
<td>None</td>
<td>&quot;Six times has warned many times in the past that the grossly inadequate surveillance and defence of our northern line is inviting calamity either in terms of disease or sovereignty is held in contempt&quot;</td>
<td>Agree</td>
<td></td>
<td></td>
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</tbody>
</table>

### Six samples of randomly sampled printouts of the database of Analysis of Opinions expressed in Print Media relating to incidents of failure to sight/apprehend Suspected Illegal Immigration or stop Suspected Illegal Fishing

<table>
<thead>
<tr>
<th>Sample</th>
<th>Article</th>
<th>Date</th>
<th>Opinions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item 1</td>
<td>The Australian</td>
<td>17 Jan 92</td>
<td>Agree</td>
</tr>
<tr>
<td>Item 2</td>
<td>The Australian</td>
<td>18 Jan 92</td>
<td>Agree</td>
</tr>
<tr>
<td>Item 3</td>
<td>The Australian</td>
<td>18 Jan 92</td>
<td>Agree</td>
</tr>
</tbody>
</table>

### Methodology Notes:
- Articles are taken from the media within 14 days of the incident first appearing in the media.
- All newspapers include their weekend edition articles of those expressing opinion, rather than reporting fact.
- Duplications of an article in another publication mean only one mention of the article.
Six samples of randomly sampled printouts of the database of Analysis of Opinions expressed in Print Media relating to incidents of failure to sight/apprehend Suspected Illegal Immigration or stop Suspected Illegal Fishing

<table>
<thead>
<tr>
<th>Stone Territory -</th>
<th>Montague Sound SIEV</th>
<th>Aus coast is &quot;wide open&quot;</th>
<th>Aus coast is unpoliced</th>
<th>Coastwatch-doing a poor job</th>
<th>Navy-doing a poor job</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern Territory News</td>
<td>26 Jan 92</td>
<td>Strongly Agree</td>
<td>Strongly Disagree</td>
<td>Strongly Agree</td>
<td>Strongly Disagree</td>
</tr>
</tbody>
</table>

Summarising quotation

"Our home is girt dicees"

1) A better effort from all involved

<table>
<thead>
<tr>
<th>Aus coast is &quot;wide open&quot;</th>
<th>Aus coast is unpoliced</th>
<th>Coastwatch-doing a poor job</th>
<th>Navy-doing a poor job</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly Agree</td>
<td>Strongly Disagree</td>
<td>Strongly Agree</td>
<td>Strongly Disagree</td>
</tr>
</tbody>
</table>

Summarising quotation

"Our home is girt dicees"

2) A better effort from all involved

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<thead>
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</tr>
</thead>
<tbody>
<tr>
<td>Strongly Agree</td>
<td>Strongly Disagree</td>
<td>Strongly Agree</td>
<td>Strongly Disagree</td>
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</tbody>
</table>

Summarising quotation

"Our home is girt dicees"

3) A better effort from all involved

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<tbody>
<tr>
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<td>Strongly Disagree</td>
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</table>

Summarising quotation

"Our home is girt dicees"

4) A better effort from all involved

<table>
<thead>
<tr>
<th>Aus coast is &quot;wide open&quot;</th>
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<tbody>
<tr>
<td>Strongly Agree</td>
<td>Strongly Disagree</td>
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</table>

Summarising quotation

"Our home is girt dicees"

5) A better effort from all involved

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Appendix Four: Example of National Survey and explanation of the tabulation of results.
Appendix Four
Example of National Survey and explanation of the tabulation of results.

- Survey -
Is our Maritime Surveillance and Interception Effective?

- Your name is not needed for this survey.
- The survey will take you approximately three minutes to complete.
- The aim of this survey is to evaluate whether you think Australia is being effectively served by those organisations which conduct surveillance and enforcement in the maritime areas under Australian jurisdiction and apprehend people acting illegally.
- When you have finished filling in the survey, please fold it once and then drop it into the box provided.

Survey No: ................ (Tasmania – or other state as necessary)

Introduction:
Australia has a large area of maritime jurisdiction which comprises:
- the territorial sea (extending 12 nautical miles offshore and providing full sovereignty);
- the two hundred mile Exclusive Economic Zone (which gives particular rights and responsibilities with regard to marine resources and protection of the marine environment), and;
- the continental shelf (rights over seabed and mineral resources).

To exercise this jurisdiction, Australia conducts surveillance operations to detect illegal activities in these offshore areas and enforcement against breaches of Australian law in these areas.

Now for the questions:

To enable answers to be grouped, please fill in this information about yourself:

Sex - (Circle one):  M  F

Age group - (Circle one)  15-18 years;  18-25 years;  25-39;  40+

Occupation - (Circle one that best describes you):

Professional  Tradesman/woman  Manager  Student  Home worker/carer
1. Who do you think carries out surveillance in or over our maritime areas under Australian jurisdiction?

Your answer: ........................................................................... .

2. Who do you think carries out enforcement (if necessary stopping and arresting intruders) in our maritime areas?

Your answer: .......................................................................... ..

3. To what extent, if any, do you think that Australian fish and other sea creatures are being illegally taken?

(Tick the box next to your chosen answer)

[ ] Taken in overwhelming quantities
[ ] Taken in very high quantities
[ ] Taken in quantity
[ ] Taken in limited quantities
[ ] Not taken at all

4. The various agencies given the task of conducting surveillance in our offshore area for intruders are doing an excellent job.

[ ] Agree very strongly
[ ] Agree strongly
[ ] Agree
[ ] Disagree
[ ] No opinion

5. The various agencies given the task of apprehending possible offenders in our offshore area are doing an excellent job.

[ ] Agree very strongly
[ ] Agree strongly
[ ] Agree
[ ] Disagree
[ ] No opinion

6. The court process applied to possible offenders in our offshore area is being administered effectively.

[ ] Agree very strongly
[ ] Agree strongly
[ ] Agree
[ ] Disagree
[ ] No opinion

7. The penalties applied to arresting illegal fishermen in our offshore area are effective in deterring repeat offences.
8. The costs involved in arresting and detaining illegal fishermen in our offshore area are an effective use of government funds.

[ ] Agree very strongly
[ ] Agree strongly
[ ] Agree
[ ] Disagree
[ ] No opinion

9. The penalties applied to arresting suspected illegal immigrants in our offshore area are effective in deterring repeat offences.

[ ] Agree very strongly
[ ] Agree strongly
[ ] Agree
[ ] Disagree
[ ] No opinion

10. The costs involved in arresting and detaining suspected illegal immigrants in our offshore area are an effective use of government funds.

[ ] Agree very strongly
[ ] Agree strongly
[ ] Agree
[ ] Disagree
[ ] No opinion

11. Presuming it was spent on more patrol time or the purchase of more equipment, how would you feel about spending more government money on patrolling our offshore area?

[ ] Yes, we should spend more money;
[ ] The amount of money spent is about right
[ ] No, we should not spend more money

Further comments (please comment as you wish on the matters above)

Recording of Results

The survey was recorded into a specially written database utilizing the software program Filemaker Pro 3.0. All 800 records were entered consecutively, with Canberra as the first 200; Darwin as 201 - 400; NSW as 401 - 600, and Melbourne as 601 - 800. Therefore, survey 288:
A4.1

as depicted above when the tabulation of results was up to 444, is survey number 88 from Darwin. The complete record looks like this:

A4.2

Analysis of Survey Methodology - Sex, Age, Occupation answers

These results were entered from each survey by using pull-down menus for each category:

A4.3

If a respondent did not circle an area then that response was left blank. The most commonly missed area was that of "sex".
Some judgement was exercised where necessary in the field of occupation. For example, survey respondent No. 70 (Darwin) was classified in the “Student” category for the response “Occupation” even when she had filled in “Other......” with the description “store assistant/waitress”. This was because she had circled “Student” as well, and given her age it was presumed that the respondent’s main occupation was that of being a student. Similarly in the Victoria survey #158 the respondent was categorized as a "Professional" because he had written "Academic".
Appendix Five: Explanation of the Tabulation of Media Survey results.
Appendix Five - Explanation of the Tabulation of Media Survey results.

The opinions were sorted by means of a database written for the purpose in the application Filemaker Pro. A variety of responses were tabulated, as the following diagram illustrates:

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Aus coast is &quot;wide open.&quot; is unpoliced</th>
<th>Aus coast is Aus coast</th>
<th>Coastwatch-doing</th>
<th>Navy-doing a poor job</th>
<th>Navy-doing a poor job</th>
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</thead>
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<td>Agree/Disagree</td>
<td>Agree/Disagree</td>
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**Summarizing quotation**

ADF-doing Immigration- Other reasons-SIEV Other reasons-FFV

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SIEV or FFV incident?

Responses were entered into the database using pulldown menus for preset variables, or by typing in relevant data for discrete items. The process is illustrated by these three diagrams:

A5. 1

and

A5. 2
and

The process of collection necessarily took a great deal of time to complete, as the individual newspapers had to be perused manually for a period after the incident. It should be noted that articles which did not deal with the topic of this paper were ignored — therefore an article which dealt with illegal immigrants’ repatriation was not included, as this paper deals with the processes before determination of illegal immigrants’ status; incarceration and eventual release or repatriation.