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From: DAVIES GEOFF. MR

Sent: Mon, 30 Jun 2014 03:24:36 GMT

To: PSR(IC)3SQNLDRCC: PSR(IC)3MAJ; PSR(IC)3

Subject: RE: Media question regarding Baghlan Raid in AFGHAN IN 2010

Just back from ComJ's brief. Will send in 10.

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**From:** DAVIES GEOFF, MR**Sent:** Monday, 30 June 2014 1:31 p.m.**To:** PSR(IC)3SQNLDR**Cc:** PSR(IC)3MAJ; PSR(IC)3**Subject:** RE: Media question regarding Baghlan Raid in AFGHAN IN 2010

PSR(IC)3 I still think this is not as smart as it could be.

Our PR of 20 April 11 contradicts the ISAF PR of 29 August 10 headed JOINT ASSESSMENT TEAM CONFIRMS POSSIBILITY OF CIVILIAN CASUALTIES IN BAGHLAN, in that we say allegations of civilian casualties are unfounded and ISAF says there could have been – and Stephenson plans to present evidence that there was, as per his Friday email. I believe we could cover ourselves better and look more sensible to the public by saying (if this is accurate). I realise we're saying no further comment, but this way an "out" to any question about why we don't believe ISAF.

"As no new evidence has been presented to the NZDF, we stand by the statement made on 20 April 2011 and will not be making further comment."

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**From:** PSR(IC)3SQNLDR**Sent:** Monday, 30 June 2014 1:28 p.m.**To:** DAVIES GEOFF, MR**Cc:** PSR(IC)3MAJ; PSR(IC)3**Subject:** FW: Media question regarding Baghlan Raid in AFGHAN IN 2010

Hi Geoff,

Response is cleared to go to Stephenson.

PSR(IC)3 - for the log, brief and audit trail.

Thanks

PSR(IC)3

Squadron Leader

Strategic External Relations Manager

Defence Communications Group

PSR(IC)3

Archive Manager

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**From:** Press Secretary

**Sent:** Monday, 30 June 2014 12:59 p.m.

**To:** PSR(IC)3 SQNLDR

**Cc:** SMITH ROSS, CDRE

**Subject:** RE: Media question regarding Baghlan Raid in AFGHAN IN 2010

Yes, that's fine. Native Affairs have requested an interview with the Minister, I'm waiting to discuss with him when he's out of Cabinet.

Cheers

**From:** PSR(IC)3 SQNLDR [mailto:PSR(IC)3]

**Sent:** Monday, 30 June 2014 12:46 p.m.

**To:** Press Secretary

**Subject:** RE: Media question regarding Baghlan Raid in AFGHAN IN 2010

Hi,

CoS has confirmed the statement:

"The NZDF stands by its statement made on 20 April 2011 and will not be making further comment."

Please confirm from your perspective.

Thanks

PSR(IC)3

Squadron Leader

Strategic External Relations Manager

Defence Communications Group

PSR(IC)3

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**From:** PSR(IC)3 SQNLDR

**Sent:** Monday, 30 June 2014 9:15 a.m.

Archive Manager

**To:** Press Secretary

**Subject:** FW: Media question regarding Baghlan Raid in AFGHAN IN 2010

Hi,

As discussed, questions are below.

Response to be signed off by CoS will be words to the effect:

"The NZDF stands by its statement made on 20 April 2011 and will not be making further comment."

Cheers

**From:** Jon Stephenson [mailto:[PSR\(IC\)3](mailto:PSR(IC)3)]

**Sent:** Friday, 27 June 2014 4:35 p.m.

**To:** DAVIES GEOFF, MR

**Subject:**

Hi Geoff,

Thanks for taking the time to discuss this request with me. I am sending you the NZDF media release that followed an interview given on TVNZ's Q+A programme in April 2010.

That document makes certain claims that I am questioning -- namely, that nine insurgents were killed in a raid on a village in Baghlan province in which the NZSAS were involved on 22 August, and that allegations of civilian casualties occurring during that raid were unfounded.

In fairness, it is important that I have extensive information, including documentation, photos, video footage, and statements from witnesses who were injured, as well as statements made by former SAS personnel and by senior serving Afghan security officials.

My questions are:

- (1) Does the defence force stand by its attached statement?
- (2) Specifically, does it stand by the statement that nine insurgents were killed?
- (3) If so, can it confirm that the SAS was responsible for those nine deaths, or can it rule out being involved directly in the nine alleged deaths?
- (4) Can the defence force comment on the ISAF media release that refers to the possibility that, due to a gun sight malfunction of US helicopters, cannon rounds fell short and hit two houses that were not a target, but where civilians may have been hiding?
- (5) Given its involvement in this raid, what steps has the defence force taken to ensure that the allegations of civilian casualties have been carefully checked?
- (6) Is it correct that Prime Minister John Key personally approved New Zealanders involvement in the raid on Tirgiran.



Please get back to me when you can.

Regards,

Jon.

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Article Information	
Article Title	<a href="#">“NZDF statement to native affairs”</a>
Source	Te Aro Maori News NZDF   Ministerial public statement
Date Published	30/06/2014

## Native Affairs - Collateral Damage

New Zealanders have been told the role of our troops in Afghanistan is to help the locals. Their focus is supposed to be on reconstruction or training and mentoring Afghan security forces.

However questions have been raised about a joint operation our military undertook with Afghan and American troops in 2010.

The operation, a night raid on a remote village, was a strike against insurgents alleged to have been involved in a kiwi soldier's death.

But tonight you will hear eye witness accounts, from those villagers who say the raid left 21 innocent Afghans dead or injured and that there were no insurgents in the village that night.

We would like to point out the footage shown in this story is not from the operation in question. Here is our special report by correspondent Jon Stephenson.

**Warning, it features images that some viewers may find disturbing.**



Export

Press Secretary

From:

Tue, 01  
Sent Jul 2014  
:00:59:2  
6 GMT

To: [SMITH ROSS, CDRE](#); [PSR\( PETER COLEMAN](#) [SQNLDR](#); [PSR\(IC\)3](#)

CC [PSR\(IC\)3](#) [PSR\(IC\)3](#)

Subject Native Affairs - talking points

FYI, below is our draft updated talking points & a rough transcript of what the Minister said this morning.

**Talking points:**

- › I don't agree with all of what Jon Stephenson said, but I do agree with him that New Zealanders were not responsible for any civilian casualties.
- › There's no absolute evidence of civilian casualties from Coalition air support, but you can't categorically rule it out. It's very hard to prove a negative.
- › But what we do know is that New Zealand troops were categorically not responsible for inflicting any civilian casualties, and 9 insurgents were killed as a result of the operation.

*Make of Native Affairs story? Where I agree with Stephenson is there's absolutely no suggestion that SAS were involved in inflicting civilian casualties or deaths, beyond that I've no further comment to make. Sought assurances from NZDF that other nations didn't kill civilians? I've had briefings from Defence, and will be getting further briefings, the key thing is the NZ Govt is responsible for our troops, there's absolutely no suggest as Mr Stephenson said that our guys inflicted any casualties or death on Afghan civilians. Was a joint op, did US forces kill civilians? There's no evidence that they did, but you couldn't rule out that there may have been civilian casualties. What did you make of the witness interviews? There's a whole lot of things I don't necessarily agree with, the bottom line is our guys were not involved in any civilian deaths or casualties. Bottom line is you can't rule out that US or AFG troops killed civilians? Certainly there were no deaths inflicted on civilians by any ground troops from any nation, so no civilian deaths from ground troops, I can rule that out. What about helo gunships? I think you probably can't rule that out, but I don't agree with everything Mr Stephenson said, what I would emphasis is NZers were not involved, and that's categorical, in any civilian casualties. But the US gunship may have? You can't absolutely rule that out. Raises qu, an op to help NZers, have US killed civilians in our name? No they haven't done that, I'm not going to get into the operation, I can say our guys were not involved in any Afghan civilian deaths, it's not clear, while you couldn't rule out civilians didn't die through actions taken by other forces, absolutely categorical, that NZ forces not involved, so you can't turn this around and say people were killed in the name of NZ, I don't accept that at all. Air support would have been for protection of our personnel? I'm not going to go into the op, you can make conclusions around that. I'm not going to discuss further*

details. *Shouldn't NZers know about this operation, it was to get revenge?* It's not a revenge operation. *Why shouldn't NZers be able to know?* We don't discuss in detail SAS ops, can say categorically no NZers involved in civilian deaths. *Gunship involved?* You're drawing those conclusions, I'm saying you can't rule out there weren't civilian casualties, but not at the hand of any NZers

**PSR(IC)3** | Press Secretary | Office of the Hon Dr Jonathan Coleman  
Minister of Defence, Minister of State Services, Associate Minister of Finance  
Parliament Buildings | Wellington | Ph: **PSR(IC)3** mobile: **PSR(IC)3**

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Article Information	
Article Title	<u>"Categorical: 'NZ troops did not kill civilians'"</u>
Source	Stuff   Ministerial public statement
Date Published	01/07/2014

## Categorical: 'NZ troops did not kill civilians'



DAVID WHITE/FAIRFAX NZ

JOHN KEY: "There were no revenge missions in Afghanistan".

Defence Minister Jonathan Coleman has categorically denied New Zealand troops were involved in the deaths of Afghan civilians in a 2010 raid.

But he could not rule out that deaths did occur at the hands of foreign forces.

Maori TV's Native Affairs programme last night aired a report with claims New Zealand Special Air Service (SAS) troops were involved in a joint operation that killed six Afghan villagers and injured 15 others.

The mission was previously reported in 2011, with details that nine insurgents were killed in the attack, but then-Defence Minister Wayne Mapp said reports of civilian deaths had been investigated and proved false.

It was speculated in 2011 that the mission was "revenge" for the death of Feilding soldier Lieutenant Timothy O'Donnell – something the Defence Force also rejected.

O'Donnell, 28, was killed when his three-vehicle patrol was attacked with explosives, rocket-propelled grenades and gunfire in northeast Bamiyan Province in August, 2010.

In last night's report, journalist Jon Stephenson said he spoke with some of the 15 people wounded in the night-time attack, who said six Afghans, including a child were killed.

Coleman said today he'd received some briefings on the incident, and would be getting more.

"What I would emphasise is New Zealanders were not involved - and that's categorical - in any civilian casualties or deaths," he said.

Coleman went as far to say there were "no deaths inflicted on civilians by any ground troops, by any nation".

But that did not mean there were no civilian casualties.

Coleman could not rule out civilian deaths occurred after fire from US helicopter gunships.

He refused to speak on operational details of the mission, when asked if helicopters were firing to provide air cover for troops on the ground.

"While you couldn't rule out that civilians didn't die through actions taken by other forces, it's absolutely categorical that New Zealand forces weren't involved in that," he said.

Coleman said he did "not accept" that civilians were "killed in the name of New Zealand", and he disagreed with a "whole lot of things" in last night's report.

The report painted O'Donnell's death as a catalyst for the night-time raid on the remote Afghan village.

It said the strike was against insurgents "believed to have been involved in a Kiwi soldier's death", and later mentioning O'Donnell.

Witnesses Stephenson spoke to said there were no insurgents in the village at the time of the attack and some produced cellphone images of what was believed to be the dead.

The deaths were corroborated by an independent human rights commission in Afghanistan and described as "credible" in a coalition report on the operation, according to the Native Affairs report.

The villagers told Stephenson that Afghan and New Zealand SAS troops came off helicopters into the village, but it was after that, that helicopter gunfire killed six people.

Stephenson said the US military had already confirmed that gun sights on their helicopters malfunctioned during that mission and an unintended target might have been hit.

A New Zealand Defence Force spokesperson told Native Affairs that it stood by its statement of April 2011, that acknowledged the operation but denied any civilian deaths.

Prime Minister John Key also stood by the Defence Force version of what happened on the SAS mission.

"There were no revenge missions in Afghanistan," he said today.

"What there was, was situations where our SAS were involved in effectively prosecuting insurgents that were undertaking their own sorts of actions or fights that were going on.

"Our people did go in in those situations and many of them were reasonably high-profile as you know. But my understanding is that after a thorough review of the CDF [Chief of Defence Force] at the weekend, he is very confident that New Zealand Defence Force version of events is correct."

Key was not immediately sure if he was briefed on that particular mission and said he would have to check with his office.

But Stephenson this morning questioned Key's response over his knowledge, saying he had two sources who claimed Key signed off on it.

An earlier version of this report incorrectly said Jon Stephenson had referred to the mission as "revenge". Stephenson did not say this. His story made clear the mission was targeting insurgents allegedly responsible for O'Donnell's death, but did not use the word revenge.

Article Information	
Article Title	"Coleman 'can't rule out' civilian deaths"
Source	NZ Herald   Ministerial public statement
Date Published	01/07/2014

## Coleman 'can't rule out' civilian deaths



**Maori TV's 'Native Affairs' programme claims Afghan civilians may have been killed in a joint raid. Photo / Thinkstock**

Defence Minister Jonathan Coleman says he can't rule out civilian deaths at the hands of foreign troops as part of a joint raid with New Zealand soldiers in Afghanistan.

An investigation by Maori Television's Native Affairs broadcast last night claimed six civilians were killed and 15 were injured when New Zealand SAS troops and Nato forces raided a village in Baghlan Province on August 22, 2010.

The previous Defence Minister Wayne Mapp said at the time that no civilians were killed in the strike.

Mr Coleman told reporters this morning: "There is absolutely no suggestion that New Zealand soldiers were involved in inflicting civilian casualties or deaths. And beyond that I don't really have any comment to make."

Asked whether coalition forces in the joint operation killed civilians, he said: "There is no evidence that they did. But you couldn't rule out there may have been civilian casualties.

"The key thing is New Zealand Government is responsible for the actions of New Zealand troops."

New Zealand troops were on the ground during the mission, and Mr Coleman had



been briefed that no civilians had been harmed by ground troops.

The US military was using helicopter gunships during the raid.

Mr Coleman said "you probably can't rule out" civilian deaths from these gunships' fire.

The raid took place two weeks after New Zealand soldier Timothy O'Donnell was killed in Bamiyan Province, and it was seen by some as a counter-attack or a revenge mission on behalf of New Zealand's military.

Government has maintained it was carrying out its security duties in the region.

Mr Coleman this morning rejected the suggestion that civilians had been killed in New Zealand's name.

The mission took place in Talah wa Barfak District, in a province which bordered Bamiyan Province, where New Zealand's Provincial Reconstruction Team was based.

It involved New Zealand's elite SAS troops, which were usually based in Kabul.

Nine insurgents were killed in the strike.

The district's governor initially said there were eight civilian casualties, and a Nato investigation later revealed a malfunctioning gunsight on a coalition helicopter that had resulted in errant shots hitting a building. The building was struck mistakenly, but was previously used as a base for insurgent operations.

The Native Affairs report was conducted by journalist Jon Stephenson. Villagers told him that there were no insurgents in the village at the time of the early morning raid.

Mr Stephenson told TV3: "They told us their stories, which were that six people were killed - including a three-year-old girl - and that 15 were wounded, and they showed us cellphone footage of the dead. They presented us with a government death certificate.

"I did a lot of other investigation and confirmed from very senior Afghan officials, and from people like hospital directors and NGOs, that those accounts were accurate."

Mr Coleman said he disagreed with many aspects of the report.

**FIRSTLINE PRIME MINISTER JOHN KEY INTERVIEW Transcript  
1 JULY 2014 - FIRSTLINE NEWSHUB**

Station: 3 Date: 01/07/2014

Program: FIRSTLINE Time: 07:16 AM

Compere: MICHAEL WILSON Summary ID: W00057936071

Item: WILSON CHATS WITH PRIME MINISTER JOHNN KEY

MICHAEL WILSON: An investigation has found fresh evidence indicating civilians were killed and injured when a 2010 mission involving New Zealand's SAS and Afghan commandos went tragically wrong. The investigation broadcast by Maori Television's Native Affairs show last night claimed that the mission's aim was to capture or kill those responsible for the death of kiwi Lieutenant Tim O'Donnell. Joining me now is Prime Minister John Key. Good morning.

JOHN KEY: Good morning to you Michael.

MICHAEL WILSON: In this Native Affairs report the claim is that contrary to what Wayne Mapp the then Defence Minister said that it was insurgents that were killed in this mission was in fact civilians. Does the Government acknowledge that ?

JOHN KEY: No it doesn't. I mean I haven't seen the program, but obviously we were alerted to it over the weekend and so my understanding is the CDF, Chief of Defence Force came in over the weekend. There was a thorough review of the particular mission that the SAS had gone on and my understanding is that they refute the claims that they say that there were insurgents that were killed but that was it.

MICHAEL WILSON: Were you briefed about this mission that involved our SAS troops?

JOHN KEY: I don't have any details of that. Again, I'd need to check and cross reference so we've got exactly the same thing. There were lots of missions that went on, so we can categorically say that today I'll just cross reference that.

MICHAEL WILSON: Is it something that you would normally be briefed on if our SAS troops were involved in a mission like this which the Native Affairs program is claiming was a revenge mission for the killing of Lieutenant O'Donnell?

JOHN KEY: Well there were no revenge missions in Afghanistan. What there was was situations where our SAS were involved in effectively prosecuting insurgents that were undertaking their own sorts of actions or fights that were going on. Our people did go in in those situations and many of them were reasonably high profile as you know. But my understanding is that after a thorough review by the CDF in the weekend, he is very confident that the New Zealand Defence Force version of events is correct and Mr Stevenson once again is wrong.

MICHAEL WILSON: Okay if we move on to the intelligence briefing you had in the US on Iraq, was there anything in that, that briefing that would give you cause to back air strikes by the US if they did take place in Iraq?

JOHN KEY: I won't go into the absolute details for obvious reasons but it was a wide ranging briefing as you would expect. And I don't think there's one particular thing that necessarily came out of that, but the broad picture that was built up when we were in the United States by the State Department, by the White House and by the intelligence agencies, certainly argued that there is a very sophisticated insurgent group, [indistinct] or ISIS that are taking the lives of many people and obviously attempting to depose the current government. Now, as I've said before, certainly the Iraq Government has helped - asked the Americans to come in and help them and to deploy air strikes. Whether they ultimately every happen or not I don't know, but what I do know is that's a matter between the Iraq Government and the United States if they ask them to go in and if they agree to do it. It's really nothing to do with New Zealand, so we wouldn't - as I've said before, we wouldn't condemn it, so by definition some people would say that means we condone it, but it's no different to the position in Yemen where that happens right at this time.

MICHAEL WILSON: Because a poll was taken last night and it seemed to indicate that New Zealanders wouldn't actually want New Zealand to provider support for air strikes.

JOHN KEY: Yeah, again, it's highly unlikely New Zealand would. Not impossible that intelligence we might gather could theoretically be used. It's at the outer ends of theory but you never say never in life.

MICHAEL WILSON: Now the diplomat and the not naming - non naming thus far of this diplomat involved in this robbery and attack on a

woman. Labour is implying that you could name that person and country. Is that the case?

JOHN KEY: Well it's certainly not. I mean it's subject to a Wellington District Court suppression order and we tested that suppression order with Crown Law yesterday. But if Labour believe that they can safely and without breaching that court order go and say the name. They should just feel free to come on TV today and go and do that. I mean they'd face their own consequences. I'm not their master. So if they want to do it they should go and do it. But certainly we've taken the best advice we can and the best advice we can says look it's subject to a suppression order and you can't identify the person or the country.

MICHAEL WILSON: Putting pressure on that country if they do not go ahead with some sort of prosecution of this person, what degree of pressure can you put on them?

JOHN KEY: We can't stop them doing what they've done in terms of applying diplomatic immunity and taking the person back to their home country. And the reason for that obviously is that we're all signatories to the Vienna Convention and under the Vienna Convention you can do exactly what they've done. Now New Zealand's made it very very clear firstly that they didn't want them to apply the Vienna Convention. They chose to do that. New Zealand's certainly made it very clear that the person would be held - should be held to account in

their home country and the indications we've had from their home country is that they will be held to account.

So I think in the first instance let's just see that process work its way through. Now if they fail to hold the person to account, then of course there are always other options available to the Government. But you wouldn't want to sort of speculate on those today until you let the home country go through that process.

MICHAEL WILSON: Is this a country that we could influence do you think?

JOHN KEY: I really wouldn't want to speculate on that. I mean we have a good relationship with this country. Given the nature of the alleged crime I would have thought that they would take it very seriously. Certainly in New Zealand we do. And as I said earlier, we wish that we were in a position to allow the police to further their prosecution in New Zealand, but there's very very little we can do about this.

MICHAEL WILSON: Okay. Thank you very much for your time there. That's the Prime Minister John Key.

ENDS

Article Information	
Article Title	<a href="#"><u>"Key denies SAS involvement in civilian deaths in Afghanistan"</u></a>
Source	Te Aro Maori News   Ministerial public statement
Date Published	01/07/2014

## Key denies SAS involvement in civilian deaths in Afghanistan



An attack on a village in the Baghlan area of Afghanistan nearly four years ago, which involved New Zealand SAS troops, is now being questioned as allegations of a cover-up have surfaced.

Defence Minister at the time Wayne Mapp denied any civilian deaths.

However it looks as though Prime Minister John Key was told a slightly different version of the story.

"I was briefed when that mission went ahead and the advice I was given is that there were no civilians killed by New Zealanders."

"We don't discuss in detail SAS operations, but what we do say categorically is that no NZ soldier was involved in killing civilians."

During the attacks a three-year-old Afghanistan girl died after a piece of the exploding rocket hit her in the head.

So as it stands it appears, John Key and the Defence Minister Jonathan Coleman are wiping their hands clean, insisting that no NZ troops killed any civilians.

After John Key's recent visit to the White House, there's no doubt Key would be quick to avoid questioning any of the US' involvement in the killings.

Article Information	
Article Title	<a href="#"><u>Hon Phil Goff to the Minister of Defence</u></a>
Source	Parliamentary Questions
Date Published	04/07/2014

## 6327 (2014). Hon Phil Goff to the Minister of Defence

Parliamentary Questions 04/07/2014

6327 (2014). Hon Phil Goff to the Minister of Defence (04 Jul 2014): Does he stand by the statement of his predecessor, Wayne Mapp, that no civilians were killed in a strike by SAS troops and NATO forces on a village in Baghlan Province on 22 August 2010, if not why not?

Hon Dr Jonathan Coleman (Minister of Defence) replied: I am advised that New Zealanders were not involved in any civilian casualties or deaths.

## 6328 (2014). Hon Phil Goff to the Minister of Defence

Parliamentary Questions 04/07/2014

6328 (2014). Hon Phil Goff to the Minister of Defence (04 Jul 2014): What information does he have on civilian casualties incurred in an SAS/NATO strike on a village in Baghlan Province on 22 August 2010?

Hon Dr Jonathan Coleman (Minister of Defence) replied: Any information I have received on this topic must be withheld under section 6(a) of the Official Information Act 1982, as making such information available would be likely to prejudice the security or defence of New Zealand.





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OIA-2016-2569

15 March 2017

PSR(IC)3

Chairperson

Human Rights Foundation of Aotearoa New Zealand

PSR(IC)3

Dear PSR(IC)3

I refer to your email of 21 October 2016 requesting, under the Official Information Act 1982 (OIA), information relating to the role and activities of the New Zealand Defence Force (NZDF) in Iraq and Afghanistan since 2001.

With respect to your interim proposal received on 30 November 2016, I apologise for not being able to inform you earlier that there are no formal NZDF inquiries into the actions of NZDF personnel in Helmand province in 2002; and in Baghlan Province and in Kabul in 2010. Given the media attention at the time, I trust you are already aware of the NZDF Court of Inquiry into the 2012 contact near Baghak. The report for this can be found on the NZDF website.

The ability to access files and contact key staff in order to respond to your request has been seriously hampered as a result of the November 2016 earthquake. Given the scope of the information concerned it was not considered reasonable to deal with individual aspects of your request in isolation. As a result, I have not been able to provide you with a substantive response until now.

Specifically, you asked for the following:

1. *Any and all information relating to the detention of prisoners by New Zealand forces, or by other forces with the assistance of New Zealand forces, including:*
  - a. *the number of detainees; and for each of these:*
  - b. *the dates and reasons for their detention;*
  - c. *whether they were detained by New Zealand forces or by other forces and if the latter, information pertaining to the extent or nature of the involvement of New Zealand forces;*
  - d. *whether they were transferred to American, Afghan or Iraqi forces or otherwise released;*
  - e. *whether New Zealand authorities are aware of any involvement, direct or indirect, that New Zealand forces may have had in the torture or mistreatment of detainees in Iraq or Afghanistan.*

In May 2002, 50-70 persons were apprehended and temporarily detained for approximately five hours by the New Zealand Special Air Service (NZSAS). They were transferred into the custody of United States (US) forces, as US forces had the necessary resources in terms of facilities, interpreters, intelligence operators and military police. The size and nature of the NZSAS component precluded any possibility of holding apprehended persons for more than a short period of time or effectively processing them. For this reason no attempt was made by New Zealand Forces to record personal details of the apprehended persons at the time.

NZDF personnel met immediate humanitarian duties of respecting and protecting the apprehended persons, but did not interrogate them.

A person was apprehended and detained by NZDF personnel in January 2011 in Parwan Province. Another person was apprehended and detained by NZDF personnel in August 2012 following the engagement near Baghak. Both were subsequently transferred to US custody, and later into the custody of the Government of Afghanistan. On behalf of the Ministry of Foreign Affairs and Trade, the NZDF monitored the welfare of these persons until they were either released, or dealt with through the judicial process of Afghanistan.

The reasons for apprehension and detention and all related information, is withheld pursuant to sections 6(a), 6(b) and 9(2)(h) of the OIA. The NZDF does not hold a record of persons captured by other forces, where NZDF personnel acted in supporting roles.

I have no information to indicate involvement of NZDF personnel, directly or indirectly, in the torture or mistreatment of detainees in Iraq or Afghanistan. Indeed, any implication that members of the NZDF would knowingly use or be involved in the torture of detainees is abhorrent. The NZDF takes its responsibilities towards respecting the human rights of people seriously, and has always acted to ensure they are treated within the law of armed conflict and human rights law.

The United Nations Assistance Mission in Afghanistan (UNAMA) has released publicly available reports on the treatment of conflict-related detainees in Afghan custody. These reports indicate that while torture and mistreatment were a significant issue in Afghan law enforcement agencies, involvement in mentoring and training Afghan authorities in the professional and humane conduct of their duties was viewed by the United Nations as a vital step in reducing such treatment, with the aim of lifting Afghan organisations to internationally accepted standards of behaviour.

Please find enclosed briefing notes to the Minister regarding NZDF operations in Afghanistan and detainee treatment in Afghanistan in light of the UNAMA report.

2. *Any and all information regarding the involvement or participation of New Zealand forces in actions resulting in the deaths or serious injuries of civilians or non-combatants, whether the result of direct actions by New Zealand forces or by the actions of other forces operating alongside, with the cooperation of or under the supervision of New Zealand forces. Such incidents include but are not limited to:*
  - a. *The raid in Band e Timur, Helmand Province, in May 2002;*
  - b. *The raid in Baghlan Province in August 2010;*
  - c. *The engagement near Dahane Baghak, Bamiyan Province, in August 2012;*  
*and*
  - d. *The 24 December 2010 Kabul raid.*
3. *In relation to the above noted incidents, the full results of any formal inquiries conducted into the actions of New Zealand forces, including the investigation by ISAF into the raid in Baghlan.*

The NZDF does not undertake investigations or inquiries into the actions of forces from other nations.

The NZDF did not conduct any formal inquiries into the raid in Band e Timur. The NZDF has no records of this raid resulting in death or serious injury to civilian or non-combatants.

The 2010 raid in Baghlan involved a suspected civilian casualty. There was a formal Coalition CIVCAS investigation team assigned relating to the Baghlan Province Raid



incident. The NZDF does not hold a copy of the investigation undertaken by a joint Afghan Ministry of Defence, Afghan Ministry of Interior and International Security Assistance Force (ISAF) assessment team into the raid in Baghlan. A copy of this investigation has not been released publicly. The NZDF has no reason to believe that New Zealand personnel conducted themselves other than in accordance with the applicable rules of engagement. Good reason exists for withholding any information the NZDF has relating to this matter pursuant to section 6(a) of the OIA.

There was a Coalition investigation into the 24 December 2010 Kabul raid. Copies of these investigations have not been released publicly, and good reason exists for withholding any information NZDF has relating to these matters pursuant to section 6(a) of the OIA.

Regarding the 4 August 2012 engagement near Baghak and the suspected civilian casualty, the Court of Inquiry summary and report, being the formal inquiries conducted by NZDF, are available on the NZDF website, as previously noted. I have also enclosed the related order for the assembly of the Court of Inquiry and glossary.

The NZDF conducted a Court of Inquiry into an incident in 2013 involving a suspected civilian casualty. Information relating to this matter will not be released as good reason for withholding the information exists pursuant to sections 6(a) and (b) of the OIA.

I am not aware of any other incidents where it is alleged that the involvement or participation of New Zealand forces, in the manner you have described, resulted in the death of or serious injury to civilian or non-combatant persons.

4. *Material including operational manuals, rules of engagement and other material relating to the treatment of prisoners, conduct of New Zealand forces and interactions or engagements with civilians and non-combatants.*

Good reason for refusing to release the majority of material of this nature exists pursuant to section 6(a) of the OIA, as its release would be likely to prejudice the security or defence of New Zealand. However, I have enclosed a copy of guidance for the treatment of prisoners, and can advise that the NZDF Law of Armed Conflict manual is expected to be released online later this year.

5. *Information relating to the role and objectives of New Zealand forces, including the NZSAS, in these deployments.*

### **PRT (Afghanistan)**

The NZDF assumed responsibility for the Bamyan Provincial Reconstruction Team (PRT) from US forces in 2003, operating under the command of ISAF. The roles performed by PRTs vary widely depending on security conditions, local needs and the priorities of the lead nation. The NZ PRT's principal mission was to create a favourable security environment in Bamyan Province to assist reconstruction and development. To facilitate this, the PRT was engaged in a broad range of activities that built capacity and facilitated governance, including supporting NZAID in the province.

Deployed personnel also conducted presence patrols in Bamyan's remote districts for up to three weeks at a time and built up excellent relations with the local population and community leaders. The physical presence of those patrols demonstrated a willingness on the part of the PRT to engage with the local population and to assist in providing their security.

### **Building Partner Capacity (Iraq)**



In response to a request from the Government of Iraq, Cabinet agreed in February 2015 to deploy the NZDF to the international coalition of 68 countries to counter ISIL as part of a joint Australia-New Zealand building partner capacity mission in Iraq, which commenced in April 2015. The purpose of the building partner capacity mission in Iraq is to provide training to the Iraqi Security Forces in order to better prepare them for operations to degrade ISIL.

Australian and New Zealand personnel provide training to Iraqi Security Forces on the laws of armed conflict; human rights; women, peace and security; basic weapons handling; combat first aid; obstacle breaching techniques and planning for combat operations.

### **NZSAS missions**

The NZSAS Task Force was authorised to conduct missions in support of Headquarters ISAF including military assistance and training. While the NZSAS Task Force remained under the full command of NZDF Chief of Defence Force, all operations conducted by the NZSAS required approval by Headquarters ISAF and authorisation by the Government of Afghanistan.

The aim of the military assistance mission was to deliver on the ISAF goal of increasing the capacity and capability of the Afghan National Security Forces. To this end, NZSAS members mentored, guided and trained members of the Afghan Police Crisis Response Unit (CRU). NZSAS members did not take a leading role in the active part of operations, though they were sometimes in close support.

I trust this satisfies your request for information. You retain the right, however, under section 28(3) of the OIA, to ask an Ombudsman to review my response to your request.

Yours sincerely



**G.R. SMITH**

Commodore, RNZN  
Chief of Staff HQNZDF

Export

Press Secretary

From:

Tue, 21  
Mar  
Sent 2017  
21:14:4  
7 GMT

To: **Kevin Talyor**  
CC: PSR(IC)3 SMITH ROSS, CDRE; HOEY CHRISTOPHER ; WARRENDER  
TRUDY; Rob Gillard COL; FERRIS LISA, COL; PSR(IC)3

Subject: RE: Follow-up questions unclassified

No, in the verbal briefing is fine. Just wanted to make sure you had the answers to them before coming over.

Thanks PSR(IC)3

PSR(IC)3

---

**From:** Kevin Talyor  
**Sent:** Wednesday, 22 March 2017 10:13 a.m.  
**To:** Press Secretary PSR(IC)3  
**Cc:** PSR(IC)3 SMITH ROSS, CDRE PSR(IC)3  
HOEY CHRISTOPHER Rob Gillard WARRENDER TRUDY  
FERRIS LISA, COL PSR(IC)3 COL PSR(IC)3  
**Subject:** RE: Follow-up questions unclassified

Many of these will be covered in the verbal briefing occurring at 12.30pm today in PMO.

Do you seek written responses?

---

**From:** Press Secretary @parliament.govt.nz  
**Sent:** Wednesday, 22 March 2017 10:10 a.m.  
**To:** Kevin Taylor  
**Cc:** PSR(IC)3  
**Subject:** RE: Follow-up questions

Morning,

Here's a list of questions we would like answered today please.

They're ordered in rank of importance.

Thanks,

PSR(IC)3

**PSR(IC)3** | Press Secretary | Office of the Hon Gerry Brownlee  
Defence Minister | Civil Defence Minister | Leader of the House  
Minister supporting Greater Christchurch Regeneration | Minister Responsible for the Earthquake  
Commission | MP for Ilam  
L7.4 The Beehive | Wellington | Ph: PSR(IC)3 | mobile: PSR(IC)3

|PSR(IC)3

facebook.com/gerrybrownleemp

[www.beehive.govt.nz](http://www.beehive.govt.nz)**From:** PSR(IC)3**Sent:** Wednesday, 22 March 2017 10:03 a.m.**To:** Press Secretary PSR(IC)3**Subject:** Follow-up questions

Hi all

These are my questions from the book.

I realise it covers quite a lot, but I think these are the specifics that could come up and it would be useful for us to know the answers/have lines ready.

Even if we just wind up with not disclosing details of SAS operations, the office would like to know as much as we can.

- Who was in charge of this operation?
- What was the command structure for this attachment?
- The book claims two victims had bullet holes in them which could have only come from the ground. Our troops were the only ones on the ground so how do we explain this?
- NZ said insurgents were killed but those same insurgents rocked up to a funeral and were recorded – explanation?
- Did the NZDF receive or do they possess a video of the targets at a funeral?
- Were the names added to the JPEL at SAS/NZDF request?
- Were there US Apaches or other US assets involved in the operation?
- Did SAS personnel set alight and use explosives on structures in the villages?
- Did the claimed second raid occur?
- Did SAS personnel fire on any person during any part of this operation or actions relevant to it?
- Was Defence aware of media reports claiming civilian casualties in the days after the operation?
- What action did NZDF take following the ISAF investigation released on 29/08/10
- What action did NZDF take after the release of the UN/AIHR report in March 2011?
- Confirm whether the US apologised to the families at Tirgiran. Did NZDF take any action after this apology?
- Was Qari Miraj handed over to the NDS at Shashdarak?
- Did the SAS/NZDF receive a report of Miraj's interrogation

---

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Export

From: **Kevin Taylor**

Sent: Tue, 21  
Mar  
2017  
21:16:0  
5 GMT

To: **SHORT KEVIN, AVM**

CC: **PSR(IC)3**

Subject: FW: Follow-up questions unclassified

PSR(IC)3

Could you put this in front of VCDF's nose asap please.

Thanks

PSR(IC)3

---

**From:** **Kevin Taylor**

**Sent:** Wednesday, 22 March 2017 10:13 a.m.

**To:** **Press Secretary'**

**Cc:** **PSR(IC)3** SMITH ROSS, CDRE; **HOEY CHRISTOPHER** WARRENDER TRUDY; **Rob Gillard**  
COL; FERRIS LISA, COL

**Subject:** RE: Follow-up questions unclassified

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---

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**To:** **Kevin Taylor**

**Cc:** **PSR(IC)3**

**Subject:** RE: Follow-up questions

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PSR(IC)3

**PSR(IC)3**

| Press Secretary | Office of the Hon Gerry Brownlee

Defence Minister | Civil Defence Minister | Leader of the House

Minister supporting Greater Christchurch Regeneration | Minister Responsible for the Earthquake  
Commission | MP for Ilam

L7.4 The Beehive | Wellington | Ph: **PSR(IC)3** | mobile: **PSR(IC)3**

| **PSR(IC)3**



facebook.com/gerrybrownleemp

[www.beehive.govt.nz](http://www.beehive.govt.nz)

**From:** PSR(IC)3

**Sent:** Wednesday, 22 March 2017 10:03 a.m.

**To:** Press Secretary PSR(IC)3

**Subject:** Follow-up questions

Hi all

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Did the NZDF receive or do they possess a video of the targets at a funeral?

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Were there US Apaches or other US assets involved in the operation?

Did SAS personnel set alight and use explosives on structures in the villages?

Did the claimed second raid occur?

Did SAS personnel fire on any person during any part of this operation or actions relevant to it?

Was Defence aware of media reports claiming civilian casualties in the days after the operation?

What action did NZDF take following the ISAF investigation released on 29/08/10

What action did NZDF take after the release of the UN/AIHR report in March 2011?

Confirm whether the US apologised to the families at Tirgiran. Did NZDF take any action after this apology?

Was Qari Miraj handed over to the NDS at Shashdarak?

- Did the SAS/NZDF receive a report of Miraj's interrogation



Export

From: PSR(IC)3  
 LTCOL  
 Kevin Taylor  
 To: SHORT KEVIN, AVM; SMITH ROSS, CDRE  
 CC: SHORT KEVIN, AVM; SMITH ROSS, CDRE  
 Subject: RE: PROPOSED DRAFT STATEMENT  
 PSR(IC)3

Sent: Tue, 21  
 Mar  
 2017  
 07:43:4  
 5 GMT

VCDF has discussed with CDF – all good to go – believe it may have already gone? Was just the abbreviation of ISAF after the name required.

Regards

PSR(IC)3

---

**From:** Kevin Taylor  
**Sent:** Tuesday, 21 March 2017 7:32 p.m.  
**To:** PSR(IC)3 LTCOL  
**Subject:** PROPOSED DRAFT STATEMENT

Draft Statement

The New Zealand Defence Force stands by the statement it made dated 20 April 2011.

As the 2011 statement says, following the operation, allegations of civilian casualties were made. These were investigated by a joint Afghan Ministry of Defence, Ministry of the Interior and International Security Assistance Force (ISAF) assessment team, in accordance with ISAF procedures.

The investigation concluded that the allegations of civilian casualties were unfounded.

The NZDF does not undertake investigations or inquiries into the actions of forces from other nations. That was the role of the joint Afghan-ISAF investigation.

The NZDF has no reason to believe that New Zealand personnel conducted themselves other than in accordance with the applicable rules of engagement.

**Kevin Talyor**

Chief Advisor Public Affairs Office of the Chief of Defence Force

**NEW ZEALAND DEFENCE FORCE**

T +PSR(IC)3 M PSR(IC)3 Internal PSR(IC)3

[www.nzdf.mil.nz](http://www.nzdf.mil.nz)

Export

Press Secretary @parliament.govt.nz

Sent Tue, 21  
Mar  
2017  
22:10:2  
2 GMT

From:

To: PSR(IC)3

CC Kevin Taylor

Subject Snap debate - what I've got so far

Hey PSR(IC)3

I can flesh this out a bit more after the 12:30 briefing.

PSR(IC)3 – are you able to fact check/sanity check please?

Thanks,

PSR(IC)3

**PSR(IC)3**

| Press Secretary | Office of the Hon Gerry Brownlee

Defence Minister | Civil Defence Minister | Leader of the House

Minister supporting Greater Christchurch Regeneration | Minister Responsible for the Earthquake Commission | MP for Ilam

L7.4 The Beehive | Wellington | Ph: PSR(IC)3 | mobile: PSR(IC)3

| PSR(IC)3

facebook.com/gerrybrownleemp

[www.beehive.govt.nz](http://www.beehive.govt.nz)

## Talking points

- This is typical Hager – releasing a one-sided book at 5pm with no balance or reaction from the Govt.
- The matter was investigated at the time and we have been advised by the New Zealand Defence Force they stand by what they said at the time.
- The Prime Minister will receive a briefing from the NZDF at midday today.
- This was not a revenge attack.
- It cannot be ruled out that there were casualties inflicted by other forces.
- It's disgraceful how the reputation of our soldiers is being tarnished by these allegations.
- The NZ SAS is highly regarded internationally.

- The Minister of Defence is currently overseas but will be talking to his departments upon his return.

### **Will you have an inquiry?**

As we have said the matter was investigated at the time, and at this stage we can't see anything new in the book that would warrant us revisiting the SAS's involvement.

We are proud of the work the SAS has done and the support they provided in Afghanistan.

In saying that, because the book makes some serious claims from various anonymous sources, the NZDF will be reviewing them as a matter of protocol.

### **Why won't you have an inquiry?**

Following the operation, allegations of civilian casualties were made. These were investigated by a joint Afghan Ministry of Defence, Ministry of the Interior and International Security Assistance Force (ISAF) assessment team, in accordance with ISAF procedures.

The investigation concluded that the allegations of civilian casualties were unfounded. The NZDF is confident that New Zealand personnel conducted themselves in accordance with the applicable rules of engagement.

### **Have you sought assurances from Defence that no civilians were killed?**

We have been advised by the NZDF that they stand by what they said at the time. They are confident that New Zealand personnel conducted themselves in accordance with the applicable rules of engagement. No New Zealand SAS were involved in the killing of civilians.

The operation was conducted as part of the wider ISAF mission to improve security of the Afghan people and to protect the NZ Provincial Reconstruction Team in Bamiyan province.

### **There are a lot of allegations here - the names of civilians killed, and information from SAS sources – why won't you investigate?**

The NZDF cannot undertake investigations or inquiries into the actions of forces from other nations.

That was the role of the joint Afghan-ISAF investigation. The NZDF usually does not comment on matters of an operational nature as any release of information can put New Zealanders at risk but, in this case, clarification of the facts was warranted.

### **What do you make of the Defence Minister Wayne Mapp's comments to his friend that the raid was 'disastrous and a fiasco'?**

Again, this is Hager's version of events and it's third-hand information.

### **Did John Key give the green light for the attack?**

We don't comment on SAS operations.

### **Who was in charge of the raids on the two villages?**

? Will complete after NZDF briefing at 12:30

### **What NZ achieved in Afghanistan**

A 2013 report from MFAT laid out New Zealand's achievement in Afghanistan over more than ten years – one of our longest deployments.

We spent over a decade supporting development needs in Bamiyan with the Provincial Reconstruction Team (PRT) deployed in 2003.

This was a collaborative mission with MFAT, NZDF and NZ Police working together on a range of projects.

The NZ-led PRT worked in close cooperation with the Provincial government, other Afghan officials and coalition military contingents.

Without the presence of New Zealand's soldiers, these achievements would not have been possible.

At the end of 2013, New Zealand spent over \$80 million on development in Afghanistan.

### **Education**

341 schools were built in the province on NZ's watch, up from 3 under the Taliban

950 students graduated from Bamiyan University from 2006 to 2013

An increase of 765 per cent in local school attendance, with NZ support for

teachers and facilities

In 2012, 247 girls gained university entrance, compared to 3 in 2005

## **Police**

3000 police were trained by NZ Police

The first National Police Women's committee in Afghanistan was started in Bamiyan

## **Health**

Health clinics were built across Bamiyan

Further training was provided to staff at hospitals and dental clinics

## **Infrastructure and economic development (\$47.7 million)**

The NZ PRT was involved in over 200 projects, including bridges, flood protection walls, wells, roads and security walls for schools.

Major improvements to local primary industries, with tractors, training in modern farming practices and agricultural science, crop storage facilities.

The construction of the largest solar energy system in Afghanistan, which will power 2500 houses and business.

Assistance in developing a tourist market and accompanying tourism infrastructure.

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Article Information	
Article Title	<u>NZDF Response to Book</u>
Source	Press Release
Date Published	21/03/2017

## NZDF Response to Book

The New Zealand Defence Force stands by the statement it made dated 20 April 2011.

As the 2011 statement says, following the operation, allegations of civilian casualties were made. These were investigated by a joint Afghan Ministry of Defence, Ministry of the Interior and International Security Assistance Force (ISAF) assessment team, in accordance with ISAF procedures.

The investigation concluded that the allegations of civilian casualties were unfounded.

The NZDF does not undertake investigations or inquiries into the actions of forces from other nations. That was the role of the joint Afghan-ISAF investigation.

The NZDF is confident that New Zealand personnel conducted themselves in accordance with the applicable rules of engagement.



Export

From: [GALL](#)  
[TIM](#)  
[MAJGE](#)  
[N](#)  
 To: Rob Gillard, [COL](#)  
 CC: [MCEVOY KEVIN](#), [AIRCDRE](#)  
 Subject: RE: Update H and R Book

Sent: Wed, 22  
 Mar  
 2017  
 22:36:3  
 5 GMT

Can we catch up on the other issue this PM. We are just trawling our archived files to see if we have a copy of the Relevant report.

**Maj Gen Tim Gall**  
**Commander, Joint Force New Zealand**  
**New Zealand Defence Force**  
 T [PSR\(IC\)3](#) , M [PSR\(IC\)3](#) , Internal [PSR\(IC\)3](#)  
[www.nzdf.mil.nz](http://www.nzdf.mil.nz)

<<http://force4nz.mil.nz/>>

---

**From:** Rob Gillard COL  
**Sent:** Thursday, 23 March 2017 11:09 a.m.  
**To:** GALL TIM, MAJGEN  
**Cc:** MCEVOY KEVIN, AIRCDRE  
**Subject:** Update H and R Book

Sir,

We are currently in a holding position re further engagement with media until the RTNZ of Min Def and CDF. The NZDF first statement below remains extant. I will inform Component Commanders accordingly.

I will be in JFNZ later this afternoon and can provide a further update on what next.

SOCC

## NZDF RESPONSE TO BOOK

The New Zealand Defence Force stands by the statement it made dated 20 April 2011.

As the 2011 statement says, following the operation, allegations of civilian casualties were made. These were investigated by a joint Afghan Ministry of Defence, Ministry



of the Interior and International Security Assistance Force (ISAF) assessment team, in accordance with ISAF procedures.

The investigation concluded that the allegations of civilian casualties were unfounded.

The NZDF does not undertake investigations or inquiries into the actions of forces from other nations. That was the role of the joint Afghan-ISAF investigation.

The NZDF is confident that New Zealand personnel conducted themselves in accordance with the applicable rules of engagement.

**ENDS**

**Colonel PSR(IC)3**

**Special Operations Component Commander, Headquarters New Zealand Defence Force  
New Zealand Defence Force**

T **PSR(IC)3** , M **PSR(IC)3** , Internal **PSR(IC)3**  
[www.nzdf.mil.nz](http://www.nzdf.mil.nz)

<< OLE Object: Picture (Device Independent Bitmap) >> <<http://force4nz.mil.nz/>>

Export

From: WILLIAM  
S EVAN,  
BRIG

Wed, 22  
Mar  
2017  
23:21:5  
7 GMT

To: FERRIS LISA, COL  
CC: **PSR(IC)3** LTCOL; **PSR(IC)3** CDR  
Subject: RE: **PSR(R)1**

Ack. Thanks.

E.G. WILLIAMS  
BRIG  
DA LONDON  
**PSR(IC)3**

On mobile hence the brevity.

---

**From:** FERRIS LISA, COL **PSR(IC)3**  
**Date:** Wednesday, 22 Mar 2017, 9:24 pm  
**To:** WILLIAMS EVAN, BRIG **PSR(IC)3**  
**Cc:** **PSR(IC)3** LTCOL **PSR(IC)3** CDR  
**Subject:** RE: **PSR(R)1**

Thanks Sir,

**PSR(IC)3** **PSR(IC)3**, you can stand down, we have managed to find a copy in the plethora of emails this morning!

Cheers

Lisa

---

**From:** WILLIAMS EVAN, BRIG  
**Sent:** Wednesday, 22 March 2017 9:44 p.m.  
**To:** FERRIS LISA, COL  
**Cc:** **PSR(IC)3** LTCOL; **PSR(IC)3** CDR  
**Subject:** RE: **PSR(R)1**

Hi Lisa (and congratulations – I think!?)

I will see what we can do

Regards

**PSR(IC)3**

Can you go into your PJHQ Contacts and see if they can lay their hands on them.

PSR(IC)3

Same with NATO given ISAF was a NATO mission.

Thanks

***E.G Williams***

Brigadier | Head, New Zealand Defence Staff, London  
Defence Adviser UK and Ireland | NATO Mil Rep

**NEW ZEALAND DEFENCE FORCE**

**Te Ope Kaatua O Aotearoa**

M: **PSR(IC)3**

T: **PSR(IC)3**

Ext <sup>PSR(IC)3</sup>

[www.nzdf.mil.nz](http://www.nzdf.mil.nz)

---

**From:** FERRIS LISA, COL

**Sent:** Wednesday, 22 March 2017 08:41

**To:** WILLIAMS EVAN, BRIG

**Subject:** **PSR(R)1**

Kia ora Sir,

Apologies for the short notice but while we are snoozing overnight I am wondering if you or perhaps <sup>PSR(IC)3</sup> can lay their hands on **PSR(R)1** which dealt with <sup>PSR(IC)3</sup>, <sup>PSR(IC)6</sup>

CDF is keen to have as much info as possible concerning the procedures post incident. We will search our systems tomorrow but if you are able to locate it would be much appreciated.

Cheers

Lisa

Sent with BlackBerry Work ([www.blackberry.com](http://www.blackberry.com))

Article Information	
Article Title	<a href="#"><u>"Former Defence Minister concedes civilian casualty in 2010 SAS raid in Afghanistan"</u></a>
Source	NZ Herald - Ministerial Public Statement
Date Published	22/03/2017

## Former Defence Minister concedes civilian casualty in 2010 SAS raid in Afghanistan

Former Defence Minister Wayne Mapp has conceded civilians were killed in a 2010 Afghanistan raid - the first Government concession of the deaths.

The raid is the focus of Nicky Hager and Jon Stephenson's new book, which claims six people were killed.

Newshub spoke to Mapp - who was Defence Minister at the time of the attack - today.

"One of the disasters of war is these terrible things can happen," he said when asked about the deaths..

When asked if he was remorseful, he said: "In 2014 I was informed that, I saw it on TV in fact, that a 3-year-old was killed, I'm sure everyone is remorseful about that. At the time of the attack they thought they were being attacked by insurgents."



Former Minister of Defence Wayne Mapp. Photo

Mapp added: "At the time the raid took place the soldiers thought they were engaging with insurgents, that's how people were acting, that's what the report was at the time.

"We didn't achieve the objective we sought, which was the capture of a named group of people," Mapp said.

Last night Mapp told Fairfax: "I mean, [the deaths] was an accident. No-one in the New Zealand Defence Force goes and does these things deliberately. They undertook their actions because they thought they were under attack."

Mapp added that the actions of the soldiers did not meet the threshold of a war crime. In 2011

Mapp denied civilians were killed when the raid became public.

The new book, *Hit and Run: The New Zealand SAS in Afghanistan and the meaning of honour*, claims Mapp told a friend the operation was New Zealand's "biggest and most disastrous operation - a fiasco".

Released yesterday, the book alleges the SAS killed six civilians and injured 15 during a raid on two villages in Tirgiran Valley, Baghlan.

It claims the raid was a retaliation against the killing of Kiwi soldier Tim O'Donnell days earlier.

Afghanistan governor says civilians were killed

The former governor of Bamiyan province where New Zealand troops served for a decade also confirmed civilians were killed in the raid led by the NZSAS in 2010.

Habiba Sarabi said she had been told by people in the area close to the raid that civilians had been killed and she had been personally told of civilian casualties.

"We have to avoid civilian casualties but sometimes it happens. I have heard from Baghlan people from the community close to Bamiyan that there were civilian casualties."

The statement from Sarabi backs up claims in *Hit & Run* which said the August 2010 mission was led by New Zealand's NZSAS and saw six civilians killed and 15 wounded. It claimed it was a botched raid which saw none of the intended targets killed.

NZ Defence Force has refused to make detailed comment other than stating that no civilians lost their lives during the raid but nine combatants were killed.

Speaking from Afghanistan, Sarabi said the people killed lost their lives in a raid which followed the death of Lieutenant Tim O'Donnell, New Zealand's first fatality in our decade-long involvement running a Provincial Reconstruction Team in Bamyan.

"I was aware of the mission."

She said the raid stemmed from concern that there were insurgents in the area who, if left unchecked, could have developed to become a significant threat to the New Zealanders running the PRT.

"Sometimes if the insurgents are coming from the other side [of the province] the mission should work to clean the area. To clean the area, sometimes it needs to go out of the place you are responsible for.

"I don't know the number of civilian casualties but in a conflict there's sometimes civilian casualties happening.

"It is, of course, war."

Sarabi said information about civilian deaths came from people who lived in the area bordering Bamyan and Baghlan provinces. The two villages which were the focus of the book were about 50km from the New Zealand PRT base and not far over the border into Baghlan.

Article Information	
Article Title	<a href="#"><u>"Wayne Mapp does not deny 'Hit and Run' Afghan raid claims"</u></a>
Source	Newshub - Ministerial public statement
Date Published	22/03/2017

## Wayne Mapp does not deny 'Hit and Run' Afghan raid claims

Former Defence Minister Wayne Mapp has conceded that civilians were killed in the 2010 Afghanistan raid that is the focus of Nicky Hager and Jon Stephenson's new book.

The book claims Dr Mapp told a friend the operation was New Zealand's "biggest and most disastrous operation - a fiasco".

When Newshub's Mitchell Alexander asked about the quote in the book on Wednesday, Dr Mapp did not back away.

**Newshub: "Did you say the 2010 raids were one of most disastrous operations - do you stand by those comments?"**

*Mapp: "At the time the raid took place the soldiers thought they were engaging with insurgents, that's how people were acting, that's what the report was at the time."*

Dr Mapp was asked about the quote a second time.

**Newshub: "Did you say the 2010 raid was one of the biggest and worst operations that have taken place?"**

*Dr Mapp: "We didn't achieve the objective we sought, which was the capture of a named group of people."*

Dr Mapp denied civilians were killed when the raid became public in 2011, but was open about it on Wednesday.

"One of the disasters of war is these terrible things can happen," he said.

When asked if he was remorseful, he replied: "In 2014 I was informed that, I saw it on TV in fact, that a three-year-old was killed, I'm sure everyone is remorseful about that. At the time of the attack they thought they were being attacked by insurgents."

Dr Mapp was the Defence Minister on the ground in Afghanistan when the "Hit and Run" raid took place in 2010.

*Hit and Run: The New Zealand SAS in Afghanistan and the meaning of honour*, released on Tuesday by Mr Hager and Mr Stephenson, alleges the SAS led an operation which led to the death of six civilians and injured 15 more during a raid on two isolated villages in Tirgiran Valley, Baghlan, Afghanistan on August 22 2010.

The book's authors claim the Tirgiran raid was a retaliation against the killing of 26-year-old soldier Tim O'Donnell on August 3.

Dr Mapp resigned from Parliament in 2011 and until now has never spoken publicly about what happened in Afghanistan, but according to the book he confided to a friend that the Defence Force

was " doing too much I didn't know about".

On Wednesday Dr Mapp said the operation did not achieve its objectives. But although he won't back away from the "fiasco" comments, he still backs the soldiers.



"This was at night, limited visibility, they thought they were being attacked. They did what a professional soldier would be expected to do which was is defend themselves."

"They were in an area of known hostility. Around that area, the New Zealand cartel was being attacked by rifles, by machines, by rockets and so forth and it seemed to emanating from that general area."

He says former Prime Minister John Key, who the book alleges signed off the raid, should not be worried, "because he acted on proper advice".

"He, like myself, like Jerry Mateparae, act on the advice that we get. The soldiers involved act in accordance with the threat they are dealing with."

*Hit and Run* claims then-chief of Defence Force Lieutenant-General Jerry Mateparae watched the operation from an SAS operations room in Kabul.

Sir Mateparae told Newshub on Wednesday: "If you want to talk about the just released Nicky Hager - Jon Stephenson book then I will decline.

"As far as I can see, all that needs to be said has been said and anything further should be addressed by people in New Zealand who have access to the relevant information."

Dr Mapp is not laying blame on anyone's shoulders, saying 'blame' was "not really the right word".

"People acted with honest intent, and acted in the circumstances what they thought was right."



Article Information	
Article Title	<a href="#"><u>"Afghan raid: Ex-minister accepts reports of civilian deaths"</u></a>
Source	RNZ Ministerial public statement
Date Published	22/03/2017

## Afghan raid: Ex-minister accepts reports of civilian deaths

Former Defence Minister Wayne Mapp has accepted reports civilians were killed in a 2010 raid in Afghanistan involving the New Zealand SAS.



Investigative journalists Nicky Hager and Jon Stephenson said the house in the middle of this picture was seriously damaged in the raid but has since been rebuilt. Photo: Jon Stephenson

A new book called *Hit & Run*, released yesterday, accuses the SAS of leading an attack on two Afghan villages, in which six people died and 15 were injured.

The New Zealand Defence Force (NZDF) rejected the book's conclusions, saying it stood by an investigation carried out by Afghan and International Security Assistance Force (ISAF) officials.

Dr Mapp was the defence minister at the time of the raid. He was asked in 2011, a year later, whether there were any civilian deaths. He said it had been investigated and he was satisfied there were none.

It was reported at the time that nine Taliban fighters had been killed.

Today, Dr Mapp told Newshub the operation did not achieve its objective, which was to capture a group of insurgents.

"In 2014 I was informed that, I saw it on TV in fact, that a three-year-old child got killed. I'm sure everyone is remorseful about that," he said.

"But at the time of the attack, people thought they were actually being attacked by insurgents."

Dr Mapp did not deny that he described the raid as a disastrous operation and a fiasco - as quoted in the book by its authors, Jon Stephenson and Nicky Hager.

In a second video, published later by Fairfax, he said it happened at night, the terrain was difficult and the special forces thought they were in "mortal danger".

"This was, in essence, an enemy village.

"We - the PRT [Provincial Reconstruction Team], that is - had been attacked from that general direction numerous times before... We knew these people were hostile," Dr Mapp said.

When asked about the reports of the three-year-old's death, he said, "it was an accident".

"No one in the special forces, well, all of the New Zealand Defence Force, goes and does these things deliberately. They undertook their actions because they thought they were under attack."

Mr Stephenson told *Checkpoint with John Campbell* Dr Mapp was misled by NZDF staff over the raid.

"The minister, of course, isn't on the scene. He can only speak after receiving advice. He's dependant, reliant, on what he is told," he said.

"The Defence Force did not tell him the whole truth. He inadvertantly misled the public of New Zealand because he was not given an accurate and full briefing."

He said Dr Mapp's comments reinforced calls for an inquiry into all of the revelations made in the book.

Prime Minister Bill English said earlier today the government would not rush into an inquiry and he was seeking more information.

Mr English was asked whether the NZDF would release the Afghan and ISAF report that it was relying on to rebut the allegations.

"Well look, I simply haven't asked that question, there'll be no doubt issues of jurisdiction and whose report it is."

The prime minister said the investigating bodies were independent of the NZDF.

Former Chief of the Defence Force Rhys Jones told *Checkpoint* he was "pretty confident" there were no civilian casualties in the raid.

Lieutenant General Jones was in the position from 2011 to 2014. He said the claims of casualties were investigated at the time and, as far as he was aware, there was no cover up.

Article Information	
Article Title	<u><a href="#">“Former Defence Minister Wayne Mapp Says Civilian Deaths in Afghanistan Were ‘An Accident’”</a></u>
Source	Stuff Article   Fairfax
Date Published	22/03/2017

## Former Defence Minister Wayne Mapp says civilian deaths in Afghanistan were 'an accident'

-DILEEPA FONSEKA

Former Defence Minister Wayne Mapp has called the killing of civilians in an Afghanistan raid involving the New Zealand SAS "an accident", and said soldiers had not committed a war crime.

Authors Nicky Hager and Jon Stephenson launched their book, *Hit and Run*, on Tuesday night, which alleges that elite New Zealand troops in Afghanistan were involved in a botched raid which killed six civilians, including a 3-year-old girl, in two isolated villages.

Mapp backed the initial raid, saying that the team had been attacked "from that general direction" for years, and that soldiers thought they were under "mortal threat".

Allegations regarding New Zealand's involvement in a deadly raid in Afghanistan came to light in Nicky Hager and Jon Stephenson's book, *'Hit and Run'*.

MONIQUE FORD/FAIRFAX NZ

Allegations regarding New Zealand's involvement in a deadly raid in Afghanistan came to light in Nicky Hager and Jon Stephenson's book, *'Hit and Run'*.

"The people who were killed were thought to be insurgents. They looked like a deadly threat," he said.

Mapp said he first heard about the death of a three-year-old girl in 2014 while watching a programme on Maori TV.

"I suppose that fundamentally in myself, it made me think ... I am certain, I know in fact, it would weigh heavy on the conscience of anyone, including our soldiers.

"I mean, it was an accident. No-one in the New Zealand Defence Force goes and does these things deliberately. They undertook their actions because they thought they were under attack."

Mapp added that the actions of the soldiers did not meet the threshold of a war crime.

"If a soldier has an honest and reasonable belief they're being attacked they're entitled to defend themselves."

He said that it was obvious that mistakes could be made in the battlefield, but there was no "malice".

"In all combat operations you have limited information and you have to make decisions quickly - that's an imperative on any commander or military officer."

Mapp said although he had been interviewed by Stephenson ahead of the book's release, he was unaware that he was writing a book with Hager.

"I wasn't aware that Nicky Hager was writing a book. "I knew the level of knowledge [Stephenson] had, which was extensive," he said.

"I was aware that people were making enquiries about it."

Mapp said he had not read the book.

On Wednesday evening in Nelson, Hager said that Mapp's admission that there had been civilian deaths meant the material in the book was "completely right", despite New Zealand Defence Force saying they stood by their statement made in 2011.

"Already that's a [litany] of denials in the face of so much factual information is crumbling down. And so we all need to decide where we stand on that."

After Mapp's admission that the child's death was an accident, NZDF reiterated their original statement that after the operation, allegations of civilian casualties were made.

"These were investigated by a joint Afghan Ministry of Defence, Ministry of the Interior and International Security Assistance Force (ISAF) assessment team, in accordance with ISAF procedures.

"The investigation concluded that the allegations of civilian casualties were unfounded.

"The NZDF does not undertake investigations or inquiries into the actions of forces from other nations. That was the role of the joint Afghan-ISAF investigation.

"The NZDF is confident that New Zealand personnel conducted themselves in accordance with the applicable rules of engagement."

Stuff






Export

From: HOEY  
CHRISTOPHE  
R, MR

Thu, 23  
Mar  
Sent: 2017  
03:40:26 GMT

To: LTCOL  
CC: SMITH ROSS, CDRE; SHORT KEVIN, AVM; TAYLOR KEVIN; WARRENDER  
TRUDY; GILLARD ROBERT, COL; PSR(IC)3  
Subject: ~~SEEMAIL~~ 'Hit and Run' Brief


Attachments may contain viruses that are harmful to your computer. Attachments may not display correctly.

 170323-DPB-for-CDF.pdf (22Kb)  Annex A - DPB for VCDF - Talking Points  
for Mtg with PM on 22 Mar.pdf (63Kb)  Annex B.pdf (588Kb)  Annex E to  
DPB 23 Mar 17.doc (108Kb)  Annex F to DPB 23 MAR17.docx (37Kb)  
~~RESTRICTED~~

~~PSR(IC)3~~  
Hi

Attached is the (up to RESTRICTED) brief sought by CDF. There is a short DPB covering five Annexes. Because of their size I will send annexes C and D serially.

Attached is the covering DPB and Annexes A, B, E and F.

170323-DPB-for-CDF.pdf Annex A - DPB for VCDF - Talking Points for Mtg with PM on 22  
Mar.pdf Annex B.pdf Annex E to DPB 23 Mar 17.doc  Annex F to DPB 23  
MAR17.docx  
Regards

Chris Hoey  
(PSR(IC)3)

## DOT POINT BRIEF FOR CDF

### BRIEF FOR MEETING WITH PM IN RELATION TO BOOK 'HIT AND RUN'

- Hagar and Stevenson's book 'Hit and Run' was released 21 Mar 17. NZDF had not been informed of the book release beforehand and had not been consulted during its drafting.
- VCDF attended briefing called by PM at 1230 on Wed 22 Mar. VCDF's talking points are at Annex A. These notes were drawn from various documents including the executive summary of the ISAF IAT report summarised in Annex F below.
- Other documents sought by CDF are at Annex. A compendium of classified documents will be delivered separately by hand.

## PSR(IC)3

COS

OCDF

HQNZDF

23 Mar 17

### ANNEXES:

- A. Talking points for VCDF dated 22 Mar 17.
- B. Notes to the Minister dated 25 Aug 10 (cover sheet only), 10 Dec 10 (cover sheet only) and 13 Dec 10.
- C. Synopsis of the book 'Hit and Run'.
- D. Previous media reporting.
- E. Civilian Casualty Procedures: Afghanistan August 2010 (provided by DLS).
- F. Restricted precis of IAS IAT Executive Summary dated 26 Aug 10.



ANNEX A  
TO DAB DATED  
23 MAR 17

## DOT POINT BRIEF FOR VCDF

### TALKING POINTS FOR MEETING WITH PM ON 22 MAR

#### Origins

- On 3 Aug 10 Lt Tim O'Donnell was killed in NE Bamian Province during an ambush. Attack carried out by an insurgent group with a history of targeting Afg National Security and coalition forces within the Baghlan-Bamian border region.
- The insurgent group were centred in Talewa Berfak district. The ambush on coalition forces was interpreted as an escalation of the threat to the NZ PRT.
- In the wake of the ambush Afghan MOI's CRU supported by SAS and coalition partners started gathering intelligence and planning to disrupt this insurgent group that posed a threat to NZ PRT within Baghlan-Bamian border region.
- MOI issued arrest warrants for two insurgent commanders and mission to capture or kill insurgents was approved by the MOI and Cdr ISAF. CDF NZ and Min Def also in Afghanistan and briefed on mission.

#### The 21 – 22 Aug 10 Operation

- The mission ground force comprised <sup>PSR(R)2</sup> CRU personnel and <sup>PSR(R)2</sup> NZ SAS, supported by coalition helos and aircraft. Ground force landed at 0030 on 22 Aug and were on the ground for approximately 3 hours.
- During the op a large number of insurgents working in small groups attempted to outflank the force. These insurgents were engaged by coalition helos and aircraft. The ground force searched 3 buildings and destroyed a quantity of weapons, ammo and explosives but did not locate the two insurgent leaders.
- During op 9 insurgents were killed by coalition aircraft. 1 x NZSAS was wounded when wall collapsed on him. One insurgent killed by NZ SAS.
- Post operation Battle Damage Assessment did not find any non-combatant casualties.

#### Post Operation Allegations

- After operation allegations that 20 civilians had been killed and 20 houses destroyed by fire was reported in various international media. In reaction an Initial Assessment Team (Afghan Ministries of Interior and Defence, and ISAF officials) was initiated.
- The IAT visited the provincial and district capitals, the hospital where the alleged casualties were taken, viewed the coalition aircraft gun tapes and spoke to NZ SAS. The IAT interviewed the Provincial Governor and Chief of Police.
- The Governor reported that 3-4 days after operation 15 local nationals met with him stating that large operation had been conducted. The locals claimed that 4 adult males, 1 female adult and 1 child were killed, and two adult females in hospital.

- IAT described operation to the Governor and Chief of Police including report of two buildings damages and pictures of arms cache. . At end of meeting the Governor change stance from 'this happened' to 'investigation was needed'.
- The IAT was specifically established to investigate such allegations. PSR(R)1  
it was possible that civilian casualties occurred because two buildings were used by insurgents as cover and that women and children were in those buildings.
- The insurgents put non-combatants at risk by using the compounds as a base for their operations. Insurgents with machine guns and probable RPGs were clearly visible.
- Buildings were not a target, however a gun sight malfunction in one of the helicopters may have lead to rounds falling short. One building court fire after ammo cache was destroyed and one other fire occurred as insurgents fled and left a stove unattended.

PSR(IC)3

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OCDF

PSR(IC)3

22 Mar 17



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MINISTRY OF DEFENCE/NEW ZEALAND  
DEFENCE FORCE

## COVER SHEET

To accompany documents to  
Minister of Defence

DCOS  
OCD 478/10

<b>Subject:</b>	OPERATION WATEA: HQ ISAF CIVILIAN CASUALTY INVESTIGATION INTO OPERATION BURNHAM 22 AUGUST 2010		
<b>MOD File No.</b>	MoD Tracking #.	Minister's Tracking#: (For Minister's office)	
<b>NZDF File No.</b>	NZDF 03130/DSC/2 NZDF Tracking # 375/10		
<b>Priority:</b>	ROUTINE	Request Ministerial response by:	
<b>Contacts:</b>	1. Air Commodore Short 2. Colonel <b>Peter Kelly</b>	Tel: PSR(IC)3 Tel: PSR(IC)3.	A/H: PSR(IC)3 A/H: PSR(IC)3

Sheet not to exceed one page. Please complete shaded areas.

<b>Purpose:</b>	The purpose of this note is to inform you that HQ ISAF has initiated a Civilian Casualty Investigation stemming from the operation conducted by the Crisis Response Unit and TF81 on Sunday 22 August 2010, in Baghlan province, Afghanistan.
<b>Recommendations:</b>	<ul style="list-style-type: none"> <li>a. <b>Note</b> that there have been allegations made by the Sub Governor of the TALA WA BARFAK district that civilians were wounded and killed in the operation conducted by ISAF and ANSF (TF81 and CRU) on Sunday 22 August 2010.</li> <li>b. <b>Note</b> that HQ ISAF has initiated an investigation into the allegations and appointed a Brigadier as the investigating officer.</li> <li>c. <b>Note</b> that the SNO and OC TF81 have been interviewed by the investigating officer.</li> <li>d. <b>Discuss</b> this note with the Minister of Foreign Affairs and Prime Minister.</li> </ul>
<b>MOD/NZDF Consultation</b>	NZDF
<b>Minister's comments:</b>	
<b>Minister's Action:</b>	Signed / Noted / Agreed / Approved / Declined
	Referred to:

Signature:

Date:

*Matthew J. MATEPARAE*  
Lieutenant General  
Chief of Defence Force

Date 25 Aug 10

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20/06/14  
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MINISTRY OF DEFENCE/NEW ZEALAND  
DEFENCE FORCE  
COVER SHEET  
To accompany documents to  
Minister of Defence



<b>Subject:</b>	NZSAS (TF81) OPERATIONS IN BAGHLAN PROVINCE AUGUST AND SEPTEMBER 2010		
<b>MOD File No.</b>	MoD Tracking #.	Minister's Tracking#: (For Minister's office)	
<b>NZDF File No.</b>	NZDF 3130/DSO/4 NZDF Tracking # 520/10.		
<b>Priority:</b>	ROUTINE	Request Ministerial response by:	
<b>Contacts:</b>	1 Colonel <b>Peter Kelly</b> 2 Colonel Thompson	Tel: PSR(IC)3 Tel: PSR(IC)3	A/H: PSR(IC)3 A/H: PSR(IC)3

Sheet not to exceed one page. Please complete shaded areas.

<b>Purpose:</b>	The purpose of this note is to inform the Prime Minister of the operations conducted by the NZSAS Task Force and Crisis Response Unit (CRU) in Baghlan Province, Afghanistan on 22 August and 03 October 2010.
<b>Recommendations:</b>	<p><b>Note</b> that the intelligence concluded that the insurgent group responsible for the ambush of the NZPRT patrol on 3 August 2010, was commanded and comprised of personnel from the village of Tigran, located within the adjacent province of Baghlan.</p> <p><b>Note</b> that the Response Task Force comprising CRU and NZSAS personnel and supported by PSR(R)2, PSR(R)3 ISAF ISR assets and coalition air targeted the insurgent group located within the village of Tigran on 22 August and 3 October 2010.</p> <p><b>Note</b> that ISAF has determined that the Tigran based insurgent group's capacity and capability to conduct further operations has been severely disrupted as a result of the operations.</p> <p><b>Note</b> that the allegations into civilian casualties and destroyed houses were investigated by a joint assessment team and they concluded that the allegations were baseless and cleared the actions of the Response Task Force and coalition air of all allegations.</p> <p><b>Refer</b> this note to the Prime Minister and Minister of Foreign Affairs.</p>
<b>MOD/NZDF Consultation</b>	NZDF
<b>Minister's comments:</b>	
<b>Minister's Action:</b>	Signed / Noted / Agreed / Approved / Declined
	Referred to:
<b>Signature:</b>	<b>Date:</b>

J MATEPARAE  
Lieutenant General  
Chief of Defence Force

Date 10 December 2010

DSO 153
CLASSIFIED DOCUMENT
Received: 10 DEC 2010
File No: 3130/DSO/4
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DEFENCE FORCE

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To accompany documents to  
Minister of Defence



<b>Subject:</b>	CRU AND NZSAS OPERATIONS IN BAGHLAN PROVINCE AUGUST AND SEPTEMBER 2010		
<b>MOD File No.</b>	MoD Tracking #	Minister's Tracking#:	
<b>NZDF File No.</b>	NZDF Tracking # 521/2010	(For Minister's office)	
<b>Priority:</b>	ROUTINE	Request Ministerial response by:	
<b>Contacts:</b>	1 Colonel <b>Peter Kelly</b> 2 Colonel Thompson	Tel: PSR(IC)3 Tel: PSR(IC)3	A/H: PSR(IC)3 A/H: PSR(IC)3

Sheet not to exceed one page. Please complete shaded areas.

<b>Purpose:</b>	The purpose of this note is to provide releasable information to the Prime Minister of the operations conducted by the Crisis Response Unit (CRU) and NZSAS Task Force in Baghlan Province, Afghanistan on 22 August and 03 October 2010.
<b>Recommendations:</b>	<b>Note</b> the risks associated with releasing the information.  <b>Refer</b> this note to the Prime Minister and Minister of Foreign Affairs for public release.
<b>MOD/NZDF Consultation</b>	NZDF
<b>Minister's comments:</b>	
<b>Minister's Action:</b>	Signed / Noted / Agreed / Approved / Declined  Referred to:
<p><b>Signature:</b> _____ <b>Date:</b> _____</p>	

*J. Mateparae*  
J. MATEPARAE  
Lieutenant General  
Chief of Defence Force

Date 13 Dec 10

PM & Min agreed  
not to release the  
information into  
the media

PK

DIRECTORATE SPECIAL OPERATIONS (DSO)		<input type="checkbox"/>
Received:	10 FEB 2011	
File No:	3130/DSO/4	
Comment:	/	

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## UNCLASSIFIED

**CRU AND NZSAS OPERATIONS IN BAGHLAN PROVINCE AUGUST AND OCTOBER 2010**

1. On 3 August 2010, a daytime NZPRT Patrol led by Lt O'Donnell was ambushed in the North Eastern region of Bamian province by an insurgent group that had an active history of targeting Afghan National Security Forces (ANSF) and coalition forces within the Baghlan-Bamian border region. This insurgent group was based in the neighbouring province of Baghlan, centred on the Talewa Berfak district (approx 20km away).
2. Following this attack, the Afghan Ministry of Interior (MOI) Crisis Response Unit (CRU) supported by the NZSAS Task Force and other ISAF coalition partners, commenced planning to disrupt this insurgent group's capacity and capability to target coalition forces, including the NZPRT within the Baghlan-Bamian border region. The Chief of Defence Force Lieutenant General Mateparae approved the operation and it was launched on the night 21 August after gaining additional approval from the MOI and Commander ISAF. The MOI issued Arrest Warrants for the two principal insurgent commanders, which were to be enforced by the CRU.
3. The force for the operation consisted of a combined ground force <sup>PSR(R)2 PSR(R)3</sup> CRU personnel and <sup>PSR(R)2 PSR(R)3</sup> NZSAS personnel) supported by coalition helicopters and fixed-wing aircraft (including Unmanned Aerial Vehicle or UAV). The ground force landed near a village of Tigran in Baghlan province at 00.30am on Sunday 22 August. The force was on the ground for approximately three hours, and during that time a large number of armed insurgents, operating in small groups attempted to outflank the force and fire on it from high ground. The armed insurgents were engaged by coalition helicopters and aircraft. The ground force searched three buildings and destroyed a quantity of weapons, ammunition and explosives, but did not locate the two insurgent leaders. The ground force departed at approx 3.30am. During the operation nine armed insurgents were killed by the supporting coalition helicopters and aircraft, and one NZSAS soldier was injured when a wall collapsed on him. The soldier was evacuated and has subsequently returned to NZ for further medical treatment.
4. Following the operation allegations were made that up to twenty (20) civilians had been killed by aerial bombardment and twenty (20) houses destroyed by fire<sup>1</sup>. Based on these allegations a joint assessment team composed of representatives from the Afghan MOI and Defence and ISAF officials conducted a full assessment of the operation. The assessment team visited the provincial and district capitals, the hospital where the alleged casualties were receiving treatment, viewed the "gun tapes" from the coalition aircraft and spoke to NZSAS personnel. As a result of their investigation the assessment team concluded that "having reviewed the evidence there is no way that civilian casualties could have occurred" and the actions of the ground force and coalition air were cleared of all accusations.
5. Headquarters ISAF assessed that as a result of this operation the insurgent group's capacity and capability to conduct further operations had been disrupted. A follow-on operation was conducted on the night of 2 October, but passed without incident. No insurgents were encountered and no shots fired.

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2

**Note:**

1. During the operation on 22 Aug, two of the three buildings searched caught fire, the first was caused by explosives igniting the structure and the second was caused by an unattended cooking fire left burning when the local inhabitants departed.

UNCLASSIFIED

~~RESTRICTED~~**Risks (Not For Release)****Associated with Releasing Information**

If New Zealand is identified as the main coalition ground force on these operations, then the risks are:

- Insurgent groups will be more motivated to conduct a retaliatory attack targeting the NZPRT along similar lines to their attack on 3 August 2010. [Medium]
- The release may undermine the cooperation from locals who interact with the NZPRT. However it has been reported that some locals have distanced themselves from the actions of the insurgents operating in their area. [Low]
- The release may compromise future operations by coalition forces ~~including those of the NZDF within the Baghlan province.~~ Insurgent groups may analyse the previous actions of the coalition force in an attempt to predict the likely tactics and techniques of any future action potentially denying the element of surprise to the coalition. [Low]
- The release may also have a positive effect by demonstrating New Zealand's resolve and high capability to strike insurgent groups that seek to undermine the GIRoA, ISAF and NZPRT.
- The release will place more pressure of the NZ Government to release more information about NZSAS operations in Afghanistan. (Release of information on NZSAS operations is on a case by case basis). [Medium]

**From the Environment and Insurgents**

The Talewa Berfak insurgent group operating within the Baghlan province still possess an ability to target Afghan National Security Forces (ANSF) and NZPRT operating within the Baghlan-Bamian border region. These groups have recently been reported threatening to target ANSF, coalition forces and the NZPRT.

Assessed risk remains as **Medium** and is unchanged from the current threat posed from insurgent activity in the Baghlan-Bamian border region

**Risk Mitigation**

As a result of the ambush on 3 August and recent threats by these insurgent groups, the NZDF and NZPRT have taken active measures to increase their force protection when operating in this border region. These have included such measures as; PSR(R)2, PSR(R)3

~~RESTRICTED~~



# NEWS RELEASE

International Security Assistance Force - Afghanistan



1010-86-DRAFT

## Numerous Insurgents killed

Kabul, Afghanistan (August 22) - Afghan National Security Forces and coalition forces conducted a combined operation in the BAGHLAN province Saturday resulting in 12 dead insurgents.

Two Taliban commanders were the target of the operation. They are both known to lead insurgent attacks on ANSF and coalition forces.

On arrival in the target area, numerous armed insurgents moved to target ANSF and ISAF Forces. The combined forces immediately engaged the insurgents. The operation continued with loud speaker callouts for building occupants to exit their dwellings. Further insurgent activity throughout the operation resulted in several more engagements with ANSF and ISAF Forces.

"This operation will have a significant disruptive effect on the command and coordination of Taliban elements throughout the Baghlan province. The goal of partnered operations will be to continue to actively hunt down these criminals whose main goal is to cause misery to the local Afghans and target coalition forces," said U.S. Army Col. Rafael Torres, International Security Assistance Force Joint Command Combined Joint Operations Center director.



**Peter Kelly** COL

---

**From:** PSR(IC)3 (ISED) PSR(IC)3 mfat.govt.nz]  
**Sent:** Tuesday, 31 August 2010 8:40 a.m.  
**To:** **Peter Kelly** COL  
**Subject:** Media article

~~[SEEMAIL] [RESTRICTED]~~

Morning **Pete** the article below might be of interest, if you haven't already seen it (from the "War on Terror" website).

## Monday, August 30, 2010

### AFG Civilian Casualties in Baghlan Confirmed

#### Joint assessment team confirms possibility of civilian casualties in Baghlan

##### ISAF Joint Command

08.29.2010 KABUL - In response to Baghlan provincial governor's concerns about civilian casualties, a joint assessment team composed of representatives from the ministries of interior and defense, and International Security Assistance Force officials, conducted a full assessment of an operation on Aug. 22 in Talah wa Barfak District, Baghlan province.

The team determined that several rounds from coalition helicopters fell short, missing the intended target and instead striking two buildings, which may have resulted in civilian casualties.

Insurgents were using the building as a base of operations; however, it was not the intended target.

The team discovered the accidental short rounds during an examination of the air weapons team video. The assessment determined a gun site malfunction was the cause of the errant rounds.

"We regret any possible civilian loss of life or injury. Our first objective is to protect the people of Afghanistan, and in this case we may have failed," said U.S. Air Force Brig. Gen. Timothy M. Zadalis, ISAF Joint Command director of plans and projects and team lead. "Our thoughts and concerns are with the family and friends of those civilians who may have been injured or killed."

During their assessment, the team received operational briefings, met with the provincial governor and chief of police and reviewed weapons-system video.

Initial reports from the ground operation indicated 13 insurgents were killed, with no civilian casualties, however close examination of the weapons system video showed the errant rounds striking the unintended buildings.

"This is exactly why we send assessment teams to look into all civilian casualty allegations," said Zadalis. "We want to be sure we understand exactly what happened, review all information available and set the record straight."

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**Joint assessment team confirms possibility of civilian casualties in Baghlan**

296 words

31 August 2010

The Times of Central Asia

TCASIA

English

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KABUL, August 30 (NATO News Release) -- In response to Baghlan provincial governor's concerns about civilian casualties, a joint assessment team composed of representatives from the ministries of interior and defense, and International Security Assistance Force officials, conducted a full assessment of an operation on Aug. 22 in Talah wa Barfak district, Baghlan province.

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"This is exactly why we send assessment teams to look into all civilian casualty allegations," said Zadalis. "We want to be sure we understand exactly what happened, review all information available and set the record straight."

Document TCASIA0020100901e68v0000d

**ISAF to probe allegations of civilian casualties**

133 words

30 August 2010

Pajhwok Afghan News

APAFGH

English

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Pajhwok Report - Aug 30, 2010 - 17:53

KABUL (PAN): The International Security Assistance Force Joint Command Monday ordered an investigation into allegations of civilian casualties during an August 22 operation in northern Baghlan province.

In a statement, the NATO-led force said The ISAF Joint Command commander had ordered the investigation based on information contained in the joint initial assessment team's report.

The assessment team determined several rounds from coalition helicopters fell short, missing the intended target and instead striking two buildings, which might have resulted in civilian casualties.

"We are here to protect the people of Afghanistan. Civilian casualties reduce the confidence of the Afghan people and erodes trust placed in us," said US Army Lt. Gen. David M. Rodriguez, ISAF Joint Command commander.

Document APAFGH0020100831e68u0000b

**Afghan violence reverses gains; 7 soldiers are killed after weeks of decline in NATO casualty rate**

BY ROD NORDLAND

426 words

30 August 2010

International Herald Tribune

INHT

5

English

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Seven American soldiers were killed in fighting in eastern and southern Afghanistan over the weekend, after several weeks of declining death tolls among NATO forces.

In western Afghanistan, in Herat Province, police officers found the bullet-riddled bodies of five missing campaign workers for a female candidate in next month's parliamentary elections, and a body was found of another candidate for Parliament who had been shot and killed, Afghan officials said Sunday.

The American servicemen were killed in five separate incidents, according to statements from the NATO-led International Security Assistance Force, known as ISAF. On Sunday, an American soldier was killed by an improvised explosive device in southern Afghanistan, while another died as a result of an insurgent attack in southern Afghanistan, the NATO force said.

On Saturday, attacks by militants in eastern Afghanistan killed two American soldiers in one incident and one in a separate incident, while two other Americans were killed by an improvised explosive device in southern Afghanistan.

NATO officials did not release any further details.

The incidents brought the monthly death toll among coalition soldiers to 62 as of Aug. 29, compared with 88 in July, according to [icasualties.org](http://icasualties.org), which tracks coalition fatalities. In June, the bloodiest month of the nine-year war, 102 NATO soldiers were killed, according to [icasualties.org](http://icasualties.org) figures.

At the same time, NATO forces have nearly tripled in Afghanistan since the beginning of 2009, with a total of 123,000 now. About 100,000 of them are Americans.

In the Herat Province incident, the police said 10 campaign workers for Fawzia Gilani, a current member of Parliament who is running for re-election, had been abducted in the Adraskan District last week. Five of them were discovered shot and killed on Sunday, said Col. Noor Khan Nikzad, a spokesman for the provincial police.

Elsewhere in Herat, in the Shindand District, Abdul Manan, a candidate for Parliament who was on his way to a local mosque, was shot and killed by a gunman on a motorcycle, according to Colonel Nikzad.

In northern Baghlan Province, a NATO investigation gave credence to reports from local officials that eight civilians were killed during a night raid last week.

ISAF said in a statement released Sunday that a "full assessment" of the incident early last week in Talah wa Barfak district had determined that a helicopter that fired into the wrong building "may have resulted in civilian casualties."

Document INHT000020100830e68u00001

# **People protest against civilians death in US forces operation in Afghan north**

216 words

29 August 2010

19:33

BBC Monitoring South Asia

BBCSAP

English

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Text of report by privately-owned Afghan Arzu TV on 28 August

[Presenter] A number of residents of Tala wa Barfak District of Baghlan Province [in northern Afghanistan] have staged a demonstration to protest against the killing of civilians in an operation of US soldiers. The protesters claim that at least 20 civilians had been killed as a result of the US forces' operation in the district.

[Correspondent] Protesters, who were chanting slogans of death to America, demanded the central government, the international community and human rights organizations to stop such operations. They claim that if this practice is continued they will close the Bamian-Baghlan road which passes through Tala wa Barfak District. According to them, five civilians were killed and 16 others injured in the US forces' operation in the Tirgaran area of Tala wa Barfak. It is reported that children and women were among the victims of the incident.

The protesters said that the [US] forces had attacked the village at night and the protest ended after two hours following issuing a resolution.

[Video shows an angry demonstration on a street, people stepping on a US flag]

Source: Arzu TV, Mazar-e Sharif, in Dari 1500 gmt 28 Aug 10

ac7ec22a

Document BBCSAP0020100829e68t001md

## **People protest against civilians death in US forces operation in Afghan north**

SAP20100829950033 Mazar-e Sharif Arzu TV in Dari 1500 GMT 28 Aug 10

People protest against civilians death in US forces operation in Afghan north

Text of report by privately-owned Afghan Arzu TV on 28 August

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The protesters said that the [US] forces had attacked the village at night and the protest ended after two hours following issuing a resolution.

[Video shows an angry demonstration on a street, people stepping on a US flag]

[Description of Source: Mazar-e Sharif Arzu TV in Dari -- privately-owned television station launched in 2007 by Kamal Nabizada who is said to have good ties with Balkh provincial governor Atta Mohammad Nur.]

## **Two NATO soldiers, eight civilians killed in Afghan violence**

Sardar Ahmad

588 words

25 August 2010

03:01

Agence France Presse

AFPR

English

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Two foreign soldiers died Tuesday fighting insurgents in Afghanistan, the NATO alliance said, as Afghan authorities said international forces had killed eight civilians in a recent operation.

NATO's International Security Assistance Force (ISAF) said it was aware of the charges by some Afghan officials that its soldiers had killed civilians during a raid against Islamist rebels in the northern province of Baghlan.

"On Sunday we saw 11 helicopters coming," Mohammad Ismail, the district chief for Tala Wa Barfak, where the incident took place, told AFP.

"Some of the helicopters landed deploying troops. They carried out attacks there. They killed eight people, all civilians," he said.

Tala Wa Barfak is a remote district in Baghlan, where Taliban insurgents have established a significant presence in recent months.

The district chief said that about a dozen other people, "all of them civilians," were injured in the raids, which he said had lasted for "hours".

An ISAF spokesman said the claims were being investigated, adding: "However, current operational reporting does not support any civilian casualties."

Civilian casualties caused by foreign forces have fallen this year, with NATO troops responsible for about 22 percent of more than 1,200 non-combatant deaths in the first half of 2010, a recent UN report said.

Afghan civilian casualties in the war launched against the Taliban regime in October 2001 is a sensitive issue that sometimes leads to violent anti-West protests.

President Hamid Karzai has long been calling on his Western backers, the US and NATO members with 141,000 troops in Afghanistan, to protect non-combatants during operations against rebels.

Karzai has said that civilian casualties erode public support for his administration, already unpopular among Afghans because of rampant corruption among its officials and its failure to provide security.

Meanwhile, ISAF said two foreign soldiers were killed in southern Afghanistan Tuesday, bringing to 13 the number of troops killed in the country since the weekend.

An American soldier was killed by a bomb in southern Afghanistan, and an ISAF soldier whose nationality was not disclosed was killed in fighting against insurgents, also in the south, the NATO-led force said.

The latest deaths bring to 458 the number of international soldiers killed in the Afghan war so far this year, compared with 520 for the whole last year.



Thirteen international soldiers have been killed since Saturday, seven of them Americans, according to an AFP tally based on that kept by the [icasualties.org](http://icasualties.org) website.

The force said it had killed 35 rebels during operations east of Kabul launched to secure troubled regions ahead of Afghanistan's September parliamentary elections. The figures could not independently be verified.

The violence is worsening as the militants spread into the north and west of the country from their traditional strongholds in the south and east.

The head of the US Marine Corps, speaking in the United States after a visit to Afghanistan, said he believed Afghan forces would not be ready to take over from US troops in Afghanistan's southern provinces for a few more years.

"It will be a few years before conditions on the ground are such that turnover will be possible for us," General James Conway told reporters, referring to Marines deployed in the provinces of Helmand and Kandahar.

His comments were the latest sign from US military leaders that a major troop withdrawal remained a long way off, despite the July 2011 deadline set by President Barack Obama.

burs/bsk/dk

Document AFPR000020100824e68o006mx

## Afghan official says six civilians killed in NATO strike

SAP20100823950060 Kabul [Pajhwok Afghan News](#) in English 1203 GMT 23 Aug 10

Afghan official says six civilians killed in NATO strike

Text of report in English by Afghan independent Pajhwok news agency website

Pol-e Khomri: Six civilians, including a woman and a child, were killed and as many wounded during a NATO airstrike in northern Baghlan Province, an official said on Monday [23 August].

NATO helicopters pounded the Tirgaran village of Tala wa Barfak District, killing and wounding the civilians and burning 20 houses, the district chief, Mohammad Esmail, told Pajhwok Afghan News.

There were no militants in the area at the time of the predawn strike, he said, adding International Security Assistance Force (ISAF) soldiers did not inform district officials prior to the air raid.

"NATO helicopters struck our village at about 2:00am, killing six and wounding as many. Twenty houses were torched and foreign troops arrested four residents," said Mullah Mohammad, a local imam. All victims were civilians, he alleged.

Meanwhile, the alliance said a dozen individuals killed in the operation were insurgents and two Taliban commanders, known to lead attacks on Afghan and coalition forces, were the target of the operation.

"Combined forces located and destroyed a rocket-propelled grenade launcher, several RPGs and several boxes of small arms ammunition," the International Security Assistance Force said.

[Description of Source: Kabul Pajhwok Afghan News in English -- independent news agency]

PSR(IC)3

**From:** PSR(IC)3  
**Sent:** Wednesday, 8 December 2010 3:29 p.m.  
**To:** PSR(IC)3  
**Cc:** BRADSHAW PHIL, CDR; **Peter Coleman**  
**Subject:** FW: Defence - Afghanistan - Injury - unclassified

Merry Xmas<sup>PSR(IC)3</sup>

OIA from PSR(IC)3

Cheers

PSR(IC)3 I Media Manager  
 Defence Communications Group

DDI: PSR(IC)3 I Mobile: PSR(IC)3 I DTeIN: PSR(IC)3

NZDF website: [Click here](#) DCG intranet site: [Click here](#)

Think before you print

PSR(IC)3

COMPLIANCE DATE 27/1/11

OIA-1454-2010

PLEASE LOG AS  
OIA MIN PQ

REFER TO: DSO

CC:

~~FOR DRAFT/DIRECT REPLY~~  
 IN 16 WORKING DAYS  
 IMMEDIATELY

**From:** PSR(IC)3  
**Sent:** Wednesday, 8 December 2010 2:31 p.m.  
**To:** PSR(IC)3  
**Subject:** FW: Defence - Afghanistan - Injury - unclassified

Hi<sup>PSR(IC)3</sup>

On 24 September 2010 NZDF provided information relating to injuries sustained by a New Zealand soldier in Afghanistan.

I make a request under the Official Information Act for a copy of all correspondence between NZDF personnel both here and overseas relating to this incident.

Thanks

PSR(IC)3

TVNZ

Television New Zealand Ltd  
 Te Reo Māori

PSR(IC)3  
 Political Reporter - Wellington

DPSR(IC)3  
 M. PSR(IC)3  
 PSR(IC)3

CORRESPONDENCE ABOUT INCIDENT CAUSING INJURY TO NZ SOLDIER  
 IN AFGHANISTAN

8/12/2010



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PSR(R)1, PSR(R)2, PSR(R)3<sup>278</sup>

PSR(R)1, PSR(R)2, PSR(R)<sup>279</sup>3

PSR(R)1, PSR(R)2, PSR(R)3 <sup>280</sup>

PSR(R)1, PSR(R)2, PSR(R)3 <sup>281</sup>

Export

Christopher Hoey

From:

Thu, 23  
Mar  
2017  
03:44:1  
4 GMT

To: PSR(IC)3 LTCOL  
CC: SMITH ROSS, CDRE: SHORT KEVIN, AVM; Kevin Taylor; WARRENDER  
TRUDY; Rob Gillard COL; PSR(IC)3 MAJ

Subject: ~~[SEEMAIL]~~ 'Hit and Run' - annex C

Attachments may contain viruses that are harmful to your computer. Attachments may not display correctly.

**DPA 1-Book-Report.pdf (1420Kb)**

Here is Annex C (aka Book Summary in the attached pdf)

DPA 1-Book-Report.pdf  
PSR(IC)3



# DPA REPORT

**TOPIC:** Hager/Stephenson Book Launch

**DATE:** 1715 – Tuesday - 21 March 2017

**ORIGINATOR:** NZDF Department of Public Affairs

This report has been compiled today, Thursday 23 March 2017, by NZDF Defence Public Affairs for the Minister of Defence and Chief of Defence Force. It has been produced on a 'best endeavours' basis using media monitoring resources and open source searches.

- It includes a summary of the book Hit and Run, together with media releases relating to the topic of the book and the book itself.
- It also includes selected domestic and international broadcast and print coverage of both the attack and the book, split into three timelines: 2010 to 2011; 2011 to 2016; 2017 (launch of book to today).
- This report also includes a synopsis of social media from the launch of the book to today.
- Media releases were searched for from the following: NZDF, ISAF, NATO, all political parties, all media companies, Hager and Stephenson, Amnesty International, Afghan Independent Human Rights Commission.

**SECTION 1:** Book summary

**SECTION 2:** Media releases and coverage under the following timeline:

**PART A:** ISAF and NZDF releases

**PART B:** 2010 to 2016

**PART C:** 2017 – from 21 March to 0800 23 March 2017

**SECTION 3:** Social media synopsis



## **Section 1: Summary of Book**

### **Summary of Allegations in Book**

1. SAS troopers set fire to room containing religious books and personal possessions and left with house burning (pg 39 source, A Tigran local interview 2015, pg68 source, A Tigran local interview 2015) **Chapter 3 and 4**
2. House of Naimatullah's father set alight and burned (pg 39, source A Tigran local 2015) **Chapter 3**
3. SAS team member burning Abdullah Kalta's home (pg 39-40, source unnamed commandos present during the raid) **Chapter 3**
4. SAS calling in Apache helicopters to destroy houses (pg 41, source unnamed Afghan commando, unnamed SAS commando) **Chapter 2**
5. Not giving aid to casualties (pg 44, unnamed CRU commandos) (pg 69 farmer Abdul Faqir lay for nine hours with no medical evacuation, no citation) (pg 70, being made aware of civilian injuries and not following up no citation) **Chapter 3**
6. Casualties and deliberate damage caused by helicopters (pg 50, source Afghan Independent Directorate of Local Government list of dead and wounded confirmed with extensive interviews and cross-checking (unnamed) **Chapter 4**
7. Deaths at Khak Khuday Dad. Teacher Islamuddin and Abdul Qayoom (pg 56-59, source local who knows Islamuddin interview 2016) **Chapter 4**
8. Setting houses alight in Naik (pg 61, Former local from Tirgiran, interview, translated from Dari, 2016) **Chapter 3**
9. Helicopter targeting house Mullah Rahimullah (pg 62 no citation) **Chapter 4**
10. Two deaths (allegations that civilians by implication) (pg 62, 63, SAS member during the raid, interview, 2016) **Chapter 4**
11. Second raid – reason to wreck houses more thoroughly (pg 80-81 SAS member interview 2016) **Chapter 6**
12. Capture of Qari Miraj being assaulted by members of the NZSAS (pg 84, SAS onlooker) **Chapter 6**

## Book Synopsis By Chapter

### Chapter One

- Release of statement after attack reporting insurgents killed and weapons found.
- Attack in Baghlan was retaliation for the death of LT Tim O'Donnell
- Talked of 'real' reason NZ was in Afghanistan – to show solidarity with the US and coalition forces. NZ was not having a huge impact over there
- Said there was a lack of strategy for NZDF in Afghanistan
- Set up context – around that time Wikileaks had leaked footage of US military shooting a group of men including a Reuters photographer and driver
- Wikileaks also leaked other reports of civilian deaths
- John Key goes to Afghanistan and says he wants troops to stay for longer and we are making a difference
- When O'Donnell was killed during a roadside attack, the mood at the SAS base was "raw and vengeful"
- An electronic warfare officer, Chris M, posted a Facebook message "we are going to get you"

### Chapter Two

- Frantic hunt for perpetrators
- Investigation aided by intelligence staff including Chris M
- Investigators reached out to informers
- List of insurgents came in quickly based on combined NZSIS and NZDF informer networks (a day or two after the attack)
- US and NZ personnel tracked insurgents' cellphones
- NZ was told Qari Miraj fired the grenades at O'Donnell but that information was probably incorrect
- Idea that it was him took hold with NZ personnel
- The plan for the attack on villages that homed the insurgents was an SAS operation
- Three of those insurgents lived in a small isolated village so the SAS planned helicopter raid and arranged Apache attack helicopters to support the operation
- MP Wayne Mapp and then-CDF Jerry Mateparae visited Afghanistan who were told of the proposed raid. They deferred the decision to be made by John Key, who approved the operation
- Villages the SAS were heading to contained mainly women, children and elderly, as well as some farmers
- Later Mapp said the operation was a "fiasco"

### Chapter Three – Witness Accounts

- Raid began at 12.30am with a Blackhawk helicopter carrying SAS sniper teams
- Main force arrived at 1am aboard Chinooks
- Apache gunships attacked Khak Khuday Dad village repeatedly after some gunfire was heard from the surrounding hills
- Pilots communicated with SAS from the ground as to who should be fired upon
- No SAS or Afghan CRU went into the village to check for casualties
- SAS then walked down the valley to the next village, Naik
- Found the unoccupied home of one suspected insurgent, Naimatullah, and took items. They then set fire to the room containing religious books and left the house to burn
- In another building, the SAS found ammunition and blew that building up
- Other house searches showed only civilians
- Apaches came and fired at the houses – appeared the SAS called them in
- Apache pilots followed people who fled and killed them
- Commando quoted as saying intelligence that the insurgents were in the villages was wrong

## Chapter Four – Through the Villagers' Eyes

### **Khak Khuday Dad**

- People running away from the helicopter were attacked
- Civilians killed in the attack included children and many were injured
- Seemed helicopters were aiming at people who were using torches to try to flee through the darkness
- Nearly all were women, children and farmers
- The helicopter targeted the home of the family of one suspected insurgent – Abdul Razaq. His son Abdul Ghafar was in the village, but the insurgents were not in the village – they were in the mountains
- Most deaths were caused by air strikes, but it was the SAS calling the shots
- A teacher ran towards the SAS (unknowingly) and was shot dead. Locals believed SAS fired the shots
- Another man, Abdul Qayoom was also shot – believed to be by the SAS. People who were fleeing were presumed to be insurgents
- Homes were destroyed, seemingly for punishment and revenge

### **Naik**

- House of suspected insurgent not raided or touched. Reason unknown
- But a house of an elderly man was badly damaged
- Following day locals called ISAF for help but none came
- SAS and NZDF broke Code of Conduct rules during the operation

## Chapter Five

- NZ military staff knew within 24-48 hours that civilians had been killed
- Insurgents arrived from mountains, saw the destruction and swore revenge
- One insurgent, Qari Miraj was filmed at a funeral holding the gun that was dropped by an Afghan commando
- The first news story about the attack appeared the following day citing six civilians killed and 12 wounded in the raid
- Soldiers said it was a revenge raid
- Ten days after the first raid, SAS raided Naik a second time and blew up two rebuilt houses as revenge

## Chapter Six

- Afghan troops grabbed Qari Miraj from a Mosque and handed him to the SAS
- While in SAS custody in a truck, they assaulted Qari Miraj while he was bound and blindfolded
- Qari Miraj was then handed to the National Directorate of Security (NDS), who were notorious for torture and abuse of prisoners
- NZDF knew Qari Miraj was being tortured
- The result of torture was that Qari Miraj confessed and gave information about insurgent activities. He was then convicted and sentenced to 10 years prison
- On May 20 and 23, 2011, the SAS arranged for the killing of a second person suspected of being involved in the O'Donnell attack
- 1 – Alawuddin – helicopters, PRT and SAS surrounded his home. He was killed by either being shot or hit by an air strike
- 2 – Qari Musa – SAS and allies tracked him and his colleagues to his house and called in a US air Strike to kill them all
- November 21, 2012, another suspected insurgent, Abdullah Kalta, was killed in an air strike after being tracked by the SAS
- That killing resulted in family members joining the Taliban to wreak revenge
- SAS actions increased threats to NZ soldiers

## Chapter Seven – The Cover Up

- In 2011 NZDF prepared a press release that said nine insurgents had been killed in the operation
- NZDF said allegations of civilian deaths were untrue
- Wayne Mapp repeated that in a TVNZ interview and refuted the claim it was revenge attack
- Jon Stevenson wrote the article Eyes Wide Shut for Metro. John Key said assertions of torture were unfounded
- Jon Stevenson brought a four-year defamation case against the NZDF, which claimed parts of the article were untrue
- John Key dismisses Nicky Hager's book Other People's Wars, which referenced the Afghan raid, as fiction
- Maori TV ran a piece in 2014 interviewing men and a doctor from the villages. NZDF stood by its 2011 press release
- John Key continued saying it was only insurgents killed in interviews
- Defence Minister Jonathan Coleman then stated that civilians may have been killed, but SAS was not involved
- Key then backed up that statement

## Chapter Eight

- Call for an independent investigation
- At the time of the raid SAS were enjoying a boom of popularity
- Call for NZDF restructure cutting the excess of feuding squadron leaders and colonels
- Call for an apology, aid and compensation to the villagers

Export

From: [WARRENDE  
R TRUDY](#)

Thu, 23  
Mar  
Sent 2017  
23:24:4  
0 GMT

To: **PSR(IC)3**

Subject FW: DPA media enquiry: Hit & Run Radio NZ Morning Report/ MINDEF statement  
: in NZ Herald unclassified

Think we need statement to read something like:

**We can confirm that there was an ISAF investigation, whose membership include three organisations: the Afghan Ministry of Defence, the Afghan Ministry of the Interior and the International Security Assistance Force (ISAF).**

Thoughts?

T

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PSR(IC)6

PSR(IC)6

# PSR(IC)6

**From:** WARRENDER TRUDY  
**Sent:** Friday, 24 March 2017 11:37 a.m.  
**To:** HOEY CHRISTOPHER ; SMITH ROSS, CDRE  
**Cc:** PSR(IC)3 Kevin Tavlör  
**Subject:** RE: DPA media enquiry: Hit & Run Radio NZ Morning Report/ MINDEF statement in NZ Herald unclassified

Hi COS and PSR(IC)3,

I suggest we hold onto the below NZDF statement (from Ministerial Services) until 5pm today to meet broadcast deadline, and I email Press Secretary, if you approve, so she can pull/change it if she comes back to us before then.

*We can confirm that there was a joint investigation by **three** organisations: the Afghan Ministry of Defence, the Afghan Ministry of the Interior and the International Security Assistance Force (ISAF).*

Thoughts?

Best Trudy

---

**From:** Press Secretary PSR(IC)3  
**Sent:** Friday, 24 March 2017 11:22 a.m.  
**To:** WARRENDER TRUDY; Press Secretary; PSR(IC)3; PSR(IC)3  
**Cc:** PSR(IC)3 HOEY CHRISTOPHER  
**Subject:** RE: DPA media enquiry: Radio NZ Morning Report/ MINDEF statement in NZ Herald unclassified

Right... well it is what it is.

Thanks Trudy,  
 Press Secretary

Sent with BlackBerry Work ([www.blackberry.com](http://www.blackberry.com))

---

**From:** WARRENDER TRUDY PSR(IC)3  
**Date:** Friday, 24 Mar 2017, 11:04 AM  
**To:** Press Secretary PSR(IC)3 Press Secretary  
 PSR(IC)3, HOEY CHRISTOPHER

**Cc:** PSR(IC)3

**Subject:** DPA media enquiry: Radio NZ Morning Report/ MINDEF statement in NZ Herald unclassified

Hi Press Secretary

We have received a media query from radio NZ Morning Report about a quote by MINDEF in the Herald:

*'Asked what would convince him to reopen the investigation, Brownlee said: "I think when you've*

*had three inquiries of the nature that have taken place, it's hard to think there would be anything that would make you want to re-open an inquiry."*

Radio NZ Morning Report journo has asked:

*The PM's talked of inquiries; the Defence Minister was quoted in the Herald as saying three – are you able to let me know definitively how many there were? And what dates they were please? The only one I can see is the one discussed in the August 29, 2010 media release by ISAF*

We can confirm that, while there has only been the one inquiry undertaken, this was a joint investigation by **three** organisations: the Afghan Ministry of Defence, the Afghan Ministry of the Interior and the International Security Assistance Force (ISAF).

Thoughts please.

Best Trudy

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Article Information	
Article Title	<u>"Doubt grows over denials of civilian deaths in SAS raid in Afghanistan"</u>
Source	NZ Herald   Ministerial public statement
Date Published	23/03/2017

## Doubt grows over denials of civilian deaths in SAS raid in Afghanistan



The NZ Defence Force has refused to make detailed comment on the 2010 raid. Photo / File

Credible sources are emerging to cast doubt on NZ Defence Force denials civilians were killed during an NZSAS "revenge" raid in Afghanistan.

As calls for an inquiry into claims in Nicky Hager and Jon Stephenson's new book *Hit & Run* grow, the NZ Defence Force has refused any comment or interviews beyond a flat denial civilians were killed even as senior commanders were called to provide further briefings to Prime Minister Bill English.

Late yesterday, the governor of Bamyan province in Afghanistan Habiba Sarabi told the Herald she learned from people close to where the raid happened that civilians had been killed during the 2010 operation in neighbouring Baghlan province.

"We have to avoid civilian casualties but sometimes it happens. I have heard from Baghlan people from the community close to Bamyan that there were civilian casualties.

"I don't know the number of civilian casualties but in a conflict there's sometimes civilian casualties happening. It is, of course, war."

And former defence minister Wayne Mapp - who held the role at the time of the raid - told Newshub: "One of the disasters of war is these terrible things can happen. At the time of the attack they thought they were being attacked by insurgents."

In *Hit & Run*, Mapp was quoted as telling a friend the raid was "our biggest and most disastrous operation. A fiasco". He would not deny making the comments.



Wayne Mapp said "One of the disasters of war is these terrible things can happen." Photo / File

The statements lend credence to detailed claims in the new book from author Nicky Hager and war correspondent Jon Stephenson called *Hit & Run: The New Zealand SAS in Afghanistan and the meaning of honour*. It said the August 2010 mission was led by New Zealand's NZSAS and saw six civilians killed and 15 wounded in a botched raid in which none of the intended targets were killed.

Instead, the sound of gunfire as the NZSAS were inserted into the area led to a barrage from United States Apache gunships. It was during this that *Hit & Run* says four people were killed and many wounded. Two more people were killed by bullets, leading to speculation the NZSAS gunned down civilians.

While the bulk of the casualties came from the US helicopters, the premise of *Hit & Run* is that the raid was inspired, investigated, organised and led by the NZSAS seeking "revenge" for the death of Lieutenant Tim O'Donnell, our first combat fatality in Afghanistan.

Among the dead was 3-year-old Fatima, daughter of Abdul Khaliq in the village of Khak Khuday Dad.

One local was quoted saying: "She was in her mother's arms when a piece of shrapnel hit her head."

Fatima's sister Hanifa, 4, and brother Abdullah, 7, were wounded. The boy was quoted saying: "When we have cold weather the pain in my head gets worse. We become angry and upset when we remember that time, but what can we do?"



Nicky Hager, left, and Jon Stephenson have written *Hit & Run*. Photo / Mark Mitchell

The NZ Defence Force has refused to make detailed comment other than citing an inquiry by the International Security Assistance Force, stating: "The investigation concluded that the allegations of civilian casualties were unfounded."

It has not released a copy of the ISAF inquiry and has also refused to say whether it carried out its own investigation into the raid.

Both the Labour Party and Green Party have called for inquiries into the allegations as English found himself pushed for assurances about the NZSAS actions.

In Parliament, English said he had an "initial briefing" from the Defence Force about the incident and had been briefed on some of the claims in the book which he described as "difficult to substantiate".

Asked by Labour leader Andrew Little if he could be sure no civilians were killed during the raid, English said he had asked the same question of NZDF.

English said on the basis of the ISAF investigation that NZDF personnel had followed the rules of engagement and "civilian casualties have not been substantiated".

Asked if the NZSAS had asked for "fire support" from the Apaches, English said he was seeking "more written advice" from NZDF.

He said the public needed to know "there is close legal scrutiny of the planning of these operations and in review of them".

He said "the government would not be rushed" into holding an inquiry but planned to meet with Defence Minister Gerry Brownlee and Chief of Defence Force Lieutenant General Tim Keating when they returned from a visit to troops in Iraq.

NZDF's blunt denial of civilian casualties also included a statement that it had no power to investigate other nations' militaries.

The statement from NZDF contrasted with comments by former defence minister Jonathan Coleman in 2014, when he said "you probably can't rule out" civilians being killed by Apache gunship fire.

### **NZ Defence Force**

**2011 and 2017:** "The investigation (by the International Security Assistance Force) concluded that the allegations of civilian casualties were unfounded"

**2) Former Prime Minister John Key** "We don't discuss the detail of SAS operations, but what we do say categorically is that no New Zealand soldier was involved in killing civilians."

### **3) Jonathan Coleman, defence minister 2011-2014**

**2014:** "You couldn't rule out there may have been civilian casualties" - in relation to Apache gunship fire during the raid.

### **4) Wayne Mapp, defence minister 2008-2011**

**2011:** "That's been investigated and proven to be false.... I am satisfied around that." **2017:** "In 2014 I was informed that, I saw it on TV in fact, that a 3-year-old was killed, I'm sure everyone is remorseful about that."

Article Information	
Article Title	<a href="#"><u>"Prime Minister Bill English admits 'uncertainty' over SAS' civilian casualties"</u></a>
Source	News Hub   Ministerial public statement
Date Published	23/03/2017

## Prime Minister Bill English admits 'uncertainty' over SAS' civilian casualties

The Prime Minister is moving closer to an admission that civilians died during a New Zealand SAS raid in Afghanistan.

"The allegations have created I suppose some uncertainty about civilians," Mr English says. That's a big shift from previous denials over civilian deaths.

It comes after then Defence Minister Wayne Mapp told Newshub of his remorse around the operation, and admitted he called the raid "our biggest and most disastrous operation - a fiasco".

"I'm sure everyone was remorseful about that," Mr Mapp says.

"At the time of the attack they thought they were getting attacked by insurgents." That's not enough to shift the government's position on launching an inquiry.

"He doesn't have any new information than what has been available to the defence forces or the government," Mr English says.

The Labour Party says this isn't good enough.

"I think what people need is the reassurance that there's been an independent inquiry and that's all we're asking for," Labour Deputy Leader Jacinda Ardern says.

Deputy Prime Minister Paula Bennett says it all has to wait - the Prime Minister needs to be briefed by his Defence Minister and the Chief of Defence - both of whom have been on a secret mission to Iraq.

But it's clear the Government will face questions about this for a long time yet.

Article Information	
Article Title	<a href="#"><u>Former Defence Minister Wayne Mapp's SAS comments informed by TV, Bill English says</u></a>
Source	NZ Herald   Ministerial public statement
Date Published	23/03/2017

## Former Defence Minister Wayne Mapp's SAS comments informed by TV, Bill English says

23 Mar, 2017 9:24am

Bill English says comments from former Defence Minister Wayne Mapp about an SAS raid in Afghanistan have not influenced his thinking on whether an inquiry is needed.

The Prime Minister said he had been advised Mapp's comments about the operation were informed by a documentary broadcast on Maori TV in 2014.

"We are still not going to rush into an inquiry. My understanding is his [Mapp's] comments are based on the documentary, which was really the first airing of the same allegations that are in the book [*Hit & Run*]," English told reporters today.

"He doesn't have any new or different information than has been available to the Defence Force or the Government. I haven't spoken to him but I have had advice from people who have."

Nicky Hager and Jon Stephenson alleged in *Hit & Run* that Mapp had privately expressed concerns about a Special Air Service (SAS) raid in Baghlan Province in 2010, when he was minister.

The book said he told the friend that the joint operation was New Zealand's "biggest and most disastrous operation. A fiasco."

Mapp today confirmed that he described an SAS raid on an Afghani village as "disastrous" and "a fiasco".

"The words have been said, yes," he told Radio New Zealand this morning.

Until now, Mapp did not deny he made the comments but would not go any further.

He conceded yesterday that civilians were killed in the operation, contradicting statements by the New Zealand Defence Force (NZDF) and the government.

Hager and Stephenson claimed six civilians were killed and 15 were injured in the raid, which was carried out with US air support and alongside Afghan troops New Zealand had been mentoring.



The book said the raid was a revenge attack on insurgents who were believed to be responsible for the death of SAS soldier Timothy O'Donnell, the first New Zealand combat death in Afghanistan.

Mapp said statements by the NZDF in 2011 that there were no civilian casualties were "the honest belief at the time" and were based on an investigation by the International Security Assistance Force (ISAF).

He did not find out civilians had been killed until a documentary by Stephenson broadcast on Maori TV in 2014 showed that a 3-year-old girl, later named as Fatima, died in the raid.

"There was enough supporting evidence around [to make] that a credible claim, at least on the face of it.

"And I also knew, of course, that the people who we were actually targeting had not been arrested or killed."

He said the Defence Force would not have known it had killed civilians because the raid took place at night time and in difficult conditions.

Mapp defended the SAS soldiers' actions, saying they had been under constant attack from insurgents in what was considered a "hostile village".

"You're in a counter-insurgency operation, there's always going to be people around.

"And if people are moving towards you, looking like they're in tactical formation, then you're entitled to defend yourself. That's the circumstances they were facing."

Mapp said it was difficult to tell the difference between civilians and insurgents, and soldiers acted on a "reasonable belief" they were being attacked by insurgents.

"Bear in mind insurgents here, it's not like a full-time job where you're wearing a uniform. You can be a farmer by day and an insurgent by night. That's the reality."

It was up to the government to decide whether an inquiry was warranted, he said. But claims that New Zealand may have committed a war crime were "fundamentally wrong".

"If you act in an honest and reasonable belief that you are under attack, then you are entitled to defend yourself."

Prime Minister Bill English says he has been briefed that there is "nothing new" in *Hit & Run*.

But he has not ruled out an inquiry. He wants further briefings from Defence Minister Gerry Brownlee and Defence Force chief Lieutenant Colonel Tim Keating, who return from Iraq on Saturday.

## Article Information

Article Title

"Former defence minister rejects Afghan war crimes claim"

Source

Ministerial public statement

Date Published

23/03/2017 Updated 15/08/2019

## Former defence minister rejects Afghan war crimes claim

A former Defence Minister is rejecting claims SAS soldiers could have committed war crimes when they attacked two Afghan villages in 2010.



Hit and Run says three-year-old Fatima was killed in the raid - a claim Wayne Mapp says is credible. Photo: Jon Stephenson

A new book, Hit and Run, accuses New Zealand's elite soldiers of leading a 2010 attack in which six civilians died and 15 were injured.

Wayne Mapp, who was minister at the time, now accepts civilians died in the attacks but said soldiers at the time were acting in the honest belief they were under attack.

When the raid first became public in 2011, Dr Mapp denied any civilians were killed.



Wayne Mapp Photo: Supplied / Parliament

The first he learned of any possible civilian deaths was from a television programme in 2014, he said.

"The television programme on Māori Television ... indicated a 3-year-old had been killed. And there was enough in my mind, supporting evidence around that, that made that a credible claim, at least on the face of it," he told RNZ.

"I also knew of course, that the people we were actually targeting had not been arrested."

But he clarified there was no reason for either him or the Defence Force to suspect there were civilian deaths at the time, and that the people killed in the raid were "moving towards the New Zealanders on the ground".

"And I knew of course that the people we were actually targeting had not been arrested, or killed, but we were in a village that at least from that direction, we'd been under constant attack, the PRT [Provincial Reconstruction Team] had been under constant attack."

The village was "hostile", Dr Mapp said. "Bomb-makers and the like lived there.

"Bear in mind [it's] insurgents here, it's not like it's a full-time job wearing a uniform, you can be a farmer by day and an insurgent by night, that's the reality."

Dr Mapp confirmed he described the operation as a "fiasco" because the mission did not achieve its objective.

But he did not accept any suggestions the attacks were war crimes.

"I think that's fundamentally wrong, because - and this was the point of the investigation - that was specifically dealt with.

"If you believe in an honest and reasonable belief that ... people are attacking you, then you're entitled to defend yourself. That's very, very clear."

The raids had been a counter-insurgency operation and so there were always going to be civilians around, Dr Mapp said.

"If people are moving towards you looking like they're in a tactical formation, then you're entitled to defend yourself."

Dr Mapp's comments strike a different tone from both the government and the Defence Force.

The Defence Force has issued only one statement in response to the book, saying an investigation at the time rejected claims that civilians were killed.

That inquiry was carried out by Afghan and US-led coalition forces in the week after the attack.

The ISAF news release on 29 August 2010, in fact, admitted civilians may have been injured or killed.

## Former army chief responds

Retired Lieutenant General Rhys Jones was Chief of Army at the time of the raid and was

subsequently Chief of Defence Force between 2011 and 2014.

He was "pretty confident" there were no civilian deaths, he said.

"As far as I'm aware, the official report is accurate. I have no reason to believe that there was any cover up of information from that report."

Prime Minister Bill English was briefed on allegations in the book yesterday and said: "There isn't anything new that's been suggested."

"The inquiries that have been conducted so far have made pretty clear that New Zealand defence force personnel at all times conducted themselves according to the rules of engagement," Mr English said.

The book's co-authors, investigative journalists Jon Stephenson and Nicky Hager, have called for the government to apologise and launch a full official inquiry into the events.

Mr English did not rule out ordering an inquiry, but said there would be a high threshold and that the case for one did not appear to be strong.

Export

**Rob Gillard**

From:

COL

To: **PARSONS CHRIS** BRIG  
Subject: RE: Hit and Run Allegations

Ack

Sat, 25  
Mar  
2017  
22:30:3  
4 GMT

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**From:** **PARSONS CHRIS** BRIG  
**Sent:** Saturday, 25 March 2017 7:15 p.m.  
**To:** **Rob Gillard** COL  
**Subject:** Hit and Run Allegations

**Rob**

I've been turning Mr Hagar and Mr Stephenson's allegations and the circumstances of the operation over in my mind. I know you're meeting CDF tomorrow. In prep for that, I'd like to reinforce the conversation we had last night.

Like you, I think it is important to have an inquiry, if only to get the facts on the table and clear the soldiers names. But constitutionally, I think it is important too.

I am perplexed and not just a little concerned at the number of internal sources that have been alleged. I believe the Unit has a culture that allows people to come forward if they feel something was amiss. So, if there truly are internal concerns re civcas I would have thought they would have been raised. I've never known the team not to speak their minds. So it would be good to get to the bottom of this as well as truly understand where the sentiment lies and what we can do about it. Obviously, we'd all be completely gutted if we found out there had been civcas, but I remain firmly of the belief that no SAS soldier or commander acted outside the rules of engagement or improperly in any way.

All the best mate, good luck tomorrow.

**Chris**

Sent with BlackBerry Work ([www.blackberry.com](http://www.blackberry.com))

Export

**Kevin Taylor**

From:

Sat, 25  
Mar  
2017  
22:43:2  
7 GMT

To: WARRENDER TRUDY; **PSR(IC)3**

Subject RE: TVNZ: Defence force admits 'suspected civilian casualty' in controversial SAS  
raid in Afghanistan

Yes I'll deal with her. I guess it's my fault. I saw the OIA and used a bit of it but didn't spot the reference to civcas. **PSR(IC)3** has texted saying the Minister wants the OIA out to tvnz asap - although they already have it as the human rights foundation gave it to them. I will go into work now and try and sort this.

---

**From:** WARRENDER TRUDY **PSR(IC)3**

**Date:** Sunday, 26 Mar 2017, 11:36 AM

**To:** **PSR(IC)3**

Chief Advisor (Defence Public Affairs)

**Kevin Talyor**

**Subject:** FW: TVNZ: Defence force admits 'suspected civilian casualty' in controversial SAS raid in Afghanistan

? Will you go back **Kevin**

Sent with BlackBerry Work (www.blackberry.com)

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**From:** **Press Secretary PSR(IC)3**

**Date:** Sunday, 26 Mar 2017, 10:04 AM

**To:** WARRENDER TRUDY **PSR(IC)3**

**Subject:** FW: TVNZ: Defence force admits 'suspected civilian casualty' in controversial SAS raid in Afghanistan

Morning Trudy,

Why didn't we say this last week? Now it looks like new info.

Thanks,

**PSR(IC)3**

Sent with BlackBerry Work (www.blackberry.com)

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**From:** **Press Secretary PSR(IC)3**

**Date:** Sunday, 26 Mar 2017, 10:02 AM

**To:** **Press Secretary PSR(IC)3**

**Subject:** TVNZ: Defence force admits 'suspected civilian casualty' in controversial SAS raid in Afghanistan



<https://www.tvnz.co.nz/one-news/new-zealand/defence-force-admits-suspected-civilian-casualty-in-controversial-sas-raid-afghanistan>

## Defence force admits 'suspected civilian casualty' in controversial SAS raid in Afghanistan

28 min ago

The New Zealand Defence Force has admitted there was a "suspected civilian casualty" in a controversial 2010 raid in Afghanistan.

**'Suspected civilian casualty' - defence force admits death in botched SAS Afghanistan raid**

An official information act request has revealed a villager may have died in the 2010 raid, following revelations in a new book.

Source: Q+A

A new book - Hit and Run - by Nicky Hager and Jon Stephenson - alleges civilians, including a three-year-old girl, died in a raid organised by the SAS in retaliation for the death of New Zealand soldier Lieutenant Tim O'Donnell three weeks earlier.

In response to an official information act request lodged by the Human Rights Foundation and provided to Q+A, the NZDF chief of staff Commodore Ross Smith admitted: "The 2010 raid in Baghlan involved a suspected civilian casualty."

The OIA also says the defence force doesn't hold a copy of the investigation held by a joint Aghan Ministry of Defence-ISAF assessment team into the raid.

The defence force told TVNZ 1's Q+A this morning it had nothing further to add to what it had already said about the issue.

The book that was launched on Tuesday alleges the SAS-led raid killed six civilians, including a young child, and injured 15 others.

The mission was looking for fighters who were allegedly responsible for the roadside bombing that killed Lieutenant O'Donnell a few weeks earlier in August 2010.

The Defence Minister at the time of the raid, Wayne Mapp said he learnt of the young three-year-old Afghan girl's death while watching a documentary on Maori Television in 2014.

Lawyers are calling for an inquiry into the deaths of villagers in Afghanistan during the 2010 raid highlighted in Nicky Hager's new book.

Source: 1 NEWS

**PM to discuss SAS revelations with Gerry Brownlee 'in the next day or two'**

Bill English has also again rebutted information from former Defence Minister Wayne Mapp, saying it is nothing new.

Source: 1 NEWS

**'Maybe they haven't been told the truth' - Nicky Hager on Defence Force's response to claims SAS raids in Afghanistan left civilians dead**

The author hits back at a Defence Force statement that "allegations of civilian casualties were unfounded".

Source: Breakfast

Sent from my iPhone

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# PSR(IC)6

# PSR(IC)6

# PSR(IC)6

Article Information	
Article Title	"NZDF Statement on Hager/Stephenson Book"
Source	NZDF   Public Statement
Date Published	26/03/2017

## NZDF Statement on Hager/Stephenson book

**26 March 2017**

The central premise of Nicky Hager and Jon Stephenson's book, *Hit and Run*, is incorrect, says the Chief of Defence Force, Lieutenant General Tim Keating.

NZDF troops never operated in the two villages identified in the book as having been the scene of combat operations and civilian casualties.

Since the release of the book, the New Zealand Defence Force has spent considerable time reviewing the claims contained in it, despite the allegations of civilian casualties being the subject of a NATO investigation in 2010.

Upon review of *Hit and Run*, it is evident there are some major inaccuracies – the main one being the location and names of the villages where the authors claim civilians were killed and property was destroyed wilfully during a New Zealand-led operation.

The villages are named in the book as Naik and Khak Khuday Dad, but the NZDF can confirm that NZDF personnel have never operated in these villages.

The authors appear to have confused interviews, stories and anecdotes from locals with an operation conducted more than two kilometres to the south, known as Operation Burnham.

The villages in the Hager and Stephenson book and the settlement which was the site of Operation Burnham, called Tirgiran, are separated by mountainous and difficult terrain.

The NZDF has used the geographical references in the book and cross-referenced them with our own material.

During Operation Burnham, New Zealand was supported by coalition partners, which included air support capacity as previously reported.



The ISAF investigation determined that a gun sight malfunction on a coalition helicopter resulted in several rounds falling short, missing the intended target and instead striking two buildings.

This investigation concluded that this may have resulted in civilian casualties but no evidence of this was established.

Hit and Run does not prove civilian casualties were sustained in the village where Operation Burnham took place.

The NZDF reiterates its position that New Zealand personnel acted appropriately during this operation and were not involved in the deaths of civilians or any untoward destruction of property.

The NZDF welcomes anyone with information relevant to Operation Burnham to come forward and be assured that any allegations of offending by NZDF personnel would be taken seriously and investigated in accordance with our domestic and international legal obligations.

Export

From: **KELLY PETER**  
MAJGE  
N  
 To: DAVIES TONY, AVM; MARTIN JOHN, RADM  
 Subject: FW: Final version  
 TD, John,

Mon, 27  
 Mar  
 Sent: 2017  
 02:54:0  
 9 GMT

This is my email to Army regarding this issue. It contains information that the CDF covered in his stand up today to media. We are unequivocal in our response and refute all the allegations made in the book.

Regards

Peter

Sent with BlackBerry Work (www.blackberry.com)

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**From:** KELLY PETER, MAJGEN **PSR(IC)3**  
**Date:** Monday, 27 Mar 2017, 15:45  
**To:** **PSR(IC)3**, MAJ **PSR(IC)3**  
**Subject:** Final version

By now you would all be very familiar with the false claims made in the book "Hit and Run". This afternoon the CDF and Head of Defence Legal Services held a media briefing where they refuted the allegations made in the book. I had wanted to clear up this matter with the Army a lot earlier, but I needed to wait until the CDF returned from Iraq. Now is my chance to set the record straight to you all and I would request that commanders pass my message on to all soldiers.

What I can say based on my own knowledge of this operation is that the New Zealand soldiers, Afghani Police and other Coalition partners were rigorous in applying the Rules of Engagement and this was the major finding in the Joint Afghani and ISAF investigation report. Throughout this mission the coalition forces engaged and killed nine insurgents who were positively identified carrying weapons, those being RPGs, AK47s and PKS machine guns. These were not as the book portrayed, innocent civilians fleeing the area, they were hardened insurgents who had killed Afghani security forces, German soldiers and a New Zealand soldier. They had been able to establish a base in the village of Tirgiran to carry out their campaign of extreme violence targeting innocent Government and ISAF forces and operated with relative impunity over a long period of time. This came to an abrupt halt on the night of 21 August 2010, when coalition forces in support of Afghan Police deployed to Tirgiran to arrest the known insurgent leaders. Although the leaders evaded being captured at this time, the operation significantly disrupted their ability to effectively concentrate and



continue their campaign of violence.

With regards to the allegations of burning down buildings, what we know is that one building contained a large cache of weapons, RPGs, AK47s and ammunition. These items were removed from the building and destroyed by an explosive charge, during this destruction a piece of equipment landed on the building where it caught fire and burnt down. The second building burnt down because a cooking fire was left unattended when the occupants departed. Hence there was no wilful destruction as the book alleges.

Regarding the books major premise of civilian deaths and casualties, we know for a fact that there were no civilian casualties in and around the buildings that the Afghani police and New Zealand soldiers cleared. I can confirm that one insurgent was shot and killed by a New Zealand soldier, but this was in strict accordance with our Rules of Engagement. We do know that one of the Apache helicopters gun was malfunctioning at the time and not correctly aligned to the gunner's sight. When the helicopter engaged a positively identified armed insurgent standing within 15m from the nearest building, some rounds may have hit the building where women and children were seeking shelter due to the malfunction. The pilots also identified armed insurgents using the same building for cover and as a result of the presence of women and children they stopped targeting this area. It is in this part of the operation that the Joint Afghani and ISAF investigation team reported that there was a likelihood of civilian casualties, since the insurgents used the same building for cover.

Any civilian deaths on a battlefield are always deeply regretted, but in this particular operation the coalition forces went to great efforts to try and avoid civilian casualties. In the case of the New Zealand and Afghani ground forces they exposed themselves to greater risk to prevent this from occurring. We deeply regret the death of civilians from this particular operation, if any did occur, however we do not regret the death of the nine armed insurgents.

Finally, may I conclude by saying that I have the utmost faith and trust in all our soldiers to do what is right on the battlefield. New Zealand soldiers have always upheld the Laws of Armed Conflict and abided by the Rules of Engagement - it is ingrained in us when we join the Army and constantly reinforced during training and mission rehearsals. This mission was not a fiasco nor a disaster, it was well planned and executed under difficult conditions and was successful in that it did disrupt a known insurgent group. It is not surprising to professional military practitioners that it did not go completely to plan, this is most common in war and history is replete with examples.

To the men and women of the NZSAS who have been besmirched by these allegations please know that you have mine and CDFs full support and respect.

Who Dares Wins

Peter Kelly

PS: If any soldier past or present has information that the above is not correct, then they should come forward and present that information to either their commander, Military Police or NZ Police for further investigation.

**Major General Peter Kelly, MNZM**

Chief of Army, Army General Staff, Headquarters New Zealand Defence Force

**NEW ZEALAND ARMY**

T: **PSR(IC)3** M: **PSR(IC)3** , Internal **PSR(IC)3**

[www.nzdf.mil.nz](http://www.nzdf.mil.nz)

Export

PSR(IIC)3

From: **Peter Coleman**

Mon, 27  
Sent Mar 2017  
:20:02:17  
GMT

To: **Kevin Tavlör**

Subject Re: Unclassified: Media Release - NZDF STATEMENT ON  
HAGER/STEPHENSON BOOK

Hi **Kevin** yes I have been following it from afar and watched the CDF press conference online... it feels a bit surreal a situation to have come about... seems to me that NZDF and Hager/Stephenson are talking about the same event... so Hager/Stephenson are like "this is crazy, we can't possibly be wrong, we've spent so long talking with these people"... BUT if it is the same event, and these people put them crook on something as simple as 'where did all this happen'... then implications are, on what else might the villagers have changed, exaggerated, made up etc for their own end/benefit?

Seems Hager/Stephenson don't want to even consider this possibility... what I can't detect from this distance is whether mainstream media in NZ have had this lightbulb moment yet... i.e. seems we've now got two versions of the one event and one version isn't stacking up? Media had from the outset thought that had to be NZDF (can't trust power/government - post modern take of things)... but now seems to be Hager/Stephenson's version which is just plain unreliable...

In the very first Hager/Stephenson presser they were like "no, we haven't put any of this to NZDF, they'd only deny it"... seems to me NZDF aren't denying it, rather saying "nothing to deny, you've got your facts wrong"... bloody funny seeing Hager/Stephenson comments post CDF presser - coz that just doesn't compute for them... even as a possibility.

Well, feels like someone has to be wrong! But neither side is "all wrong", as there was a raid (different location); buildings did burn; helos did open fire; Fatima may or may not have been hit by a stray bullet...? Glad its you trying to make sense of this stuff and not me.

**Peter Coleman**

From: **Kevin Talyör**

Sent: Monday, 27 March 2017 7:35 p.m.

To: **Peter Coleman**

Subject: FW: Unclassified: Media Release - NZDF STATEMENT ON HAGER/STEPHENSON BOOK

Hi **Peter Coleman**

Hope you're well. See below we put out late Sunday in response to the Hager/Stephenson book once CDF had got back in the country. Pretty damning refutation.

We then ran a presser yesterday on the ground floor of FBB to go into further detail – complete with speech and 17 PP slides going through in detail what actually happened.

So things have quietened down considerably on this front after that.



I will forward CDF's speech separately. He did very well with the media – he was excellent. And if you take a look at the One News story online from 6pm news last night, he was very strong and had some good lines.

Cheers

Kevin Talvor

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**From:** Defence Public Affairs

**Sent:** Sunday, 26 March 2017 8:14 p.m.

**Subject:** Unclassified: Media Release - NZDF STATEMENT ON HAGER/STEPHENSON BOOK

## Media Release

26 March 2017

### NZDF STATEMENT ON HAGER/STEPHENSON BOOK

The central premise of Nicky Hager and Jon Stephenson's book, *Hit and Run*, is incorrect, says the Chief of Defence Force, Lieutenant General Tim Keating. NZDF troops never operated in the two villages identified in the book as having been the scene of combat operations and civilian casualties.

Since the release of the book, the New Zealand Defence Force has spent considerable time reviewing the claims contained in it, despite the allegations of civilian casualties being the subject of a NATO investigation in 2010.

Upon review of *Hit and Run*, it is evident there are some major inaccuracies – the main one being the location and names of the villages where the authors claim civilians were killed and property was destroyed wilfully during a New Zealand-led operation.

The villages are named in the book as Naik and Khak Khuday Dad, but the NZDF can confirm that NZDF personnel have never operated in these villages.

The authors appear to have confused interviews, stories and anecdotes from locals with an operation conducted more than two kilometres to the south, known as Operation Burnham.

The villages in the Hager and Stephenson book and the settlement which was the site of Operation Burnham, called Tirgiran, are separated by mountainous and difficult terrain.

The NZDF has used the geographical references in the book and cross-referenced them with our own material.

During Operation Burnham, New Zealand was supported by coalition partners, which included air support capacity as previously reported.

The ISAF investigation determined that a gun sight malfunction on a coalition helicopter resulted in several rounds falling short, missing the intended target and instead striking two buildings.

This investigation concluded that this may have resulted in civilian casualties but no



evidence of this was established.

Hit and Run does not prove civilian casualties were sustained in the village where Operation Burnham took place.

The NZDF reiterates its position that New Zealand personnel acted appropriately during this operation and were not involved in the deaths of civilians or any untoward destruction of property.

The NZDF welcomes anyone with information relevant to Operation Burnham to come forward and be assured that any allegations of offending by NZDF personnel would be taken seriously and investigated in accordance with our domestic and international legal obligations.

**ENDS**

**A press conference involving LTGEN Keating will be held tomorrow to go into more detail. A time and venue for this press conference will be advised to media in the morning.**

**For more information please contact Defence Public Affairs: 021 487 980 or [media@nzdf.mil.nz](mailto:media@nzdf.mil.nz)**

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## **Speech notes for Press Conference on Operation Burnham**

**Chief of Defence Force, Lieutenant General (LTGEN) Tim Keating & Director of Defence Legal Services, Colonel Lisa Ferris**

**27 MARCH 2017**

### **Chief of Defence Force, LTGEN Tim Keating**

Good afternoon, thank you for coming.

The purpose of today's briefing is to run through the events around Operation Burnham, and the allegations contained in the book Hit and Run.

The book contains serious allegations, and we have taken the time to carefully look at what has been alleged.

### **Background to Operation Burnham, the attack on 3 August 2010 on PRT Patrol**

After the attack on the New Zealand Provincial Reconstruction Team (NZPRT), which killed Lieutenant Tim O'Donnell, the NZPRT operating in Bamyan Province did everything it could to reduce the target profile of our people operating up the Shakera Valley and into the north-east of Bamyan Province.

We adjusted our routine, reduced movements to an absolute minimum, maximised night driving, and minimised time on site in threat areas.

The one thing the PRT couldn't do was to have an effect on the individuals that attacked Lieutenant O'Donnell's patrol. For the first time, the insurgents had a major success -- and they were well positioned to do so again.

We knew in a matter of days from local and International Security Assistance Force (ISAF) intelligence who had attacked our patrol -- and the villages they came from. This group had previously attacked Afghan Security Forces and elements of the German and Hungarian PRTs.

The valley they lived in (south of Tel Wa Barfak & parallel to the Shakera Valley) was well away from where the Hungarian PRT was operating, and an easy walk to both the border with Bamyan and positions where they could attack New Zealand PRT patrols moving on the road.

The New Zealand Government gave permission to use our SAS, who were operating out of Kabul with the Afghan Crisis Response Unit, to see if they could help enhance the New Zealand PRT security.

Greater security would allow us to continue with the great progress that the PRT mission had achieved to date.

The Bamyan success story was a threat to the Taliban, and it was clear that they were going to undertake missions to disrupt our success.

What followed was 14 days of reliable and corroborated intelligence collection that provided confirmation and justification for subsequent actions. Based on the intelligence, deliberate and detailed planning was conducted.

The bottom line, revenge was never the driver. Our primary concern was the security of our people, and that of the Afghani and other development people working in the Bamyan province.

The conduct of this operation, as with the numerous other New Zealand SAS operations in Afghanistan, would be led by the best intelligence available and executed with professionalism. New Zealand's Special Air Service had developed a strong international reputation, not only for operations in Afghanistan, but where they had operated on behalf of New Zealand in the previous decades.

A significant part of this reputation and why the force was favoured by successive governments, was the combination of the values that represented everything that we cherish as New Zealanders, and the precision with which they could operate on complex operations where there were often blurred lines between combatants and non combatants.

### **Hit and Run – Key facts and Conclusions**

What I would like to do now is review some key elements of the Hit and Run book that appear to build a case against the New Zealand Defence Force for war crimes committed against the people of Khak Khuday Dad Village and Naik Village.

As you will note from the book, the authors have been precise in locating these villages with geo reference points -- so I have no doubt they are very accurate in the villages they are taking their allegations from.

The villages lie in the Tirgiran Valley some 2 kilometres north from Tirgiran Village. In straight distance this is like comparing the distance from Te Papa to Wellington Hospital. However, if you overlay the elevated terrain, you will see we are talking about two very separated, distinct settlements.

The authors have provided some clear and detailed accounts as to what their sources say occurred in Khak Khuday Dad Village and Naik Village, which provide the basis of their claims that there were serious grounds for consideration of whether war crimes had been committed.

### **Briefly some of these accounts include:**

- Helicopter landing sites
- Location of houses that were destroyed
- Locations of where civilians were allegedly killed.
- Presumed location of an SAS Sniper with evidence presented of SAS ammunition and water bottles which were found at the site. A relationship was drawn between the Sniper location and the alleged killing of the individual Islamuddin, the School teacher.

The book provides detailed lists of the Dead and Wounded from Khak Khuday Dad Village and Naik Village.

It also provides detailed lists of the houses destroyed in Khak Khuday Dad Village and Naik Village.

The underlying premise of the book is that New Zealand's SAS soldiers conducted an operation on Khak Khuday Dad Village and Naik Village that inflicted considerable damage to property, deliberately killed civilians, which add up to war crimes that need to be investigated.

It seems to me that one of the fundamentals, a start point if you like, of any investigation into a crime is to tie the alleged perpetrators of a crime to the scene. Then we would examine the motive and means, and other scene evidence.

## **OPERATION BURNHAM**

Let me now talk about the ISAF Operation Burnham in Tirgiran Village.

### **Planning**

Operation Burnham was planned around a sound intelligence picture.

A feature of all NZSAS operations, was the involvement on the planning, conduct and subsequent debriefs and review of the operation by a lawyer.

New Zealand was one of the first in the ISAF coalition to adopt this practice of legal oversight -- which was aimed to provide a level of additional assurance to the commander and troops on the ground that their actions were within their operational directive and any offensive actions were within the Rules of Engagement.

Further, the plan was notable for its attention to avoid civilian casualties. Again, as I have stated earlier, this is why special forces soldiers are better suited to this type of operation as their training enables them to make rapid decisions in the face of a dynamic environment; to summarise, to use an appropriate level of force -- or not.

### **Conduct of Operation Burnham**

I will now turn to the conduct of Operation Burnham.

The operation commenced on night of 21-22 August. The operation mission, which included New Zealand Special Air Service Soldiers, aimed to detain Taliban insurgent leaders who were threatening the security and stability of Bamyān Province and to disrupt their operational network.

Operation Burnham was conducted some 2 kilometres to the South of Khak Khuday Dad Village and Naik Village -- in a village known as Tirgiran village.

I now wish to introduce Squadron Leader Leon Fox who will give us an explanation of the map to ground analysis.

## **LTGEN Tim Keating – Detailed account of Operation Burnham**

I will now provide you a detailed account of Operation Burnham.

The NZSAS and partner ground forces arrived at this Helicopter Landing Zone at 0030 on 22 August, 2010. They were provided covering support by Coalition Aircraft. The role of these aircraft was to provide protection to the ground patrols.

The ground force commander was an NZSAS Officer who controlled both the ground activities and provided clearance, after the appropriate criteria had been met, for any involvement of the aircraft. These elements were co-ordinated by an air controller in his location.

The criteria were:

1. that the target was positively identified as a direct participant in hostilities
2. that the person was satisfied that any collateral damage would be minimised.

On arrival of the ground patrols by helicopters, numbers of insurgents with weapons were identified leaving the village to take up positions on the high ground and within the village which were deemed, appropriately, by the ground force Commander to threaten the ground force. On meeting the necessary criteria within the Rules of Engagement, coalition aircraft were given permission to engage these insurgent groups.

Meanwhile, the ground forces entered a number of the buildings where intelligence had indicated insurgent leadership was staying. While the insurgents themselves had left, significant quantities of weapons and ammunition, including Rocket Propelled Grenade launchers, machine guns and pistols were found and destroyed on site.

During the destruction of the ammunition, two dwellings caught fire, one through exploding ammunition falling on the roof and one by an unattended cooking fire.

The SAS suffered one casualty who was injured by falling debris during the operation.

As mentioned previously, the planning went to great lengths to protect all civilians on the ground and this was followed through meticulously by the ground force during the conduct of the operation. Part of this included a procedure known as a callout, where before entering the village, the ground forces announced their presence and intention to the villagers through loudhailers, advising the villagers that this was a security operation.

The obvious downside of this approach is that it gave away the element of surprise and allowed the insurgents time to respond -- thereby putting the ground forces at greater risk.

A feature of the majority of SAS operations during this deployment in Afghanistan was the limited number of times SAS soldiers fired their weapons.

The two shots fired by the NZSAS ground force during Operation Burnham were targeted at an insurgent who was approaching one of the ground force positions. The insurgent was shot and killed.

The SAS forces left Tirgiran Village at 0345 on 22 August.

ISAF approved a second mission to Tirgiran Village on the night of 2-3 October 2010, following further intelligence confirming insurgent activity in the area.

The mission was completed by NZSAS and Afghan Security Forces. No shots were fired; the building searched was empty and the only explosive used was a small charge used to gain entry through a door. Once again prior to entering the building, a callout was used.

## **The ISAF Inquiry**

Let me turn now to the ISAF-Afghan Government inquiry.

Some days after the operation, the Provincial Governor of Baghlan Province, Governor Mojid, received a delegation of villagers who claimed that “a very big operation had occurred with helicopters...that some landed and the operation was firing at civilians and left. The locals claimed that six civilians were killed, 4 adult males, 1 adult female and one child aged six. Additionally there were two adult females being treated in a local hospital for wounds.

I would like to introduce our Head of Defence Legal Services, Colonel Lisa Ferris, who will explain the ISAF investigation process.

## **Colonel Lisa Ferris - remarks**

*Good Afternoon,*

*At the outset it is important to highlight that the situation in Afghanistan at the time was considered by New Zealand to be one of a non-international armed conflict. Accordingly, the legal framework governing the conduct of members of the New Zealand Armed Forces was one regulated by international humanitarian law also called the Law of Armed Conflict. For the purposes of this brief I will refer to the Law of Armed Conflict as the applicable legal framework.*

*For many operations, the NZDF will also develop its own rules of engagement. These are rules drafted with input from legal officers and operators and signed off at the highest level. These rules can never exceed the limits of the Law of Armed Conflict.*

*All members of the Armed Forces, and indeed all members of this deployment, are required to undergo training in the Law of Armed Conflict – it is a baseline training requirement for all members of the Armed Forces. All members of this deployment undertook specific pre-deployment training that incorporated briefs and scenario based training involving the application of the rules of engagement. All personnel were issued with a Code of Conduct card which outlined their obligations under international law.*

*As part of this deployment, as CDF has highlighted, the NZDF was something of a pioneer in that we sent a legal officer to accompany the deployment at the tactical level. This had not occurred before to my knowledge in respect of special forces deployments. That legal officer, a qualified barrister and solicitor and experienced military lawyer was deployed with the NZSAS in order to provide briefings and on-going training on the law of armed conflict and the rules of engagement. The legal*



*officer was also present with the senior commander during Operation Burnham and provided a debrief to personnel after the event.*

*The Legal Officer deployed on that mission did not observe any activity during on in relation to Operation Burnham which gave them any cause for concern around compliance with the law of armed conflict or the rules of engagement.*

*It is a tragic reality that civilian casualties occur in times of armed conflict. Civilian casualties however, are however, not necessarily unlawful at international law. Subsequent information, received after Operation Burnham indicated that civilian casualties may have been possible. The International Security Assistance Force was required to assess all allegations of possible civilian casualties and was also required to notify such instances to the United Nations Assistance Mission in Afghanistan and the International Committee of the Red Cross. In doing so ISAF stood up an investigation team heading by an ISAF Brigadier General and supported by a team including an ISAF Legal Officer as well as Government of the Islamic Republic of Afghanistan representatives from the Ministry of Interior and Ministry of Defence. That report made recommendations as to any further action to be taken by ISAF and/or the troop contributing nations. The investigation team concluded that civilian casualties may have been possible due to the malfunction of a weapon system, as was made public by ISAF on 29 August 2010. The investigation team also concluded that members of the NZSAS appear to have complied with the ISAF commander's tactical directive, the rules of engagement, and accordingly the law of armed conflict. The investigation concluded no further action be taken. The NZDF was provided with a summary of that report and its conclusions.*

*Allegations of war crimes are a serious matter. The NZDF has a legal obligation to investigate allegations that are well-founded in accordance with section 102 of the Armed Forces Discipline Act 1971. The possibility of civilian casualties in an armed conflict does not necessarily mean that a criminal act has occurred. The Law of Armed Conflict accepts that sometimes mistakes and errors, such as an equipment malfunction, may happen in times of armed conflict.*

*If individuals have information pertaining to the conduct of members of the NZSAS then we encourage them to come forward and make a formal statement to the NZDF, either to a member of command or the New Zealand Defence Force Military Police. Likewise, the New Zealand Police also has jurisdiction in respect of certain serious crimes such as war crimes.*

*Thank you*

## **LTGEN Keating - Concluding remarks**

I would now like to conclude before taking questions.

New Zealand's Armed Forces have a reputation as a Force for New Zealand and a Force for Good. Our armed forces are deployed representing New Zealand into the most challenging of environments.

These are environments that the average New Zealander would not welcome being in – where there is often great risk to personal health and safety. It is a nature of service in our armed forces.

It is my responsibility to train your service personnel to give them a strong sense of values and ethics, so that they can represent New Zealand with the character that we would want displayed as New Zealanders.

The clear contrast to me between the book and what happened in Operation Burnham was that in all respects, the conduct of the New Zealand ground forces was exemplary.

It is always in our best interests that we, the New Zealand Defence Force, are the harshest critics of ourselves. This enables us to retain our professional reputation for which we are known internationally.

During Operation Burnham there was no cause for the Chief of Defence Force of the day to question to conduct of the operation.

Our service personnel remain committed to their profession and to achieving mission success – but always within the bounds of the laws of armed conflict.

I remain proud to serve in, and lead, the New Zealand Defence Force -- and stand up for them when they are on the side of right.

I remain proud of the role the New Zealand Defence Force undertakes on behalf of New Zealand both here and around the world. I am sure most New Zealanders are proud of our role also.

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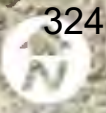


# OPERATION BURNHAM

21/22 AUGUST 2010

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324



LT. Tim O'Donnell ambush location



OBJ BURNHAM



Jabal-os-Saraj

SAR  
GOZAR

NZPRT Kiwi Base



Kabul, Afghanistan

کابل

Surobi

Sra



50 25 0

50 Kilometers





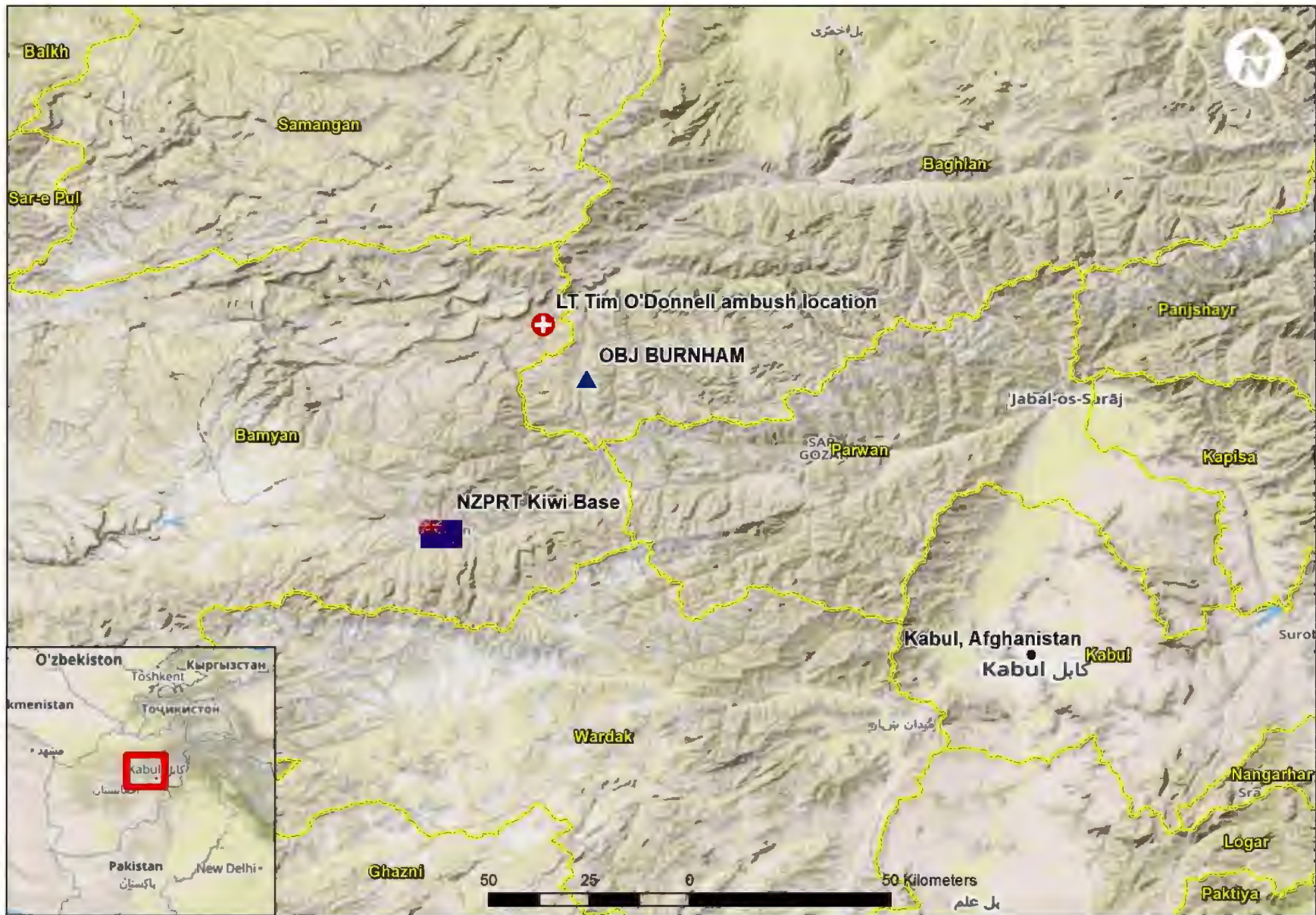
## Equipment claimed to have been used by NZSAS on 22 August 2010



## Types of equipment used by NZSAS on 22 August 2010











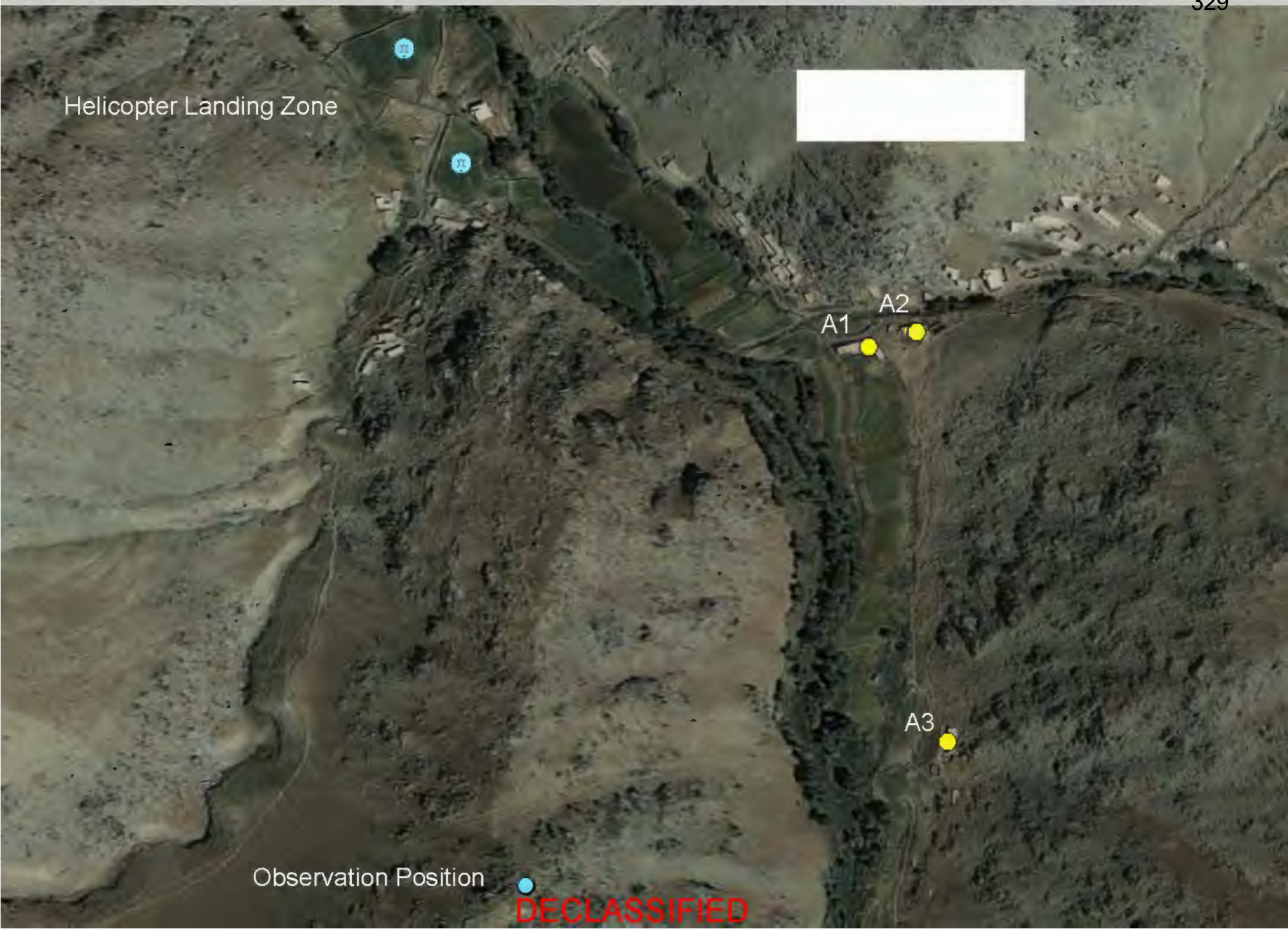
Helicopter Landing Zone

A1 A2

A3

Observation Position

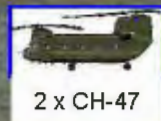
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Helicopter Landing Zone

Landing  
zone



A1

A2

A3

Observation Position

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Helicopter Landing Zone

A  
1

A  
2

A  
3

Observation Position

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0035 hrs – Positively Identified Armed insurgents move above landing zone. Clearance<sup>332</sup> is given to engage if no civilians are in the area and there are no collateral damage concerns identified.







Helicopter Landing Zone  
(Secured)

Positively identified armed  
insurgents

A1

A2

Location of "Call Out"  
from interpreter using  
loud-hailer

A3

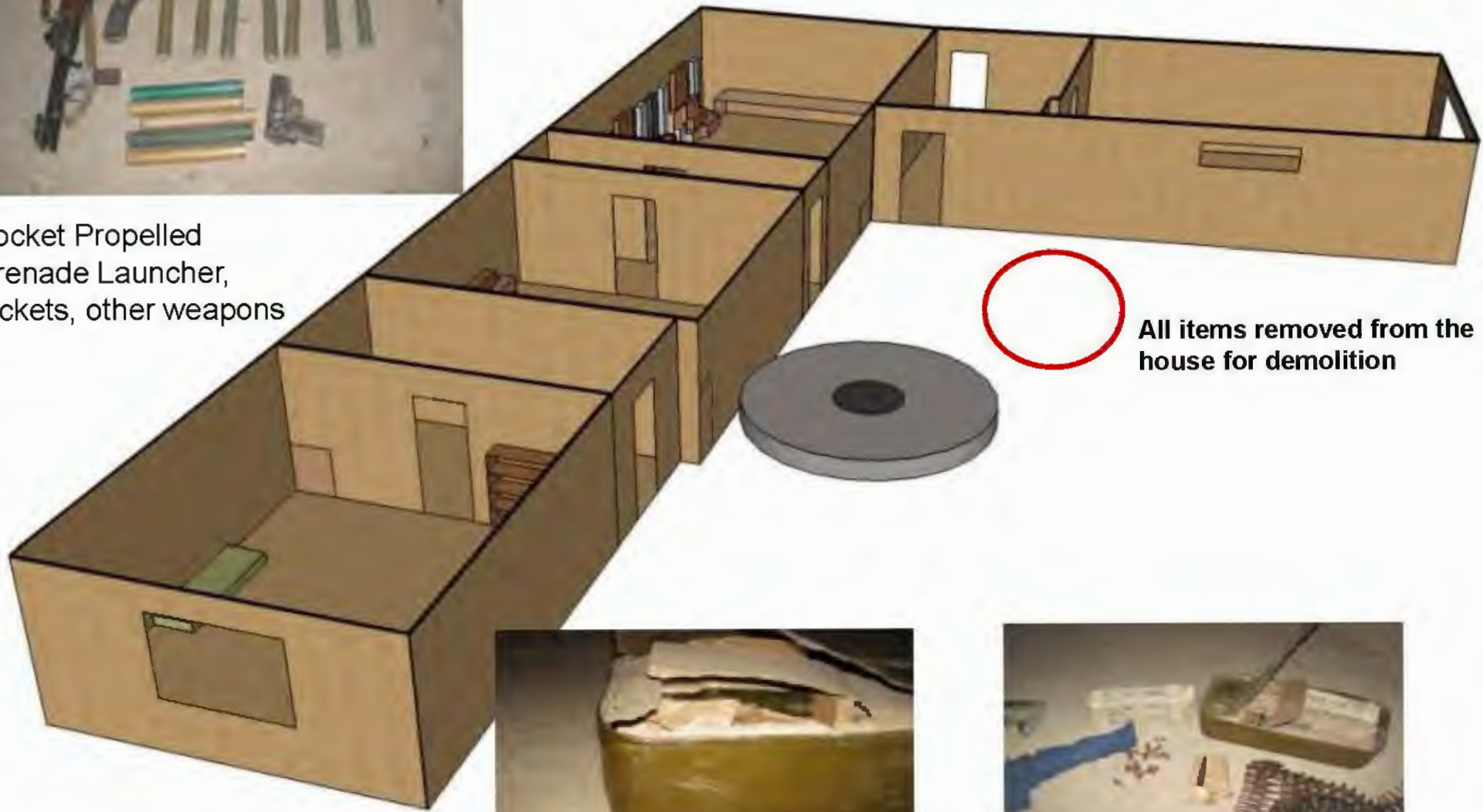
Observation Position



Items of  
ammunition found  
in this area



Rocket Propelled  
Grenade Launcher,  
rockets, other weapons



All items removed from the  
house for demolition

Boxes of ammunition



Machine gun  
ammunition



Helicopter Landing Zone  
(Secured)

A1  
A2

Extraction Aircraft Lands  
Casualty Extracted

Observation Position

A3 Callout, Cleared and Searched

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Helicopter Landing Zone  
(Secured)

Ground forces withdraw to  
helicopters

A2

A1

Weapons and ammunition  
destroyed. Interpreter addresses  
village with loud-hailer.

A3

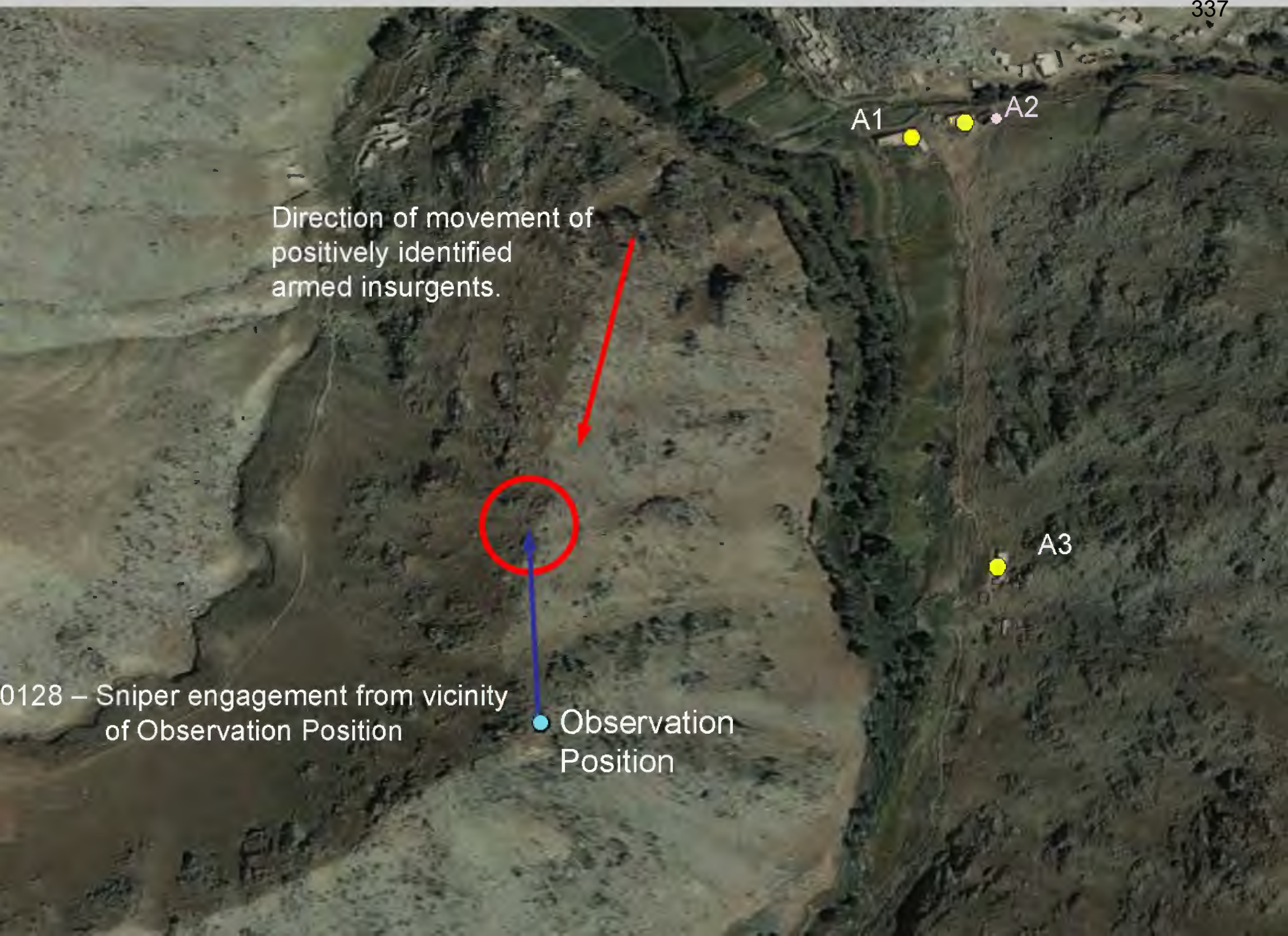
Observation Position

Unidentified males  
gathering to south

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Direction of movement of  
positively identified  
armed insurgents.

A1

A2

A3

0128 – Sniper engagement from vicinity  
of Observation Position

Observation  
Position





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# A FORCE FOR GOOD

## Transcript

Station: **WELLINGTON CONFERENCE UNIT** Date: **28/03/2017**  
 Program: **0** Time: **0**  
 Compere: **0** Summary ID: **0**  
 Item: **LIEUTENANT GENERAL TIM KEATING ANSWERS QUESTIONS ON  
 OPERATION BURNHAM AS PART OF THE PRESS CONFERENCE WITH  
 COMMODORE ROSS SMITH AND COLONEL LISA FERRIS.**

Audience: Male 16+ Female 16+ All people

QUESTION: [Inaudible question].

TIM KEATING: Which village? Operation Burnham- well, let's be clear about what we're talking about it.

QUESTION: ... during the operation.

TIM KEATING: So during Operation Burnham, the coalition aircraft engaged insurgent groups, not villagers. As the ISAF report has said and said publicly, some civilians may have occurred because of a mishap with a gun.

QUESTION: Those investigators didn't [inaudible] the village. [Inaudible].

TIM KEATING: It's not that they may have not been available to get to the village, but a complaint was made to the Governor by some villagers.

QUESTION: Are you aware of any other attacks- any attacks on the other two villages that could have been confused with Operation Burnham?

TIM KEATING: No. No.

QUESTION: Has New Zealand ever been involved in [inaudible]?

TIM KEATING: To the two northern villages, no.

[Crosstalk]

TIM KEATING: So they have been- Tirgiran was where Operation Burnham was conducted, two kilometres south of the two northern villages that are mentioned in the book.

QUESTION: So can you confirm that people were killed, you're saying that they were insurgents ...

TIM KEATING: [Talks over] Insurgents were killed during Operation Burnham.

QUESTION: How can you be sure that they were insurgents as opposed to civilians or villagers?

TIM KEATING: Because under the rules of engagement, they were engaged as meeting the criteria of insurgents that threaten the operation, and we have camera footage.

QUESTION:	How would you cross-reference the names mentioned in the book of those casualties and the insurgents that you believe were killed by the NZDF?
TIM KEATING:	No, those casualties mentioned in the book or the names mentioned in the book are from a village two villages to the north that we have not visited. We have no knowledge of those vis- villages.
QUESTION:	So could it be that the attack on those villages by other forces?
TIM KEATING:	Highly unlikely, and certainly not on the same night. Although there was some distance, I think we would have heard it.
QUESTION:	Where did those deaths come from then? A delegation of villagers that went to the Governor to say that their villagers had been killed. In your view, how do you think those villagers may have died?
TIM KEATING:	Look, there's a variety of reasons that delegations of villagers may come to a local authority to complain about actions. Where they came from, the Governor and the team know that they came from the Baghlan province. But it's often a feature after coalition operations for locals to present themselves and talk about what happens in operations.
QUESTION:	So how many insurgents were killed during Operation Burnham?



TIM KEATING: A significant number of insurgents, identified insurgents were killed during Operation Burnham.

QUESTION: How many? Because [inaudible].

TIM KEATING: Nine.

QUESTION: Do you have the names ...

QUESTION: Nine.

QUESTION: Do you have the names of the insurgents [inaudible] release them?

TIM KEATING: No. We do not have the names of insurgents.

QUESTION: [Inaudible question].

TIM KEATING: Camera footage is only rleased ... it's classified information, and we can release it for those with the appropriate security classification. So it's available ...

QUESTION: [Inaudible question].

TIM KEATING: Pardon?

QUESTION: [Inaudible question].

TIM KEATING: Actually, we're checking with the coalition to see if that's available, but again, that camera footage one, provides irrefutable evidence of what was being

engaged by the coalition aircraft, and two, it's geo-referenced. So it gives the location of where those engagements occurred. But I have seen it.

QUESTION: How many times [inaudible]?

TIM KEATING: On a number of occasions.

QUESTION: ... were in the village for over three hours. That's pretty long for [inaudible].

TIM KEATING: Yeah, because the search took a long time, and the group that went to the high ground- so I ... I'm not going to guess there, but they had a number of engagements and killed nine insurgents. But could I say, though, that the ground- the SAS Ground Commander denied a number of calls for fire. So based on the grounds, including when the coalition force was leaving, the ground force was leaving the LZ, a request was made from- fired by the coalition and the Ground Force Commander chose at that time there was no longer a threat and they were leaving.

QUESTION: So what about [inaudible]?

TIM KEATING: No, it's coordinated by the New Zealand Air Controller. So the aircraft themselves can identify targets, but it has to be- they can't fire until the New Zealand Commander gives clearance to fire. So a ground force patrol on the ground can say we have an armed insurgent in front of us, we face a risk. This is part of this check. So it then goes back to meet the criteria, so

the Ground Force Commander has to be satisfied that it met the two criteria that we'd put up on the screen.

QUESTION: Did forces return to the village at a later date?

TIM KEATING: I explained that in the brief that they returned to the village on the- in early October, I think. Early October ...

QUESTION: Not in the short timeframe [inaudible]?

TIM KEATING: No. Well, the book's talking about returning to another village.

QUESTION: So has the Defence Force not seen a full copy of the ISAF [inaudible] Afghan report [inaudible]?

TIM KEATING: It's not normal for an organisation to get it. And again, ISAF do lots of- every time there's a report of a civilian casualty, these reports are numerous. I've actually requested that report to read it. However, I'd be very surprised if there's anything else in there outside the executive summary. If there had have been, I'm sure the CDF of the day would have requested the full report.

QUESTION: Just back to my previous question about the fact that the- whether the investigations [inaudible].

TIM KEATING: Sorry, what's your question?

QUESTION: Did the investigators carrying out the ISAF and Afghan [inaudible]?

TIM KEATING: This was an ISAF investigation and to the best of my knowledge, no, because the complaint was made, the Governor was leading it on behalf of villages. The Governor appears to have been satisfied once he reviewed the material provided by ISAF that there were no further case to answer.

QUESTION: [inaudible] insurgents as opposed to civilian [inaudible].

TIM KEATING: And the Governor reviewed that footage.

QUESTION: Just on the civilian deaths. Do you know how many there may have been [inaudible]?

TIM KEATING: How many of?

QUESTION: Of those civilian casualties [inaudible].

TIM KEATING: So the reason being, and again in this type of conflict, is the insurgents, your guerrilla force, the tactic is to maxim with the civilian population. If you like, the term used is a human shield. So they use civilians as a shield. What occurred is a helicopter was engaging a group of insurgents outside the village, on the outskirts of the village. During that engagement, it was noted by the ground forces, the SAS ground forces, that some of the rounds were falling short and went into a building where it was believed there were civilians as well as armed insurgents. It is noted that the building, there were armed insurgents in there. But it's believed there may have been civilians in the building. So the weapon

malfunctioned and some rounds went into that building. There is no confirmation that any casualties occurred, but there may have been.

QUESTION: [Inaudible question].

TIM KEATING: I know General Mateparae was in Afghanistan. At the moment, I haven't talked to him about what his actions were throughout the operation. So, I'm not [indistinct]. So, I don't know.

QUESTION: [Inaudible question].

TIM KEATING: Well, it's not a misfire. What the technical reason was, was the sight wasn't slaved to the barrel correctly, and as soon as it was noted that rounds were falling short, that gun was- so the SAS ground controller said you cannot use that helicopter and the gun, and the crew knew it as well. So who's in control of it? The pilot was in control, the gunner was in control, but he stopped once he noticed that he had a gun that was not firing properly.

QUESTION: So, how was it determined that there were no civilians in that building?

TIM KEATING: I've said there were civilians in that building.

QUESTION: [Inaudible] in that building?

TIM KEATING: Well, this is what we've said. They may have occurred.



QUESTION: Can I just clarify this statement [inaudible]. Allegations of civilian casualties were unfounded. How does that [inaudible]?

TIM KEATING: Well, I think that's a- that's a word that they use which I think is unfounded. It comes back to that report, and that's the official response: there may have been, as opposed to unfounded. You could- look, I'm not going to get cute here and say it's a twist on words, but it's the same thing, unfounded, there may have been. The official line is there may have been casualties, but they haven't been.

QUESTION: [Inaudible question].

TIM KEATING: Pardon?

QUESTION: [Inaudible question].

TIM KEATING: Yeah, it does. You're right. It does. The official line is that civilian casualties may have occurred, but not corroborated.

QUESTION: [Inaudible question].

TIM KEATING: Very well.

QUESTION: [Inaudible question].

TIM KEATING: Which comments in specific?

- QUESTION: [Inaudible question].
- TIM KEATING: There is no briefing that we gave the Minister of Defence which would infer that the operation was a fiasco, quite the contrary.
- QUESTION: [Inaudible question].
- TIM KEATING: You'd have to ask Dr Mapp where he drew the information from to make that comment.
- QUESTION: If there may have been civilian casualties, why not have the inquiry to find that out [inaudible]?
- TIM KEATING: I think what the legal staff officer has pointed out is that, you know, civilian casualties in war are an unfortunate element of war. There has been no evidence produced from the village that we operated in that have presented to the satisfaction of the Governor and the authorities of Afghanistan that casualties occurred in that village. Even if there was, as far as the New Zealand Defence Force occurred, the coalition investigation has said that if there were casualties, the fault of those casualties was a mechanical failure of a piece of equipment.
- QUESTION: But if you say our reputation is our currency, and this effectively could have happened under our watch, Isn't it better to clear it up with the public as to whether these civilians died?

TIM KEATING:

Well, I think it's quite clear from the investigations, so it's not on our authority. So it's an ISAF mission. So I'm not sure what type of investigation we'd undertake as the New Zealand Defence Force in this mission or a variety of missions where claims are made of civilian casualties.

QUESTION:

[Inaudible question].

TIM KEATING:

Every inquiry has to have again what we've- what Colonel Ferris has laid out, every inquiry has to have some sort of legal basis. If you're going to question people under procedures of evidence and so on, you can't just have an inquiry. What I've done is laid out what's happened throughout the operation. I've done it to our political leadership. I've produced evidence that the reports that we have are factual, and I think it's irrefutable that we operated in a different area to the claims of the book.

QUESTION:

[Inaudible question].

TIM KEATING:

You know, I think I wouldn't have an issue, but legally it would be a little bit of a challenge. So compelling people to give evidence. But reviewing, this is what I'm doing. This is my role under the Armed Forces Discipline Act on behalf of New Zealand, in maintaining a disciplined Armed Force. You know, it is not in our interest to push stuff under the carpet. It is in my interest to see if the conduct of New Zealanders on operations is less than exemplary.

QUESTION: Did you show the political leaders the video footage you've got?

TIM KEATING: Nope. Nope.

QUESTION: Will you release documents [inaudible]?

TIM KEATING: What sort of documents?

QUESTION: Will you release material you have in relation to Operation Burnham?

TIM KEATING: I'll release what we can release to prove our location, but as you've seen from the presentation, it's the underlying premise of the book we're talking about. So let me come back to your question. Is your question about what we did in Operation Burnham or the allegations made in the book of a place that we weren't at?

QUESTION: Operation Burnham. Were you [inaudible]?

TIM KEATING: Yes, I'd be more than satisfied to release what we can, that in the village where the SAS operated, that I'll back our statement that the conduct of our people on the ground there, and in fact all people on that operation, including the coalition aircraft, was exemplary.

QUESTION: Do you have film from the October visit to the village? [Inaudible].

TIM KEATING: No, I don't have film of the October visit.

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QUESTION:

What's your opinion of the book? Is it responsible investigative journalism [inaudible]?

TIM KEATING:

I'm not going to comment on that. You know, the authors are obviously distinguished and gathered a lot of information, but it's not on an operation the NZ SAS conducted. Thank you.

\* \* END \* \*

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# BRIEFING NOTE FOR PRIME MINISTER AND MINISTER OF DEFENCE

<b>Title:</b>	<b>LEGAL THRESHOLD FOR DEFENCE FORCE INQUIRY INTO OPERATION BURNHAM</b>				
<b>NZDF File No:</b>	NZDF Tracking #: 2017-096 (For OCDF Use Only)		Minister's Tracking#: (For Minister's Office)		
<b>Importance of the Issue:</b>	<input checked="" type="checkbox"/> High	<input type="checkbox"/>	<input type="checkbox"/> Moderate	<input type="checkbox"/>	<input type="checkbox"/> Routine
<b>Urgency for Attention/Sign-Off:</b>	Urgent		Request Ministerial response by: Not required		
<b>Contact:</b>	Colonel Lisa Ferris		s 9(2)(a)		s 9(2)(a)
<p>1. I have studied the Defence Force's own records into the allegations made around the conduct of Defence Force personnel during Operation Burnham. At the time that earlier allegations were made the Chief of Defence Force of the day concluded that the allegations were unfounded. Reviewing the totality of this earlier material and the information presented in the book 'Hit and Run', I too have concluded that the threshold to trigger an internal Defence Force inquiry into Operation Burnham has not been reached.</p> <p>2. As I stated at my press conference on Monday 27 March 2017, I would welcome and consider any new evidence presented by any individual. If any such evidence does reach the necessary threshold, causing me to consider the allegations to be well-founded, then I would be obliged under s102 of the Armed Forces Discipline Act to initiate the appropriate Defence Force inquiry, for which I have the statutory duty and authority to do.</p> <p><b>Recommendations</b></p> <p>3. I recommend that you:</p> <ul style="list-style-type: none"> <li>a. <b>Note</b> that, based upon evidence to hand, I have concluded that the threshold to trigger an internal Defence Force inquiry into Operation Burnham has not been reached;</li> <li>b. <b>Note</b> that I have openly stated that I would welcome and consider any new evidence; and</li> <li>c. <b>Note</b> that I have the duty and authority to initiate an internal Defence Force inquiry should any new evidence reach the necessary threshold.</li> </ul>					
<b>Minister's Comments:</b>					
<b>Minister's Action:</b>	Signed / Noted / Agreed / Approved / Declined / Discussion Required				
	Referred to:				
<b>Signature:</b>	<b>Date:</b>				

**T.J. KEATING**  
Lieutenant General  
Chief of Defence Force

Date: 29 March 2017

# PSR(IC)6

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Export

From: BOSWELL  
L JOHN, PSR(IC)3  
BRIG

To: PSR(IC)3  
 CC PSR(IC)3  
LTCOL  
CAPT

Subject: RE: Footage Release article ~~RESTRICTED~~

Ack, thanks

Wed, 29  
 Mar  
 Sent 2017  
 22:31:2  
 4 GMT

Sent with BlackBerry Work ([www.blackberry.com](http://www.blackberry.com))

From: PSR(IC)3, LTCOL  
 Date: Thursday, 30 Mar 2017, 7:30 AM  
 To: BOSWELL JOHN, BRIG  
 Cc: PSR(IC)3, CAPT <PSR(IC)3>  
 Subject: RE: Footage Release article ~~RESTRICTED~~

DSC is across it sir

From: BOSWELL JOHN, BRIG  
 Sent: Thursday, 30 March 2017 11:29 a.m.  
 To: PSR(IC)3, CAPT; PSR(IC)3, LTCOL  
 Subject: FW: Footage Release article ~~RESTRICTED~~

Just sighted this - am guessing one of you two has seen CDF and are working the issue

Boz

Sent with BlackBerry Work ([www.blackberry.com](http://www.blackberry.com))

From: KEATING TIMOTHY, LTGEN  
 Date: Thursday, 30 Mar 2017, 5:57 AM PSR(IC)3  
 To: PSR(IC)3, CAPT <PSR(IC)3>, BOSWELL JOHN, BRIG

Cc: GALL TIM, MAJGEN PSR(IC)3, SHORT KEVIN, AVM  
 LTCOL

Subject: RE: Footage Release article ~~RESTRICTED~~

SCE see me urgently to join this up

Lieutenant General Tim Keating, MNZM  
 Chief of Defence Force  
 NEW ZEALAND DEFENCE FORCE

-----Original Message-----

From: GALL TIM, MAJGEN  
Sent: Thursday, 30 March 2017 9:39 a.m.  
To: SHORT KEVIN, AVM  
Cc: KEATING TIMOTHY, LTGEN  
Subject: FW: Footage Release article ~~RESTRICTED~~

FYI, SNR TAMPA view on need for a consolidated approach on seeking any video footage re Afghanistan.

Maj Gen Tim Gall  
Commander, Joint Force New Zealand  
NEW ZEALAND DEFENCE FORCE  
T ~~PSR(IC)3~~ , M ~~PSR(IC)3~~ Internal ~~PSR(IC)3~~ [www.nzdf.mil.nz](http://www.nzdf.mil.nz)

-----Original Message-----

From: ~~DCSO~~ , LTCOL ~~PSR(IC)3~~  
Sent: Thursday, 30 March 2017 9:05 a.m.  
To: SHAW ANDREW, COL; ~~PSR(IC)3~~ , LTCOL; ~~PSR(IC)3~~ , MAJ; KEATING FRED, CDRE: ~~PSR(IC)3~~ , LTCOL; ~~PSR(IC)3~~ , CAPT;  
Rob Gillard , COL ~~PSR(IC)3~~  
Cc: GALL TIM, MAJGEN; BOSWELL JOHN, BRIG  
Subject: RE: Footage Release article ~~RESTRICTED~~

Sir,  
Noted. This is being coordinated through SCE. Concerns around release also noted and I will pass on to CDF at the next meeting.

Regards

-----Original Message-----

From: SHAW ANDREW, COL  
Sent: Thursday, 30 March 2017 8:41 a.m.  
To: ~~PSR(IC)3~~ , LTCOL; ~~PSR(IC)3~~ , MAJ; KEATING FRED, CDRE; LTCOL: ~~PSR(IC)3~~ , LTCOL; ~~PSR(IC)3~~ , CAPT; ~~PSR(IC)3~~ , LTCOL; ~~DCSO~~  
Rob Gillard , COL  
Cc: GALL TIM, MAJGEN; BOSWELL JOHN, BRIG  
Subject: RE: Footage Release article ~~RESTRICTED~~

Sir, Gents,

I am happy to help but let's get this all joined up. I see below talk of: letters to CJCS, requests through the embassy, requests through SOCOM and requests through CENTCOM. Lets get a coherent approach! Can I request SCE lead on the engagement plan for this so that we present a coordinated request.

IOT ask the correct questions we probably need the following info: location, Date, Time, Acft C/S, Ground element CS, US CONOP name, AWT parent unit, other ISR on station, etc.

The US needs to be provided very clearly the "why" we want this released so that they (US) understand what this is about

If the PM has seen the footage and believes that this is accurate, should that not be suffice? Do we risk raising additional issues by releasing the footage?



I will stand by for formal direction to get on with seeking public release of the footage.

Regards

Standing By

Andy

Andy Shaw

Andrew R. N. Shaw  
COL  
NZ Senior National Representative  
HQ US CENTCOM

Office:  
Mobile: PSR(IC)3  
Email:

-----Original Message-----

From: PSR(IC)3 LTC (NZL) USSOCOM SOCOM J3-I

Sent: Thursday, 30 March 2017 8:01 a.m.

To: SHAW ANDREW, COL; PSR(IC)3, MAJ; KEATING FRED, CDRE;

LTCOL; , LTCOL; DCSO, LTCOL;

Rob Gillard, COL

subject: Footage Release article

Gents: Not trying to jump the gun or complicate matters here. The release of this footage is not one that I can coordinate through HQ USSOCOM as they're not the owners of it. There may be an avenue through CENTCOM (the AFG GCC) but this will need to be explored. I am heading across to see the SNR there to talk through approaches should we receive direction to do so. Lastly I haven't seen and don't have this footage so we'll probably need get a copy to have it reviewed, before it can be released.

<http://www.newstalkzb.co.nz/news/national/footage-of-disputed-nzsas-raid-in-afghanistan-could-be-released/>

Regards,

PSR(IC)3

LTC  
NZ LO to USSOCOM  
Office: PSR(IC)3  
Mobile:



# NEW ZEALAND DEFENCE FORCE COVER SHEET

To accompany documents to the  
Minister of Defence

<b>Title:</b>	<b>DEFENCE FORCE INQUIRIES INTO ALLEGATIONS OF OFFENDING</b>				
<b>NZDF File No.</b>	NZDF Tracking # 2017-098 (For OCDF Use Only)			Minister's Tracking#: (For Minister's office)	
<b>Importance of the Issue:</b>	<input checked="" type="checkbox"/> High	<input type="checkbox"/>	<input type="checkbox"/> Moderate	<input type="checkbox"/>	<input type="checkbox"/> Routine
<b>Urgency for Attention/Sign-Off:</b>	<b>URGENT</b>			Request Ministerial response by: Not required	
<b>Contacts:</b>	1. Colonel [s. 9(2)(a)]				
<b>Purpose:</b>	Allegations have been publicly made that members of the NZSAS committed offences while participating in a specific operational mission on 22 August 2010 in Afghanistan. This note provides you with the advice you sought around the legal options and obligations that the Chief of Defence Force has to investigate allegations.				
<b>Recommendations:</b>	<p>I recommend that you:</p> <ul style="list-style-type: none"> <li>a. <b>Note</b> the legal authority and duty vested in me as the Chief of Defence Force under the Armed Forces Discipline Act 1971;</li> <li>b. <b>Note</b> that, based upon the information I have considered, I do not consider that the obligation to conduct an internal Defence Force inquiry into Operation Burnham has been triggered;</li> <li>c. <b>Note</b> that I have openly stated that I will welcome and consider any new credible evidence, and would re-evaluate my decision on the basis of that evidence; and</li> <li>d. <b>Forward</b> a copy of this note to the Prime Minister.</li> </ul>				
<b>MOD/NZDF Consultation</b>	Not required: Defence Force matter only.				
<b>Minister's comments:</b>					
<b>Minister's Action:</b>	Signed / Noted / Agreed / Approved / Declined / Discussion required  Referred to:				
<b>Signature:</b>	<b>Date:</b>				

**T.J. KEATING**  
Lieutenant General  
Chief of Defence Force

Date: 3 March 2017



Headquarters NZDF  
Flying Wing Building  
Private Bag 99997,  
Wellington 6011, New Zealand

Tel: +64 (0)4 496 0556  
Fax: +64 (0)4 496 0506  
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[www.nzdf.mil.nz](http://www.nzdf.mil.nz)

30 March 2017

Minister of Defence

## DEFENCE FORCE INQUIRIES INTO ALLEGATIONS OF OFFENDING

1. Information in the recently released book 'Hit and Run' can be construed as suggesting that members of the New Zealand Special Air Service may have engaged in unlawful conduct while participating in a specific operational mission on 21/22 August 2010 in Afghanistan (Operation Burnham). This note provides you with advice about the legal obligations that the Chief of Defence Force has under law, to inquire into such suggestions of unlawful conduct and the form of any subsequent legal action should that be required. The following paragraphs describe these obligations and avenues for action.

### Investigations

2. This note sets out information about the inquiries that I am obliged and empowered to direct or conduct pursuant to the Armed Forces Discipline Act 1971 within the military jurisdiction. The military jurisdiction is fundamentally concerned with Defence Force personnel, and dealing lawfully and appropriately with allegations of unlawful conduct by Defence Force personnel.

3. Any decision made by Defence Force personnel on whether or not a Defence Force investigation should be conducted does not preclude another authority exercising their lawful jurisdiction, for instance the New Zealand Police.

### Defence Force Investigations

4. There are essentially three forms of inquiry available to me as Chief of Defence Force within the military jurisdiction in respect of the conduct of my personnel. These are command investigations, a court of inquiry and a disciplinary investigation.

5. The internal inquiries that have been conducted to date in respect of this matter essentially take the form of a command investigation. However, a command investigation is not suitable for formally investigating allegations of unlawful conduct, if there were an evidential basis to do so.

6. The Armed Forces Discipline Act sets out the basis on which officers of the New Zealand Defence Force, including the Chief of Defence Force, might assemble a Court of Inquiry. The purpose of a Court of Inquiry is to provide an expeditious fact finding procedure so that a matter can be promptly investigated and if necessary, prompt remedial action can be taken. A Court of Inquiry is not considered necessary or appropriate at this time, given the unsubstantiated allegations are essentially of unlawful conduct, the environment within which the unlawful conduct occurred, and when it is alleged unlawful conduct occurred.

### Disciplinary Investigation

7. The Armed Forces Discipline Act, in particular section 102, sets out the statutory basis for the conduct of a disciplinary investigation under the Armed Forces Discipline Act.

8. The Armed Forces Discipline Act vests specific duties in commanding officers, and gives them specific options to deal with allegations of unlawful conduct. Where there are grounds to do so, the matter will either be referred to the civil authorities or dealt with in accordance with the Act. The commanding officer of a person about whom an allegation of unlawful conduct is made needs to determine what action they will take based on the information available to them at the time they make their decision. The exercise of their lawful authority in making this decision should not be unlawfully fettered. As the Chief of Defence Force, authority to direct investigations also vests in me.

9. To date, no commanding officer has decided it is necessary to direct an investigation pursuant to the Armed Forces Discipline Act in respect of the conduct of Defence Force personnel during this Operation.

10. The book 'Hit and Run' can be construed as alleging that Defence Force personnel were involved in an operation that:

- a. Deliberately targeted civilians; and
- b. Deliberately destroyed property on a large-scale.

11. Such allegations are of serious concern to me because they strike at the heart of the professionalism and integrity I expect of Defence Force personnel. I expect my personnel, as part of a trained and disciplined force, to comply with the Law of Armed Conflict and with the rules of engagement when deployed on operations. The rules of engagement are designed, amongst other things, to ensure the protection of non-combatants as required by the Law of Armed Conflict. I further expect Defence Force personnel to, and will myself, take steps to ensure any allegations of unlawful conduct are appropriately investigated.

12. In this context, and in light of the perceived allegations, I have considered the following information, relating to the planning, execution and subsequent review of the Operation, in forming a view whether I am currently obliged to direct or conduct an investigation pursuant to the Armed Forces Discipline Act. I have also considered the material provided in the book 'Hit and Run' in forming my view. I have set aside any inaccuracies of location that may exist in making my decision, although I have seen highly accurate information regarding the location in which the Operation was conducted. The information I have seen included:

- a. New Zealand Defence Force and coalition intelligence and operational documentation generated prior to the Operation, during the Operation and following the Operation;
- b. The rules of engagement in place for the Operation; and
- c. The executive summary of the investigation conducted by the International Security Assistance Force, the Afghan Ministry of Interior, and the Afghan Ministry of Defence, as it was released to the New Zealand Defence Force.



13. The information I have seen clearly shows Defence Force and coalition personnel involved in the Operation taking deliberate steps to ensure the Operation was conducted in accordance with the Law of Armed Conflict and the rules of engagement. This includes ensuring the positive identification of individuals as lawful targets and taking all feasible precautions to minimise potential civilian casualties. The Operation was reviewed throughout by a New Zealand Defence Force legal officer. The Operation was based on a comprehensive intelligence picture distilled from various sources. Additionally, intelligence was gathered after the Operation to measure its outcome.

14. I do not currently consider that the information I have in respect of the allegations requires me to direct further action pursuant to section 102 of the Armed Forces Discipline Act.

15. Where a matter has not been disposed of finally in accordance with the Armed Forces Discipline Act, further action under the Armed Forces Discipline Act might still be taken. As such, if further credible evidence were to come to light, I would reassess whether my decision should still stand.

16. The Defence Force has, and will continue to be, explicit in its request that anyone with relevant information should draw that information to the attention of the Defence Force so that any allegations might be appropriately investigated where the information warrants doing so.

#### **Coalition Forces**

17. Defence Force personnel cannot compel foreign service personnel to give evidence in any disciplinary investigation of Defence Force service members pursuant to section 102 of the Armed Forces Discipline Act, although it could make a request for foreign service personnel to do so. This is not an issue at present, given my decision that an investigation is not required. However, if I were to decide at any later point that an investigation were required, the availability of witnesses may constrain the scope of any investigation.

18. The allegations in the book could potentially be construed as suggesting that the conduct of foreign service personnel may have been unlawful. New Zealand Defence Force personnel have no statutory authority to conduct investigations into the conduct of foreign service personnel in situations such as this. However, if I were concerned with the conduct of foreign service personnel it is my duty, under the Law of Armed Conflict, to bring it to the attention of the appropriate national authorities. In reviewing the information available to me, I have not seen any information to substantiate a suggestion foreign service personnel engaged in unlawful conduct.

#### **Disclosure of Information**

19. Any requests for access to information relating to the Operation that have been made will be managed in accordance with the requirements of the Official Information Act 1982 and the Privacy Act 1993. While Defence Force personnel are no longer serving in this location, I am still obliged to ensure that release does not have an impact on future operations or foreign relations when determining what information may be released.



## Conclusion

20. At the time that earlier allegations were made, the Chief of Defence Force of the day concluded that there was no basis for the conduct of an inquiry. I have studied the Defence Force's own records, including coalition material made available to us, around the conduct of Defence Force personnel during Operation Burnham, in the context of the allegations made.

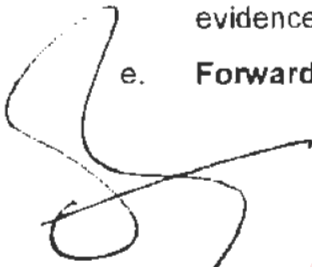
21. Having reviewed the material available to me and the information presented in the book 'Hit and Run', I have decided that the requirement to conduct an internal Defence Force inquiry into Operation Burnham has not been triggered at this stage.

22. As I stated at my press conference on Monday 27 March 2017, I would consider any new evidence presented by any individual. If any such evidence were to trigger my obligation under section 102 of the Armed Forces Discipline Act 1971 to initiate an appropriate inquiry, for which I have the statutory duty and authority to do, I would do so

## Recommendations

23. I recommend that you:

- a. **Note** the legal authority and duty vested in me as the Chief of Defence Force under the Armed Forces Discipline Act 1971;
- b. **Note** that, based upon the information I have considered, I do not consider that the obligation to conduct an internal Defence Force inquiry into Operation Burnham has been triggered;
- c. **Note** that I have openly stated that I will welcome and consider any new credible evidence, and would re-evaluate my decision on the basis of that evidence; and
- e. **Forward** a copy of this note to the Prime Minister.



**T.J. KEATING**  
Lieutenant General  
Chief of Defence Force

Export

From: PSR(IC)3  
LTCOL

To: DCSO, LTCOL; FERRIS LISA, COL;  
LTCOL; KEATING TIMOTHY, LTGEN

CC PSR(IC)3, WO1; CHRIS HOEY, WGCDR;  
SHORT KEVIN, AV GILLARD ROB, COL, COL; KEVIN TAYLOR  
LTCOL

Subject: ~~SEEMAIL~~ Briefing to PM

Sir/All

Thu, 30 Mar  
2017  
Sent: 21:54:55  
GMT  
CDR;

PMO have advised that the PM would like to receive the OP BURNHAM brief on Monday 03 Apr 17, 1130-1230. This is to the same grouping as last Sunday (ie. No other parties in the room at this stage).

Briefers please confirm your availability for the brief and the morning of 03 Apr 17 for a potential confirmatory rehearsal/meeting.

Regards

PSR(IC)3

**Lieutenant Colonel**

Personal Staff Officer to the Chief of Defence Force, Headquarters

New Zealand Defence Force

Freyberg Building, 20 Aitken Street, PO Box 39997, Thorndon, Wellington, 5045

PSR(IC)3

[psr@nzdf.mil.nz](mailto:psr@nzdf.mil.nz)

<http://force4nz.mil.nz/>

Export

From: Kevin Taylor

Thu, 30  
Mar  
Sent 2017  
02:57:5  
6 GMT

To: PSR(IC)3  
CHRIS HOEY

LTCOL; FERRIS LISA, COL;  
LTCOL; GILLARD Rob COL; DCSO WGCDR;  
WARRENDER TRUDY

Subject: Latest version of PR

Latest version of the PR. I will get CDF clearance shortly for this, but it won't I understand be going out till tomorrow some time.

## Media Release

31 March 2017

### INTERNAL INQUIRY INTO OP BURNHAM NOT TRIGGERED AFTER REVIEW

The Chief of Defence Force, Lieutenant General Tim Keating, said today he had written to the Minister of Defence, Hon Gerry Brownlee, advising that he had decided that the requirement to conduct an internal Defence Force inquiry into Operation Burnham has not been triggered at this stage.

"I have made this decision after studying the Defence Force's own records, including coalition material available to us," says LTGEN Keating.

LTGEN Keating said he had considered the following information in forming a view of whether the allegations construed from the book Hit & Run currently obliged him to conduct an investigation under the Armed Forces Discipline Act:

New Zealand Defence Force and coalition intelligence and operational documentation generated prior to, during and following the operation;

The rules of engagement in place for the operation; and

The executive summary of the investigation conducted by the International Security Assistance Force (ISAF), Afghan Ministry of Interior and the Afghan Ministry of

Defence.

"The information I have seen clearly shows Defence Force and coalition personnel involved in the operation taking deliberate steps to ensure the operation was conducted in accordance with the Law of Armed Conflict and the rules of engagement. This includes the positive identification of individuals as insurgents and taking all feasible precautions to minimise potential civilian casualties.

"The operation was also reviewed throughout by an NZDF legal officer, and the operation was based on a comprehensive intelligence picture.

"I do not currently consider that the information I have in respect of the allegations requires me to direct further action pursuant to the Armed Forces Discipline Act."

LTGEN Keating said the NZDF had, and would continue to be, explicit in its request that anyone with relevant information should draw it to our attention so that any allegations might be appropriately investigated where the information warrants it.

LTGEN Keating said that some media outlets had made claims this week that the NZDF had 'admitted for the first time' that civilian casualties may have occurred.

"It is not the first time that NZDF has referred to the possibility of civilian casualties. We first did so in 2011 in a media release.

"It was merely the first time I've had to speak in such detail about an operation which occurred almost seven years ago. Not only did NZDF refer to the ISAF investigation into civilian casualties in a media release, but ISAF also did so when it issued its media release on the assessment team's conclusion."

**ENDS**

**For further information contact the Defence Public Affairs: PSR(IC)3**

**Kevin Taylor**

Chief Advisor Public Affairs Office of the Chief of Defence Force  
New Zealand Defence Force

[www.nzdf.mil.nz](http://www.nzdf.mil.nz)

[<http://force4nz.mil.nz/>](http://force4nz.mil.nz/)

# “Hit & Run: Former Defence Minister Wayne Mapp calls for further SAS investigation: 'We owe it to ourselves to find out'” NZ Herald article, (30 March 2017):

[https://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11828531](https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11828531)



Wayne Mapp during his time as Defence Minister in 2011. Photo/Wayne Droug



By: Nicholas Jones

Nicholas Jones is an investigative reporter at the New Zealand Herald

[nicholas.jones@nzherald.co.nz](mailto:nicholas.jones@nzherald.co.nz) @nickjonesnzer

The man who as Defence Minister approved SAS raids in Afghanistan says further investigation is needed to find out if civilians died and to acknowledge those deaths properly if they are confirmed.

Wayne Mapp was Defence Minister at the time of the raids in Baghlan province in 2010 and was briefed before and after the SAS operations.

In a lengthy post on the Pundit website today, Mapp said he had no doubt New Zealand soldiers acted to the highest ethical standards.

However, from briefings provided to him after the 2010 raids he knew the operation, called Operation Burnham, had not achieved its stated aims of arresting or "otherwise dealing with" the insurgents leading Taliban operations against the provincial reconstruction team.

*Hit & Run* by journalists Jon Stephenson and Nicky Hager claims six civilians were killed and 15 were injured in the raids. The NZ Defence Force (NZDF) says nine



insurgents died and there may have been civilian casualties after a misfiring gun on a US helicopter sprayed a building.

*Hit & Run* asserted Mapp had described the raids as a "fiasco", although the book did not quote him, and after its release he confirmed he had used those words.

In an essay published on Pundit today, Mapp said his role as Defence Minister meant he also knew people had been killed during Operation Burnham, and these were people acting as insurgents.

However, after he had retired from politics he saw a documentary by Stephenson broadcast by Maori TV in 2014, and said it became clear it was possible there were other casualties from the raids, including a 3-year-old girl, named in *Hit & Run* as Fatima.

Mapp confirmed he had previously been interviewed by Stephenson and he "told me enough about what had happened for it to be believable even if it was not fully proven".

"The law of armed conflict accepts that civilian casualties might occur in military operations, and in many cases there is no legal liability for them, particularly if they were accidental," Mapp wrote on Pundit.

"But for New Zealand, is that the end of the matter? Do we hold ourselves to a higher standard?

"For me, it is not enough to say there might have been civilian casualties. As a nation we owe it to ourselves to find out, to the extent reasonably possible, if civilian casualties did occur, and if they did, to properly acknowledge that."

Stephenson and Hager, Labour, the Green Party, New Zealand First and United Future have all called for an inquiry into the allegations in *Hit & Run*, as have lawyers acting for Afghani villagers.

Mapp said getting to the bottom of the allegations did not necessarily require an independent investigation.

Rather, information was most likely to be forthcoming through diplomatic approaches to the Afghan government and non-government organisations on the ground in Afghanistan.

Despite the NZDF maintaining *Hit & Run* contained major inaccuracies including the location of the raids, and Hager and Stephenson's subsequent admission the location given for the villages in the book was incorrect, Mapp said the accounts of the NZDF and the two journalists were reconcilable.

That was because NZDF had now recognised that civilian casualties may have occurred.

Mapp concluded by saying New Zealanders have good reason to be proud of the professionalism of its defence forces.

"The SAS are among the most highly trained and respected soldiers in the world. In our name, we ask them to undertake the most hazardous military missions, often deep within enemy-held territory.

"They have an absolute right to defend themselves against attack. The risk of capture of our soldiers by the Taliban would be beyond contemplation.

"Part of protecting their reputation is also finding out what happened, particularly if there is an allegation that civilian casualties may have been accidentally caused.

"In that way we honour the soldiers, and also demonstrate to the Afghans that we hold ourselves to the highest ideals of respect of life, even in circumstances of military conflict."

New Zealand First leader Winston Peters said the NZDF's integrity had been seriously challenged by the *Hit & Run* allegations and he agreed with Mapp to the extent further investigation was needed to provide certainty about what happened.

"We need to clear the decks here," Peters said. "There has been a less than compelling response from NZDF."

Peters said he was concerned with the facts and not judging Mapp's decision to talk to Stephenson, but said the former Defence Minister was motivated by a "desire to tell the truth as he sees it".

Export

From: PSR(IC)3

LTCOL

To: PSR(IC)3

LTCOL

Subject: RE: Additional Detail for Ground Briefing.

Sun, 02  
Apr  
2017  
19:56:1  
3 GMT

Yeah, ack, and can do. I guess the point is I could spend a lot of time pointing out the discrepancies in relation to what they say the location was, and what we know it to be. But I'm not sure it's necessary given that the authors themselves have now admitted they got it wrong and that the images in the book of the ground are wrong.

We can do a bit more work on trying to locate the still images in the book this morning.

Sent with BlackBerry Work (www.blackberry.com)

**From:** PSR(IC)3, LTCOL

**Date:** Sunday, 02 Apr 2017, 21:43

**To:** PSR(IC)3, LTCOL

**Subject:** RE: Additional Detail for Ground Briefing.

Understood, I will discuss with the Boss.

You cover it a bit, but the book has a detailed SOM, but the village we went to had significantly different terrain and therefore names aside could not be superimposed? Like the houses in the book had step terrain to the North but the village we went to was open? You are the expert and know how to detail this?

Just my thoughts of course ☺

PSR(IC)3

Lieutenant Colonel

Personal Staff Officer to the Chief of Defence Force, Headquarters

NEW ZEALAND DEFENCE FORCE

Freyberg Building, 20 Aitken Street, PO Box 39997, Thorndon, Wellington, 5045

T PSR(IC)3, M PSR(IC)3, Internal PSR(IC)3

**From:** PSR(IC)3, LTCOL

**Date:** Sunday, 02 Apr 2017, 9:01 PM

**To:** PSR(IC)3, LTCOL

**Subject:** Additional Detail for Ground Briefing.

Hi PSR(IC)3

CDF asked me to push home the geographical differences between the locations within Hit and Run, and where Op BURNHAM occurred. So there are no surprises, I have attached the script I intend to use below. There will be a graphic that accompanies it.

To explain, I think there are I think two issues here worth raising. The confusion over the name, and the actual location Op BURNHAM took place.

1. There is some confusion around the name of where Op BURNHAM took place. And this has been seized on by the lawyers that are acting for the villagers. The reality is that Op BURNHAM occurred on a piece of ground - which we have the coordinates for (and that have been confirmed by ISR) that we know as Tirgiran Village. But others may not know it as this. Hopefully the first paragraph explains this. I intend to brief this in "Ground in General" just after I explain where Tirgiran is in relation to Bamian and Kabul. I have a separate piece of work I have tasked my staff with, and that is to research whatever historical maps we can access through our allies of Afghanistan and see if we can get Tirgiran Village on something older than the ISAF campaign - just in case this point needs to be more strongly refuted in the future. But as per my text below - a quick google maps search will show Tirgiran as the same village as Op BURNHAM.

2. The other paragraphs are optional - and are essentially what the SQNLDR briefed at the press conference. I can add these in if CDF feels they are necessary - although I see the authors themselves are now conceding that they got the location wrong. What wasn't shown or briefed at the press conference was all the ISR imagery that is georeferenced and puts our people within Tirgiran Village. Obviously I am happy to go with whatever the boss would like here.

Text begins:

"The name of the village where Operation Burnham occurred has been subject to some debate - both by the authors of Hit and Run, and from within the media. It is however important to note that within the Geospatial Information Systems used by both ISAF and the NZDF, this location was labelled as Tirgiran Village. It was therefore by this name that this village has been referred to both prior, during, and after Operation Burnham by NZDF and ISAF - regardless of what others may know it by. A search on google maps today within the internet will also show Tirgiran as being the village that Operation BURNHAM took place in.

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There are also significant differences geographically between the two villages named in Hit and Run, and Tirgiran Village. Firstly, the two villages in Hit and Run lie within a predominantly dry valley that runs East-West, and which has high ground located to the South.

Tirgiran Village lies within a valley that runs north west, at the confluence of two rivers and

is surrounded by vegetation.

Both these locations are nearly two kilometres apart, and are separated by four major ridge lines, and there is no line of sight between either location. So in essence - they are geographically vastly different, and would be difficult to confuse."

Text ends.

I will be in around 0830 Monday morning. Let me know if this will suffice. If I hear nothing then I will assume it is good to go!

Cheers,

PSR(IC)3

Sent with BlackBerry Work ([www.blackberry.com](http://www.blackberry.com))



Export

Kevin Taylor

From:

Mon, 03  
Apr  
2017  
04:42:0  
7 GMT

To: WARRENDER TRUDY PSR(IC)3

CC CHRIS HOEY

WGCDR

Subject: internal message

(accompanied by CDF photo)

### NO BASIS FOR INQUIRY

I have today provided a detailed briefing to Prime Minister Bill English into Operation Burham, the subject of the book "Hit & Run".

PM English has announced this afternoon that he has concluded there is no basis for ordering an inquiry into the claims in the book.

Our SAS are known internationally for their skill and professionalism. It is possible that this book could be damaging to that reputation, and I know it has caused distress to families of our soldiers. I would like to reassure the whole NZDF community that the evidence shows our service people did not act dishonourably, and that we can all be proud of the work all our troops do both here and overseas to serve in the interests of the nation.

Kevin Taylor

(Defence or Public Affairs Office of the Chief of Defence Force  
New Zealand Defence Force  
Public Affairs M PSR(IC)3 Internal PSR(IC)3  
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[<http://force4nz.mil.nz/>](http://force4nz.mil.nz/)

3 April 2017

**POST-CABINET PRESS CONFERENCE: MONDAY, 3 APRIL 2017**

**PM:** Good afternoon, ladies and gentlemen. Now, just under 2 weeks ago a book was published about a raid carried out by New Zealand's SAS troops in Afghanistan in 2010. Now, the book's authors made a number of allegations, the most serious of which was that New Zealand troops may be guilty of war crimes.

On Friday, defence Minister Gerry Brownlee received a detailed letter from the commander of the Defence Force, lieutenant general Tim Keating, stating that he had reviewed the documentation available about the operation. This includes material generated before, during, and after the operation; the rules of engagement; and the executive summary of the 2010 investigation by the International Security Assistance Force, the Afghan Ministry of the Interior, and the Afghan Ministry of Defense. Lieutenant general Keating has informed Mr Brownlee that the material clearly shows personnel involved in the operation took deliberate and careful steps to ensure that it was conducted according to the law of armed conflict. It also shows the operation was overseen by a Defence Force legal officer, and that personnel took all feasible precautions to minimise potential civilian casualties and the destruction of property.

At the same time, scrutiny has revealed some significant errors in the book. They include the book's authors now acknowledging that they got the location of the operation—code-named Operation Burnham—wrong. It did not take place in the two villages they provided georeferences for in their book, but at a different location about 2 kilometres away, and the topography of the area in which the operation took place is very different from the topography of the villages in which the authors claim the operations took place.

There have been calls for an inquiry to reconcile differences between the accounts given by the authors and the facts provided by lieutenant general Keating. This morning I was given a detailed briefing by lieutenant general Keating and a number of other senior officers. After considering lieutenant general Keating's briefing, his letter to Mr Brownlee, and viewing video footage of the operation, I've concluded there is no basis for ordering an inquiry. Should evidence emerge in the future that New Zealand troops acted unlawfully, the Government will, of course, take every step to establish the truth. I note the chief of defence has encouraged anyone with such information to come forward, and he himself has a statutory obligation to consider any new information.

Finally, I want to say a few words about the New Zealand troops who participated in the operation. New Zealand's SAS enjoys an enviable reputation internationally—and for good reason: the SAS is known for its skill and professionalism. The allegations in the book could be damaging to the reputation of troops who serve their country with distinction, including risking their lives to do so. I'm informed the allegations have also caused distress to the families, who have had to endure the uncertainty of knowing their men were serving in dangerous circumstances overseas but now are being accused publicly of acting dishonourably. I want to assure those families that there is no evidence that this is the case, and a great deal of evidence that their family members acted consistent with the rules of engagement and acted honourably in the way that New Zealanders would expect. As Prime Minister, I'm proud of the work that our troops do every day, often in situations that put their life and their safety at considerable risk.

This week in Parliament, the Family and Whānau Violence Legislation Bill is set down for its first reading tomorrow. We'll be making progress on the Resource Legislation Amendment Bill and other legislation.

In terms of my activities, I'm in Wellington today, tomorrow, and Auckland tomorrow, back in Wellington on Wednesday, Auckland on Thursday, Whangarei on Friday, and Waikato on Sunday.

Any questions?

**Media:** You said you reviewed the video of the operation. Would you make or have you asked for that video to be made public?

**PM:** Well, the video is classified, and so no, it won't be made public.

**Media:** But the CDF said last week he was looking into that. Would you like them to find a way to ask for it to be unclassified? Wouldn't that help clear things—

**PM:** Well, I won't be making that request. I mean, it's a classified video. It would—you know, it's under the coalition forces that that classification exists.

**Media:** And you watched this video, and after watching it were you completely clear that they've done nothing wrong? It was that compelling?

**PM:** Yes, it confirmed particularly the extensive steps that the CDF has outlined—that the forces took to ensure that there would be no possibility of civilian casualties or destruction of property?

**Media:** Does it show people being shot?

**PM:** Well, I'm not going to comment on the content of the video. All I can say is it confirms what the CDF has outlined publicly last week and in his letter that every step was taken by the forces involved to ensure that there was minimal opportunity—no opportunity for civilian casualties or destruction of property.

**Media:** Is it a video of, well, insurgents being shot?

**PM:** Well, the—I mean, as the CDF has outlined—again, I'm not going to discuss the content of it.

**Media:** Why not? If we're not going to see it, then you can describe it, can't you?

**PM:** Well, it's a video of the operation as seen from a number of different perspectives.

**Media:** Isn't the issue still murky, though, about who was killed, if they were civilians, how many it may have been? That hasn't been cleared up.

**PM:** Well, there's been—right from the ISAF investigation there's been an acknowledgment that it's possible civilians were killed. There appears to have been no evidence since that that's what actually happened. There's been an acknowledgment of the way in which that might have occurred, and the CDF's investigation into it doesn't turn up any new or different evidence with respect to those conclusions.

**Media:** But we don't know if it was maybe New Zealand troops who may have killed civilians. That's still not known.

**PM:** Well, the description of the action that's, you know, at the centre of this more recent discussion, not the—the book's allegations are wide ranging and fundamentally flawed, but the description of the action given by the CDF last week remains the key set of events and they demonstrate, as he pointed out last week, that there is the possibility civilians were killed by coalition forces. There's no evidence that that's actually what happened, and the evidence confirms that every step was taken, consistent with the rules of engagement. In fact, in viewing this, I have to say I was impressed by the restraint, the care, and the sort of repetitive reassurance that the action was being conducted in a way that would minimise any civilian casualties and even avoid the destruction of property.

**Media:** How long was this video and was it taken from the gunships or what angle is it taken from, and were the insurgents—were they carrying arms? Could you see that?

**PM:** Well, again, I'm not going to comment in detail on the content of it. I mean, the relevance of it is according to, first, the allegations in the book, which, you know, will lead you to all sorts of things; they're not confirmed by the video. And it shows the care—the extent to which the coalition forces went to minimise any possibility of civilian casualties. You know, it's a compilation of a number of different points of view.

**Media:** Is there any of this video being taken from the SAS themselves, or is it all from helicopters?

**PM:** Well, it's as the CDF described it.

**Media:** If this video clears the Defence Force, why not release it to the public?

**PM:** Well, it's a classified video. We're not going to go into a process where, you know, all actions of the New Zealand defence forces around the world are available for public viewing. The CDF has viewed it. His senior legal officer, who is an officer of the court, have scrutinised it in the context of the legislation that applies when allegations of war crimes or misconduct are made. And I trust the process, and the view that I had of it confirms what the CDF outlined last week and outlines in his letter.

**Media:** Are you, effectively, asking the public to trust you, trust the defence forces?

**PM:** Well, there's a legal process involved here. It's not just a matter of opinion. I've seen the CDF's process. I've seen the material he's made public plus a small amount of classified material, and I've become more convinced that the conclusion he's come to is right, and that is that our troops acted consistent with their rules of engagement.

**Media:** Have you had any evidence or spoken to anyone outside of the Defence Force?

**PM:** No, I haven't.

**Media:** Why not check with someone else?

**PM:** Well, the people who wrote the book did extensive interviews, provided maps, most of which have turned out to be wrong.

**Media:** Isn't that a problem, though, that in this case the defence has, effectively, investigated itself so really, putting the book and the authors aside, and that's deemed evidence, or that's what you're relying on at the moment?

**PM:** Well, there's been a number of investigations, the first being by the coalition forces and the Afghan Government, and, remember, that investigation arose out of allegations of civilian casualties. The conclusions they came to have been confirmed by this more recent investigation. I think you can be reassured that the CDF would take this seriously. He's working alongside an officer of the court and the Defence Force chief legal adviser. He's got statutory obligations about coming to conclusions about these allegations. Everything I have seen confirms that conclusion.

**Media:** But the ISAF-Afghan report was, again, carried out by people or forces who were involved in the operation itself and the CDF confirmed that no one actually got to the village. So even that investigation didn't actually go to the place where it was, and so no one, to this point, has investigated that wasn't involved in that operation—in the initial operation.

**PM:** Look, the process is absolutely clear—you know, the legal process with the CDF. So looking at the original report, the ISAF executive summary, the CDF's process—I've had the opportunity to view the video of the events, as has the CDF and his legal advisers and the ISAF forces.

**Media:** But there hasn't been any opportunity for any independent scrutiny of this. All of the information is coming from people who were involved.

**PM:** Yeah, well, I trust the facts as they are presented—presented on the video, presented through the various structures that the Defence Force have, independent of the actual operation.

**Media:** When there are complaints about the police you get an independent police complaints process going on. Why should the defence be any different?

**PM:** Well, the CDF is independent. He wasn't involved in the operation. He has access to video of the actual operation itself, along with all the planning that went into it, the review afterwards by ISAF and, you know, we trust that process. I think the CDF would

know that if there was any evidence that the defence forces were covering up or excluding information, that would be extremely serious.

**Media:** How can you say the CDF is independent when he's the head of the Defence Force?

**PM:** He wasn't involved in the operation—that's my point.

**Media:** But he's part of the Defence Force, is more to the point.

**PM:** Yes, he is.

**Media:** He can't be independent.

**PM:** Look, the CDF, as I've said, has serious legal obligations around investigating war crimes. If there was any evidence that the defence forces were covering up or excluding information or not telling the civilian Government the full story, that would be an extremely serious matter. There is no evidence that that is the case. The facts in contention here, or the facts that have been discussed, have been outlined publicly by the CDF. They're not complicated.

**Media:** So in future should the Police Commissioner conduct inquiries into the police?

**PM:** Well, they often do. They often do look into—

**Media:** And that could be independent? You wouldn't need an authority that's separate?

**PM:** Sorry?

**Media:** You wouldn't need the police conduct authority, then?

**PM:** Well, look, that's a matter of the structure that's appropriate for the police. What we're talking about here is the operations of New Zealand troops overseas in pretty difficult circumstances with a paper and a visual record of what happened. The facts of what happened have been outlined publicly and in detail by the CDF, so there's not really any contest over the facts other than in the book, which has got most of them wrong. And with respect to those facts, when you line up the original report, the CDF's investigation, the video material that I've seen, I'm satisfied that we can trust the Defence Force process and trust the Chief of Defence Force.

**Media:** The authors of the book, obviously, spoke to some SAS members that have concerns. Has there been any attempt to kind of reach out to those people in the SAS that have concerns about this operation, and hear their side of the story as well?

**PM:** Well, if any of those people are willing to come forward with evidence, then the CDF would be obliged, by law, to take it into account, whether he, you know, likes it or not. So they're in a strong position to be able to bring forward evidence they may have that disputes the conclusion he's come to.

**Media:** Was there any consideration given to getting the Solicitor-General to give an independent look at this so that we could have legal advice independent of that given by the Defence Force?

**PM:** Well, the CDF is subject to military law, particular statutes, and has available to him an officer of the court who's the Chief of Defence Force's legal adviser. You'd have to ask him what consideration he gave to, you know, external or other legal advice. But at the core of this is a well-understood set of events over which—putting aside the allegations in the book, a well-understood set of events over which there's no real dispute about the facts of the matter: the misdirected fire from the helicopter and, as I said, the CDF has demonstrated that New Zealand troops, at all times, behaved consistent with the rules of engagement. There's no evidence of misconduct, and certainly no evidence of war crimes. I've seen the range of that material, and I think he's come to the right conclusion.

**Media:** Wayne Mapp has described this previously—he admitted, previously describing it as “a fiasco”. Having looked at the facts, you disagree with that?



**PM:** Well, as I understand it, Mr Mapp based his views on a documentary screened a number of years ago by at least one of the authors of the current book. I deal with the facts as they're presented to me by the defence forces in the video, and in that respect he's wrong.

**Media:** Does the video have audio? Did you hear what the helicopter pilots were saying, and did they even mention civilians—ever think that: “Hey, this misfire could have hit some civilians.”?

**PM:** Well, I've—again, I'm not going to go into the details of the video, but it simply confirms what the CDF outlined publicly last week—what was outlined in the ISAF report, which is now some 7 years ago—that the troops involved followed the rules of engagement. And from my point of view, I have to say they were extremely careful in their attempts to ensure that there would be minimal opportunity for civilian casualties, and avoiding the destruction of property.

**Media:** So New Zealand troops obeyed the laws of engagement, but what about the rest of the troops that were on that mission with us?

**PM:** All the evidence is that coalition troops followed the rules of engagement, to a degree of care that was pretty impressive.

**Media:** But the footage is only from the helicopter. How can you say that with absolute certainty if you don't know what happened on the ground?

**PM:** Well, the video covers the operation.

**Media:** So are you satisfied, having watched that footage in the video, that the people that were killed—the nine insurgents that the Defence Force refers to—were insurgents, and not civilians? You can say that definitively? Because that's really the crux of civilians versus insurgents—putting aside the misfire from the helicopter gunship.

**PM:** Yep, well, again, as the CDF has indicated publicly, including last week, that's the conclusion he's come to—

**Media:** But what about your conclusion from watching it, because you're now coming out and saying that there's no need for an inquiry. Can you definitively say that those people that were killed by the helicopter gunship were insurgents and not civilians?

**PM:** Well, on the advice available, the process, the video: the answer to that is yes.

**Media:** But you've made your decision based on, part of it, having watched that video. So putting the Defence Force advice aside, is it your belief that they were insurgents—that they were combatants, not civilians, from your viewing?

**PM:** Yes, and that's backed up by, you know, classified intelligence related to the operation.

**Media:** Have you had any advice on the other allegations in the book of war crimes, such as the treatment of the prisoner?

**PM:** As I understand that, inquiries are ongoing around those allegations.

**Media:** From the video that you saw, could you actually see fire power going towards the helicopter and the chopper responding?

**PM:** All I can say is that the video shows the operation in detail.

**Media:** What do you say to Nicky Hager and Jon Stephenson now?

**PM:** Well, not a lot, really. I mean, they've written a book; I presume they've sold a few. My concern is not them; it is whether or not New Zealand troops behaved according to the standards that we would expect of them and that they set for themselves. And the answer to that is yes. I think that's a tribute to the professionalism of the troops involved, and in a difficult environment where they are under total scrutiny. At the time and after the

operation, they've met those high standards—taken every step to minimise the possibility of civilian casualties and carry out a challenging operation.

**Media:** So without describing the contents of the video, can you just say where it came from, in terms of, I suppose, the range of different sources that fed into the footage?

**PM:** Well, look, you'd need to talk to the CDF about the details of it, but there's a number of different points of view from a number of different aircraft.

**Media:** So there'll be—so all from the aircraft rather than on the ground? Would that be accurate?

**PM:** Well, as I said, it's a video of the operation. There's no room for doubt about the basic facts of what happened.

**Media:** But it was from the aircraft? I just want to be accurate when we're talking about it, so—

**PM:** Yeah, they're aircraft-based video. Yeah, that's right.

**Media:** How long is the video and has the video that you watched been edited in any way?

**PM:** You'd have to ask the defence forces about the details of that. I've seen the video footage, which is completely consistent with the description of the events going back to the ISAF report, where, you know, a summary of the events was published in a press release. It wasn't actually uncovered by Nicky Hager; it was published in a press release, and with the outline that the CDF gave around the operation just last week.

**Media:** Was that because with the battle of Baghak—

**PM:** Sorry, what was that?

**Media:** Because with the battle of Baghak, the Defence Force released a video and then it later emerged there was more video that we didn't see. Are you confident that you've seen the entire operation?

**PM:** Well, I've seen the relevant parts of the video. I haven't watched all the video footage associated with the whole operation. I understand there's quite a lot of that. But I can assure you that if that video was presented in any way that's misleading, that would be a very serious matter.

**Media:** Can you identify 5 minutes or an hour—I mean, can you give us a sense of how long you watched this for?

**PM:** I've watched the relevant parts of it around the events which have been, you know, raised by the book and investigated by the CDF.

**Media:** But how long did that take? How long did it take for you to watch the video?

**PM:** Well, all I'm saying is I watched the relevant parts of it; I haven't seen the whole video.

**Media:** Sorry, the treatment of the prisoner, so the inquiries are ongoing, what's the nature of those inquiries and how—so, what are we looking at there? Because those are quite serious allegations about the treatment of the prisoner and what they handed over.

**PM:** I understand the inquiries are ongoing because they're still trying to establish exactly what happened. In that situation, they don't have the benefits of the oversight and review and video, which is automatically part of, you know, coalition operations in the field.

**Media:** Because that was—was that new information as well? I mean, the operation itself obviously—you know because it's been reported on before. Was this new?

**PM:** Look, you'd need to check that with the CDF. Look, it's the first time I've dealt with the issue in my capacity as Prime Minister, but these are events from 7 years ago, so, presumably, aspects of them may have been known to some people.

**Media:** In the event of legal action being taken on behalf of villagers, is it your understanding that the video may be subject to disclosure requirements in the course of [Inaudible]?

**PM:** Well, that would be a, you know, matter for the relevant jurisdiction and the powers of the court. I haven't had any advice on that.

**Media:** Just on the misfire—I mean, the book talks about the fact that civilians could have been killed, and the ISF investigation and the CDF say civilians may have been killed, “unfounded”, I believe was the word used—but may have been killed. Is it worth having a broader inquiry into that misfire, into how that happened, and whether that could have actually—whether we can confirm if that did kill civilians?

**PM:** Well, that's exactly the matter which the CDF has looked into, and as has been stated now a number of times, there hasn't been evidence that civilians were killed. The allegations in the book I think you'd have to discount, because they appear to be about different places and different people. If there was any further evidence around the civilians, then the CDF would be obliged to investigate those, and we would want him to do so.

**Media:** So what happened to the 3-year-old?

**PM:** That's really a question for the authors of the book.

**Media:** So on the video, though—the relevant part that you mentioned—is that the misfire from the US Apache? Is that the relevant part you saw?

**PM:** Yeah, that's—I mean, the facts that have been investigated relate to the possibility that civilians may have been casualties, and, as the CDF has outlined publicly, that's related to a misfire from a coalition helicopter.

**Media:** But they also talked about—sorry to come back to it, but the nine insurgents that were killed. So did you view that as well? That was part of what you viewed, not just the misfire of the building?

**PM:** Well, what I saw of the video was, as I said, covered the operation and the potential contentious points in it, and the aspects which the CDF has investigated, which does include that.

**Media:** So it was smaller than the—OK, yeah. Because the raid was over 2 hours long, I think. How do you know you didn't see stuff that did happen—you know, that there might be something important? You're taking their word on it?

**PM:** The CDF has presented that information. As I said, it's backed up by the earlier investigations—the internal reviews about it. As I said, if it's in any way misleading, that would be a very serious matter, for two reasons. One is the CDF has statutory obligations—and I trust his integrity; I believe he's met those obligations. And, secondly, in the end, the Government has the civilian charge of the defence forces, and the defence forces are accountable to the Government of the day and they are obliged to account for themselves transparently. I believe they've done so. If there was any suggestion they hadn't, again, that would be a serious matter.

**Media:** What about them saying that civilian deaths were unfounded, and then later they came out and said they made an error? Was that not misleading, to use the word “unfounded”?

**PM:** Well, as I understand it, it's a legal term. What has been clear from 7 years ago is that there was a possibility of civilian casualties, but what's also become clear is that there hasn't been evidence that there were casualties—which is not to say it certainly didn't happen. It's simply to say there hasn't been evidence that there were casualties.

**Media:** Doesn't that kind of prove the point though, because the fact that the word “unfounded” was used and how the public interpreted that is quite different. So shouldn't an inquiry take place, because then you can actually look at some of these issues and see,

outside of New Zealand Defence Force's interpretation of them, whether they happened or not?

**PM:** With the facts around this, there isn't a lot of room for interpretation. As presented by the CDF last week, the facts of the matter are pretty straightforward, and I've seen, you know, corroboration of those facts in a number of different ways. So in that sense, it's been, you know—the person with the legal obligation to investigate is the CDF. He has done so. He's gone through a thorough process subject to legal oversight, come to a conclusion about it, and I agree with that conclusion. I trust the process and believe that the defence forces have dealt with this correctly. If they haven't—as I said, that would be very serious. Now, anyone who wants to contest that is free to bring forward further evidence, and the CDF has assured me that if there was any further evidence that questioned his conclusions, he is not only obliged to look at it but he would want to look at it.

**Media:** Do you accept, though, that it's been unclear for the public. Because of that type of legal language and the type of investigation that the Defence Force has done, there have been questions left unanswered and the public has been confused by that. Do you accept that?

**PM:** No, I think the public release of the details and conclusions about this 7 years ago have, I think, reassured the public. What's created confusion is a series of allegations about war crimes in the book. That has prompted the CDF to go back and have another look and I think the public can be reassured that's been a thorough process, that it's had legal oversight, and that in my capacity as Prime Minister I support the conclusions it has come to.

**Media:** Is this, effectively—checking with your comment there about anyone wanting to contest this is free to come forward, are you challenging either the authors or their sources to come forward here?

**PM:** They're free to come forward. I'm not trying to challenge anybody. We would of course want to know if New Zealand troops were involved in war crimes or even the, you know, less serious offence of misconduct. We would want to know that. The defence forces would want to know that. The coalition forces would want to know that. The public would want to know that. There is every opportunity for people who have evidence to that effect to come forward and it will be dealt with by a transparent statutory process.

**Media:** In this case that the Defence Force holds the evidence—they hold the key evidence that they're not willing to release publicly. So people who might question that don't have access to the information that the Defence Force has.

**PM:** Well, the Defence Force has released information—laid out the set of circumstances to the extent they can which isn't where it's not classified, and the facts of the matter are out there. If people have—

**Media:** They're not really out there. I mean, there is the video that the Defence Force is relying on. If someone independent like the Solicitor-General or someone could view it—as I said, they hold all the evidence. They're the ones with the information that they're not releasing.

**PM:** Well, as I said, the CDF has actually outlined in some detail the circumstances. The view that there's some other body of information that might show a different story is simply wrong. There's some classified material that I myself and the Minister of Defence have had a look at. It confirms the facts as outlined by the CDF.

**Media:** Isn't it possible this whole thing could have been a complete fiasco done in New Zealand's name but without there being misconduct—you know, perhaps errors and things like that? Why does it have to be misconduct or war crimes to warrant an inquiry?

**PM:** Oh, because those are the allegations that are made and the CDF has no choice but to deal with them. He has to deal with allegations of the sort that were made in the book, and he's dealt with them.

**Media:** Did the material that you saw, deal with the nine insurgents that were killed, the [Inaudible] that were killed? Did you see evidence that those people were positively identified as insurgents, and has the Defence Force looked into that to make sure that those people were positively identified?

**PM:** Yes, they have.

**Media:** What did you see exactly that made you so convinced that they were insurgents?

**PM:** Well, again, I'm not going to go into the details about the video. What I've been presented with is a process that shows a build-up of intelligence, threat assessments, a coalition decision to take action, action being taken, a review of that, now a further in-depth review of what was reviewed 6 or 7 years ago, and it's come to that conclusion.

**Media:** But the CDF said that they never identified the people they claim were insurgents. So how does that gel with you saying that they were fully identified?

**PM:** Well, all I'm saying is I'm just giving you a view based on the information that was presented to me.

**Media:** Did you say they were identified as the insurgents that had been targeted?

**PM:** Well, that's a different matter as to whether it was exactly the same people that they went in—that were the focus of the operation but you're best to address those questions to the CDF. What I'm satisfied about is that there's no evidence of civilian casualties and that the coalition forces, including the New Zealand forces, acted consistent with the rules of engagement and the legislation that applies.

**Media:** But the CDF said that they didn't identify the people that they killed—they couldn't put individual names to the people that they killed?

**PM:** Well, you'd need to take that up with him about exactly the issues over who they went to get—who was the focus of the operation, and what actually happened. What I'm satisfied about is that there's been no evidence presented of civilian casualties.

**Media:** Have you heard from—have any of the other coalition forces spoken to you about this; any of the other Governments that had military involved?

**PM:** No, not directly but I'm advised by the CDF that if he saw any evidence of misconduct or war crimes by any coalition forces personnel, then he would be obliged to report those to the relevant authorities, because the different forces are actually under different jurisdictions. But they review each other.

**Media:** But did he see anything? Did he report anything from anyone else?

**PM:** No, well, he's advised me he's satisfied that all the personnel acted consistently with the rules of engagement; that's the benchmark here. So he—you'd have to talk to him about exactly what discussions he's had with coalition forces, but he advises me that he hasn't seen actions taken that represented misconduct or inconsistency with the rules of engagement.

**Media:** Was it just Kiwis and the US? I just want to make sense—you had these briefings with just the New Zealanders and the US involved in this operation?

**PM:** Look, the term for all of them is that they're coalition forces.

**Media:** Do you know what countries were involved?

**Media:** Yeah, who was in there?

**PM:** Well, as I said, the term for all of them is coalition forces, and in the material that's being presented to me those distinctions—while in a legal sense are relevant, in an operational sense aren't.

**Media:** But in a legal sense, what were the distinctions?



**PM:** Well, legally, if there was misconduct by a particular person involved in the operation, then that would be dealt with by the jurisdiction to which they belong.

**Media:** Yeah, I'm just trying to work out which jurisdictions are involved?

**PM:** Well, you can follow through on that with the CDF, and we looked at it as coalition forces as a whole, and because the matter hasn't arisen about misconduct, then the issues of jurisdiction haven't had to be considered.

**Media:** Why should the public trust your assessment of this?

**PM:** Well, they I think can be—I think they've probably concluded already that the book, the allegations in the book, and a lot of the content of the book, has turned out to be wrong; that in this case the chief of defence forces, who runs defence forces with one of the best reputations in the world for professionalism, he has followed his legal obligations and come to the conclusion that there was no misconduct. Myself and the Minister of Defence have looked at that process, looked at a range of the evidence, and agree with that conclusion.

**Media:** What investigations were there or inquiries were there to determine that there was no evidence of civilian casualties?

**PM:** Ah, well, the—in the context of the operation, the position has always been that civilian casualties could have occurred, and I can assure you that if there was any suggestion that New Zealand troops were involved in causing civilian casualties in any kind of context that's been raised by the book that was published, then we would be certainly looking very hard at that. The CDF has done that, on top of the original ISAF investigation, and, as we've said, anyone who has information that's relevant can do what the authors of the book did—that is, bring them forward and the CDF is then required to investigate those. And so while there's been quite a bit of speculation and unsourced talk, what has been brought forward hasn't been found to show that there were civilian casualties caused.

**Media:** So no one actually looked at whether civilians may have died; it's just that no one's come forward and said they did?

**PM:** Well, there was an investigation within a short time of the events to try and establish that. They weren't able to establish it. That's the first point. The second point is that in the context of the operation, the benchmark here is—of the operation itself and the defence personnel, whether they followed the rules of engagement, and it's clear that they did.

**Media:** Did the CDF advise you that there was no need for an independent inquiry?

**PM:** Well, he's advised me of the results of his inquiry, and that's in the letter, which will be released.

**Media:** And did he advise you that there was no need for a further inquiry?

**PM:** Well, look, the Government always has the option. His advice is that having inquired, he's come to the conclusion that there's no evidence of misconduct by the troops and no evidence of war crimes by New Zealand troops. We accept that conclusion.

**Media:** Haven't you failed—by not holding an inquiry, you've denied them a chance to clear their name?

**PM:** No. The only question mark over their name is a series of allegations of war crimes in a book which has been discredited. We're not bound to hold an inquiry simply because someone makes allegations, particularly when those allegations turn out to lack substance because they are, for instance, about two different villages, different people—typography that's not where the New Zealand troops were, I mean, detailed descriptions of what happened in places, where New Zealand troops did not go. So it's pretty hard to take all that seriously, but if people have more substantial evidence than what's in the book, then we would want to see it, and the CDF will be obliged to investigate it.

**Media:** Are you concerned, then, about potential or likely legal action? Are you worried what that may uncover?

**PM:** No, not at all. People are always free to take legal action against the Government, against the defence forces on any basis they like. That's their business.

**Media:** Was the book a responsible piece of journalism?

**PM:** It just looks to be, in some cases, a wildly inaccurate piece of journalism. Nevertheless, the allegations were serious. They've been taken seriously, and we've come to the conclusion that the allegations of war crimes and misconduct don't have substance to them.

**Media:** We have a mechanism for dealing with classified information, which is the appointment for a special advocate. In the course of if legal action is taken, would you be prepared to release the video to a special advocate who can provide the public with the independent verification and analysis that so far is lacking from this process?

**PM:** Look, that's a matter of legal speculation. I mean, I'm not aware of the mechanism that you're referring to. There would be, I'm sure, a lot of issues including whose video it was and who had the power to declassify.

**Media:** If CDF does come up—is presented with new evidence, would you expect him to share that with the Government?

**PM:** I certainly would, particularly in the light of the firm conclusions that he's drawn and the advice that he's given us about the thorough process that sits behind those conclusions. I'd expect to hear about any new evidence and see a process for dealing with it expeditiously.

**Media:** Why won't you say how long you watched this video for? Is that classified information too?

**PM:** The video's classified and I'm just not going to get into comment about the detail of it. That's all, because if it's—answer one question and then there's 15 others. I'm not going to discuss the detail of it.

**Media:** When did you watch it?

**PM:** Today.

**Media:** Today?

**PM:** Yes. OK. Thank you very much.

**conclusion of press conference**

# Defence Force—Afghan Civilian Deaths Allegations

## Oral Questions — Questions to Ministers

TUESDAY, 4 APRIL 2017

**Mr Speaker** took the Chair at 2 p.m.

**Prayers.**

### ORAL QUESTIONS

#### QUESTIONS TO MINISTERS

#### Defence Force—Afghan Civilian Deaths Allegations

**1. ANDREW LITTLE (Leader of the Opposition)** to the **Prime Minister**: Based on the advice he has received from the Defence Force and the Minister of Defence, does he know if any civilians were killed in Operation Burnham; if so, how many?

**Rt Hon BILL ENGLISH (Prime Minister)**: As I have said a number of times, it is possible that civilian casualties occurred during Operation Burnham. Allegations of civilian casualties have not, however, been substantiated. This has been on the public record since 2010.

**Andrew Little**: Did the Prime Minister personally authorise all individual operations in Afghanistan; if not, why did his predecessor need to personally authorise Operation Burnham?

**Rt Hon BILL ENGLISH**: The general procedure would be that the Government, in its capacity of civilian control of the armed forces, would set policy, including objectives of a deployment and rules that apply—for instance, rules of engagement about whether New Zealand troops are inside the wire or outside the wire, like in Taji, for instance—and then it is up to the Defence Force command to make operational decisions. When those are significant, one would expect that the Minister of Defence and/or the Prime Minister would be aware of them.

**Andrew Little:** Why did his predecessor need to personally authorise Operation Burnham?

**Rt Hon BILL ENGLISH:** We would have to go back and have a look at what the technical aspects of the decisions were, but given that there had been loss of life in Afghanistan—that is, the loss of a New Zealand soldier and the possibility of more—it would be unusual if the Prime Minister and the Minister of Defence were not aware of the operation.

**Andrew Little:** Having seen some of the video footage from the operation, can he confirm whether the SAS or coalition forces received incoming fire from enemy combatants during the raid, or was there no return fire?

**Rt Hon BILL ENGLISH:** As I said yesterday, I do not intend to comment in detail on the video footage, other than to say that it confirms the facts as outlined by the Chief of Defence Force last week, and confirms, importantly, that New Zealand and coalition troops behaved consistent with the rules of engagement.

**Andrew Little:** Did either the New Zealand SAS or coalition forces cause the deaths of civilians during the raid?

**Rt Hon BILL ENGLISH:** As has been rehearsed many times, because of allegations that there were civilian casualties, an investigation was mounted quite shortly after the operation by the coalition forces. They were unable to substantiate civilian deaths. Further allegations have been made in the recently published book. It turns out that the recently published book talked about a series of events in a place where the New Zealand troops did not go. So that book does not substantiate civilian casualties. If there was substantial evidence of it, then of course we would be interested in what, if any, role New Zealand troops played in those deaths.

**Andrew Little:** How did 3-year-old Fatima die on the day of the raid?

**Rt Hon BILL ENGLISH:** If one is to follow the narrative in the book, then the 3-year-old must have been in a different village, because the New Zealand troops did not go to the village talked about in the book.

**Andrew Little:** Why is he so opposed to an inquiry when Lieutenant General Tim Keating has said that he is open to one?

**Rt Hon BILL ENGLISH:** Having observed the Defence Force's process and having viewed background material—including a small amount of classified material—I have come to the view that an inquiry into war crimes and misconduct is not required because there is no evidence that war crimes were committed, and the evidence is compelling that our troops conducted themselves professionally in accordance with the rules of engagement under legal supervision

Export

From: [TAYLO](#)  
[R](#)  
[KEVIN](#)

Tue, 11  
Apr  
2017  
03:38:0  
0 GMT

To: **PSR(IC)3** , [LTCOL](#)

Subject: RE: Proposed CDF article

CDF has got **PSR(IC)3** advice, and MA's draft. I think he needs to consider this, but I'll pop around for a chat.

---

**From:** **PSR(IC)3** , LTCOL  
**Sent:** Tuesday, 11 April 2017 3:34 p.m.  
**To:** TAYLOR KEVIN  
**Subject:** RE: Proposed CDF article

Guru of guru's.....

---

**From:** GILLARD ROBERT, COL  
**Sent:** Tuesday, 11 April 2017 12:40 p.m.  
**To:** **PSR(IC)3** , LTCOL  
**Cc:** **PSR(IC)3** LTCOL  
**Subject:** RE: Proposed CDF article

My Burnham comment is similar to **PSR(IC)3** view. We are not yet out of the woods re other allegations. We should tone it down.

Sent with BlackBerry Work ([www.blackberry.com](http://www.blackberry.com))

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**From:** **PSR(IC)3** , LTCOL **PSR(IC)3**  
**Date:** Tuesday, 11 Apr 2017, 12:37  
**To:** GILLARD ROBERT, COL **PSR(IC)3**  
**Subject:** RE: Proposed CDF article

Exactly Sir! That is why I put out my earlier email on the one 'article' from CDF to all service magazines, to ensure consistency of message.

As you can see the link will go to the CDF press statement which he gave, so the Army News original article becomes negated.

**PSR(IC)3**

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**From:** GILLARD ROBERT, COL  
**Sent:** Tuesday, 11 April 2017 12:35 p.m.  
**To:** TAYLOR KEVIN; **PSR(IC)3** , LTCOL; **PSR(IC)3** , LTCOL  
**Cc:** **PSR(IC)3** , MR; WARRENDER TRUDY; **PSR(IC)3** , LTCOL; **PSR(IC)3** ,  
A/CAPT; **DCSO** , LTCOL



**Subject:** RE: Proposed CDF article

No issues from me. Correct to focus on just Burnham at this stage.

This will now make Army News article not necessary in my view. Will discuss with CA tomorrow.

Sent with BlackBerry Work ([www.blackberry.com](http://www.blackberry.com))

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**From:** TAYLOR KEVIN PSR(IC)3  
**Date:** Tuesday, 11 Apr 2017, 10:31  
**To:** PSR(IC)3, LTCOL PSR(IC)3, PSR(IC)3, LTCOL  
 PSR(IC)3, GILLARD ROBERT, COL PSR(IC)3  
**Cc:** PSR(IC)3, WARRENDER TRUDY  
 PSR(IC)3, PSR(IC)3, LTCOL  
 PSR(IC)3, PSR(IC)3, A/CAPT  
**Subject:** Proposed CDF article

All

See below proposed short article about our values in the context of the recent book, for inclusion in the latest Yours Aye, Army News and Air Force mag.

Chris Hoey and I have seen, and are happy with what's proposed.

Request any further input asap from a legal or any other risk perspective.

thanks  
 Kevin

## **COURAGE, COMMITMENT, AND COMRADESHIP**

As a Defence Force and as professional Sailors, Soldiers and Airmen, we are a collective underpinned by our strong organisational values. It is really important, today more so than ever, to be living examples of these values as they form the core of our organisation and influence everything we do. In times of uncertainty and challenge, even in the most trying of times such as combat, it's these organisational values that provide not only confidence and surety, but form the basis of decision making when all the normal information may not be available.

A topical example is the recent scrutiny of our NZDF personnel involved with Operation BURNHAM, in Afghanistan, in 2010. Despite the allegations made against the NZDF, the actions of our service personnel during the Operation were exemplary. Those involved embodied our values of Courage, Commitment, and Comradeship, and held themselves to the highest standards.

Our reputation is our currency, and without these strong organisational values there is no foundation from which to build our reputation. Our fearless pursuit of excellence, constantly guided by these values, is what gives the Government and the people of New

Zealand the utmost confidence in our Defence Force. As such we must stand proud of our Defence Force as no matter what organisation you come from within it, we have again proven to be a force for good and a Force for New Zealand.

Yours Aye,

LTGEN Timothy Keating, MNZM

[Insert link to CDF press statement and PowerPoint on NZDF website]

**Kevin Taylor**

Chief Advisor Public Affairs Office of the Chief of Defence Force

**NEW ZEALAND DEFENCE FORCE**

PSR(IC)3

[www.nzdf.mil.nz](http://www.nzdf.mil.nz)



PSR(IC)6

PSR(IC)6

# PSR(IC)6

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**From:** TAYLOR KEVIN

**Sent:** Tuesday, 11 April 2017 10:31 a.m.

**To:** PSR(IC)3, LTCOL; PSR(IC)3 LTCOL; GILLARD ROBERT, COL

**Cc:** PSR(IC)3, MR; WARRENDER TRUDY; PSR(IC)3, LTCOL; PSR(IC)3 A/CAPT

**Subject:** Proposed CDF article

**Importance:** High

All

See below proposed short article about our values in the context of the recent book, for inclusion in the latest Yours Aye, Army News and Air Force mag.

Chris Hoey and I have seen, and are happy with what's proposed.

Request any further input asap from a legal or any other risk perspective.

thanks

Kevin

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Zealand the utmost confidence in our Defence Force. As such we must stand proud of our Defence Force as no matter what organisation you come from within it, we have again proven to be a force for good and a Force for New Zealand.

Yours Aye,

LTGEN Timothy Keating, MNZM

[Insert link to CDF press statement and PowerPoint on NZDF website]

**Kevin Taylor**

Chief Advisor Public Affairs Office of the Chief of Defence Force

New Zealand Defence Force

T +PSR(IC)3 M +PSR(IC)3 Internal PSR(IC)3  
[www.nzdf.mil.nz](http://www.nzdf.mil.nz)

<< OLE Object: Picture (Device Independent Bitmap) >> <<http://force4nz.mil.nz/>>



Export

SOCC  
 GILLARD  
 From: ROB  
 COL  
 To: DCSO , LTCOL  
 Subject: RE: 'Hit and Run' Library  
 :

Tue, 18  
 Apr  
 Sent: 2017  
 04:03:0  
 9 GMT

Ack

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**From:** DCSO , LTCOL  
**Sent:** Tuesday, 18 April 2017 3:55 p.m.  
**To:** GILLARD ROB , COL  
**Subject:** RE: 'Hit and Run' Library

Afternoon Sir,

I put a copy of everything we had, including briefs, into the folder with <sup>PSR(IC)3</sup> I will check that OP Y is there also.

Note that this is only S, no TS docs are held in that folder.

Regards

DCSO

---

GILLARD  
**From:** ROB , COL  
**Sent:** Tuesday, 18 April 2017 3:51 p.m.  
**To:** DCSO , LTCOL  
**Subject:** Fw: 'Hit and Run' Library

DCSO

I will sort out the RESTRICTED/UNCLASS docs to <sup>PSR(IC)3</sup>

Do you have any further classified docs including briefs? If yes can you get to <sup>PSR(IC)3</sup> from memory you and <sup>PSR(IC)3</sup> completed an audit of the classified hard copy docs so we should be ok for most.

Cheers

Rob Gillard

---

**From:** CHRIS HOEY, MR  
**Sent:** Tuesday, 18 April 2017 10:02 a.m.  
**To:** PSR(IC)3, WGCDR; ; WARRENDER TRUDY; PSR(IC)3 Kevin Taylor  
 COL; Rob Gillard, COL; FERRIS LISA, COL; PSR(IC)3, LTCOL  
**Cc:** PSR(IC)3, SMITH ROS, LUKE; PSR(IC)3, MAJ; PSR(IC)3  
**Subject:** 'Hit and Run' Library

Good morning,

At last week's staff meeting the CDF directed that all material relating to the 'Hit and Run' publication be consolidated into a single record to be held in OCDF for ease of reference in the future. To this end a folder has been created in DDMS (OCDF - Command and Control - Discrete Issue Management). This folder will hold all media articles, media releases, presentations including video, transcripts of QnAs, internal statements, presentations etc and correspondence up to restricted. Would holders of this material please forward it to PSR(IC)3 for compilation by the end of this week.

For classified material the folder of written material held in the OCDF safe (access by PSR(IC)3 and PSR(IC)3). This is to be the single repository and I ask that those holding classified material in whatever format that formed part of the briefings to the PM and Minister of Defence (including scripts) be copied to

Regards

CHRIS HOEY

DCoord  
 OCDF  
 HQ NZDF



Headquarters NZDF  
Freyberg Building,  
Private Bag 39997,  
Wellington 6011, New Zealand

T +64 (0)4 496 0999  
F +64 (0)4 496 0869  
E hqnzdf@nzdf.mil.nz  
www.nzdf.mil.nz

OIA-2017-2698

21 April 2017

PSR(IC)3

Senior Writer – NZ Herald

PSR(IC)3

Dear PSR(IC)3

I refer to your email of 23 March 2017 requesting information relating to the allegations made in the book "Hit and Run" and Operation Burnham under the Official Information Act 1982 (OIA). I have provided a response to each of your points below:

- *copies of all video and still imagery captured during the August 2010 raid involving the NZSAS in Baghlan province, Afghanistan;*

Noting the following question, I have interpreted this first question as relating to video and still imagery taken by the NZDF. No video or still imagery was taken by the NZDF during Operation Burnham. This part of your request is declined pursuant to section 18(e) of the OIA as the information does not exist.

- *copies of any video and still imagery supplied to NZDF from other nations from the August 2010 raid involving the NZSAS in Baghlan province, Afghanistan;*

No still imagery has been supplied to the NZDF by other nations. This part of your request is declined pursuant to section 18(e) of the OIA as the information does not exist. The NZDF has asked the United States to declassify and release video imagery captured during Operation Burnham and passed to the NZDF. Until permission is granted, the video imagery is withheld pursuant to sections 6(b)(i) of the OIA as its release would likely prejudice the entrusting of information to the Government of New Zealand on the basis of confidence by the Government of the United States. No other video imagery has been received from any other nation and this part of your request is declined pursuant to section 18(e) of the OIA as the information does not exist.

- *copies of any after-action reports filed from the August 2010 raid involving the NZSAS in Baghlan province, Afghanistan;*

This information is withheld pursuant to section 6(a) of the OIA as its release would likely prejudice the security or defence of New Zealand by providing insight into operational capability and tactics.

- *copies of any advice provided by NZDF to Cabinet ministers and the Prime Minister regarding the August 2010 raid involving the NZSAS in Baghlan province, Afghanistan, and the dates on which that was provided;*

Enclosed is a copy of a note to the Minister of Defence regarding the allegations of offending. Where indicated the contact details and name of an individual have been withheld to protect their privacy in accordance with section 9(2)(a) of the OIA. Any further

information within scope of this part of your request is still being collated. A decision will be provided to you as soon as possible and no later than 19 May 2017.

- *copies of any inquiry report or review documentation carried out by NZDF into the August 2010 raid involving the NZSAS in Baghlan province, Afghanistan;*

There has been no formal inquiry report undertaken by the NZDF at this time. As a result, this part of your request is declined pursuant to section 18(e) of the OIA as it does not exist. Other review documentation, being the after action reports, is withheld pursuant to section 6(a) of the OIA as its release would likely prejudice the security or defence of New Zealand by providing insight into operational capability and tactics.

- *copies of any inquiry report or review documentation carried out by ISAF following the August 2010 raid involving the NZSAS in Baghlan province, Afghanistan;*

The NZDF holds a copy of the executive summary of an investigation into civilian casualties incurred during Operation Burnham. The NZDF has sought further documentation from NATO relating to this investigation which was conducted by a team of ISAF/Afghan Government representatives. Until such time as the NZDF has received the documentation, assessed it, and if necessary received clearance to release it, the information is withheld pursuant to section 6(b)(ii) of the OIA as its release would likely prejudice the entrusting of information to the Government of New Zealand on the basis of confidence by NATO.

- *copies of any information which contributed to the writing of the NZDF press releases regarding the raid dated from 2011, 2014 and 2017.*

Such information that exists, namely the source material you have asked for above and any legal advice, is withheld pursuant to sections 6(a) and 9(2)(h) of the OIA as its release would likely prejudice the security or defence of New Zealand by providing insight into operational capability and tactics, and is necessary to maintain legal professional privilege respectively.

You have the right, under section 28(3) of the OIA, to ask an Ombudsman to review my response to your request.

Yours sincerely



**G.R. SMITH**

Commodore, RNZN  
Chief of Staff HQNZDF

Export

From: PSR(IC)3  
LTCOL

To: Kevin Taylor

Subject: BRIEF on OP BURNHAM to PM.docx

Fri, 28  
Apr  
Sent 2017  
01:45:3  
7 GMT

Attachments may contain viruses that are harmful to your computer. Attachments may not display correctly.

[BRIEF on OP BURNHAM to PM.docx \(42Kb\)](#)

[BRIEF on OP BURNHAM to PM.docx](#)



## **Brief notes for Prime Minister on Operation Burnham**

Good afternoon, Prime Minister

The purpose of today's briefing is to provide you in detail the material which outlines the events of Operation Burnham.

In particular the presentation will address the five key allegations that were made in the book 'Hit and Run'; these being:

- The location of the operation
- The fact there were no armed Insurgents in the village
- That there was no Deliberate Targeting of Civilians
- That there was no Large Scale and Intentional Destruction of Property
- That the operation was a lawful operation

The presentation today will be sequenced by commencing with a detailed analysis of the ground by LtCol PSR(IC)3 .

Although in the media the authors of Hit and Run have retracted their location claims, it goes towards the specific locations and houses to which the operation was conducted, as transposing the location does not change the facts of the operation.

This brief will also cover the multiagency Intelligence corroboration which led up to the operation, which will be presented to you by Cdr PSR(IC)3 .

The detailed execution of Operation Burnham will be presented by LtCol DCSO , including still photography and video footage.

Cdr PSR(IC)3 will then provide a summary intelligence assessment as to the outcome of operation.

At the completion of the presentation on Operation Burnham LtCol DCSO will cover the subsequent visit to the village called Operation Nova.

My senior legal adviser, Col Lisa Ferris, will provide confirmation to you of the legal framework of the operation.

The information that we will present to you today will confirm that Operation Burnham was planned and executed with a sound intelligence picture, clear lawful orders and control, and professional execution.

Prior to the information being shown I also wish to emphasise that this the operation has been subject to an International Security Assistance Force (ISAF) investigation team headed by an ISAF Brigadier General and supported by a team including an ISAF Legal Officer as well as Government of the Islamic Republic of Afghanistan representatives from the Ministry of Interior and Ministry of Defence.

That report made recommendations as to any further action to be taken by ISAF and/or the troop contributing nations. The investigation team concluded that civilian casualties may have been possible due to the malfunction of an air weapon system, as was made public by ISAF on 29 August 2010.

The investigation concluded that no further action be taken. The NZDF was provided with a summary of that report and its conclusions, which Prime Minister you have had the opportunity to review.

I will now ask LtCol PSR(IC)3 to outline the detailed ground for the operation. **Handover**

I will now ask Cdr PSR(IC)3 to detail the intelligence build up which led to the operation being undertaken: **Handover**

PSR(IC)3 **Completes, Handover to CDF:**

Operation Burnham commenced on night of 21-22 August. The operation mission, which included New Zealand Special Air Service Soldiers and Afghani Security Forces, supported by Coalition Air and surveillance assets, aimed to detain Taliban insurgent leaders who were threatening the security and stability of Bamyān Province and to disrupt their operational network.

I will now ask LtCol DCSO to detail the execution of Operation Burnham.

Please be advised that some of the material is graphic, and can be stopped at any point in time. Further, LtCol DCSO will periodically stop the video to explain the actions taken place.

**Handover**

I will now ask Cdr PSR(IC)3 to summarise the effect that Op Burnham had on the insurgent network. **Handover**

**Note:**

**LtCol DCSO to seamless start presenting on Op Nova conducted in Oct 2010.**

I will now ask Col Lisa Ferris to confirm to you the legal framework of the operation actions. **Handover.**



Prime Minister having now reviewed the totality of the available information on Operation Burnham, regardless of the Hit and Run Book, it remains my **steadfast** conclusion that the threshold to commence an internal Defence Force inquiry has not been reached.

This presentation has demonstrated that the NZDF undertook the operation in:

- The **correct** location, lead by **corroborated** comprehensive intelligence
- Against **positively identified armed** insurgents
- That there was **no deliberate targeting** of civilians
- That there was some minor and localised **unintended** damage to property, but that there was certainly no large scale and intentional destruction of property
- That the operation was **lawful**

As outlined in our press release and conference, I will welcome and consider any new evidence presented by any individual. If any such evidence does reach the necessary threshold then I have a statutory duty to initiate a Defence Force inquiry.

## Brief notes for Prime Minister on Operation Burnham

Good afternoon, Prime Minister

The purpose of today's briefing is to provide you in detail the material which outlines the events of Operation Burnham.

In particular the presentation will address the five key allegations that were made in the book 'Hit and Run'; these being:

- The **location** of the operation was conducted in the two Northern Villages named in the book to which the Authors connect much of their material information to;
- There were **no armed Insurgents** in the village;
- That there was **Deliberate Targeting of Civilians**;
- That there **was Large Scale and Intentional Destruction of Property**;
- That the operation was **unlawful** and the suggestion that elements of it amounted to **war crimes**.

The presentation today will be sequenced by commencing with a detailed analysis of the ground by LtCol **s 9(2)(a)**

Although in the media the authors of Hit and Run have retracted their location claims, this brief specifies locations and buildings where the actual operation was conducted.

This brief will also cover the multiagency Intelligence corroboration which led up to the operation, which will be presented to you by **Cdr s 9(2)(a)** .

The detailed execution of Operation Burnham will be presented by **LtCol s 9(2)(a)** , including still photography and video footage.

**Cdr s 9(2)(a)** will then provide a summary intelligence assessment as to the outcome of operation.

At the completion of the presentation on Operation Burnham **LtCol s 9(2)(a)** will cover the subsequent visit to the village called Operation Nova.

My senior legal adviser, **Col Lisa Ferris**, will provide confirmation to you of the legal framework of the operation.

The information that we will present to you today will confirm that Operation Burnham was planned and executed with a sound intelligence picture, clear lawful orders and control, and professional execution.

Prior to the information being shown I also wish to emphasise that this the operation has been subject to an International Security Assistance Force (ISAF) investigation team headed by an ISAF Brigadier General and supported by a team including an ISAF Legal Officer as well as Government of the Islamic Republic of Afghanistan representatives from the Ministry of Interior and Ministry of Defence.

That report made recommendations as to any further action to be taken by ISAF and/or the troop contributing nations. The investigation team concluded that **civilian casualties may have been possible** due to the malfunction of an air weapon system, as was made public by ISAF on 29 August 2010.

The investigation concluded that no further action be taken. The NZDF was provided with a summary of that report and its conclusions, which Prime Minister you may review.

Further claims of human rights abuses and unlawful conduct by the military during operations in Afghanistan, and the many other theatres of operation where we conduct military operations are subject to oversight and potential review by non-governmental agencies and international organisations such as the UN and ICRC, who are present in Afghanistan, if claims are made of unlawful or improper conduct.

I will now ask **LtCol s 9(2)(a)** to outline the detailed ground for the operation. **Handover**

I will now ask **Cdr s 9(2)(a)** to detail the intelligence build up which led to the operation being undertaken: **Handover**

**s 9(2)(a) Completes, Handover to CDF:**

Operation Burnham commenced on night of 21-22 August 2010. The operational mission, which included New Zealand Special Air Service Soldiers and Afghani Security Forces, supported by Coalition Air and surveillance assets, aimed to detain Taliban insurgent leaders who were threatening the security and stability of Bamyān Province and to disrupt their operational network.

I will now ask **LtCol s 9(2)(a)** to detail the execution of Operation Burnham.

Please be advised that some of the material is graphic, and can be stopped at any point in time. Further, LtCol **s 9(2)(a)** will periodically stop the video to explain the actions taken place.

**Handover**



I will now ask Cdr s 9(2)(a) to summarise the effect that Op Burnham had on the insurgent network. **Handover**

**Note:**

**LtCol s 9(2)(a) to seamless start presenting on Op Nova conducted in Oct 2010.**

I will now ask Col Lisa Ferris to confirm to you the legal framework of the operation actions. **Handover.**

Prime Minister having now reviewed the totality of the available information on Operation Burnham, regardless of the Hit and Run Book, it remains my conclusion that the threshold to commence an internal Defence Force inquiry has not been reached.

Prime Minister, the summary of my review of Operation BURNHAM is that it:

- Occurred in the location we refer to as Tirgrian Village lead by **corroborated** comprehensive intelligence
- The operation focussed on **positively identified armed insurgents** in the village
- There was **no deliberate targeting of civilians and the operation did everything possible to avoid this;**
- There was **no Large Scale or intentional destruction of property and the operation did everything possible to avoid this; and**
- The operation was **lawful and I find no grounds to open a disciplinary investigation into the planning or conduct of the operation.**

As outlined in our press release and conference, conducted on 27 March 2017, I will welcome and consider any new evidence presented by any individual. If any such evidence does reach the necessary threshold then I have a statutory duty to initiate a Defence Force inquiry.

It is not within my writ to advise the PM or MINDEF whether or not they should conduct an independent enquiry – as our civilian oversight.

I have continued to follow up through NATO and the US the release of any further information they have regarding OPERATION BURNHAM. Their report concluded CIVCAS may have occurred by gunship – ground forces operated lawfully.

Export

SOCC

From:

COL **ROB**  
**GILLARD**

To: **DCSO**, LTCOL

Subject: RE: Op B question

Ack

Mon, 01  
May  
2017  
04:47:3  
4 GMT

Sent with BlackBerry Work (www.blackberry.com)

---

**From:** **DCSO**, LTCOL  
**Date:** Monday, 01 May 2017, 11:48  
**To:** SMITH ROSS, CDRE  
**Cc:** **ROB GILLARD**, COL  
**Subject:** RE: Op B question

Sir,

As we rely upon partner reporting and post operation reflections from a variety of sources, the number is an assessment.

The assessment is that 9 insurgents were killed in this operation.

Regards

**DCSO**

---

**From:** **DCSO**, LTCOL  
**Sent:** Monday, 1 May 2017 10:10 a.m.  
**To:** SMITH ROSS, CDRE  
**Subject:** RE: Op B question

I will go back and confirm with the Int Officer. The initial number of 12 was taking the US and our OWN BDA. The reviewed number was 9 after analysis of reflections, however I will double check that.

Regards

**DCSO**

---

**From:** SMITH ROSS, CDRE  
**Sent:** Monday, 1 May 2017 10:06 a.m.  
**To:** **DCSO**, LTCOL  
**Subject:** Op B question

PSR(IC)3

What was the definitive number of insurgents killed during Op Burnham night of 21/22 Aug 10?

**Commodore Ross Smith, RNZN**  
Chief of Staff, Office of Chief of Defence Force  
NEW ZEALAND DEFENCE FORCE

PSR(IC)3

<< OLE Object: Picture (Device Independent Bitmap) >>



Export

From: [KEATING  
TIMOTHY  
LTGEN](#)

Sent Mon, 01  
May  
2017  
02:35:0  
8 GMT

To: **PSR(IC)3** ; [SHORT KEVIN, AVM](#)  
Subject: FW: unclassified RE: A rainy day in Pennsylvania  
:  
Update from **Pete C**

#livingthedream ☺

Executive Assistant to the Chief of Defence Force, Lieutenant General Tim Keating  
**NEW ZEALAND DEFENCE FORCE**  
Freyberg Building, 20 Aitken Street, Thorndon, Wellington  
Private Bag 39997, Wellington 6011

[www.nzdf.mil.nz](http://www.nzdf.mil.nz)

---

**From:** **Peter Coleman**  
**Sent:** Monday, 1 May 2017 1:36 p.m.  
**To:** KEATING TIMOTHY, LTGEN  
**Subject:** Re: unclassified RE: A rainy day in Pennsylvania

Hi Tim**PSR(IC)3**

**PSR(IC)3**

Out of scope personal conversation

Out of scope personal conversation

## Out of scope

But it seems like otherwise NZDF is out of the news, from the Stephenson/Hager stuff. I see Stephenson went over to Afghanistan with the Stuff doco makers, so I would think a second round is on the cards... would be great if you could just release the video (if its clear cut) about 1 minute after they drop their new round of accusations... and just make them look completely unreliable.... but that may be wishful thinking on my part.

## Out of scope

Proud to be part of the Force for New Zealand

---

**From:** KEATING TIMOTHY, LTGEN PSR(IC)3  
**Sent:** Thursday, 27 April 2017 8:12 p.m.  
**To:** Peter Coleman  
**Subject:** unclassified RE: A rainy day in Pennsylvania

Hi

I have not heard from you in a while,

Out of scope personal conversation

Out of scope

**Lieutenant General Tim Keating, MNZM**  
 Chief of Defence Force  
 NEW ZEALAND DEFENCE FORCE

---

**From:** Peter Coleman  
**Sent:** Friday, 7 April 2017 2:28 a.m.  
**To:** KEATING TIMOTHY, LTGEN  
**Subject:** A rainy day in Pennsylvania

Hi Tim - all is going well here... making some good in-roads into my project,

# Out of scope

So I whacked out the below 1200 words re my take on Hit & Run, as seen from the lens of 'culture', seeing I'm immersed in that subject... I know PSR(IC)3 the Editor PSR(IC)3 from previous lives and asked him if this might interest his paper... But it isn't sexy enough for the PSR(IC)3 but he did say he might see if others in the PSR(IC)3 group have any interest...

No state secrets given away I hope, but if it were to pop up in the media somewhere, I thought I'd better not surprise you... You are most likely working to a media strategy of not giving this thing any more oxygen... so apologies on that score, but I hope you can see my motivation for this piece is to show NZDF in a good light, having a strong culture aligned to it mission... and reinforce in the public's and media's mind why words like 'cover up' don't actually make a lot of sense...

# Out of scope

# Out of scope

That's probably enough.... I hope the worst of Hit & Run has passed. All these sorts of things cause damage (take some 'good will' out of the bank)... NZDF is lucky that circumstances often arise where we get to replace that good will... e.g. floods it looks like NZDF are helping with at the moment...

All the best

Peter Coleman

## Military versus the media: A clash of cultures

The pictures of New Zealand Special Air Service troops – NZSAS – emerging from the Intercontinental Hotel in Kabul, Afghanistan, after an intense firefight in June 2011, were dramatic.

For the media, this was a story New Zealand had a right to know about.

Back in Wellington, inside the New Zealand Defence Force Headquarters, these same photos were creating a drama of a different kind.

Military leaders directed their civilian public affairs specialists to contact newspaper editors and newsroom chiefs and request they not show the faces of our troops.

Media were, I think it fair to say, initially incredulous. Here was a story the world's media had caught in full colour, and to them the New Zealand's Defence Force was being overly cautious, asking the media to self-censor.

But the Defence Force made its case. To the military there was danger should an enemy – current or future – capture these same people on the battlefield. To an adversary, identifying the individuals or even just confirming their membership of the elite NZSAS, gives the enemy leverage. The Defence Force shared its sincere belief that identification, in a worst-case future scenario, could potentially lead to family members of captured military personnel back in New Zealand being targeted by hostile actors.

You might think that incredibly unlikely, but to the Defence Force, such considerations are real and salient.

The case perhaps illustrates the tensions that can arise when quite different understandings of the world collide – when two quite different cultures, the media, and the military, clash.

We have seen another clash recently, since the release of Nicky Hager and Jon Stephenson's book *Hit & Run*, also about the NZSAS in Afghanistan.

If people have been left perplexed by the back-and-forwards exchanges from the two sides, trying to understand the competing cultures and value systems at play around this story might help reconcile how both sides can earnestly present such different narratives.

A leading scholar in the field of organisational culture, Edgar Schein, describes culture as the “pattern of basic assumptions, invented, discovered and developed by a given group as it learns to cope with problems of external adaptation and internal integration”. That's quite a mouthful, but the point Schein is making is that culture is what helps groups and organisations cope with the world around them, and it is what helps bind them together, it's a kind of organisational glue. Both these ideas are relevant to the way *Hit & Run* has played out.

For Nicky Hager and Jon Stephenson (and I acknowledge I am making assumptions here that they might well reject) who I've seen labelled as belonging to the group of “advocacy journalists” – they believe strongly that all information should be freely available. I suspect this stems from a philosophical view about society, and democracy and the exercise and control of power. To them, there are no good reasons why information is not available and freely shared, and when it is not shared, it must be because people are trying to “hide” things from view.

This conclusion then becomes another piece of evidence to advocacy journalists that they are on to something and their narrative must be right. So their beliefs and values, in this case about information freedom and openness, shape the assessments and judgments they make.

As in the Intercontinental Hotel case, the Defence Force's beliefs and values about information freedom/security also shape and cloud their thinking, but obviously drive them in opposite directions to Hager, Stephenson, and perhaps most members of the media fraternity.

I do not write this article to suggest one side is right, and the other is wrong – that's not my intent at all. I am drawn to the conclusion of a group of scholars working on culture at the U.S. Army War College that “organisational cultures are not good or bad, right or wrong; they are either aligned or misaligned with the organisation's environment.”

For the Defence Force, I have already suggested that their culture of information security is about being risk adverse. To the military, ordinary-looking enough factoids and

titbits can be useful to an adversary, this reinforces their cultural view that information is a military asset that needs to be protected.

The obvious rejoinder from the media with regard to Hit & Run/Operation Burnham, is of course: "But can't the Defence Force see that information security is trifling compared with the wider public's need to know what happened in that remote Afghan valley in 2010?" But within the military's culture, security isn't trifling. Not ever. It's a fundamental. So cultures clash.

Another important insight into military culture is their strong values framework. In the case of the New Zealand Defence Force they espouse Courage, Commitment, Comradeship and Integrity, as the cornerstones of their professional military ethos.

They give this mantra to everyone who joins the military, and ingrain it into them as the playbook for when they get into problematic situations. It is how military people are to cope with uncertainty.

It is the glue that helps build and maintain cohesion, the ability of a military unit to hold together and sustain effectiveness despite the stress of combat. What evolves from these values is a sense of duty, pride and professionalism, coupled with a strong desire to serve the community.

This is their culture.

So when the underpinnings of this cohesion, their military values, are called into question, the military culture finds it hard to even compute accusations like "cover-up", or "lying", as were levelled by Hager and Stephenson.

Such allegations challenge service people's strongest beliefs about themselves and are in essence a kick to the guts, because their service and professionalism – their culture – is what defines who they are.

In a similar way, Hager and Stephenson appeared not to be able to make sense for some time of the fact that the co-ordinates of the NZSAS raid were different from the locations given to Hager and Stephenson by the villagers. Their cultural truths meant it simply did not make sense to them.

It is not good or bad, or right or wrong. Our cultural settings help us to be successful in the world's in which we operate.

On the battlefield the Defence Force's culture serves it well. There is alignment.

But when the Defence Force skirmishes with the media, the clash of cultures has led at times to uncertainty and confusion.

As in the case of the Intercontinental Hotel though, that doesn't have to be fatal. In that instance, media pixelated New Zealand soldier's faces after the Defence Force explained why it was important.

Just as with that case, the onus, it seems to me, falls on the military side (and indeed to people like myself in the advice we give military leaders) to be clear when explaining why the Defence Force does or says the things it does.

The Defence Force must not assume to outsiders looking in with different cultural lenses, that the decisions the military makes will be understood, and make sense, and be seen as correct and appropriate.

Where Defence actions or decisions might be difficult to understand, the Defence Force should be at pains to explain why it arrived at the conclusions it reaches.

In so doing, the New Zealand Defence Force will maintain the high-levels of confidence and trust the public has in it.

The New Zealand public must trust its military.

The military's culture and values are in fact reasons why that trust is not misplaced.

## Peter Coleman

is a former journalist, and works as a civilian advisor within the New Zealand Defence Force. He is currently on leave from the Defence Force in the United States undertaking research into measuring organisational cultures, after being awarded the 2017 Harkness Fellowship.

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Export

This message was sent with High importance.

From: Defence  
e  
Attaché  
Middle  
East  
To: BOSWELL JOHN, BRIG  
CC ARNDELL SHANE, CAPT  
Subject RE: ~~[SEEMAIL] [RESTRICTED]~~ OP BURNHAM DUE DILIGENCE TASK  
UPDATE ~~[SEEMAIL]~~  
~~[SEEMAIL] [RESTRICTED]~~

Sent Tue, 02  
May  
2017  
08:14:1  
3 GMT

G'day Boz

Out of scope conversation  
unrelated to the ToR of the  
Inquiry. Unrelated to the  
following email.

**From:** BOSWELL JOHN, BRIG [mailto: PSR(IC)3]  
**Sent:** Tuesday, 2 May 2017 9:32 a.m.  
**To:** HAYWARD ANTONY, BRIG; HAYWARD, Antony (ABD); WILLIAMS EVAN, BRIG  
**Subject:** ~~[SEEMAIL] [RESTRICTED]~~ OP BURNHAM DUE DILIGENCE TASK UPDATE ~~[SEEMAIL]~~

~~\*\*\* [SEEMAIL] This message may contain classified information \*\*\*~~

Lofty & Ev, and you thought being a DA was one step above a cross between long leave and a sabbatical.....

Have finally caught up with the flow of email traffic regarding 'Hit n Run', including your fine inputs, and CDFs desire to source as much info as he can as quickly as he can. Concerns raised by you both were raised with CDF this morning and whilst he acknowledges there will be challenges we are to crack on.

A team has been formed (the 'Hit and Run Due Diligence Team' HNR DDT) to manage the task this end, led by Grant Motley and supported by a lawyer (Lt Cdr PSR(IC)3 and one of GILLARD'S merry men (Capt PSR( Grant has provided the SITREP below, which I forward to you for your SA: IC)3

CDF was advised of the US AWT report being sourced by DA MEA, but it is his intent to carry on with planning without waiting for receipt – it is still an important document to help fill in the info. CDF explained that the HNR DDT is intended to bridge the perceived gap between 'what we know' and 'what more we can know' about the operation of 21/22 Aug 2010 (OP BURNHAM) if:

- 1) we were to ask our coalition partners and GIRoA (additionally, search open source ICRC/UNAMA records for ISAF CIVCAS reporting/declarations made to them);
- 2) if we were compelled to respond to and/or refute additional allegations from the authors of HNR.

The work of the HNR DDT is therefore not an investigation but rather a clarification and fact finding task.

The DDT spent today reading unclassified and classified documentation related to OP BURNHAM. COL Motley is devising a plan which will be supported by a CDF Directive and a Terms of Reference – to be released NLT Friday (and forwarded to you both). In outline, COL Motley intends to pursue the following COA with Motley/ PSR(IC)3 likely to depart NZ on Sun 7 May/Mon 8 May.

Ph 1. Col Motley to contact MG Zadalis and arrange for a face-to-face meeting in Ramstein – contact details passed to us via the <sup>PSR(R)</sup> staff in Wellington. Intention is to clarify whether the NATO ISAF Incident Assessment Team Executive Summary dated 26 Aug 10 is 'the' report or whether a more comprehensive document and supporting documents exist. If a meeting is arranged, then COL Motley and LTCDR

PSR(IC)3 will travel to Germany. Note the CDF direction is for COL Motley travel as an acting BRIG to assist him gain access to senior personal and HQs throughout this task. Evan, given your primary tasking to support KLE visit various over the next few weeks, if you can arrange the necessary access, using the letters forwarded by PSR(IC)3

Col Motley will act independently but keep you advised of progress as it occurs on the ground.

Ph 2. Dependant upon the outcome of Ph 1, Motley and PSR(IC)3 can travel to relevant NATO HQ to source additional 26 Aug 10 incident report documentation (if it exists).

Ph 2a. Concurrent to Ph 2, CAPT PSR(IC)3 will plan the HNR DDT visit to AFG if needed. It is intended that he would consult with DA MEA (pushing forward your call Lofty, in consultation between Col Motley and yourself), and using SOF contacts in thtr, commence scoping of basic administrative arrangements and planning/scheduling office calls with MOI, GCPSU, CRU personnel as required.

Ph 3. Visit AFG. Again, this is dependant on the Zadalis/DDT meeting in Germany, where any additional documentation is held and whether any AFG specific 'leads' are established that warrant further pursuit and fact gathering/clarification. In any case, CDF is still determined to confirm that no unresolved issues remain that relate to TG6 operations and the GIRoA.

A branch plan is to visit the US, and via face-to-face meetings, progress 1) the declassification of the AWT footage and 2) seek to acquire and have declassified the AC130 footage that may still exist. This branch effort would clearly require DA Washington and SNR Tampa support.

Work continues, there are lots of moving parts, most of which are being coordinated through SCE (Shane as point) as Grant and his team continue to gather info and then depart overseas.

Ack you've both got a truck load on, and that this is going to take some coordinating/supporting however it is now a clear priority and is to be treated as such – if something has to give let me know soonest and I'll shape the conversation this end accordingly.

Onward

Boz.

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Export

From: [KEATING  
TIMOTHY,  
LTGEN](#)

Tue, 02  
May  
2017  
04:24:01  
GMT

To: [PSR\(IC\)3](#), [MISS: PSR\(IC\)3](#), [A/LTCDR](#)  
Subject 1015 - MinDef; Op Burnham/**Out of scope** (follow-on from Monday's Meeting)  
: ~~RESTRICTED~~~~[[SEEMAIL]]~~  
Greetings All

Just providing this as the timing for the actual briefing to MINDEF.

COS will receive MINDEF at the Foyer and escort him to Level 11. Please ensure that all are in the room from 1005 prepared with appropriate documents and presentations.

Agenda is:

1. Op Burnham - CDF - 20 min (including 2min of video footage)  
**Out of scope**

**Out of scope**

Regards

PSR(IC)3

**Lieutenant Colonel** [PSR\(IC\)3](#)

Personal Staff Officer to the Chief of Defence Force, Headquarters

**New Zealand Defence Force**

Freyberg Building, 20 Aitken Street, PO Box 39997, Thorndon, Wellington, 5045

T [PSR\(IC\)3](#), M [PSR\(IC\)3](#), Internal [PSR\(IC\)](#)

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Export

From: [ARNDEL](#)  
[L SHANE](#)  
[CAPT](#)

Tue, 02  
 May  
 2017  
 03:43:1  
 4 GMT

To: [MOTLEY GRANT, COL](#)  
 Subject: OP BURNHAM DUE DILIGENCE TASK UPDATE ~~[SEEMAIL]~~

Attachments may contain viruses that are harmful to your computer. Attachments may not display correctly.

[ATT42396.jpg \(3Kb\)](#)  
 (FOR DA MEA and DA LONDON)

Gents,

A meeting with CDF was held this morning where a select group of staff (including the Due Diligence Team: Col Grant Motley, Lt Cdr **PSR(IC)3** (LSO) and Capt **PSR(IC)3** ) discussed his directed tasking and, more importantly, received his updated desired outcomes on what it is he actually wanted achieved to ensure he had as much information as possible should the authors of Hit and Run make further allegations against the NZDF (John Stevenson is back in Afghanistan gathering more info and Nicky Hager is currently on a promotional tour around NZ). Essentially the tasking is to be couched as a 'Fact Finding' trip to answer CDF's following RFIs:

- Confirmation that a full report of the "Incident Assessment Team Executive Summary, 26 August 2010: CIVCAS Allegation During TF-81 Level II Deliberate Detention Op in Tigran Village, Talawe Berfak District, Baghlan Province, RC North" Date of Op: 22 August 2010 exists - this includes talking to MG Timothy Zadalis USAF (Author of the Exec Summary) who is now Vice Commander USAF EUR and Africa in Ramstein, Germany - Evan, Grant Motley will reach out to the MG via contact details provided by our US friends here in Wellington. If the MG is happy to meet with Grant, he will fly up afao with Lt Cdr **PSR(IC)3** - they can coordinate a meet up with you deem it necessary (I would let them get on with it and keep you advised of progress as it pertains to you and your stomping ground)
- Any additional information identified, that can be accessed (documents, footage and people) as part of the Executive Summary report creation - this may be divulged by the MG in his discussions with Grant and the LSO.
- Meeting with MOI and MOD officials to seek assurances that there are no outstanding

issues with the NZDF over the incident - using your contacts here Lofty that can be facilitated by Capt **PSR(IC)3** once he gets the go to move.

- If the 'CIVCAS' form was forwarded to ICRC and UNAMA - if so trace it to the final destination.

A CDF Directive is being drafted for CDF's his release, worded to cover off on the tasking of the team and their TORs to achieve the tasks, and provide transparency should we mission (being called and , copies of which will be forwarded to you both. Grant and his team are also conducting their mission analysis to

## *Shane*

### **Captain Shane Arndell, RNZN**

Director Strategic Engagements, Strategic Commitments and Engagement Branch

New Zealand Defence Force

T **PSR(IC)3** , M **PSR(IC)3** , Internal **PSR(I**

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**Internal Hyperlink**

Article Information	
Article Title	<a href="#"><u>Metiria Turei to the Minister of Defence</u></a>
Source	Parliamentary Questions
Date Published	02/05/2017

## 2319 (2017). Metiria Turei to the Minister of Defence

Parliamentary Questions 02/05/2017

2319 (2017). Metiria Turei to the Minister of Defence (02 May 2017): Does the New Zealand Defence Force acknowledge that a three year old girl named Fatima died of injuries received during the 22 August 2010 SAS raid in Baghlan Province, Afghanistan?

Hon Mark Mitchell (Minister of Defence) replied: No.

## 2320 (2017). Metiria Turei to the Minister of Defence

Parliamentary Questions 02/05/2017

2320 (2017). Metiria Turei to the Minister of Defence (02 May 2017): Does the New Zealand Defence Force acknowledge other people besides Fatima, whose names also appear on the official Baghlan government report as reproduced on pages 126 and 127 of the book Hit and Run, were killed or wounded during the 22 August 2010 SAS raid in Baghlan Province, Afghanistan; and if so, which of these people do they acknowledge were killed or wounded?

Hon Mark Mitchell (Minister of Defence) replied: No.

## 2326 (2017). Metiria Turei to the Minister of Defence

Parliamentary Questions 02/05/2017

2326 (2017). Metiria Turei to the **Minister of Defence** (02 May 2017): Did the New Zealand Defence Force have any contact with the district governor, Mohammed Ismail, after he spoke publicly to a New York Times reporter about civilian deaths resulting from the 22 August 2010 SAS raid in Baghlan Province, Afghanistan; if so, on what date(s) was that contact?

Hon Mark Mitchell (Minister of Defence) replied: No.