



Government Inquiry into Operation Burnham Public Hearing Module 2 Agenda

Venue: The Thorndon Hotel, 24 Hawkestone Street, Thorndon, Wellington

Day 1 - Wednesday 22 May 2019

Time	Content	Presenter	Dur
1000-1010	Opening remarks	Inquiry Chair Sir Terence Arnold	10 mins
<i>Continued from Hearing 1 – military and political context</i>			
1010-1110	Afghanistan civilian perspective	(subject to confidentiality order)	1 hour
	<i>Response by non-government core participants to presentations on military context and political context in Public Hearing Module 1</i>		
1110-1210	Presentation	Nicky Hager	1 hour
1210-1310	<i>Lunch</i>		1 hour
<i>Topic 1 – Rules of Engagement (ROE) and military doctrine</i>			
1310-1440	<i>NZDF presentation</i> <ul style="list-style-type: none"> • What ROE are (legal underpinnings and function) • Process for developing, approving, and revising ROE (including by whom) • How ROE ensure congruence with International Humanitarian Law (IHL) and other relevant law (e.g. collateral damage, duty to injured, others) • How ROE apply to NZSAS • Modifications in Afghanistan (the complexity of ROE and their modification to meet changing conditions) • How ROE operate in joint operations context - relationships with the International Security Assistance Force (ISAF), North Atlantic Treaty Organisation (NATO), and command and control framework 	Kevin Riordan, Judge Advocate General of the Armed Forces of New Zealand	1.5 hours

1440-1455	Adjournment		15 mins
1455-1625	NZDF presentation <ul style="list-style-type: none"> • Military justice framework and discipline (including Armed Forces Discipline Act 1971) • What training is delivered to NZSAS soldiers in the field and before each operation on IHL/ROE • How ROE/IHL operational advice is delivered in the field – role of legal advisers or other precautions • Any information on how NZ’s ROE and training relate to and compare with those of ISAF, NATO and United States 	Brigadier Lisa Ferris, Director of Defence Legal Services	1.5 hours
1625	Closing remarks	Chair	5 mins

Day 2 – Thursday 23 May 2019

Time	Content	Presenter	Dur
Topic 2 – Rules of Engagement and detention			
1000-1130	<p>Crown agencies joint presentation</p> <ul style="list-style-type: none"> • The international duty to avoid placing people into a situation where they may be tortured in detention – applicable law in non-international armed conflict • The steps available to guard against those risks (i.e. the practical, in-field application of rules regarding detention) • Detention in the Afghanistan theatre – the political and military context, relationships with Afghan and international partners on issue • NZ's policies on detention in Afghanistan, standard operating procedure – how NZDF operated and did the practices change over time? • Discussions in Afghanistan with country representatives 	<p>Dr Penny Ridings, international law consultant</p> <p>Heath Fisher, MFAT Divisional Manager, International Security and Disarmament Division</p> <p>Brigadier Lisa Ferris, Director of Defence Legal Services</p>	1.5 hours
1130-1145	Adjournment		15 mins
1145-1315	<p>Former Defence Minister presentation</p> <ul style="list-style-type: none"> • The Government's process for approving ROE generally and policy approvals on detention • NZ concerns about detention and torture as matters developed in Afghanistan, what was done about this • Discussions in Afghanistan about these issues with country representatives and the policy approvals by Cabinet 	Hon Dr Wayne Mapp	1.5 hours
1315-1415	Lunch		1 hour
	<p>Non-government core participants presentation</p> <ul style="list-style-type: none"> • Issues concerning ROE, military doctrine and detention 		
1415-1515	Presentation	Nicky Hager	1 hour
1515-1615	Presentation	Sam Humphrey, counsel for Jon Stephenson	1 hour
1615	Closing remarks	Chair	5 mins