

UNDER

THE INQUIRIES ACT 2013

IN THE MATTER

A GOVERNMENT INQUIRY INTO OPERATION  
BURNHAM AND RELATED MATTERS

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**Brief of Evidence of Sir Jeremiah Mateparae**

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1. I am Lieutenant General (Retired) Sir Jeremiah Mateparae. I am the High Commissioner of New Zealand to the United Kingdom.
2. I enlisted in the New Zealand Army in 1972. I served in the Royal New Zealand Infantry Regiment and then in the New Zealand Special Air Service (**NZSAS**). I have had two operational postings to peace support missions in Southern Lebanon and Bougainville. I was the Joint Commander for the New Zealand forces attached to the United Nations Transitional Administration in East Timor. In 2002 I became Chief of Army, and between 2006 and January 2011, I was Chief of Defence Force (**CDF**).
3. I served as the Director of the Government Communications Security Bureau from February to July 2011, and served as Governor-General of New Zealand from August 2011 to August 2016. I was appointed as New Zealand's High Commissioner to the United Kingdom in March 2017.
4. I am a graduate of the British Army Staff College (1989), the Australian Joint Service Staff College (1995) and the Royal College of Defence Studies (1999). I have a Master of Arts with First Class Honours from the University of Waikato and an honorary doctorate from Massey University.
5. In 2011, I was made an Additional Knight Grand Companion of the New Zealand Order of Merit and an Additional Companion of the Queen's Service Order.

#### **Briefings to the Minister of Defence**

6. On the night of 21/22 August 2010, I was at Camp Warehouse, the NZSAS headquarters in Kabul, Afghanistan. I viewed, in real time, the footage from the Intelligence, Surveillance, and Reconnaissance (**ISR**) unmanned aerial vehicle that was positioned over the area of operations, in what has since become known as Operation Burnham (**the Operation**).
7. As I recall, there were a number of people in the room, including, the then Lieutenant Colonel Rian McKinstry, the Senior National Officer (**SNO**) in Afghanistan at the time, an Operations Officer, a Signals Officer, and a Joint Tactical Air Controller.
8. There is nothing I observed from the footage at the time that led me to consider that any issue of civilian casualties of any kind had arisen in the course of the Operation.
9. My visit to Afghanistan with the then Minister of Defence, The Hon. Dr Wayne Mapp (**Minister**) concluded the following day.

10. Once I was back in New Zealand, I depended upon then Colonel Peter Kelly, the then Director of Special Operations (**DSO**) to keep me informed on the outcome of the Operation, and all other NZSAS matters.
11. In that regard, each week I received a briefing in a secure room from various NZDF personnel. At the end of the weekly briefings, the room would be cleared of people, and Peter Kelly would conduct a strategic briefing. Usually the strategic briefings were verbal but sometimes the presentation would be supported by written material.
12. I understand that Peter Kelly will, in his brief of evidence, speak about those briefings and about the factual matters upon which those briefings were based.
13. The content of these strategic briefings formed the basis of my advice to the Minister. I met with the Minister every week to provide updates about NZDF business. He was very direct and inquisitive at those meetings. On occasion he would ask for a briefing to be recorded in writing, by way of a Note to the Minister. I provided three Notes to the Minister on the subject of Operation Burnham.
14. The first Note to the Minister following the Operation was on 25 August 2010. I refer to the Bundle, at p 23. The main purpose of the Note was to advise the Minister that the NZDF had become aware of allegations that civilians were killed during the Operation and that the International Security Assistance Force (**ISAF**) had initiated an investigation. The Note went on to say, at paragraphs [3] and [5]:

HQ ISAF has a policy of investigating all alleged civilian casualties as a result of operations conducted by coalition forces. A Brigadier has been tasked to lead the investigation into the allegations, and he has spoken to the Senior National Officer (SNO) and Officer Commanding (OC) [redacted] on Tuesday evening. He then reviewed the "gun tapes" from the Apache helicopters and [redacted] that were involved in the operation to determine if they had adhered to coalition Rules of Engagement (ROE). Over the next two days he plans to travel to Baghlan and speak to ... the Governor of Baghlan province ... If security permits he will travel to the TALA WA BARFAK region to meet with the local Sub Governor of the district.

...

I will keep you apprised of any developments and outcomes and would recommend that you discuss this with the Minister of Foreign Affairs and Prime Minister.

15. I am now aware that the ISAF Joint Command issued a media release on 29 August 2010, which referred to rounds from coalition helicopters having fallen short, and that that may have resulted in civilian casualties. I refer to the Bundle at p 39. It is likely that I saw the media release at the time but I have no specific memory.

16. My next Note to the Minister was provided on 10 December 2010. I refer to the Bundle, at p 163. Although the Note is signed by my then Chief of Staff on account of me being "AOD" - absent on duty - I would have been aware of it and approved it before it was sent to the Minister.

17. The 10 December 2010 Note described the context and execution of the Operation, and of the related operation of 3 October 2010. Additionally, at paragraph [7], the Note provided an update on the ISAF investigation into the allegations of civilian casualties:

Following the operation Afghan citizens from the Talewa Berfak district alleged that up to twenty (20) civilians had been killed by aerial bombardment and twenty (20) houses destroyed by fire. Based on these allegations and reported in the New York Times, a joint assessment team composed of representatives from the Afghan Ministries of Interior 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 air assets and spoke to the NZSAS personnel. As a result of their investigation, the joint assessment team concluded that the allegations were baseless and categorically cleared the actions of the RTF and coalition air of all allegations. The assessment concluded that "having reviewed the evidence there is no way that civilian casualties could have occurred". The joint assessment team's report has not been released beyond Headquarters ISAF and our knowledge of the findings are based on the comments provided by the NZSAS Task Force commander, who was permitted to read the report.

18. I never saw the conclusions reached by the ISAF assessment team and had never - prior to preparation for this hearing - seen the IAT report. As is indicated in the Note to the Minister, my understanding of ISAF's findings, following its investigation, was based on an email from the then SNO in Afghanistan, then Lieutenant Colonel Chris Parsons. I understand that Chris Parsons will be giving evidence about the content of that email and the context in which the email was written. I now appreciate that this Note inadvertently mischaracterises the conclusions reached by the IAT report. However, this was our understanding of the position at that time.

19. At the time, I believed that the extract in quotation marks was taken directly from the IAT report. I now understand that this may not be the case. I am not in a position to give direct evidence on this point but I understand that this will be covered in Peter Kelly's evidence.

20. As I said at paragraph [13], I briefed the Minister on a weekly basis so this was not the first time that he was made aware of NZDF's understanding as to the outcome of the ISAF investigation, and of the NZSAS's return operation to Tirgiran. I imagine that the

reason the Minister asked for these matters to be recorded in a Note was so that he would have surety once I had left my role as CDF the following month.

21. Three days later, on 13 December 2010, I provided another Note to the Minister. I refer to the Bundle, at p 167. As is described on the Cover Sheet:

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.

22. In short, this Note was an unclassified version of the 10 December 2010 note, which could be released publicly.
23. This Note includes, at paragraph [4], a slightly abridged version of paragraph [7] of my 10 December 2010 Note, set out in paragraph 17 above. So the points I have made in paragraphs 18 and 19 above apply equally here.
24. I understand that the NZDF has been described as being secretive about the conduct of the Operation, and of NZSAS operations more broadly. It is true that the NZDF is conscious not to compromise the security of its troops on any basis, including through the release of information which describes their operations. However, as the 13 December Note demonstrates, we were wanting to release publicly a synopsis of the NZSAS's activities in Tirgiran.
25. Ultimately, as the handwritten note on the Cover Sheet indicates, it was decided not to release the information to the media at that time.

#### **Policy to investigate allegations of civilian deaths**

26. In August 2010, the NZDF did not have a specific Defence Force Order prescribing a process for the investigation of allegations of civilian deaths in the course of operations in which NZDF personnel were involved.
27. However, as is recorded in the 25 August 2010 Note to the Minister, ISAF had a policy of investigating all alleged civilian casualties as a result of operations conducted by coalition forces. As a contributing member of ISAF, that policy applied to New Zealand.
28. I was satisfied with ISAF's investigation. If ISAF hadn't investigated, or if its investigation had shown or suggested that NZDF personnel had been involved in the deaths of civilians, I would have ordered the SNO to conduct our own investigation, and given legal support from New Zealand for that.

29. Despite not having a specific policy in the form of a standalone Defence Force Order in place, we did take steps to evaluate reports of civilian casualties. I understand that Rian McKinstry will, in his brief of evidence, address the steps taken after Operation Burnham, including, the intelligence that was gathered, speaking to coalition partners, and reviewing footage.



Sir Jeremiah Mateparae

15 Sep 19  
Date