

UNDER

THE INQUIRIES ACT 2013

IN THE MATTER

A GOVERNMENT INQUIRY INTO OPERATION
BURNHAM AND RELATED MATTERS

Brief of Evidence for Kevin Ronald Short

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1. I am Air Marshal Kevin Ronald Short. I am Chief of Defence Force (CDF) of the New Zealand Defence Force (NZDF).
2. I joined the Royal New Zealand Air Force in 1976 as a General Duties Navigator. In my early career I was a Navigator, Tactical Coordinator and Aircraft Captain in the No 5 Squadron.
3. At a senior level, I have held a number of project, plans, and development related appointments, in which I initiated the upgrades to the aircraft operated by the New Zealand Air Force at that time - Hercules and Orions, and the purchase of a Boeing 757 for the New Zealand Air Force. I have also filled a range of senior command and representational appointments, including serving as the Senior National Officer (SNO) in United States Central Command as part of Operation Enduring Freedom in 2002 and the SNO and Commander of the New Zealand Provincial Reconstruction Team in Afghanistan in 2006.
4. Between 2007 and 2014, I held the following appointments: Assistant Chief Development in HQNZDF, Assistant Chief Strategic Commitments and Intelligence, Deputy Chief of Air Force, and Commander Joint Forces. On 31 March 2014 I became Vice Chief of the New Zealand Defence Force (VCDF). I was in that role until 1 July 2018 when I was appointed Chief of Defence Force (CDF).

Native Affairs report

5. On the night of 30 June 2014, I watched an item on the Native Affairs programme on Māori Television that was presented by Jon Stephenson, entitled "Collateral Damage". I refer to the Bundle, at p 217, for a transcript of the report.
6. In the report, Mr Stephenson alleged that the New Zealand Special Air Service (NZSAS) had been involved in an operation in Afghanistan that, to use his words, "went wrong". He also claimed that there were no insurgents in the village that night, that six civilians were killed, and a further 15 civilians were injured. Mr Stephenson described an investigation by the International Security Assistance Force (ISAF) into the allegations of civilian casualties:

[!]Investigators checked footage from the mission. They found that several rounds from US helicopters had missed their target and struck the wrong building and said this may have resulted in civilian deaths and injuries. They blamed this on a faulty helicopter gun [sight]. This admission ... does call into question [Minister] Mapp's categorical denial that civilians were killed or injured. It also raises the question of why our Defence Force said claims of civilian casualties were unfounded ...

7. The news anchor concluded the report by saying that “the NZDF stands by its statement made on 20 April 2011 and will not be making further comment”.
8. I refer to the Bundle at p 187. This is the NZDF statement of 20 April 2011. In summary, it recorded that:
 - a. the NZSAS, together with Afghan National Security Forces and other coalition elements, conducted an operation against an insurgent group;
 - b. the operation was conducted as part of the wider ISAF mission to improve the security of the Afghan people and to protect the New Zealand Provincial Reconstruction Team in Bamyan province;
 - c. the operation was approved by both the Afghan Government and ISAF;
 - d. nine insurgents were killed;
 - e. allegations of civilian casualties were investigated by an ISAF joint assessment team; and
 - f. the investigation concluded that the allegations of civilian casualties were unfounded.
9. I do not recall having been involved in drafting the response to Jon Stephenson. The then CDF, Lieutenant General Tim Keating, was in Australia at the change of command ceremony for the then Australian Chief of Defence Force. I understand that, in the CDF’s absence, the matter was overseen by the Chief of Staff, Commodore Ross Smith.
10. At 9:35pm, after the programme had finished, I received a call from the Minister of Defence’s Political Adviser, Josh Cameron. I made a note of this call in my personal diary, which is in the Bundle at p 231.
11. The Political Adviser told me that the Minister’s Military Secretary had taken a bundle of documents from NZDF Headquarters to the Minister’s Office. He explained that, amongst those documents, was a report drafted by an International Security Assistance Force (ISAF) assessment team, concluding that there may have been civilian casualties (IAT report).
12. The Political Adviser said that the IAT report’s conclusion that there may have been civilian casualties contradicted the briefing that the Minister of Defence, The Hon. Dr Jonathan Coleman, had received. My notes indicate that there was a briefing on Saturday, 28 June 2014, with Minister Coleman. I do not know who participated in that briefing or what was said.
13. At 8:30am the following morning, 1 July 2014, Commodore Ross Smith and I met with Minister Coleman and the then Secretary of Defence. I refer to the Bundle at p 231, which are the notes I took at that meeting. In my notes I record that the Minister:

- felt let down by his Saturday briefing as it was too casual and did not contain all the information held - a critical piece was left out;
 - wanted to understand when/how the NZDF got the IAT report; and
 - wanted NZDF to interview the SNO at the time of the Operation to ascertain what he knew at the time and how he had interpreted the IAT report.
14. Minister Coleman asked the NZDF to report back as to:
- why the IAT report was not available to CDF;
 - the outcome of the interview with the SNO;
 - how the NZDF obtained a copy of the IAT report and by whom it had been handled; and
 - whether the full report could be obtained.
15. Following this briefing, Minister Coleman addressed the media on his way into a caucus meeting. He clarified the position, in light of the IAT report. A number of media organisations reported what Minister Coleman said, including that “there is absolutely no suggestion that New Zealand soldiers were involved in inflicting civilian casualties or deaths” but that “you probably can’t rule out” the possibility of civilian casualties caused by a malfunctioning gun sight on a coalition helicopter. I refer to the Bundle, at pages 243 and 247, for copies of those articles.
16. My recollection is that, after CDF returned from Australia that afternoon, I debriefed him on the meeting with the Minister and handed the matter back to him.
17. I had no further involvement; matters involving the NZSAS were held tightly by CDF, the Directorate of Special Operations, and the Commanding Officer of the NZSAS. That closed command structure was well entrenched, having been in place for decades.

Hit & Run

18. Nicky Hager and Jon Stephenson’s book *Hit & Run: the New Zealand SAS in Afghanistan and the Meaning of Honour* was launched at 5:15pm on 21 March 2017. My understanding is that we had not been consulted during the drafting of the book.
19. The then CDF, Lieutenant General Tim Keating, was in Iraq with the then Minister of Defence The Hon. Gerry Brownlee, so I was at the helm until his return to New Zealand on 25 March 2017.
20. By the time of the launch, at 5:15pm, most people had gone home for the day. There were not many of us left in the office to review the book and to consider our response. My preference was to take our time to digest the allegations, to look

across all documents, to talk to the right people within NZDF, and to provide a measured response.

21. Unfortunately, within an hour of the book being launched, when we'd only just managed to get hold of the book, we started fielding calls. There was substantial pressure to respond immediately. In those circumstances, we agreed that the best way to proceed, in the first instance, was to be consistent with what had previously been said by NZDF.
22. My recollection is that someone searched the database of media releases for operations in Afghanistan in August 2010, and found the press release of 20 April 2011. Stapled into my diary on 21 March 2017 is a copy of the 20 April 2011 press release with a line around one sentence: "the investigation concluded that the allegations of civilian casualties were unfounded". The annotation below reads 6:20 – that is, an hour after the book launch. I imagine it was at 6:20pm that we found the press release. I refer to the Bundle at p 261 for a copy of this document.
23. This press release and, in particular, that statement formed the basis for our response to *Hit & Run*.
24. With all that was going on that evening, I didn't appreciate that the allegations in *Hit & Run* arose out of the same operation addressed in the Native Affairs report some three years earlier. In that moment, I did not connect the two reports. Obviously, if I had made that connection, it would have served as a prompt to review the IAT report.
25. Our intention in referring back to a previous media release was to exercise caution and moderation at a time where we did not have all the information in front of us, until we had reached a more informed position. I regret that this approach resulted in the NZDF, in its initial response, mischaracterising the conclusions of the ISAF investigation.
26. However, what I must say with some force is that we didn't do so *knowingly* or *intentionally*.
27. The reality is that the NZDF never had any reason to obfuscate the conclusions of the IAT report.
28. The NZSAS's actions were not impugned. It follows that there was no logical basis for the NZDF to seek to "cover up" the IAT's actual determinations.
29. Returning then to the night of 21 March 2017, it seems from my email records that by 7:43pm I had discussed the proposed response with then CDF Lieutenant General Tim Keating; and that it was issued at 8:25pm. Those emails are in the Bundle at pages 263 and 265.

Briefing the Prime Minister

30. The following day, at 12:30pm, I briefed the Prime Minister. By this point in time, even though less than a day had passed since the launch of *Hit & Run*, we had read, reflected on, and summarised *Hit & Run*; reviewed the CDF's Notes to the Minister of August and December 2010; and, through this work, come to realise the significance of the IAT report in this context.
31. I refer to the Bundle, at p 271. These are the Talking Points I used to brief the then Prime Minister, The Rt. Hon. Bill English. I advised the Prime Minister that:
- in August 2010, the threat to Afghan National Security Forces, to coalition forces, and to the New Zealand Provincial Reconstruction Team was escalating;
 - an operation was planned to disrupt the insurgent group responsible for the violence, which was approved by the Afghan Ministry of the Interior and Commander ISAF;
 - the operation was conducted on 22 August 2010 by personnel from the Afghan Crisis Response Unit and the NZSAS, with coalition support;
 - nine insurgents were killed, including one by the NZSAS;
 - one member of the NZSAS was injured;
 - the NZSAS's post-operation battle damage assessment did not find non-combatant casualties;
 - allegations of civilian casualties surfaced and were investigated by a joint assessment team of Afghan and ISAF officials; and
 - the investigation concluded that civilian casualties may have been possible due to the malfunction of an air weapon system.
32. Although I knew on the morning of 22 March 2017 that there was an error in the initial response, I thought that, with CDF back in New Zealand within a matter of days, it was better to wait and develop a more coherent and considered response together.
33. For that reason, after briefing the Prime Minister, I decided to take a "holding position" and not to comment further until CDF had returned to New Zealand. See, for instance, p 273 of the Bundle, which is an email of 22 March 2017, at 22.33 GMT, in which the Commander of Special Operations advises that "we are currently in a holding position re further engagement with media until the [return to New Zealand] of [the Minister of Defence] and CDF". Aside from the initial response to *Hit & Run* on the night of 21 March 2017, NZDF did not make any public statements until after CDF's return.

34. I understand that Lieutenant General Tim Keating will give evidence about statements he made to the public and briefings he gave to the Government upon his return to New Zealand on 25 March 2017.



Kevin Ronald Short

11 SEPTEMBER 2019

Date

