



**He Uiuinga i a  
Inquiry into  
OPERATION BURNHAM**

**Supplementary Bundle for Hearing  
16-20 September 2019**



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Article Information	
Article Title	<a href="#">SAS' deadly Afghan counter attack revealed""</a>
Source	One News/Youtube. Ministerial public statement. Transcribed by the Inquiry into Operation Burnham staff.
Date Published	20/04/2011

# SAS' deadly Afghan counter attack revealed

["SAS' deadly Afghan counter attack revealed"](#)

20 April 2011



## News Anchor 1:

We begin tonight with an astonishing admission from the government

## News Anchor 2:

It's revealed to one news details of a deadly secret mission by our elite SAS troops to hunt down those who killed new Zealander Tim O'Donnell in Afghanistan. The young soldier died on patrol last year but a counter attack involving our crack soldiers left twelve Taliban fighter dead. The usually top secret information's' only just been confirmed to political editor Guyon Espiner who joins us now with more on this exclusive story, Guyon

## Guyon:

Thanks Simon, well we've known for some time that Tim O'Donnell was killed last year in Bamiyan after insurgents came in from a neighbouring province. What we did not know was New Zealand's involvement in in a counter attack which followed his death.

Tim O'Donnell was the first New Zealander killed in combat in Afghanistan. The tragedy was major news in early August last year. What was kept secret was what happened after that. One News has learned that the SAS was involved in hunting down Taliban insurgents, believed to be responsible for Tim O'Donnell's death, so we put that to the defence minister.

**Defence Minister:**

As you would imagine New Zealand has been taking an active interest in what occurs in that region and New Zealand forces were involved in that.

**Guyon:**

It's believed 12 insurgents died during the counter attack, the minister says it was not a revenge killing but was done to secure the area.

**Guyon:**

So the people who killed Tim O'Donnell were in turn killed by allied forces including New Zealand.

**Defence Minister:**

Well it is a war and uh military operations do take place.

**Guyon:**

Tim O'Donnell died on patrol in north east Bamiyan. It's believed insurgents who attacked the convoy had come in from neighbouring Baghlan Province. About two weeks later the SAS mobilised from the base in Kabul and, with American assistance, launched a counter attack in Baghlan.

**Defence Minister:**

We have our special forces to be able to undertake military operations, that is part of their overall remit.

**Guyon:**

So you're not denying that?

**Defence Minister:**

No I'm not denying that.

**Guyon:**

Tim O'Donnell was part of the provincial reconstruction team of about 140 New Zealand troops who do a mixture of aid work and military patrols in Bamiyan province.

**Guyon:**

Is it within our remit in our rules of engagement to go into that neighbouring province for military action?

**Defence Minister:**

It's in remit of the Special Forces to be able to undertake operations at the direction essentially of ISAF NATO and in this case particularly to protect our people.

**Guyon:**

There were also claims that civilians died in the kiwi counter attack

**Defence Minister:**

That's been investigated and proven to be false

**Guyon:**

So no civilians were killed in that. You're satisfied about that? You've seen some reports?

**Defence Minister:**

I am satisfied around that.

**Guyon:**

Although no public reports about any New Zealand involvement in this attack, not until tonight.

**News anchor 2:**

Alright then Guyon why is the government then kept this secret for the last 8 months?

**Guyon:**

Well I asked the defence minister that direct question today, he affectively said, "Well that's because all SAS operations by their very nature are secret"

I mean this isn't information that the government has willingly volunteered, this came about because one news found about this operation, this counter attack, and we put those questions to defence minister Wayne Mapp as part of a wider interview about defence matters for the Q+A political program which screens on Sunday mornings. You can see that full interview this Sunday including the defence minister reaction to some of the other controversial aspects of New Zealand's involvement in the war in Afghanistan.

**News anchor 2:**

Political editor Guyon Espiner

Export

**PSR(IC)3**  
 From: **PSR(IC)3**  
**MRS**  
 To: **PSR(IC)3**, **MAJ**  
 CC: **DAVIES GEOFF, MR**; **PSR(IC)3** **SQNLDR**  
 Subject: RE: Media question regarding Baghlan Raid in AFGHAN IN 2010  
 Thanks☺

Sat, 28  
 Jun  
 Sent: 2014  
 01:07:3  
 4 GMT

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**From:** **PSR(IC)3** MAJ  
**Sent:** Saturday, 28 June 2014 1:07 p.m.  
**To:** **PSR(IC)3**, MRS  
**Cc:** DAVIES GEOFF, MR; **PSR(IC)3** SQNLDR  
**Subject:** FW: Media question regarding Baghlan Raid in AFGHAN IN 2010

-----Original Message-----

**From:** DAVIES GEOFF, MR  
**Sent:** Saturday, June 28, 2014 12:07 PM New Zealand Standard Time  
**To:** **PSR(IC)3**, MAJ; **PSR(IC)3** SQNLDR  
**Subject:** RE: Media question regarding Baghlan Raid in AFGHAN IN 2010

**PSR(IC)3**, just to keep things straight: your para 2 refers - see my email of 0928. In this one he asks for a response by **Sunday**, to which I replied that we'd get back to him.

Given the Sunday development I urge that we give OMD vis of some sort before Monday. It's unlikely, but possible, that he'll put in some sort of matching inquiry to OMD. And OMD should have as much time to consider the way forward, and possibly consult with the PMO, as possible. If they don't want to bother over the weekend, fine, but let's make sure they make that decision, not us. The worst possible story here is not NZDF, it's Beehive. I was working there at the time and I know a little more about this matter than I can put in a DIXS email. Happy to share that with you both in a secure manner.

Chrs G

---

**From:** **PSR(IC)3** MAJ  
**Sent:** Saturday, 28 June 2014 11:41 a.m.  
**To:** **PSR(IC)3** SQNLDR; DAVIES GEOFF, MR  
**Subject:** FW: Media question regarding Baghlan Raid in AFGHAN IN 2010

Gents

OIA COA approved.

**PSR(IC)3**, do you want me to advise **PSR(IC)3** that we have received the questions, noting COS

direction to send questions on Mon.

-----Original Message-----

**From:** SMITH ROSS, CDRE

**Sent:** Saturday, June 28, 2014 11:33 AM New Zealand Standard Time

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

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

Agree nature of the questions are complex and that an OIA response is best course of action.

Let PSR(IC)3 know we have a series of questions from Stephenson and that we will process them as an OIA. You can pass the questions, for info, to PSR(IC)3 on Monday.

Ross Smith  
Commodore, RNZN  
Chief of Staff, HQNZDF

-----Original Message-----

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

**Sent:** Saturday, June 28, 2014 10:46 AM New Zealand Standard Time

**To:** SMITH ROSS, CDRE

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

Good morning Sir,

Last night we received a set of questions from Jon Stephenson, the reporter, regarding a raid in Baghlan, AFGHAN, in 2010. I have included the detail of our contact with him and the questions in the email below.

As you can see from Stephenson's email he has not indicated a deadline for our response but in his ph conversation with our Joint rep he indicated that he would like a response on Monday. He has made no reference to when or how he intends to publish this information.

You will note that this is a complex, historical and potentially classified matter. As such we recommend that this matter is referred for OIA processing.

It is requested that you approve this course of action and advise if you require me to forward this information to Press Secretary at the Ministers office immediately given the subject matter and reference to the Prime Minister. Or, if you are comfortable with us contacting her first thing on Monday.

In addition I will forward your decision to A/COMJ on your direction.

Warm regards,  
PSR(IC)3

-----Original Message-----

**From:** DAVIES GEOFF, MR

**Sent:** Saturday, June 28, 2014 10:16 AM New Zealand Standard Time

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

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

**Subject:** FW:

Here's the first email<sup>PSR</sup> You've got it all now. I was going to send this as a heads-up this morning to LCC (who's also A/ComJ) but now that<sup>PSR(IC)3</sup> called the ball on the way forward, let's just copy him in ... OTY.

<sup>PSR(IC)3</sup> guidance is good ... this is too tricky not to have 100% agreement on the way forward. He seems to be angry in some ways but please, let's not be stampeded by him.

Also FYI: he "warned" me that this story has nothing to do with the issue of his court case against CDF, so using that to avoid commenting (I e because of ongoing legal considerations) "won't cut it, Geoff".

Geoff

---

**From:** DAVIES GEOFF, MR

**Sent:** Friday, 27 June 2014 5:33 p.m.

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

**Subject:** FW:

<sup>PSR(IC)3</sup> I took a call from Jon Stephenson shortly after 1600 today, after which he sent me this email. (The call was not intended for me personally, he just called the SMA (Joint) number; in fact he was surprised it was me because I think he thought I was still at Parliament.) I have just entered the inquiry in the media log, but without the three attachments.

During the call he covered off the basics of the story he is working on as set out here.

He alleges the raid in question was a reprisal raid for the death of LT Tim O'Donnell earlier in the month

He also told me that he has solid information that six civilians, including a three-year-old girl, were killed in the raid, and 15 wounded. (He cites his sources as including a district governor, a provincial governor, a former member or members of the NZSAS, a former NZDF officer who was in the PRT at the time, a doctor who treated the wounded, and an international NGO who interviewed victims.)

He was at pains to emphasise that there is no suggestion that New Zealanders were responsible for any harm to civilians – that occurred because of the helo gunsight malfunction – but that SAS soldiers blew up an arms cache and two houses during the raid.

On the phone he gave me a deadline of Monday for a response but I note that isn't restated here.

Chrs Geoff

**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.



Aug 21 MAORI TV 2030 - 2130 30 JUN

2010 Jon Stephenson. "Tigeran"

21 people killed innocent villages.

= 6 civ dead + 15 wounded.

\*

SAS Kabul board helos.

Tim O'Donald.

Baglan Province ISAF mission PM Key informed.

April 2014 - civilians killed - claimed.

Aug 22 attack. 1230 pm / night.

Helicopter landed Killed innocent people.

Claim 9 people killed - farming / farmers.

Only insurgents killed.

- 9 women killed injured / killed.

- Houses stormed Up to 6 houses stormed / destroyed.

Injuries came from Helicopter fire.

3 yr old girl killed of 6 killed. Piece of rocket.

• Could not confirm deaths.

• No one contacted villages.

2030 -

30 Jun 14

29 Aug investigated - Several rounds struck wrong building from helicopters.

Claim of civilian casualties were unfounded ....

Questions remain

NZDF stated: stands '20 Apr. 2011' statement.  
'by statement.'

Manage Situation.

Military Secretary took documents to MinDef that was from ISAF that indicated, 'there may be civilian casualties'.

> Mike Thompson

• PSR(IC)3

> Chris Hoey

• Exec Summary of Report from ISAF

• Was there a document?

Joint Assessment team.

29 Aug Report  
for MAPP.

0830

1000 - 0900 "0830" Brief Verbal.

Josh 0935 pm : PSR(IC)3

Green

Differences in Exec Summary.

"Primary Source document contradicts the brief to MinDef."

0830 - 0910

MINDEF BRIEF

01 Jun 14

COS, VCDF, SECDEF

• Minister felt let down by his Saturday brief

• Too casual and did not contain all info held.

critical piece left out.



- Assessment Team Summary (ATS) - When/How did NZDF get this document?
- Ryan McKinstry - interviews
- what did he know
  - How did he interpret.

### SAS "Accountability"

credibility eroding over time (Out of scope).

Not Fallible no question of core skills

political judgement - lack of insight

confusing discredibility of activities.

having a particular shielding effect.

### DSO

look at position - not being SAS. Tim Grayson.

### Actions Taken:

- PM spoke to media saying no civilians were killed and that ~~Stanes~~ was again wrong.
- Minister wants a brief on how the Assessment Team Summary document was not available to CDF.
- **MFAT** - briefed on situation by NZDF/MAO immediately after (at 0900).
- SecDef - stated CDF was let down by Defence. to Minister and **MFAT**
- Report back in two days on:
  - > McKinstry interview
  - > ATS document - how did we get it, etc. Handled by whom...
  - > Request for full Assessment Document
  - > Assurance on variety of briefs - particularly involving SAS.





# Out of scope

Mar 30 Jun 14

# Out of scope



# Out of scope

② NPM on investigation  
Chris Hargreaves

# Out of scope



Out of scope



2030 Hear TV

Allegations the NZ forces were involved in operations that involved civilian casualties.

4 Op. ANSF + US troops

Night raid, on a village

6 dead, 15 wounded.  
21 innocent Afg civs killed or injured

Footage not from op in question

Mission approved by US authorities,  
PM briefed.

Not a raid, six people killed.

Injuries came from helicopter  
gunfire. ~~Not after~~

3 yr old girl among 6 killed - alleged.



## PSR(IC)3

alleges other reports stated that Civ casualties did occur.

independent

calls for an enquiry.

• review the veil of secrecy

NPing

not a report.

Summarisation of investigation

Next move. PSR(IC)3

- make noise, don't expect any reaction.

\* No discussion from provided to date.

\* Initial statement (2 briefing notes to Wye staff)

TSAF EA Sum (26/8/14)

→ likelihood of in casualties

→ totally cleared ground forces - no evidence



Tue 1 Jul 14

Brief at 0830. 2 QND.Explanation primary source doc,  
executive summary and difference,QND 0830 1/7/14.

- Rich McKinstry - interview
- SAS accountability
- More formal briefings are required on the basis of
- credibility issues over time (PSR(IC)3).
- SF are not fallible. No question on their core skills, but on political judgement, lack of insight, to foresee (desirability) desirability of their acts, leaving a certain ~~shielding~~ <sup>shielding</sup> = unaccountability. SAS verbatim at risk.

What did he know how did he interpret.

notion

DSO - Look at this form not being SAS.



OCE Meeting

CAF

- ① Envelope from JB (1507).
- ② ISAF Report. PSR(IC)3 number now  
to report at ISAF tea
- ③ 3x NTMs 25/8/10, 10/12/10, 13/12/10.

④ **Out of scope**  
⑤ **Out of scope**



20  
Wed 2 Jul 14

# Out of scope

0900 Pete Kelly. Categorically stated  
that he had not seen the  
IT Assessment (Incident Assessment Team Dec Summary)  
He was aware that an assessment  
had been verbally briefed to SVO  
McKinstry and that the ground forces  
activities were conducted in accordance  
with the plan. ~~Doc~~  
Conjecture - that the Dec Summary  
has come into HQ via another  
channel eg Legal.



0935.

Rian McKinstry - departed theatre 8/9/10.

Had not seen the Incident Assessment Team (IAT) Summary until DSO emailed him a copy on 1/7/14.

He had not seen a copy / draft when in theatre. He had read a verbal advisory that ground forces in op (incl NZSAs) were not responsible for any CIVCAS.

When he departed theatre <sup>(@9/10)</sup>, he advised ~~base~~ NZ staff (PSR(IC)3) to keep a look out for the IAT report.

He had had a trawl through NZSAs data base at Papakura - nothing found.

He had not idea how the IAT Summary ~~had~~ got to the DSO's safe.

---

# Out of scope



1027 Spoke to PSR(IC)3 Will also a  
travel through DES Swift.

2

Out of scope

PSR(1C)3

Hager - A Stephen

hit and run.

Online, nothing new,

Challenge to keep  
challenged integrity of staff  
hold our session as always,  
propagation in our  
examples, we are not  
war criminals. This is  
unethical

- 2nd to move in this space.
- no evidence to suggest otherwise.

(\*)  
- Alkalies used.  
- replace legs  
- supports  
- force for NT  
force for good

for - Chen

⊗ All previous per please,

Depends on orders, in matter of Stephen V.  
Jan, still outstanding eg permanent suspension  
of cases of early NZSAS personnel.

Wed 22 Mar 17.

Wed 22 Mar 17.

## Out of scope

- ✓ 1130 Pre-test with vcat.
- ✓ 1230 Plan to discuss Floyd book.

### Out of scope

#### Allegations

- ⊗ intentionally conduct direct attack against civilians.
- ⊗ did not take care of civilians - wounded
- ⊗ intentionally destroy property houses
- ⊗ captured 500000 allegedly beaten by NZ forces a bunch of men.

## Out of scope

#### Qwest time

- Plan flagged that he has called for more briefings, "continue to get briefing"
- discuss matter further with CDF and the Def on their return from Iraq.
- in interim have asked for some written advice from NZSAS

## Out of scope



This note was attached to the page above dated Wed 22 Mar 17.

Obs 1250<sup>h</sup>  
Kevin Burnett  
Cos @ WFEAT  
would like you to  
call Re Book a  
direction NZDF taking.  
**PSR(IC)3**  
- Strongly depend SAs against  
the allegations, stand by  
statement Wood  
- for Monday briefed

7pm 23 Nov 17

✓ 2015

Out of Scope

Proddle re 14th.

Wendy & Dave re meeting  
car RFE.

Out of Scope

Fri 24 Nov 17.

Out of Scope

## Sunday meetings

- ✓ 1100 - 1200 CDF above reading pack
- ✓ 1200 - 1300 CDF, VCAF and **PSR(IC)3** discussion
- ✓ 1330 - 1430 CDF, VCAF, COS, BUS, SOCC, CAPA
- ✓ 1445 Depart for BH.
- ✓ 1500 - 1550 Pre-meet with Lin Def.
- 1600 Discussion with Lin Def.

## Out of scope

- ⊕ ~~Lin Def meeting (1500)~~
- ⊕ ~~Of the~~ PSR(IC)3 PSR NE SAs on the TIG land
- 24/22 Aug 10 - how many are still serving.

on review of book and what but there are some glaring inaccuracies including saying two villages that were not parts of the 210 raid, or NATOAS never visited.

on 210 raid 1 shot, killed is urgent. The has previously been blamed by NATOAS, or with as the cut first or subjugated you might right my house cannot damage.

did not detail Qari killing, and if there was any claim of misstatement raised by QM or person who said she observed - it would be investigated.

Qari statement on support for NATOAS needs.

14 (1610).

Technical investigation of the Arabic gun as signal mismanagement - verbal debrief - NATOAS exec summary.

173 - from release + media conference at later date.

How far from OAT (Bahrain) + District Governor + Hospital facilities.

Car type - ground ref; do they tie in with other ground ref. ie going on ground

CSF to talk to Cien Paval (NATOAS) to facilitate getting first report

1710 Office (1710).

avoided ambiguity the matter in both, it became apparent that



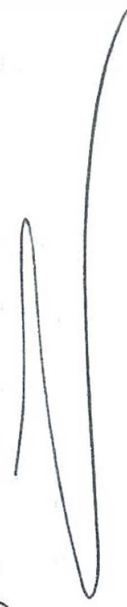
both interviews were not done at the location of the operation.

② Notes stopping off getting a semi-official report after a review documentation.

- verify documentation
- of orders
- CoE
- Types
- After action reports

③ SAS replication

④ Unarmed sources need to come forward to publicly state their claims/allegations.



PSR(S)1

Mon 27 Nov 17.

✓ 10245 CUB  
✓ 10800 O Group - preps for pen conf.

~~Expts~~  
Preps for Pen Conf.

⑤ 1500 kindly

- 3 Aug incident - scene settled.  
start by Aug 9 began  
The Old patrol.

- Tivon Village.
- Op bunkum

⑥ - present H&H "facts", not  
challenging.

Long with two villages  
detail of CEs, when people fell,  
where source alleged to be, before  
death. This is what you have  
told by Kover + Stephenson

② 2nd screen Any of Q  
 between As controlling  
 with whole pick attorney claim  
 the of both place.  
 - water bottles, powder.

③- Compare and contrast on facts  
 with both claims.

④ legal perspective  
 - fibres not letters during  
 these hours of Q.

- process for investigation  
 when claim of Ques  
 - include that part is prepared  
 for other agencies of DfC, CHSAA  
 for their review.

- how breaches are dealt with, but  
 investigate conditions internally  
 ⑤ SATS reports, any refer to conditions  
 aircraft

CAR helms Conference 27/3 1500.  
 Intro/Safety by CoS. 1500.  
 Registration commenced 1502 completed 1527.

⑥ 1st message

⑦ from packet to go to those attending

⑧ OIA responses.

⑨. Call into Sir Jerry.

⑩ Script to break having to info  
 and forwarding to Sir Jerry.

Out of Scope

④  $FM \quad R \quad H+R$

Out of Scope

The 26 Nov 17

Out of Scope





Article Information	
Article Title	<a href="#">Defence Chief Hager's 'revenge raid' book could harm New Zealand's reputation</a>
Source	NZ Herald. Transcribed by the Inquiry into Operation Burnham staff.
Date Published	22/03/2017

# Defence chief: Hager's 'revenge raid' book could harm New Zealand's reputation

22 Mar, 2017 10:52am

March 2017: Authors Nicky Hager and Jon Stephenson launch their book *Hit & Run* in Wellington on New Zealand's SAS involvement in Afghanistan.



By: Isaac Davison

Social Issues Reporter, NZ Herald

isaac.davison@nzherald.co.nz @isaac\_davison

The New Zealand Defence Force's highest-ranking official says there "better be some really good, hard evidence" for any allegations of war crimes by the New Zealand Special Air Service (SAS) in Afghanistan.

Speaking exclusively to the *Herald*, Defence Force chief Lieutenant General Tim Keating strongly defended the SAS against allegations in a new book that the elite soldiers botched a raid on an Afghan village in 2010 and then covered it up.

Keating has just left Taji Military Base in Iraq, where he made a secret visit with Defence Minister Gerry Brownlee this week.

He said his staff had so far found nothing in Nicky Hager and Jon Stephenson's book *Hit & Run* that would require re-investigation.

The book, released yesterday, alleged that a New Zealand-led raid killed six civilians and injured 15 others in Baghlan province - contrary to official reports at the time that said no civilians were hurt.

Keating said today that the raid was investigated by "competent external authorities" in 2010, but his officials were reading the book to determine whether a reinvestigation was required.

He said the NZDF held itself "to a very, very high standard" and that he backed them as a military that followed the rule of law.

"So there'd better be some really good hard evidence that says that we - as I believe may be a connotation here - are guilty of war crimes.Close ad ✖

"People have to be very careful about the claims they make around this, not so much on legal grounds but on what this could mean for the damage to New Zealand's Defence Force."

The Defence Force was known internationally as one that upholds the rule of law, which was why its soldiers were liked as trainers in Iraq, he said.

"It's a huge reputational issue. There is a legal terminology for that that you can go into but there'd better be hard evidence to back that.

"If somebody makes an allegation today about Task Group Taji, because we train on our reputation, we will throw all the resources we can at that to ensure the facts around the case and if there is none, we will continue with our strong reputation we have had as a modern Defence Force."

Defence Minister Gerry Browlee said it was difficult to comment without reading the book, though he had been given an outline of the allegations.

He echoed comments by the NZDF that the operation had been widely investigated and that no civilian casualties had been found.

"Our position hasn't changed since 2011. I can't see why it would be changing.

"What I've been told is that he is talking about an incident that has been extensively investigated, based on previous accusations of civilian deaths.

"And those accusations have not been proved at all accurate. Quite the opposite.

"There have been several investigations including by ISAF [International Security Assistance Force] itself and the allegations that are made simply have not been substantiated in any way whatsoever."

Brownlee also criticised Hager for the timing of his book's release.

"Mr Hager has written a book with the idea of selling it. It's election year. It shouldn't surprise anyone that he has brought out a book that is designed to cause a degree of trouble.

"But this time, I've got to say, he has totally missed the mark again."

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."

The allegations in Hager and Stephenson's book would probably not be enough to launch an inquiry, he said.

"But as I've said to you I haven't had the chance to read his book but I haven't been briefed that there is anything new in what he is saying.

## Revenge raid

Hager and Stephenson's

book alleges

that six civilians were killed and another 15 people were injured in an SAS "revenge raid" to pay back Taliban insurgents for New Zealand's first fatality in Afghanistan.

The allegations were in direct contrast to assurances given by former Prime Minister John Key, former defence ministers Jonathan Coleman and Wayne Mapp and the New Zealand Defence Force.

The official story was that nine insurgents were killed during the raid. The book alleges no genuine targets were found and women and children were among those killed in a bombardment from attack helicopters.

The book, *Hit & Run: The New Zealand SAS in Afghanistan and the meaning of honour*, quoted one military source as saying: "They knew they had committed an atrocity."

Another was quoted saying, "it was definitely a revenge raid".

The book claimed Mapp later told the friend the raid was ""our biggest and most disastrous operation". The book stated that he called the raid "a fiasco".

Hager and Stephenson have written extensively on New Zealand's involvement in Afghanistan.

The book stated the allegations were based on information from more than 30 people, and many of the approximately 20 New Zealand and Afghan military sources were directly involved in the raid.

Article Information	
Article Title	<u>Checkpoint with John Campbell <i>There was a firefight and the insurgents withdrew out of the way</i></u>
Source	Radio New Zealand. Transcribed by the Inquiry into Operation Burnham staff.
Date Published	22/03/2017

## Checkpoint with John Campbell There was a firefight and the insurgents withdrew out of the way

RE: 'It's possible' civilians were killed - former Chief of Army

22 March 2017

John Campbell:

If the Hager/Stephenson book is rejected by the government and the NZDF too which of its assertions are wrong in fact. Where are the reports and investigations stating no civilians were killed, who carried them out and how confident are they of their own exactitude. We asked the prime minister, the defence minister, the previous defence minister Wayne Mapp, the then chief of defence force Sir Jerry Mateparae or any member of the defence force to join us on Checkpoint tonight. None were available. We did manage to speak to Major General Rhys Jones, Lieutenant General Rhys Jones while he was chief of army and at the time he didn't replace sSir Jerry Mateparae as chief of defence force until sometime after the raid. He was not in the command stream when the raid occurred, still, is he confident the raid reports he subsequently received stating no civilians deaths are indeed correct.

Rhys Jones:

I'm pretty confident the official report about the SAS landing, about them doing the attack, on the ah, the building where the bomb making team, or the attack team had been located, there was a fire fight, and the insurgents withdrew out of the way. Um we're pretty confident that there were no civilian casualties. There were of course the immediate claims by the insurgents that there were civilians killed. As I understand the Afghan government and the ISAF followed up that claim. They visited a hospital in the local area where the reports of the civilian casualties and they only done a couple of fighting aged males with gunshot wounds.

John Campbell:

No civilian deaths. That's what major general Rhys Jones had been told and that's what the defence force said publicly on April 20 2011, eight months after the raid. When a media statement said and I quote "allegations of civilian casualties were unfounded".

How thoroughly was this examined? Who examined it? Who did the investigation?

Rhys Jones:

Um that was done by ISAF at the head quarters because they were the ones responsible for that, alongside the Afghan local authorities who investigated all claims of civilian casualties.

John Campbell:

So no New Zealand investigation on the ground and the lead investigating party was ISAF – the International Security Assistance Force, whose own service members had participated in the raid as explicitly stated by ISAF itself in a media release the day after the raid occurred. But there was another version of events published in the New York Times the following day August 24th. It said, and I quote "a night time raid by NATO commandos had left eight civilians dead" now their source was the regions governor who told the New York Times' reporter in Kabul the dead included a child and the Hager/Stephenson book makes the same claim, but it says six civilian dead and the new york times said eight, while ISAF and the NZDF both participants had said none. Now the raid itself is not in dispute. The NZDF says it happened, the dispute is over civilian deaths. How many were there? eight, six or zero? What happened on the ground? And was it exactly the same as people in Wellington 13,000 km away were told?

Rhys Jones:

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.

John Campbell:

Remember the report came from ISAF and the only ISAF and NZDF personal who were there, were participants.

But you are absolutely confident, to the best of your knowledge that there were no civilian casualties and that it was insurgents who were targeted and insurgents who were killed.

Rhys Jones:

Um, yes uh but I do claim it to my knowledge so one of the realities is that because we couldn't stay around the area to do 100% check there may be things that we were not aware of. But I am confident that it was an insurgent based attack and it was a fire fight, with insurgents and that civilian casualties did not occur. Now the way in which they often operate, the insurgents operate, they do sit and camp or spend the night in the areas where there are civilians around as a kind of human shield. So yeah I mean it is possible but not to our knowledge.

John Campbell:

That's Rhys Jones I've spoken to him so he's saying its possible, the defence force have previously entirely ruled out civilian casualties, Rhys Jones says not to his knowledge. We are now hearing reports from our own gallery team and from Newshubthat Wayne Mapp who was of course defence minister at the time and reportedly in the book signed off or at least was informed of the operation being about to take place has said yes there were civilian casualties. We're just trying to get exact clarity around the language he is using. Remember of course the book was only launched this time last night as those of you who were listening to check point at the time will remember we're trying to work out and find out exactly what Wayne Mapp is now saying.

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**Morning Report *You're in a counter-insurgency operation – there's always going to be civilians around* (23 March 2017).** Transcribed by the Inquiry into Operation Burnham staff.  
[https://www.rnz.co.nz/audio/player?audio\\_id=201837663](https://www.rnz.co.nz/audio/player?audio_id=201837663)

RE: Mapp SAS not guilty of war crimes, operation a “fiasco”

RNZ Presenter:

The former defence minister Wayne Mapp has defended the actions of SAS soldiers whose botched insurgency operations in Afghanistan in 2010 left civilians dead according to a book by the journalists? Nicky Hager and Jon Stephenson in their book *Hit & Run*, details the scenario that they paint where six civilians including a three-year-old girl were killed and they alleged that these incidents could be construed as war crimes. Dr Mapp says the SAS soldiers were acting in the honest belief that they were being attacked and the fact that they were mistaken does not make them guilty of war crimes. He has spoken to our reporter Tom Furley this morning and he said the reports he received at the time did not reveal civilian casualties.

Mapp:

Well an investigation was undertaken quite soon after by the Afghan (joint investigations) by the Afghan government and the allied forces known as ISAF, they act on behalf of all coalition forces in theatre, and that was their findings, and that was their finding because we thought we'd been attacked by insurgents and obviously the US helicopter gunships had obviously undertaken the action, but that was the, the honest belief at the time. We relied on the investigation.

Reporter:

So...

Mapp:

Both the defence force, General Mateparae, myself and everyone else involved.

Reporter:

At what point did you find out that civilians were caught up in this?

Mapp:

Fundamentally the ah, the television program on Maori Television, which 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, and um, and I also knew of course that, uh, the people we were actually targeting had not been arrested or killed and, but we were in a village that at least from that direction we'd been under constant attack. The PRT in particular had been under constant attack so this was in essence a hostile village, bomb makers and the like lived there.

Reporter:

So the first that you heard of civilians being killed was on TV. What in 2014? Was that one of ah? One of Jon Stephensons.

Mapp:

Ah yes I think it was one of the programs he put together.

Reporter:

So at no point did the defence force tell you that there have been civilian casualties?

Mapp:

I'm not sure that they knew themselves to be honest. Ah they, in fact they wouldn't have because they went in, conducted the operation, left. It was a night time operation. They would have been operating under, you know, difficult visibility conditions. No matter what you've got in terms of night vision equipment it not the same as daylight and so they relied on the investigations as well.

Reporter:

But presumably when their lives are at risk here they should have made sure that the people weren't civilians before they went in?

Mapp:

Well you're in a counter insurgency operation. There's always going to be civilians around and if people are moving towards you, looking like they're in a tactical formation then you're entitled to defend yourself. That's the circumstances they were facing. They considered they were under attack. Bear in mind, insurgents here, it's not like a full time job where you know you're wearing a uniform. You can be a farmer by day and an insurgent by night. That's the reality.

Reporter:

In 2011 you said that no civilians were killed and that there had been that investigation, but then...

Mapp:

But that was based on a; the information that had occurred at the time and b; the investigation and so that covered the New Zealand Defence Force and obviously the information I received, that was our belief.

Reporter:

But back in August 2010 the ISAF Joint Command issued a press release saying that there was a possibility of civilian casualties. So who was telling you that there was no civilians casualties?

Mapp:

Well I don't personally recall seeing that document, um, the document that I recall seeing was the one that was done earlier.

Reporter:

So when was that investigation completed?

Mapp:

I can't give you the, it was within a few weeks.

Reporter:

Was it that alone that was enough to satisfy you that there had been no...

Mapp:

Well that was the normal form of investigation that was carried out in Afghanistan. There was extensive procedures in all of these operations to hold then an investigation into what happened. When counter insurgency operations were happening literally every day in Afghanistan right across the entire Afghanistan. Ours was one of many, many, many uh such operations.

Reporter:

You mentioned uh talking about the television program that you saw, that that was sort of in line with evidence that you'd seen. Are you able to elaborate more on that?

Mapp:

No. No I think you misinterpreted that. That was the first time I was aware that a child had been killed.

Reporter:

Right. Was that the first time you'd been aware that a civilian had been killed?

Mapp:

Uh it would have been yes.

Reporter:

Right. So what do you make of, of this latest book saying that six civilians have been killed? Do you think that's...

Mapp:

Well as I have just said to you, the New Zealand Defence Force thought they were, reasonably thought they were under attack by insurgents and you come back to this point, uh insurgents/civilians often in fact are the same people.

Reporter:

Right so, you're saying that we don't know whether these people were civilians or insurgents?

Mapp:

Well at the time it seemed they were, they were acting as, they were acting in a military fashion. Otherwise why would they have been engaged? That's why they were engaged. Because the New Zealand Defence Force thought they were under attack. It's pretty clear actually. Even the authors of the book admit that.

Reporter:

Right, right but you're not denying that civilians were killed in this.

Mapp:

Well I, the people we were aiming to get we did not get. People were killed. The people who were killed, the specific people who are targeted, if you will, were acting as a threat. They were moving to the position of the New Zealanders on the ground.

Reporter:

But you don't know whether they were insurgents?

Mapp:

It was a reasonable belief the commanders on the ground to make that assessment.

Reporter:

Right, I mean do you...

Mapp:

And that's, that's the position they're confronted with. They can't operate in hindsight, they have to operate on the basis of that facts right there in front of them at that time and then make a decision. This is a sort of a core uh requirement of anyone involved in the military.

Reporter:

When the book says that there could be a case for war crimes, I mean what do you say to that?

Mapp:

I think that's fundamentally wrong. Because, and this was the point of the investigation, that was specifically dealt with. I mean if you act in an honest and reasonable belief that you're under attack, that people are attacking you, the you're entitled to defend yourself. That's very, very clear. I used to teach international law, I'm reasonably familiar with this subject.

Reporter:

Right, so these people that died, I mean, so they were attacking the...

Mapp:

The belief was that they were acting in such a way that that was a, what was interpreted.

Reporter:

Right, and what about the cause[case?] for inquiry? Do you think one is needed?

Mapp:

Well that's really a matter for the government to determine. They're still obviously gathering information about that.

Reporter:

But ah, just on the face of it and your own experience given that...

Mapp:

Well I'm a former minister and I take the view, a matter for that is a matter for the current government to make their decision based on the information they get and have.

Reporter:

Have you called the operation disastrous and a fiasco?

Mapp:

Well I'm not denying that I said those words, but in reality the mission did not achieve its objectives.

Reporter:

So that's a yes?

Mapp:

The words[?] have been said yes.

RNZ Presenter:

Well that's defence minister, former defence minister Wayne Mapp.

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**From:** s. 9(2)(a)  
**Sent:** Wednesday, 12 September 2018 11:19 a.m.  
**To:** Coleman Peter, Mr ss 9(2)(a) & 9(2)(k)  
**Cc:** s. 9(2)(a) WGCDR ss 9(2)(a) & 9(2)(k)  
**Subject:** RE: Re query

Thanks for that Peter. This is most helpful!

Regards.

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**From:** Coleman Peter, Mr  
**Sent:** Wednesday, 12 September 2018 11:14 a.m.  
**To:** ss 9(2)(a) & 9(2)(k)  
**Cc:** s. 9(2)(a) WGCDR ss 9(2)(a) & 9(2)(k)  
**Subject:** RE: Re query

Hi s. 9(2)(a) - I don't think media were on to it in 2010... NZDF (and I have copies of these) issued some media releases about a soldier (NZSAS member but not labelled as such in the statements) injured while in Afghanistan, but it didn't reference Op Burnham specifically, and was done because it was possible that media would have found out through other means that we had evac-ed a person via Germany to NZ.

I also have a SCI (now SCE) Branch summary of Op Burnham events that the meta data suggests was created in December 2010, and corresponding analysis of SCI about why NZDDF shouldn't pro-actively talk about this operation. I've already passed those to s. 9(2)(a) I had for a long time thought I had coined the phrase 'unfounded' based on these documents, but my own amateur sleuthing was that NZDF issued its response to media circa April 2011 - I was at the Command and Staff College at this time, so it wasn't mine... s. 9(2)(a) was the Media Manager at that time.

ISAF/NATO issued two media statements I think in the second half of 2010, the first saying that a successful raid had taken place; and then secondly, that locals had come forward to raise concerns, and that NATO had looked at this and it was possible that civilians were killed from a malfunctioning gunship sight... I do not believe NZDF comms were aware of these releases at that time... i.e. would not have used the phrase "unfounded", had it known of the concern raised locally, or that NATO had essentially said it was possible because of the malfunction.

If someone were able to do a NIAT search of my email account for December 2010, with key words like 'Afghanistan'... the emails I received/sent may spark something else?

So in terms of clippings, we don't - as far as I know - hold a file within NZDF from this period.

PC

**Peter Coleman**  
**Chief Advisor - Office of the Chief of Defence Force**  
NEW ZEALAND DEFENCE FORCE  
ss 9(2)(a) & 9(2)(k)  
www.nzdf.mil.nz

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**From:** s. 9(2)(a)  
**Sent:** Wednesday, 12 September 2018 10:31 a.m.  
**To:** Coleman Peter, Mr ss 9(2)(a) & 9(2)(k)  
**Cc:** s. 9(2)(a) WGCDR ss 9(2)(a) & 9(2)(k)  
**Subject:** Re query

Hi there Peter.

I am with the SIO. I am writing on the off chance that you may be able to direct me towards an NZDF resource which contains all the media reports collected concerning Operation Burnham, in the remaining months of 2010? I appreciate this was a while ago but just doing some digging.

Regards



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