

**NZDF's response to  
issues raised:  
'Baghak Contact'  
04 August 2012,  
And related matters**



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## Should we have been there?

Should New Zealand have provided 'in extremis' support to the NDS, that is, did they need to be in the Baghak Valley that day at all?

### NZDF – 'Yes'

The New Zealand Provincial Reconstruction team (NZPRT) responded to a call for help from the Afghan National Directorate of Security (NDS), after an NDS operation went tragically wrong in August 2012.

The Assembling Authority of the Court of Inquiry was Major General Dave Gawn. He had previously been the Commander Joint Forces New Zealand, and at the time of the release of the COI Report was the Chief of the New Zealand Army. In his Assembling Authority Report, which was publicly released by the NZDF with the COI Report, he notes that the NZDF was right to provide *in extremis support* [see COI page 39, para 8]. This remains the NZDF's position:

"I share the Court's view at para 26 that the situation that resulted in the deployment of NZPRT assets to support the NDS was entirely appropriate and fits within the definition of *in extremis* support. It is apparent that the NDS had suffered significant casualties as a result of insurgent (INS) activity on the morning of 4 August, and the fate of a number of wounded rested in the hands of the NZPRT personnel who came to their aid...."

## **Shouldn't the NZPRT have run when there was a lull in the fighting?**

There was a lull in fighting after members of the NZPRT responded with 'in extremis' support to the NDS. The decision was made to stay in the valley, take the high ground, and exploit the scene. Was that the right decision?

## **NZDF – 'It was right to take the high ground'**

The NZDF doesn't believe it appropriate, or indeed useful, trying to second-guess the decisions made by a commander in the field, judging the decisions they made through the lens of 20-20 hindsight. Rather, better questions to ask are: are the decisions taken understandable and consistent with the facts as they were understood on the ground at the time; and are those decisions consistent with the training and doctrine taught to New Zealand forces? The answer to these is a resounding 'yes', according to Defence Force senior leaders.

During the press conference where the Baghak Court of Inquiry was publicly released on June 13, 2013, a member of the media present asked a direct question about Major Wilson, the Officer Commanding, being "too aggressive". That was responded to by Major General Dave Gawn, the Assembling Authority for the Court of Inquiry. This continues to be NZDF's position:

### **MEDIA QUESTION:**

"There's some questions in here about the rules of engagement. Was Craig Wilson too aggressive in this pursuit of insurgents in this circumstance?"

### **MAJOR GENERAL DAVID GAWN:**

"I think absolutely not. If you consider what's going on and it is an in-extremis support and they know that they're going into a situation where there is already significant casualties. The operation to secure the high ground, I'd have been more surprised if they hadn't done that than the fact that they did, so no I don't think he was."

## **But Major Wilson was too aggressive, wasn't he?**

Was Major Craig Wilson, the Officer Commanding that day, as has been contended by media, too aggressive?

## **NZDF – ‘Securing the high ground was the correct tactical move’**

As the previous interchange between Major General Dave Gawn and a member of the media contingent present at the Court of Inquiry release, NZDF has responded to direct questions about Major Wilson, the Officer Commanding, being “too aggressive” at the Baghak contact.

Moreover, media questioning at that press conference then moved on, but returned for a second time to a question directly asking the NZDF for comment about Major Wilson's actions, with both Major General Gawn and then Chief of Defence Force, Lieutenant General Rhys Jones, addressing this issue specifically. This continues to be NZDF's position:

### **MEDIA QUESTION:**

“And in terms of you know, there is in here that perhaps they didn't need to – to necessarily push on further [indistinct] you're sure that Wilson got it right?”

### **MAJOR GENERAL DAVID GAWN:**

“I am.”

### **CHIEF OF DEFENCE FORCE, LT GEN RHYS JONES:**

“And let me put that into context. When you see the terrain there, what actually needed to occur was that area needed to be secured so evacuation of the wounded and injured could occur. If you think back to that video clip [a three-minute clip provided by the NZDF to media to highlight the environment and chaotic fight that day], how can you secure that if you're not on that very high ground around it? So the push on that occurred was up to the crest line so they could stop anyone seeing down on the roads or with a helicopter or where the casualty clearing post might be. So it was quite a correct tactical move to push up to try and secure that high ground. So no, he wasn't being over aggressive. He was – that was their role, to secure that site so that evacuation could occur.”

## **Didn't NZDF not release all of its video footage and wasn't what was released doctored?**

Much has been made of the fact that NZDF had more than the three minutes of video it originally released and that the three minutes itself had been doctored. Isn't that evidence the NZDF didn't want the public to know how chaotic this firefight was?

### **NZDF – 'No good deed goes unpunished'**

Major General Gawn and Lieutenant General Jones when publicly releasing the Court of Inquiry were keen to show the media and New Zealand just how difficult the terrain was, and the intensity and chaotic nature of this firefight. It was never purported to be the full video file, and the NZDF is unaware of any media outlet in New Zealand that left the media conference held that day, thinking the three minutes provided on disc to the media was all of the video we held. Here is how General Gawn explained the video. We stand by the explanation of that video clip:

#### **MAJOR GENERAL DAVID GAWN:**

Okay, what I want to do now is show you a video footage. The video footage was actually shot from a helmet cam during the Battle of Baghak, but it is shot from a location that is outside the very close battle where we had all of our injured. I'm doing this so that you and the public can actually relate to the severity of the terrain, and you cannot appreciate that unless you've been there, and this is the terrain over which this fighting occurred. What I want you to take away – as we go through the events that subsequently occurred – is the steepness and ruggedness of the terrain under which they were fighting. The uncertainty of ascertaining exactly what is going on when you're in a situation like that. The sheer volume of noise that you get in a firefight. You will also see some of the NDS and the dress that they are wearing, which is exactly the same as any local Afghani, or for that matter, the insurgency, so you can understand that there is an issue in terms of identifying the insurgent from the local. You'll be able to identify with the junior commander, who is quite calmly laying out the dispositions of his patrol. And at the end, you will see the aeromedical evacuation helicopters coming to lift casualties of the dismounted patrols off the side of a mountain. So that will give you an orientation to the subsequent graphs and pictorials that we have as we go through this brief.

General Gawn doesn't mention that the sound has been altered in one regard, and that's the difference between the NZDF version used at the press conference and the version the NZDF provided to Stuff Circuit. This difference comes about because Defence Public Affairs staff thought they were doing a decent thing, sparing embarrassment for one of the soldiers who was, literally, swearing like a trooper.

So NZDF communications staff did remove the soldier's expletive-laden remarks. As you can tell from General Gawn's commentary above, there was no intent to convince people that this was anything other than a very frantic scene. With the benefit of hindsight, in the future the NZDF will be clearer about when it is edited a video, even when trying to do the right thing by one of its people.

All the video footage known to be held by the NZDF at the time has been released to Stuff Circuit by the NZDF.

## But Baghak was a bait-and-hook wasn't it?

Much has been made of the phrase 'bait and hook'. The public may be under the impression that in the Baghak valley that day, Major Wilson was performing a military manoeuvre called a 'bait and hook'. Was there a 'bait-and-hook' in the Baghak valley?

### NZDF – 'No'

The NZDF doesn't have any manoeuvre known by the name 'bait-and-hook' (or similar name), though it may be a colloquial soldiering term related to some kind of orchestrated ambush. That is, when a force might be deliberately sent to engage an adversary, while a larger force waits ready to join the fight and overwhelm the adversary. It is difficult to align the sequence of events that occurred in the Baghak valley that day with this manoeuvre. The circumstances leading up to and surrounding the contact, including the death of the soldiers and wounding of the casualties, is available at page 9 of the publicly-released Court of Inquiry Report. The NZDF continues to accept this as the sequence of events:

**4 AUG 12:** At approximately 0800 hours, KIWI COMPANY (KIWI COY) elements were made aware by National Directorate of Security (NDS) personnel that a Significant Activity (SIGACT) had occurred in the vicinity of DAHANE BAGHAK in the SHIKARI VALLEY in the morning of 4 Aug 12. The NDS had undertaken a search and seize operation in the early morning, an operation that went badly.

**SOLDIER B**, the Officer Commanding (OC) and **SOLDIER A**, the Commanding Officer (CO) decided to deploy KT4 (3 x HMMWV) to the scene to render *in extremis* support to the NDS.

Subsequently KT2 and KT1, both LAV based elements, deployed in support of KT4. When KT4 arrived on scene at 0946 hours, they found 1x NDS Killed in Action (KIA) and 6 x NDS Wounded In Action (WIA) (1 x WIA subsequently became a KIA).

They assisted with the evacuation of the NDS casualties and then commenced a dismounted clearance operation of a compound and the high ground surrounding the contact site in concert with the NDS. KT2 was on scene providing over-watch with KT4 vehicles while a 14 man dismounted patrol conducted the clearance operation.

At the same time, but further to the North, NDS were in the low ground as they commenced their own clearance of the high ground.

At approximately 1227 hours, shortly after the OC, **SOLDIER B** had arrived on site with KT3, the contact started.

All of the eight NZPRT casualties (1 x KIA and 7 WIA (1 x WIA –would become KIA), including the OC occurred in the space of approximately 12 minutes somewhere between 1227 and 1239.

The 2 x KIA (LCPL MALONE and DURRER) and 4 (**SOLDIER B**, **SOLDIER C**, **SOLDIER D** and **SOLDIER E**) of the WIA can be directly attributed to INS fire, while the remaining 2 x WIA (**SOLDIER F** and **SOLDIER G**) were in all probability, wounded by friendly fire, although INS action cannot be totally ruled out.

A further 4 x NDS (1 x KIA and 3 x WIA) became casualties during this time. Further engagement occurred throughout the afternoon as the NZPRT elements coordinated medical treatment and evacuation for its casualties.

The bulk of the NZ casualties (1 x KIA (MALONE) and 5 x WIA) were evacuated by US Army Aero-medical Evacuation (AME) from a Casualty Collection Post (CCP)

600m South of the contact site at 1426 hours while the last two remaining casualties were winched off the high ground at 1558 hours.

All NZ casualties were evacuated to medical facilities in Regional Command (North) (RC(N)). Unfortunately, LCPL DURRER died in the AME aircraft. At 1605 hours, a **(redacted)** reported seeing a group of 16 INS moving East away from the contact site carrying dead and wounded.

Throughout the afternoon, the NDS suffered a further 1 x KIA and 1 x WIA along with 1 x ANP WIA and 1 x Local National (LN). The KIWI COY elements consolidated all elements at the CCP by 1930 hours and then commenced the deliberate move back to Forward Patrol Base (FPB) DO ABE (now FPB MALONE – DURRER) and Company Out Post (COP) ROMERO. This move was complete at 0430 hours, 5 Aug 12.

## **But things definitely didn't go well for the NZPRT that day - why?**

The Court of Inquiry sets out what happened, but Stuff Fairfax Circuit team have suggested it doesn't set out the 'why it happened'. What is NZDF's response to this 'why' question?

### **NZDF – 'The major causes were identified in the Court of Inquiry'**

The publicly available 'Summary' of the Court of Inquiry quite neatly encapsulates the NZDF's position with regards to the essence of the Baghak contact (see paras 1-5 in the 'Summary – Overall' section). This remains the NZDF's position:

The incidents of 4 and 19 August 2012 marked an increase in the targeting of NZPRT elements. The CRIB 20 contingent was aware of this and had adjusted their operations accordingly. Unfortunately, so had the insurgents.

With the benefit of hindsight this COI lays out a neat and systematic sequence of events. However, in the few minutes of the contact for those involved, this was an intense and particularly chaotic firefight.

The early loss of senior patrol commanders further diminished the New Zealanders situational awareness and this contributed to the situation where New Zealand fire was the likely cause of shrapnel wounds to two New Zealand soldiers as LAV gunners in the valley below were unaware of the New Zealand dismounted patrols high above them.

Combat situations are highly dynamic. With adversaries actively seeking to end your life, these situations have few parallels in the civilian world. Expert military literature is rich in its discussion of concepts like 'friction' and the 'fog of war' – which seek to describe how these quintessential elements of battle in themselves impact task completion. Against this backdrop it is not accepted that friendly fire incidents are inevitable, but they are understandable.

These major themes are all expanded upon by the Assembling Authority, General Dave Gawn, in his report publicly released with the Court of Inquiry. The NZDF stands by these insights as presented:

#### **Page 39, para b: Fog of war or confusion of battle**

As outlined in para 34(b) the complex environment that surrounded the contact at Baghak on 4 August, directly contributed to what is commonly referred to as the 'fog of war'. There were numerous NDS, Afghan National Police (ANP) and local nationals in area, with the NDS wearing civilian clothing. Communications were problematic and at times, chaotic. The insurgent group was placed so it could affect fire in almost 180 degrees. The Officer Commanding (OC) was shot in the initial engagement, and **SOLDIER I** became committed to his preservation of life for a notable period of time. I note the other factors that are mentioned by the Court and consider that the extremely complex situation, although not unusual in combat situations, must be given due acknowledgment when considering individual and collective actions.

#### **Page 40, para e: Situational awareness**

I have no doubt that a lack of situational awareness caused the Blue-on-Blue which likely led to the injuries to **SOLDIER F** and **SOLDIER G**. This lack of situational awareness can be directly attributed to the OC being shot in the initial stages of the engagement, and the [PRT patrol] KT1 and KT2 Commanders not receiving briefs on locations and intentions of other patrols, nor providing such briefs to their troops prior to entering the battle. This is an important lesson that must be captured for future learning.

**Page 40, para g: Command and Control**

I agree with the conclusion of the Court that command and control of the entire contact on 4 August 2012 was problematic due to the scale of the contact, the involvement of the Afghan national Security Force (ANSF), the terrain, and the communication systems available. In line with the recommendation of the Court I will be directing that the Networked Enabled Army (NEA) project team be given access to aspects of the COI to enable them to analyse the various command and control systems that were utilised on 4 August 2012.

**Page 41, para j: Blue-on-Blue [friendly fire]**

I agree with the Court that Blue-on-Blue incidents are never acceptable. However, given the overall context, lack of situational awareness on the part of KT1, the location of insurgent (INS) which created crossfire scenarios, and the actions of some of the dismounts who fired at insurgents West of KT4, I accept that the Blue-on-Blue incident was understandable. It is important that NZDF learn from this incident. NZDF must continue to focus aspects of training on the importance of situational awareness, and on positively identifying targets in a fast-moving, complex operational situation.

## **NDS and NZDF personnel may have been shooting at each other, what is your reaction to a possible ‘Blue-on-Green’ claim?**

There have been allegations by Stuff Circuit that there was a group of NDS over a bridge to the West of the PRT Light Armoured Vehicles (LAVs) in the valley bottom, and a suggestion they fired upon each other.

## **NZDF – ‘It’s been looked at, but the Court didn’t reach that conclusion.’**

There are several separate paragraphs in the Court of Inquiry that make it clear that while NZDF held no conclusive evidence that a blue-on-green had occurred, there was certainly the conditions that made it possible, and that it could not be excluded:

### COI page 26, para 34.k

The Court acknowledges the difficulty that NZ PRT elements had when the bulk of the NDS were dressed in local clothing (plain clothes) **and could have well been mistaken for Insurgents (INS)**. Also, the sheer number of ANSF elements that gathered at the site throughout the day created significant command and control issues and added to the complexity of the situation.

### COI page 39, para 10.b

“As outlined in para 34(b) the complex environment that surrounded the contact at Baghak on 4 August, directly contributed to what is commonly referred to as the ‘fog of war’. **There were numerous NDS, ANP and local nationals in area, with the NDS wearing civilian clothing.** Communications were problematic and at times, chaotic. The insurgent group was placed so it could affect fire in almost 180 degrees... I note the other factors that are mentioned by the Court and consider that the extremely complex situation, although not unusual in combat situations, must be given due acknowledgment when considering individual and collective actions.”

### And especially the COI conclusion at page 30, para 36.y and page 34, para 11.t

“While no evidence of Blue-on-Green was produced to the Court, the fact that the NDS dress in very similar clothing to that worn by the INS **makes this a very real risk.**”

Maj Gen Dave Gawn also spoke to this at the Press Conference releasing the Court of Inquiry when describing the footage in the 3 minute video clip:

“...You will also see some of the NDS and the dress that they are wearing, which is exactly the same as any local Afghani, or for that matter, the insurgency, **so you can understand that there is an issue in terms of identifying the insurgent from the local.**”

## **The re-opened COI also specifically looked at Blue-on-Green issue:**

The Assembling Authority on receiving new information on 30 April 2013 from SOLDIER F not previously put before the Court of Inquiry, alleging further circumstances of “friendly fire”, re opened the Court of Inquiry on 03 May 2013.

One of the issues specifically looked into by the re-opened COI was: ‘The possibility of NZPRT elements firing on members of the NDS / ANSF and/or causing some of the deaths / injuries that the NDS / ANSF sustained.’ [page 33, para 2.c]

The re-opened Court of Inquiry then interviewed a total of seven military personnel, five had been interviewed previously by the Court of Inquiry, with two being interviewed for the first time. The COI concludes... there was lack of evidence at that time (COI page 35, para 7 C):

“...The NDS statement does not refer to any casualties being sustained as a result of the engagement at approx 1227 hrs. **In his own statements SOLDIER F did not**

**see elements of KT4 engage the NDS; he believed the fire came from the direction of KT4** (emphasis added).

“The Court Of Inquiry has seen no evidence that there was a Blue on Green, and the possibility of NZPRT elements firing on members of the NDS / ANSF and/or causing some of the deaths / injuries that the NDS / ANSF is unlikely.

“Therefore the original conclusion remains extant... The Court of Inquiry does not dispute the integrity of SOLDIER F in making the additional allegations or doubt his subjective recollection of events; the Court does however have to determine its findings and conclusions **based on all witness accounts**” (emphasis added).

This was accepted by the Assembling Authority, Maj Gen Gawn [para 22, page 46]:

“Having reviewed the Court’s “Addendum to the Report of the Court of Inquiry” and all additional statements made by the seven witnesses interviewed, I accept the Court’s conclusions that based on the weight of evidence presented, the conclusions made in its first report dated 30 January 2013 remain extant.”

## **NDS say insurgents weren't where the Court of Inquiry say they were. What is your response?'**

Stuff Circuit interviewed members of the NDS in 2017, who pointed out in the Baghak valley where they thought insurgent fires were coming from in 2012. The NDS have not placed insurgents in an elevated position to the West of the PRT patrols on the valley floor.

## **NZDF – 'There are certainly differing accounts'**

The Stuff Circuit report has made much of talking with the NDS, and evidence they provided that three red dots – to the West - on the map the NZDF produced, may have in fact not been insurgent positions.

Like so much of this contact, there are alternate possibilities. During the Court of Inquiry process, and included in evidence to the Court of Inquiry, each soldier interviewed by the Court of Inquiry was asked to draw what they saw. A number of these sketches indicate fire coming from the West of KT1. These collective indications led to the Court of Inquiry conclusion.

It is possible that the NDS may be correct, and the PRT perception that there were insurgents to the West may have been caused by 'splash' or fire coming from across the valley. Contrarily, the NDS may have been unaware that there were insurgents there. It was certainly a recognised insurgent tactic to deploy 'spotters' into a position like this away from the main bodies of their forces.

Moreover, the Court of Inquiry put considerable weight on an eye-witness account from a PRT patrol leader from one of the dismounted patrols (K4B) sitting in an elevated vantage above the scene. This PRT member didn't just say he positively identified insurgents in these positions, his account is that he opened fire upon them in these positions. It was this fire from the dismounted patrol that was mistaken by the LAV crew in the valley below as insurgent fire, and which probably caused the LAV to fire its 25mm cannon at the dismounted NZPRT patrol – the 'Blue-on-Blue':

Page 25, para 7 'c' – Key Findings:

**Evidence presented to the Court of Inquiry confirms that there were up to three threat elements located to the high ground West of KT4**, which engaged the KT4 and KT1 patrols with small arms. It is therefore possible that the NDS observed by both SOLDIER F and SOLDIER C were engaged by these threat elements also. This explains the splash oriented to the North – North East direction as observed by SOLDIER F, and a member of the NDS returning fire in what appears to be the direction of SOLDIER B and LCPL MALONE, as observed by SOLDIER C.

## **But why didn't you try and talk with the NDS?**

The Stuff Circuit reporting has made much of the Court of Inquiry not talking with the NDS, noting that five years down the track the Circuit Team had gone to Afghanistan and talked with the NDS.

## **THE NZDF – ‘We twice asked to speak with them. They declined’**

The NDS declined invitations to participate in the NZDF COI process. The New Zealand Defence Force made two specific requests to interview the NDS present on 04 August 2012.

The NDS declined both requests, even though it was pressed upon them the importance of providing evidence. The Court of Inquiry could not compel them to give evidence like it could NZDF personnel.

This absence of NDS evidence to the Court of Inquiry was expressly mentioned in the caveats the Court of Inquiry authors set out for people reading and considering the Court of Inquiry report [page 8, para 3, f.]:

“The Court was unable to directly interview any ANSF personnel involved in the BAGHAK incident.”

And General Gawn spoke to a specific question from media about the issue of Afghan non-participation in the COI, at its public release:

### **MEDIA QUESTION:**

How disappointed are you that Afghan authorities – Afghan services wouldn't take part in an important inquiry into the [indistinct]

### **DAVID GAWN:**

It certainly would have provided a far richer understanding of what occurred.

### **QUESTION:**

Why did they not?

### **DAVID GAWN:**

Again, you would need to ask them. I really don't know.

## How come the NZDF didn't go to the site, when Stuff did?

The Stuff Circuit team visited the valley five years after the contact. NZDF didn't. How come?

## THE NZDF – 'Security conditions on the ground at the time didn't permit'

The COI team did not visit the site of Baghak. As outlined in the Court of Inquiry Report, this was due to operational limitations and security concerns. From page 8:

"The majority of the Court of Inquiry was completed in an operational theatre and received significant assistance from the NZPRT that ensured the Court could complete its task in an efficient manner. ***The Court conducted the inquiry under significant limitations given the restrictions of movement around the Area of Operations (AO) and the conduct of ongoing operations.***"

The NZDF lost three more members of the PRT a little over a week later to Improvised Explosive Device (IED) which speaks to the dangers of operating in that theatre at that time.

The extreme value of a visit to the site providing great value to the Court of Inquiry and the After Action Review team was nonetheless actively considered and discussed at length. For CRIB 20 to take the Court of Inquiry and the After Action Review team to the Shikari Valley, it was estimated that a company level operation supported by ISAF Air assets would have been required. Such a visit was discouraged by HQ ISAF due to the significant security concerns and scale of resources required for such a visit.

The Court of Inquiry attempting to understand events, did instead conduct a fly over of the scene of the 4 August incident aboard a US Army Blackhawk helicopter (see 'caveats – page 8):

"The Court of Inquiry team was not able to visit the site of either the BAGHAK contact of 4 August 2012 or the IED incident of 19 August 2012. This was due to operational limitations and security concerns. The Court did however conduct a fly over of the scene of the 4 August incident aboard a US Army UH-60. Also, to provide context, the Court has sourced video footage of a portion of the actual contact and created a simulated fly-through."

The lack of Tactical Site Exploitation did concern those who conducted the Court of Inquiry, so much so they chose to comment about it specifically at page 26, when responding to a Term of Reference to raise any matter they think significant:

"While the court accepts that the Commanding Officer of CRIB 20 has his reasons for not remaining in the BAGHAK area or returning to the area in order to conduct a full Tactical Site Exploitation, it is the opinion of the court that this was a lost opportunity to gain valuable intelligence. It would have also provided an excellent opportunity to gain a better picture of the engagement, insurgent locations and firing points, routes used, numbers involved and also to better analyse how the NZPRT soldiers were killed or wounded and from where.

"The net effect being that the Report on the BAGHAK engagement would have been far more accurate and the PRT would have gained more intelligence to assist their future operations. ***It is therefore the opinion of the court that wherever possible, areas where engagements or incidents have occurred should be secured and held until a full Tactical Site Exploitation can be completed.***"

## So how robust is the COI?

It seems fair to say, the Stuff Circuit don't place much faith in the Court of Inquiry.

## THE NZDF – ‘We stand by the Court of Inquiry – it presents the balance of evidence’

A description of the Court of Inquiry process, and the caveats it was conducted under, is available at Page 8. This continues to be NZDF's position:

The Court of Inquiry was carried out over the period 22 August 2012 to 30 January 2013. **Evidence from 65 witnesses was considered and 146 exhibits were produced** (emphasis added).

In addition following the reopening of the inquiry, a further two exhibits were entered into evidence and evidence from two further witnesses as well as additional statements from five previously interviewed witnesses was considered.

The Courts of Inquiry system is robust. It reaches conclusions as to its terms of reference, based upon the evidence presented to it. The key rule used is the 'balance of probability' and the more statements supporting one version, the greater the weight was placed by the Court of Inquiry when making conclusions.

It was not the role of the Court of Inquiry to dismiss people's versions of events, however, it had to make conclusions in order to answer the Terms of Reference and this was done by considering all the evidence presented and reaching a balance of probability conclusion.

The amount of time that the Court of Inquiry spent reconstructing the various scenarios based on evidence, adjusting them as new evidence was received, and then modelling the most likely scenarios was significant.

The NZDF has always acknowledged the caveats created from this being an operational theatre, which included not being able to visit the site, and not being able to speak to the NDS. The Court of Inquiry is our best endeavour at explaining events, but as Caveat 'e' on page 8 states plainly, there is a lot of variables not known:

“In some cases, it is **impossible for the Court to categorically state** where shots came from that caused some of the fatal and non-fatal injuries on 4 August 2012. Where able, **the Court has indicated the most likely direction** that these shots came from. However, due to many variables and the unknown number of insurgents (INS) involved, **these conclusions cannot be taken as absolute.**”

The Court of Inquiry Team was quite up front, again from page 8 (para d.):

“All recommendations called for as per the Terms of Reference are made **based on a balance of evidence** and the opinions of the Court of Inquiry team.” (emphasis added)

## Who is to blame for Baghak and why haven't they been held to account?

The Stuff Circuit stories have implied those responsible have not been held to account?

### NZDF – ‘We don’t *blame* anyone’

There may be some confusion as to what a Court of Inquiry is, and is for. As per the explanation on the NZDF website (see section on Courts of Inquiry within the Public Information section):

“A Court of Inquiry (COI) is a court established under Section 200A of the Armed Forces Discipline Act 1971 (AFDA). Its purpose is to provide an officer in command with ***‘an expeditious fact finding procedure so that a matter can be promptly investigated and if necessary, prompt, remedial action can be taken’***. The procedure of a COI is provided for in Part 11 of the AFDA. A Court of Inquiry can be conducted into any matter that an Assembling Authority directs. There are certain incidents where it is mandatory to conduct a COI. A Court of Inquiry must occur when a service person dies or is seriously injured in the course of his or her duties, unless the death or injury occurred during armed conflict; or where an incident is investigated as a disciplinary matter.... ***It is not the role of the Courts of Inquiry to determine guilt*** - that is a matter for the Courts, and in the NZDF, it is the Court Martial of NZ or a Summary trial.”

As mentioned above, the NZDF does not believe it appropriate to second-guess the decisions made by a commander in the field, judging the decisions they made through the lens of 20-20 hindsight.

## **But Courts of Inquiry don't release their evidence, so the NZDF must be hiding something?**

The Stuff Circuit stories have repeatedly asserted that the NZDF has not released a lot of information, especially related to the Court of Inquiry. Why is that?

## **NZDF – ‘Courts of Inquiry, like air accident investigations, have been designed around frankness’**

Again on the NZDF website, it provides a good explanation of why a Court of Inquiry operates in the way it does. This is the NZDF's position:

“A Court of Inquiry sits in private and records the evidence of every witness. If a COI is to achieve its purpose of determining the facts and carrying out prompt remedial action, total frankness is required of witnesses. This is particularly important in mitigating operational impact. COI are therefore afforded a large measure of confidentiality and this is recognised by statute. Section 200T of the Armed Forces Discipline Act 1971 prohibits release of the record of proceedings within the NZDF unless there is a service requirement or entitlement, and requires the approval of the Superior Commander of the Service before any release to personnel not subject to the AFDA.

“Within this constraint, where a COI concerns a matter of high public interest the NZDF will assess the circumstances on a case by case basis, balancing the relevant factors to determine whether any redacted COI report or summary can be released.

Relevant factors will include:

- High public interest
- The rationale for maintaining confidentiality
- In the event of a fatality, the wishes of family representatives and the privacy of individuals
- The maintenance of New Zealand national security and other relevant privileges

It is important to note that, under subsection (h)(iii) of section 2(1) of the Official Information Act (OIA), evidence given and submissions made to a Court of Inquiry do not constitute official information and are not therefore subject to release under the OIA.

## **Why haven't the NZDF released the After Action Review report?**

Stuff Circuit have applied under the Official Information Act for the release of an After Action Report, which has been declined under Section 6a, "as its release would provide insight into operational capability and tactics" of the New Zealand Defence Force.

## **NZDF – 'Because it would compromise operational security and the safety of our people'**

### **Comment from the current Chief of Defence Force, LTGEN Tim Keating:**

To send Defence Force people into areas of combat we must prepare them to fight and win. So we train our sailors, soldiers and airmen during peacetime to successfully execute combat missions, that is a fundamental of military organisations.

We are focused on constantly improving our preparedness and performance. To do this, leaders must know and understand what happened – or did not happen - during mission and task performances in training and in combat.

So we use After Action Reviews (AAR), which critically examine events and identify how to sustain our strengths, correct deficiencies, and focus on the performance of specific essential tasks. The AAR is a keystone of continual improvement to better prepare our people for future missions.

They therefore openly discuss our techniques, tactics and procedures – our strengths and our weaknesses. They identify both where we need to change things, and where things are working well.

To place After Action Reviews into the public domain would provide a wealth of information to adversaries, current and potential, that might be exploited to the detriment of future operations. This doesn't just include the 'big things', but also small fragments of information that might be joined with information from other sources, allowing adversaries to build a picture on how to better engage and beat us.

For this reason I have declined to release the After Action Review into Baghak.

The Stuff Circuit reporting suggests that the After Action Review is fundamentally different to the Court of Inquiry. In its overarching conclusions, it is not, but as you'd expect from the above description of After Action Review, it provides more operationally relevant information.

I have previously declined the release of the After Action Review for what I believe is very good reason. But due to the comments of the Stuff Circuit I am providing the following summary of the Baghak After Action Review, which I do not believe compromises operational security, and allows people to see that the After Action Review and Court of Inquiry reached similar conclusions:

## SUMMARY OF THE BAGHAK AAR:

The Operational Evaluation Team (OET) was established to identify the lessons learned from the New Zealand Provincial Reconstruction Team subsequent to two incidents on 04 August 2012 and 19 August 2012 to “encourage collective innovative thinking towards improving Force Protection measures”. The OET comprised two people who conducted interviews and discussions over the period 22 August – 11 September 2012. The Operational Evaluation Team’s report is structured around 11 questions:

- A. Provide an assessment of the Insurgent action, reactions, counteractions encompassing their tactics and weapons systems:
- B. Did the weapons and equipment issued to the force elements perform to the expected standard during this combat action? What improvements, if any can be made to weapons and equipment or the way they are used?
- C. What lessons can be learnt from the 4 August 2012 contact for the future provision of in extremis support to the ANSF, if any?
- D. Was the integration of air support to the tactical ground plan effective? If not, what were the factors limiting effectiveness, eg, tactics, C2, training, weapons systems, geography and weather?
- E. What intelligence picture did the Provincial Reconstruction Team (PRT), the wider NZDF and other government agencies have of this insurgent group leading up to the incident? Could the intelligence picture and situational awareness the PRT has of insurgent groups operating in the Area of Operations (AO) be improved, if so, how?
- F. After the initial request to support the NDS, did the PRT have sufficient situational awareness of the incident and the insurgent threat to guide the decisions and actions that were taken?
- G. Can the PRT be more effectively structured, trained and equipped to deal with this type of combat action in the restrictive terrain typical in Kahmard district of Bamyan? If so, how?
- H. What can be learned from the nature of the injuries sustained by our casualties with respect to training, equipment and TTP (tactics, techniques and procedures).
- I. How effective was the integration and conduct of Tactical AME during the combat action on 04 August 2012? Identify any areas for improvement, eg, TTP, C2 and trauma care?
- J. What lessons can be derived from the experience of the PRT in detainee handling following the contact on 04 August 2012?
- K. Are there any other lessons that can be derived from these contacts to improve NZDF’s ability to conduct counter insurgency?

In considering the findings of these questions, the AAR reached the following conclusions:

“The TU CRIB incident on 04 August 12 in Baghak, Bamyan Province has provided the opportunity to review the status of force protection. The incident was a complex situation that exposed TU CRIB personnel to a short but violent engagement with a motivated and skilled threat group. Although there are many points highlighted that can improve force protection, many are already included in the training, education and doctrine practiced within the NZDF. ***The Operational Evaluation Team could not identify any new lessons learned from the review and believe most of the points raised can be attributed to the collective knowledge currently held within the NZDF.***” (emphasis added)

The OET determined following points significant and that they should be progressed by relevant NZDF organisations:

**a. In-Extremis Support**

Developing common procedures and understanding with the Afghan National Security Forces/Government of Islamic Republic of Afghanistan for 'in extremis support'.

**b. Lack of Situational Awareness**

A lack of situational awareness by TU CRIB patrols accounts for most of the confusion throughout the incident.

**c. Trained State**

Training should focus on the basics of battle drill to improve force protection. The Operational Evaluation concludes that reacting to enemy fires (taking cover), locating the enemy and winning the fire fight was not performed well by personnel involved in this incident. It says training should emphasise these basic points and realistic training must be developed to practice these.

**d. Equipment**

While some equipment can be improved, most of the force protection equipment performed as expected. The OET raises an issue with regard the weight of force protection equipment impacting mobility.

**e. Medical**

The medical training and skills displayed by CRIB personnel was effective. The Operational Evaluation identifies establishing a Tactical Combat Casualty Care course as offering further enhancement to NZDF training.

**NZDF 2017 comments re the above 5 recommendations:**

All five of the recommendations correspond to conclusions reached in the NZDF publicly released Court of Inquiry. Those links are outlined here:

**a. In-Extremis Support**

A similar suggestion is made in the Court of Inquiry report (see conclusion 'n' page 29; and recommendation '1' page 31). It is noted that this is challenged by the Assembling Authority, the then Commander Joint Forces New Zealand (see 'reservation d' page 45.).

**b. Lack of Situational Awareness**

The same conclusion was reached by the Court of Inquiry (see especially comment 'e' 'Situational Awareness', page 23; and conclusion 'v', page 30). In addition, the Assembling Authority also deals with this same issue at para e. page 40, due to its significance.

**c. Trained State**

This was also picked up on by the COI (para 21, page 15): "There was some concern about the level of trained state on the conclusion of PDT due to the limited timeframe in which PDT was conducted and the nature of the training. This was aimed at the collective training in respect to the lack of realistic scenarios which has been the focus of the After Action Review Team. Basically, it was felt that PDT focused too much on individual teams as opposed to a scenario which required the bulk of the Company to respond."

Further, the Assembling Authority picked up the issue making his own comments, where he explicitly links the COI and After Action Review/OET Report on this point (see para 6, page 38/39): "This lack of realistic training scenarios has been the focus of the After Action Review. The witnesses have generally highlighted that PDT focussed too much on individual teams as opposed to a scenario which required the bulk of the company to respond. However, I am satisfied that, once additional in

theatre training had been conducted, CRIB 20 was ready to carry out all of its required functions. I note that CO TU CRIB 20 had arranged for additional training to ensure that the appropriate skill-sets were obtained based on his extensive previous experience.”

**d. Equipment**

The publicly released COI Report has redacted this equipment reference for operational security reasons. However, the Defence Force’s Capability Branch were passed this issue for further investigation. To the best of NZDF’s knowledge, this issue hasn’t been raised as an area of concern or criticism in any of the media reporting related to the Baghak battle.

**e. Medical**

The COI picks up this same point in its recommendations (para 37.a., page 31): “Tactical Combat Casualty Care (TCCC) needs to be introduced across Army/NZDF as the basis of ‘buddy aid’. It is understood that this is already being implemented.” The Assembling Authority (at para g, page 42) notes that while TCCC wasn’t formally taught as part of the PDT, it was part of the in theatre training, and it had proved effective.

## **But we have no confidence in the military justice system either – look at the case of alleged booby-trapping**

The Stuff Circuit made mention of two people's cases (related to the same incident), where NZDF personnel were charged in relation to an order to booby trap a cache of weapons but where in both cases the charge was not upheld. Why?

### **NZDF – ‘There was insufficient evidence to support some elements of the charges’**

These cases were first reported from an NZDF Summary trial that media attended - NZ Herald 10 Dec 2013: Army Officer could face court martial over booby-trap [[http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11170299](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11170299)]. Then by a significant NZ Herald investigation on 27 April 2014: Landmine claims put Kiwi reputation at risk [[http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11244849](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11244849)].

It should be noted that the charge reported correctly by the NZ Herald is not simply about ordering a booby-trap, which may have an appropriate military use under certain circumstances. The charge encompassing a number of elements required to be proven, was recorded correctly in the NZ Herald story:

“At a summary trial last week, an officer from the ill-fated Crib 20 deployment faced a charge of ***negligently failing to ensure that targets would be visually identified when ordering the placement of a booby trap.***”

A fulsome explanation and rejection that New Zealand had breached international conventions in this case was made to the international community in a Statement by New Zealand Representative - Anti Personnel Mine Ban Convention (APMBC) Review Conference. 26 June 2014: [[https://www.maputoreviewconference.org/fileadmin/APMBC-RC3/thursday/07g\\_COMPLIANCE\\_-\\_New\\_Zealand.pdf](https://www.maputoreviewconference.org/fileadmin/APMBC-RC3/thursday/07g_COMPLIANCE_-_New_Zealand.pdf)] But the NZDF position remains, as per this publicly available description of relevant events, that “there was insufficient evidence to support some elements of the charge”:

Thank you Mr President. I would like to make a short statement, on a national basis, regarding compliance. A recent media report has alleged that during the deployment of the New Zealand Defence Force in Afghanistan orders were given on two separate occasions to create booby-traps using anti-personnel landmines. If true, this would have been a breach of the Anti-Personnel Mine Ban Convention.

I would like to provide some clarification regarding this case, particularly around some details of the media report which are incorrect. There have been two trials of military personnel relating to not to two incidents, as reported in the media, but to one sole incident which occurred in Afghanistan.

In this incident, there was discussion between two personnel upon the discovery of a weapons cache. It was alleged that during this discussion both accused used the words "booby trap" to describe possible future action. There was no further evidence as to how they intended to create such a booby trap and, certainly, no booby trap was ever created.

Following this incident, charges against the two officers were laid under the Armed Forces Discipline Act 1971. One charge was laid in relation to each person. New Zealand's implementing legislation for the Anti-Personnel Mine Ban Convention was not invoked in these cases because there was no suggestion, or evidence, relating to the use or intent to use anti-personnel mines in the creation of the booby trap.

Both military trials have now concluded (in April and May 2014, respectively). In both cases, the charge under the Armed Forces Discipline Act was not upheld, as there was insufficient evidence to support some elements of the charge.”

## You've not allowed Major Wilson to publish a book?

### NZDF – ‘Actually, we created a publishing framework that applies to everyone in the NZDF’

Major Wilson's preparation of a manuscript about the Baghak prompted the NZDF to consider its position generally with regard to currently-serving personnel writing about contemporary events. That review led to the creation of a Defence Force Order which applies to everyone in the NZDF who seeks to contribute to a publication drawing upon experiences or information gained, derived or ascertained through service or employment with the NZDF. 'Publication' in the Defence Force Order includes: articles in journals or magazines, books or papers, newsletters, video, images, social media, e-books, blogs, and even letters to editors.

Here is the purpose and principles from that Defence Force Order which explain the considerations relevant to permission being given to publish material:

#### **Purpose**

The purpose of this DFO is to ensure that publications, which draw upon information obtained through service or employment, are approved for release by the NZDF. This is to ensure there is no impact on the security, safety, operational effectiveness, reputation, privacy or other matter either of the NZDF or its domestic and international arrangements.

#### **Principles**

6. The following principles shall be used to determine when members of the NZDF will be authorised to release publications into the public arena:

a. **Security.** The dissemination of information by members of the NZDF has the potential to compromise New Zealand, the NZDF, other government departments, allied partners and the overall security posture of the NZDF.

b. **Safety.** The dissemination of publications by members of the NZDF may place members of the NZDF, partner agencies and allied partners' personnel at risk, potentially resulting in their personal safety and security being compromised.

c. **Operational Security and Effectiveness.** The dissemination of publications by members of the NZDF may compromise the operational security and effectiveness of the NZDF, notably in the areas of intelligence, Special Forces or other sensitive operations, contemporary operations and international defence relationships.

d. **Reputation.** Whilst disseminating publications, members of the NZDF must consider the potential impact the information may have on the NZDF, the government, Central Agencies, official policies and any other aspects of their service or employment.

e. **Privacy.** Members of the NZDF must consider the confidentiality and privacy rights of other NZDF members, their whanau and other personnel that could be affected by the release of any publication.

## **Weren't you collecting biometric data?**

The Stuff Circuit team have claimed New Zealand was collecting biometric data, possibly provided to the CIA?

## **NZDF – 'Yes, we collected information to identify people'**

The NZDF explains here why it might collect biometric data in operational theatres:

A challenge for the New Zealand Defence Force (NZDF) is how to differentiate un-informed combatants from the civilian population. Where an adversary is seeking to hide among the population, biometrics can "put the uniform back on the enemy".

Biometrics is the use of various forms of unique, individual, biological identifiers to enable accurate identity resolution, subsequent analysis and matching with stored data.

Effective use of biometrics directly contributes to force protection, through providing a higher degree of certainty regarding which persons in a given area of operations are likely adversaries. This is an important means of helping protect our troops, our allies, and the Afghan people from those who wish to harm them.

The term 'biometrics' is used to describe a measurable biological or behavioural characteristic that can be used for recognition (e.g. fingerprints, iris, facial recognition). This is for the purpose of both force protection and contribution to intelligence products.

The key strength of biometrics is that it inextricably links identity data with a given person, their biographical data and contextual information. Regardless of what a person says, what they are wearing, how they disguise themselves or what documents they are carrying (or not), their biometric data can not be forged, altered or transferred.

In a Coalition environment data sharing among Coalition partners is the norm, and this includes biometric data. By contributing to a wider identity programme, that is, providing information to a shared Coalition Headquarters as was the case in Afghanistan, NZDF operations can be enhanced, through having greater identity-resolution and greater awareness of potential threats and adversaries.

## Why weren't New Zealanders told about the NZDF's security role, and indeed the deteriorating security situation in Bamyán's North East?

Were the New Zealand public told what the PRT was doing in Bamyán and especially what was happening with regard to deteriorating security situation in the North-East of that province?

### NZDF – 'They were'

A quick look at the publicly available media statements on the Defence Force website from 2010 onwards shows a Defence Force that was very open about the deteriorating security situation in the North East of Bamyán province. This of course included the death of Lieutenant Tim O'Donnell in 2010 (two years before Baghak). The Defence Force was also up-front that security and presence patrols were a key aspect of their Afghanistan mission. Most media who followed NZDF's involvement in Afghanistan would have been fully aware of these issues from such media statements as:

#### NZPRT meet with ex-Mujahadeen and former Taliban

19 February 2010

The New Zealand Provincial Reconstruction Team (NZPRT) has met with former Taliban and Mujahadeen Commanders at a Jirga (assembly of elders) in Qardendeh, Bamyán Province... They had come to discuss security issues, after two recent murders in the Shikari valley, ***not far from the location of the attack on a NZPRT patrol on 1 November 2009....***

#### Defence Force's work in Afghanistan on show at Pataka

19 February 2010

... ***Since arriving in Bamyán in 2003 the NZPRT has maintained security in Bamyán Province. It does this by conducting frequent presence patrols throughout the province.*** The NZPRT supports the provincial and local government by providing advice and assistance to the Provincial Governor, the Afghan National Police and district sub-governors. It also identifies, prepares and provides project management for NZAID projects within the region....

#### Kiwi troops face tough weather conditions in Afghanistan

2 March 2010

...Despite the tough weather, it's business as usual for the New Zealand Defence Force personnel, ***who continue to carry out joint patrols with the Afghan National Police***, and meet with the local population....

#### Provincial Reconstruction team in exchange of fire

10 April, 2010

***A combined NZDF/US patrol from the New Zealand Provincial Reconstruction Team (NZPRT) in the North East of Bamyán Province, Afghanistan, was attacked by a group of insurgents using small arms fire and rocket-propelled grenades early Friday afternoon (Afghanistan time).*** There were no casualties....

#### NZ soldier killed in Bamyán Province, Afghanistan

4 August 2010

***The New Zealand Defence Force is presently informing next of kin that a soldier serving in Afghanistan has been killed in an attack on a New Zealand Provincial Reconstruction Team patrol in Bamyán province....***

Defence Force deploys Light armoured vehicles to Bamyan

15 April 2011

The New Zealand Defence Force has deployed Light Armoured Vehicles (LAVs) to Bamyan Province in Afghanistan to support the Provincial Reconstruction Team. "***The vehicles bring us the capability we need to keep our personnel safer and operate more effectively in the north eastern area of Bamyan where the security threat is higher,***" says Commander of Joint Forces, Air Vice Marshal Peter Stockwell....

NZDF operations in Bamyan Province on 22 August 2010

20 April 2011

On 22 August 2010 New Zealand Defence Force (NZDF) elements, operating as part of a Coalition Force in Bamyan province, Afghanistan conducted an operation against an insurgent group. NZDF Special Operations Forces combined with Afghan National Security Forces and other coalition elements undertook the operation. ***The operation was conducted as part of the wider ISAF mission to improve the security of the Afghan people and to protect the NZ PRT (Provincial Reconstruction Team) in Bamyan province....***

IED attack on Kiwi Patrol in Afghanistan

28 April 2011

***A Kiwi patrol from the NZ Provincial Reconstruction Team was struck by an Improvised Explosive Device in the north eastern area of Bamyan province at approximately 5 AM Afghanistan time today*** (around 12.30 PM NZ time). The NZ Defence Force personnel were in a Light Armoured Vehicle (LAV) and sustained no injuries....

IED incident in Bamyan province Afghanistan

19 July 2011

***An Improvised Explosive Device (IED) detonated during a routine Kiwi patrol in the north eastern area of Bamyan province at approximately 7.30pm yesterday Afghanistan time*** (around 3am today NZ time). The NZ Defence Force personnel from the NZ Provincial Reconstruction Team (NZPRT) were in Light Armoured Vehicles (LAVs) and sustained no injuries.

Kiwis depart for six month deployment to Afghanistan

8 September 2011

...“Along with our partners in the NZ PRT we will continue to ensure that development and governance programmes are further developed, while maintaining security and assisting with improving the capabilities of the local Afghan Police Force. "***The mission will have its challenges,*** including the local culture, the climate ***and of course the threat from insurgents.*** I'm confident that our personnel are adequately trained and will work hard to get the job done....

19 September 2011

***A routine Kiwi patrol in the north eastern area of Bamyan province came under RPG (rocket-propelled grenade) fire at approximately 00.20am this morning Afghanistan time*** (around 8am today NZ time). The NZ Defence Force personnel from the NZ Provincial Reconstruction Team (NZPRT) were in Light Armoured Vehicles (LAVs) and sustained no injuries... "***Attacks by insurgents do occur in this area in the north east of Bamyan.*** The added protection of the LAV has once again proven its worth....

Kiwis return from deployment to Afghanistan

26 September 2011

..."The deployment has also been significant in the fact that it saw the introduction of NZLAV to the NZPRT. The LAVs are providing us with a significant increase in capability **and have provided our soldiers with a lot of confidence when out patrolling**. It is a great capability that has well and truly proved its worth during this deployment. "The team has maintained a high tempo throughout the deployment and should be proud of their achievements in helping to build the capacity of local security forces in Bamyán **and maintaining a secure environment** which has enabled development projects in the Province to continue."....

Defence Force personnel receive awards for gallantry

1 October 2011

Today is a significant day for four NZ Defence Force personnel, who have been awarded Gallantry Awards for their courageous actions while deployed to Afghanistan... Corporal Albie Moore will be awarded the NZ Gallantry Star for gallantry shown in the IED contact resulting in the unfortunate death of LT Tim O'Donnell. Corporal Matt Ball and Lance Corporal Allister Baker will be awarded the NZ Gallantry Decoration for their actions during the same incident. Chief of Defence Force, Lieutenant General Rhys Jones says "Our personnel are expected to operate in dangerous and volatile situations, and **this incident was no exception. By extricating themselves from a complex attack and recovering vital equipment under fire, these men have demonstrated extreme courage in the face of a determined enemy**"....

First NZ trained Bamyán Response Platoon graduates

30 March 2012

The NZ Defence Force has helped local security forces in Bamyán Province, Afghanistan, take another step in their capacity building with the graduation of their first National Police Provincial Quick Response Force (PQRF) platoon. **Training the Afghan National Police to take over the role currently performed by NZ Defence Force military patrols** is an important part of the transition strategy... The platoon trained for three months in a number of skill areas from the basics of first aid, navigation, radio communications and weapon handling, **to comprehensive training in military tactics in order to defeat insurgent threats and respond to high risk contingencies**....

NZ Defence Force Personnel Named in Honours List

4 June 2012

To receive the New Zealand Distinguished Service Decoration (DSD):  
McASLAN, Lieutenant Colonel Hugh Richard

... At the same time, the Provincial Reconstruction Team was required to develop strategies to prevent insurgents from disrupting the transition. **He also adopted tactics that allowed the Provincial Reconstruction Team to provide a greater presence and level of security in the strategically important north eastern district of Bamyán, without incurring casualties to insurgent attacks on two separate occasions**....

To receive the New Zealand Distinguished Service Decoration (DSD):  
WILSON, Warrant Officer Class One Christopher James

...On 3 August, his Patrol Commander (Lieutenant O'Donnell) was killed in an ambush. He had to take immediate command of the patrol, **win the resulting fire fight (during which actions by the crew members of the ambushed vehicle and another patrol member who went forward to affect their rescue, have been**

***recognised by gallantry awards) and adopt a defensive position until the arrival of a supporting force.*** He then also assumed command of the patrol, providing the leadership and guidance necessary for the young soldiers to come to terms with what had been a traumatic event, without losing operational integrity, ***at a time when security was becoming of increasing concern....***

Incident in Bamyan Province Afghanistan - Release 1 [Battle of Baghak]

5 August 2012

The New Zealand Defence Force can confirm that two personnel serving with the NZ Provincial Reconstruction Team in Afghanistan have been killed during an incident in the North East of Bamyan Province.

## **So why has the NZDF been trying to cover this up?**

Some might say that the NZDF has tried to cover up events related to the Baghak contact. What is NZDF's response?

### **NZDF – 'We haven't'**

The NZDF makes the following observations about openness of information with regard to Baghak:

- As outlined in this document, the NZDF conducted a Court of Inquiry into the Baghak battle – when it is unusual to hold a COI into combat deaths.
- The NZDF then made the Court of Inquiry report public, again not the norm and only done when there is a recognisable public interest in doing so.
- On releasing the Court of Inquiry the NZDF held a media conference attended by every major news media outlet in New Zealand. Senior leaders – the Chief of Army (who had been the Assembling Authority to the Court of Inquiry) and the Chief of Defence Force outlined events. They played a video setting the context (a first for the NZDF from a contact), which was shared with media, and took questions for an extended period.
- The Court of Inquiry, a useful 'Summary document (itself a new type of document produced by NZDF to help non-military people understand these complex military events), and a table of Court of Inquiry recommendations were all put on the NZDF website.
- In addition, NZDF estimates that it has responded to at least 20 different Official Information requests regarding the contact at Baghak (this isn't individual questions – each request may, and normally does contain multiple questions).

## Haven't New Zealanders been misled?

The Stuff Circuit stories present a narrative that New Zealanders were never told that security was an important aspect of the PRT mission.

### NZDF – ‘Security was always a key element of our mission’

The NZDF would point to a trail of statements that suggest successive Government's of the day were from the outset talking about the security aspects related to defeating terrorists and winning what was a complex counterinsurgency. We present some of these statements here with emphasis added:

Mark Burton

7 July, 2003

#### New Zealand to lead Provincial Reconstruction Team in Afghanistan

<https://www.beehive.govt.nz/release/new-zealand-lead-provincial-reconstruction-team-afghanistan>

...Based in Bamian, the PRT will be New Zealand-led, **with a focus on enhancing the security environment** and promoting reconstruction efforts. The New Zealand personnel will take over an already established mission and will receive logistic support from the coalition forces in Afghanistan. Around 100 personnel are expected to be deployed. "Leading a PRT is another significant addition to New Zealand's contribution to the fight against terrorism," Mark Burton said. "New Zealand has been continuously involved since late 2001 in the campaign against the terrorist groups which have launched attacks in different parts of the world.... "The PRT will now be a direct contribution to Afghanistan's reconstruction. The provisional government is working with a number of countries to establish security and rebuild Afghan society. A significant part of this effort will be through the deployment of PRTs. **A PRT is not a combat unit. Rather, its task is to assist the transitional government under President Karzai to expand its influence outside Kabul... This mission is not without risk, as there are still security concerns throughout Afghanistan. The New Zealand PRT will include a small number of infantry soldiers for protection**, and all military personnel will carry personal weapons for self defence.

Mark Burton

28 January, 2005

#### New Zealand extends commitment in Afghanistan

<https://www.beehive.govt.nz/release/new-zealand-extends-commitment-afghanistan>

Prime Minister Helen Clark announced today extensions of New Zealand Defence Force deployments in Afghanistan, and for the first time, the deployment of New Zealand Police to Bamyan to help rebuild the local police force... "New Zealand is making a difference in restoring stability to Afghanistan. The New Zealand PRT played an important role in promoting enrolment and participation in last year's presidential elections. Now, parliamentary and provincial elections are scheduled for April 2005. This is the next major step in Afghanistan's progress towards full democratic government. **Improving security helps ensure that the elections are fair and credible. Failure to stabilise Afghanistan would have consequences for the campaign against terrorism.** The Taliban and elements sympathetic to Al Qaeda continue to provide resistance to the Afghan authorities and to the multinational force mandated by the United Nations," Helen Clark said.

Phil Goff

25 April, 2007

#### New Zealand presence welcomed in Bamyan

<https://www.beehive.govt.nz/release/new-zealand-presence-welcomed-bamyan>

"The people of Bamyan know well the Kiwi emblem worn by New Zealand Defence Force personnel. **To them, it represents a country that has come in friendship, to help secure peace and stability**, Defence Minister Phil Goff said at the ANZAC Day

Service in Bamyan today.... "There are signs of tangible social, political and economic progress in Kabul and Bamyan. But the struggle against the Taliban is still real, with regular bombings in Kabul, though the situation is much calmer in Bamyan. As Kofi Annan, former Secretary General of the United Nations said last year, ***'there can be no security without development, no development without security and neither without respect for human rights.'*** ***New Zealand is endeavouring, in Bamyan, to provide both security and development assistance*** as part of the critical path to a better future for Afghanistan," Mr Goff said.

John Key  
4 May, 2010

**PM concludes visit to Afghanistan**

<https://www.beehive.govt.nz/release/pm-concludes-visit-Afghanistan>

Prime Minister John Key has completed a three-day visit to Afghanistan where he met New Zealand troops and held talks with government and military officials, including President Hamid Karzai. Mr Key arrived in Kabul on Saturday 1 May. That day he met the Commander of the International Security Assistance Force (ISAF), General Stanley McChrystal. On Sunday he met President Karzai, Afghan Civil Society representatives, the UN Deputy Special Representative Robert Watkins and Kabul-based New Zealanders. Mr Key then flew by RNZAF Hercules from Kabul to Bamyan to visit the New Zealand Provincial Reconstruction Team (PRT) based there. Yesterday, Mr Key met the Bamyan Province governor, Mrs Habiba Sarabi, and visited the NZAID-funded hospital at Bamyan, a bazaar and a local girls school. He then departed by Hercules late last night (NZ time) out of the country. "This visit has given me a good opportunity to meet our troops based in Afghanistan, and a chance to see for myself the conditions they face," says Mr Key. "It has also allowed me to get first-hand impressions on Afghanistan's security from the most senior officials and politicians in the country. "New Zealand forces are in Afghanistan to help provide reconstruction assistance ***and ensure stability. The situation in Afghanistan requires an ongoing international programme of security and development assistance, and that is what our commitments are helping provide.***"

Lieutenant Colonel Sholto Stephens  
5 April 2013

**NZDF Press Release: Bamyan Mission Accomplished**

...Lieutenant Colonel Sholto Stephens, Senior Military Adviser to the NZPRT and Commanding Officer of CRIB 21, says it has been a privilege to serve on the final rotation in Bamyan Province. "The last contingent has been focused on building the capacity of Afghan National Security Forces through mentoring and training, and also helping to prepare Bamyan for the PRT's withdrawal. "The Afghan National Security Forces and the Provincial Government in Bamyan have been carrying out their role and demonstrating their capability for some time. It is the right time for the PRT to withdraw. ***Bamyan continues to face some challenges ahead – ensuring security is maintained, particularly in the North East, and that development progress continues. It is for Afghans in Bamyan to take forward their future.***"...

## Was Afghanistan worth it?

The Stuff Circuit reporting has regularly asked the question was New Zealand's contribution to Afghanistan worth it?

### NZDF – 'That's not for us to answer'

This is a question primarily for the Government of New Zealand, and should be tracked against the expectations of successive governments-of-the-day at different stages of the mission. In addition, there have been moments when the NZDF has made public comment, especially in the remarks made by Defence Force leaders at the funerals of service people killed in Afghanistan; and when the Provincial Reconstruction Team (PRT) ended. Bamyán Provincial Governor, Dr Habiba Sarabi, has also spoken in numerous interviews over the years about New Zealand's contribution. We provide some of this publicly available commentary here, as a response to this specific line of questioning:

24 April 2013

#### **NZDF Press Release: Defence Force Mission In Afghanistan - A Significant Contribution**

...**LTGEN Jones** says that the achievements in Bamyán have been possible as a result of the security provided by the NZPRT. "New Zealand is leaving a lasting legacy. Bamyán remains one of the more secure Provinces in Afghanistan. The Defence Force's active engagement with the local population and our strong relationship with key leaders, coupled with development projects and community involvement, has helped to minimise influence from insurgents."

**General Dunford, Commander of the International Security Assistance Force (ISAF)**, has acknowledged New Zealand's contribution to the mission in Afghanistan. "Through the work of the NZ Provincial Reconstruction Team, Bamyán now has stronger security and stability, and firm governance in place. New Zealand has certainly fulfilled its promise to its coalition partners and to the Afghan people."

**Bamyán Provincial Governor, Dr Habiba Sarabi**, says the Bamyán people are grateful for the support provided by the NZPRT. "The Bamyán authorities and community believe the PRT support in the fields of security, good governance, tourism development, education and health sectors and infrastructure have changed the face of Bamyán. The Bamyán people will not forget the services and the humanitarian support of the New Zealand people."

**Bamyán Provincial Chief of Police, General Razak**, says the local security forces are grateful to the Kiwis for the training and mentoring provided by the Defence Force and NZ Police. "The PRT has conducted very good workshops, capacity building programmes, and good practical training. They have provided very valuable advice, which was very helpful for use at different levels building our capacity."

**Staff Sergeant (SSGT) Kamal Singh** previously deployed on CRIB 11 and saw a number of differences on CRIB 21. "There's more schools, more girls going to school. There's a massive difference in the roads, and there's power in houses, as well as more wells and infrastructure," SSGT Singh said. "The NZDF has made a massive contribution. I believe Bamyán will be in capable hands. They've got the training, it's up to them. We were always going back home eventually."

The key leaders in Bamyán speak highly of the Kiwis and the strong relationship. **Dr Sarabi** says she has always admired the behaviour of Kiwis. "They respect the culture of Bamyán, they respect the people, especially the elders and the people in the villages... We have a friendship and brothership with them."

## **NZDF refused to talk to Stuff Circuit, why?**

The Stuff Circuit team repeatedly asked for interviews to which the NZDF declined.

## **NZDF – ‘NZDF position on nearly all the issues raised have already been responded to’**

### **Attributable to the Chief of Defence Force, LTGEN Tim Keating:**

As per this document, the NZDF position on nearly all of the issues being raised by Stuff Circuit had been publicly responded to over the years.

In addition, we were aware that the Stuff Circuit had interviewed the former Chief of Defence Force, Lieutenant General Rhys Jones (Retired); and former Minister of Defence, Wayne Mapp. The NZDF had also released a video of the media conference given by LTGEN Jones and the Court of Inquiry Assembling Authority, then Chief of Army, Major General David Gawn, which spoke to NZDF's position on issues.

Stuff Circuit might not like our answers, or be satisfied that they can't see information that led to NZDF's conclusions, for example contained as evidence in the Court of Inquiry, but these are NZDF's positions nonetheless.

Stuff Circuit and the NZDF, found themselves in positions each lacking trust in the other.

The Stuff Circuit made it abundantly clear that they didn't believe the Court of Inquiry and the version of events and answers provided by the NZDF: they didn't trust us.

And the NZDF, consequently, didn't believe the Stuff Circuit would give NZDF's information a due consideration.