



New Zealand
**DEFENCE
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Te Ope Kāua O Aotearoa

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OIA-2018-3011

2 May 2018

Dear [REDACTED]

I refer to your emails of 21 March and 25 March 2018 requesting, under the Official Information Act 1982 (OIA), the following in relation to communications from the NZDF to United States military authorities:

1. Please provide all correspondence from NZDF to US military authorities since March 2017 concerning aircraft video footage and the ISAF investigation report into Operation Burnham.

Enclosed is a copy of the letter sent by the Chief of Defence Force to the Chairman of the Joint Chiefs of Staff requesting declassification of footage from the operation. As noted by the Chief Ombudsman in his final opinion, this letter provides an explanation of the context for the request and the NZDF's desire to be able to show the public what occurred during the operation. In February 2018, the Chairman of the Joint Chiefs of Staff replied noting declassification and public release were not approved.

2. Have any NZDF officers, including NZSAS officers, had contact with US military authorities (by phone, email or other means) to ask them not to authorise public release of aircraft video footage and the ISAF investigation report into Operation Burnham? Please provide all relevant documents.

There has been no such contact and consequently there are no such documents.

You have the right, under section 28(3) of the OIA, to ask an Ombudsman to review my response to your request.

Yours sincerely

G.R. SMITH
Commodore, RNZN
Chief of Staff HQNZDF

Enclosure:

1. Letter from CDF to Chairman of the Joint Chiefs of Staff



CHIEF OF DEFENCE FORCE
LIEUTENANT GENERAL T.J. (TIM) KEATING MNZM
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3/ March 2017

General Joseph. F Dunford, JR.
Chairman of the Joint Chiefs of Staff
Department of Defense
United States of America

Dear Sir

Recently a book entitled 'Hit and Run' was published in New Zealand. This book suggested that members of the New Zealand Special Air Service may have engaged in unlawful conduct while participating in a specific coalition operational mission on 21/22 August 2010 in Afghanistan. This book can be construed as alleging that the New Zealand Defence Force were involved in a coalition operation that deliberately targeted civilians and deliberately destroyed property on a large-scale.

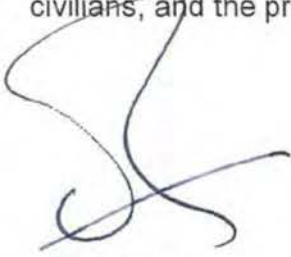
Such allegations are of serious concern to me because they strike at the heart of the professionalism and integrity of our New Zealand Defence Force personnel, and of our coalition partners. Where such allegations have substance, I must act upon them.

I have reviewed all the information currently available to me thoroughly. The information I have seen clearly shows the New Zealand Defence Force and coalition personnel involved in this operation taking deliberate steps to ensure that the operation was conducted in accordance with the Law of Armed Conflict and the rules of engagement. My current view of this matter is that there was no unlawful conduct as alleged. However, I currently have some limitations around the information I can release publicly in support of my position.

It is on this basis that I am seeking your support to declassify the Air Weapons Team video footage and accompanying audio which was captured by coalition aircraft during the operation. This material presents critical evidence of the manner in which the Operation was conducted. It identifies the exact location of the engagement, it positively identifies that the Insurgents were carrying weapons, and confirms the efforts that our personnel went to in order to minimise the risk of harm to civilians and their property.

With your permission, my staff will forward the material by secure means to the appropriate point of contact designated by you for review and declassification.

Please be assured that my request is intended to enable me to demonstrate the significant efforts and risks our military forces go to in attempting to safeguard civilians, and the professional manner in which they conduct themselves

A handwritten signature in black ink, appearing to be 'T.J. Keating', written in a cursive style.

T.J KEATING
Lieutenant General
Chief of Defence Force

RELEASED UNDER THE
OFFICIAL INFORMATION ACT 1982



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OIA-2018-3025

2 May 2018

Dear [REDACTED]

I refer to your email of 29 March 2018 requesting, under the Official Information Act 1982 (OIA), the following, concerning Operation Burnham:

1. *Please provide me with all emails, text messages and other documents to and from, or by, NZDF communications advisor Peter Coleman in the past 13 months that mention or relate to me, Operation Burnham, the book Hit and Run, and/or an inquiry into Operation Burnham and the book Hit and Run.*
2. *Please provide me with all emails, text messages and other documents to and from, or by, NZDF communications advisor Kevin Taylor in the past 13 months that mention or relate to me, Operation Burnham, the book Hit and Run, and/or an inquiry into Operation Burnham and the book Hit and Run.*

The following terms were used as a basis for a search of relevant material created in the past 13 months: [REDACTED], Operation Burnham, Hit and Run. No text messages relevant to your request were identified.

There were over 1,000 emails identified. Many of these are automated media notices received by Messrs Coleman and Taylor. Given the substantial number of results your request is refused in accordance with section 18(f) of the OIA, as a significant effort will be required to collate this information. I have considered extending the timeframe or fixing a charge, but neither of these removes the reason for refusal.

If you were to provide a more specific topic, your request could be reconsidered.

You have the right, under section 28(3) of the OIA, to ask an Ombudsman to review my response to your request.

Yours sincerely

G.R. SMITH
Commodore, RNZN
Chief of Staff HQNZDF

**A FORCE FOR
NEW ZEALAND**



OIA-2018-3007

3 May 2018

Dear [REDACTED]

I refer to your email of 19 March 2018 requesting, under the Official Information Act 1982 (OIA), the following regarding the information pack released regarding Operation Burnham:

1. *In relation to the single insurgent shot by NZSAS at 1.28am, how far away from the insurgent was the NZSAS trooper who fired the shots (in metres)? Please mark the position of the insurgent and the trooper who shot him on an image of Document 6.*

Enclosed is a copy of slide 13 of the PowerPoint presentation from the press conference of 27 March 2017 with a scale for distance. This gives an indication of where the trooper was positioned and where the insurgent was located.

2. *The information pack states that this single insurgent's "identity as an insurgent was confirmed." How was it confirmed? What are the titles of the documents containing the details of the identification of him as an insurgent?*

The identity of the individual as an insurgent was visually confirmed during the operation. Further information on his identity became available through intelligence reports following the operation. These are contained in various documents listed in Document Fourteen of the information pack.

3. *The information pack also says that "security conditions on the ground precluded the collection of the deceased or biometric data...." This was after 1.28am, approximately 30 minutes after the larger group had been engaged by aerial fire. What exactly was the nature of the threat that precluded the collection of the deceased or biometric data? What are the titles of the documents containing the details of the threat at that time and place?*

There was a personnel security concern relating to the location of the deceased's body as it was not easily accessible.

4. *The information pack states, in a section called "What are the events of Operation Burnham", that at 12.54am coalition aircraft were given permission to engage insurgents in an area south west of the landing zone. Who gave this permission? The Ground Force Commander?*

From 0035 to 0054 hours the armed insurgents were positively identified, permission to engage provided by the Ground Force Commander, friendly troops moved on towards the target building A1, and then the AH-64 Apache helicopters engaged the armed insurgents as they moved to higher ground.

5. *Please mark the position of this 12.54am engagement on an image of Document 6.*

This position is marked on slide 11 of the PowerPoint presentation from the press conference of 27 March 2017. A copy of this slide was enclosed with my response dated 19 April 2018.

6. *Was the engagement by coalition helicopters or fixed-wing aircraft, or both?*

I refer you to my response dated 19 April 2018.

7. *In relation to the video that showed rounds falling short, was this helicopter video or video from other coalition aircraft?*

The NZDF understands that video showing rounds falling short and striking two buildings is from Coalition aircraft.

8. *The information pack says there is 15 minutes and 52 seconds of video from coalition aircraft. Is this video one unbroken segment (ie unedited, continuous video from one camera)? If not, how many separate pieces of video have been edited together and how many different cameras does this come from?*

The 15 minutes and 52 seconds of video footage is from the weapons systems of two AH-64 Apache helicopters.

9. *In relation to the injured trooper, what caused the wall and roof to collapse on him?*

It is understood the collapse may have been a result of gaining entry to the building.

10. *In relation to the injured trooper, did it really take from 12.53am, when he entered the house A1, until 2.45am before the trooper was evacuated? If not, what time did he enter A1 and have the injury? If so, why?*

The injuries to the trooper were not assessed as requiring immediate evacuation. The threat posed by insurgents with Rocket Propelled Grenades required resolution before the medical evacuation helicopter could approach the immediate area.

You have the right, under section 28(3) of the OIA, to ask an Ombudsman to review my response to your request.

Yours sincerely



G.R. SMITH
Commodore, RNZN
Chief of Staff HQNZDF

Enclosure

1. Slide 13 (with distance scale added)

0128 – Sniper Engagement at one insurgent

