

OIA-2016-2509

9 August 2016

**Alex Hill**

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Dear Alex

I refer to your email of 16 July 2016 requesting, under the Official Information Act 1982 (OIA), information relating to the shootings in Napier between 7 and 9 May, 2009. You noted that the New Zealand Defence Force (NZDF) assisted the New Zealand Police, and that that assistance included the employment of Light Armoured Vehicles. In the context of the authorisation of the support of the Police by Armed Forces, you asked, firstly:

- 1.0 *Whether such authorisation was granted, and if so, at what time and by whom;*
  - 1.1 *In the case that this information exists, I would like a copy of the authorisation;*
  - 1.2 *In the case that this information doesn't exist, I would like to know who received the request for assistance from the Defence Force, and under what circumstances and authorisation;*

Requests from the New Zealand Police for Defence assistance are received by the Chief of Defence Force (CDF) via the Strategic Commitments and Engagements Branch in Headquarters New Zealand Defence Force (HQNZDF). Section 9(4) of the Defence Act applies when the Defence Force is asked to provide assistance to the civil power, and to assume command when providing that assistance. The 2009 Napier support task, however, was authorised by CDF under section 9(1)(b) of the Defence Act 1990. The CDF consulted with the Minister of Defence on the Defence Force's intent to provide the Police with operational support, with the New Zealand Police retaining full authority in responding to the Napier emergency.

- 2.0 *Under the authorisation that was granted, I would like to know what equipment was sent to assist, and from what unit.*
  - 2.1 *The amount, and roles, of staff that were sent to assist this operation;*
  - 2.2 *Who the Non-Commissioned Officer, or Commissioned Officer in charge of the operation was;*

The Defence Force provided two Light Armoured Vehicles (NZLAVs), one fitted with a light obstacle blade, and one armoured Pinzgauer Light Operational Vehicle (LOV). These were deployed from 1 Battalion, Royal New Zealand Infantry Regiment, Linton. 1 NZ Explosive Ordnance Disposal (EOD) Squadron also deployed explosives detection, diagnostic and robotic equipment.

Each of the NZLAVs deployed with a crew of three: a commander, a driver and a gunner. The NZLAVs were used to provide the police with protected mobility. The gunners operated the NZLAVs' surveillance suites. The LOV had a driver and co-driver on board, but the vehicle was not used at the scene. 2nd Land Force Group (now 1 [NZ] Brigade) deployed a public relations officer. The EOD team consisted of three personnel. The team's role was to locate and render safe any explosive hazards at the location, once the siege had ended, so

that the police could safely enter the siege house. The team used robotic equipment to place an explosive charge on a garage door. The EOD unit also deployed an officer to liaise with the police.

I am withholding the names of the personnel involved in the 2009 Napier operation pursuant to section 9 (2)(a) of the OIA. I do not consider that any public interest in disclosing their names outweighs the desirability of protecting their personal privacy.

3.0 *All correspondence between the New Zealand Police, the New Zealand Defence Force and any government Ministry that discussed or evaluated responses to the situation in Napier; and*

The New Zealand Police led the response to the 2009 Napier shooting, and was therefore the agency responsible for any evaluation of the overall response to the incident.

4.0 *Any internal report produced that evaluates, discusses or investigates the NZDF response to the 2009 Napier shootings.*

I have enclosed an internal report that discussed and evaluated the Defence Force's response to the 2009 Napier callout. Redactions have been made under ss.6(a) and 9(2)(g)(ii) to avoid prejudice to New Zealand's security, and to protect an officer of the NZDF from the possibility of improper pressure or harassment.

I trust this satisfies your request for official information, although you retain the right, under section 28(3) of the OIA, to ask an Ombudsman to review these responses to your questions.

Yours sincerely



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

## DOT-POINT BRIEF FOR COS 2 LFG

### NAPIER CALLOUT – 7-9 MAY 09

In general the deployment of 2 LFG assets in Support of the Police Operations in Napier went smoothly. The aim of this brief is to discuss a number of minor issues encountered.

#### Call-Out

- In general the call out of personnel went smoothly. This was dramatically assisted by the fact that the FE's involved were already in the field. Nevertheless, it is likely that such a small group could have been deployed from Linton in a similar timeline.

#### Groupings

- NZLAV. 2 x NZLAV deployed, one with a LOB fitted. Both vehicles were employed during the Operation and performed well. The personnel payload and protection saw these vehicles in high demand amongst the police.
  - Both NZLAV were used to move STG personnel to the scene, including facilitating the deployment of *Redacted under OIA, Section 6 (a)*.
  - The LOB was used to move cars IOT allow the STG and IEDD Robot access to the scene. The LOB was very useful in this role.
  - 1 x NZLAV was used in the recovery of the body of the slain police officer.
- LOV(Armd). 1 x Armd LOV deployed but was not employed at the scene.

#### Communications

- The key methods of Comms between the scene and higher HQ were via Cell Phone and DIXS email. Whilst this was effective in this situation, the following points are worth noting.
  - Had the situation escalated to a Defence Act 'Sect 9' deployment, it is *Redacted, under OIA, Section 6(a)*. In future it would be wise to deploy a small comms element (*Redacted, under OIA, Section 6(a)*) to provide for this potential escalation.
  - Access to DIXS in this case was due to the Police Incident Control HQ being set up at HQ 7 WnHB. It should be noted however that this access was not continuous. On one occasion this resulted in an important message from COMJ not being received for approx 10 hours from the time of sending. In future it is unlikely that DIXS access will be avail at this sort of an incident. *Redacted, under OIA, Section 6(a)*

- Redacted, under OIA, Section 6(a).

## Equipment

- Redacted, under OIA, Section 6(a).

This resulted in at least one LAV crew being forced to endure exposure to CS Gas without any protection. Redacted under OIA, Section 6(a).

## Chain of Command

- The establishment of 24 hour POC at HQ 2 LFG was very valuable as it provided me with a clear reporting chain. Unfortunately this chain was not always followed by pers contacting the incident scene from higher HQs although none of this caused major concern.

## Legal

- Issues surrounding the constraints on the use of NZLAV arose during the activity. Specifically:
  - The initial order specifically forbade the use of the LAV for 'breaching'. Care needs to be taken to avoid the use of ambiguous wording in orders, particularly when not referring to commonly understood tasks. In this case J3 HQJFNZ provided excellent verbal clarification.
  - Initially the use of NZLAV as a platform for NZ Police to deliver *Redacted under OIA, Section 6 (a)* was forbidden. This was later authorised by COMJ.
  - Initially the use of NZLAV to push cars was forbidden. This situation was later relaxed to allow the movement of police cars but not civilian vehicles. Although I am not sure of the background to this it appears to be based on an NZDF legal opinion that such tasks would require 'Section 9' approval from the PM. This view was not shared by NZ Police legal advisors in Wellington. In the end this situation was only resolved by direct intervention by COMJ who approved the use of LAV as requested by the Police, in line with Police legal advice.
  - The ban on using LAV to 'Breach' prevented the use of LAV to break down a garage door. Whilst this was not a concern, it is amusing that the door was subsequently breached by an explosive charge emplaced by an NZDF robot.

- Throughout the task the deployed LSO from 2 LFG provided clear and common sense advice. At times she appeared frustrated by second guessing from above.

### Infrastructure

- The proximity of the incident scene to HQ 7WnHB was a convenient coincidence and allowed the police to completely base their operations from this location. Prior to the arrival of the team from Linton, 7 Bn had already assessed the situation and begun providing support to the Police. 7 Bn also maintained a 24 hour presence throughout the incident and continued to support the operation as it developed. There was no evidence that the Police had either the capability or plans to provide for their own deployed infrastructure. Had 7Bn support not be avail, it is likely that a much larger contingent (incl Log Spt) would need to have deployed from Linton.

### PR / Media

- The 2 LFG PRO deployed in support of the operation. In hindsight this deployment was of little value as he offered nothing that could not have been provided by phone or email. Indeed, I would question the logic behind much of DPRU's involvement in the operation. Specifically:
  - DPRU provided a number of key media messages for the task. These messages all sought to reinforce the primacy of the Police and impress that Defence merely had a supporting role.
  - Concurrently, DPRU arranged for me to be the only non-police speaker at the post resolution press conference. This would not only have served to undermine the key messages above, but would also have raised the risk of facing politically motivated questions around LAV. Indeed DPRU acknowledged the risk of questions around recent ministerial comments about LAV and offered suggested answers.
  - In the event NZDF attendance was blocked by NZ Police.
- For future deployments I would advise against the deployment of DPRU personnel.

Despite these minor issues, 2LFG was able to support this task with minimal upheaval and achieve mission success. This is a testament to the abilities of the Subaltern, NCOs and soldiers involved, particularly the LAV crews who displayed excellent professionalism in a trying and very fluid environment.

Redacted, under OIA, Section 9 (2)(g)(ii)  
MAJ

DTelN Phone: 369-7401

27 May 09

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT