

OPERATION STINGRAY RECONSTRUCTION

CONTENTS

1. Search Warrant Planning
2. Search warrant execution and pre-shooting movements
3. Shooting of Senior Constable's Snee, Diver and Miller
4. Leonard Holmwood struggles with Molenaar and is shot
5. Shot's fired at rescuers
6. Shot's fired at Armed Offenders Squad members
7. Shot's fired at 45 Chaucer Road
8. Shot's fired at 43 Chaucer Road
9. Shot's fired at 39 Chaucer Road
10. Shot's fired at 31 & 32 Enfield Road
11. Shot's fired by Armed Offenders Squad member A9 at Molenaar
12. Molenaar shoots himself with .38 calibre revolver
13. Alteration to 41 Road Chaucer Road scene by Police and Army personnel prior to scene examination
14. Molenaar Communications

OPERATION STINGRAY

1. SEARCH WARRANT PLANNING

On the morning of Sunday 12 April 2009 after training at a local gym in Napier Senior Constable s 9(2)(a) OIA walked along Carlyle Street into Chaucer Rd (South) and up towards Napier Terrace¹. He was planning on walking over to Ahuriri.

Whilst walking up Chaucer Rd above the intersection with Spencer Road, a section colloquially referred to as 'Breakneck Road' due to its steep gradient Senior Constable s 9(2)(a) OIA smelt a very strong smell of cannabis plant. He retraced his steps, walking down to the bottom of the hill (the intersection with Spencer Road) before walking back up in an effort to re-confirm exactly where the smell was coming from. He believed that the odour was coming from either number 39 or 41 Chaucer Road, South, Napier.

"As I started to walk up Chaucer Road I got a real strong smell of Cannabis in the air. I stopped there for a moment and walked down to the bottom of the hill and walked back up and got the same strong smell of Cannabis again. I looked at the two house numbers the smell of Cannabis was coming from, one of the box numbers was 39 and the other was 41".²

On 17 April 2009 a gold coloured Mitsubishi motor vehicle, registration LM1417, registered to Delwyn KEEFE of 41 Chaucer Road, South, Napier was reported acting suspiciously in Knightsbridge, Napier. Previously there had been burglaries in this area.

On or about Monday 20 April 2009 Senior Constable's Leonard SNEE and Grant DIVER met with Senior Constable s 9(2)(a) in his office s 9(2)(a) OIA s 9(2)(a). The three discussed drug information including the odour smelt by Senior Constable s 9(2)(a) on 12 April 2009 in Chaucer Rd.³ Senior Constable SNEE advised that he would follow the matter up with a view to executing a search warrant.

On Monday 20 April 2009, Constable's s 9(2)(a) OIA were rostered to work a night shift. At about 10.30pm they visited 41 Chaucer Road South in respect of the suspicious report of KEEFE's vehicle in Knightsbridge on 17 April 2009. Previously there had been burglaries in this area.^{4 5 6}

As the two arrived at the address Constable s 9(2)(a) noted the slight odour of cannabis plant and mentioned it to Constable s 9(2)(a) OIA who had not noticed the smell. Constable s 9(2)(a) was not sure of where the smell came from because of a breeze. The two OIA discussed a course of action they would take if they smelt it at the address. As it transpired they did not smell cannabis once inside the address.⁷

Both Jan MOLENAAR and Delwyn KEEFE were home at the time. The enquiry was conducted without incident with Constable s 9(2)(a) speaking with MOLENAAR and Constable s 9(2)(a) OIA speaking with KEEFE. Both provided a similar explanation

¹ 10137 - Statement of Senior Constable s 9(2)(a) pg 1

² 10137 - Statement of Senior Constable OIA pg 1

³ 10137 - Statement of Senior Constable pg 2

⁴ 10097 - Statement of Constable s 9(2)(a) pg 1

⁵ 10095 - Statement of Constable s 9(2)(a) OIA pg 1

⁶ 10386 - Transcript (Video Interview - tape 2) of Delwyn Keefe, pg 17

⁷ 10095 - Statement of Constable s 9(2)(a) OIA pg 2

OPERATION STINGRAY

in statements recorded in the Constable's notebooks that they had been looking at real estate. The explanation was corroborated by some text message contact with a real estate company. The explanations were accepted and the enquiry concluded. The file was endorsed accordingly.⁸ MOLENAAR made particular mention that he had an association with Detective Sergeant s 9(2)(a) OIA of Hastings and referred to him by his nickname', s 9(2)(a) OIA^{9 10}

At the time KEEFE and MOLENAAR briefly discussed whether or not Constable's s 9(2)(a) OIA had smelt the cannabis but Molenaar did not seem too concerned.¹¹

At about 11.00am, on Thursday 23 April 2009 Detective s 9(2)(a) OIA and Constable s 9(2)(a) OIA visited 41 Chaucer Road to conduct the enquiry in relation to the suspicious report of KEEFE's vehicle. Both members work on the Napier Law Enforcement Team (LET) which investigates burglary and other crimes of dishonesty. This transpired to be the same enquiry previously conducted by Constable's s 9(2)(a) OIA however s 9(2)(a) OIA were unaware that this had already been completed.^{12 13}

It was raining heavily at the time of the visit by the two investigators. Whilst they were conducting the enquiry Detective s 9(2)(a) OIA noted the smell of what he described as 'fresh outdoor cannabis'.¹⁴ There was no one home at the time, however they did hear a dog barking somewhere at the rear of the address. The two spent some ten to fifteen minutes at the property but could not further identify where the odour originated and considered that it was in fact just wet foliage and not cannabis at all.

They departed from the address without effecting entry to the dwelling or speaking to anyone with the intention of following the matter up later that week. They subsequently became aware that Constable's s 9(2)(a) OIA had completed the enquiry so they took no further action and completed no correspondence.

At 9.00am on Monday 27 April 2009 Senior Constable Snee went to the address of 39 Chaucer Road South, Napier. Whilst there he identified that a strong odour of cannabis was originating from 41 Chaucer Road South, Napier.¹⁵

NIA queries were executed on both 41 Chaucer Road South, Napier and Jan MOLENAAR on Monday 27 April 2009 as follows:¹⁶

- At 3.29pm Senior Constable DIVER queried both 41 Chaucer Road South, Hospital Hill, Napier City and Jan MOLENAAR.
- Senior Constable s 9(2)(a) OIA was working a day shift in the Napier watch house that day and was due to finish work at 4.00pm but for an unrelated reason was late leaving. Shortly after 4.30pm she returned to her desk in the

⁸ File Number 090418/0588

⁹ 10097 - Statement of Constable s 9(2)(a) OIA

¹⁰ 10095 - Statement of Constable s 9(2)(a) OIA

¹¹ 10386 - Transcript (Video Interview - Tape 2) of Delwyn Keefe, pg 17

¹² 10065 - Statement of Detective s 9(2)(a) OIA

¹³ 10064 - Statement of Constable s 9(2)(a) OIA

¹⁴ 10065 - Statement of Detective s 9(2)(a) OIA

¹⁵ 50087 - Search Warrant Application - 41 Chaucer Road South, Napier

¹⁶ 10452 - Job sheet of Detective Senior Sergeant HANSEN, pg 1 - 2

OPERATION STINGRAY

watch house and found Senior Constable SNEE using her computer. She had earlier left this logged on in her QID. She was not aware at the time, but Senior Constable SNEE had conducted two queries one on 41 Chaucer Road South, Hospital Hill, Napier City and a second on Jan MOLENAAR whilst logged on using her QID. These were conducted between 4.34pm and 4.39pm.¹⁷

Senior Constable SNEE subsequently informed Senior Constable [s 9(2)(a) OIA] that he had cycled past the address of 41 Chaucer Rd and smelt the odour of cannabis himself. He also informed Senior Constable [s 9(2)(a) OIA] that he had conducted a NIA query and had discovered a previous intelligence noting pertaining to drug activity. Senior Constable [s 9(2)(a) OIA] is unsure of the exact date that Senior Constable SNEE conducted the observations or when he was told this.¹⁸

The intelligence noting referred to was dated 04 December 1995 and reads as follows: *"This noting is the result of NIS conversion. Description: info received by anon letter that drugs are being sold from 41 Chaucer Road by Jan Molenaar, selling some to kids. Informant states that he also has guns which the informant believes are stolen"*.¹⁹ There is no indication in NIA that any further action was ever taken with this. Any paper record would have been destroyed by 2009 if ever held.

On Tuesday 28 April 2009 Senior Constable SNEE swore an affidavit and obtained a search warrant for 41 Chaucer Road South, Napier at the Napier District Court. The search warrant was signed by Deputy Registrar [s 9(2)(a) OIA].^{20 21}

Approximately one to two weeks prior to 7 May 2009 a suspicious green vehicle had been seen in Chaucer Road by MOLENAAR. This was also seen by at least one of his associates. This raised concerns with him which he spoke to KEEFE about.²² There is no evidence that this vehicle was anything but an innocent visitor to the area but the incident shows the paranoid state of Molenaar's mind.

On 6 May 2009 whilst they were executing a search warrant at a Tutira property Senior Constable DIVER advised Senior Constable [s 9(2)(a) OIA] that Senior Constable SNEE and himself would be executing the search warrant at 41 Chaucer Rd the next day. Senior Constable [s 9(2)(a) OIA] informed DIVER that he had a pre-arranged matter the next day and would be unable to attend the search warrant.²³

¹⁷ 10458 - Job sheet of Senior Constable [s 9(2)(a) OIA] (1/09/2009)

¹⁸ 10137 - Statement of Senior Constable [s 9(2)(a) OIA] pg 2

¹⁹ NIA Record [2040148512] - Intelligence Noting, 4/12/1995

²⁰ 50087 - Search Warrant Application - 41 Chaucer Road South, Napier

²¹ 50079 - Search Warrant - 41 Chaucer Road, Napier

²² 10386 - Transcript (Video Interview) of Delwyn Keefe, pg 19 & 20

²³ 10137 - Statement of Senior Constable [s 9(2)(a) OIA] pg 2

OPERATION STINGRAY

2. PRE-SHOOTING MOVEMENTS

Between 5.30am and 6.00am on Thursday 7 May 2009 Senior Constable SNEE jogged past the address of 41 Chaucer Road South prior to going to work. That morning he passed comment to his colleague, s 9(2)(a) OIA that when he had gone past 41 Chaucer Rd that morning, the odour of cannabis was not as strong as he had previously smelt.¹ s 9(2)(a) OIA says that it was not uncommon for Senior Constable SNEE to conduct reconnaissances of target addresses in such a manner.

That day KEEFE was supposed to work but had the day off from her work because she had been ill, so she remained in bed.² At approximately 8.00am that morning MOLENAAR arose from bed.³

At about 8.30am Constable s 9(2)(a) OIA the Community Constable for Tamatea spoke with Senior Constable SNEE at the Taradale Community Policing Centre. Senior Constable SNEE asked him if he was available to assist with a search warrant, but because Constable s 9(2)(a) OIA had another pre-arranged appointment he advised Senior Constable SNEE that he would be unavailable in the first instance. Senior Constable SNEE advised him that if he required his assistance he would call him on his mobile phone. Constable s 9(2)(a) OIA was only aware that the search warrant was for a Chaucer Road property and did not know any other detail.⁴

Shortly after this conversation Senior Constable SNEE received a phone call on his work mobile phone s 9(2)(a) OIA from Senior Constable DIVER, s 9(2)(a) OIA. This call lasted for 45 seconds.⁵ At the time SNEE advised DIVER that he was at the s 9(2)(a) OIA SNEE arranged to meet DIVER at the Napier Police station and said that they he would try to arrange further staff for the search warrant.⁶

At 8.59am Senior Constable SNEE made a 51 second phone call to the Napier Police Station (068310700). He made a further phone call to that same number at 9.06am for duration of 57 seconds.⁷ One of these two phone calls was put through to Senior Constable Bruce MILLER who was at work at the Ahuriri Community Policing Centre, Waghorn Street, Ahuriri.⁸

At 9.00am MOLENAAR took his dog a cross bred Staffordshire bull terrier called 'Ruger' for a walk. He was wearing green short sleeved shirt with thick black stripes, black jeans and black hiking boots. This was almost a daily routine for MOLENAAR.⁹

Senior Constable DIVER met Senior Constable SNEE at the Napier Police station following his phone call to him. At that at the time Senior Constable SNEE said that Senior Constable MILLER would accompany them on the search warrant and he was going to meet the two of them at the top of Chaucer Road (the intersection with Napier Terrace).¹⁰

¹ 10301 - Job Sheet of Detective s 9(2)(a) OIA), pg 1

² 10086 - Statement of Delwyn KEEFE, pg1

³ 10086 - Statement of Delwyn KEEFE. pg 2

⁴ 10150 - Statement of Constable s 9(2)(a) OIA, pg 1

⁵ 10328 - Job Sheet of Detective s 9(2)(a) OIA (Summary of SNEE phone calls)

⁶ 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 2

⁷ 10328 - Job Sheet of Detective s 9(2)(a) OIA (Summary of SNEE phone calls)

⁸ 10217 - Transcript (Video Interview) of S/Constable MILLER, pg 3

⁹ 10086 - Statement of Delwyn KEEFE. pg 2

¹⁰ 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 3

OPERATION STINGRAY

The two drove in their respective vehicles to the top of Napier Terrace where they met Senior Constable MILLER. Senior Constable SNEE drove the Taradale 4WD, a white unmarked Holden Rodeo twin cab utility, registration No s 9(2)(a). Senior Constable DIVER drove the Hawkes Bay dog section silver unmarked station wagon, registration No s 9(2)(a). Senior Constable MILLER was in the Ahuriri CPC vehicle a marked Holden patrol car registration No s 9(2)(a).¹¹

Senior Constable MILLER parked his vehicle on the corner of Napier Terrace and Chaucer Road (facing the old hospital, on the cemetery side). He immediately got into Senior Constable SNEE's vehicle and both vehicles drove down to the address of 41 Chaucer Road South with the Holden Rodeo in the lead.

During this short drive Senior Constable SNEE briefly advised Senior Constable MILLER of the circumstances of the search warrant. No formal briefing was provided.¹²

At 9.17am KEEFE received a text message on MOLENAAR's mobile phone s 9(2)(a) from Leonard HOLMWOOD mobile phone s 9(2)(a) OIA stating, "r u at hm M8". KEEFE replied "Yip".^{13 14 15} KEEFE got up to receive and send the message and then got back into bed. s 9(2)(a) OIA had previously purchased small amounts of cannabis from Molenaar.¹⁶

Shortly after this the three Police officers arrived at 41 Chaucer Road South. SNEE parked nose first into the driveway of 41 Chaucer Rd on the right hand side of KEEFE's Mitsubishi vehicle which is also in the driveway. Senior Constable DIVER parked his van on the street immediately below the address.

Senior Constable SNEE carried an OC Spray canister in the pocket of his duty jacket. His handcuffs were in a backpack which was left in his police vehicle. He did not have an ASP Baton or portable radio.

Senior Constable DIVER carried OC Spray, ASP Baton, handcuffs and a portable radio.

Senior Constable MILLER carried OC Spray, handcuffs and a portable radio. His ASP baton was left in his patrol vehicle.

None of the three members were wearing their Stab Resistant Body Armour (SRBA). No firearms were carried by any of the three nor did they have immediate access to firearms in their respective vehicles.

No communication was made with the Police communications centre to advise that they were at the address or that they were executing a search warrant either by radio or mobile phone. Accordingly the exact time the three arrived at the property is unknown but it is estimated to be between 9.17am and 9.24am.

¹¹ 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 3

¹² 10217 - Transcript (Video Interview) of S/Constable MILLER, pg 3

¹³ 10318 - Job sheet of Det/Sgt s 9(2)(a) OIA (Text Message Analysis Molenaar), pg 5

¹⁴ 10386 - Transcript (Video Interview- Tape 2) of Delwyn KEEFE, pg 24

¹⁵ 10387 - Transcript (Video Interview) of Delwyn KEEFE, pg 16

¹⁶ 10289 - Transcript (Video Interview) of s 9(2)(a) OIA pg 9

OPERATION STINGRAY

Senior Constable DIVER left his drug dog in the rear compartment of his vehicle on their arrival at the address. The three initially had some difficulty in gaining access to the property before entering on the driveway side of the house. Senior Constable MILLER gained access through the gates on the driveway,¹⁷ Senior Constable's DIVER and SNEE eventually gained entry through the pedestrian gate on the left hand side of the house.

The three officers did this immediately following the text message from HOLMWOOD.¹⁸ Shortly after this, KEEFE who was still in bed, heard a dog barking, got up, and thinking it must be the Police she immediately went into the grow room (the room next to the master bedroom) uplifted a cardboard box containing 16 ounces of cannabis and took this downstairs via the spiral staircase before leaving it on a bench in the garage.¹⁹

She then went back up the stairs as Senior Constable SNEE knocked on the door on the left hand side of the property.²⁰

KEEFE answered the door to Senior Constable SNEE who explained that he had a search warrant. The odour of cannabis was immediately smelt by Senior Constable SNEE, who indicated this to Senior Constable DIVER.²¹

KEEFE invited the three constables inside and when asked by Senior Constable SNEE if she had any cannabis in the house she immediately led them to a bedroom at the end of the hall way where cannabis was being cultivated.²²

Senior Constable MILLER went down the spiral staircase to search the garage area and noted the strong odour of cannabis. He immediately located a loaded shotgun which was on a stand in the garage area.²³

Senior Constable DIVER told KEEFE that he had a drug dog which he intended to bring though the house, so if she had any further cannabis she should tell him about it. KEEFE subsequently took DIVER downstairs where she identified the box of cannabis she had earlier put down there.²⁴ They both went back upstairs and at this time Senior Constable SNEE spoke with KEEFE in the kitchen.²⁵

During the search Leonard HOLMWOOD arrived at the address unaware of the police presence and knocked on the door, which was answered by one of the officers.²⁶ He does not recall who it was but it is believed to have been Senior Constable SNEE as neither DIVER nor MILLER recall him arriving.^{27 28}

HOLMWOOD has sat in the dining area as directed whilst Senior Constable SNEE dealt with KEEFE.

¹⁷ 10217 - Transcript (Video interview) of S/Constable MILLER, pg 3

¹⁸ 10386 - Transcript (Video Interview - Tape 2) of Delwyn KEEFE, pg 24

¹⁹ 10387 - Transcript (Video Interview) of Delwyn KEEFE, pg 15

²⁰ 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 3

²¹ 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 3

²² 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 3

²³ 10217 - Transcript (Video Interview) of S/Constable MILLER, pg 4

²⁴ 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 4

²⁵ 10386 - Transcript (Video Interview - Tape 2) of Delwyn KEEFE, pg 24

²⁶ 10289 - Transcript (Video Interview) of Leonard HOLMWOOD, pg 18

²⁷ 10217 - Transcript (Video Interview) of S/Constable MILLER

²⁸ 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 11

OPERATION STINGRAY

At 9.24am Senior Constable SNEE made an unanswered phone call to the Napier Police Station. At 9.26am he called s 9(2)(a) OIA the Napier Police photographer, on his mobile phone.²⁹ He advised Sergeant s 9(2)(a) OIA that he required him to photograph an indoor cannabis scene at 41 Chaucer Road, Napier. The entire call would have lasted for no longer than a minute.³⁰

After this phone call Jan MOLENAAR arrived at 41 Chaucer Road probably shortly after 9.26am.

At this time Senior Constable MILLER was still searching the garage area.³¹

Senior Constable DIVER was down in the garage area with Senior Constable MILLER after having been called back down by him to show him the firearm.³²

Senior Constable SNEE was upstairs in the kitchen area speaking with KEEFE. HOLMWOOD was also upstairs in the dining area.

MOLENAAR was aggressive about the police presence at the address.³³

*Delwyn Keefe recalls, "I'm in the kitchen with Len SNEE and the um oh the front door's over there and um that's where Jan walked straight in and he just says get the f out of my house and then I heard him say um yeah just get the fuck out of my house"*³⁴

Hearing raised voices Senior Constable DIVER has made his way back up the stairs and saw MOLENAAR at the door.³⁵ Almost immediately he disappeared down the hallway and then re-appeared within a moment with a firearm and demanded that everyone leave the address.

It is believed that he obtained the firearm the room being used to grow the cannabis.^{36 37}

Senior Constable SNEE attempted to negotiate with MOLENAAR briefly to calm him down and so did KEEFE. Senior Constable DIVER called out to Senior Constable MILLER who was still down stairs unaware of what was happening.

Senior Constable DIVER recalls KEEFE trying to calm Molenaar down "Bruce has come back up and and this lady has come out of the kitchen area here and she's been reaching out for him, "don't be ..." you know just trying to get him to calm down, you know it doesn't have to be like this, you know he's standing there with a firearm like so, and she's trying to calm him down and get him to put it, put it down, and and you know he says "I want I want you guys to go and I want you to go" he's he's talking to her, "I want you to go as well."³⁸

²⁹ 10328 - Job Sheet of Detective s 9(2)(a) (Summary of SNEE phone calls)

³⁰ 10136 - Statement of Sergeant s 9(2)(a) pg 1

³¹ 10217 - Transcript (Video Interview) of S/Constable MILLER, pg 4

³² 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 15

³³ 10386 - Transcript (Video Interview - Tape 2) of Delwyn KEEFE, pg 24

³⁴ 10386 - Transcript (Video Interview - Tape 3) of Delwyn KEEFE, pg 5

³⁵ 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 15

³⁶ 10086 - Statement of Delyn KEEFE, pg 3

³⁷ 10386 - Transcript (Video Interview - Tape 3) of Delwyn KEEFE, pg 5

³⁸ 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 16

OPERATION STINGRAY

Training the firearm at the police officers MOLEENAAR then ordered the five from the house.

OPERATION STINGRAY

3. SHOOTING OF SENIOR CONSTABLE'S SNEE, DIVER AND MILLER

The three officers filed out of the address led, it seems, by Len Holmwood, and followed by Delwyn KEEFE¹.

As they reached the roadside, Len SNEE stopped beside the rear passenger side of his ute on the footpath, and turned to stand facing toward the house.

Grant DIVER stopped on the footpath near the high side of the driveway where it met the road and turned back toward Len Snee and Bruce MILLER².

Bruce MILLER stopped on the footpath near DIVER, but slightly downhill toward Len Snee.

It seems that Len Holmwood continued onto the roadway and Delwyn KEEFE reached the bottom of the stairs near the house beside her car.

As Grant DIVER turned back toward the other officers and made a comment to the effect *"can you believe this?"* he glanced up and saw Jan Molenaar on the veranda on the downhill or eastern side of the house.³ Molenaar was armed with a .223 rifle with telescopic sights. DIVER thought that Molenaar was about to fire a shot at them so he thought about turning with the intention of taking cover up hill behind a high fence at the front of the property.

Meanwhile, Bruce MILLER had also turned to face toward Len Snee, and he also glanced up to the balcony and saw Molenaar there pointing the rifle directly at him. Molenaar then shifted his aim from MILLER and pointed the rifle toward Len Snee. Suddenly, without warning, Molenaar fired at least two shots, one of which hit Len Snee in the right side of his neck and travelled down to exit his upper back, mortally wounding him⁴. As Snee stumbled backward and began to fall, Bruce MILLER also began to turn to run up the hill to safety.⁵

Molenaar quickly turned the rifle toward DIVER and MILLER and fired at least six shots at them.

As DIVER began to turn a bullet passed through his right forearm and into his right lower abdomen⁶:

"...as I turned I can just recall this really loud volley of shots, I don't know how many there were, but it was just, it was like an automatic weapon just being fired repeatedly, and um, I felt this stabbing pain through my side and and my legs just went out from underneath me and I can remember falling into this fence that was on the uphill side of the property near the front. My legs just went out from underneath me."⁷

¹ 10386 - Transcript (Video Interview - Tape 3) of Delwyn KEEFE, pg 6

² 10216 - Transcript (Video Interview) of Senior Constable DIVER, pg 5

³ 10216 - Transcript (Video Interview) of Senior Constable DIVER, pg 5

⁴ 10459 - Statement of s 9(2)(a) OIA, ESR, pg 22

⁵ 10217 - Transcript (Video Interview) of Senior Constable MILLER, pg 19

⁶ 10459 - Statement of s 9(2)(a) OIA, ESR, pg 24

⁷ 10216 - Transcript (Video Interview) of Senior Constable DIVER, pg 6

OPERATION STINGRAY

After Bruce MILLER had turned and as he began to run up the hill he was hit in the mid-back by a bullet⁸ -

"...I was to the side of the road and then I couldn't, I didn't believe it when I looked up, I looked straight up and he had actually had the bloody firearm basically trained straight at my head... I said to, bloody sure I said to Blue, just this sneakily said to him 'He's lining us all up'.

... Lenny was sort of, he was slightly on the footpath, on the road, standing looking back towards the house, basically in full view of the guy and it just happened, it was just bang, bang straight away and, and ah, I saw that, I saw that he got hit and next minute he started training over to us and Grant and I realised 'shit we we've got to get, we've got to run'. Unfortunately for us it was going to be uphill.

...we started running... we just started bolting as much as we could uphill, um, I felt myself, I think he may have got hit just before me, but it was very like within you know, half a second or a second that we both got hit at the same time.

And from there we just basically tried to get as far away as we could from him and yeah, like I knew I was hit but yeah, I was struggling to run, um, and breath as well, quickly, I was sort of the adrenaline obviously just kept me going..."⁹

After the first shot or two at Len Snee, Delwyn KEEFE fell to the ground near the bottom of the steps with her eyes shut tight, and her hands covering her ears -

"...I followed them down the steps down to my driveway. I got down to the driveway beside the front passenger side of my car. I heard Jan yell 'get the fuck off my property!'. That's when the shots went off. It just went bang, bang, bang, quick all together.

The shots were so loud that I blocked my ears after the second shot. I'm not sure how many there were. My ears were ringing"¹⁰

As Bruce MILLER and Grant DIVER then tried to make their way up the road to safety, Delwyn KEEFE ran back inside the address and shouted at Molenaar -

"...I ran into the house and yelled at Jan 'You've made it fucken worse, you just shot a cop' "¹¹

Almost immediately Molenaar left the house to go out onto the roadway. As he reached the bottom of the stairs by the garage doors, he fired a shot from the .223 rifle at Len Snee where he lay on his back with his head on the roadway and legs toward the house. The bullet hit Len Snee in the left hip and travelled up to lodge in his chest.¹² That bullet, or another fired simultaneously, passed through his left forearm.

⁸ 10459 - Statement of [REDACTED] s 9(2)(a) OIA ESR, pg 23

⁹ 10217 - Transcript (Video Interview) of Senior Constable MILLER, pg 5-6

¹⁰ 10086 - Statement of Delyn KEEFE, pg 3-4

¹¹ 10086 - Statement of Delyn KEEFE, pg 4

¹² 10459 - Statement of [REDACTED] s 9(2)(a) OIA ESR, pg 22

OPERATION STINGRAY

Molenaar then continued onto the roadway where Leonard Holmwood was standing.

Injuries to Len Snee (gunshot wound tracks)¹³

1

s 9(2)(a) OIA

2

3

Injuries to Grant DIVER¹⁴

1.

s 9(2)(a) OIA

2.

s 9(2)(a) OIA

Injuries to Bruce MILLER¹⁵

1.

s 9(2)(a) OIA

s 9(2)(a) OIA

¹³ 50052 - Report of pathologist s 9(2)(a) OIA, pg 11

¹⁴ 10483 - Job sheet of Det s 9(2) pg 1

¹⁵ 10482 - Job sheet of Det (a) pg 1

OPERATION STINGRAY

4. LEONARD HOLMWOOD STRUGGLES WITH MOLENAAR AND IS SHOT

As Molenaar, having shot Senior Constable Leonard Snee a second time, walked out onto the roadway, Grant Diver and Bruce Miller, both badly wounded, were trying to stagger then crawl up the road, which is very steep, in search of cover and safety. Grant Diver describes what happened:

"...I can recall just starting to crawl and then, and then trying to get to my feet and falling over again and, and then just starting to crawl up this hill, and um, I don't know, I think I tried to get to my feet two or three times and each time I sort of got, sort of got half way up I'd use something to hang onto and try and pull myself up and I kept falling over again.

As I was um... as I was crawling up the hill, I can sort of remember looking back behind me and I could see [it] looked like Bruce trying to do the same behind me....

Um, and I was just thinking at this point, shit I've got to, I've got to get away from here, I've got to, you know get off this street and, and get into some cover somewhere, away from this guy, and I couldn't hear any shots at that stage, ... and ... I got further up the road, I, I sort of I can remember being on my all fours, I can remember sort of pulling myself along on my belly, I can remember sort of half pie getting to my feet and sort of staggering a few steps and falling over again, and then I recall looking back down the road again, and I can remember seeing these two guys fighting on the road...¹.

As Diver and Miller crawled up the hill seeking safety, Molenaar, raised the rifle as if to fire at them. Leonard Holmwood, who was still standing on the road way describes what happened:

"I can't remember which order we walked out in, down onto the street, get onto the street then the firing started which hit the Police Officers, not sure which one he shot first cause they were multiple shots. Then he come out onto the street and we landed up facing one another in the middle of the road, he had the rifle facing Napier cemetery from his place. He was facing up the hill, I was facing down, that's on Chaucer Road. Um, he said, 'Get the hell out of here', he was willing to actually let me go.

Behind me I hear um, all cries of anguish from the Police Officers that were still able to walk. I looked over my shoulder at them and they were staggering along the fence wall up the road... I looked back, Jan was swinging the gun past me towards them. My reaction was I grabbed the gun, and turned it back towards the cemetery. We tussled for I don't know, 5-10 seconds, maybe 20, but being such outmatched in size, he eventually threw me. As I went down I watched the asphalt under me explode and then I think I got hit by the second shot he took at me which hit me in the hip and came out my rectum area. I fell to the ground, tussling at him².

It seems that, having shot Mr Holmwood, Molenaar then fired shots at the injured police officers as they sought cover. Grant Diver describes what he saw:

¹ 10216 - Transcript (Video Interview) of Senior Constable DIVER, pg 6-7

² 10289 - Transcript (Video Interview) of Leonard HOLMWOOD, pg 4-5

OPERATION STINGRAY

"... I can remember seeing these two guys fighting on the road. Um, and they seemed to be fighting over a gun... in the middle of the road and there's lots of yelling and pushing and pulling, and then I can remember just another barrage of shots and I can recall bits and pieces flying up in front of me further up the road, there was, seemed to be bits of god knows what it was, just flying up in the air, coming off the wall or the bank or off the road, it just, just this horrible sounds of these, these shots and, and I thought this bastard's still shooting at us and um, and I can remember thinking I've got to get off this road..."³.

Mr Holmwood, who was grievously injured, managed to crawl around Len Snee's ute toward shelter against a low concrete wall just below the driveway. As he did he grabbed Len Snee and tried to pull him with him, but hadn't the strength to move him.

Then, when Molenaar fired another volley of shots from the house, or the deck beside the house, he crawled to the low wall and tucked himself in against it.

Although he wanted to render some basic first aid to Len Snee, s 9(2)(a) OIA he was unable to do so because he couldn't move due to the bullet wound to his leg and pelvis.⁴ At 0940, whilst sitting there, he phoned 111 seeking help.

He remained in position against the wall until he was rescued by Armed Offenders Squad members at approximately 0940 hrs⁵.

Leonard Holmwood's Injuries⁶

1. s 9(2)(a) OIA

s 9(2)(a) OIA

³ 10216 - Transcript (Video Interview) of Senior Constable DIVER, pg 6-7

⁴ 10289 - Transcript (Video Interview) of Leonard HOLMWOOD, pg 5

⁵ 10369 - Job sheet of Detective Sergeant Daniel Foley, pg 5

⁶ 10481 - Job sheet of Detective s 9(2)(a) OIA pg 1

OPERATION STINGRAY

5. RECONSTRUCTION - SHOTS FIRED AT RESCUERS

After fatally shooting Senior Constable Len SNEE and wounding Senior Constable DIVER, Senior Constable MILLER and civilian Leonard Holmwood, Jan MOLENAAR returned to the inside of his dwelling situated at 41 Chaucer Rd South, Napier.

Whilst MOLENAAR did this DIVER crawled into the driveway of 45 Chaucer Rd South and was let into the house by the female occupant, s 9(2)(a) OIA

MILLER managed to crawl from outside 41 Chaucer Rd South and seek refuge in the driveway entry of 47 Chaucer Rd South, where he lay seriously wounded. ^{1 2}

At 9.32am MILLER made a 10-10 immediate assistance call to Police Communications on his portable radio.

"10/10. Chaucer Road, shots fired. Three. Three cops been shot" ³.

He further stated that Senior Constable SNEE had been shot. The subsequent Police response was immediate as officers, some armed and some not, moved quickly into the area. ⁴

DIVER collapsed onto a couch and managed to ring the Napier Police Station on his mobile phone to raise the alarm at 9.35am. ^{5 6}

s 9(2)(a) OIA a woman who resided in Guys Hill Rd, was on the way from her address into Napier city. As she approached the intersection of Guys Hill Rd and Chaucer Rd South she stopped her car after seeing Bruce MILLER crawling into the driveway a short distance away. ⁷

s 9(2)(a) OIA was soon joined by another resident of Guys Hill Rd, s 9(2)(a) OIA (also known as s 9(2)). ⁸

After discussing the situation with s 9(2)(a) OIA drove his car down the hill and parked on the roadway adjacent to where MILLER was lying. ⁹

s 9(2)(a) OIA followed s 9(2)(a) OIA shortly afterwards, driving her vehicle down Chaucer Rd South to where MILLER lay seriously injured and parked directly behind s 9(2)(a) OIA vehicle, in a downhill direction. ¹⁰

At 9.36am s 9(2)(a) OIA of 45 Chaucer Rd South came out to the fence where MILLER lay injured and informed him that DIVER was inside her address and that he was critically injured. s 9(2)(a) OIA was in extreme danger where she was standing so MILLER, despite his serious wounds, shouted at her to take cover. ¹¹

¹ 10217 - Transcript (Video Interview) of S/Constable MILLER, pg 6

² 10010 - Statement of s 9(2)(a) OIA pg 3

³ 50096 - Communication Centre Audio Transcript, pg 1

⁴ 10217 - Transcript (Video Interview) of S/Constable MILLER, pg 6

⁵ 10216 - Transcript (Video Interview) of S/Constable DIVER, pg 7

⁶ 10339 - Statement of s 9(2)(a) OIA pg 2

⁷ 10001 - Statement of s 9(2)(a) OIA pg 1

⁸ 10010 - Statement of s 9(2)(a) OIA pg 3

⁹ 10010 - Statement of s 9(2)(a) OIA pg 3

¹⁰ 10001 - Statement of s 9(2)(a) OIA pg 2

¹¹ 10339 - Statement of s 9(2)(a) OIA pg 4

OPERATION STINGRAY

s 9(2)(a) OIA was evacuated from her home shortly afterwards.

At 9.37am s 9(2)(a) OIA telephoned Police and said that he was with MILLER in a driveway in Chaucer Rd South. To establish the number to assist the Police responding staff s 9(2)(a) OIA and s 9(2)(a) OIA went out onto Chaucer Rd South to obtain a street number from a letterbox. MOLENAAR fired three shots at s 9(2)(a) OIA narrowly missing them from the SLR .308 rifle. ^{12 13}

I got out of the car and was walking over to s 9(2)(a) OIA. The police asked what number and both s 9(2)(a) OIA and I went to check the letterbox. We couldn't see a number immediately so walked down to the house lower.

We were next door to where the policeman was lying, trying to find a number. Whilst we were there I heard 2 more shots. We both then ran back to the policeman and lay down.

After we bolted s 9(2)(a) OIA crouched down by the policeman and I hid down by the boot of my car.

I thought the shots were fired at us. We were the only people around.¹⁴

These shots were fired from an elevated position behind the 'hobbit house' at the rear of 41 Chaucer Road property. Three .308 cartridge casings were subsequently located during the scene examination of this location. ¹⁵

One of the shots fired at this time went through s 9(2)(a) OIA Honda motor vehicle and exited through the rear quarter light window.

Two of the shots fired by MOLENAAR hit branches of a tree in the driveway of 45 Chaucer Road. ¹⁶

s 9(2)(a) OIA quickly took cover as best they could with s 9(2)(a) OIA crouching beside MILLER and s 9(2)(a) OIA hiding behind her vehicle, still parked on the roadway.¹⁷

There were little other options available and there was no solid cover available to shield themselves from MOLENAAR's shots.

Chaucer Rd South is about 400 metres in length from top to bottom and extremely steep. It is situated in a steep gully with houses on one side and a wooded cemetery on the other.

Six Police officers were soon at the intersection of Guys Hill Rd and Chaucer Rd South.

The police staff comprised an experienced Detective Sergeant, two Sergeants, one Detective Constable, one Constable and a Senior Sergeant visiting Napier from Auckland. This member from Auckland was totally unfamiliar with the area concerned.

¹² 10001 - Statement of s 9(2)(a) OIA pg 2

¹³ 10010 - Statement of s 9(2)(a) OIA pg 4

¹⁴ 10001 - Statement of s 9(2)(a) OIA pg 2

¹⁵ 10236 - Jobsheet of Detective Constable s 9(2)(a) OIA pg 7

¹⁶ 10242 - Jobsheet of Det s 9(2) pg 8

¹⁷ 10059 - Statement of Sergeant s 9(2) pg 4

OPERATION STINGRAY

Sergeant s 9(2)(a) OIA and Detective Constable s 9(2)(a) OIA were detailed to provide cover for other Police staff from positions in the adjacent cemetery.

s 9(2)(a) OIA took up a position behind a tree a short distance from 41 Chaucer Rd South. After a short time 6-8 shots closely spaced together were fired from what they considered to be a semi-automatic high powered weapon.

Both s 9(2)(a) OIA and s 9(2)(a) OIA believed some of the fired rounds passed closely over their position.¹⁸

"I was about to move forward and that's when the shots rang out.

They were from a semi automatic, a high powered weapon. The shots were closely spaced together, and I think six to eight shots.

After about the first few shots I heard what I believed were at least two bullets pass close over myself and s9(2)(a) OIA.¹⁹

Detective Sergeant s 9(2)(a) OIA, Sergeant s 9(2)(a) OIA, Constable s 9(2)(a) OIA and Senior Sergeant s 9(2)(a) OIA received verbal calls of assistance from s 9(2)(a) OIA to come down the hill to assist the injured officer MILLER.^{20 21 22}

The four officers arrived outside the address of 47 Chaucer Rd South where MILLER lay injured and was being assisted by s 9(2)(a) OIA.

Between them they were armed with Bushmaster rifles and Glock pistols and wearing stab resistant body armour and a ballistic vest. They had no idea where MOLENAAR was at this point, although due to the shots being fired they believed that he was in possession of a high powered semi-automatic rifle.²³

They immediately organised themselves to evacuate the two civilian members up Chaucer Rd South to safety.

At 9.47am s 9(2)(a) OIA ran to s 9(2)(a) OIA motor vehicle which was sitting in the open, parked on Chaucer Rd South. s 9(2)(a) OIA got into the driver's seat of this vehicle.²⁴

As they attempted to flee the scene MOLENAAR again opened fire, firing six or more shots. These shots are likely to be linked to fire received by A2, A4 and A6.²⁵

Everyone dropped to the ground and sought any available cover there was from the shots.^{26 27 28 29}

¹⁸ 10075 -Statement of Sergeant s 9(2)(a) OIA pg 2

¹⁹ 10075 -Statement of Sergeant s 9(2)(a) OIA pg 2

²⁰ 10001 - Statement of s 9(2)(a) OIA pg 3

²¹ 10058 - Statement of s 9(2)(a) OIA pg 9

²² 10010 - Statement of s 9(2)(a) OIA pg 5

²³ 10029 - Statement of Detective Sergeant s 9(2)(a) OIA pg 4

²⁴ 10029 - Statement of Detective Sergeant s 9(2)(a) OIA pg 4

²⁵ 70064 - Statement of AOS member A2, pg 4

²⁶ 10010 - Statement of s 9(2)(a) OIA pg 4

²⁷ 10021 - Statement of Constable s 9(2)(a) OIA pg 3

²⁸ 10029 - Statement of Detective Sergeant s 9(2)(a) OIA pg 4

²⁹ 10059 - Statement of Sergeant s 9(2)(a) OIA pg 4

OPERATION STINGRAY

"We were standing slightly crouched when one of us told the members of the public to run away up the hill towards the intersection in the direction of Guys Hill Road.

They stood up from the crouching position they were in and started to run up the Hill.

As soon as they moved to run away, shooting broke out from a position down the road.

We all took cover as [redacted] yelled out "Down!"

I am sure I could hear the Zing of bullets passing over us and in the direction of the members of the public who were trying to flee to safety."³⁰

Senior Sergeant [redacted] and Constable [redacted] believing that they were coming under fire shielded Bruce MILLER by both lying on top of him in order to prevent any of the shots fired at their position striking him. ^{31 32}

"Before I got into the driver's seat of the Honda I looked behind me and could see AOS members walking down the hill towards our position.

I then told the two civilians to get out and run up the hill. They did this immediately and at the same stage I got into the driver's seat of the vehicle. As I was doing this I looked into the back seat of the car and noticed there was a guitar in a case on the back seat and I leant over the back to remove this off the back seat. At this stage I heard a volley of loud shots and I immediately ducked for cover on the front passenger seat of the vehicle.

As I was ducking for cover I could see the other officers moving to lie on top of Const Miller to both protect him and protect themselves, in behind the small brick wall.

I heard at least 5 or 6 shots in quick succession and I believe that it sounded like a high powered semi automatic rifle. The shots appeared to be coming from an area downhill from my position.

At that stage I was not aware of any AOS members in front of my position and it was clear to me that the shots were being directed in our direction because of our actions or our movements attracting the suspect's attention.

I could hear the other staff members who were talking to Constable Miller who was responding. At some stage I think I yelled to them that I was going to back the car in.

Whilst in the vehicle I did not hear any of the shots being fired into the vehicle that I was in.

I did not see where the shots were coming from or landing but from the sounds of them the shooter sounded very close and I believed that they were intended for our direction.

I was fearful for the safety of the officers who were attending to Sen/Const Miller and myself as I was cowering down on the front seat of the vehicle. I realised that we needed to retreat from our position but also that we had to get everybody out."³³

³⁰ 10074 - Statement of Senior Sergeant [redacted] pg 3

³¹ 10074 - Statement of Senior Sergeant [redacted] pg 4

³² 10021 - Statement of Constable [redacted] pg 3

OPERATION STINGRAY

s 9(2)(a) then proceeded to turn the motor vehicle around in the narrow street. s 9(2)(a) had to complete a 3-point turn driving forward and reversing approximately three times. This allowed him to obtain the correct angle to reverse into the driveway beside MILLER to effect his extraction. ³⁴

The Police officers carried MILLER to the back seat of the vehicle driven by s 9(2)(a) OIA then immediately drove the vehicle uphill towards the intersection of Napier Terrace and Chaucer Rd South. ³⁵

As s 9(2)(a) drove MILLER to safety Senior Sergeant s 9(2)(a) OIA provided armed cover as the roadway where the extraction took place was exposed to indiscriminate shots fired by MOLENAAR. ^{36 37}

When MILLER was taken to safety, AOS member A3 recalled earlier information supplied over the Police radio that DIVER had contacted Police to state he was injured and needed assistance as 45 Chaucer Rd South. ³⁸

Other AOS members who had been deployed were not immediately aware of where DIVER was.

AOS members A3 and A4 entered the address of 45 Chaucer Rd South and located a seriously wounded DIVER on the couch in the lounge losing consciousness.

"I first entered the hallway and turned right into the first room which was the lounge. I saw Grant DIVER on the couch. He was flat on his back with his head squashed into the corner of the couch with his legs off to the front onto the floor.

He was wearing blue Police overalls and his duty belt was undone and was open underneath him. His hands were to his sides and his left hand was hanging over the edge of the couch and his right hand was in between his leg and the back of the couch, he was clutching his cell phone.

He had been shot and was a pale grey and falling asleep. I believed he was losing consciousness.

He said something to me about not lasting much longer.

I had to keep waking him up by slapping his face and grabbing his chin and moving his face. He responded to that by coming around and said that he was in a lot of pain, saying it was hurting so much.

This all happened in a matter of seconds." ³⁹

A3 also applied continuous pressure on a severely bleeding wound in an effort to reduce blood loss.

³³ 10029 - Statement of Detective Sergeant s 9(2) pg 4 - 5

³⁴ 10029 - Statement of Detective Sergeant (a) OIA - pg 5

³⁵ 10029 - Statement of Detective Sergeant - pg 6

³⁶ 10074 - Statement of Senior Sergeant s 9(2)(a) - pg 5

³⁷ 10059 - Statement of Sergeant s 9(2) - pg 4

³⁸ 70054 - Statement of AOS member A3, pg 3

³⁹ 70054 - Statement of AOS member A3, pg 3

OPERATION STINGRAY

A decision was made between A3 and A4 to conduct an extraction of DIVER and at this point A4 left the address returning to the intersection of Chaucer Rd South and Guys Hill Rd.
40

AOS members A4 and A1 then enlisted the assistance of Detective Sergeant [s 9(2)(a) OIA] and paramedic [s 9(2)(a) OIA]

The paramedic was given a Police ballistic vest and escorted by A4 and A1 to 45 Chaucer Rd South. This group was accompanied by Detective Sergeant [s 9(2)(a) OIA] who carried a stretcher to the address. 41

On arrival back at the address A1 took up a position to provide armed cover for staff inside the address. After an assessment of the wound, which was still bleeding profusely, by the paramedic, a decision was made to place DIVER on a stretcher and extract him from the address. 42

After securing DIVER to the stretcher A4 and the paramedic carried the head end and Detective Sergeant [s 9(2)(a) OIA] carried the other end.

A3 continued to apply pressure to the wound during the successful extraction to the top of Chaucer Rd South. 43 44

Senior Constable DIVER was transferred to an ambulance and a short time later to the rescue helicopter where he was immediately air lifted to Hawkes Bay Hospital with his life threatening injuries.

40 70046 - Statement of AOS member A4, pg 5
41 10029 - Statement of Detective Sergeant [s 9(2)(a) OIA], pg 9
42 70054 - Statement of A3, pg 4 [s 9(2)(a) OIA]
43 70054 - Statement of AOS member A3, pg 5
44 10029 - Statement of Detective Sergeant [s 9(2)(a) OIA], pg 9 [s 9(2)(a) OIA]

OPERATION STINGRAY

6. RECONSTRUCTION - SHOTS FIRED AT AOS

Once Senior Constable MILLER was successfully extracted AOS members A2, A4 and A6 arrived at the top of Chaucer Road South.

These Police members were not aware of where Senior Constable DIVER was but had been told that he had been shot and had not been accounted for.

A2, A4 and A6 deployed down Chaucer Rd South from the Guys Hill Rd intersection toward 41 Chaucer Rd South.

As these members walked down the hill they could clearly see a Police member lying on the ground behind a white utility vehicle.

A2 led this group and upon getting to the corner of properties situated at 43 and 41 Chaucer Rd South and having cover from A4, A2 ran to where Senior Constable SNEE was lying to ascertain his condition. ¹

"The three of us carried on down the road toward the subject address in an effort to locate our other colleagues. I was in the lead. A4 was behind me with A6 in the rear. I could see Senior Constable SNEE's white utility parked up a driveway and ran toward it.

We came to the corner of the properties at 43 and 41 Chaucer Rd Sth, making that our next observation point. We were next to a brown vehicle which was possibly a Mitsubishi car. There was no one with that vehicle. Senior Constable SNEE's vehicle was facing up the driveway of 41 Chaucer Rd Sth, the back tyre was on the road the rest of it up the driveway.

From there I could see Senior Constable SNEE. I could also see the Police vehicle of Senior Constable DIVER further down the road a little. Senior Constable SNEE was at the back and side of his Ute, he was on his back his feet were on the footpath while his head was on the road. I broke cover and made for Senior Constable SNEE to check on his condition. A4 covered me.

I felt for Senior Constable SNEE'S pulse on the left side of his neck, and couldn't find one. I shook him. I spoke to him, trying to get a response. I saw blood at the back of his head/neck area. I checked his eyes and they were horribly blank. I knew that he was dead. I checked his pulse again, his carotid artery. There was no response. I confirmed in my mind that he was dead. I have dealt with lots of dead people but nothing can prepare you for that. He was and still is my very good mate."²

A4 and A6 then joined A2 on the downhill side of the driveway of 41 Chaucer Rd South.

This group of AOS members then located the shot civilian Leonard HOLMWOOD lying beside a fence line adjacent to 41 and 39 Chaucer Rd South and also close to the front of Senior Constable DIVER's Police vehicle.

Arrangements were made with another AOS member, A9, to extract HOLMWOOD to a safe location. ³

¹ 70064 - Statement of AOS Member A2, pg 3

² 70064 - Statement of AOS Member A2, pg 2 - 3

³ 70064 - Statement of AOS Member A2, pg 4

OPERATION STINGRAY

A2, A4 and A6 then regrouped next to the fence line outside 41 Chaucer Rd South.

A6 became engaged in conversation with a woman, Delwyn KEEFE, who was standing above the position of A2, A4 and A6 on the first floor deck, situated on the southern side of the dwelling. A6 was attempting to locate Senior Constable DIVER. ⁴

As A6 spoke to the woman A2 moved to the back of the white Police utility vehicle parked on the driveway of 41 Chaucer Rd South. ⁵

A2 saw a gate in front of this vehicle which led into the back yard of 41 Chaucer Rd South. A2 went to this gate to ascertain if entry could be made or whether it was possible to view the rear yard area of the property.

A2 also yelled out calling for Senior Constable DIVER in an attempt to locate him. ⁶

As A2 went to open a latch on this gate, and as A6 continued to talk to KEEFE, MOLENAAR opened fire at A2, A4 and A6. ^{7 8 9}

The shots were aimed directly at these three AOS members and were fired from an elevated position at the front of the house situated at 41 Chaucer Rd South close to where KEEFE was standing.

The distance between where the shots were fired from and where the Police members were standing was approximately 4-6 metres.

As variously reported approximately 10-20 shots were fired in quick succession from a high powered automatic firearm. Subsequent examination by ERS revealed at least 13 shots fired as described by the AOS members.

The shots narrowly missed these Police staff members.

A6 felt concussion through the air past his head as the rounds fired by MOLENAAR missed him and A2 and A4. ¹⁰

"When I heard the shots I ducked back behind the fence and as I did this I could see the leaves on the trees on the opposite side of the road getting shredded. The leaves getting shredded would have been around my head height. The leaves were then falling to the ground. I don't know how far I turned my head to see the leaves getting shredded I just saw the movement of the leaves. I am not able to say where the leaves were in relation to 41 Chaucer." ¹¹

A2, A4 and A6 immediately ran to a place of cover at the fence line situated between 43 and 41 Chaucer Rd South. The fence line was constructed of wooden palings and had a low two foot concrete base. ¹²

⁴ 70210 - Statement of AOS Member A6, pg 4

⁵ 70064 - Statement of AOS Member A2, pg 4

⁶ 70064 - Statement of AOS Member A2, pg 4

⁷ 70064 - Statement of AOS Member A2, pg 4

⁸ 70046 - Statement of AOS Member A4, pg 4

⁹ 70210 - Statement of AOS Member A6, pg 5

¹⁰ 70210 - Statement of AOS Member A6, pg 5

¹¹ 70210 - Statement of AOS Member A6, pg 5

¹² 70064 - Statement of AOS Member A2, pg 4

OPERATION STINGRAY

A2 and A4 then took up positions further up Chaucer Rd South while A6 was deployed into the cemetery. A6 placed himself directly opposite 41 Chaucer Rd South to observe the front of this property.

A9 and A12 completed the extraction of HOLMWOOD to safety and then took up positions at the corner of Spence Rd and Chaucer Rd South.

While in this position members of the public at 36 Chaucer Rd South were photographing and videoing AOS members, their movements and also the address situated at 41 Chaucer Rd South.

They had been conducting these activities for sometime, including prior to the extraction of HOLMWOOD and prior to AOS members deploying into Chaucer Rd South from the Spencer Rd intersection.¹³

Both A9 and A12 called on these persons to desist their activities and go inside their dwelling as both Police members believed that these actions would draw fire on their position from MOLENAAR.

MOLENAAR then fired four to five aimed shots at A9 and A12.

"While being distracted by the guy with the camera, the victim was starting to complain that he was getting cold. He said he thought he was going into shock. I covered him up with a sweatshirt he had been holding to try and keep him warm.

I was concerned that the man in the window was presenting himself as a target to the offender and could likely get shot.

Both A12 and I were yelling at him to get away from the window and hide.

He did not do this.

I believe this activity and commotion drew the attention of the offender to us.

I heard 4 or 5 shots being fired at us. I heard the rounds pinging off a nearby fence.

The rounds were hitting the fence near 1 Spencer Road - a white corrugated iron fence. It was certainly close by if not that address.

I believe the offender directed those shots at us as a direct result of the actions of the man at or near 36 Chaucer Road."¹⁴

¹³ 70061 - Statement of AOS Member A12, pg 2 - 4

¹⁴ 70025 - Statement of AOS Member A9, pg 8 - 9

OPERATION STINGRAY

7. Reconstruction - shots fired at 45 Chaucer Road.

Shortly after arriving at the cordon on Napier Tce and Chaucer Rd South, AOS member A3 has moved down the road to a vehicle parked outside No. 45 Chaucer Rd South.

He became aware that those already present did not know where Senior Constable Diver was and realised that the information he had received about Senior Constable Diver had not been passed onto those there. AOS A3 then went into the address at No. 45 and located Senior Constable Diver.

After administering first aid and assisting in getting the injured officer out of the house AOS A3 returned to the address to try and maintain an observation on the house at No. 41. ¹

A3 remained in the house for about 2 hours and assisted in removing the female occupant from No 43.²

A copper jacket from a 7.62 round was recovered from underneath the sideboard in the dining room. ³

There were two bullet strikes to a tree at the front of this property. In the opinion of s 9(2)(a) OIA of ESR these shots were fired from behind the guest house at 41 Chaucer Rd.⁴

Up to seven bullets have struck the south-facing wall of the house at 45 Chaucer Street. In opinion of s 9(2)(a) OIA of ESR these shots have originated from the direction of the kitchen of 41 Chaucer Road and would have passed through the fibrolite fence.⁵

No member refers to rounds striking 45 Chaucer Road during the incident. These bullet strikes were located by the scene team during the scene examination.

¹ 70054 - Statement of AOS Member A3, pg 3

² 70054 - Statement of AOS Member A3, pg 5

³ 10242 - Job sheet Detective s 9(2) pg 8

⁴ 10459 - Statement of s 9(2)(a) OIA ESR, pg 26

⁵ 10459 - Statement of s 9(2)(a) OIA ESR, pg 26

OPERATION STINGRAY

8. Reconstruction - Shots fired at 43 Chaucer

At about 1500hrs on 7 May 2009 AOS members, A2, A13 and A7 were inside the dwelling of 43 Chaucer Rd South. They had arrived at the address through the back yard of No. 45 earlier in the day and brought out the female occupant of No. 43.¹

Once in the address they had a view of the driveway and northern side of the house at No. 41. A7 was in the kitchen and A2 and A13 were in the master bedroom. This view of No 41 was partially obstructed and obscured by a wire mesh fence that was overgrown with vegetation.

A plan had been agreed to that involved deploying gas into No. 41 from the front bedroom of No. 43.²

The gas was deployed towards the rear bedroom of No. 41 by A2 while he was given cover by A13. Two rounds were fired but both failed to penetrate the building. This was due to the rounds having to be fired through the overgrown fence.³

The two AOS members who deployed the gas from the bedroom saw that their efforts had been ineffective and stepped back from the window.

Immediately after doing so a volley of rounds penetrated the wall and window where they had been standing, passing through the window and wall and into the ceiling of the bedroom.⁴

In the words of A7,

"A2 selected the window which he thought would be the best for the deployment at the target address, which was a window at the rear.

At this point we were all wearing gas masks.

When the order was given to deploy gas either one or two had been fired from our location when as I was covering out the kitchen window a burst of rounds came through the open window. I was aware of the rounds passing in front of my face going above my head and I immediately flung my body backwards hitting the stove to the left side of me.

I did not know where the rounds came from and did not observe the offender. It sounded like the burst of fire was fully auto.

¹ 70047 - Statement of AOS Member A7, pg 4 - 5

² 70047 - Statement of AOS Member A7, pg 6

³ 70064 - Statement of AOS Member A2, pg 8

⁴ 70064 - Statement of AOS Member A2, pg 8

OPERATION STINGRAY

The rounds hit the ceiling behind my position striking a beam and in several places the ceiling plaster. I think there were about 5 holes in the roof.

I do not know if he was deliberately aiming at me or in the direction of the open window thinking that's where the gas came from.

My personal feeling is because of the closeness of the rounds at me it was a deliberate act."⁵

Another AOS member, A17, positioned in the cemetery observed the gas being deployed. He saw the bush area between the two properties moved and the sound of gun fire. He also saw discharge smoke coming from the northern side of No. 41. ⁶

The three AOS members retreated from their positions into the hallway near the front door. A2 went out onto the porch outside the front door to keep observations on number 41. While there several more volleys of shots were fired at the front of No. 43 striking the front exterior of the house and the porch area. ⁷

There were approximately 25 bullet strikes to the front of the house at 43 Chaucer Road. In the opinion of s 9(2)(a) OIA of ESR, these shots have originated from the deck or from the kitchen window of 41 Chaucer Road. ⁸

There were three shots fired into the master bedroom of 43 Chaucer Road. There were approximately five shots fired into the kitchen of 43 Chaucer Road.

In the opinion of s 9(2)(a) OIA of ESR, the shots to the master bedroom and kitchen of 43 Chaucer Road have come from the end bedroom of 41 Chaucer Road. ⁹

There were 7 spent 7.62 cartridge cases located in the rear bedroom of No. 41. ¹⁰

Several strands of wire in the mesh fence on the boundary between No 41 and 43 had been cut and were folded in a direction away from No. 41. ¹¹

⁵ 70047 - Statement of AOS Member A7, pg 7

⁶ 70087 - Statement of AOS Member A17, pg 6

⁷ 70064 - Statement of AOS Member A2, pg 8 - 9

⁸ 10459 - Statement of s 9(2)(a) OIA ESR, pg 26

⁹ 10459 - Statement of s 9(2)(a) OIA ESR, pg 26

¹⁰ 10234 - Job sheet of Detective Constable s 9(2)(a) pg 3

¹¹ 10242 - Job sheet of Detective s 9(2)(a) pg 7

(a)

OPERATION STINGRAY

9. Reconstruction - Shots fired at 39 Chaucer Road

At the time the incident began the occupant of No. 39, s 9(2)(a) OIA was at home s 9(2)(a) OIA. He heard a number of gunshots throughout the incident at different times.¹

At about 12.40pm when AOS members entered his property via Guys Hill Road he left the property with his child and ran to safety at Spencer Road.²

"Then I heard noise coming from the fence beside our house, moving stuff in the back corner of his property. I didn't know what he was up to, I thought maybe he was trying to get out and ran. I though he was coming our way. I could hear banging by our top room. I thought I heard the windows being forced open then I heard footsteps of running on the roof. I wasn't sure who it was. I had it in my mind that it was him. So I grabbed s 9(2)(a) OIA and ran out the front and kept running til I got to Spencer St, saw some cops and it was all good from there."

The house was then used by AOS and STG members for the rest of the siege.

At about 0200hrs on the 08/05/2009 the house and property was being used as an observation point by STG members, STGA4 and STGA5. They had been there for 2-3 hours.³

STGA5 was outside the address in a position of concealment at the front of number 39 with a line of sight to the rear deck of 41 Chaucer Road. STGA5 heard two volley's of shots coming from 41 Chaucer directed towards the road. These were fired from a .22 and .308 weapon and appeared to be directed towards the street lights.⁴

STGA5 :

"At about 0200hrs two sets of eight rounds from a .22 rifle were fired from the target's house. These appeared to be being fired towards the road.

The exact time will be recorded in the log.

I believe this to be a .22 rifle through my knowledge of shooting .22 rifles both in the Police and in my private life.

A .22 makes a low crack noise and I also heard the rounds hitting the grass bank across the road.

¹ 10070 - Statement of s 9(2)(a) OIA pg 1 - 3

² 10070 - Statement of s 9(2)(a) OIA pg 3

³ 70072 - Statement of STG member STGA4, pg 4

⁴ 70073 - Statement of STG member SGTA5, pg 4 and 5

OPERATION STINGRAY

I believe this was a semi-automatic weapon, based on the rate of fire, as it was quite quick, too quick to be a bolt action.

It was at this stage that the street light went out and it is my belief that the offender was intentionally firing towards the street light.

It was my recollection that 10 seconds later, a .308 weapon fired at a fully automatic rate. This was initially from the white and red sector of the target house. By this, I mean the rounds went towards roadway and as you're facing the house, towards the right direction.

I heard the rounds hitting the road and ricocheting. Again, I believed this was a .308 weapon from my use in firearms and my experiences as a STG Operator.

Again I believe it was a fully automatic weapon due to the rate of fire. It was very quick and I would say that 6 to 8 rounds were fired at about 1.5 seconds."

About 25 minutes later STGA5 moved his position to the southwest corner of the house, which afforded him cover, after another volley of about 10 to 12 rounds of .308 was fired from 41 Chaucer towards the road and then directed up the front of the property towards his position. After moving he then called STGA4, who was inside the address, over his radio to come to his position outside.⁵

At this time another volley of 12 to 14 shots from a .308 were fired. STGA5 felt the percussion of the rounds as they hit the front lawn nearby.⁶

STGA4, who was in the hallway of the address, heard the rounds smash through the wood framing and travel through the walls around him. He was at the base of the stairs in the hallway some 7 inches from where some of the rounds came through the hallway wall.⁷

The third weapon was what I believed to be a full automatic weapon of a large calibre,

I believed this because of the loud sound, it was noticeably louder than the others and the rate of fire was very quick, this was fired from the direction of the offenders house out into Chaucer Road.

It was fired up and down the road and then immediately into our position of cover. We had been in the house for about 2 to 3hrs at this stage, it was hard to know the times exactly as it was pitch black and there was strict light discipline for obvious reasons.

STGA5 was in the opposite side of the house to me, I could not see his position from where I was at this stage.

⁵ 70073 - Statement of STG member STGA5, pg 6

⁶ 70073 - Statement of STG member STGA5, pg 6

⁷ 70072 - Statement of STG member STGA4, pg 6

OPERATION STINGRAY

This third weapon fired four separate bursts which had a small break in between, I can't be sure of the exact time of the break but it was not long maybe 5 - 10 seconds.

The first two bursts from this weapon were not in our direction and appeared to be towards the roadway.

The third burst was in our direction, I knew this because the rounds started to smash through the wood framing and travel through the walls around me.

At this time I was sitting in the hallway area askew of the bedroom door, I was basically at the base of the stairs the lead up to the bedroom upstairs.

This third burst would have contained about 9 to 10 rounds and would have taken about 1-3 seconds to fire on what I thought was full auto.

It was pitch black at this time, I did not see anything, I just heard the wood splinter above me.⁸

These rounds have struck the northwest wall and corner of the house having past through a wooden paling fence and tree growth between the two properties. Fragments of rounds have impacted on the exterior stucco of the house while others have penetrated through the windows and the interior walls of the house.⁹

These shots have originated from the master bedroom of 41 Chaucer Road.

At about 6.30am (8 May 2009) when we handed over to the next tactical squad who I think were AOS from Rotorua, we pointed out places not to position themselves.

It was at this point I saw how close the rounds had fallen to my position.

There were at least three holes, one of these was about 7 inches from where my head would have been.¹⁰

There were up to six shots fired into the patio fence of 39 Chaucer Road.¹¹

There was one shot to a tree in front of the patio fence.¹²

In opinion s 9(2)(a) OIA of ESR, these shots were fired from the master bedroom of 41 Chaucer Road.¹³

⁸ 70073 - Statement of STG member STGA4, pg 4

⁹ 10242 - Jobsheet Detective s 9(2) pg 6

¹⁰ 70073 - Statement of STG member STGA4, pg 6

¹¹ 10459 - Statement of s 9(2)(a) OIA, ESR, pg 26

¹² 10459 - Statement of s 9(2)(a) OIA, ESR, pg 26

¹³ 10459 - Statement of s 9(2)(a) OIA, ESR, pg 26

OPERATION STINGRAY

10. Reconstruction - Shots fired at Enfield Road

The addresses of s 9(2)(a) OIA Enfield Road are positioned on the high ground in a south easterly direction from 41 Chaucer Road South.

Both addresses are prominent and visible from the balcony and master bedroom area of 41 Chaucer Road South.

The distance between 41 Chaucer Road South and s 9(2) Enfield Road was measured by an STG member with a range finder and found to be approximately 139 metres.

On the morning of 7 May 2009 the occupant of 31 Enfield Road, s 9(2)(a) OIA was sitting in his lounge recovering from a stomach operation.

s 9(2)(a) OIA an occupant of s 9(2) Enfield Road was also alone at his address of s 9(2) Enfield Road on the morning of 7 May 2009.

At about 0930hrs s 9(2)(a) OIA heard what he describes as six rapid shots. On looking out his lounge window he looked in the direction of Spencer Road but saw nothing. He then heard further shots being fired and heard a male yelling "get in the car".

s 9(2)(a) OIA left his address and went across to his neighbour s 9(2)(a) OIA address at s 9(2) Enfield Road, knocked on the door but no reply. He then went back to his address went to his lounge and on looking outside saw s 9(2)(a) OIA standing on his own balcony talking on his cellphone.

s 9(2)(a) OIA had also heard the shots and called police.

My initial reaction was that the police were having an exercise in the old hospital grounds so I rang 111 to confirm if this was the case. While I was speaking to the comms operator they said that there was no exercise in the area at that time and that there were more calls coming in about the gunshots.¹

s 9(2)(a) OIA went back over to s 9(2)(a) OIA address and then went with s 9(2)(a) OIA on to his balcony. The balcony overlooks Chaucer Road South, Spencer Road and Guys Hill Road.

s 9(2)(a) OIA listened to s 9(2)(a) OIA talking to Police on his cellphone. Within two minutes of standing there s 9(2)(a) OIA heard and saw the lounge window explode from a single gunshot. The shot caused a large hole described as the size of a saucer.

This occurred at approximately 9.50 am.

¹ 10280 - Statement of s 9(2)(a) OIA pg 2

OPERATION STINGRAY

Within about two minutes of me standing there with him and s 9(2)(a) telling Police his address we saw and heard the explosion of the lounge window exploding from a gunshot coming through the window.

This was caused by one single shot which caused a hole the size of a saucer with radiating cracks coming away from it. From where s 9(2)(a) and I were standing the hole was made between the middle of us.

We both immediately dropped to the ground while s 9(2)(a) remained on the phone. I said to s 9(2)(a) that he must have scanner. I heard him relay that to the operator. We both crawled out of the lounge and out the front door of s 9(2)(a) OIA house.

We both sat down out of sight of the gunman out the front of s 9(2)(a) house on a brick wall.²

Both s 9(2)(a) OIA and s 9(2)(a) OIA dived on the floor and crawled out of the lounge and out the front door of s 9(2)(a) OIA address. After a short pause by a brick wall at the front of s 9(2)(a) OIA address they both went over to s 9(2)(a) OIA address at s 9(2) Enfield Road and went into the lounge.

While in the lounge of s 9(2) Enfield Road PRYOR observed Chaucer Road South through his bi-fold s 9(2) aluminium glass doors that open outward. He peered through the aluminium framing and the gap between the hinged bi-fold doors to do this. He observed activity down on Chaucer Road South and saw what he believed to be the movements of Jan MOLENAAR and Delwyn KEEFE.

Approximately two or so hours after initially being fired at s 9(2)(a) OIA saw a helicopter that was used to transport Police. At about 12.15pm he saw two further red helicopters flying in the area.

As they were flying he heard a volley of three shots which struck his house. He did not know where the bullets struck.³

A short time later he heard a volley of another six shots which also struck his house. One of the shots is described as going through his bedroom and into the lounge where he was positioned by the dining room table.

s 9(2)(a) OIA went and opened his bedroom door and saw bullet holes through his bi-fold door, the door frame, and wall adjacent to the bedroom bi-fold door. He also observed the shrapnel damage to the wardrobe door and smashed glass on the balcony balustrade.⁴

² 10117 - Statement of s 9(2)(a) OIA pg 4
³ 10117 - Statement of s 9(2)(a) OIA pg 7
⁴ 10117 - Statement of s 9(2)(a) OIA pg 7 - 8

OPERATION STINGRAY

s 9(2)(a) OIA [REDACTED] remained at s 9(2)(a) OIA [REDACTED] Enfield Road sleeping downstairs and occasionally going upstairs to eat. During this time STG/AOS members had moved into s 9(2)(a) OIA [REDACTED] address to establish an observation point.

Throughout Friday 8 May they remained at the address spending their time downstairs.

At about 11.30hrs of Saturday 9 May s 9(2)(a) OIA [REDACTED] learnt that the siege in Chaucer Road South was over. s 9(2)(a) OIA [REDACTED] returned to his address and was able to view the extent of damage.

He was able to observe eight distinct bullet entry points and one ricochet of the northern side of his address. Six of the rounds had entered his bedroom and one had entered the bathroom and shower area.

The damage to the address was recorded and photographed by Police during a subsequent examination.

Aside from the time of the first shot and the second volley of shots fired at the time the red helicopters were flying in the area it cannot be established with certainty when the remaining shots struck s 9(2)(a) OIA [REDACTED] Enfield Road.

STG operator S6 held an observation point at s 9(2)(a) OIA [REDACTED] Enfield Road during the night of 7 to 8 May from about 1900hrs onward. He observed on arriving at the address that the house had been struck on multiple occasions with bullets.⁵

During the scene examination of 41 Chaucer Road South photographs were taken from various rooms and advantage points to replicate Jan MOLENAARS view from his address. Photos from the lounge door clearly show that s 9(2)(a) OIA [REDACTED] Enfield Road can be seen from this vantage point.

The best views however are captured in photographs from the master bedroom where Jan MOLENAAR was situated with his arsenal. From this room a clear view can be had of both s 9(2)(a) OIA [REDACTED] Enfield Road.

In total 31 7.62mm (.308) spent rounds were located in the master bedroom. A further 9 were found in the lounge supporting the theory that shots toward Enfield Road could have been fired from both of these areas. No spent 5.56 (.223) rounds were found in these areas.

With the best vantage point being the master bedroom and the high number of spent 7.62mm rounds in the master bedroom it is highly likely that Jan MOLENAAR fired at s 9(2)(a) OIA [REDACTED] Enfield Road from the master bedroom.

⁵ 70082 - Statement of AOS member S6, pg 2

OPERATION STINGRAY

11. Reconstruction - Shots fired by AOS

During the siege numerous Police staff, including Armed Offenders Squad (AOS) members were despatched to the Chaucer Rd South area. During this time MOLENAAR fired numerous shots at Police staff that were deployed. Two shots were fired by a police member at MOLENAAR during the incident.

Until the conclusion of the incident it was not known whether or not these rounds had actually stuck MOLENAAR.

Standard Operating Procedures for police shootings involves assigning members with a code. In this case due to the large number of tactical group members and police staff involved and the fact that until the fourth day of the enquiry that MOLENAAR was never struck by a police fired round an alpha numeric code system was adopted.

The two shots were fired by an AOS member at MOLENAAR at approximately 12.30pm on the first day of the incident. This member was identified as 'A9'.¹

A9 is a Senior Constable with s 9(2) years Police service. He has been a member of the Hawkes Bay AOS for s 9(2) years. A9 holds certifications in all aspects of weapons handling and procedures.^{1,2}

A9 is also a qualified instructor / trainer for the following firearms through to 31/12/2010:

- Firearms 870P
- Firearms Glock
- Grenade / gas launcher
- Firearms M3
- Firearms M4
- Firearms MOD7
- Firearms MAN rifle³

At the time of deployment A9 was in possession of a Police issue Colt M4LE semi automatic. This was his primary weapon and the firearm he used to shoot at MOLENAAR. He also carried a Glock 9mm pistol and an H&K 40mm gas gun.⁴

The Colt M4LE was tested by armourer s 9(2)(a) OIA who advised that the firearm functioned normally, was accurate, mechanically safe and serviceable.

A9 was initially involved with other duties at the scene in Chaucer Road before being deployed to the top boundary of the Chaucer Road property. He took a position on the rear boundary near side boundary with 39 Chaucer Road (the downhill side of Chaucer Road).

¹ Report of Detective Senior Sergeant De LANGE

² 70025- Statement of AOS member A9

³ Report of Detective Senior Sergeant De LANGE

⁴ 70025- Statement of AOS member A9

OPERATION STINGRAY

While positioned here he observed a gloved hand reach out of an open side window, take hold of the latch and close it. The glove was black and full fingered. This indicated to A9 that at least one person was inside the dwelling.

During the period that followed, MOLENAAR would occasionally send off volleys of shots towards areas of concealment. It was believed by the AOS staff that he was firing on positions where he believed police staff to be.

During the period that followed, the offender would occasionally send off a volley of shots toward areas of concealment where he clearly thought we were.

Several times, rounds were fired toward my position on the red/black corner.

I could hear the rounds flying over my head.

I heard at least one round hit the two storey building behind the offender's dwelling.

On one occasion I moved toward a gate on the side of the property. As I did this, the offender fired 8-10 rounds in my direction.

This forced me to retreat and seek additional cover.

When this happened, A8 and I were pinned behind the two storey building for some time.⁵

Shortly after this A9 located a position which allowed a clear view of the southern side of the dwelling and the deck attached to it whilst also providing him with cover.

He noted that there was a door on this side of the house that was partially open.⁶

When interviewed at a later date A9 recalled the following. It was 12.31pm;

"I could see that the door was partially open - maybe a quarter open.

It had been for the majority, if not all, the time I'd been in the area.

Whilst observing this door, I saw the black barrel of a long barrelled weapon being pushed out through the opening from inside.

It appeared to be from a high calibre weapon as the barrel was quite thick.

I was approximately 30 metres from the door.

I saw about 30 centimetres of the barrel.

I did not see the offender.

⁵ 70025 - Statement of AOS member A9, pg 12

⁶ 70025 - Statement of AOS member A9, pg 13

OPERATION STINGRAY

The weapon was being pointed toward the red/white corner of the section, in a direction where I knew other officers to be.

I believed that it was the intention of the offender to shoot the firearm at any Police in that direction.

I believed it was his intention to kill them.

It was clear in my mind, that under Section 48 of the Crimes Act 1961, I had lawful justification to fire upon the offender to prevent him from killing or causing grievous bodily harm to the Police officers on the red/white corner.

I believed there was no less violent means by which to protect them.

It was clear in my mind, that under Section 39 of the Crimes Act 1961, the offender posed a threat of death or grievous bodily harm and could not be arrested in a less violent manner.

Further to that, I believed the arrest could not be delayed without danger to other persons.

I fired two rounds in quick succession from my M4 rifle.

I aimed at the door previously described.

My first round struck the centre of the door, approximately two thirds of the way up - chest height.

My second round struck the left side of the door underneath the door handle.

I placed my shots in the centre of the door as I believed the offender was likely standing immediately behind the door.

I was aiming at a position where I believed it likely I would strike his centre mass so as to incapacitate him.

The barrel disappeared from my view straight away.

I reported to Zero Alpha my actions, including my observations and the fact I had fired two rounds at the offender.⁷

During the scene examination on the 18th of May, 2009 the door struck by A9 was closely examined. It was clearly visible that the door on the red side which provided access from the southern deck through to the lounge room area had two very distinct bullet holes through it.

The southern wall cavity of the lounge room was opened to reveal 2 x .223 calibre bullets (item 98294).⁸

⁷ 70025 - Statement of AOS member A9, pgs 13 - 15

⁸ 10236 - Job sheet of Detective Constable s 9(2)(a) OIA pgs 5 - 6

OPERATION STINGRAY

12. Reconstruction - MOLENAAR shoots himself with .38 calibre revolver

At approximately 10.33pm on the 7th May, 2009 the Palmerston North Police Negotiating Team (PNT) established communication with Jan MOLENAAR. MOLENAAR stated that he was sorry about shooting Senior Constable SNEE but "*just did not want to lose his house*".

During approximately the next 15 hours verbal communication was made with MOLENAAR by PNT. It was later established that MOLENAAR also had the ability to send and receive text messages on his mobile phone. These were exchanged with a number of his associates.

Numerous conversations were conducted with MOLENAAR throughout the night by PNT and during one of the telephone conversations MOLENAAR sounded despondent stating "*you guys bringing in all these new laws. You think you can push people around all the time*". MOLENAAR also implied that he had worked hard for his money and stated that he could understand why the police would want to hurt him. He was referring to the fact he had shot and killed Senior Constable SNEE.

He then repeated that he was sorry for what had happened. MOLENAAR appeared very up and down during the conversations with PNT. He lied about being shot by police and when asked about where he had been shot and how badly he was injured MOLENAAR childishly replied "*now that would be telling wouldn't it*".¹

During the conversations with PNT MOLENAAR repeatedly asked to speak to a close associate of his whom he referred to as s 9(2)(a) OIA. Police enquiries established that s 9(2)(a) OIA years of age and resided in s 9(2)(a) ?

It appeared apparent that MOLENAAR wished to speak to s 9(2)(a) OIA and on the conclusion of the conversation had planned to commit suicide.³

MOLENAAR mentioned while talking to PNT that he had a poor upbringing. He stated that the most important thing to him was money. He talked about looking after the neighbourhood and how he tried to keep it clean.⁴

When asked to work with police MOLENAAR stated "*I want a good outcome for police*". This was understood by the negotiating staff to mean that MOLENAAR would commit suicide. This statement was contradictory to an earlier comment where he stated "*I've been a bit bad and I've let people down, so you know you've got to pay the price, you know I'm prepared to kill, I'm prepared to die*".⁵

MOLENAAR at one stage also promised that he would not to be taken hostage and said that he would only come out with s 9(2)(a) OIA otherwise "*we're going to have to*

¹ TBA- Session 133 Source: 273993526

² TBA- Session 134 Source: 273993526

³ TBA- Session 176 Source: 273993526

⁴ TBA- Session 3 Source: 273993515

⁵ TBA- Session 176 Source: 273993526

OPERATION STINGRAY

go through another few rounds". MOLENAAR also had further stated "I would rather die up here".⁶

As the conversations with PNT continued MOLENAAR appeared to become more depressed and suicidal. The remaining conversations with MOLENAAR and PNT centred on MOLENAAR asking to see s 9(2)(a) OIA.

At 1.21pm on Friday 8 May 2009 MOLENAAR sent a final text message to s 9(2)(a) OIA s 9(2)(a) OIA

This was the only reported communication that he had with s 9(2)(a) OIA.⁸

At approximately 1.28pm on the 8th May, 2009 a small calibre shot was heard coming from the address. A number of the Armed Offender Squad or Special Tactics Group members who were deployed heard this.

At about 1327hrs, I was sat in my cordon point on the porch of 43 Chaucer Road I heard a Scream/ Groan then a crack then something falling to the ground.

These all sounded a bit muffled and had come from a different area of the house. I wasn't able to say were about but it wasn't from the Green / white corner of the house.

The scream/ groan is hard to describe in words, it was like a loud brace or grimace.

The Crack was the sound of like a clapper board, it didn't sound like a large calibre weapon discharging, more like an air pistol.

The sound after this crack was like thud thud, two thuds. They weren't overly loud just like something had fallen to the floor.

The time sequence from the first sound to the thuds was maximum 1 1/2 seconds.⁹

Later that afternoon, I heard movement, like scuffling, somebody walking on wooden floors it was 1.26pm, that just sticks in my mind I recall looking at my watch when I heard the bang.

I heard Bang, it wasn't high calibre, it was like a muffled sound, like someone hitting the old steel petrol containers.

That was closely followed by two thuds like someone falling over.

I reported this by sign language to 4.1.¹⁰

⁶ Session 6 Source: 273993515

⁷ Text Message data - s 9(2)(a) OIA (MOLENAAR)

⁸ 10258 - Statement of s 9(2)(a) OIA pg 5

⁹ 70038 - Statement of AOS member 4.1a, pg 5

OPERATION STINGRAY

From this time all contact with MOLENAAR was lost and it was believed that he had committed suicide. There was no further phone or text message communication made by MOLENAAR following the text **s 9(2)(a) OIA**

On the 9th of May, 2009 a decision was made to enter the residential address of 41 Chaucer Road South. At approximately 11.57am STG members commenced entry via the lounge room. They made their way into the master bedroom where they located the body of MOLENAAR and confirmed that he was deceased. ¹¹

At approximately 3.00pm the scene of 41 Chaucer Road South was formally handed over from the tactical teams to the investigation team, scene coordinator Detective Sergeant MILLIGAN.

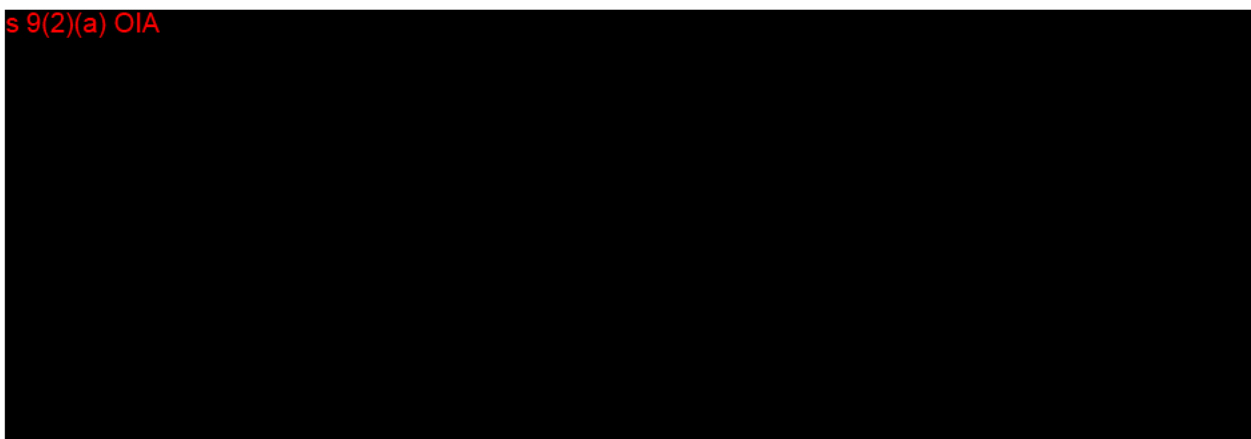
Due to the concerns regarding Improvised Explosive Devices and observations was at this stage that two members of the Wellington 1 NZ Explosive Ordinance Disposal Squadron namely, Sergeant **s 9(2)(a) OIA** and Captain **s 9(2)(a) OIA** entered the dwelling. ¹²

s 9(2)(a) OIA entered the master bedroom and located MOLENAAR on the right side of the bed lying on his left side with a 7.62mm semi automatic rifle lying across his body. They checked his person for booby traps and found nothing of interest. ¹³

A number of IED's were located both inside and outside of 41 Chaucer Road. These were required to be made safe by the EOD squadron before the scene was safe for the police specialist search team to search the address for further explosive devices.

This was completed and the scene made safe for the investigators at 10.00am on Sunday 10 May 2009.

s 9(2)(a) OIA



¹⁰ 70238 - Statement of AOS member 4.1b, page 4

¹¹ 70214 - Jobsheet of Detective Sergeant **s 9(2)(a) OIA**

¹² 10227 - Jobsheet of Detective Constable **s 9(2)(a) OIA**

¹³ 70216 - Statement of **s 9(2)(a) OIA**

¹⁴ 10229 - Jobsheet of Detective Constable **s 9(2)(a) OIA**

OPERATION STINGRAY

s 9(2)(a) OIA

There was a bullet hole in the east wall approximately 575mm from the doorway entrance. The wall cavity was opened to reveal a .38 caliber bullet (item 98292). The shot direction was determined by aligning a string line with the impact of the interior wall with the bullet hole and projecting the string line across the room to the west wall by ESR member s 9(2)(a) OIA

s 9(2)(a) OIA

At approximately 12.50pm on Sunday the 11th of May 2009 MOLENAAR's body was removed from the scene to a waiting hearse.¹⁷

At 2.00pm Doctor s 9(2)(a) OIA of Napier certified life extinct.¹⁸

s 9(2)(a) OIA

s 9(2)(a) OIA

A post mortem examination was conducted by Doctor s 9(2)(a) OIA at 9.00am on Monday 12th of May 2009 at the Wellington Hospital.

s 9(2)(a) OIA established the cause of death as follows:

"1. I am satisfied that death was from a single gunshot wound to the head.

s 9(2)(a) OIA

¹⁵ 10459 - Statement of s 9(2)(a) OIA ESR

¹⁶ 10459 - Statement of s 9(2)(a) OIA ESR

¹⁷ 10126 - Job sheet of Detective s pg 5

¹⁸ 10126 - Job sheet of Detective 9(2) pg 5

¹⁹ 10126 - Job sheet of Detective (a) pg 5

OPERATION STINGRAY

5. s 9(2)(a) OIA 
- 6.
- 7.
8. *There were no injuries to suggest the direct involvement of any other party, the fatal wound being entirely consistent with self infliction.*²⁰

²⁰ 50065 - Post Mortem Report - Jan Miense MOLENAAR (Dr s 9(2)(a) OIA)

OPERATION STINGRAY

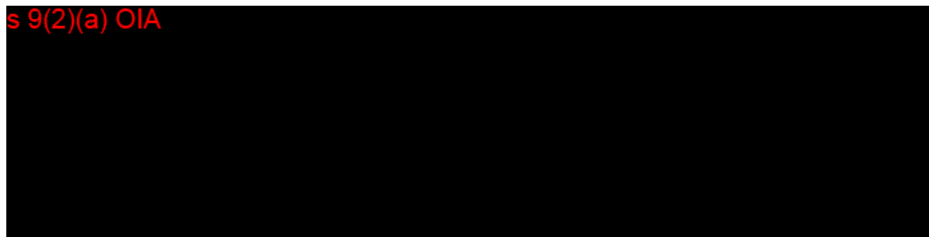
13. Reconstruction - Alterations to the scene by Police and Army Personnel prior to the scene examination

During the later stages of the siege at 41 Chaucer Road a number of events occurred that caused considerable damage or alteration to the house and immediate environs.

Throughout the day of the 7 May discussion continued in relation to the deployment of CS gas (commonly referred to as tear gas) into the address. STG staff were involved in this consultation process.

As the alterations to the scene were largely attributed to STG and AOS operations, the standard colour coding to depict sides of the house at 41 Chaucer Road South have been used.

s 9(2)(a) OIA



By 1500hrs on the 7th May a decision was made to deploy CS gas.¹

The plan was to throw a distraction device into the Red/Black corner of the house and then gas would be fired via the H & K 40mm gas launcher from the Green sector. Gas was also to be deployed via the 40mm gas launcher by an AOS member on the White/Green sector positioned in the cemetery. A hitch was that a wire mesh fence ran along the border between the properties of 43 and 41 Chaucer Road.

Shortly after 1600hrs the gas plan was put into effect. A distraction device was deployed and two shots from the Green sector were fired. These two shots of gas were ineffective as the wire mesh was penetrated but the rounds did not go through the windows on the Green sector.

AOS member A4 fired one 40mm gas round some 37metres from the White/Green corner into a window situated in the front room of the White/Green corner of the address going through the window and wooden blinds.²

The deployment of the gas prompted a fusillade of automatic fire from Jan MOLENAAR directed at 43 Chaucer Road where AOS members were deploying the gas.³

On the 8 May at about 9am the New Zealand Defence Force Explosive Ordinance Disposal Team deployed their revolutionary remote control vehicle

¹ 70064 - Statement of AOS member A7, pg 6

² 70046 - Statement of AOS member A4, pg 9

³ 70064 - Statement of AOS member A2, pg 8

OPERATION STINGRAY

(RCV) to the White sector of the address. The RCV conducted a visual reconnaissance of the address recording this on to VHS cassette. About 10 to 15 minutes of footage was recorded. ⁴

At about 1330hrs Jan MOLENAAR is believed to have shot himself.

A decision was then made to conduct a reconnaissance of the address using the New Zealand Army light armoured vehicles (LAV). A number of STG travelled in a LAV which made its way to the front of the address where photos were taken and a feel for the ground obtained.⁵

At about 1450hrs the New Zealand Defence Force RCV was again deployed to the address for the purpose of conducting further visual reconnaissance. Three windows on level one of the White sector were broken by the RCV tapping them with steel jaws and breaking them. The RCV remote camera has been used to view the interior of the address being the lounge and dining room area. ⁶

An attempt was made by the RCV to breach the left garage roller door but was unsuccessful,

Planning by STG continued for the further deployment of CS gas into 41 Chaucer Road. Throughout the afternoon of 8 May no further contact was heard from Jan MOLENAAR. A single gunshot had been heard by AOS on cordon, from the within the address.

At about 1700hrs an operation commenced for STG to deploy CS gas into 41 Chaucer Road. STG moved to the front of the 41 Chaucer Road by travelling in two LAVs. One LAV contained four STG members and the other contained two STG members, along with two St John Emergency Response Team members (SERT).

The address was approached from the top of Chaucer Road with the two LAVs stopping just short of the address. STG in three teams of two deployed CS gas from the ramps of the LAVs by firing a 40mm gas rounds into the address. ⁷

The gas canisters were fired into the address on the White/Green sectors causing damage to the windows and blinds in this area. (870043 statement STG member C4 page 3)⁸

After waiting for a short period a decision was made that as there had been no response from the address it would be an opportune moment to recover the body of Senior Constable SNEE.

⁴ 70216 - Statement of Staff Sergeant [redacted] s 9(2)(a) pg 3

⁵ 70039 - Statement of STG member C2, pg 2

⁶ 70216 - Statement of Staff Sergeant [redacted] s 9(2)(a) pg 4

⁷ 70039 - Statement STG member C2, pg 2 - 3

⁸ 870043 - Statement STG member C4, pg 3

OPERATION STINGRAY

During this phase one of the LAVs in moving forward toward Senior Constable SNEE has clipped the brown Mitsubishi car registration number LM1417 belonging to Delwyn KEEFE, that was parked in front of 41 Chaucer Road facing downhill.⁹

The recovery of Senior Constable SNEE by STG members was conducted. He was grabbed firmly by the upper torso and dragged to the ramp of a nearby LAV. In the process his left shoe came off and was left at the scene.

¹⁰

The LAV with Senior Constable SNEE on board returned to the Territorial Force Army Base. The other LAV remained at the address for about an hour.

Orders were then given for the remaining LAV which had a bull dozer blade fitted to push the brown Mitsubishi car forward and further down the front of the address so that the RCV could have clear access to the address. The car was subsequently shunted by the LAV down the road in front of the address until it hit the rear of Senior Constable SNEES white Holden Rodeo vehicle registration number [REDACTED] Senior Constable SNEES Holden Rodeo up until then had been parked nose in on the driveway or pad in front of 41 Chaucer Road.^{11 12}

A request was then made for the LAV to breach the wooden gateway and fence situated on the White/Green corner of the address so the RCV could gain access along the driveway on the Green sector. This was conducted by the LAV simply driving into the gate using the bulldozer blade.¹³

Once the recovery of Senior Constable SNEE was completed and the vehicles moved, the New Zealand Defence Force RCV was again deployed. The RCV operated for an approximately 10 hour period around the address of 41 Chaucer Road. Entry was gained at various points to obtain remote visual footage of the interior of the address using telescopic cameras fixed to the RCV.

During this period the RCV would be retrieved in order to charge the batteries.

Initially the RCV traveled up the driveway on the Green sector and was able to look into the windows on that sector by breaking the windows and using the remote camera.

During this period STG provided the RCV operator with explosive access charges which were designed to gain entry through a solid object. These devices were to be fired remotely by the RCV.¹⁴

⁹ 70198 - Statement of soldier [REDACTED] pg 2

¹⁰ 70043 - Statement STG member C4, pg 4

¹¹ 70043 - Statement STG member C4, pg 4

¹² 70043 - Statement STG member C4, pg 4

¹³ 70199 - Statement [REDACTED] pg 2

¹⁴ 70199 - Statement [REDACTED] pg 2

OPERATION STINGRAY

The first device was deployed and fired by the RCV at about 0330hrs on the 9 May breaching the left garage roller door of the address. This caused considerable damage to the door and left an amount of debris in front of the address. Access was unable to be gained because of a BMW car parked inside.

While the RCV was being used a decision was made to move the vehicles at the front of the address to provide access for the RCV to the right garage roller door. In order to do this a LAV was once again used. This operation took place at about 4am.

The LAV approached from the top of the Chaucer Road and initially nudged Senior Constable DIVER's dog van registration s 9(2)(a) OIA further down the road from number 41. The LAV then turned around and went back up the road and nudged the brown Mitsubishi car registration LM1417 back up Chaucer Road so it was clear of the front of the address.

The RCV was then used to connect a tow rope to the rear of Senior Constable SNEES Holden Rodeo. The Rodeo was then pulled clear so that access could be gained to the right roller door.¹⁵

Just prior to 6am the right roller door was breached by the RCV firing an explosive access charge once again provided by STG. Again considerable damage was caused to the door an amounts of debris were left. The garage was then visually cleared using the RCV remote camera.

From about 0600hrs on Saturday 9 May 2009 STG commenced planning for a breach of 41 Chaucer Road and clearance of the remainder of the address that hadn't been visually cleared by the RCV.

At about 11.00am two LAVs containing STG members and two paramedics proceeded to 41 Chaucer Road. The two LAVs were positioned out the front of the address as a safe fall back area for STG.

Once in position STG team moved forward, visually cleared the garage through the existing holes, and placed a ladder on the White/Red corner giving access to the balcony area.

STG members climbed onto the balcony area then commenced visually clearing the windows and rooms on the Red sector in a manner which involved teams leap frogging each other.¹⁶

¹⁵ 70198 - Statement of solidier s 9(2)(a) OIA pg 2

¹⁶ 70044 - Statement STG member C1, pg 10 - 11

OPERATION STINGRAY

Explosive window charges were used by STG members on two of the windows on the Red sector, being one of the master bedroom windows and one of the growing room windows which were situated on the Red/Black corner.

The window charges have blown out the entire window of one of the master bedroom windows and part of the wooden window frame. Net curtains were then torn down by STG to give clear sight into the room.¹⁷

Likewise the growing room window was completely blown out.

As a result of this phase of the clearance STG were able to see the Jan MOLENAAR arsenal of weapons on the bed in the master bedroom and could partially see his body.

A decision was then made to enter the address via the lounge door which ran off the balcony, and methodically clear the interior.

As STG moved through the lounge it was observed that a couch had been up-ended as had a wooden coffee table. An STG member had to move the coffee table and it subsequently fell over.¹⁸

STG moved through the lounge, dining room and kitchen area to the beginning of the hallway by the backdoor.

A small table was positioned inside the backdoor and there were three 9kg gas bottles lying on the floor by the table. It was apparent to STG that the bottles had been knocked off and the table moved earlier when the RCV had breached the door.¹⁹

STG then moved to the master bedroom, located Jan MOLENAAR and confirmed that he was deceased. This occurred at about midday. A number of improvised explosive Devices (IED) were observed by STG members.

A decision was made not to clear the interior as with Jan MOLENAAR obviously being dead and the presence of IEDs it was not prudent. The scene was formally handed over to the Scene Coordinator Detective Sergeant MILLIGIAN at about 12.15pm. STG and AOS then withdrew from the area.

Although the scene was now in control of the Scene Team it had not yet been cleared of IEDs. In view of this GDB cordons were established to fit in with a 100 metre blast zone that had been recommended by the EOD staff.

¹⁷ 70043 - Statement STG member C4, pg 5

¹⁸ 70042 - Statement STG member C8, pg 3

¹⁹ 70042 - Statement STG member C8, pg 3

OPERATION STINGRAY

On the afternoon of Saturday 9 May 2009 specialist search group staff commenced searching the address with the assistance of EOD staff. The address was searched and when an IED was located SSG would withdraw and EOD staff would enter to render IED safe.

A total of seven IEDs were found at the address and a full report determining their makeup and capability is covered in the reports submitted by Staff Sergeant [REDACTED] s 9(2)(a) OIA

Initially Staff Sergeant [REDACTED] s 9(2)(a) OIA was taken to the master bedroom by an STG member before they left and asked to render two IEDs on the bed safe.

The two IEDs were uplifted by Staff Sergeant [REDACTED] s 9(2)(a) OIA and taken to the lounge after photos and x-rays had been taken of the IEDs in situ. The IEDs were dismantled in the lounge and left in the upturned wooden coffee table.

Later an SSG member and EOD members Captain [REDACTED] s 9(2)(a) OIA and Staff Sergeant [REDACTED] s 9(2)(a) OIA went to the master bedroom where Jan MOLENAAR lay. The room was videoed by SSG then EOD staff set about rendering the remaining IEDs' safe and searching Jan MOLENAAR for further IEDs' or booby traps.

Three IEDs' [REDACTED] s 6(c) OIA were found on the floor at the base of the bed.

A fourth IED was on the left side of the bed in a Tupperware container. [REDACTED] s 6(c) OIA This device was moved and rendered safe.

The EOD team then commenced searching Jan MOLENAAR for further IEDs' and booby traps. This search was conducted in a methodical manner which involved the moving of a 7.62mm SLR rifle that had been lying alongside Jan MOLENAAR'S body. This was uplifted and placed upon the bed in the state in which it was found, that is safety catch off. ²⁰

Once the rifle was removed a methodical search of Jan MOLENAAR was conducted by rolling him back to search under his body.

Alterations to the clothing of Jan MOLENAAR occurred when a pocket of his jacket was cut using a scalpel, buttons to his jacket were unfastened, and all pockets were searched. [REDACTED] s 9(2)(a) OIA

EOD staff then exited the room and SSG continued on with their search.

²⁰ 70069 - Statement of Captain [REDACTED] s 9(2)(a) OIA pg 5

OPERATION STINGRAY

EOD were used to render one further IED safe, which had been located on the driveway that ran up the left side of the property. s 6(c) OIA

s 6(c) OIA

It was positioned half way up the driveway partially concealed under bushes on the right hand side and was rendered safe by Staff Sergeant

s 9(2)(a)

OIA

The search for IED's was completed by 9.45am allowing a reconnaissance of the scene to be conducted by D/S/Sgt HANSEN and D/Sgt MILLIGAN at 10.30am on Sunday 10 May 2009.

