



Australian Government

Defence Honours & Awards Tribunal

**INQUIRY INTO RECOGNITION OF AUSTRALIAN
DEFENCE FORCE SERVICE FOR SPECIAL AIR SERVICE
COUNTER TERRORIST AND SPECIAL RECOVERY DUTIES**

LETTER OF TRANSMISSION

Inquiry into Recognition of Australian Defence Force Service for Special Air Service Regiment Counter Terrorist and Special Recovery Duties

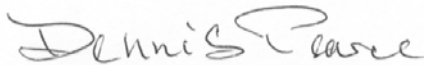
The Hon Dr Mike Kelly AM MP
Parliamentary Secretary for Defence Support
Parliament House
Canberra ACT 2600

Dear Dr Kelly

I am pleased to present the report of the Defence Honours and Awards Tribunal on the Inquiry into recognition of Australian Defence Force service for Special Air Service Regiment counter terrorist and special recovery duties.

The inquiry was conducted in accordance with the Terms of Reference. The panel of the Tribunal that conducted the inquiry arrived unanimously at the findings and recommendations set out in its report.

Yours sincerely

A handwritten signature in cursive script that reads "Dennis Pearce". The signature is written in dark ink on a light-colored background.

Professor Dennis Pearce, AO
Chair
22 December 2009

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TERMS OF REFERENCE

In April 2009 the Parliamentary Secretary for Defence Support, the Hon Dr Mike Kelly AM MP, requested the Tribunal to inquire into recognition by Australian Defence Force personnel engaged in Special Air Service Regiment Counter Terrorist and Special Recovery duties.

The Terms of Reference for the inquiry read:

The Defence Honours and Awards Tribunal will inquire into and report on recognition of Special Air Service Regiment (SASR) Counter Terrorist (CT) and Special Recovery (SR) Duties.

In conducting its inquiry the Tribunal shall:

- (a) consider existing Australian Defence honours and awards that may be available to provide recognition for CT and SR service;
- (b) examine relevant material and submissions and make findings on whether any changes should be made to the eligibility criteria of such honours and awards;
- (c) consider the appropriateness of establishing other recognition for CT and SR military service; and
- (d) consider the impact of such findings on recognition for other Australian Defence Force service.

The Tribunal is to report to the Parliamentary Secretary for Defence Support on its findings in regard to the above and any recommendations that arise from the inquiry.

In making its findings and formulating its recommendations the Tribunal is required to maintain the integrity of the Australian honours system and identify any consequential impact any finding or recommendation may have on that system.

The Tribunal is to determine its own procedures, in accordance with the general principles of procedural fairness, when conducting its inquiry as set out in these Terms of Reference. In this regard, the Tribunal may interview such persons as it considers appropriate and consider material provided to it that is relevant to these terms of reference.

EXECUTIVE SUMMARY

1. The Defence Honours and Awards Tribunal was established administratively in July 2008. It inquires into, and in its present role makes recommendations to the Government on, matters referred to it by the Government relating to the granting of honours and awards to serving and former members of the Australian Defence Force.
2. In April 2009 the Parliamentary Secretary for Defence Support, the Hon Dr Mike Kelly AM MP, requested the Tribunal to inquire into recognition for Australian Defence Force (ADF) personnel engaged in Special Air Service Regiment Counter Terrorist (CT) and Special Recovery (SR) duties.
3. The inquiry was undertaken by the following members of the Tribunal:
Professor David Horner, AM (Chair)
Brigadier Gary Bornholt AM, CSC, (Retd)
Dr Jane Harte
4. The Tribunal received 73 written submissions from serving or former members of the ADF, members of the public and organisations. It took oral evidence from 31 persons and was briefed formally by four current serving SASR members at Swanbourne Barracks.
5. The inquiry was concerned with personnel on CT/SR duties who served full-time 'online' with the Tactical Assault Group (TAG). The TAG was formed in 1980 to deal with siege-hostage situations as a result of terrorist action.
6. Most submissions argued that service in the TAG was extremely hazardous, and that, in effect, members of the TAG were continually on operations for the entire period in which they served online in the TAG.
7. The Tribunal noted that previous attempts by former TAG members to gain recognition have been rejected on the grounds that medals are not awarded for training, even if it was exceptionally hazardous training. The Tribunal agrees with that view.
8. The Tribunal, however, heard evidence that that once CT/SR operators completed their individual training they were posted to an online TAG, and that service online had most of the characteristics of operational service.
 - The TAG had been raised at the direction of the Government which believed that 'the threat of terrorist attack was real and potentially highly dangerous'.
 - TAG members needed to complete all necessary individual and collective training to an operational level before they joined the online squadron.
 - Because of the very short notice to move, all preparation for operations, such as issuing rules of engagement, needed to be completed.
 - Live ammunition needed to be carried to all exercise deployments in case an actual operation arose while deployed.
 - Rehearsals for all possible eventualities needed to be completed.
 - While the exact enemy was not always identified, a terrorist enemy was clearly identified by the Government as a threat to the nation and its interests. TAG members

received periodic intelligence briefs from government agencies on terrorists groups and methods of operation.

- The commitment to the online squadron was for a specified period.
- The soldiers were told and believed that they were on an operational footing.
- When soldiers were injured and were not fit enough to remain in the TAG they were immediately replaced to ensure that the CT capability was maintained.
- Operational deployments were directed by the Government.

9. Since the TAG was formed in 1980 it, or elements of it, have been deployed on at least twelve activities (such as the 2000 Olympics and the capture of MV *Pong Su*) on which the TAG would use armed force to resolve a situation had it arisen. These activities would now be given the name of an operation, and could well have been formally prescribed as 'Security Operations'.¹

10. The Tribunal accepts the view that service online in a TAG should be considered to be a continuous operation. The Tribunal noted that the Acting Chief of Army has stated that with the benefit of hindsight 'the CT/SR capability should have been couched as an ongoing and enduring operation since its inception'.

11. The Tribunal also notes that the Acting Chief of Army and the Chief of Navy, both support medallic recognition in their combined submission.

Recommendations

Recommendation 1: Service in an online Tactical Assault Group (TAG) since its inception in 1980 (as well as service in the Interim TAG in 1979) should be recognised by the award of the Australian Service Medal with a new clasp, to be entitled Clasp 'CT/SR'.

Recommendation 2: To be eligible for a medal, recipients should:

- Have served in the online TAG for a minimum of 60 days continuous.
- Have been a member of the TAG, which comprises a [] Special Operations Command and Control Element, signalers, intelligence staff and other specialists.
- Have been a specialist member of the Australian Defence Force (eg Special Operations aviation personnel in support of the TAG), but only so long as they meet the requirement to serve continuously online for 60 days.

¹ Major General P. Symon, submission, 22 May 2009.

REPORT

Establishment of Inquiry and Terms of Reference

1. The Defence Honours and Awards Tribunal was established administratively in July 2008. It inquires into, and in its present role makes recommendations to the Government on, matters referred to it by the Government relating to the granting of honours and awards to serving and former members of the Australian Defence Force.
2. The Tribunal may consider individual claims to medals that have been refused by the relevant awarding authority. It may also consider issues of principle relating to Defence service honours and awards
3. In April 2009 the Parliamentary Secretary for Defence Support, the Hon Dr Mike Kelly AM MP, requested the Tribunal to inquire into recognition for Australian Defence Force personnel engaged in Special Air Service Regiment Counter Terrorist and Special Recovery duties. Accompanying that request were the Terms of Reference for the inquiry. These are set out at the commencement of this report.

Conduct of the Inquiry

10. The inquiry commenced on 18 April 2009 with advertisements being placed in the major newspapers nationally giving notice of the inquiry and calling for submissions.
11. The inquiry was undertaken by the following members of the Tribunal:
Professor David Horner, AM (Chair)
Brigadier Gary Bornholt AM, CSC, (Retd)
Dr Jane Harte

Written Submissions

12. Seventy three written submissions were received by the Tribunal.
13. The Tribunal met on 26 May 2009 to consider these submissions.

Appearances before the Tribunal

14. Thirty one people appeared either in person or via teleconference at hearings conducted by the Tribunal in Canberra on 25 June, 2 July and 1 September 2009, and in Perth on 3 August 2009. These included a cross-section of those who had provided submissions, including former commanders and operators in addition to several who had not provided written submissions but had made themselves available to the Tribunal for interview. One witness appeared a second time to address specific questions generated by the Tribunal as the hearings progressed. The witnesses and other people who appeared are listed at Appendix 2.
15. On 24 June 2009 the Tribunal took evidence from eight representatives of the Department of Defence, who provided advice on matters concerning honours and awards, nature of service and CT/SR operations.

16. On 4 August 2009 the Tribunal visited the Special Air Service Regiment at Swanbourne Barracks in Perth where it was briefed on the history of CT/ SR in Australia, contemporary exercises, operations and *modi operandi*, and was given a tour of training facilities.

17. The Tribunal met to consider its decision on 20 August and 1 September 2009.

Historical Background

Establishment and Development of SASR CT and SR Capabilities.

18. The main impetus for the establishment of the Counter Terrorist (CT) capability in the Special Air Service Regiment (SASR) was the bomb attack near the Hilton Hotel in Sydney in February 1978. The Australian Army had been planning to develop a CT capability before this attack, but the Hilton bombing ensured that the proposal would have political support.

19. On 21 September 1978 the Intelligence and Security Committee of Cabinet agreed that Australia would adopt a 'hard line' policy in dealing with terrorists and that if tactical negotiations aimed at persuading the terrorists to surrender failed, and in particular, if violent action by the terrorists (for example, killing or injuring hostages or major property damage) was anticipated, 'action could be taken to subdue the terrorists by force'.²

20. The Defence Department continued to prepare plans for a CT capability, and on 1 May 1979 the Government approved the establishment of 'a specialised and dedicated counter terrorist assault team', to be available to the Commonwealth to deal, where authorised, with high risk terrorist incidents.³ It was not until 31 August 1979 that the Chief of the General Staff (CGS), Lieutenant General D. B. Dunstan, issued his directive to establish a TAG. Its tasks included:

- the neutralisation, including capture, of terrorist groups, which might include snipers, hijackers, kidnappers, bombers or assassins;
- the neutralisation of aircraft or ships;
- the recovery of hostages and property held by terrorists; and
- the recovery of buildings and installations occupied by terrorists.

21. The strength of the assault team was not to exceed three officers and 26 soldiers and the codeword Gauntlet was to be used when referring to the TAG. The TAG headquarters was to consist of the commanding officer of the SASR, his operations officer and two signalers. The directive included rules of engagement.⁴

22. The SASR immediately established an interim TAG, with very basic equipment and a rudimentary capability, that could be deployed with 24 hours notice. After a period of training and development the first fully operational TAG commenced in May 1980 to deal with siege-hostage situations on land. In SASR terminology, the TAG became 'online' (meaning operational).

² Cabinet Minute Decision No 6753 (I.S), Canberra, 21 September 1978.

³ Cabinet Minute No 11315, Canberra, 1 May 1980. See also David Horner, *SAS Phantom of War: A History of the Australian Special Air Service*, Allen & Unwin, Sydney, 2002, p. 423.

⁴ CGS Directive 1/1979 of 31 August 1979. See also Horner, *Phantoms of War*, p. 427.

23. On 27 May 1980 the Government considered advice about the vulnerability of off-shore oil installations in Bass Strait and agreed ‘that the threat of terrorist attack was real and potentially highly dangerous’.⁵ It authorised the ADF to establish a special group to deal with such an attack. The CGS therefore authorised the raising of another assault team (codename Nullah) for off-shore oil installations. As his directive explained; ‘It is the view of the Government that the threat of terrorist attack to the installations is real and potentially highly dangerous’.⁶ The offshore assault team became operational in November 1980. The two teams, Gauntlet and Nullah, were part of the 1st SAS squadron which had responsibility for the CT capability. As the force developed, the TAG was expanded to include a troop from 152 Signals Squadron and logistic support from the SAS Base Squadron. RAN clearance divers supplemented SASR to provide personnel for the Nullah troop.

Operational Level of Capability

24. The nature of rescuing hostages from armed terrorists required a very high Operational Level of Capability (OLOC). The assault force was expected to have only one chance of achieving success in each rescue mission. Therefore successfully achieving the mission required surprise, speed and high levels of skill in recovering the terrorists’ stronghold.

25. The level of operational capability required the force to deploy at exceptionally short notice to anywhere in Australia and its off-shore waters. This meant that all members of the TAG were issued with pagers and needed to be able to return to the unit within a specified time. The complete TAG was expected to be at the airfield ready to board an aircraft for deployment within a further specified time. The TAG was constantly held, and still is, at the shortest notice to move of any force element in the ADF.

Nature of Training to Achieve and Maintain Operational Level of Capability

26. When the SASR was directed to raise the CT capability it received some advice from Britain’s 22nd SAS Regiment, but essentially it needed to develop its own concepts and techniques. New, makeshift training facilities were quickly constructed. Techniques developed included:

- Close quarter fighting. Soldiers were trained to enter a room where hostages and terrorists were located and, firing instinctively, to identify and kill terrorists who might be standing beside hostages. These rooms might contain smoke and incapacitating gas. This training was undertaken with live ammunition.
- Methods of entry. The TAG developed and practised techniques for entering buildings, aircraft, buses, or off-shore oil installations. This might involve the use of sledge hammers, explosive charges or other devices.
- Approaches to stronghold. The TAG developed and practised techniques for approaching terrorist strongholds swiftly and covertly. This might involve using fast moving vehicles, rappelling down buildings, using helicopters, underwater swimming and the use of small boats. Training was undertaken at night and in poor weather conditions.

27. In an effort to reach the necessary operational level of capability, waivers were issued to allow activities that were outside the normal parameters of the Manual of Army Safety.⁷

⁵ Cabinet Minute No 11745, 27 May 1980.

⁶ CGS Directive 2/80 of August 1980.

⁷ This requirement was identified in minute DGOP896/78 to COPS, NAA: A6839, 1978/30.,

New techniques, equipment and weapons were used before they had been fully tried and tested. This meant that TAG training was exceptionally hazardous, and numerous soldiers were injured. Some were accidentally killed. Over time, the Regiment became more experienced and skilled at managing high risk activities, but as it was continually seeking to improve capabilities, the training remained very hazardous.

28. Broadly, there were two levels of training. Before a soldier joined the online squadron he was required to become completely proficient in all the necessary individual skills appropriate to his employment in either the Gauntlet or Nullah troops. These included close quarter fighting, roping, climbing, driving, diving/swimming, the use of explosives, and employment as a sniper. This training was hazardous and resulted in injuries. This training period normally occurred over a period of several months, starting with individual technical courses and collective training, culminating in what is currently known as the ‘SASR Olympics’ during which candidates are put under extra scrutiny for selection purposes.

29. Once a soldier joined the online squadron he was considered to be operational, and the online squadron could be deployed to an actual terrorist incident as soon as it became operational. During this period online squadron members continued to practise their individual techniques (continuation training) and sought to develop or refine concepts for possible siege/hostage scenarios. This latter activity involved extremely hazardous activities and resulted in injuries and some deaths. The Tribunal heard that under current arrangements, being online means a posting to an establishment position in TAG East or West.

30. This training – selection – online continuum has not always been the case. The Tribunal heard that when the CT capability was first raised, the initial development team was required to provide an immediate ‘Interim Capability’ whilst still developing the training protocols, thus the initial team was in reality online from the start.

31. A witness to the Tribunal described the training that was conducted while members were online:

They were constantly on the range ensuring their shooting skills remained honed. It is estimated on average, when training within the Special Range Complex (SRC), individuals fired [] rounds per day. When on line, an assaulter would spend an average of [] hours per day for an average of [] a year training in the SRC. These figures do not include the training undertaken on exercises or on aircraft outside of the SRC.

This was a considerably higher level of sustained dangerous training than that experienced by SASR soldiers training for service in South Vietnam. The constant exposure to danger and the intensity of training experienced by these members on a weekly basis for over twelve months in the shortest period and for over three consecutive years for other members was on a level commensurate with troops serving on combat operations in Vietnam and, in fact, was probably higher.

32. To refine these skills and concepts, and to ensure that higher-level coordinating arrangements were in place, the TAG took part in National CT exercises at various locations around Australia, in conjunction with Federal and State police forces and other government agencies. TAG members were often not informed that they were being deployed on an exercise. They deployed from Perth with all their equipment, including live ammunition, and only learned that they were engaged in an exercise once they arrived at the holding area in the

city where the 'incident' had taken place. Soldiers were not permitted to tell their families that they had been deployed on an exercise or operation.

33. The Special Operations Commander's definition of being online is at Appendix 4. It is noted that an individual proceeds online only when he has completed all individual and collective training requirements.

Special Recovery Operations

34. In the mid 1980s the Regiment began developing a capability to conduct Special Recovery (SR) operations overseas. According to the ADF's definition: 'Special recovery operations are undertaken to rescue personnel or seize equipment from uncertain or hostile environments and return them to a safe area'.⁸ To undertake a special recovery operation the ADF would need to use a range of military assets to transport the recovery team, to clear the way with local authorities, and perhaps to secure the area, and some of these tasks could be undertaken by non-CT-trained members of the SASR. But the actual recovery assault would be conducted by members of the TAG. The CT squadron therefore began to widen its operational concepts so that it would be ready for recovery operations overseas.

35. As had been the case with the CT capability, the TAG began to conduct exercises to test the SR capability.

Expansion of CT/SR Capabilities

36. In anticipation of the 2000 Sydney Olympic Games the ADF began to expand its CT capability. This resulted in the Regiment forming a second TAG. One was based in Sydney for the period leading up to the Games and the other remained in Perth, where it would also be available for overseas SR tasks if any eventuated. In addition, the ADF formed the 1st Joint Incident Response Unit, which had special training in chemical, biological and radiological response. Black Hawk helicopters from the 5th Aviation Regiment were located in Sydney and the 4th Battalion the Royal Australian Regiment (RAR) (Commando) provided a response company. The Sydney Olympics required the development of new capabilities such as Ship Underway Recovery, that is, dealing with a siege-hostage situation on a ship sailing on the high seas.

37. Following the terrorist attacks on New York and Washington on 11 September 2001, the Prime Minister directed that the ADF needed to be able to respond to two simultaneous and geographically separate terrorist incidents. As a result, after 4 RAR returned from service in East Timor in 2001, on 7 January 2002 it began to develop a CT capability, and on 22 July 2002 was able to bring online a new TAG, known as TAG East. By this time the SASR had reverted to its normal organisation, with only one TAG, known as TAG West. Also, by this time Special Operations Command had been formed with SASR, 4 RAR (Commando), the 1st Commando Regiment (Army Reserve), the Incident Response Regiment and a Special Operations Logistics Squadron. Helicopters of the 171st Aviation Squadron were assigned permanently to Special Operations Command for CT/SR training and operations. In 2009 4 RAR changed its name to become the 2nd Commando Regiment.

⁸ Australian Defence Force Publication, *Staff Duties Series ADFP 101, Glossary*, Defence Centre, Canberra, 1994, p.S-8.

38. During the late 1990s it had become clear that the ADF might be required to conduct SR operations overseas as well as CT operations within Australia. [] There is no difference between being online in TAG East and TAG West.⁹

39. As Special Operations Command has developed the SR capability it has found that it needs to send elements overseas to prepare for possible SR tasks, and the Command is now seeking to have the maintenance of the SR capability declared to be a standing, ongoing operation. There has been a substantial cross-over of techniques from CT/SR to the Regiment's war roles, and all SASR soldiers are now required to be proficient CT/SR soldiers.

Operational-Type Deployments

40. Since the TAG was formed in 1980 it, or elements of it, have been deployed by Government direction on a series of activities on which the TAG would use armed force to resolve a situation had it arisen. Those activities would now be given the name of an operation, and could well have been formally prescribed as an operation. These include:

- 1981 Commonwealth Heads of Government Meeting (CHOGM), in Melbourne, Sydney and Canberra.
- 1982 Brisbane Commonwealth Games. Brigadier R. G. Curtis, who commanded the TAG for this deployment, has written: 'There was no doubt in the minds of the deployed CT force that this was an operational deployment and that the TAG would be called upon to respond should a high risk terrorist incident occur'.¹⁰
- 1994 Pre-deployment of elements to Townsville and then to HMAS Tobruk for recovery operations in Bougainville if ordered, Operation Lagoon.
- 1997 Pre-deployment of elements to Butterworth/Penang in Malaysia, for recovery operations in Phnom Penh if ordered. Part of Operation Vista.
- 2000 Sydney Olympics 2000. The armed ADF element of Operation Gold.
- 2001 MV Tampa, off Christmas Island. The CT/SR capability was employed to prevent the arrival of asylum seekers onto Australian territory.
- 2001-2 CHOGM, Brisbane and Sunshine Coast. Operations Guardian and Guardian II.
- 2003 MV Pong Su, off the east coast of Australia. The ship was secured to prevent further smuggling of large quantities of heroin into Australia. Operation Tartan.
- 2006 Melbourne Commonwealth Games. The armed ADF element of Operation Acolyte.
- 2006 Deployment to waters off Fiji to recover Australian nationals if ordered, Operation Quickstep.
- 2007 Asia Pacific Economic Cooperation (APEC) forum Sydney. Operation Deluge.

Personnel Killed and Injured

41. More SASR soldiers have been killed or injured while training for and maintaining the CT/SR capability than either in normal training or combat. Of the 44 SASR soldiers who have died while serving in the Regiment, 34 died in training incidents and 18 of these died on CT/SR duties, although admittedly 15 died in one incident.

⁹ Lieutenant General K. J. Gillespie, submission 23 November 2009.

¹⁰ Brigadier R. G. Curtis, submission to Tribunal, 6 May 2009.

Summary

42. In a period of almost 30 years the SASR has developed a CT/SR capability in which personnel have been maintained at a high level of readiness and capability. This capability is unique in the ADF. No other ADF personnel have been kept at such short notice for action for such long periods, typically twelve months at a time. No other ADF personnel have been required to maintain this level of capability by such constant hazardous training, rehearsal and preparedness.

Evidence and Arguments

43. The evidence considered by the Tribunal was largely based on past service, specifically the period from the inception of an Australian CT/SR capability in 1979 through to the late 1990s. During this period there was little opportunity for Special Forces personnel to serve in operations overseas, which became the basis for one of the arguments for recognition of service. Current serving members and commanders recognised the unique nature of previous and current CT/SR operations. The Tribunal acted on the basis that there was no difference relevant to recognition between past and present service conditions.

44. The submissions to the Tribunal covered a wide range of issues, but the vast majority sought medallic recognition for CT/SR service, including current Navy, Army and Special Operations commanders, current and former TAG members (including Clearance Divers), plus a variety of representatives from elements which provided logistic support to the TAG over time. Only three submissions were overtly against medallic recognition for CT/SR service alone. Seven submissions provided advice to the Tribunal about CT/SR or TAG support service without stating a particular position about medallic recognition.

45. Although many submissions presented several arguments, a breakdown of individual arguments follows:

Arguments for medallic recognition

46. The first argument for medallic recognition highlighted the extreme danger involved in training to maintain the constant state of readiness which is unique only to online personnel. It was submitted that of the SASR personnel who have died in Australia since the initiation of the CT/SR capability, 14 have died in 'normal' training incidents and 18 died on CT/SR duties. Many submissions referred to the waivers that were issued in regard to the Manual of Army Safety. This resulted in examples of 'pushing the bar' of safety during training and exercises and was central to the argument that TAG qualified people were required to go beyond what was normally expected of other service personnel.

47. The second argument for medallic recognition was the perceived reality of being on an 'operation'. Many submissions and witnesses stated that, while online, CT/SR operators believed that they were actually on an operation rather than an exercise or training activity. Each call-out was described as *real* to operators, who expected to face an adversary over an unknown period of time. This contrasted with usual military exercises, during which participants are aware of the exercise status of the activity. This situation, it was argued, differentiated TAG personnel from other military elements.

48. The third argument for recognition held that, rather than perceiving that they were on operations, the TAG was *actually* on an ongoing operation, with all its implications. Advocates of this view believe that the constant very short notice to move, the identification of belligerents and participation in specific operations with orders from ADF or Army HQ, together with the issuing of rules of engagement, meant that being online within the country was no different from any other operation overseas. Most submissions highlighted the requirement imposed on CT/SR operators to maintain a very short period of notice to move, the constant need to carry pagers and the consequent effect this had on an individual's family and social life over time. It was argued that this situation was different from that of other Defence personnel.

49. The fourth argument for recognition was the need to honour the many men who maintained readiness but never served in an overseas operation. Personnel who served between the end of the Vietnam commitment (1972) and the commitment to East Timor (1999) served for almost 20 years without ever being deployed overseas, and hence received few medals. By contrast, those serving before or after this period have many more medals to show for their service to the country. It was argued that former CT/SR operators, by virtue of their levels of training and readiness over a period of time, should be given special recognition, despite lacking the opportunity for deployment overseas.

50. The fifth argument was that there is already a precedent for awarding the ASM for other hazardous, non-warlike operations. Many submissions mentioned that ASMs have been awarded to military personnel for service which was not necessarily a prescribed operation (some examples are discussed later in this report). According to the logic of this argument, the ASM has already been awarded to personnel who were simply doing a job or fulfilling a commitment overseas or within Australian waters, therefore CT/SR operators should be similarly recognised for their service.

Arguments against medallic recognition

51. Several submissions argued that medallic recognition should not be given for 'training' alone. This argument was based on the general principle that medallic recognition in Australia is not awarded for activities designated as 'training'. This view is supported by the Clarke Review into Veterans Entitlements in 2003, which recommended that 'SAS *training* not be declared non-warlike or hazardous service'.¹¹

52. It was argued that medallic recognition should not be given as CT/SR activities did not meet the definition of 'operation', and there was no identified enemy. An associated view was that for the period of time between Vietnam and East Timor, the TAG had no specific belligerent or enemy.

53. It was also argued that medallic recognition should not be given because CT/SR operators were/are paid to maintain a high level of readiness. There should be no medallic recognition for simply doing a job for which extra allowances are paid.

54. Finally, it was argued that medallic recognition should not be granted because it would lower morale and increase resentment among non TAG service personnel, including current

¹¹ *Report of the Review of Veterans' Entitlements January 2003* (Clarke Review), p. 414 [emphasis added].

and ex serving members. Submissions highlighting this argument listed other hazardous service and specific peacetime incidents for which no recognition was given to Defence personnel.

Arguments in relation to who should be eligible for medallic recognition

55. Arguments were presented as to who should be given medallic recognition should the Tribunal decide to recognise CT/SR service. These are summarised below.

56. Recognition should be given to CT/SR operators only. This includes only those TAG personnel (SASR, Commandos and Clearance Divers) who completed CT/SR specialist training and were online for a designated period of time. This does not include support staff or other service elements such as Intelligence, Signals, Royal Australian Electrical and Mechanical Engineers, Royal Australian Corps of Transport, Logistics, the Royal Australian Air Force (RAAF) or Royal Australian Navy (RAN) which may have been in support of operations. It may or may not include the Regimental Special Operations Command and Control Element (SOCCE).

57. Recognition should be given to all TAG members and support personnel who were required to be on the same call-out notice period over the same length of time. As one witness stated, these were all the personnel who carried pagers.

58. Recognition should be given to all TAG operators plus other service elements which have provided support to CT/SR operations. This includes support personnel (as above) as well as pilots, aircrew and maintenance crews in the former 816 Squadron (RAN); and 5, 9 and 35 Squadrons (RAAF), which later became 5th Aviation Regiment (Army), and 171 Squadron (Army). (One submission also included Air Traffic Controllers at RAAF Sale on this list and another highlighted 7th Signal Regiment service at Borneo Barracks, Cabarlah).

Issues arising from the arguments presented:

When does training become operational service?

59. Witnesses argued that the point at which CT/SR operators began their operational service was when they made the transition from buildup training/selection to being online.

What conditions are necessary for CT/SR service to be deemed to be operational service?

60. The issue of how an 'operation' is declared and what protocol is enforced needs to be established in order to decide whether TAG personnel engaging in domestic CT activities fall into this category. Many witnesses argued that as the capability had been raised there must have been a tangible enemy (one of the criteria).

Is perception 'reality'?

61. In April 1980, shortly after the development of a CT/SR capability in Australia, six Iraqi-backed Iranians stormed the Iranian Embassy in Prince's Gate in London, taking twenty hostages. Six days later British SAS CT troops re-captured the embassy, killing five of the terrorists and freeing the hostages. Two hostages were killed and two more wounded by the terrorists. During the hearings the Tribunal heard that this event provided a tangible example

for Australian CT/SR operators to appreciate the reality of such an incident potentially occurring in Australia.

62. Witnesses argued that their state of operational readiness was for tangible reasons; they believed that they were on an operation with a real element of danger and a defined enemy during periods of being online. In addition, it was implied that some of the adverse effects of their service are tangible now in their various ailments. During the hearings the Tribunal witnessed some of the psychological and physical conditions experienced by former CT/SR operators who had spent considerable periods being online. Health concerns about SASR service in general were significant enough to generate an investigation by an expert panel in 2003.¹²]The inconclusive nature of many of the lines of investigation, and of the subsequent recommendations, resulted more from a lack of baseline and longitudinal research evidence than from a lack of tangibility of individual cases. Such lines of investigation included the effects of exposure to lead and heavy metals, CS gas, coloured smoke and masking agents, asbestos, physical trauma and prolonged physical activity, blast and over pressure exposure, stressor exposure pressure effects associated with diving, the potential for genetic alteration associated with exposure and the effects of general exposure on interpersonal relationships, behaviour and lifestyle.

63. Apart from the effects of TAG service on individuals, many witnesses spoke of the tangible adverse effects of their service on family. Specifically, the need to carry a pager and be in close proximity to barracks, unknown periods of absence and the inability of operators to discuss their work with those closest to them has put untold pressure on relationships at home. A witness to the Tribunal said:

‘Sometimes the definition of what is ‘operational’ might be more felt by families’.

64. Overall, the argument about the reality of being online is that TAG personnel would not have endured what they did if the situation were not real.

Previous Claims

65. To determine whether service rendered by the CT/SR capability should qualify for medallic recognition, the Tribunal examined previous claims made to Defence and the Clarke Review into Veterans Entitlements 2003, and the reasons for their rejection.

66. Previous submissions to Defence have apparently not been supported as they focused on the hazardous nature of training by the CT/SR capability. While there have been circumstances in which medallic recognition has been provided in the form of service medals for training it is not usual to do so.¹³ The contemporary practice has been only to provide medallic recognition in the form of service medals to personnel participating in security operations, in other words, in recognition of warlike or non-warlike service.

67. Many of the dangers outlined by the claimants in previous submissions have largely been framed in a training context. Some claimants in this inquiry had also previously made submissions to the Clarke Review for recognition of hazardous service. Clarke’s

¹² *Final Report of the Expert Panel to Review SAS Veterans’ Health Concerns, 2003*

¹³ For example, Papua New Guinea SAS training prior to deployment to Vietnam, for which members received the ASM 45-75.

recommendation, which was supported by the Chiefs of Service Committee, was that ‘SAS *training* not be declared non-warlike or hazardous service’. The Tribunal noted that this recommendation refers to *training* and not to the many *security operations*, previously described in this Report, to which the CT/SR capability had been deployed by Government since its inception. It would indeed be difficult to argue that training could be designated as non-warlike service as defined by Defence in its Nature of Service framework.

68. It is also important to note that Clarke was not mandated to determine the appropriateness of medallic recognition, but rather to define anomalies that may have existed between service rendered and eligibility for repatriation benefits as governed by the *Veterans Entitlements Act 1986* (Cth) (VEA).

69. In some submissions to the Tribunal, claimants again sought a connection between medals and repatriation benefits. While the Tribunal is not mandated to consider claims related to repatriation issues, the following discussion is included for completeness. There is no formal legal connection between eligibility for the award of medals and repatriation benefits: see *Re Eastman and Repatriation Commission* (1992) 28 ALD 253; *Re Revill and Repatriation Commission* [2001] AATA 385 [47]. In those cases, the fact that applicants for repatriation benefits had received active service medals did not also qualify them for such benefits.

70. It has been recognised that it is also undesirable for eligibility for medals and benefits to be seen as interdependent. This is a principle on which the Tribunal bases its considerations and has been acknowledged in previous Tribunal and other inquiries.¹⁴ For example, Principle 10 of the Report of the Committee of Inquiry into Defence and Defence-related Awards, 1994 (CIDA Report) states:

*Matters relating to honours and awards should be considered on their merits...and these considerations should not be influenced by the possible impact, real or perceived, on veterans’ entitlements.*¹⁵

71. The award of medals starts from a different premise from eligibility for repatriation benefits. Defence Force medals are awarded specifically to recognise aspects of a member’s service. Service medals (ASM and Australian Active Service Medal (AASM)) are awarded to recognise operational service.

The Nature of Service

72. The Tribunal examined the nature of the service rendered to seek an answer to the question: if CT/SR operators are not eligible for a medal for training, can they be considered eligible because their service was operational?

73. As noted above, the ASM and AASM are awarded to recognise operational service. The ASM is awarded to recognise members of the Defence Force and certain other persons who render service in certain non-warlike military operations. The Governor-General, on the

¹⁴ See for example, the Defence Honours and Awards Tribunal report, *Inquiry into Recognition for Service for Australian Military Personnel who served with 4th Battalion, Royal Australian Regiment in Malaysia in 1966 to 1967*, 2009.

¹⁵ *Report of the Committee of Inquiry into Defence and Defence-related Awards, 1994* (CIDA Report), p. 8.

recommendation of the Minister, may declare a non-warlike operation, in which members of the Defence Force are, or have been on or after 14 February 1975, engaged, to be a prescribed operation for the purpose of the regulations. The Medal may be awarded for service in or in connection with a prescribed operation. The conditions for the award of the Medal are the conditions determined by the Governor-General on the recommendation of the Minister.¹⁶

74. There is provision to award the ASM for other hazardous or arduous peacetime service under certain circumstances outside of a Ministerial declaration of non-warlike service. This enables CDF and Ministerial discretion in recommending to the Governor-General an award of the ASM in conditions which are 'other than warlike'. In other words, although the ASM is awarded for non-warlike service, this is in a context specific to the medal's regulations and interpreted to mean 'not warlike' or 'other than warlike' for the purposes of the award. Its award is normally only made under this latter condition where a much higher degree of demand or hazardous conditions exist over normal day-to-day or peacetime activities. There also needs to be a reliance on operational outcomes.

75. On 28 June 2001, the Minister Assisting the Minister for Defence, the Hon Bruce Scott MP, approved specific conditions for which the ASM may be awarded. Included among these was a condition which he described, inter alia, as:

activities conducted in Australia or overseas at the direction of Government, rather than an ADF decision alone, which require the use of military skills unavailable to civilian organisations at the time and hazardous conditions exist as a result of civil unrest or threat which are beyond the normal requirements of peacetime service, which also result in control being given to the ADF to conduct the activities in part or in full.¹⁷

76. In current practice, the ADF uses a Nature of Service (NOS) framework to define better its categories of service. The framework defines two types of operations:¹⁸

- Peacetime Operations, which are defined as activities that may involve an elevated level of exposure to the risk of harm, but they will *not* involve a threat or exposure to the risk of harm from hostile or belligerent elements (people); and
- Security Operations, which are defined as military activities approved by Government, in defence of the nation and its security interests, that deal with a direct or indirect threat from belligerent elements (people) that have been assessed as having the ability and or preparedness to use force or offer violence to achieve their objectives. Security operations might be conducted anywhere, not only overseas, and they require deployment into or within an area of operations within a specified timeframe. Security Operations are further divided into two operational descriptors:
 - Non-warlike Operations which are defined as military activities short of warlike operations where there is risk associated with the assigned task(s) and where the application of force is limited to self defence; casualties could occur but are not

¹⁶ *Commonwealth of Australia Gazette*, No S336, 2 November 1988, Australian Service Medal Regulations.

¹⁷ From a submission provided by Director Honours and Awards, Pat Clarke.

¹⁸ These definitions were provided to the Tribunal by the Director General, Nature of Service Review, Brigadier D. Webster, at the hearing on 1 September 2009

expected. Non-warlike operations can include hazardous activities that expose individuals to physical or environmental risk above and beyond that of normal peacetime duties; and

- Warlike Operations which are defined as military activities where the application of force is authorised to achieve specific military objectives and there is an expectation of casualties.

77. In deciding whether an activity should be categorised as a security operation, the ADF uses a Military Threat Assessment to determine the possibility of exposure to the risk of harm to an ADF member confronting a belligerent or adversary.¹⁹ It follows that if there is a threat, such a planned activity should be prescribed as a Security Operation. In this context it is important to note that regardless of any other factor, where there is the possibility (not probability) that a belligerent or adversary could be present in the area of operations, that is sufficient to justify designation as a Security Operation.

78. Nonetheless, there have been activities conducted by the ADF such as Rifle Company deployments to Butterworth (Malaysia) up to 1989, that have since been determined to be Security Operations but were not at the time prescribed as such by the Government. That does not detract from the fact that the activities met the conditions of being a Security Operation and as such participants received service medal recognition.

79. Authorisation of a Security Operation is also an important step when moving forces from training onto an operational footing. In a military sense, one of the key events when a force is deployed by the Government on a Security Operation is the issuing of a CDF Operation Instruction.²⁰ This Instruction provides the legal framework in which the operation is conducted. It contains specific orders, a clear mission to conduct the security operation, a focus on an operational outcome, a defined threat, rules of engagement, authority to carry weapons and live ammunition, specifies an operational area and nominates a specific timeframe for the conduct of the operation. In addition, current practice would see a Military Threat Assessment completed and the Government could prescribe the activity as a Security Operation. The numerous deployments of the CT/SR capability in the past have all been initiated with a CDF Operation Instruction. It follows therefore that these were in fact Security Operations.

The Danger Incurred

80. As discussed earlier, the Government's initial and ongoing decisions both to raise and maintain the CT/SR capability were based on a need to deal with high risk terrorist incidents that could occur with little or no warning in Australia. In a historical sense, these incidents have in fact, not eventuated. This to a large degree has led to the situation where recognition of the service rendered by personnel from the CT/SR force has not been supported. When considering the definitions of Security Operations, as previously discussed, and precedent as it applies to the question of incurred danger, it would appear that the premise that recognition is dependent upon an incident eventuating, is in fact, incorrect.

¹⁹ A Military Threat Assessment is an analytical matrix which assesses the extent to which an individual is potentially exposed to harm or the risk of harm brought about by a belligerent, the environment, health/psychological factors and other operational circumstances.

²⁰ This is referred to in the 1979 CGS directive, which states: 'in the event of a terrorist incident requiring the potential use of the TAG . . . the TAG is to come under command of CDFS . . . command arrangements will be promulgated in a CDFS Operational Instruction issued for the particular operation'.

81. Both the Clarke Review and repatriation law provide ample interpretation of the notion of incurred danger. Various courts and tribunals have ruled that no attempt is made to indicate how much, how close, how long or how intense the incurred danger must be before it meets the requirements of the legislation or relevant policy. Indeed, it is strongly arguable that the belief of authorities that an enemy poses a significant threat to a particular part of Australia (leading, for example, to the Government sending forces to defend that area, or to conduct operations in that area) provides strong evidence that the forces sent in response to that threat have been sent into harm's way and therefore have incurred danger.²¹ In fact, the danger need only be possible, not probable, nor does it have to eventuate.

Security Operations

82. The intent of successive governments from the very beginning has been clear. They considered that a possible terrorist attack posed a real threat and an extreme danger to Australia and its interests, and on many occasions have either stood the CT/SR force ready or ordered its deployment on Security Operations. These deployments were not always specifically prescribed as Security Operations by the Government at the time, but nevertheless, the CT/SR force was frequently sent into possible harm's way by the Government, as a result of intelligence and threat assessments that pointed to the possibility of direct confrontation with armed belligerents or terrorists. These deployments occurred in the same way as other forces have been deployed overseas in anticipation of confronting possible armed threats against Australia's interests. The only difference in this case is that these deployments were domestic security operations. These were not training activities.

Operational Continuum

83. In considering evidence presented to the Tribunal from both the claimants and Defence officials, it is clear that CT/SR capability is developed and maintained on two levels. First is a skill qualification training regime in which potential operators are put through a screening process in which their suitability is determined and skills are developed. On successful completion of the skills training phase soldiers are allocated to the online TAG, which then becomes the core of the CT/SR capability. The relative frequency of operational deployments over the years, the ongoing extant threat of a terrorist attack with little or no warning, and the consequent extremely short notice to move required by Government means that unlike other military units there is no time to undertake additional training prior to deploying on the security operation. This situation means that the CT/SR capability could reasonably be considered, and is prepared and structured as being, assigned to security operations for the duration of its online assignment.

84. Since its inception, the CT/SR force has been deployed relatively frequently by the Government on Security Operations. Between these events, the force maintained its immediate operational footing to comply with the Government's assessment that 'the threat of terrorist attack' was 'real and potentially highly dangerous'.²² Evidence from former TAG members indicates that they considered, and were indeed told, that they were on an operational footing and were actually on an 'operation'. We have found no written directive

²¹ Clarke Review, Volume 2 Chapter 11 para 11.53, p. 260.

²² CGS Directive 1/80, July 1980.

that states that the TAG was on an 'operation', but nonetheless, the period in which the TAG members were online had most of the characteristics of being on an operation.

- TAG members needed to complete all necessary individual and collective training to an operational level before they joined the online squadron.
- Because of the very short notice to move, all preparation for operations, such as issuing rules of engagement, needed to be completed.
- Live ammunition needed to be carried to all exercise deployments in case an actual operation arose while deployed.
- Rehearsals for all possible eventualities needed to be completed.
- While the exact enemy was not always identified, a terrorist enemy was clearly identified by the Government as a threat to the nation and its interests. TAG members received periodic intelligence briefs from government agencies on terrorists groups and methods of operation.
- The commitment to the online squadron was for a specified period.
- When soldiers were injured and were not fit enough to remain in the TAG they were immediately replaced to ensure that the CT capability was maintained. The most extreme case was after the Black Hawk crash in 1996, when fifteen SAS soldiers were killed and others injured. Reinforcements joined the CT squadron and the standing CT capability was quickly restored.
- Operational deployments were directed by the Government.

85. The Special Operations Commander Australia (SOCAUST) submitted that due to the extremely short notice, its operational footing and the relative frequency of deployments on domestic security operations, the TAG has been for all intents and purposes on operational service since 1 May 80.²³ The Acting Chief of Army, in his submission to the Tribunal noted that 'with the benefit of hindsight, [he] would consider that the capability should have been couched as an ongoing and enduring operation from its inception'.²⁴ The Chief of Army, in an addendum to the earlier Army/Navy submission, advised that:

from a unit, SOCOMD and Army perspective, the TAGs are regarded as being on operations, albeit they have not been delivered the final CDF Execution Order . . . All the tenets of an operation are present: restrictions of movement and social activity, notice to move are applied, operational plans (specific or generic) are in place, orders or SOPs are in place, ROE (specific or generic) are in place, weapons and ammunition are to hand and the imminent threat of engagement with a potential enemy ever present. The only aspect short of being declared 'on operations' is the issue of the CDF Execution Order that specifies the mission for the final deployment.²⁵

86. In ensuring that training and operations are not confused, it is important to note that concurrent operational training, as opposed to skills qualification training, continues throughout the online period by the CT/SR force to maintain skills levels and constantly introduce and improve procedures. This is the case for all other ADF force elements deployed on Security Operations.

²³ SOCAUST Briefing, 24 June 2009.

²⁴ Major General P. Symon, submission, 22 May 2009.

²⁵ Lieutenant General K. J. Gillespie, submission, 23 November 2009.

87. Some concerns were put to the Tribunal that other ADF Force Elements, such as the 3rd Brigade online battalion group, are equally subject to short notice readiness testing and exercises, and therefore could be assessed as being equally deserving of recognition. Appearing before the Tribunal, Army representatives did not agree with this contention. Additionally, of significance is the condition specified by the then Minister, Bruce Scott (see para 74 above). In this context, the difference between ADF-imposed activities, such as may be completed by 3rd Brigade in testing its preparedness, and CT/SR deployments, is that the CT/SR deployments occur 'at the direction of Government, rather than an ADF decision alone', and that a 'threat', as determined by the Government is deemed to exist. The Tribunal considered these criteria were significant in differentiating between Government-directed operational deployments, and exercising or preparedness testing activities conducted by the ADF to gauge its readiness levels.

88. In summary, the Tribunal concluded that, while online, CT/SR personnel were indeed on a continuous operation and that this should be recognised in a similar manner to other ADF operations. The ASM appears to be the award that gives appropriate recognition.

Remuneration

89. During its enquiries the Tribunal heard that dangers incurred by CT/SR forces are adequately recognised through allowances such as the Special Forces Disability Allowance (SFDA). While this was not a widely held position, it is nevertheless important to address this view.

90. The ADF pay structure comprises a basic salary supplemented by work-related allowances. The basic salary, determined by the Defence Force Remuneration Tribunal (DFRT), compensates members for peacetime work. Like other work-related allowances, the SFDA (which is also set by the DFRT) is paid in recognition of work requirements that cannot be remunerated adequately in the ADF pay structure. The allowance includes a qualification and skill element and a disability element. The former acknowledges the significant levels of additional skill that must be acquired and maintained, while the latter acknowledges the hazard and stress associated with the Special Forces environment, which includes CT and SR training and readiness.

91. The SFDA, however, does not include any consideration for operational deployments, which are covered by Deployment Allowance. Deployment Allowance is paid during deployment on operations with the specific purpose of recognising military hazards including the possibility of confronting an adversary/belligerent, stress and the environmental factors a member is likely to experience on a deployment. In other words, it is paid for the specific purpose of compensating for operational threat. The quantum of allowance is determined by the Minister on a case by case basis. SFDA and Deployment Allowance are paid for different circumstances and can therefore be paid concurrently. The Tribunal concludes that while the SFDA does compensate for many disability elements encountered by a CT/SR soldier, it is not designed to compensate soldiers for disabilities arising from Operational Deployments.

92. It is the Tribunal's view that remuneration should not be used to recognise service rendered at the exclusion of all other forms of recognition. In almost all cases when ADF personnel are deployed overseas on operations (warlike and non-warlike) they receive both allowance payments and medallic recognition.

Other arguments for and against recognition

93. The Tribunal heard arguments that recognition should be given to CT/SR personnel because those who served in the 1980s had no opportunity to serve overseas, and had therefore received few, if any, medals. The Tribunal did not consider that this argument was sufficient to warrant medallic recognition.

94. The Tribunal received a few submissions that argued that if CT/SR personnel received medals this would cause resentment in certain areas of the ADF or the wider emergency/police community. The Tribunal did not hear sufficient evidence to verify that this would indeed be the case. It was considered that medals should be awarded on the merit of the case. Further, the Tribunal considered that other members of the ADF had not experienced the same conditions as CT/SR operators, and that many other groups within the ADF had received medals for undertaking activities that were not as stressful and demanding as CT/SR operations.

If recognition were to be given is there a more appropriate award than an ASM?

95. Submissions and witnesses suggested the following forms of recognition:

- ASM with clasp 'Special Ops'
- ASM with a new clasp 'CT/SR'
- ASM with a new clasp 'Domestic Ops'
- ADM with clasp 'CT/SR'
- AASM with a bar for each online posting, and Return from Active Service Badge
- A new and discrete medal for hazardous service
- A new and discrete medal for CT/SR service

96. If CT/SR service warrants medallic recognition, the question is whether that recognition should be in the form of a service medal or whether there is a more appropriate award.

97. The Tribunal rejected the idea of the formation of a new and discrete medal to recognise CT/SR service as it would disturb the integrity of the present system.

98. The Tribunal examined two aspects in considering this matter. Firstly, a review was undertaken of the existing forms of medallic award and clasps that are available. Secondly, a comparison was made with other non-warlike security operations for which medallic recognition has been given since 1975.

Existing medallic awards and clasps

99. If recognition is given on the basis that the type of service rendered is categorised as a Security Operation, and that concurrently maintaining its immediate deployable level of operational capability requires hazardous and arduous peacetime service of a much higher degree of demand and hazard than exists over normal day-to-day or peacetime activities, then under the existing Honours and Awards system there are only two service medals that are suitable. They are the AASM and the ASM. If CT/SR personnel were deployed on an

operation in which the threat of a belligerent although anticipated, did not eventuate, the ASM would be the appropriate recognition.

100. The Tribunal was advised that if the ASM were to be awarded on the basis of CT/SR members serving on a continuous operation such an award would not disturb the integrity of the Defence Honours and Awards system, or the system for awarding medals for operational service.

Recognised Non-Warlike Security Operations and Hazardous Service Operations since 1975

101. To ensure consistency, the Tribunal examined the circumstances of other activities conducted since 1975 for which medallic recognition had been given. These are listed below.

ASM awarded for:

- Operation Quick Step; Fiji, 2006.
- Operation Pollard; Kuwait 1998.
- South East Asia (service in Malaysia), 1975 to 1989
- Cambodian Mine Action Centre participants 1994 to 1999
- Defence Cooperation Program participants 2001 to 2006
- Operation Cenderwashi; Survey Operations 1976 to 1981
- RAN ships in the North West Indian Ocean, 1980 to 1986
- Mozambique de-mining operations, 1994 to 2002
- Pakistani mine clearance participants, 1989 to 1993

ASM with Clasp Special Operations have been awarded for:

- Prescribed submarine operations, ongoing.
- Explosive Device Demolition Technicians, ongoing.
- Operation Spitfire; East Timor 1999
- RAAF evacuation of NZ Embassy personnel from Tehran 1979

102. In all of the above operations or activities, while the possibility of a belligerent confronting deployed ADF forces was identified in the military threat assessment, this possibility did not eventuate. Nevertheless, it was determined that an ASM to recognise the service rendered should be awarded. It is also noted that all activities were conducted offshore, except for recognition of Explosive Device Demolition Technicians who gain recognition for domestic activities. It is further noted that many awards have been given for activities that were not prescribed by the Government as non-warlike Security Operations. This supports the proposition that medallic recognition is not contingent upon the operation being prescribed by Government. Additionally, there is no evidence before the Tribunal that supports the proposition that non-warlike or hazardous service can only be rendered outside Australia.

Clasp

103. The question of an appropriate clasp was also raised by claimants. An existing clasp 'Special Ops' is available in the Honours and Awards system.

104. The ASM with Clasp 'Special Ops' was established in 1997 following discussions between the 1993/94 Committee of Inquiry into Defence and Defence Related Awards (CIDA) and the then CDF. The discussions were based on a submission made to CIDA that submarine service deserved special recognition (unique medal). In considering the matter, the CDF recognised that there were broader issues involved than just submarine service and recommended to the Government that a Special Operations Clasp be established for the ASM, recognising that certain hazardous peacetime activities are conducted outside of formally declared warlike or non-warlike operations and, due to the special nature of these activities and the hazards and difficulties associated with them, an award was appropriate.

105. Under Instruments of the ASM 1945-75/ASM Regulations, the CDF has the sole responsibility of specifying which activities will be awarded the Clasp 'Special Ops'. Current policy is that the CDF will only specify certain activities on the recommendation of a Chief of Service. In considering an award of the ASM with Clasp 'Special Ops', the normal 30 days eligibility period may be waived.

106. In making recommendations, the Chief of Service will normally take into account whether the service may be recognised by an existing award and if the nature of the activity is dangerous or difficult enough that recognition is warranted. Also, consideration is made as to whether an activity is actually hazardous to individuals, or where there might be diplomatic sensitivities resulting from an activity being exposed (in which cases it may not be appropriate to award the medal).

107. The Clasp 'Special Ops' was not established to be a 'default' award for personnel who do not qualify for an ASM under the normal conditions that relate to a declared operation. Similarly, it is not awarded with the AASM.

108. As part of its Budget 2000 deliberations, the Government rejected the establishment of a Clasp 'Special Ops' for the AASM 1945-75 and current AASM, which was a recommendation of the 1999/2000 Review of Service Entitlement Anomalies in Respect of South-East Asian Service 1955-1975. This was on the basis that whenever Australians are involved in warlike activities, these will be properly declared and the AASM with the appropriate clasp established for that operation awarded. Special activities, for example, forward reconnaissance or special collection operations, conducted as part of a declared warlike operation are not separately recognised with the Clasp 'Special Ops' on their own. The Government does not consider that an award of the AASM with Clasp 'Special Operations' can exist.

Anomaly

109. The Tribunal also considered the circumstances surrounding security operations, to which the CT/SR force has been deployed and specifically asked the question: if a terrorist incident had eventuated, and the CT/SR force was required to defeat the terrorist presence using armed force, would that operation be considered warlike or active service? Evidence given confirmed that this scenario would indeed be classified as warlike, and as such, could be recognised with an AASM. Under these circumstances, if the Clasp 'Special Ops' was used, then it could not be awarded because the operation was considered warlike. This seems to be an anomalous situation.

Conclusion

110. This anomaly, along with the fact that the Tribunal considers the nature of service rendered by the CT/SR force to be significantly different from that of other members of the ADF leads the Tribunal to recommend that a specific clasp, to be entitled 'CT/SR', be created for the ASM and/or the AASM as appropriate.

If a medal is to be awarded, who should receive it?

111. As noted earlier, the Tribunal received submissions and evidence suggesting that, at one extreme, recognition should be given to only CT/SR operators, through to the broadest view that almost everyone involved in CT/SR activities should receive recognition. One submission divided the groups that might receive recognition as follows:

- (a) Online CT troop operational personnel
- (b) Online CT squadron operational personnel
- (c) Online CT troop support personnel
- (d) Online CT squadron support personnel
- (e) SASR Headquarters staff who deploy on CT operations
- (f) Supporting unit operational transport personnel (eg helicopters and submarine crews)
- (g) Supporting unit administrative transport support personnel (eg C-130 and patrol boat crews)

112. This submission suggested that groups 'a' to 'e' would qualify automatically.

113. The Acting Chief of Army submitted that to receive recognition a recipient should have been a member of the TAG (including the Regimental SOCCE) and be a specialist member of the ADF (eg Special Operations aviation personnel in support of the TAG) as determined by SOCAUST.²⁶

114. As we discussed earlier, the rationale for awarding a medal for CT/SR service is based on the proposition that personnel became committed to an operation when they went online. To be placed online, personnel need to complete the requisite training and then need formally to be assigned to an online squadron. The Tribunal heard from numerous witnesses that a suitable guide for determining if one was online was the issuing of a pager, to be carried at all times. The Tribunal also heard that the Regimental SOCCE was part of the TAG, as were certain drivers and administrative support personnel in the online squadron.

115. When medals are awarded for operations (either warlike or non-warlike), all members of a unit deployed on those operations receive medals. For example, during the Iraq commitment (2003-2009) all members posted to the Middle East Theatre of Operations received the AASM, irrespective of whether they were combat soldiers, or were working in a logistic unit based in the theatre but outside of Iraq. Recognition is not based on the degree of hazard experienced by each individual member, or on the level of training or expertise of each individual. It therefore follows that if the complete TAG was online, all members of the TAG should receive recognition (the groups recognised in sub paras 'a' to 'e' above). Aviation personnel would therefore qualify for recognition only if they were placed online for a TAG operation for the requisite qualifying period. Recognition should be given regardless of

²⁶ Major General P. Symon, submission, 22 May 2009.

whether personnel served in the RAN, the Army or the RAAF. That is, RAN Clearance Divers serving online in the TAG should receive the same recognition as SASR members.

Qualifying period

116. It is a long-standing practice that medals for operational service are awarded for service in an operational area for a defined period of time. This recognises that the hazard and strain of operational service is increased by continuous and extended service over time. The Tribunal heard plentiful evidence that CT/SR operators and their families were placed under great strain by the requirement to operate at a high level, in hazardous circumstances, on very short notice to move, over a long period.

117. The Tribunal considers that recognition for CT/SR service should take into account, and explicitly emphasise, the special demands of working in an online TAG for an extended period of time. The selection of an appropriate qualifying period will always be somewhat arbitrary. The period for online CT/SR service has normally been []. The qualifying period for most non-warlike operations is 30 days. In the addendum to the Army's submission the Chief of Army suggested a qualifying period of 30 days, based on the most prevalent qualifying period for the ASM, but he acknowledged that, if the qualifying period were to be 60 days, 'there should be no change to those likely to be entitled to the medal, given that personnel are usually posted to the TAG for []'.²⁷ To underline the importance placed on the strain of extended service the Tribunal considers that the qualifying period should be 60 days online.

118. In the addendum to his submission the Chief of Army recommended that the entitlement to any medal should be accrued service that might not be continuous, so long as personnel served for a total of 30 or 60 days.²⁸ The Tribunal does not agree with this recommendation. As noted above, the particular stress of serving online relates to the requirement to be available at short notice continuously for an extended period. If a CT/SR operator were to be permitted to move in and out of the online TAG this would relieve the pressure on the CT/SR operator that is caused by being continuously online. The medal would not then recognise the particular strain of being online for an extended period. The Tribunal considers that service for the qualifying period should be continuous, not cumulative. This means that a member would not be eligible for a medal if he were online for 30 days, went on leave or a course for an extended period, and then returned to be online for a further 30 days. Nor would a member be eligible if he were online for, say, only 12 hours per day even if he maintained that regime for 120 days.

119. The qualifying period should include members who may not have met the minimum qualifying period if their service was terminated due to death, evacuation due to illness or injury or any other disability directly attributable to CT/SR service.

Conclusion and Recommendations

120. Since 1980 members of the SAS Regiment (including clearance divers), and more recently, including members of 4 RAR (Commando) and 2 Commando Regiment have served

²⁷ Lieutenant General K. J. Gillespie, submission, 23 November 2009.

²⁸ Lieutenant General K. J. Gillespie, submission, 23 November 2009.

online as members of the TAG.²⁹ This service has been hazardous and demanding and has required members to be on a degree of notice (for an extended period) far in excess of that required by any other members of the ADF on peacetime service. Deployments have been frequently directed by Government in anticipation of the possibility of threats to Australia's national security eventuating.

121. This service could be considered to be a continuous operation. The Acting Chief of Army has stated that with the benefit of hindsight 'the CT/SR capability should have been couched as an ongoing and enduring operation since its inception'. In an addendum to this submission, the Chief of Army has confirmed that when TAGs are online they are regarded as being on operations. Members who took part in the enduring operation should be recognised as having done so.

Recommendations

Recommendation 1: Service in an online Tactical Assault Group (TAG) since its inception in 1980 (as well as service in the Interim TAG in 1979) should be recognised by the award of the Australian Service Medal with a new clasp, to be entitled Clasp 'CT/SR'.

Recommendation 2: To be eligible for a medal, recipients should:

- Have served in the online TAG for a minimum of 60 days continuous.
- Have been a member of the TAG, which comprises a [] Special Operations Command and Control Element, signalers, intelligence staff and other specialists.
- Have been a specialist member of the Australian Defence Force (eg Special Operations aviation personnel in support of the TAG), but only so long as they meet the requirement to serve continuously online for 60 days.

²⁹ As noted earlier, some SASR members served in 1979 as part of the Interim TAG and their service should also be recognised.

APPENDICES

Appendix 1: Submissions

The Tribunal received submissions from the following people and organizations:

[Note: names have not been released as submissions were received in-confidence]

Multiple submissions were received from some people.

Appendix 2: Tribunal Hearings

26 May 2009

Chair: Professor David Horner AM

Members: BRIG Gary Bornholt AM CSC (Retd), Dr Jane Harte

24 June 2009

Chair: Professor David Horner AM

Members: BRIG Gary Bornholt AM CSC (Retd), Dr Jane Harte

Witnesses:

MAJGEN Tim McOwan DSC
Special Operations Headquarters

COL Mark Smethurst DSC AM
Centre for Defence and Strategic Studies

BRIG Don Higgins AM
DSOCAUST

BRIG Peter (Gus) Gilmore DSC AM
COS SOCOMD

LTCOL Dan Fortune
Defence Force Structure Development

LTCOL Bill Bryden OAM
Special Operations Headquarters

CMDR David Wright
Deputy Director Navy Underwater Warfare

25 June 2009

Chair: Professor David Horner AM

Members: BRIG Gary Bornholt AM CSC (Retd), Dr Jane Harte

Witnesses:

BRIG David Webster AM
Director General Nature of Service Review

Pat Clarke
Director Honours and Awards

2 July 2009

Chair: Professor David Horner AM

Members: BRIG Gary Bornholt AM CSC (Retd), Dr Jane Harte

Witness

BRIG Chris Roberts AM CSC (Retd)

BRIG Jim Wallace AM (Retd)

CDRE Russ Baker AM (Retd)

Robert Quodling

3 August 2009

Chair: Professor David Horner AM

Members: BRIG Gary Bornholt AM CSC (Retd), Dr Jane Harte

Witnesses:

COL Graeme Ferguson (Retd)

John Ryan OAM

Paul Papalia CSC MLA

LTCOL David Lewis (Retd)
President, SAS Association

Mick Sims

David Howe

Michael Connolly

John Kempe

Maurice Murphy

4 August 2009

Chair: Professor David Horner AM

Members: BRIG Gary Bornholt AM CSC (Retd), Dr Jane Harte

Witnesses:

MAJ Greg Mawkes

MAJ Christopher Johns

MAJ Richard Clifford

WO2 Geoffrey Anderson

1 September 2009

Chair: Professor David Horner AM

Members: BRIG Gary Bornholt AM CSC (Retd), Dr Jane Harte

Witnesses:

AIRCDRE Christopher Sawade CSC

Martin Hamilton-Smith MP

COL John Patterson

COL Tony Hambleton

LTCOL Dave Gunning

BRIG Dave Webster AM

Appendix 3: SASR personnel who have died during CT/SR activities

1. Lance Corporal Peter Clifford Williamson.
Accidentally shot while training, Swanbourne, 10 October 1980.
2. Trooper David Hugh O'Callaghan.
Killed while diving in Bass Strait, 16 April 1982.
3. Sergeant Paul Richard Kench.
Killed while diving in Bass Strait, 9 December 1992.
4. Corporal Mihran Avedissian.
Killed in Black Hawk helicopter crash 12 June 1996.
5. Trooper Michael John Bird.
Killed in Black Hawk helicopter crash 12 June 1996.
6. Trooper Gordon Andrew Callow.
Killed in Black Hawk helicopter crash 12 June 1996.
7. Trooper Jonathon Galus Sandford Church.
Killed in Black Hawk helicopter crash 12 June 1996.
8. Corporal Andrew Constantindis.
Killed in Black Hawk helicopter crash 12 June 1996.
9. Sergeant Hugh William Ellis.
Killed in Black Hawk helicopter crash 12 June 1996.
10. Trooper David Frost.
Killed in Black Hawk helicopter crash 12 June 1996.
11. Trooper Glen Donald Hagan.
Killed in Black Hawk helicopter crash 12 June 1996.
12. Lance Corporal David Andrew Johnstone.
Killed in Black Hawk helicopter crash 12 June 1996.
13. Trooper Timothy John McDonald.
Killed in Black Hawk helicopter crash 12 June 1996.
14. Lance Corporal Darren Robert Oldham.
Killed in Black Hawk helicopter crash 12 June 1996.
15. Signaller Hendrick Peeters.
Killed in Black Hawk helicopter crash 12 June 1996.
16. Corporal Darren John Smith.
Killed in Black Hawk helicopter crash 12 June 1996.
17. Captain Timothy James Stevens.
Killed in Black Hawk helicopter crash 12 June 1996.
18. Corporal Brett Stephen Tombs.
Killed in Black Hawk helicopter crash 12 June 1996.

Appendix 4: Definitions

Counter Terrorist (CT). The CT capability is the force maintained by the ADF to deal with terrorist initiated siege/hostage situations.

Development Training: Before going online, CT/SR personnel undertake individual or team training over a period of three to four months before they are allocated to an online TAG. During this training period members are not on a particular notice to move.

Hazardous. Activities exposing individuals or units to a degree of hazard above and beyond that of normal peacetime duty such as mine avoidance and clearance, weapons inspections and destruction, Defence Force aid to civil power, Service protected or assisted evacuations and other operations requiring the application of minimum force to effect the protection of personnel or property, or other like activities.

Non-Warlike. Non-warlike operations are defined as those military activities short of warlike operations where there is risk associated with the assigned task(s) and where the application of force is limited to self defence. Casualties could occur but are not expected. These operations encompass but are not limited to hazardous and peacekeeping operations.

Online. When members join an online TAG they are maintained permanently on an operational footing, to present a standing strategic deterrence and an immediate combat response capacity both domestically and overseas. The standing threat is defined by Government. Members are on an extremely short notice to move in which there is no time to prepare or undertake training to reach a level commensurate with combat operations. Being online also means a posting to an establishment position in TAG East or West. While online, members conduct sustainment training.

The Special Operations Commander defines an individual as being 'online' if they are posted to one of the specified TAG positions within either TAG (E) or TAG (W). To be posted, the individual usually needs to be posted to an SAS or 2nd Commando Regiment squadron/company that has been identified to assume the CT/SRO (TAG) role and then complete all training leading up to the group assuming TAG responsibilities. This includes meeting individual trade training requirements for fulfilling their specific role, meeting any individual training standards or requirements for that role, and then participation in collective training and exercises to build the squadron/company's cohesion and teamwork. This culminates in an intense period of final training (colloquially referred to in units as the 'CT Olympics') that ensures all aspects of individual and collective preparation are complete and have been tested. The new group then assumes the TAG role from specified point in time. (Lieutenant General K. J. Gillespie, submission 23 November 2009.)

Special Recovery (SR). Special recovery operations are undertaken to rescue personnel or seize equipment from uncertain or hostile environments and return them to a safe area. They are undertaken primarily by the personnel in the CT force.

Sustainment Training. While online, members conduct realistic collective training exercises to maintain skills, and to refine tactics, techniques and procedures.

Appendix 5: Written sources consulted by the Tribunal

Archival sources

National Archives of Australia

Series A6839

Policy and Working Files of the Office of the Chief of General Staff

1978/30

1979/47

Defence Corporate Records

FDA 91/5760

Cabinet Submissions – Defence Counter Terrorist Capability - Force Development and Analysis Aspects

A 94/1529

Aid to the Civil Power – Counter Terrorism – Tactical Assault Group – DGOP Aspects

DEV95/4892

Project BLUEFIN – Upgrade of Counter Terrorist and Special Recovery Capabilities

MPO 268/4/20

Counter Terrorism – Formation of Tactical Assault Groups

N 268/4/25

Terrorists – Army Counterforce

AF 339/10/53

BURSA – Counter Terrorist Operations

MPO 368/5/80

Australian Joint Service Plan 1/1980 Plan DICKENS Defence Aid to the Civil Power in Counter Terrorist Operations against Offshore Installations

DHQ 998/21614

2 Commando Regiment Special Recovery- Minor Capability Submission

2002/20699

Enhanced Counter Terrorist Capability - Tactical Assault Group (East) TAG (E)

2002/25317

Tactical Assault Group East (TAG (E))

Chief of Army's Office

Chief of the General Staff Directive No 1/1979 of 31 August 1979

Directive by Chief of the General Staff to Commanding Officer of the Special Air Service Regiment – Establishment of a Counter-Terrorist Reaction Force: Tactical Assault Group

Published Sources

David Horner, *SAS Phantoms of War, A History of the Australian Special Air Service*, St Leonards: Allen and Unwin, 2002

Ian McPhedran, *The Amazing SAS: the Inside Story of Australia's Special Forces*, Pymble: HarperCollins, 2005

Ian McPhedran, *Soldiers without Borders: beyond the SAS: a Global Network of Brothers-In-Arms*, Pymble: HarperCollins, 2008