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## INQUIRY OFFICER'S REPORT INTO THE DEATH OF PRIVATE GREGORY MICHAEL SHER IN AFGHANISTAN ON 04 JANUARY 2009

### References:

- A. CDF Instrument of Appointment dated 07 Jan 09
- B. CDF Terms of Reference dated 07 Jan 09
- C. SOTG OP CONOPS dated 31 Dec 08
- D. SOTG Quick Assessment – *Death of PTE G.M. SHER on 4 JAN 09*  
dated 05 Jan 09
- E. Map – Afghanistan,  
1:100,000
- F. JTF 633 SI(OPS) dated Jan 2006 [sic]
- G. HQ JTF 633 OPINST
- H. CDF ROEAUTH – OP SLIPPER SOTG ROE dated 23 Nov 07
- I. DI(G) 45-2 ADMIN *Reporting and Investigation of Alleged Offences within the Australian Defence Organisation* dated 30 Oct 01
- J. DI(G) PERS 11-2 *Notification of Service and Non-Australian Defence Force casualties* dated 18 Dec 01
- K. JTF633 SI-PERS 04-06 *MEAO Mortuary Affairs Management* dated 22 Sep 08
- L. DI(G) PERS 20-6 *Deaths within and outside Australia of Australian Defence personnel* dated 20 May 08
- M. CDF Directive 12/2006 *Interim Arrangements for CDF Commissions of Inquiry into ADF Suicides and Deaths in Service* dated 30 May 06
- N. *Defence (Inquiry) Regulations 1985 Part 8, CDF Commissions of Inquiry*
- O. ADFP 06.1.4 *Administrative Inquiries Manual*

All times in this report are local time in the time zone where the activity or event occurred. Where necessary, the corresponding Australian Eastern Standard Time (AEST) is shown in brackets.

### Appointment and Terms of Reference

1. I, COL D.C. Cousins, AM, CSC, having been duly appointed by LTGEN D.J. Hurley, AO, DSC, Acting Chief of the Defence Force, to inquire into the circumstances and facts surrounding the death of Private Gregory Michael

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Sher in accordance with the Terms of Reference attached to the Instrument of Appointment (**annex A**) submit my report.

### **Inquiry officer team**

2. The inquiry team consisted of myself and two Inquiry Assistants:
  - a. LTCOL Stephen Gordon Thompson, RFD ; and
  - b. SGT Maureen Bronjes.

### **Introduction**

3. In Afghanistan on the morning of 04 Jan 09, members of the Special Operations Task Group (SOTG) were involved in an operation in a valley about from the SOTG base in Tarin Kowt. The SOTG patrol had stopped at an established patrol base in order to conduct preparations for their forthcoming mission. The patrol base was commanded by Australian soldiers from the Australian Mentoring and Reconstruction Task Force (AS MRTF).

4. At 1255 hrs (1830 hrs AEST), the patrol base came under attack from insurgents using rocket fire. PTE Sher was struck by a 107 millimetre rocket. He was killed instantly. SOTG patrol members treated PTE Sher at the incident scene but they could not revive him. PTE Sher was evacuated by aero-medical helicopter to the Dutch medical facility at Tarin Kowt where he was certified life extinct. A Quick Assessment was conducted by SOTG and is attached at **annex B**.

### **Methodology and approach**

5. The inquiry team moved to Tarin Kowt and established an office within SOTG's base camp. Team members were able to visit the incident site. This provided insight into the physical layout, construction and force protection measures of the patrol base.

6. Members of the SOTG were interviewed and were able to provide reliable first-hand accounts of the planning and events leading up to the deployment of the SOTG patrol to the patrol base, the fatal incident and the return of PTE Sher to Tarin Kowt.

7. Members of HQ JTF 633, the command element of Australian forces deployed to the Middle East Area of Operations (MEAO), were interviewed by phone or were provided questions for response through email. These interviews concerned force protection protocols for Australian force elements operating in the MEAO, notably in the Afghanistan area of operations. They were also interviewed in relation to the repatriation of PTE Sher's human remains to Melbourne.

**Synopsis of the incident**

8. The following paragraphs provide a detailed chronological sequence of events of the SOTG mission Jan 09. The information includes mission details, force element details, timings and actions conducted;

9. On 03 Jan 09, an SOTG Force Element (SOTG FE) commenced OP, an approved mission aimed at disrupting insurgent operations in Afghanistan's central Uruzgan province. OP was to be a series of against threat groups in the area over the period Jan 09. The first phase of the operation was to move to Patrol Base (PB) (formerly known as PB ) at (ref E) to reconfigure for their mission

10. On the afternoon of 03 Jan 09, SOTG FE conducted a move from Tarin Kowt to the patrol base. The move was uneventful. On arrival at the patrol base, SOTG FE commenced preparatory activities for further up the valley. At 2132 hrs that evening, OC SOTG FE delayed the mission by 24 hours. SOTG FE remained overnight at the patrol base.

11. On the morning of 04 Jan 09, SOTG personnel rested and completed preparatory activities for their forthcoming mission. At approximately 1255 hrs (1825 hrs AEST), the patrol base received indirect fire. One 107mm rocket fell short and another 107mm rocket. This rocket then passed through a shipping container, fatally struck PTE Sher and then partially detonated on the far perimeter wall of the patrol base.

12. The rocket's impact on PTE Sher was catastrophic. It flung him down an embankment and caused major trauma to his upper body. SOTG members immediately provided first aid and unsuccessfully attempted to revive him. PTE Sher was considered at the time to have been killed instantly. There were no other casualties caused by the IDF attack.

13. SOTG FE and secured the patrol base. At first, immediate aero-medical evacuation (AME) was sought but this priority requirement was reviewed by OC SOTG FE given that PTE Sher had clearly died of his wounds. At 1314 hrs, SOTG FE submitted an AME request, it was marked with the lowest priority for evacuation of personnel.

14. At 1349 hrs, SOTG FE identified the rocket's point of origin and they continued to monitor this area. At 1356 hrs, SOTG FE engaged insurgent spotters. At 1443 hrs the was closed. At 1448 hrs, SOTG FE engaged and probably wounded an insurgent to the north east. The insurgent dropped the weapons he was carrying and disappeared from view. At 1741 hrs (2311 hrs AEST), an AME helicopter evacuated PTE Sher from the patrol base to the Dutch Role 2 hospital at KAMP HOLLAND.

15. An image depicting the sequence of events of the rocket strike on the patrol base is at **annex C1**. It shows the line of flight of the rocket through the base and the location where PTE Sher was struck and killed. A complete set of photographs providing greater detail are at **annexes C2 and C3**.

#### **Date, time and place of incident**

16. The incident occurred at 1255 hrs (1825 hrs AEST) 04 Jan 09 at a patrol base approximately from the SOTG's base camp at Tarin Kowt, Afghanistan.

#### **Forces involved**

17. **General.** The SOTG were operating independently although there were a range of International Security Assistance Force (ISAF) force elements available to support as necessary. Specific details of forces involved are contained in the following paragraphs.

18. **Australian.** SOTG FE of SOTG was conducting OP  
The FE is based on

19. **Netherlands.**

The Dutch Role 2 Hospital in KAMP HOLLAND, Tarin Kowt provided mortuary affairs support.

20. **PB**. The force resident at the PB consisted of an Australian Operational Mentoring and Liaison Team (OMLT), a  
The force resident at the patrol base totalled  
approximately personnel.

#### **Involvement by Civil and Service authorities**

21. The Victorian Coroner commissioned a post mortem examination of PTE Sher. The coroner has not said whether a full inquest will be conducted at the time of this report. The coroner is aware of my appointment, the nature of the inquiry and that a report was to be submitted. I am informed that normally, coroners do not call for an ADF inquiry officer's report.

22. To my knowledge, the death of PTE Sher has not been investigated by any other civilian or Service authorities.

#### **Death or injuries related to the incident**

23. **Death in combat.** PTE Gregory Michael Sher, posted to 1<sup>st</sup> Commando Regiment, was killed in action as a result of the combat related incident described in this report. A 107mm rocket directly struck PTE Sher causing major trauma to his upper body that was not consistent with life. Soldiers in close proximity

to him when he was struck and those who immediately attended him when he fell to the ground believe he was killed instantly. The details of PTE Sher's injuries will be contained in the Victorian Coroner's report.

#### **Damage to civilian property, Service property or equipment**

24. There was no damage to any civilian property, Service property or equipment.

#### **Witnesses**

25. **Records of interview.** Several SOTG personnel were interviewed by the inquiry team concerning the planning and events leading up to the deployment of the SOGT FE to the patrol base, the incident itself and the return of PTE Sher to Tarin Kowt. Their records of interview and a list of acronyms are at **annexes D to T**. A synopsis of each of the ROIs was prepared by the inquiry team in the form of unsigned statements. Further, members of HQ JTF 633, the command element of Australian Forces deployed to the Middle East Area of Operations, were requested to provide statements in response to questions through emails.

### **FACTORS CONSIDERED**

#### **Environmental conditions**

26. **Terrain.** The subject area is narrow valley, dominated by mountains ranges on each side of the river. Access is by a single lane, compacted earth road. The terrain is predominately rural and is sparsely populated. Life is centred on the river which provides water for irrigation of crops, the main source of income. The irrigated areas are commonly referred to as the 'green belt'. The local nationals reside in a system of small compounds within larger compounds, some of which may have perimeter walls over 100 metres long. The compounds are constructed from mud brick surrounded by walls four to eight feet tall. There is little symmetry to the design of the compounds as many have been added on to pre-existing structures over time.

27. **Incident site.** The incident occurred inside a patrol base located on the forward slope of a hill on the north side of the river.

The patrol base had been constructed by an Australian Reconstruction Task Force element and was completed on 11 Jul 2008. The construction plans, including details of the base's defensive characteristics and notes by the inquiry team, are at **annex U and V**.

28. **Weather and visibility.** The weather conditions at the time of the incident were light to moderate rain clearing. The temperate range was minus 10<sup>0</sup> to 10<sup>0</sup> C. The incident occurred in the middle of the day. Visibility was good.

29. **Cultural environment.** The incident site overlooks an area of the green belt. There have been many clashes between forces and insurgents in this area over the past few years.

### Operational conditions

30. **General.** The following paragraphs discuss information, mission orders, SOTG FE tactics, techniques and procedures, defensive details of the patrol base and force protective postures

31. **Overview.** The SOTG FE was on an authorised mission. They had conducted a deliberate planning process and the soldiers were thoroughly briefed. Prior to their departure, advice indicated a possible likelihood of insurgent rockets but rated the threat as low.

The SOTG prepared themselves for all these contingencies, including 'actions on' in the event of a rocket attack. On arrival at the patrol base, the SOTG were briefed by the local commander on the tactical setting and level of threat in the area. Following this briefing, the SOTG duly adopted the force protective posture of the force elements resident at the base.

32. **General reporting regarding rockets in Afghanistan.** On 02 Jan 09, a 107mm rocket (not confirmed) had impacted approximately a kilometre from PB . On the same day, SOTG forces undertaking OP further up the Valley underwent an IDF attack. Again this was believed to have been a 107mm rocket. These had been the first rocket attacks for several months within the AO. On 3 Jan 09, the assessments across forces had been mixed. Some estimates predicted an increased level of threat of insurgent IDF attacks against forces, while others noted the use of 107mm rockets was improbable

33. **Rocket threat against PB** An assessment on the evening of 03 Jan 09, had noted that rocket attacks were likely against PB over the 04/05 Jan 09. When SOTG staff reviewed this assessment , including noting the Taliban's previous inaccuracy with rockets, their assessment remained that the likelihood of an effective rocket attack against PB was low .

34. **Force protection planning.** The culture and practice of the ADF, particularly within SOCOMD, embraces risk management as a part of mission planning. Further, in the MEAO several documents prescribe force protection requirements based on a risk management approach. **Reference F** although outdated and not expressly directed at current AS FEs in AFG, details the principles and responsibilities for force protection and requires risk management to be a part of mission planning. In conjunction with this, **Reference G** requires SOTG to backbrief CJTF 633 for certain operations. For the operation Jan 09, SOTG gave this backbrief which included

specific risk statements for the threats considered to be high or very high. Subsequently, the operation was authorised by ISAF and CJTF 633 and an EXECUTO issued on 2 Jan 09.

35. **Pre-operation planning.** The SOTG staff conducted a deliberate planning process for the operation, which included an assessment of the complete range of insurgent and environmental threats that could reasonably be foreseen. The threat level of 107mm rocket attack was assessed. The staff considered the mostly likely threat to the team to be

Specific risk statements addressing these latter two threats were included in the concept of operations for the mission.

36. **Orders.** On 01 Jan 09, Officer Commanding SOTG FE had given formal detailed orders for the operation. These orders included discussion of 107mm rockets and reaffirmed SOTG FE 'actions on' in response to such an attack. SOTG FE members who attended these orders described them as thorough and detailed. Subsequently, changes and updates to the orders were provided through SOTG FE's chain of command.

37. **The patrol base.** An Australian Reconstruction Taskforce had constructed the patrol base in May to Jul 2008. It is a secure installation with established fortifications that are manned 24/7. The perimeter walls were constructed in accordance with the manufacturer's specifications and remain in good condition.

38. **The patrol base's tactical setting 03/04 Jan 09.** On 03/04 Jan 09, the AS OMLT had their vehicles positioned

The patrol base's other resident force elements were conducting operations and providing security for the base. On the afternoon of 03 Jan 09, the SOTG FE arrived at the base and were briefed by the resident AS OMLT on the local threat assessment for the base. The threat of 107mm rocket strike was considered low. This assessment was passed on to all SOTG FE members through the daily planning/orders group.

39. **Force protection posture at the patrol base 03/04 Jan 09.** Force protection measures adopted for daily routine inside forward operating bases or patrol bases are subject to the same risk management approach used for missions outside the wire. The SOTG FE's decision to remain overnight at the patrol base was consistent with the tactical situation and sound force protection measures. On the evening of 03 Jan 09, the force protection posture prescribed by the patrol base's resident force element (an AS OMLT) did not require combat body armour to be worn inside the confines of the patrol base

Once the SOTG settled into the patrol base they duly adopted this force protective posture.

40. **Techniques, tactics and procedures (TTPs).** As mentioned above, the threat of an effective rocket attack at the patrol base on 03 Jan 09 was considered low. The base's accommodation was occupied by the resident force elements when the SOTG FE arrived on 03 Jan 09. Therefore following the decision to remain overnight, SOTG FE members sought accommodation in available shipping containers and tents due to the inclement weather. PTE Sher's team slept in a shipping container in the vicinity of their protected vehicles

The SOTG FE had been given instructions regarding immediate 'actions on' in case of IDF or rocket attack. Primacy for defence of the patrol base resided with the resident force elements. Nevertheless, the SOTG was postured to contribute or assume control as required.

41. **Early warning.** On the morning of 04 Jan 09, there was no local specific warning of an attack against the patrol base that day. The SOTG FE and the patrol base's resident force elements did not detect any increased level of threat against the patrol base.

42. **Morning routine.** On the morning of 04 Jan 09, PTE Sher's team had been asked by the Commander of the patrol base to vacate the shipping container in which they had slept because the container was to be moved. The team moved their sleeping bags (referred to colloquially in the annexed records of interview as "swags" or "bivvies") to the open air position shown in photograph numbered 11 (shown in the bundle of photographs taken on 4 Jan 09 at **annex C3**). They then continued preparations for their forthcoming mission or rested on or in the vicinity of their sleeping bags depicted in photograph number 11. Shortly after midday, PTE Sher had stood up and taken only a few steps when he was struck by the rocket.

43. **Equipment.** On 04 Jan 09, PTE Sher was not wearing his issued his helmet and body armour at the time he was struck by the 107mm rocket. However, the rocket struck him in the side, away from any ballistic protection that would have been offered by the ceramic plates in the body armour. Technical advice to the inquiry team was that if PTE Sher had been wearing his body armour, it is likely that:

- a. the rocket may have detonated on him and this, in conjunction with the impact of the rocket, would have killed him instantly; or
- b. the impact injuries to PTE Sher caused by a projectile

would in any event have  
killed him instantly.

44. **First aid.** The treatment provided to PTE Sher by members of SOTG FE was consistent with their protocols and their ability. Treatment only ceased when it was obvious that PTE Sher was not capable of being revived. The attending medical personnel at the scene believe that PTE Sher had been killed instantly.



45. **Contribution of operational factors to the incident.** The following conclusions are drawn from consideration of the operational factors:

- a. Pre-operational planning, orders and preparations were all adequate and did not contribute to the incident. The threat of 107mm rocket strike was considered and appropriate deductions were made about the threat.
- b. The assessment which suggested that rocket attacks were likely against the patrol base over 04/05 Jan 09, was properly taken into account by SOTG in the mix of reports at the time.
- c. On the morning of 04 Jan 09, SOTG's assessment that the likelihood of an effective rocket attack against PB was low was consistent with the information available at the time. The TTPs employed by the SOTG were acceptable based on their risk assessment.
- d. The SOTG were inside a protected patrol base when the rocket attack occurred. They were using the protection of the patrol base to rest and conduct preparations prior to their mission. Not wearing body armour in these circumstances is consistent with sound force protection measures and the need for members to rest and prepare for operations.
- e. The SOTG FE's sleeping arrangements on the night of 3/4 Jan 09 outside of the accommodation facilities at the patrol base was in accordance with sound force protection measures. Similarly, the practice for SOTG members to rest where possible was also in accordance with those measures.
- f. Following the rocket attack, SOTG members provided appropriate immediate first aid support to PTE Sher. Subsequently, he was considered to have been killed instantly.
- g. The evacuation of PTE Sher to Tarin Kowt by aero-medical resources was appropriate; the low priority sought for his movement reflected the fact that PTE Sher was deceased.
- h. I cannot conclusively say that combat body armour would have prevented the death of PTE Sher. However, although I am not an expert in ballistics and combat body armour, given the velocity and mass of the rocket, I believe PTE Sher would have had no prospect of surviving the trauma caused by the direct hit on the flank of his upper torso.

#### **Other factors**

46. **The 107mm rocket.** The principal factor in the incident was the deliberate action carried out by insurgents firing a 107mm rocket at the patrol base. The rocket fired was a point detonating munition which malfunctioned.

However, the report notes that the rocket was in poor condition and that if the fuse was in a similar

condition (which the report suspects it was), then this may be the reason the rocket suffered a 'hang-fire' (fuse firing pin hung in place, not striking the primer as designed)

The 'hang-fire' continued as the rocket penetrated the shipping container, and then upon striking the inside of the perimeter wall on the far side of the patrol base the rocket partially functioned.

#### 47. **Combat Body Armour.**

The SOTG's body armour is a proven body armour system. Although relatively light for body armour it is still heavy enough to degrade the wearer's performance over time. Its continued use is likely to cause the wearer physical stress. SOTG members have one set of armour and it is configured for use on operations. The average weight of SOTG members' assembled combat body armour is over 23 kgs, plus the wearer's helmet weighing 1.3kgs.

#### **Alcohol and drugs**

48. There is no evidence identifying alcohol or drugs as factors in this incident.

### **POST INCIDENT PROCEDURES**

49. **Notification.** The incident was reported in accordance with **references I and J**. The notification of PTE Sher's NOK was well managed. Initially, 1<sup>st</sup> Commando Regiment representatives made contact with PTE Sher's brother and then his parents were informed. There are no outstanding issues regarding this aspect of the process.

50. **Mortuary and Repatriation procedures.** PTE Sher was evacuated from the patrol base to Tarin Kowt by aero-medical helicopter. He was taken to the Dutch Role 2 hospital where he was certified to be life extinct. Following proof of identity procedures, PTE Sher's human remains were then sealed and began the repatriation process to Melbourne. The chain of custody was effective and well carried out. PTE Sher's human remains were escorted from the patrol base to the Coroner in Melbourne. The mortuary and repatriation process was well conducted and in accordance with **references K and L**. Of particular note, reference K, JTF 633's Standing Instruction for MEAO Mortuary Affairs, is a detailed and robust document, readily used and easily understood by Australian force elements throughout the MEAO.

#### **Weaknesses in the System and method of control**

51. I did not identify any significant deficiencies in the system or method of control relating to the death of PTE Sher.

## Conclusions

52. PTE G.M. Sher was killed in action by enemy fire at a patrol base about from Tarin Kowt, Afghanistan on 4 Jan 2009. He was killed instantly as a result of being struck by a 107mm rocket. Immediate and competent first aid efforts were made but he could not be resuscitated. PTE Sher was certified life extinct shortly after his arrival at Tarin Kowt.

53. The SOTG were on an operation appropriately authorised by Commander JTF 633. The conduct of the operation was in accordance with issued orders and established tactics, techniques and procedures and with due regard to the assessed risks involved.

54. There are no matters that require immediate attention however the following issues require action:

- a. JTF 633 Standing Instructions for Force Protection require review

From recent discussion I know this review to now be underway. Further, I emphasise that there was no meaningful causal connection between this deficiency in the document and PTE Sher's death.

- b. Reference L, DI (G) PERS 20-6, *Deaths within and outside Australia of ADF personnel* is an excellent publication however it points to ADFP 1.1.1 – *Mortuary Affairs*, for areas of clarification and guidance. ADFP 1.1.1 has just been revised and reissued but is not listed on the DEFWEB. Unless personnel know that a copy can be obtained from ADFWC's website then they would assume it remains withdrawn (DEFGRAM 638/2008 is noted).
- c. Current guidance concerning a deceased member's personal effects is cumbersome. However, the draft proposed DI (G) appears to address the anomalies and its release will clarify matters. The draft DI(G) needs to address the PH 393 Personal Effects Certificate issue (currently only a very dated PDF format is available); this form must be reviewed and available in a web forms format.

## Recommendations

55. I recommend that:

- a. A Commission of Inquiry into this incident **not be** appointed on the ground that it is not warranted.
- b. JTF 633 Standing Instructions for Force Protection be reviewed in order to incorporate the current disposition and disparate tasks of Australian force elements deployed to the MEAO.
- c. ADFP 1.1.1 be listed on the DEFWEB.

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- d. The draft proposed DI(G) concerning deceased members' personal effects be staffed and released as a matter of priority. It should include an updated PH 393 Personal Effects Certificate.



**D.C. COUSINS**

Colonel

Inquiry Officer

23<sup>rd</sup> Feb 09

**Annexes:**

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