

# **The Death of Private Leonard Manning**

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## The Death of Private Manning

Leonard Manning was a New Zealand Army private, serving with the international force, deployed to the former Indonesian province of East Timor (INTERFET) after the independence vote in that territory and subsequent civil unrest. He died as the result of an ambush of the small patrol of which he was a member near the border of East Timor<sup>1</sup> with Indonesian West Timor. Private Manning was not the only New Zealand soldier to die in East Timor but he was the only one to die on active service. There is something else that marks off the incident in which he died and that it is a persistent difficulty in getting any information about the circumstances in which that occurred, suggesting that the military authorities had something to hide. This obstruction has continued to the present day, so that what is presented here is still only a progress report, although, that said, it needs to be added that now, more than five years later, we have a clearer idea of the details of the incident and a clearer of why the New Zealand military authorities should have been so keen to conceal the facts.

The investigation began for this writer shortly after the events when it appeared that a student trying to search the Manning incident was having difficulty in getting information from Defence sources that had previously been quite helpful. This provoked the writing of an article for the May/June 2001 issue of *New Zealand International Review* ('Defence Policy and the death of Private Manning') which attempted to raise many of the questions that were not getting a response and, somewhat speculatively, suggested possible answers. The article, in turn, provoked newspaper comment and a series of parliamentary questions. This, together with some correspondence with military authorities, and especially contact with the MP, Rodney Hide (who had apparently also been following the Manning affair and was asking the questions), produced a great deal of new information, as did the trial (in Jakarta in 2001/02) of the person said to be the killer of Private Manning. The following account of the events of 23 and 24 July 2000 is an attempt to bring this all together and see where we are now with regard to the issues raised in the original article. As noted, this is still an interim report. There are still substantial areas of doubt about what happened and, particularly, about why it happened.

The original article was predicated on the assumption that the apparent failure to respond adequately to the ambush of the Manning patrol was due to poorly performing equipment. This was a reasonable presumption at the time since by 2000 there was widespread recognition that New Zealand forces deployed to the former Yugoslavia had been at considerable risk due to the age of key items (Vietnam era radios and armoured personnel carriers) and the complete absence of other key items (anti-armour weapons). It has become evident, as more information emerges, that whilst this may still have been a factor, other factors were also significant. Amongst these are the Rules of Engagement (ROEs) adopted for the East Timor deployment, and particularly those imposed by the UN when they took over authority on 1 March 2000. There has also been an accumulation of further questions about the operational decisions made both leading up to the Manning shooting and immediately afterwards.

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<sup>1</sup> The country is now known officially as Timor Leste. The older version of the name will be retained for present purposes since that is the name that was in use at the material time.

The first section of this review restates some of the questions that were raised in the original article and adds some of the official responses that were subsequently received. Part two of the report is an attempt to summarise what is now known about the events of 23 and 24 July 2000. Somewhat speculatively, it also raises further questions about what happened and particularly about what lessons may be learned.

The main sources of information are listed at the end of the report and are identified in parenthesis at the end of each quotation. Amongst these was a long interview at Joint Force Headquarters with Brigadier Jerry Mateparae in early September 2001. Information from this source is also identified. I also had the benefit of comments from a number of ex-service personnel, including Colonel Brian Monks and Colonel Ross Milne. In key cases these are specifically identified in the text. More recently, the trial of a small group of former ‘pro-integration militiamen’, led by Jacobus Bere, provided further detail about the events of 24 July. The sources here are various media outlets and the records of the New Zealand Embassy staff in Jakarta, who attended the trial and whose reports back to New Zealand were released under the Official Information Act. More recently (September 2004), NZDF has released under the Official Information Act, the transcripts of three interviews, conducted in early November 2000 by Lt Col Harper, who was at that time the official East Timor historian.

### *Part I – The Original Questions and Some Answers*

Apart from some material bearing on the historical context and an attempt to summarise the actual events, the *Review* article raised a number of specific questions (either directly, or by implication). Particularly, these questions focussed on the long period that seemed to have elapsed between contact with what was officially called the ‘threat group’ and the appearance in the location of any supporting forces. Was there delay in contacting headquarters? If there was, why was that? Were there communication difficulties? Were adequate backup arrangements in place? All these things were subsequently denied.

“There were no problems with communications during the action.” (draft<sup>2</sup> 6818). Actually, the Commanding Officer of B Company (in an interview given in November 2000) conceded that, ‘Communications were difficult at the time, we could only get scattered, very sort of broken transmissions over the radio ..’<sup>3</sup> This is confirmed by the corporal of Manning’s patrol, ‘Tried to raise coms on the radio but the good old radios over here didn’t want to play the game’.

“All events that occurred during the evening of 23/24 July were reported through all levels of the Peace Keeping Force in the area.” (Mateparae)

This sentence suggested that a stream of messages passed between the Manning patrol and higher command. In fact, according to a subsequent parliamentary reply (9728) there was only one radio contact between 22.00 on the previous evening until after Private Manning was killed.

“The patrol was then tasked with following up one of the trails that it was suspected that the militia could have used”. (Mateparae)

There is no indication of when this occurred but, again, the implication is that this ‘tasking’ was done by radio. Since there is only one message over an 11-hour period, these orders must have been the subject of the only radio contact, or have been

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<sup>2</sup> The parliamentary answer of 12 June ultimately became available also in draft form.

<sup>3</sup> Interview by Lt Col Harper with ‘the OC and CSM of B Company’ at Tilomar, East Timor, 1 November 2000 (Interview 2), page 3.

given very much earlier. Given all the things that might have been talked about, the suspicion that there may have been communication problems is not entirely dispelled. Parliamentary responses tended to deal with the matter obliquely.

“A patrol does not provide radio traffic direct to the Battalion command post, as there is a radio traffic command chain.” (8738)

The protocols being thus corrected, there was still no information as to whether any messages were passed through this command chain.

One of the points at issue was why it took so long for support to arrive. The suggestion in the article was that it might have taken ‘five hours’.

“It did not take 5 hours to respond.” (6918 draft)

The operative word here seems to be ‘respond’. In fact, in another reply it is stated that:

“Six hours and nine minutes elapsed between the time of the contact and the arrival of the ready-reaction unit in the contact area.” (8741)

Questions were also raised in the article about the availability of helicopters. Indeed, it was suggested that no ‘strictly military’ transportation was available at all.

On the matter of helicopter availability it was commented –

“Helicopters were available (8739) but could not land because of thick bush.” (Draft 6918)

This contrasts with an earlier public comment by Brigadier Mateparae in which he said (by way of explaining the lack of a rapid response) that ‘air support was often not available’. (EP26)

In the matter of land transport, it was conceded that, “The only vehicles available were Holden Rodeos and Unimogs.” (8737). In fact, it appears that at least some part of the relief force came forward in two Holden Rodeos.

The *Review* article also raised questions about the apparent decisions to send a patrol of six persons to find what had been reported to be a larger and well-armed group. The response here was:

“Intelligence assessments (based on prior experience) suggested militia operated in small groups, had little military training and were likely to avoid engagement (they would ‘shoot and scoot’).” (Mateparae, Harper).

It was also commented, “There were up to 30 other members of his platoon in close proximity.” (6918 draft).

Similar doubts were raised in respect of the decision to continue on the morning of 24 July, after it was clear that the adversary was in superior numbers and not far away. The response here was to claim that the patrol was justified in believing that it was now following a ‘cold trail’. Given the sighting of the previous day and the events of the previous night (see below), this is a little difficult to accept.

The *Review* article also commented that there had been an ‘official reluctance to provide information’. This was interpreted in official quarters as a suggestion of a cover up. This, and the clear implication in the article that there were matters of concern here, was deeply resented in some quarters. Thus the Director of the Military Studies Institute:

“The article demonstrates a signal lack of depth in its historical analysis ... several erroneous allegations ... it is to be hoped an academic of Dr Smith’s calibre soon finds another topic to exploit.” (Harper)

“Dr Smith did not ‘check his facts’ or approach senior NZDF personnel.”

“Equipment and staff shortages did not contribute to Private Manning’s death.” (Harper)

The response to a parliamentary question put down by Rodney Hide, MP, was equally dismissive:

“Many of the statements made in the article were inaccurate.” (6918)

Under the Official Information Act, Mr Hide also obtained the rather fuller draft answer to this latter question, supplied by the Chief of the Defence Force. In material omitted from the parliamentary reply, the draft of 6918 said that Dr Smith had ‘tried to read too much into the information which has been released’.

Interestingly, the draft went on to say,

“Lessons have nevertheless been learnt. A helicopter-borne team is now on standby to deal with crises.”

Neither of these comments is consistent with a general claim that nothing went wrong. The following sections deal in more detail with many of these issues as the scope of the inquiry broadens out.

## *Part II – What is presently known and the questions that arise*

### **The size of the patrol**

The patrol (known as 23 Bravo) was based on an infantry section and, accordingly, this is the starting point for determining its size. There appears to be some official doubt about the size of an infantry section. Thus, Land Force Commander, Brigadier Mateparae:

“Standard infantry section is *nine* but composition of a patrol depends on threat assessment (including weapons known to be available), terrain, etc., as well as sickness or reassignment.” (Mateparae)

On the other hand, the Minister of Defence has a different impression:

“A New Zealand Battalion rifle section, consisting of *seven* soldiers, deploys with the following weapons .....” (8735)

The patrol that set out on 23 of July actually consisted of *six* soldiers. (Mateparae, Burton). According to Brigadier Mateparae this was ‘deemed sufficient’ for the task at hand, though it is hard to believe that only six would have been sent if nine had been available. In fact, an anonymous soldier told the *Evening Post* that because of ‘leave, sickness and injuries’, patrols at the time of Pte Manning’s death were three members short. (EP 26)

The Harper interviews, released in 2004, reveal another factor. Threat perception was very low and the practice had grown up of small groups going out alone for ‘extended periods’. ‘(B)ecause of persons on courses, leave in theatre, out of theatre leave, you’d be down to four or five men at some stages, and we’d still operate as that.’<sup>4</sup> Interestingly, the third of the Harper interviews is with ‘23 Bravo’, which was the section to which Manning was attached on 23 July. The transcript in this case begins by listing the interviewees (with the actual names expunged in the officially released version). There are four names listed, with Manning himself making a fifth. Is it possible the patrol was actually composed of only *five* persons, not six? Otherwise, why wasn’t the fifth man spoken to? The transcript, itself is ambiguous on the point of numbers. The corporal refers to ‘the five of us’ and then talks of (another?) corporal, who ‘just tagged on at the end of the patrol’.

As matters turned out, this could have been important. A standard infantry section, as defined above (and with its usual equipment, which is listed in

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<sup>4</sup> Interview 3, page 1.

parliamentary answer 8735), would not have been out-numbered and out-gunned. There may be questions here about the proper size of a light infantry section, especially in the context of how such a unit is likely to be equipped and supported.

It is now clear that there was another factor operating here. As part of the so-called Tekapo Manoeuvres, there arose a new tactical organisation concept, based on six-man fire teams, and 2/1RNZIR (Manning's unit) was restructured along these lines. Whether or not this was a determining factor on 23 July, there is no doubt that there was a change back to the notion of the ten-man section immediately after the events of 24 July. (Milne)

Crawford and Harper in their official history of East Timor operations have a picture of a 'patrol' being briefed. There are 16 people in the picture.<sup>5</sup> Of course, a patrol is not necessarily a section but it may be that the official size of a section will influence the size of a patrol and perhaps with disastrous consequences.

### **Prior Events**

The action in which Private Manning was eventually killed started on the previous day (23 July). It took place in steep bush-covered hill country some 3km from West Timor border, close to the hamlet of Nan, which is north-west of Suai. No more information is available from official sources. Requests for maps or plans of the action have been declined. (Mateparae 2). The events of the 23<sup>rd</sup> are outlined in the official Summary of the Court of Inquiry.

Around 3.00pm the patrol to which Pte Manning belonged was informed that nine armed personnel, wearing green uniforms, had been seen nearby. The patrol commander (a corporal) decided to investigate. This information was relayed to headquarters. Later, fresh tracks were found and Manning himself reported seeing one member of the threat group. The patrol withdrew and established a laying up position (about 22.30pm). During the night voices were heard and a trip flare was set off. (Summary)

What is not said is, what was the mission of the patrol, or the company of which the patrol was a part? The implication of the words used by official sources ('investigate', above, and 'following trails', below) is of some kind of reconnaissance operation. The Manning patrol was also described by the Minister as 'a tracking team'. On the other hand, according to Brigadier Mateparae, the platoon (and Manning's patrol) was engaged in 'clearance'. (Mateparae 2). The word is very difficult to interpret in the absence of any clear understanding of the general concept of operations within which the various units were acting. Equally, it is difficult to make any secure judgement about what was done on the 23 and 24 of July 2000 without knowledge of the applicable Standard Operating Procedures and the specific orders that were given. However, the events of these two days do raise very important questions about the coherence and appropriateness of such concepts and procedures as were in force and their consistency with whatever specific orders were given on the days in question. They may also raise questions about the adequacy of the preparation and training of New Zealand forces, both pre-deployment and in theatre. (Monks).

The information (from the court of inquiry summary) that the patrol 'withdrew and established a laying up position' at 22.30, is rather perplexing. This time is more than four hours after sunset, although, according to the transcript of the 8 November, 2001 meeting between Rodney Hide, MP and Brigadier J Mateparae (Hide meeting) the patrol had night vision technology. It seems very strange practice to be

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<sup>5</sup> Crawford and Harper, following page 112.

establishing an LUP in what must have been complete darkness. One wonders what made this necessary. Again, one might wonder what it was that caused the patrol to ‘withdraw’. It is clear from subsequent events that even this withdrawn position was still very close to the position of the adversary group. At this point, who was looking for whom?

There is another quite different prior issue that might be raised here and that is the adequacy of the preparation and training of the soldiers in Manning’s patrol. In a Parliamentary reply, dated 26 September 2001, the Minister of Defence confirmed that small arms live-firing practice had been suspended in July 1998 and not restored until September 17, 2001, the day before the question was tabled. (13161) There would thus have been no opportunity for New Zealand soldiers to have practised their weapon skills for nearly two years before the action of 24 July. Could this have contributed to their performance on the day?

The possibility of low levels of weapons-proficiency amongst the New Zealand forces in East Timor is further indicated by reports of multiple unauthorised weapons discharges, including cases where soldiers were injured. It is also noteworthy that early reports of the shooting incident suggested that some patrol members took the initial shot, which presumably killed Manning, to have been an accidental discharge.

### *Events of the morning (24<sup>th</sup> July)*

#### **Following a trail**

In the morning, the patrol was said to have ‘elected’ to follow the track of the threat group. (Summary). Manning ‘was covering the lead scout’. (Mateparae). It was a trail ‘they suspected had gone cold’. (Mateparae, Harper).

This seems very strange. Nine persons in green uniforms and carrying weapons had been seen the previous day. Manning, himself, had seen at least one of them in the afternoon and then there were voices in the night and a flare was tripped. How could the trail be described as ‘cold’? Shouldn’t it have been perceived as disconcertingly warm? In this situation the decision to continue is puzzling. A crucial question here is whether the patrol commander consulted his superiors before he made this decision (presuming that this was possible, i.e. that he had radio contact with them). In fact, according to the ‘Hide interview’, the whole platoon were together on the morning of the 24<sup>th</sup> and only split up when the track they were following divided, which is about where the LUPs were found. The threat group was considered to have divided its force as well.

Assuming that there was some consultation with superiors and that the patrol commander was given the orders to proceed, there arises the question as to whether this was a prudent decision. If he did not consult (presuming it to have been possible), why didn’t he? In some respects the situation is clarified by a later parliamentary answer.

“There is no record of exactly when the patrol radioed other elements, as rolling situation reports are not recorded. On the basis of the evidence available from the court of inquiry, however, *there was only one confirmed radio contact* from Private Manning’s patrol to the company command post between 22.00 hours 23 July and 11.00 hours 24 July 2000.” (9728) (emphasis added)

Given what was going on in this time period, this appears to be extraordinary. On the face of it, the commander of the ‘Manning’ patrol proceeds to follow the threat group, despite the events of the night and despite what he found on the following

morning, without consulting his superiors at any stage. Of course, there is *one* contact but the words of answer 9728 (above) are consistent with this being after 10.44am when the patrol met up with the rest of the platoon. If this is the case, it again raises the question as to whether the Manning patrol could communicate at all. The first sentence of the parliamentary answer raises a different question: Why didn't the court of inquiry ask members of the patrol or 'other elements' whether contact was made? Brigadier Mateparae was perplexingly unwilling to clear up any of these questions. Certainly the patrol had a radio and it was working. He presumed that the contact would have been reported shortly after it had occurred at 10.29am but could not confirm any other communication to or from the patrol. (Mateparae 2)

Whatever communications took place, the patrol proceeded from their overnight encampment. They found a laying up position (LUP) for nine persons and shortly afterwards (100m further on) another LUP for 'up to 20'. (Summary) The Summary does not indicate how far the first of these LUPs was from the patrol's overnight position but the fact that voices were heard suggests that it was not far. The interviews suggest 50m (Interview 3, p 2)

They continued to follow (again, why, given the clear evidence of superior forces?), 'believing that the track of the threat group was heading out of the area. Contact occurred 20-30 metres further on.' (Summary) This must have been just after the platoon had split up. If this is the case, why weren't the separated elements of the platoon reunited immediately the firing started?

### Contact

The patrol carried on up towards the top of 'a ridge line';

'so the ridgeline's on our right hand shoulder, we were cresting just below it, and then bang, first shot went down'. In think everyone was a bit sort of stunned, - well my first initial impression was a UD (Unauthorised Discharge) ... then we all took cover. And at that stage there was still one guy (of the threat group) firing.<sup>6</sup>

At this point the members of the patrol were feeling very vulnerable. They couldn't see any of the threat group (although they report hearing them reloading). There is some reference to return of fire but for the most part the patrol members are reluctant to do so for fear of revealing their positions. The lead scout reports fire from four firing points'. He also feels very 'isolated', because the 'other guys have pulled back'. He moved towards Manning, to where 'he can see his head, shoulder and gun' but cannot get closer because of the hostile fire. He retires down the hill to the 'rally point' and reports to the corporal that Manning is dead.<sup>7</sup>

The militia group pursue the New Zealand soldiers down the hill firing and throwing grenades. 'Wire weed' makes movement difficult and the pursuers are getting closer. They pause to fire a half dozen 40 mil HE rounds. That seems to end the pursuit. They make their way to the 'road' and meet up with 'the other call sign'. At this point they are able to communicate, though even then 'coms aren't great'<sup>8</sup>

This group seems to consist of 'four or five Fijians' and the platoon commander and 'his initial intention was to go straight back up the hill'. The patrol 'persuaded him not to - we pretty much refused really'.<sup>9</sup> They are still outnumbered

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<sup>6</sup> Interview 3, page 2.

<sup>7</sup> Interview 3, page 3.

<sup>8</sup> Interview 3, page 4



and some of the patrol are now injured from their scramble down the hill. They are also exhausted. The 'Hide interview' concedes that 'they were in disarray' (p5)

They were contacted by a group of militia 'nearly double their size'. (Harper)

The 'most accurate estimate' of threat group strength is *nine personnel*, 'based on scene investigations by the Royal New Zealand Military Police'. (Summary – my italics). This is clearly inconsistent with the information which subsequently came from reports of the Jakarta trial, where the persons responsible for the shooting of Private Manning were individually identified and numbered six.

Accepting the RNZMP estimate, it is clear (as noted above) that, had the patrol been of full section strength, it would not have been outnumbered. Even in their reduced strength it is a little misleading for Harper to claim that their adversary was nearly double their size. Again, if the patrol had been joined by other elements of the platoon that were said to be 'in the near vicinity', the combined force would have enjoyed a considerable superiority in numbers and firepower. In fact, according to a parliamentary response of 6 August, this occurred nineteen minutes after the initial contact.

"(T)he remaining members of Private Manning's patrol were reunited with their platoon at 10.44am." (9729)

At this stage the strength of the platoon was 24 (presumably, two sections of nine soldiers, plus the six of the Manning patrol). Again the question arises, 'why does it take another six hours to get back to the site of the action?' Wouldn't there have been an imperative to do so as soon as possible and find out what had happened to a comrade, or perhaps kill or capture militia persons? As it turns out, despite the deployment of further forces and the establishment of 'blocking position' (see below), the threat group are apparently not seen again.

### **Manning's Injuries**

On the basis of information presently available in the public domain there is some confusion about the details of Private Manning's injuries and how they were sustained.

"Pte Manning .... was hit by two bullets, one in his right shoulder and one in the back of his head." (EP 26)

"Private Manning was hit and killed when the first shots were fired." (Harper)

'Aimed shots' from a 'sentry' initiated contact. Private Manning was fatally hit by one of these. More members of the threat group joined in. The patrol withdrew under fire. (Summary)

"As they pulled back, Pte Manning was hit and seen to fall. He was probably killed instantly." (EP 26)

"When the firing started, personnel went to ground for cover. The patrol signaller then sent a contact report to his platoon commander. The patrol withdrew down hill using the fire and movement procedure." (Burton)

These accounts from official sources suggest more order and control in the incident than was suggested in the earlier media reports.

"What I have heard is that he was shot in the back of the head as he was running and also in the right shoulder." (Brigadier Mateparae as quoted in an NZPA report of 25 July 2000)

According to the author's September 2001 interview with Brigadier Mateparae these early reports were erroneous (and this includes the Brigadier's own comments). In fact, Private Manning was hit by only one bullet and that was in the *front* of the head. The mistaken early account of a shoulder wound was due to the way the body

was lying, which has caused an accumulation of blood at one shoulder. Taking this at face value, it is extraordinary that the military authorities should make no attempt to correct their own misleading public statements. This is particularly so since, as was noted above, both army spokesmen and the Defence Minister were scathingly critical of ‘errors’ in the May *International Review* article.

Brigadier Mateparae’s account of events is now completely consistent with that contained in the official report. The published summary talks simply of ‘the single gunshot wound he received to his head’ (which was immediately fatal). The report goes on to say of Private Manning that ‘his throat had been cut, and both his ears removed’ and also that his ‘other wounds were sustained after his death’. (Summary).

These latter details, which have been known from the outset, are a bit puzzling. It is obvious why the ears should have been taken (to prove that the deed was done)<sup>10</sup> but why also cut the throat when he is already dead from an obvious head wound?

There is another aspect to all this that is worth noting. Despite the fact that little in the way of detailed information about what occurred appeared in the public domain in New Zealand, Indonesian police officers (according to July 2001 press reports) were given direct access to members of the Manning patrol. Patrol members gave statements to the Indonesian police and some of them subsequently went to Jakarta to give evidence at the trials of the alleged killers (see below).

### **Post Mortem**

All doubt about the injuries sustained by Private Manning is removed by the post mortem report. Private Manning’s body was returned to Hamilton and Professor Koelmeyer of Auckland University Medical School came to the Waikato Hospital mortuary to examine it. He reported an entry wound in the forehead and a large exit wound low, at the back of the head. In correspondence with this author, Dr Koelmeyer indicated that the trajectory of the round indicated that Manning had his head turned sharply to the left and was looking upwards. The pathologist’s report also confirmed the injuries to the ears and throat and gave the grounds by which it could be judged that these injuries were inflicted post mortem. The Hamilton Coroner, Gordon Matenga, decided not to hold an inquest, citing as his grounds the fact that the death occurred outside New Zealand, that he was satisfied that other inquiries had been or would be undertaken and that the family were not to proceed to inquest. Interestingly, the Coroner noted that whilst he had been informed that a Court of Inquiry had already taken place, this had not been decisive in his decision, since it had not been a *public* inquiry. It may be that he was persuaded to leave the matter to others.

### **Regrouping**

After the initial contact the rest of Private Manning’s patrol seems to have retired in two stages.

“They then regrouped at a rallying point some 80 to 100 metres away. It was at this point that the patrol commander became aware that Private Manning was

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<sup>10</sup> An early report in the *Melbourne Age*, based on interviews with ‘senior UN military officers’, suggested that a bounty of between 1.5 and 2 million Indonesian Rupiah (\$A280-372) was likely to have been paid. (*Melbourne Age*, 27 July 2000)

missing. Because of the intensity of the fire being directed at them at the rallying point, and an assessment by the patrol commander that they were being outflanked, the patrol broke contact and withdrew to an emergency rendezvous some 300 to 400 metres away from the initial contact. Once the patrol members had consolidated in the rendezvous, they used the weapons available to them to break up the assault of the pursuing threat group. All firing from the threat group then ceased.” (Burton)

There is no mention of any check on the situation of Private Manning here. Indeed, there would seem to have been little opportunity to do this, since the patrol was driven back 300 to 400 yards. This is not explicitly inconsistent with the official report (‘Summary’) but it is strange that there is no indication of Manning’s situation given that the point of Damien O’Connor’s original letter (to which the Minister is replying here) was to discover the circumstances in which he met his death. In the official report version,

“One of the patrol members (Private X) attempted to make contact with Private Manning. However, due to the way in which Private Manning was lying, and his lack of response, it was strongly believed he was dead. The patrol commander was advised of this later, when the separated member rejoined the patrol.” (Summary)

A belief that Manning was certainly dead is not consistent with the impression gained by the medic to whom Private X spoke immediately after the action, who (in an interview to a defence historian) commented that he ‘hope(d) that he was going to be just injured’. Neither is it consistent with the reported behaviour of Sergeant Major .... who found him some six hours later and still thought he might be alive<sup>11</sup>, Equally, the Commanding Officer of B Company comments some hours later (but before Manning is found) about ‘having a soldier down and *not knowing his condition*’ (italics added).<sup>12</sup>

Taken with the other reports of the action, this judgement cannot have been based on anything more than a fleeting and probably distant sighting. Brigadier Mateparae’s account also suggests something more distant.

“Reports of the time reflected the information as it was passed. We were initially advised that Private Manning was missing following the contact. Upon discovery of his body, visual assessment suggested he had been shot by two bullets, one to the head and the other to his shoulder. It was later confirmed that he died instantly from a single shot that struck him in the head.” (Mateparae)

The first sentence in this passage again suggests that the patrol was able to communicate immediately and that they did so. The other references are clearly to later times. The ‘visual assessment’ would have been at least six hours later when New Zealand forces returned to the place of contact.

Brigadier Mateparae added to this account in the September interview. (Mateparae 2) The patrol was proceeding in single file along a track that was rising and skirting towards the top of the hill (See diagram 1). Private Manning was second in line. He was shot by the ‘sentry’ who was to the right of him and higher on the hill. As the shooting began, the man ahead (presumably, he is ‘the separated member’ referred to above) started back down the path towards Manning but was forced to break off and retreat down the hill through the bush by weight of fire from above. According to Brigadier Mateparae he got close enough to Manning to see that

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<sup>11</sup> Interview 1, page 3 and Interview 2, page 6.

<sup>12</sup> Interview 2, page 4.

he was dead but not close enough to recover the patrol's only machine gun. The rest of the patrol also retreated.

### **Recovering the Body**

“After falling back to a safe place the soldiers radioed back to base” (EP 26)

As noted earlier, this is the sole acknowledged radio communication from the patrol to higher command between 22.00 on the previous night and 11.00 on the 24<sup>th</sup>.

“There was no opportunity for the patrol to recover (Private Manning's) body during the contact, due to the dominating position of the threat group element, the concealment available to them and the lack of cover available to our patrol. The patrol then withdrew further in order to break contact with the pursuing threat group element, and met up with another *patrol* and reported the incident” (Summary – emphasis added)

This is presumably a reference to the same meeting as is reported in parliamentary reply 9729 (page 8, above) but it is strange that the reference in the earlier case is to ‘the remaining members of Private Manning's patrol being reunited with their *platoon*’. If the other patrol/rest of the platoon was also in contact with ‘base’, why would they need to report the incident as the ‘Summary’ suggests?

“Battalion Commander, Lieutenant Colonel Martin Dransfield, ordered the area to be secured before sending in more troops.” (EP 26)

“It was the local commander's decision not to rush back and take the feature immediately as some of his junior officers wanted to do. His decision was fully supported by the Battalion Commander. To rush straight back would have needlessly placed even more New Zealand soldiers at risk. (Mateparae and Harper – their accounts are almost word for word)

At this point there is a more or less complete platoon of some thirty soldiers a few hundred metres from the place where Private Manning was shot and less than twenty minutes after the event. (9729) The Hide interview suggests that there were three patrols comprising 24 men. Given that it cannot be securely known what his situation is and also that there appears to have originally been an intention to close with the adversary, why is there no attempt to retrieve the situation?

The accounts of Mateparae and Harper continue:

“Instead the Commanding Officer (of) the rifle company conducted an immediate aerial reconnaissance and began moving his troops to cut off the path of retreat of the militia force. An infantry company moved to the north west of the contact site and a reconnaissance platoon deployed by helicopter to establish blocking positions west and east of the feature. Next a platoon from an additional rifle company was flown in to link up with the company on site and begin a thorough sweep of the feature (Feature 799).” (Mataparea, Harper)

We are told that the sweep began at 15.00pm and that Private Manning's body was located at approximately 17.30. (Summary) The implication here is that the activity described above began after the shooting incident and that it was necessary before the operation to recover Private Manning could begin (and thus could explain the delay). However, this is not quite consistent with the account that the Minister of Defence gave to MP Damien O'Connor on 13 September.

“..... on the morning of the 24<sup>th</sup> ..... it was decided that the tracking team would follow the traces that had been found leading up to a hill known as Feature 799, while the rest of the platoon established blocking positions around the hill. *This was the situation immediately before the tracking team come in contact with the threat group.*” (Burton – italics added)

At this point the crucial question remains, why does it take nearly seven hours for New Zealand forces to get back to the place where Private Manning was killed and recover the body? The difficulties of the terrain and an inadequate anticipation of what might be necessary obviously contributed. It also seems clear that limitations arising from the rules of engagement that were being used (and particularly in regard to the use of helicopters) may have played a part. This possibility is investigated in the following sections.

### **Arms and the Rules of Engagement**

It is not customary to make rules of engagement (ROEs) a matter of public knowledge, on the grounds that such information might be prejudicial to security. However, official statements at various times have revealed some of them and others might be inferred from earlier practice in this kind of operation. One practice that is common in these cases is to give soldiers personal copies of their ROEs, which they are then to carry with them. If that was the rule in East Timor and if Private Manning was carrying this document when he was shot, it might be presumed that these particular rules are already available to the adversary. There is thus no security reason to retain confidentiality in regard to them. However, even without the publication of the ROEs as a whole, some things are known.

“New Zealand soldiers in East Timor are governed by strict rules of engagement. The rules say that soldiers can return fire to defend themselves but cannot start a gunfight against militias. They must cease firing if their counterparts stop shooting and retreat. They cannot hunt down militia who move back across the border to West Timor.” (EP 26)

Parliamentary answers have now revealed that hand-grenades and claymore mines were ‘withdrawn from individual soldiers and held centrally after 1 March 2000’ (when the UN Command took over). This policy seems to have been abruptly reversed after 24 July, although the exact wording of the reply leaves room for some doubt about what the situation now is.

“After Private Manning’s contact on 24 July 2000, *high explosive* hand-grenades were reissued to infantry patrols.” (8734 – italics added). That changes occurred in the rules of engagement (and Standard Operating Procedures) immediately after the Manning episode is confirmed in the Harper interviews, although it is not at all clear at what level the decision was taken. The comments of the ‘major’ suggest a local ad hoc response with some dissatisfaction at the responsiveness of superiors (rules of engagement changed - ‘we adopted a far more conventional approach’ – but ‘not quick enough’).<sup>13</sup>

‘Yeah, after the contact everyone went into war mode’. (What happened to the Rules of Engagement?) ‘Loopholes, they added a lot of loopholes.’<sup>14</sup>

The situation regarding grenade launchers is different. According to Brigadier Mateparae, these were available to New Zealand forces on 24 July 2000 and they were, in fact, used. It was explained that there is some discretion that can be exercised by national contingents in the matter of ROEs and such discretion had been exercised in the case of grenade launchers. On the other hand, the Brigadier confirmed that the soldiers did not have explosive grenades. (Mateparae 2) In the case of claymore munitions, the rule now seems to be that these may be deployed and

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<sup>13</sup> Interview 2, page 10

<sup>14</sup> Interview 3, page 7

used only with the written approval of the Commanding Officer, New Zealand Battalion. The situation is similar in the case of other support weapons.

“The deployment of support weapons such as sniper rifles and mortars is approved only if the tactical situation requires the use of those weapons.” (8735)

The crucial question here is whether such limitations on the power and potential effectiveness of New Zealand forces should have been accepted? Was it prudent, or even consistent with the obligations that military commanders have to their forces? In the particular case, we might also ask whether the restrictions that came from these ROEs contributed in any way to the difficulties that were experienced on 24 July 2000? Doubt of this kind seems to apply *a fortiori* to the use of New Zealand helicopters on the day.

Again, the Harper interviews are very clear on this point:

(W)e always operated at a disadvantage where we had to challenge them unless they fired first... the enhanced rules of engagement gave us that ability to fire on an armed or ... tactical formation with hostile intent without warning ... afterwards we started having a bit more success.<sup>15</sup> This change was confirmed in Parliamentary Answer 16679. It is also reported in Crawford and Harper (p 127) although without any reference to the Manning affair.

### Helicopters

The Royal New Zealand Airforce is using Iroquois helicopters to provide support to the New Zealand operation in East Timor. As deployed, each of these was fitted with two M60 machine guns (7.62mm), one on each side on a door-mounted pintle.

The helicopters are said to have three roles – air mobility, air logistic support and aeromedical evacuation. (8736) They are specifically forbidden to be used in an aerial fire support role.

“The UNTAET peacekeeping force is constrained by rules of engagement. In general, weapons such as these would be of benefit if the militia group had been detected and were visible from the air. The machine guns on these helicopters are there for close protection of the helicopter and crew, if they were to come under fire. They are not intended as a general fire support weapon for ground forces.” (Mateparae)

This was a crucial issue raised in the original *New Zealand International Review* article. Why, it was asked, was there no air support for the Manning patrol when it came under fire? The explanation now seems to be that it was accepted to be contrary to the Rules of Engagement. If true, this would seem to be imprudent to the point of irresponsibility. It may be that the weapons on the Iroquois are not particularly suitable for fire support and that the crew are not trained in the role (Mateparae 2), but that is not the same as saying that they could not be used in this way (if there were a serious need). The issue comes back to rules of engagement. Revealingly, the Brigadier rhetorically asked at one point how one would know that there were not ‘women and children’ there. The rules of engagement accepted for the operation appear to stipulate only ‘aimed shots’ and use of a helicopter in the kind of fire support role I envisaged would be outside that (as would be the use of grenades or mortars). The question remains, is that a prudent policy position to adopt?

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<sup>15</sup> Interview 2, page 14.

As noted earlier (page 2) there is some room for doubt about whether there were helicopters available at all (EP 26). On the other hand, the letter from the Minister of Defence and various of the parliamentary replies are clear on the matter.

“(H)elicopters from 3 Squadron RNZAF and the Australian Army were available to support the operation. In particular, they were used to observe escape routes the threat group was thought likely to use, and to move troops to the area in sufficient strength to clear feature 799.” (Burton)

“An Australian Kiowa helicopter was used for aerial observation and communications relay, and New Zealand helicopters were used to insert infantry blocking forces and reinforcements.” (8737)

“12.32 hrs ...RNZAF helicopter ...used for aerial observation while Australian reconnaissance helicopter refuelled”. (8739)

None of this, of course, is the same as saying that a helicopter (or helicopters) was available immediately. In fact, the CO of B Company confirms that it was ‘about 40 minutes before we got a helicopter in the air, and I was getting frustrated ...’<sup>16</sup> It is also noteworthy that the locus of operation of the New Zealand helicopters was rather away from the actual contact point. Would they have been particularly vulnerable to ground fire? The 1997 Defence White Paper envisaged ‘helicopter self-protection’ work, beginning in 2001. Was vulnerability of the helicopters an issue and is the work to reduce it going ahead?

The reference to communications relay seems to support the notion that there were communication difficulties. It raises the further question: Why was the helicopter used for this purpose the Australian helicopter, particularly if the object was to facilitate communications between New Zealand troops? The official answer to this question was supplied in due course. The Kiowa had been specially modified for aerial reconnaissance and carried crew trained for this. Neither of these things applies to the New Zealand Iroquois. (Answer 9735) However, this does raise an obvious further question: Why do we not have aerial reconnaissance capability ourselves?

It has been suggested that the rules of engagement that were accepted from 1 March 2000 required that the M60 machine-guns actually be removed from helicopters and that the helicopters themselves be painted white. Was this so? Did New Zealand forces comply? Did Australian forces comply? Parliamentary reply 9732 indicted several circumstances under which the guns might be removed from helicopters. These included helicopter engine and flight-safety testing, and occasional trips to West Timor for ‘commanders’ conferences. It is still not clear whether any or all of the New Zealand Helicopters were without guns on the morning of 24 July 2000. Reply 9733 confirms that the Iroquois helicopters were all originally painted white but replacements have not been similarly painted.

There is another dimension to all this: How suitable are the 35 year old Iroquois helicopters for the difficult conditions of East Timor? An article in the 25 June 2001 issue of the *New Zealand Herald* suggests that there might be operational limitations. An RNZAF pilot is said to be ‘bracing himself for another two-month stint’.

“Timor gets so hot that the air expands and makes the thrashing rotors of an Iroquois gasp for breath as its pilot tries to lift it over steep terrain.” (H 25)

Does this (combined, perhaps, with a lack of armour protection) contribute to a reluctance to use RNZAF helicopters in some circumstances?

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<sup>16</sup> Interview 2, page 5.

### **Laws of War**

If the group that engaged the New Zealand patrol on the 24<sup>th</sup> was, indeed, the group that had been seen in the area on the previous day (which was the group that the New Zealand patrol were ostensibly tracking), they were persons that were in uniform and carrying their weapons openly, and insofar as the situation in East Timor at that time could be described as a 'conflict', then it may be that the militia group could be described as lawful combatants ('participating in that conflict'). If this is accepted then it is not at all clear what offence at international law they might have committed, beyond the mistreatment of the dead.

### **Investigation and Inquiry**

There were four separate investigations into the circumstance of Private Manning's death. These were;

Scene (criminal) investigations by the Royal New Zealand Military Police and officers of the United Nations Transitional Administration in East Timor (UNTAET),  
An UNTAET Board of Inquiry, and

A full Court of Inquiry conducted by the New Zealand Battalion in East Timor.

This latter inquiry was convened by the Commanding Officer at the time, Lt Col Martin Dransfield. According to a letter from Minister of Defence, Mark Burton, to MP Rodney Hide (dated 21 January 2001), the President of the court of inquiry was 'a major' with a 'captain' as member; a two member court. The inquiry took place over the period 29 July-29 August, 2000. This was 'superbly' done by Major ?. '(It made very, very strong recommendations which we'd been calling for, for a long, long time, since we've been here.'<sup>17</sup>

The investigation team was lead by Captain ... Also involved were two MPs and 'an investigating officer', the RSM, the Padre, and 'also ourselves'.<sup>18</sup>

According to the Armed Forces Discipline Act, the record of these proceedings shall not be disclosed to persons not subject to the Act, without authority from a superior commander. The Act then goes on to outline what sorts of things might be revealed and in what circumstances, including reference to the discretion of the Director of Legal Services.

### **The Jakarta trials**

Those supposedly responsible for the 24 July 2004 shooting of New Zealand Army Private Leonard Manning were put on trial (for murder) in Jakarta in November 2001. The jurisdiction of the Jakarta civil court was established through an agreement with the Attorney General of the United Nations Administration in East Timor. (JP 28/11/01) The proceedings lasted until March of the following year. The principal defendant was Jacobus Bere, aged 37, was said to be the leader of a group of 'pro-integration militiamen' (PPI). At other times in the trial, the group was also described as farmers looking for a lost cow. In pre-trial hearings a panel of judges had apparently determined that the group were acting as farmers and not as militia at the time of the incident and thus that 'there was no condition of war', as claimed by defence lawyers. (JP28/11/01) This judgement is at odds with a statement that Bere

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<sup>17</sup> Interview 2, page 8 (B Coy CO speaking)

<sup>18</sup> Interview 2, page 8 (speaker not revealed)



made outside the court (as reported in the Jakarta Post of 8 November 2001) to the effect that he and his friends killed Private Manning 'to defend Indonesia'. The other defendants with Bere were Gabriel Moruk, Alfonsus Taek, Fabianus Ulu, Yohannes Timo and Gabriel Hale Noni. The following account is taken from the records of the New Zealand Embassy staff in Jakarta, released under the Official Information Act, augmented by various media reports during the time of the trial.

The prosecution began with the testimony of three unwilling and rather unreliable witnesses. These were the accomplices of the accused, Bere, who were facing trial on similar charges in parallel proceedings. In so far as these witnesses agreed on anything it was that the peacekeepers fired first and that they (the accused) fired in self defence. One of them, Johannes Tino, specifically testified that several persons, including Bere, had fired at the peacekeepers. This testimony (and the earlier statement by Bere outside the court) seems to confirm that these individuals were the ones concerned in the incident in which Private Manning was killed, although Bere's lawyer regularly claimed that all the defendants were subjected to torture and threats and that the evidence they gave and the earlier statements they had signed were the product of coercion.

According to the Jakarta Post report, the Bere group had been out for several days looking for lost cows and on the morning of the 24<sup>th</sup> they were herding the cows they had 'captured' back towards the border. At this point they saw a car passing and presuming it to contain UN soldiers, they hid. Whilst they were hiding they saw 'two Caucasians, identified as witness Phillip Murray Cheater and Manning, walking towards them'. They decided to kill the soldiers 'using the five fire arms carried by the group for hunting'. 'Bere opened fire on Cheater and Manning. The latter collapsed after Bere's bullet struck his head twice. Cheater returned fire, but then ran away as Bere's friends opened fire on him as well.' (JP 28/11/01)

Six witnesses from New Zealand gave evidence. This occurred over two days (14 and 15 January) and in relation to all three trials. The first to give evidence were: Corporal Marfell, Private Cheater and Corporal Blumers. The embassy staff record gives no information about what any of them said, noting only that the questioning of all of them together took less than 40 minutes. Subsequently, Dr Koelmeyer (Pathologist), Michael Marr (NZDF Military Police Officer) and Brian Clark (officer at UNTAET's Serious Crimes Unit) presented evidence. Dr Koelmeyer said that 'Private Manning died instantly from a single gunshot wound to the head'. Marr and Clark testified that the Manning patrol was attacked from three (possibly four) firing positions on a rocky hilltop and that 7.62mm shell casings (used by SKS and AK rifles) were found at each location. (all this from the NZ Embassy staff report)

On 21 January a series of sworn witness statements were read out to the court. These included statements by Sergeant Nisbet, Mark Anderson, Detective Constable Kirk, James Neil Baker and Kevin (Kevan) Walsh. There was also oral evidence given by an Indonesian officer, Lt Andri Gurawan, who told the court what Bere had told him. Bere was a member of a group of 'farmers' looking for stray cattle (but taking their weapons with them) who were fired on by the peacekeepers. The group returned fire. Afterwards Bere mutilated Manning's corpse and took his rifle. Following this (and still on the same day) there were six further witnesses, who were said (in the Embassy report) to be East Timorese. These variously testified that they knew the defendant as being 'a member of a certain militia group', or had 'overheard' him 'telling others about his involvement in Private Manning's murder' and that the defendant had showed him a 'military rifle'. The militia group had also been seen 'in the area' carrying weapons (SKS rifles).

On 25 January Bere reiterated that he had been beaten and tortured and that he was threatened with death if he did not confess to the murder of Manning. His co-defendants claimed that the statements that they signed were actually copies of Bere's statement. His lawyer also (plausibly) claimed that the trial was politically motivated. The defence maintained to the end that Bere wasn't there, or if he was there he didn't fire and if he did fire it was in self defence. This is criminal law 101. It is a demand that the prosecution prove everything.

Without a full transcript of the trial, it is hard to determine whether they did prove everything but some things are reasonably clear. Notwithstanding the accusations that torture was used and the obvious political interests in both Jakarta and Wellington in having someone tried and convicted for the Manning shooting, it seems reasonable to believe that Bere and the other defendants were responsible and that they probably fired first. Bere is also reported (in a press interview some months before the trial) as having acknowledged the killing, saying that he was 'defending Indonesia's sovereignty'. This, of course, is significantly inconsistent with the earlier official version of events. As noted above, New Zealand official sources talk of – 'a group nearly double their size' (in military-style uniforms), or, more specifically 'nine personnel'. According to an early report in the *Melbourne Age* there were 'up to ten well trained militia'. The same report, sourced to unnamed UN officers, talked of Indonesian military equipment being found at the site (including items of 'special forces' uniform). The report also explained the removal of Manning's ears. This was in order to claim a bounty payment, as had occurred a year earlier when Indonesian forces killed a Dutch journalist. In the same context, Australian Brigadier Duncan Lewis is quoted speculating about 'rogue elements of the Indonesian Army that could be active in East Timor'.<sup>19</sup> This version of events is also offered in the Harper interviews:

(Lt Col H) You've said that this is a chance encounter of a small group of Kiwis who came up against a large group of military who were well armed, well trained and so on. To your mind were we fortunate to escape as we did and is that part of our training?

(Maj) Undoubtedly, undoubtedly.<sup>20</sup>

A verdict was rendered on 7 March 2002. Bere was convicted of second degree murder and sentenced to six years imprisonment. This was based on a finding that, 'the defendant, at a shooting incident on 24 July in East Timor, aimed his weapon and fired two shots in the direction of Private Manning.' This conclusion seems to have been based on the statements of Bere and the other accused, with the court seeming to accept that aspect of their testimony whilst rejecting their claim to have fired self defence. There was no physical evidence linking Bere and the injury to Manning. Indeed, the SKS weapon, allegedly used by Bere was never produced in court (as his counsel pointed out in the proceedings of 28 February)<sup>21</sup> and there is nothing in the NZ Embassy papers that would support the conclusion that he 'aimed' or fired 'two', or any other number of shots, or that if he did, any of them struck Manning. It is also the case that the fatal bullet was not recovered and that the nature

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<sup>19</sup> 'Bounty paid to soldier's killers, says UN', *Melbourne Age*, 27 July 2000.

<sup>20</sup> Interview 2, page 11

<sup>21</sup> It was explained in an earlier report in the *Jakarta Post* (5 November 2001) that 'Indonesian troops discovered during a weapons search the rifle that had killed Manning, and returned it to the UN Peacekeeping Force'.

of the head wound sustained by Private Manning was such as to not permit a judgement as to the calibre of the projectile that had produced it.<sup>22</sup>

### *Part III – Conclusions and residual questions*

#### **The Official Conclusion**

The official court of inquiry concluded that the death of Pte Manning could not have been prevented. It was accepted that the patrol reasonably believed that the threat group had left the location earlier that morning. The way the threat group behaved (it said) was ‘uncharacteristic’. When it came to the contact, the threat group had the upper hand because ‘they occupied dominating ground, had prepared rudimentary field defences and were employing basic field security procedures’. (Summary)

There are a number of features of this official judgement that are deeply disquieting. In the first place it is extremely complacent. There were clearly things that could have been done differently. This is implicit in the draft parliamentary reply prepared by the Chief of the Defence Force. Lessons were learned, he said. This was deleted from the reply as it was finally given. The commander of Private Manning’s company, interviewed on ‘Morning Report’ on his return from East Timor, also conceded that mistakes had been made. Much of what is now known (and summarised above) confirms that things might have been done better both before and after the incident in which he was killed. Of course, none of this would have been to guarantee a different outcome. Soldiers do get killed, even in the best circumstances.

#### **The Questions**

The summary of the court of inquiry notes that ‘the threat group had the upper hand’ because ‘they occupied dominating ground, had prepared rudimentary field defences and were employing basic field security procedures’. It may be that this behaviour was not reasonably to be expected but it does raise the question of whether New Zealand forces were also ‘employing basic field security procedures’? However unlikely their briefing had suggested it to be, should they not have been advancing mindful of the possibility that their quarry might just turn on them?

A crucial factor is the ‘decision’ not to attempt to recover the ground just lost and determine what had happened to Manning. It seems clear that the unwillingness of those immediately involved seems to have been accepted and justified by superior authority. Thus the Commanding Officer of B Company:

...it became clear to me that to actually go back up on that hill would have been asking for serious trouble, regardless of having a soldier down and not knowing his condition, but, as we had seen, they had hit a large group ...<sup>23</sup>

This takes us back to the matter of the ‘mission’. As has already been noted, Brigadier Mateparae’s reference to ‘clearance’ suggests something more than the mere following of a cold trail. Radio New Zealand’s ‘Morning Report’ of 17 November 2000 was also quite clear that ‘Leonard Manning ... knew he was heading for a fire-fight with armed militia the day before he died, an official army inquiry has

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<sup>22</sup> This, from a telephone conversation between the Pathologist who conducted the Post-Mortem (Dr Koelmyer) and the present author.

<sup>23</sup> Interview 2, page 4

found.’ The ‘Summary’ itself is less explicit, ‘the patrol believed contact was imminent’. On the other hand, the Radio New Zealand report was presumably based on an official briefing. Doesn’t this make it even more extraordinary to have sent a patrol of only six to follow the trail, even if there were others ‘in the vicinity’. On the other hand, the more proactive mission being envisaged here might explain military coyness in commenting on radio traffic. It is possible that radio silence was intended to prevent tipping off the enemy? Brigadier Mateparae ‘presumed’ that there was a message at 10.29. They would have reported contact. (Mateparae 2) Here is what I now think. New Zealand forces were moving in on a supposed militia group, hoping to intercept them and, perhaps, capture some of them. They thought the group with ‘scoot’ once they realised they were being followed. The New Zealand forces were very surprised when they didn’t.

Given all the circumstances of the action and particularly the unexpectedly robust response of the threat group, is it possible that they were not militia at all but rather a patrol of Indonesian special-forces? If this was suspected on the New Zealand side from an early stage, it might explain a reluctance to re-engage with the threat group until sufficient forces had been brought up. If it were known or suspected by New Zealand commanders, it might also explain why there was no further contact with the group. It might have been politically embarrassing to have further contact with parties who were not supposed to be there at all (apart from such contact being potentially dangerous).

Following Brigadier Mateparae’s corrected account there are fewer doubts now about how Private Manning received his wounds and, perhaps, fewer about his situation when the rest of the patrol retired. A crucial question remains. If he had been only wounded and/or the rest of the patrol had been in immediate danger how would things have been different?

The events of the action seem to raise questions about operational procedures. Did the Manning patrol do the right thing (make the right decisions) at the various stages of the operation up to and including their response when they came under fire? What were they ordered to do? What were they told NOT to do? Parallel questions apply to decisions made at platoon, company and battalion level.

The decision to send a small force to look for a larger force and the responses after the contact also raise questions about the competence and performance of those concerned at higher levels of command. How reasonable was the assumption that the militia group was unlikely to stand and fight? A crucial factor here seems to have been the one thing that apparently wasn’t known, that the site of the shooting may have been prepared or was being prepared as a base of militia operations (EP 26). This may be why it was defended when the patrol stumbled upon it. The unexpectedly fierce response may also have been due to the fact that the threat group was atypical in that it was composed substantially of special force personnel rather than the usual militia. Certainly, their appearance as reported on the 23<sup>rd</sup> would support this judgement.

There are still some peculiarities in the response to the action (the time taken to get to where Manning was and to bring forces forward and also communication difficulties) that suggest equipment problems. This is particularly perplexing since it now appears that there is some sort of road not far away on the other side of Feature 799.

On the basis of what is presently known and accepting that there are still many questions unanswered, Colonel Monks concludes:

“Overall the incident and its subsequent handling by the Army indicates major shortcomings in its readiness to conduct even this low level of military engagement. Individual capabilities and the command system seems inadequate for the task.” (Monks)

Finally, and most importantly, there is the matter of the ROEs. Actions taken immediately after the shooting of Private Manning (in re-issuing certain equipment) suggest that there is some recognition in military circles that the situation is not completely satisfactory. Certainly, there is long record of problems with Rules of Engagement and their application in United Nations operations, with the most egregious example in recent times coming from Srebrenica. It is crucial to get to the bottom of this and to have a clear policy for New Zealand participation in any future United Nations ‘Peacekeeping’ force. Whatever part they may have played in the incident that resulted in the death of Private Manning, it must be clear that ROEs of the sort now being urged by international agencies and accepted by forces such as ours, have the potential to produce both greater risk and an increased possibility for failure.

Non-combatant protection is certainly an important principle in military activities but it is not the only principle. There is also military necessity. Military forces must be equipped and tasked so as to give them the best chance of achieving their objectives with a minimum risk of harm to themselves. There is a balance to be achieved between the twin requirements of military necessity and non-combatant immunity. To strike this balance too far towards one end is to risk avoidable harm to civilians. To strike it too far towards the other is to risk impotence and absurdity. It may be that we have recently got into bad habits through an over-reaction to past excesses. The balance needs to be struck again.

The weakness of the present ROE setting may be illustrated by considering a hypothetical case. Suppose a militia group is approaching a village in East Timor with the evident intention of burning the houses and killing the villagers. Under present ROEs, would security forces be permitted to open fire on the group? Suppose the militia group has already burnt the houses and killed the villagers and are presently hastening back towards the border. Would United Nations soldiers be permitted to fire upon the militia group (assuming that the militia group does not pause to fire on the soldiers)? If the answer in either case is ‘yes’, don’t we have a problem here? In fact, the interview with 23 Bravo (Manning’s section) reports an episode that has some of the characteristics of the hypothetical case above. The New Zealand soldiers are at an OP at a high point and it is *after* 24 July. Below them they can see:

... some militia – they had rifles, there was four of them. (A)t that stage ROEs hadn’t changed and taking about it with the LSO later on ...we’d have got into the shit if we’d have fired upon them because they weren’t technically threatening us, or threatening anyone, but they were just down below – we could see them clear as day, carrying rifles, walking towards the village and that was a bit frustrating to say the least.<sup>24</sup>

The corporal, who is being quoted here then goes on to say that (according to procedure) the sighting is called in and the appropriate action is taken, ‘Yeah, every man and his dog, went in there, they put company blocks around the tunnel but these

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<sup>24</sup> Interview 3, page 8

guys seem to melt away'. The corporal also comments on how long all this takes, 'helicopter in, half a section at a time, and that takes three or four hours'.

### **Tailpiece**

The Manning shooting had an interesting echo in the shooting (on 28 July 2001) of an Indonesian soldier by New Zealand troops. The individual concerned (First Sergeant Lirman Hadimu) was said to have been in civilian clothes and to have fired on the New Zealand patrol from across the border. Indonesian military authorities expressed doubt about whether Hadimu had really fired the first shot and commented on the excessive nature of the response (an autopsy revealed 15 bullet wounds). An official statement from the New Zealand side expressed scepticism; 'unless we see a report that is verified by an independent body we don't know how many times we shot him'. The statement also pointed out that a UN Peacekeeping Force (UNPKF) report had cleared the New Zealand soldiers and that 'two rounds were missing from the magazine of a weapon found at the scene'.

It is presumed that the UNPKF report was able to confirm that the weapons concerned were fired from either side of the border. If the lone Indonesian soldier did fire first, the action of the New Zealand soldiers seems to be both justifiable and within the relevant rules of engagement. On the other hand, the actions of the Indonesian soldier are inexplicable. He gets off two shots at substantial group of armed men and then gets mown down for his pains. As in the Manning case there would seem to be more in it than meets the eye. The New Zealand authorities are right to be sceptical about whether they have been told everything. Similar doubts about the extent of disclosure in the Manning case leave many important questions still unanswered.

### **Sources**

The Evening Post, 26 July 2000 (based on briefing by Brigadier Mateparae). (EP26)

Letter from Minister of Defence, Mark Burton, to West Coast MP, Damien O'Connor, 13 September 2000. (Burton)

The officially released Summary of the Court of Inquiry, dated 17 November 2000. (Summary)

The New Zealand Herald, 25 June 2001, p A 14. (H25)

Letter to the author from land Force Commander, Brigadier Mateparae, 29 June, 2001. (Mateparae)

Letter to *New Zealand International Review* from the 'Official Historian East Timor', Lt Col Harper, dated 6 June. (Harper)

A series of parliamentary questions put down by Rodney Hide, MP. (identified simply by their number)

Interview with Brigadier Mateparae at Joint Force Headquarters, Trentham, on 3 September 2001. (Mateparae 2)

Report of the Hamilton District Coroner

Comments by Colonel Brian Monks, retired New Zealand infantry officer and company commander in Vietnam. (Monks)

Interview by Lt Col Harper with 'the Medic of B Company', at Tilomar, East Timor, 1 November 2000 (Released under the Official Information Act, September 2004) (Interview 1)

Interview by Lt Col Harper with 'the OC and CSM of B Company' at Tilomar, East Timor, 1 November 2000 (Released under the Official Information Act, September 2004) (Interview 2)

Interview by Lt Col Harper with '23 Bravo' at N(anu), East Timor, 2 November 2000 (Released under the Official Information Act, September 2004) (Interview 3)

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