

EMBARGOED AGAINST DELIVERY



**PRIME MINISTER**

STATEMENT TO THE HOUSE OF REPRESENTATIVES

BY THE PRIME MINISTER

29 JANUARY 1984

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## SHERATON HOTEL INCIDENT

### Background

Mr Justice Hope has reported, as requested by the Government, on the incident at the Sheraton Hotel in Melbourne, on 30 November 1983.

The Government became aware of the incident on 1 December 1983 and on that day asked Mr Justice Hope to undertake an inquiry into it.

Certain details of the incident were subsequently provided by Mr Hayden to the Parliament. This Report describes the incident and the circumstances surrounding the training exercise in detail in accordance with the Government's formal request to Mr Justice Hope, conveyed to him on 7 December 1983.

Further, as requested by the Government, His Honour has examined the general conduct of all persons associated with the exercise, including those who had a supervisory role, and whether any breach of the law was committed by anyone carrying out or authorizing the exercise.

### Editing and Declassification of the Report

The Report presented to the Government was highly classified. The reason for this, as His Honour noted, was that the special operations role of ASIS has, in the past, been treated as Top Secret.

The Government has declassified the report for tabling because the background of special operations training is essential to an understanding of the Sheraton Hotel incident. There has been considerable speculation about

what ASIS was up to that led to the fiasco at the Sheraton on 30 November last, and that speculation, and the attendant disquiet in the public mind, could only be put to rest by making public the fact that ASIS has been conducting training exercises involving such scenarios as the rescue of a hostage from foreign intelligence agents.

Declassification of the Report has made necessary a few small editing changes based largely on considerations of our international relations and national security. These small changes, which do not affect the substance of the Report, have been discussed with the Royal Commission.

I have provided the Leader of the Opposition with a copy of the classified version of the Report.

#### The Incident

The training exercise - and I point out that Mr Justice Hope has emphasised that what occurred at the Sheraton was in fact part of a training exercise and was not a real operation (2.1) - required the trainees to rescue an individual from persons playing the roles of foreign intelligence officers who were holding him hostage in a room in the Sheraton Hotel. The means by which that 'rescue' was effected are generally known.

To put the exercise in some sort of context, to explain why such an exercise might even have been contemplated, it is necessary to consider briefly the functions of ASIS.

The principal function of ASIS, under its directive, is the collection of foreign intelligence.

A minor function, specified in the directive, requires ASIS to maintain a special operations capability for war-time and other very special situations. As Mr Justice Hope notes, that capability is maintained only on a contingency basis.

The Government notes that the whole question of ASIS's special operations function will be dealt with in the Royal Commissioner's report on ASIS due later in the year.

#### Ministerial Responsibility

It being understood that the exercise was conducted as part of training, under the authority of the special operations function as outlined in the directive, the question of Ministerial responsibility should be addressed.

The Minister for Foreign Affairs has made clear that he was not aware of the planned exercise, and Mr Justice Hope has concluded that there was no suggestion that the Minister should have been informed of the kind of special operations training which was being undertaken in November, nor of the specific exercise which concluded at the Sheraton Hotel.

#### Conclusions on the Exercise

In reporting on what went wrong and where responsibility should lie, Mr Justice Hope has criticised the exercise as being 'poorly planned, poorly prepared and poorly coordinated' (3.26). The Government agrees with these criticisms.

His Honour has concluded that ASIS's training precepts and training manuals provide inadequate guidance and insufficient control on the conduct of exercises such as the one in question (3.26).

Further, His Honour concludes that every aspect of the exercise, including preparation for its execution, ought to have been so planned and supervised so as to ensure that it was carried out lawfully (4.5).

Mr Justice Hope identifies as an obvious deficiency in the planning of the exercise the failure to notify either the Victoria Police or the Manager of the Sheraton Hotel of the exercise (4.6). The Government agrees that common-sense and ordinary courtesy alone required prior consultation.

Mr Justice Hope has commended the reactions of the Hotel Manager and the Victoria Police at the scene of the incident.

#### Offences

Mr Justice Hope has made an examination of the possible breaches of laws which may be applicable to this incident but has taken the view that any decision on prosecutions should rest with the appropriate responsible authorities. He makes no findings that any person has committed any offence, and he makes no recommendation that any person ought to be prosecuted (5.18).

His Honour has found that there are valid reasons based on considerations of national security and international relations for keeping secret the names of those involved in the exercise (1.10, 6.5-6.7).

The Government appreciates the difficulties for Victoria in its consideration of possible prosecutions, where national security, which militates against the public disclosure of the names, conflicts with the State's responsibilities to enforce the law.

A copy of the full report was made available to Premier Cain without delay, and discussions on these difficult issues have continued between our Governments.

I understand that the Victorian Government intends to introduce legislation to enable the Courts in Victoria to determine that there may be confidentiality in court proceedings where necessary in the interests of the national or international security of Australia.

On the basis of the enactment of such protective legislation, and any necessary complementary legislation, the Commonwealth will withdraw its previous objection to the release to the Victorian Government of the names of those participating in the Sheraton incident and not already known to the Victorian Government.

There is presently an outstanding High Court injunction against the release of any such names, but the Commonwealth will use its best endeavours to secure an appropriate settlement of that case in terms that will allow communication of the relevant names to the Victorian Government.

### Recommendations

Mr Justice Hope's recommendations for measures to prevent a recurrence of this kind of incident are contained in Chapter 6 of his Report. In brief, he recommends prohibition on carrying any type of firearms in public and of any exercise which might harm or alarm members of the public, and a requirement for clearance with police, local military districts and owners of any property affected before any such exercises are undertaken outside ASIS training facilities.

The Government accepts all of the Report's recommendations designed to ensure that such incidents cannot recur.

The Minister for Foreign Affairs, Mr Hayden, has indeed already taken several such steps and will ensure that the other measures proposed by His Honour are put in place.

Mr Justice Hope has found that varying degrees of responsibility apply to the ASIS senior management, the planners of the exercise and certain of the participants.

### Disciplinary Action

While His Honour touches on the question of disciplinary or other action for those involved in the exercise, he has not made recommendations as to what disciplinary or other action, if any, should be taken.

Those questions have been left for the responsible authorities to resolve.

I now announce that the Government has appointed a new Acting Director-General of ASIS. The new Acting Director-General will be Mr J. O. Furner, CBE. Mr Furner has until now been the Director of the Joint Intelligence Organisation, after retiring from the Army with the rank of Brigadier.

Mr Furner's first responsibility will be to consider disciplinary action concerning those involved in the planning and execution of this failed exercise.

To assist Mr Furner in this consideration the Government has appointed Mr Clarence Hermes to investigate the conduct of persons who were involved in the authorising, planning and carrying out of the exercise. Mr Hermes is about to retire as Chief Magistrate of the Australian Capital Territory. Mr Hermes is to report to the Acting Director-General of ASIS and the Minister for Foreign Affairs on whether disciplinary action should be taken against any of those persons and, if so, what disciplinary action.

In the course of those inquiries, those affected will of course be given the opportunity to put their side of the case. It is only when those involved with the exercise have had this opportunity to reply to the Report that a decision will be taken on whether disciplinary action should be taken. The Government expects that process to be completed in the next few weeks.

#### Conclusion

I take this opportunity to thank Mr Justice Hope for his Report and look forward to his further report on the wider subject of the functions of ASIS.