

STATEMENT OF CASE TO DESIGNATE BRENTON HARRISON TARRANT AS A TERRORIST ENTITY

PURPOSE

1. This paper sets out the case demonstrating that Brenton Harrison Tarrant ('Tarrant', born 27 October 1990) meets the statutory criteria for designation as a terrorist entity within New Zealand pursuant to the Terrorism Suppression Act 2002 (TSA).

STRUCTURE OF THIS PAPER

2. This paper describes Tarrant, including his background and history; ideology and objectives; links to other groups; and weapons, tactics and capabilities, before detailing a case study which meets the definition of a terrorist act under the TSA.
3. The discussion preceding the case study provides background about the situation in New Zealand and about Tarrant, which helps inform the analysis of the case study below. The events detailed in the case study represent an attack for which Tarrant has been convicted, and have been determined as meeting the definition of "terrorist acts" under s 5 of the TSA. These events provide the basis for the paper's conclusion that Tarrant meets the legal criteria for designation as a terrorist entity under the TSA.

STATUTORY CRITERIA FOR THIS DESIGNATION UNDER THE TSA

4. The Prime Minister has the power under the TSA to designate individuals or groups as terrorist entities.¹ Section 22 provides that the Prime Minister may designate an entity as a terrorist entity if the Prime Minister believes on reasonable grounds that the entity has knowingly carried out, or has knowingly participated in the carrying out of, one or more terrorist acts.
5. A terrorist act is defined in s 5 of the TSA. A number of different acts fall within this definition. The s 5 criteria relevant to this paper are those which deem an act to be a terrorist act if that act:
 - 5.1 Is intended to cause the death of, or serious bodily injury to, one or more persons; and
 - 5.2 Is carried out for the purpose of advancing an ideological, political, or religious cause; and
 - 5.3 Is intended to either:
 - 5.3.1 induce terror in a civilian population; or
 - 5.3.2 unduly compel or force a government or an international organisation to do or abstain from doing any act; and
 - 5.4 Is not an act that occurs in a situation of armed conflict and which is, at the time and in the place that it occurs, in accordance with rules of international law applicable to the conflict.

Credibility of sources

6. This paper has been prepared using official sources. Where this was not possible open or unclassified sources that have a reputation for careful and unbiased reporting were used. These include the Guardian, the New Zealand Herald, The Australian, the New York Times, and the Otago Daily Times.

7. A range of regional news sources were also referred to including The Nation. Other sources utilised include online sites, such as Vox.

Background

8. On 26 March 2020 Tarrant pled guilty to a 15 March 2019 terrorism offence under the TSA, and was sentenced on 27 August 2020. Details of this offence are in Case Study One.
9. Tarrant was born in Grafton, Australia where he lived continuously until embarking on domestic, then international, travel starting in 2013.ⁱⁱ
10. Tarrant is known to have travelled extensively. While travelling he visited sites ideologically significant to some extremist groups.ⁱⁱⁱ The names of many of the sites he visited would later appear written on his weapons and materiel.

Ideology and Objectives

11. While Tarrant has claimed he was motivated to act by the death of Ebba Akerlund in 2017,^{iv} the “Islamisation” of France,^v and the electoral failure of the French National Front,^{vi} the truth of these claims is uncertain. However, in his manifesto, Tarrant exhibited racist, authoritarian, anti-immigrant and white nationalist views.

Ideological Objectives

12. Tarrant posted online a self-created manifesto immediately prior to his attack on the Christchurch Mosques on 15 March 2019.^{vii} In this manifesto Tarrant explicitly states a series of ideological objectives.
13. The first and most immediate objective of Tarrant’s attack was to reduce immigration rates by intimidating an ‘invader’ community. Tarrant claims that he chose New Zealand because it is one of the ‘far corners of the world’ where immigration is contributing to the replacement of European populations, and hoped his actions would both deter further growth of the non-European population and inspire others to act against these ‘invader’ minorities.
14. A secondary set of objectives centres on concern about both environmental degradation and ‘population replacement’ in Europe, which Tarrant specifically blames on non-European population growth. These objectives include the return to European ‘ethno-states’ by the removal of non-European populations (a process sometimes called ‘remigration’ of immigrants and refugee populations).
15. The least explicit set of objectives in the manifesto reflect ongoing extremist efforts to destabilise and undermine liberal democracies. Tarrant repeatedly states that he considers contemporary Western countries to be infected with social and moral decay, and argues that incitement of conflict or radicalisation of youth is a rational response to ongoing societal and political degeneration (a process commonly called ‘acceleration’ in extremist circles).^{viii} Tarrant also states that one of his objectives is to cause political overreach in response to his actions, which he perceives will cause a backlash and further the divide between European people and the ‘invaders’.

Links to Other Groups

16. Tarrant has no known formal membership of any hate or extremist groups or entities, but is known to have made donations in support of a series of hate and extremist groups.

Weapons, Tactics and Capability

17. Tarrant inherited in excess of \$A300,000.^{ix} This money was used to fund his travel, his living expenses while resident in New Zealand between 2017 and 2019, and the eventual purchase of the firearms, ammunition and other equipment used on 15 March 2019.^x
18. Tarrant trained in the use of his firearms at shooting ranges near Dunedin,^{xi} and is not known to have had formal military training.

Case Study One: The attack on the Al Noor Mosque and Linwood Islamic Centre

Facts

19. The facts of the attacks on the Al Noor Mosque and the Linwood Islamic Centre are detailed in the Summary of Facts to which Tarrant pleaded guilty.^{xii} This section summarises those facts.
20. Tarrant arrived in New Zealand in August 2017 and immediately began training in and acquiring firearms. He also conducted research into potential targets for a terror attack. In summary he:
 - 20.1 gained a firearms licence in September 2017;
 - 20.2 purchased material including military rifles and sighting systems, more than 7,000 rounds of ammunition, military-style body armour and accoutrements;
 - 20.3 practised improving his firearms proficiency at a Dunedin shooting club (with an emphasis on rapid shooting, which included modifying triggers to enable greater speed); and
 - 20.4 accumulated information on Mosques in the South Island including floor plans, interior pictures, and timetables for prayers. He researched times and important days in the Islamic calendar to ascertain when the Mosques would be at their busiest. This information was kept in an extensive set of notes, which included estimated timings for carrying out the attacks.
21. On Friday 15 March 2019 Tarrant armed himself with a range of legally purchased firearms. This included two military-style semi-automatic rifles, two shotguns, a lever-action rifle, and a bolt-action rifle. He also had four improvised explosive devices in his vehicle, which were intended for, but not used in, the destruction of the target Mosques following the attacks.
22. At approximately 1.30pm Tarrant turned on his Go-Pro camera, which live-streamed to the internet and made preparation to enter the grounds of the Al Noor Mosque in Christchurch. At that time there were more than 120 people in the mosque.
23. Tarrant then sent a number of emails to various political figures and media agencies, attached copies of his manifesto and set out his imminent intention to attack Christchurch

Mosques (these emails were sent close in time to the actual attacks, in order to prevent mobilisation of emergency services).

24. As he approached the front door to the mosque the Go-Pro camera recorded him opening fire on members of the congregation. He then systematically and methodically moved through the Mosque shooting repeatedly at every person he sees, changing and reloading his weapons as he went. Tarrant then made his way back to a number of victims he left wounded and shot them again.
25. Tarrant then drove approximately 8km to the Linwood Islamic Centre. En route to the Centre Tarrant attempted to shoot several people who appeared dark skinned or of African descent, injuring one. After he entered the grounds of the Centre he opened fire on worshippers outside, then went inside the Centre and shot at people in the same manner as his actions at Al Noor.
26. After departing the Linwood Islamic Centre Tarrant attempted to drive to another location, likely the Ashburton Masjid (as he specifically referenced this location in the manifesto). He was intercepted on-route by members of NZ Police who were able to disable his vehicle and arrest him.
27. The two attacks on the Al Noor Mosque and the Linwood Islamic Centre, and the targeting of civilians on route between the locations, resulted in 51 deaths and serious injuries to another 50 people.

The act meets the TSA criteria for designation

28. The premeditated violent attack on people in and around the Christchurch Mosques is consistent with the definition of a terrorist act under s 5 of the TSA.
29. Tarrant equipped himself with high-powered military style weapons and a large amount of ammunition. He shot many of his victims at close range and many of them multiple times. Plainly, his intention was to cause the death of, or serious bodily injury to one or more persons (s 5(3)(a) TSA).
30. Tarrant deliberately targeted the Muslim community for the attacks, as well as opportunistically pursuing random members of the public who were dark-skinned or appeared of African descent. In his manifesto, he described his antipathy towards 'invader minorities' and his objective of deterring non-European immigration and removing non-European populations. The Christchurch attacks were clearly intended to advance those ideological goals (s 5(2) TSA).
31. The attacks were live-streamed and involved extreme violence causing the death or serious injury to a large number of victims. The nature, location and timing of the attacks demonstrated an intention to induce terror in the civilian population. The acts were therefore carried out for the purpose of advancing Tarrant's own ideological cause through acts of violence and terror, and with the intention of both inducing terror in the civilian population (s 5(2)(a) TSA), and inciting conflict and disorder with the ultimate goal of undermining and destabilising democratic government (s 5(2)(b) TSA).

LAW OF ARMED CONFLICT

The law of armed conflict exception

32. Section 5(4) of the TSA provides that an act does not constitute a terrorist act for the purposes of the TSA if the act occurs in a situation of armed conflict and is, at the time and place that it occurs in accordance with rules of international law applicable to the conflict.

There is no armed conflict in New Zealand

33. An internal armed conflict exists where there is protracted armed violence between governmental authorities and organised armed groups, or between such groups within a State.^{xiii} The Law of Armed Conflict (LOAC) makes a key distinction between armed conflict and other internal disturbances or tensions such as riots and isolated and sporadic acts of violence.^{xiv}
34. There is no violence in New Zealand that has reached a degree of intensity or continuity on the part of either Tarrant, or New Zealand authorities that would bring the situation in New Zealand within the meaning of “armed conflict”. The exception in s 5(4) cannot therefore apply to Tarrant’s attacks detailed in the case studies.

ⁱ s 4(1) of the TSA defines “entity” as “a person, group, trust, partnership, or fund, or an unincorporated association or organisation”.

ⁱⁱ (26/03/2020) David Fisher, “Who is mosque gunman? The making of a mass killer”, *New Zealand Herald*, accessed via https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12319981 on 30/03/2020/.

ⁱⁱⁱ (9/9/2019) Paul Maley, “The fight against darkness”, *The Australian*, accessed via <https://www.theaustralian.com.au/inquirer/inside-the-hatefilled-mind-of-a-mass-murderer/news-story/eb238d85a3b264813a7793876bec8eb> on 15/04/2020.

^{iv} (15/03/2019) Lisa Martin and Ben Smee, “What do we know about the Christchurch attack suspect?”, *The Guardian*, accessed via <https://www.theguardian.com/world/2019/mar/15/rightwing-extremist-wrote-manifesto-before-livestreaming-christchurch-shooting> on 23/06/2020.

^v (15/03/2019) David D. Kirkpatrick, “Massacre suspect travelled the world but lived on the internet”, *New York Times*, accessed via <https://www.nytimes.com/2019/03/15/world/asia/new-zealand-shooting-brenton-tarrant.html> on 30/03/2020/.

^{vi} (20/06/2018) Cécile Alduy, “France’s National Front Is Dead, but Its Politics Are Alive and Well”, *The Nation*, accessed via <https://www.thenation.com/article/archive/frances-national-front-dead-politics-alive-well/> on 25/05/2020.

^{vii} This document is currently classified as objectionable material in New Zealand, and has not been quoted directly.

^{viii} ‘Accelerationism’ is an ideology that considers Western, liberal democratic governments to be ‘irreparably corrupt’. Ideological adherents seek to exploit and inflame existing tensions within these democracies, which is anticipated to collapse ‘the system’ in these countries and allow more explicitly far right wing or authoritarian political organisation (see (18/11/2019), Zack Beauchamp, “Accelerationism: the obscure idea inspiring white supremacist killers around the world”, *Vox*, accessed via <https://www.vox.com/the-highlight/2019/11/11/20882005/accelerationism-white-supremacy-christchurch> on 23/04/2020).

^{ix} (26/03/2020) David Fisher, “Who is mosque gunman? The making of a mass killer”, *New Zealand Herald*, accessed via https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12319981 on 30/03/2020/.

^x (7/09/2019), Paul Maley, “The ruin of Brenton Tarrant”, *The Australian*, accessed via <https://www.theaustralian.com.au/inquirer/the-killer-within-brenton-tarrants-online-fantasy-reallife-horror/news-story/295609c73561cb9e8f6a2a31cc66015b> on 30/03/2020.

^{xi} (18/03/2019), Vaughan Elder, “Rifle club shocked by Tarrant revelations”, *Otago Daily Times*, accessed via <https://www.odt.co.nz/news/dunedin/rifle-club-shocked-tarrant-revelations> on 1/4/2020.

^{xii} Summary of Facts, “Brenton Harrison Tarrant”, POL 262, 19/03/2019.

^{xiii} *Prosecutor v Duško Tadić* (Decision on Interlocutory Appeal on Jurisdiction), International Criminal Tribunal for the former Yugoslavia, IT-94-1, 2 October 1995 at [70].

^{xiv} Article 2 of Additional Protocol II 1977 of the 1949 Geneva Conventions which applies to non-international armed conflicts states, “this protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.”