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REPORT TO THE INDEPENDENT INQUIRY RELATING TO AFGHANISTAN

REPORT OF ALAN PUGHSLEY

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INTRODUCTION

1. On 15th September 2023, I received written instructions from Piers Doggart, Solicitor to the Independent Inquiry relating to Afghanistan. The Instructions included a background to the Inquiry, and the questions I am asked to address in this report:

“Background

Between mid-2010 and mid-2013 UK Special Forces (“UKSF”) carried out deliberate detention operations (“DDOs”) in Afghanistan. These were pre-planned operations to capture individuals who were believed to be insurgents.

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Allegations have been made that during those DDOs, UKSF carried out extra-judicial killings of suspected insurgents. It is further alleged that those extra-judicial killings were covered up.

In response to the allegations of extra-judicial killings, the Royal Military Police (“RMP”) undertook investigations, in particular Operation NORTHMOOR (which included consideration of a DDO carried out on 16 February 2011) and Operation CESTRO (in relation to a DDO on 18 October 2012).

[...]

Topics and Questions

Topic One: Operation NORTHMOOR - Inception to July 2016

Question 1.1: Was the Operation NORTHMOOR investigative strategy and key decision-making at each stage adequate and in accordance with best practice and national standards?

Question 1.2: Was the role and the part played by the advisors from the National Crime Agency and Greater Manchester Police appropriate?

Question 1.3: In particular, did the strategy adequately consider whether the deaths that were being investigated formed part of a wider pattern of killings?

Topic Two: Operation NORTHMOOR investigative strategy – July 2016 onwards

Question 2.1: There was a change in the Operation NORTHMOOR investigative strategy in the months following July 2016. Was the revised strategy and key decision-making adequate and in accordance with best practice and national standards?

Question 2.2: Was the role and the part played by the Independent Review Team and Independent Advisory Group appropriate?

Question 2.3: In particular, did the strategy adequately consider whether the deaths that were being investigated formed part of a wider pattern of killings?

Topic Three: Operation NORTHMOOR – Decision to close the investigation

Question 3.1: Was the decision to close Operation NORTHMOOR, and the decision-making process leading to closure, reasonable and in accordance with best practice?

Topic Four: Operation NORTHMOOR Capability

Question 4.1: Was Operation NORTHMOOR sufficiently staffed in terms of numbers, skills, training and experience?

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Question 4.2: Did Operation NORTHMOOR have access to sufficient, suitable and timely equipment, premises, capabilities and specialist resources?

Topic Five: Operation NORTHMOOR – Leadership and Command Structure

Question 5.1: Was the leadership of Operation NORTHMOOR and the RMP suitably experienced and skilled?

5.2: Were the command structures adequate and in accordance with best practice and national standards, and did they function effectively?

Topic Six: Operation CESTRO – Investigative Strategy

Question 6.1: Was the Operation CESTRO investigative strategy and key decision-making, adequate and in accordance with best practice and national standards?

Topic Seven: Other Enquiries - Strategy

Question 7.1: As far as you consider it necessary to refer to them, was the investigative strategy and key-decision making in the related investigations adequate and in accordance with best practice and national standards?"

2. My instructions are also clear on the requirements of an *expert witness*:

"As an expert witness, you must assist the inquiry by providing an opinion which is objective and unbiased and is within your areas of expertise. You have a duty to exercise reasonable skill and care in carrying out your instructions."

3. In compiling my report, I have endeavoured to comply with this requirement and make the following declaration:

I understand my duty is to help the Inquiry by giving independent assistance by way of objective, unbiased opinion on matters within my expertise, both in preparing my report and in oral evidence. I confirm I have complied with and will continue to comply with that duty.

I know of no conflict of interest of any kind, other than any which I have disclosed in my report.

I do not consider that any interest which I have disclosed affects my suitability as an expert witness. I will advise the Inquiry if, between the date of my report and the conclusion of the Inquiry there is any change in circumstances.

I have exercised reasonable care and skill in order to be accurate and complete in preparing this report.

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I have endeavoured to include in my report those matters, of which I have knowledge or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.

I will notify the Inquiry immediately and confirm in writing if for any reason my existing report requires any correction or qualification.

PROFESSIONAL EXPERIENCE AND QUALIFICATIONS

4. My Curriculum Vitae ("CV") is at Annex 1.
5. As can be seen from my CV I have served in various police forces for over 39 years in a variety of roles ranging from a Detective with the Metropolitan Police to Chief Constable of Kent Police. From a national perspective, I was the Chief Constable lead for the Crime Coordination Committee, on behalf of the National Police Chiefs Council. During my career, I have worked on the full range of criminal offences starting initially with high volume crime and later complex and serious crime including kidnapping, contract killings, drugs and firearms offences, anti-corruption, and murder investigations.
6. For a high proportion of my time in operational policing I was involved in the conduct of complex and lengthy investigations into serious criminal offences many of which involved violent crimes and had several lines of enquiry ongoing at any one time. For twenty years I have been in roles which have involved the review of the complex investigations.
7. I have undertaken both supervisory and managerial roles in criminal investigations. This has involved me directing the strategy and progression of major criminal investigations including:
 - a. Taking strategic decisions with regard to the progression of all reasonable lines of enquiry including leading and advising on the same. My responsibilities in this regard varied depending on my role, in more junior roles it would have included the identification of suspects, and arresting and interviewing the same. In more senior roles I would have direct accountability for the delivery and outcome of serious criminal investigations.
 - b. Coordinating various aspects of the investigation process ensuring the work is carried out in accordance with the applicable guidance, policies, and procedures and in a timely manner. This would include ensuring the investigation procedures have been applied to make certain that all reasonable lines of enquiry have been followed through to conclusion.
 - c. Acting as GOLD Commander and as the Chief Officer on multiple occasions, in my roles as Assistant Chief Constable (Crime), Deputy Chief Constable, and Chief Constable of Kent Police.
8. I have vast experience of evidence management including the collection and retention of physical evidence and the issues related to ensuring continuity of the evidence so it is legally safe for use in subsequent criminal proceedings. I am proficient in the use of the Home Office

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Large Major Enquiry System (“HOLMES”)¹, having successfully completed training on the system and through many years of using it as an investigative officer and then in more senior roles.

9. As a Chief Constable I was responsible for creating and implementing organisational and operational strategy, and for the implementation and maintenance of governance procedures across the Force. This was to ensure effective decision making took place and the appropriate action was taken at all levels/tiers of the organisation. In addition, I would also undertake the following:
 - a. Reviews of criminal investigations and the resources allocated to them to ensure they were adequately resourced. This would include liaison with other forces to secure additional manpower and other resources.
 - b. Authorising intrusive surveillance and having continuing operational oversight and responsibility over such operations to ensure effective and compliant responses by the Force to information deriving from such operations.
 - c. Establishing ways of working protocols with other key stakeholders including the Crown Prosecution Service and community organisations.
 - d. Establishing strategic alliances with other police forces and other organisations to facilitate the exchange of information for varying purposes.
10. It is on this basis that I have been instructed to provide my opinion on those issues relating to the conduct and progression of the Royal Military Police (“RMP”) investigations known as Operation NORTHMOOR and Operation CESTRO.
11. I have restricted my opinion to those matters which are within my field of expertise and relevant to the questions posed in my instructions.

BASIS OF MY OPINION AND RECOGNISED LIMITATIONS

12. Following direction from the Inquiry Legal Team, I have conducted an entirely paper based review. I have been provided with access to documentation at a lower and higher classification . I have been able to read and consider them privately. I have been supported, when necessary, by the Inquiry Legal Team in two ways: first, via documented meetings with them; and, secondly, by email exchange with the Inquiry Legal Team regarding specific questions I have on occasion needed assistance with. My report, its findings and observations, however, are based on my assessment, experience and analysis only, having examined and considered the documentation provided.
13. To confirm:
 - a. The opinions in this report are based on documentation that has been provided by those instructing me. I have not read any other documents which are not listed in the indices which accompany this report, nor did I attend any hearings with exception of Colonel ROTCHELL’s oral evidence on the 26th October 2023. I recognise that this may limit the scope of the issues covered in this report.

¹ HOLMES is a cloud based computer system which allows a number of users to access, input and update information related to the conduct of an investigation at the same time.

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However, I can only opine on those issues which are within the scope of my instructions and for which I have been provided with sufficient documents/information to allow me to form an opinion.

- b. I understand that I have the opportunity to revisit and amend, change and/or clarify any conclusions or opinions in this report following the receipt of further documentation or information.
- c. As the Inquiry progresses and more information comes to light, I appreciate that my conclusions or opinions may change from those originally expressed in this report.
- d. Where I have sought assistance from the Inquiry Legal Team after the receipt of instructions it has been for the following reasons:
 - 1. To clarify the content/scope of my instructions and any questions posed.
 - 2. To obtain assistance with the navigation of the documents.
- e. The conclusions and opinions expressed in this report are entirely my own. They are not the opinions of others who may have instructed me or provided me with documentation.

14. The investigations I have examined are Operation NORTHMOOR and Operation CESTRO:

- a. Within Operation NORTHMOOR I have paid particular attention to Objectives [REDACTED] 1 [REDACTED] [REDACTED] 2 [REDACTED] and TYBURN. Each of these objectives were the subject of Deliberate Detention Operations (“DDOs”) carried out by UKSF operating in Afghanistan. The DDO in respect of Objective [REDACTED] 1 [REDACTED] was carried out on 07.02.11; Objective [REDACTED] 2 [REDACTED] on 09.02.11; and Objective TYBURN on 16.02.11.
- b. Operation CESTRO was an investigation into a DDO that was conducted on 18.10.12.

15. The RMP investigations were conducted as murder investigations due to the allegations of ‘extra judicial killings’ (“EJKs”).

NATIONAL GUIDELINES AND BEST PRACTICE

16. In my view, the RMP conducted their investigations under two broad strategic principles:

- a. The investigations were to comply with the Murder Investigation Manual 2006² (“Murder Investigation Manual”), produced on behalf of the Association of Chief

² See Annex 2

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Police Officers, and approved by the Home Office. This is supported by the Major Incident Room Standardised Administrative Procedures 2005³ (“MIRSAP”). Both of these documents represent national guidelines and ‘best practice’ adopted, and followed, by all UK Police Forces. The 2006 and 2005 versions were the relevant publications at the time of the RMP’s investigations, and which I am now asked to consider.

- b. The investigations were to comply as necessary with any bespoke relevant military guidelines or legislation. Of particular relevance, in my view, are Section 113 of the Armed Forces Act 2006⁴ (“the Act”) relating to referral of incidents to the RMP, Section 115A which relates to independence of investigations by the RMP, relevant protocols governing interactions between the RMP and UKSF, and the working practices between the RMP and the Service Prosecuting Authority (“SPA”).
17. I will comment further on compliance with or deviation from these important and guiding documents throughout my report. However, I feel it right to identify at this early stage that I have never worked for the military, nor have I ever worked on a ‘murder investigation’ outside of the operating environment of a civilian Police Force. Where I comment on activity that, in my view, could or should have been considered or carried out by those in key roles, the uniqueness of military operations and the circumstances in which they occur, must be considered. I have tried to do this throughout my report. For example, if the Senior Investigating Officer (“SIO”) or GOLD consider an action or line of enquiry, but circumstances render it impossible, then I would expect the decision maker to have recorded this decision and its rationale.
 18. In any event, to be able to objectively comment upon the quality of an investigation, I consider it helpful to set out at the outset the important and key elements that I would expect in any thorough murder investigation. This provides a yardstick by which to judge the success of the relevant investigations.
 19. The RMP were investigating allegations of EJKs, or ‘murder’. The considerations, investigative methods, roles and responsibilities, processes and necessary resources are clearly set out in the Murder Investigation Manual. It is against this document that my examinations, subsequent comments and findings are set.
 20. The Murder Investigation Manual was first published in September 1998 following the murder of Stephen Lawrence. It was authored by a group of experienced SIOs, with experts, to record good practice and provide a reference manual for other SIOs. Subsequent editions incorporated changes to the legal framework, technical and scientific advances, and national improvements to standards of investigation. The second and third editions were published in 2000 and 2006 respectively.
 21. Since the 2006 edition, much has changed in policing and investigative practice, not least the introduction of the College of Policing, and national Authorised Professional Practice. There have also been considerable developments in homicide and major crime investigations and the types of investigations led by SIOs. The current version is called the Major Crime

³ See Annex 2

⁴ See Annex 3

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Investigation Manual ("MCIM"), but it is important to note that this document is not applicable to the investigations to be considered in this report.

22. The MCIM is intended to be a core national policing guidance document for the investigation of homicide (murder, manslaughter, and infanticide) and other substantial investigations. It should be considered in conjunction with other national guidance, including Authorised Professional Practice which is issued by the College of Policing, and guidance issued by National Police Chiefs Council ("NPCC"), such as MIRSAP. The new MCIM has been developed by the NPCC Homicide Working Group and is approved by the NPCC Crime Coordination Committee.
23. Whilst current investigations are driven and directed by the newest edition of the MCIM, the methodology of its creation from national practitioners, experts, stated cases, legislative changes, national working groups and the NPCC/ACPO⁵ Crime Coordinating Committee has long been established. The 2006 edition – the Murder Investigation Manual - therefore draws upon a wide range of views and experiences.
24. I have considered the Murder Investigation Manual and the associated MIRSAP. I will now highlight some of the key components taken from these documents that, in my view, should be considered as part of a sound, efficient and effective investigation.
25. The investigation of any allegation of murder will be a stern test for any investigator whatever the circumstances, with a wide range of considerations involved. In my experience, all murder investigations will involve consideration of victims, families, suspects, witnesses, and community and media stakeholders as key components. An overarching requirement has always been, and will continue to be, the need to assure public trust and confidence that the force/investigating body has the capability and capacity to investigate the alleged crime to a highly competent level. The Murder Investigation Manual recognises this challenge at its outset:

*"The investigation of homicide presents unique challenges to investigators. Some of these challenges arise because homicide is a serious crime, and bringing offenders to justice is a priority for both the public and the police."*⁶
26. When considering murder investigations in line with the Murder Investigation Manual, there are, in my view, three roles that are critical to success: Chief Constable (or Commissioner in the Metropolitan Police Service and City of London Police); GOLD Commander; and, the Senior Investigating Officer. Whilst these roles are detailed in the Murder Investigation Manual, I have drawn out what I believe to be the key responsibilities for each of these roles in the paragraphs that follow.
27. Whilst the GOLD Commander and the SIO will have direct and frequent involvement in the investigation, the Chief Constable has a wider, strategic involvement. They have responsibility for ensuring that the investigation is properly resourced, skilled and equipped to carry out the investigation to the highest possible standard. The Chief Constable will discharge this duty through their GOLD Commander and SIO. The Chief Constable also retains wider responsibility for the running of the whole organisation, to include standards of behaviour by

⁵ Association of Chief Police Officers, now the National Police Chiefs Council

⁶ Murder Investigation Manual 2006 - Page 22 - Paragraph 1.1

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all staff, managing the organisational budget and setting the direction and culture of the organisation. The Chief Constable also retains ultimate responsibility for all things within their organisation, and they can direct through any lawful order activity to further the investigation. This would include, for example, the release of any sensitive data or evidential footage, with appropriate safeguards, to the investigating team from any department or team within the organisation.

28. Throughout Operation NORTHMOOR, a number of individuals were appointed to the roles of Provost Marshal (Army) (Brigadier WARREN and Brigadier NEAL), GOLD Commander (Lieutenant Colonel McALLISTER and Lieutenant Colonel HARVEY), and SIO (Captain WRIGHT and Major COX). The responsibilities of the GOLD Commanders and the SIOs employed throughout Operation NORTHMOOR are directly in line with the expectations documented within the Murder Investigation Manual. In my view, the role of PM(A) is an amalgamation of the responsibilities of a Chief Constable and Chief Officer within a civilian Police Force, with responsibilities for criminal investigations across the organisation. If this is correct, then the PM(A) has full responsibility for all officers and staff within the RMP, but not for those outside of their chain of command.
29. The Murder Investigation Manual states that a murder investigation must have a lead investigator. This position is called the SIO and they have a key role in leading the investigation. The tone, direction and control of any murder investigation is important at the outset to ensure best prospects for establishing the truth and to allow for appropriate action to follow. The responsibilities of the SIO are described in the Murder Investigation Manual as follows:
- “Perform the role of officer in charge of an investigation as described in the Code of Practice under Part II of the Criminal Procedure and Investigations Act 1996;
Develop and implement the investigative strategy;
Develop the information management and decision-making systems for the investigation;
Manage the resources allocated to the investigation;
Be accountable to chief officers for the conduct of the investigation.”⁷*
30. The Murder Investigation Manual goes further by detailing how SIOs need to be skilled and experienced investigators who can manage and investigate complex cases. They must be able to:
- “Develop investigative strategies based on the unique circumstances of each case.”⁸*
31. To achieve this the SIO must have an understanding of the relevant criminal law, the circumstances in which murder can be committed, the way suspects or witness are likely to respond, have skills and experience in applying murder investigative techniques, and have sound decision making ability. To support this investigative ability, the SIO must also be an experienced manager with a proven background of managing resources, people and systems within a pressurised environment. The Murder Investigation Manual states clearly:

⁷ *Ibid.*, page 25, paragraph 1.3

⁸ *Ibid.*, page 26, paragraph 1.3.1

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“SIOs must have a high level of management and leadership ability.”⁹

32. The skills and experience of an SIO must be considered by those appointing them at the outset of an investigation. In addition to having the appropriate national training and accreditation, in more complex investigations there is an enhanced need for the SIO to have relevant experience. The appointment of an SIO should also be kept under review as the investigation progresses. The appointment and review of the SIO is carried out by a more senior officer, such as the Assistant Chief Constable within civilian policing. The requirement for experience in more complex cases is recognised within the Murder Investigation Manual:

“[SIOs] who have not been involved in a wide range of investigations... may not have the depth of experience necessary to perform competently in complex investigations.”¹⁰

33. In both Operations NORTHMOOR and CESTRO, the SIOs were appointed by more senior officers and I comment on this later in my report.
34. Record-keeping is also fundamentally important to a successful investigation. All roles involved in the investigation have a shared responsibility to keep detailed records of their actions, decisions, and associated rationales. Records can be maintained in a variety of ways, including day books, statements, written exhibits, minutes of meetings, and policy files or decision logs. The decision log is a key document for an SIO in which they can record their decisions and rationales throughout the investigation.
35. There are distinct phases of any murder investigation and the Murder Investigation Manual assists the SIO by identifying three: instigation and initial response; the investigation; and case management. In my view, all three are equally important, but early and timely control of the scene, witnesses, suspects, forensics and exhibits are key to delivering a professional and thorough investigation. In my experience, case management is as relevant to a public hearing or inquiry as it is to a criminal trial as the final bundle of documents presents a tangible product that demonstrates the careful and thorough investigation that has taken place. I describe the importance of an overarching report that would be created through the case management process at paragraph 55.
36. I would expect an SIO to consider these three phases and record their thought processes within their decision log from an early stage. Within their first decisions I would expect to read an entry relating to their appointment to the role, the incident under investigation, and their initial considerations. Their early entries should include how the incident was discovered or reported, when and how it occurred, the aims and objectives of the investigation, any fast track actions, the identification of victims and any key witnesses, and the immediate investigative response. This demonstrates that the SIO has established control of the incident at an early stage, which is key to a successful investigation.

37. The Murder Investigation Manual strongly emphasises this point:

⁹ *Ibid.*, page 26, paragraph 1.3.1

¹⁰ *Ibid.*, page 27, paragraph 1.3.3

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“The actions taken by the first officers attending the scene of a homicide or Major incident are critical to the success of the investigation.”¹¹

38. It continues to describe the investigation in terms of building on the initial response by applying the building block principles of preservation of life, preserving scenes, securing evidence, which includes obtaining witness accounts, identifying victims and quickly identifying suspects. These principles, in my experience, are easier to achieve if the initial response is quick, dynamic, and personally supervised by an experienced SIO who oversees the identification of key evidence, secures it, and then protects it for future use.

“In all but the most unusual of circumstances the SIO should attend the scene as soon as possible and take command of the incident.”¹²

39. The importance of a timely response to any investigation cannot be overstated, but in a serious and complex murder investigation it is of even greater importance. Murder investigations are arguably the most serious, attract most attention from the public, and have a lifelong effect on the families and friends of those connected to a murdered victim. The need to secure evidence whilst forensics remain uncompromised, to obtain information from witnesses and those at the scene, whose accounts are fresh, are crucially important to solving serious crimes. This is strongly recognised in the Murder Investigation Manual regarding the initial response:

“Fast-track actions are: Any investigative actions which, if pursued immediately, are likely to establish important facts, preserve evidence or lead to the early resolution of the investigation.

Experienced SIOs often use the term the Golden Hour to describe the principle that effective early action can result in securing significant material that would otherwise be lost to the investigation.”¹³

40. Experienced investigators or SIOs should understand the importance of immediately following up on obvious lines of enquiry, securing evidence, interviewing witnesses, and identifying suspects at the earliest of stages.
41. The SIO must also have effective information management systems for their investigation to ensure that material, documentation and exhibits are recorded accurately, can be analysed, and are stored securely. The Murder Investigation Manual directs SIOs to use the MIRSAP, together with HOLMES, as a nationally approved management system for large investigations.
42. The SIO, once in control of the initial response, and having set immediate lines of enquiry and commenced the supporting administrative set-up, is then expected to develop their investigative strategy. This includes strategies for dealing with witnesses, any safeguarding considerations, suspects, family liaison considerations, intelligence requirements, and forensics, acquisition of evidence and exhibits, and house to house enquiries.

¹¹ *Ibid.*, page 35, paragraph 2.2.2

¹² *Ibid.*, page 40, paragraph 2.2.3

¹³ *Ibid.*, pages 41-42, paragraph 2.2.4-5

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43. The SIO should then consider requesting any assistance or specialist support from other agencies whilst giving careful consideration to the categorisation of the murder investigation and necessary supportive structures. This early assessment of the scale, gravity and complexity of the case is very important, as it will dictate the type and number of resources needed to investigate the incident in a timely, efficient and effective manner. The Murder Investigation Manual assists the SIO by describing the categorisations of murder investigations as Category A+, A, B, or C, and allowing the SIO or the GOLD Commander to consider whether the incident should be declared as a 'critical incident'¹⁴, which is defined by the College of Policing as:

*"A critical incident is defined as any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and/or the community."*¹⁵

44. The most challenging of murder investigations are Category A+ and, in support of the SIO, a more senior officer would be responsible for ensuring that adequate resources were in place to facilitate and support the necessary investigative activities and requirements. In policing, this individual would be a member of the Chief Officer team. The Murder Investigation Manual defines a Category A+ murder investigation as:

*"A homicide or other major investigation where public concern and the associated response to media intervention is such that normal staffing levels are not adequate to keep pace with the investigation."*¹⁶

45. The Chief Officer supporting the SIO has responsibilities documented within the Murder Investigation Manual, which clearly defines both roles and can be fully understood by those fulfilling them. The Chief Officer is included to ensure that the public's expectation that these offences are investigated thoroughly and to the highest standard by skilled and experienced investigators is upheld. The Chief Officer has responsibility to ensure the investigation team is properly resourced, by skilled and trained staff. The importance of this role is clear in the Murder Investigation Manual:

*"A professionally conducted murder investigation sets the standards that all other Major crime investigations should meet. In achieving these standards, the role of chief officers cannot be overstated."*¹⁷

46. The Chief Officer also has a role to play if the investigation is declared a critical incident. The investigation should then be supported by a GOLD Group, with the Chair of this group appointed as GOLD Commander. The GOLD Group must take on a wider strategic perspective than the SIO, although the SIO would normally form part of the group and would attend any meetings that follow. The functions of the GOLD Group will inevitably vary according to the nature of the allegations under investigation, but the Murder Investigation Manual offers a guide for a suggested Terms of Reference ("ToRs") for such a group:

"Terms of reference for the group should be to:

- *Develop a GOLD strategy;*

¹⁴ *Ibid.*, page 67, paragraph 2.6.3

¹⁵ Authorised Professional Practice, 'Critical Incident Management 2013'

¹⁶ Murder Investigation Manual 2006, page 77, paragraph 3.3.2

¹⁷ *Ibid.*, page 76, paragraph 3.1

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- *Identify and address any risks or potential areas of criticism regarding the incident, matters leading up to it or matters since it occurred;*
- *Address risks with regard to the investigation;*
- *Consider issues for the victims or suspects, family or families and community or communities through family liaison strategies and community impact assessments;*
- *Consider impacts to or from any other agency or public body;*
- *Consider the media requirements of the force;*
- *Oversee, advise and, if necessary, direct the investigation and ensure access to expert advice;*
- *Consider the needs for resources to match the demands and meet appropriate requests;*
- *Identify any points for learning or change in policy (for debrief);*
- *Keep to the agenda – once agreed and set;*
- *Ensure full records are kept of any meetings or decisions;*
- *Satisfy the requirements for disclosure;*
- *Consider emerging legal issues.*¹⁸

47. In my experience as a GOLD Commander on many occasions, the GOLD Group is fundamental to supporting the efforts of the SIO and the progress of the investigation. The responsibilities are many and varied and include staffing, accommodation, analytical, expert and specialist support, funding arrangements, as well as legal and media support. Frequent GOLD Group meetings are vital to assisting and allowing the SIO and their team to investigate allegations comprehensively.

48. The Murder Investigation Manual is also clear on the requirements of Chief Officers in murder investigations:

“Nominated chief officers should ensure all homicide and major incidents are investigated to a high standard in accordance with national guidelines and this publication. This responsibility should be discharged in each specific case and should be reflected in force policies and working practices. To achieve high standards of investigation, investigators must acquire skills through training and work experience.

[...]

*In an investigation, part of the accountability should include endorsing the appointment of the SIO, as it relates to that person’s professional competence, training and experience. The SIO should never be allowed to feel ill-equipped to lead such an investigation or feel they are solely responsible for the conduct of the enquiry.*¹⁹

49. It is also recognised throughout the Police Service that independent reviews of murder investigations are important and seen as national best practice²⁰; *“the objective of any review is to constructively evaluate the conduct of the investigation.”*²¹ The GOLD Commander and

¹⁸ *Ibid.*, page 79, paragraph 3.3.3

¹⁹ *Ibid.*, page 81, paragraph 3.4

²⁰ *Ibid.*, Section 4, pages 83-87

²¹ *Ibid.*, page 84, paragraph 4.1

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the GOLD Group play a key role in facilitating such a review, and the SIO should work alongside the review team in a collaborative way.

50. Reviews can take place at any time during the investigation and consideration should be given by GOLD and the SIO to a time when the investigation is likely to get maximum benefit from such a review. The Murder Investigation Manual describes, *"in general, if a case has not been detected after twenty-eight days from the outset of the enquiry, a review should commence at the earliest opportunity"*²².
51. In my experience, complex and complicated investigations benefit most when the reviewing officer and team come from another police force and also when the investigating team (GOLD and/or SIO) consider taking advice from regional and national experts. The Murder Investigation Manual supports this position at page 86, paragraph 4.6. In murder investigations, this includes the NPCC (formerly ACPO²³) Homicide Working Group, and the National Crime Agency ("NCA").
52. The elements described thus far, in my opinion, are fundamentally necessary if a serious and complex investigation is to be successful. They must be carefully considered and implemented by the team to ensure a comprehensive, efficient and effective investigation. By examining RMP activity during Operations NORTHMOOR and CESTRO against the guidance set out in the Murder Investigation Manual, I believe that safe and objective conclusions can be drawn.
53. Before I observe further on bespoke activity during the investigations, I will comment upon a strategic issue.
54. Whilst I have been supported and presented with numerous documents for my consideration, I am surprised not to have come across a full, comprehensive and overarching report concerning all of the investigations that are covered by Operation NORTHMOOR, and which were investigated by the RMP. The 'Executive Summary' documents created (at lower and higher classifications) are relatively comprehensive documents, but they are what their titles suggest, namely a summary of the fuller facts. In my experience, complex, complicated, serious and lengthy investigations are almost always closed with an overarching report.
55. An overarching report would normally be produced by the SIO in conjunction with the GOLD Commander. It would be a document that describes all activity in a chronological order, including lines of enquiry identified and the outcomes achieved. It would run from the initial incident to the closure of the investigation and cover all of the facts. The report would be supported by two separate appendices: first, a bundle of witness statements, referenced throughout the report and running in event and chronological order; and, secondly, a bundle relating to any exhibits relevant to the investigation and referenced throughout the report. In my experience, such a report is a crucial aspect of case preparation in anticipation of court proceedings, referral to prosecutors, assistance with any inquest or public inquiry, and to allow any authorised reader the opportunity to obtain a comprehensive overview of the investigation, its investigative direction, challenges, and outcomes. In my view, Operations NORTHMOOR and CESTRO would have benefitted from such a report.

²² *Ibid.*, page 85, paragraph 4.5

²³ ACPO was dissolved in 2018 and was replaced by the NPCC.

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BACKGROUND TO EVENTS (2011-2014)

56. Under Operation NORTHMOOR, I have focused on Objectives [REDACTED] 1 [REDACTED] 2 [REDACTED] and TYBURN. The DDOs relating to these three objectives were carried out by UKSF in Afghanistan on 07/02/2011, 09/02/2011 and 16/02/2011 respectively. On the first DDO, 9 people were killed and 3 weapons were recovered; on the second DDO, 8 people were killed and 4 weapons were recovered; and, on the third DDO, 4 people were killed and 4 weapons were recovered²⁴.
57. I understand the relevant force laydown in Afghanistan at the time of these operations to be as follows. They were carried out by UKSF, specifically [REDACTED] SU1A, UKSF1 [REDACTED]. UKSF was led by the Director of Special Forces ("DSF") who at the time of these operations was [REDACTED] N1802 [REDACTED]. Staff supporting [REDACTED] N1802 [REDACTED] included [REDACTED] N2252 [REDACTED] (Chief of Staff), [REDACTED] N1466 [REDACTED] (Assistant Chief of Staff Operations), and [REDACTED] N2108 [REDACTED] (legal support). The [REDACTED] UKSF Units [REDACTED] deployed within Afghanistan was known as [REDACTED] SFHQ(A) [REDACTED]. [REDACTED] SFHQ(A) [REDACTED] was subdivided into separate operationally focussed units. One of these units was [REDACTED] SU1 [REDACTED] and it was [REDACTED] this Sub-Unit [REDACTED] that was concerned with Objectives [REDACTED] 1 [REDACTED] 2 [REDACTED] and TYBURN. [REDACTED] SU1 [REDACTED] was commanded by [REDACTED] N1141 [REDACTED] during the period who operationally led all three of these DDOs.
58. Significant concerns were raised in 2011 about the conduct of [REDACTED] SU1 [REDACTED]. In March 2011, [REDACTED] N1799 [REDACTED] was the author of a typed document, dated 24/03/2011²⁵. In this document, he records information he became aware of when he was on a training course. He refers to a loose conversation that he had with another soldier from UKSF, during which the soldier told him, "some UKSF are killing on target all fighting aged Afghan males on deployment", no matter the level of threat. The typed document also describes the nature and method of the alleged killings, namely that weapons were being deliberately placed near bodies and then photographs being taken²⁶.
59. At this time, [REDACTED] N1799 [REDACTED] raised these concerns with a more senior officer, who directed [REDACTED] N1799 [REDACTED] to record these facts in a document. The document was created and was stored in [REDACTED] Compartment A [REDACTED]²⁷. The document was only provided to the RMP in June 2015 during the Operation NORTHMOOR investigation.
60. [REDACTED] N2349 [REDACTED] confirmed that [REDACTED] N1799 [REDACTED] told him of his concerns in February or March 2011 and that he ([REDACTED] N2349 [REDACTED]) also informed [REDACTED] N1785 [REDACTED] of these facts in that year.
61. In 2011, [REDACTED] N1785 [REDACTED] informed [REDACTED] N1802 [REDACTED] of the relevant facts and that he shared [REDACTED] N1799's [REDACTED] concerns about a possible policy where UKSF were

²⁴ MOD-198-0002769-A; MOD-198-0001422-A; and [REDACTED] MOD-198-0000086-A

²⁵ MOD-198-0001599-A; RMP-221-0001998-A

²⁶ MOD-198-0003685-A, para 50

²⁷ [REDACTED] RMP-221-0002457-A

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deliberately killing all fighting aged males on operations in Afghanistan, irrespective of whether any threat was presented²⁸.

62. According to an Operation NORTHMOOR Executive Summary²⁹, during this period, [N1466] with the assistance of others, identified eleven further incidents which raised similar concerns to those highlighted by [N1799]. All of these operations were carried out by the same sub-unit (SU1) during the same period in 2010/2011, and these additional incidents were raised with [N1802] in 2011. In due course, [N1466] gave a number of witness statements to the RMP SIB investigators as part of Operation NORTHMOOR³⁰.
63. On 7th April 2011, [N1466] exchanged emails with [N2108] (legal support) requesting advice regarding the concerns he had about the nature of SU1 operations. [N2108] set out the legal test contained within section 113 of the Act and confirmed that he had examined the operational summaries ("OPSUMS") and shooting incident reviews ("SIR") produced by SU1 relating to the operations of concern. [N2108] continued that he believed, taken individually, the criteria for referral would not be met, but when considered together, a reasonable person would consider that service offences may have been committed. He balances this view with concern about the accuracy of OPSUM reports and advised, at the "very least", that there was a requirement to look carefully at the compound 'call-out' procedures and tactics used³¹.
64. Importantly, in my view, [N2108] caveated his advice, stating that he had not spoken to [N1785] about this matter, nor had he been made aware of the contents of [Compartment A]³².
65. It is my understanding that section 113 of Act places a duty on a 'Commanding Officer' in circumstances where a serious criminal act may have been carried out by their staff³³. The section states in respect of any commanding officer a duty to report incidents to the Service Police where there is a possibility that a serious offence has been committed. The advice continues to describe the test which commanding officers must consider:
- "Circumstances which would suggest to a reasonable person that someone has or may have committed a service offence within Schedule 2."*
66. Schedule 2 offences include allegations of murder and manslaughter.
67. Section 113 directs that if these factors are in place and a 'reasonable person' believes there is a possibility that a serious offence or crime may have occurred then the Commanding

²⁸ MOD-198-0003561-A; MOD-198-0001587-A; MOD-198-0001588-A

²⁹ MOD-198-0003685-A, paragraph 63

³⁰ MOD-198-0003685-A, para 48; RMP-221-0002469-A

³¹ RMP-221-0002463-A

³² RMP-221-0002463-A

³³ RMP-221-0002065-A

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Officer is mandated to refer the circumstances to the Service Police for their independent consideration and any subsequent action.

68. In the 2011 circumstances described above, it appears that [REDACTED] N1802 the most senior officer, did not refer these matters to the Service Police. Instead, following receipt of legal advice, he directed that a review take place relating to the use of 'call out' procedures.³⁴

69. I am asked in my instructions: *Question 1.1:*

Was the Operation NORTHMOOR investigative strategy and key decision-making at each stage adequate and in accordance with best practice and national standards?

70. It will be for others to determine if commanding officers complied with the rules and regulations required of them. I am able to comment on the likely consequences of non-referral at this stage.

71. The timeliness of the response by the military in 2011 is concerning to me. I have already made clear the importance of early response and control of the scene in order that the SIO is able to seize opportunities that are important to the success of any murder investigation.

72. I detailed previously how the Murder Investigation Manual emphasises the importance of a timely response in any investigation, and that in a serious and complex murder investigation it is of heightened importance. If an investigation had been launched in 2011, an SIO would have been able, unlike Captain WRIGHT, to make early informed decisions about the scene, forensics, witnesses, and possible suspects. He would likely have considered and discussed with GOLD, Lieutenant Colonel McALLISTER, the possibility of scene attendance and house to house enquiries, which may have afforded key independent, forensic capture of evidence or possible witness accounts.

73. The operating environment within Afghanistan at the time would have been a relevant consideration. It may have been the case in early 2011 that the possibility of visiting houses and taking forensic control of scenes would have been impossible. If this were the case, then I would expect the SIO to record his intentions and investigative aspirations as well as his rationale for why they were unachievable. I would also expect the SIO to consider if there were any other options available to him at this time that could help him better represent, understand, and in due course, present, the scene that the operations had taken place in. At paragraph 110, I describe how Captain WRIGHT gave consideration to this issue.

74. Captain WRIGHT was not afforded this opportunity in an appropriate and opportune way.

75. Plainly, an early referral would have afforded the SIO greater opportunity to obtain witness accounts and to identify and retain any video or digitally recorded footage. Both of these factors would have greatly assisted the SIO and the investigation team. The personnel

³⁴ [REDACTED] RMP-221-0002468-A

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deployed on each of the DDOs could and would have been identified, and interviews with UKSF personnel could have taken place in accordance with the UKSF and RMP operating protocol³⁵. I do not consider that this protocol would have stopped any interview taking place but would have put in place the necessary safeguards for any deployed UKSF soldiers. I would have expected the SIO to declare any UKSF soldiers deployed as 'significant witnesses', which are defined in the Murder Investigation Manual as :

*"i) Those who may have been, or claim to have been, an eye-witness or witness to the immediate event in some other way;
ii) Those who stand in a particular relationship to the victim or have a central position in the enquiry"*³⁶

76. I would then expect the SIO/investigating team to take witness accounts from these personnel. This would ensure the fullest, most accurate, and timely accounts from those involved. The SIO would be aware that in circumstances where 'significant witness' status for any individual changed to 'suspect' status, then appropriate legal safeguards should come into effect. This would have afforded the SIO and others the opportunity to acquire vital evidence. This would have been of huge benefit to the investigation, but Captain WRIGHT was never afforded this opportunity.
77. A similar opportunity was lost when the potential for early identification, seizure and retention of any forensic or independent evidence was not afforded to the investigation team. For example, the SIO could have considered any ballistic and firearm forensic evidence and identified any recordings or documentation that might have assisted the investigation. Such recordings could have been in digital or video format and may have provided independent evidence of activity in the planning, operational delivery and any subsequent debriefing of the relevant operations.
78. In my view, the SIO and his investigation team were not given this opportunity in 2011. If they had been, it would have enabled them to quickly control the situation, plan and direct investigative fast track actions, and key lines of enquiry. I am sure this would have led to securing key witness accounts, independent video/digital footage and forensic evidence, that could have progressed the investigation in a more appropriate, timely and comprehensive way.
79. I believe that if these events had been dealt with differently and shortly after the operations were conducted, the RMP would have had an opportunity to investigate the allegations in a more timely, efficient and effective manner.
80. The RMP were not asked to investigate these incidents as EJKs or as murder allegations until 31/03/14. In my view, the period of 37 months from incident to commencement of an investigation heavily compromised the investigation, in particular, by not providing the opportunity to get timely witness accounts from the soldiers deployed, not being provided the opportunity to acquire independent data and video footage or consider other forensic information in a suitable manner.

³⁵ MOD-198-0003682-A

³⁶ Murder Investigation Manual 2006, page 204, paragraph 15.4.2.5

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BACKGROUND TO EVENTS (2014 – 2016)

81. No referral was made to the RMP in 2011 and Operation NORTHMOOR did not commence until 31/03/2014, directed by the then PM(A), Brigadier WARREN. The investigation was conducted by the RMP, the Army's Service Police, under the leadership of the GOLD Commander, Lieutenant Colonel McALLISTER, and his SIO, Captain WRIGHT.
82. It is worth noting that from the records I have examined that it appears that Captain WRIGHT only attended his SIO Development Programme in February 2014, only one month before being asked to be the lead investigator for Operation NORTHMOOR. At paragraphs 29 to 32 of this report, I comment on the importance of SIOs having both the necessary qualifications and experience to effectively perform their roles. Captain WRIGHT will be able to clarify his senior investigative and operational experience, but the documents provided suggest that he had very little investigative experience at that level. If I am correct, then I am very surprised that a newly qualified SIO was asked to lead such a complex and complicated investigation.
83. The MOD received correspondence from Leigh Day Solicitors, who were representing Mr SAIFULLAH and Mr BANG³⁷. Both Mr SAIFULLAH and Mr BANG alleged that UKSF had carried out EJKs, or in their view murder, against family and friends in Afghanistan in 2011.
84. From July 2013, Leigh Day Solicitors had raised 81 civil claims relating to mistreatment of Afghan detainees or other criminal offences with the MOD. The civil litigation continued under 'Project ELSINORE'. Concurrently, the Royal Air Force Special Investigation and Intelligence Branch ("RAF SIIB") were conducting investigations into allegations that Afghan detainees were assaulted and mistreated whilst in the custody of UK Forces (Project ISOPTIC)^{38 39}.
85. Brigadier WARREN opened Operation NORTHMOOR on 31/03/14. The operation was to include investigations into all of the allegations contained within Project ELSINORE and Operation ISOPTIC and also the criminal allegations made by Mr BANG and Mr SAIFULLAH⁴⁰. He considered who or which organisation would be best placed to lead such an investigation. It is clear from documentation that he gave consideration to the Iraq Historic Allegations Team ("IHAT") and was particularly concerned about the independence of any investigation⁴¹. Ultimately, the PM(A) decided that the RMP would be the most appropriate authority to investigate the allegations under the banner of Operation NORTHMOOR.
86. Whilst it was understandable for the PM(A) to make this decision, it does raise questions of independence. An alternative approach might have been to explore options for involving a Home Office Police Force to assist the investigation in some way. The PM(A)'s decision and the issue of independence comes into focus when considering military culture and the 'soldier

³⁷ MOD-198-0002794-A

³⁸ RMP-221-0000233-A

³⁹ The Inquiry ToRs do not cover allegations of mistreatment of Afghan detainees.

⁴⁰ MOD-198-0003399-A

⁴¹ MOD-198-0003399-A; MOD-198-0001442-A

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first' principle⁴². Colonel ROTCHELL may be able to give an opinion, based on his experience, on whether this principle is in conflict with the independence of RMP investigations.

87. Colonel ROTCHELL was an Assistant Head (Technical) in Headquarters PM(A) (appointed in February 2022) with responsibility that includes the development of policing and investigation, policy, governance and resourcing of investigations conducted by the RMP. He explains that RMP personnel are seen as soldiers first, investigators second. He states that his staff are required to fight, if necessary, alongside other members of the Armed Forces⁴³ He states that RMP personnel are required to meet the same basic soldiering requirements as all other members of the Army (para 68) saying, *"this is a critical requirement to enable them to deploy on operations and... is supported by the overarching purpose of the RMP to deploy as part of the Field Army at any time"*. He continues that this structure is necessary so that, *"RMP personnel are able to integrate seamlessly alongside their fighting counterparts"*.
88. He continues to explain that the RMP is also required to provide a *"deployable independent investigatory and policing service to the Military"*⁴⁴ He describes the importance of the unit's independence to its integrity and its investigations. He refers to the duty described at s115A of the Act, namely, that the PM(A) must *"ensure that all investigations carried out by the force are free from improper interference"*⁴⁵ This is re-enforced by an earlier statement by Colonel CAIRNS (Deputy PM(A) (Investigations) from November 2012), dated 25/06/13, where he also records the 'duty' requirement for investigations to be independent and free from interference⁴⁶.
89. The PM(A) appointed the RMP to lead the investigation. He did not see this as a significant risk, or influencing factor, that would cause him to ask for other bodies to lead the investigation. Instead, he directed through GOLD and the SIO that external independent expert bodies be asked to support and advise his investigation team. This support was afforded to the investigation team at the earliest stage by both the National Crime Agency ("NCA") and a Major Enquiry Review Team ("MERT") from Greater Manchester Police. I refer to the advice given by the NCA and the Independent Review Team later at paragraphs 139-152.
90. Colonel ROTCHELL also details how appropriate resourcing was *"critical"* to the success of Operation NORTHMOOR. I agree with his view that appropriate resourcing incorporates, at a minimum, the correct number of people with appropriate skills, appropriate infrastructure and suitable accommodation. Disappointingly, as Colonel ROTCHELL states even though the investigation started in March 2014, it was not until 2018 that *"all the required resources were in place."*
91. It is worth noting Colonel MORRIS' different view, when he states that Full Operational Capability for Operation NORTHMOOR was declared in August 2016⁴⁷. On the best account

⁴² Witness Statement of Colonel Kristian Rotchell, dated 18th August 2023, at paragraph 68. The 'soldier first' principle describes the need for RMP personnel to meet the same basic soldiering requirements as those in the Army.

⁴³ Ibid no 37. Paragraph 31.

⁴⁴ Ibid no 37. Paragraph 41

⁴⁵ Ibid no. 37 Paragraph 63.

⁴⁶ MOD-201-0001012-A

⁴⁷ Witness Statement of Colonel Robert Hunter Morris, dated 6th November 2020, paragraph 22

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provided - August 2016 - this is still some 33 months after Operation NORTHMOOR commenced in March 2014. I do not believe that this length of time is acceptable in resourcing a declared Category A+ murder investigation which has additionally been recognised as a critical incident, as Operation NORTHMOOR was (see paragraph 105).

92. Colonel ROTCHELL describes that there is a dedicated Special Investigation Branch (“SIB”) within the RMP whose remit includes serious and complex investigations . In due course, Team 1 from the SIB, led by Captain WRIGHT as the SIO, carry out the investigations into the allegations of EJKs/murder related to Operation NORTHMOOR.
93. Colonel ROTCHELL details in his statement that a decision is made at the conclusion of an RMP investigation about whether there is sufficient evidence to charge any individual. This decision is based on an Evidential Sufficiency Test (“EST”) and, if met, a referral is made to the Director of Service Prosecutions (“DSP”) who will decide whether to charge or not. This structure is the one that was considered in Operations NORTHMOOR and CESTRO.
94. Operation NORTHMOOR at its outset was wide ranging and included alleged abuse of Afghanistan detained prisoners as well as allegations of EJKs. As the investigation progressed, three dedicated RMP investigative teams were established: Team 1 focussed on allegations of EJKs; Team 2 on allegations of detainee abuse; and Team 3 on intelligence and support functions⁴⁸.
95. As well as an SIO, Lieutenant Colonel McALLISTER was appointed GOLD Commander⁴⁹. Both GOLD and the SIO were replaced at different points in the investigation (Lieutenant Colonel McALLISTER by Lieutenant Colonel HARVEY on 26/09/2016, and Captain WRIGHT by Major COX on 14/07/17). In addition to the GOLD Commander and the SIO being replaced, the PM(A) also changed, in June 2016, when Brigadier WARREN was replaced by Brigadier NEAL.
96. In my view, the changes in personnel to these three critical roles mid-way through the investigation presented some risk to the investigation. In my experience, any change of key personnel in such an important investigation has to be supported by detailed and careful handover processes. These handovers should be fully recorded and must ensure that all parties understand all activity taken thus far, as well as the direction, purpose, and any outstanding lines of enquiry for the investigation. The handovers must be supported by the relevant documentation, including GOLD strategy, Terms of Reference, and policy logs. However, the need for face to face discussion is, in my experience, vital. Parties should also consider any barriers and difficulties experienced or anticipated within the investigation.
97. Captain WRIGHT records (see paragraph 221) that he ‘handed over’ to Major COX. I have not been able to find any record of such a handover between SIOs. I have also not been able to find any record of a similar meeting between Lieutenant Colonel McALLISTER and Lieutenant Colonel HARVEY as GOLD Commanders, nor between Brigadiers WARREN and NEAL as PM(A). These individuals would presumably be able to describe the relevant meetings in more detail as my findings are based on a paper review alone.
98. Whilst I acknowledge the duration of Operation NORTHMOOR, I am further surprised that these three key roles were rotated at a similar time. I have faced similar challenges when

⁴⁸Ibid. no 37, paragraph 222

⁴⁹ RMP-221-0000382-A

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leading or being involved in other lengthy or complex investigations. In these types of investigations, which demand the highest levels of response, staff moves should normally only taken place by exception, including where there are personal issues, organisational requirement, or matters of staff progression. In such circumstances, I have only agreed or witnessed such changes when the most senior decision maker is convinced that there will be no detriment to the investigation. I have not been involved in any such investigation or operation, when the Chief Constable or Chief Officer, the GOLD Commander, and the SIO have all be changed during the same condensed period. When leading an organisation, as a Chief Constable, I believe this would have presented me with too much risk and is not a decision that I would have made in such circumstances.

99. The initial appointments took place at the outset of the investigation as per the guidance contained within the Murder Investigation Manual. Also in line with good practice, GOLD and the SIO were supported by and had interaction with staff from the ACPO, National Homicide Working Group, and the NCA. A dedicated advisor, Detective Chief Superintendent Paul WILLIAMSON (NCA) (then Detective Superintendent), became a central point of contact and advisor, working closely with the SIO and GOLD. DCS WILLIAMSON provided⁵⁰ numerous reports and advice on the application of national practice to assist the direction, efficiency and effectiveness of the investigation. I will comment later on these reports, the advice given, GOLD and SIO considerations and decisions, and any subsequent activity that followed.
100. The allegations investigated by Operations NORTHMOOR and CESTRO involved allegations against UKSF. Colonel ROTCHELL explains that investigations of this type are carried out by the RMP in the same way as if it concerned non-UKSF personnel⁵¹, and investigators would follow national best practice, policy, and relevant military doctrine. In this investigation, the primary, relevant documentation included the Murder Investigation Manual and the operating protocol between the RMP and UKSF⁵².
101. Three important factors recorded in the 2008 UKSF protocol are highlighted by Colonel ROTCHELL (para 198):
- i) 'It is incumbent upon all SF personnel to assist the Service police when they are undertaking one of the investigations;*
 - ii) 'Activities of SF personnel are highly sensitive and that the maintenance of operational security is paramount in order to ensure the continued operational effectiveness of the SF' and*
 - iii) UKSF personnel involved in an incident that required investigation were permitted a period of 24 hours before statements were taken by the SIB'.*
102. These criteria were in place during the Operations NORTHMOOR and CESTRO and should have been considered by the GOLD Commander and SIO.

⁵⁰ RMP-221-0000703-A RMP-221-0000704-A RMP-221-0000707-A RMP-221-0002074-A RMP-221-0005377-A
RMP-221-0000714-A RMP-221-0005377-A RMP-221-0000465-A; RMP-221-0005377-A ; RMP-
221-0000717-A; RMP-221-0000718-A; RMP-221-0000196-A; RMP-221-0000726-A RMP-221-0000723-A

⁵¹ Witness Statement of Colonel Kristian Rotchell, dated 18th August 2023, paragraph 195

⁵² MOD-198-0003682-A

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103. Throughout my reading, I have seen consideration given to these criteria, particularly by the SIOs, when they are contemplating contact with UKSF personnel. In my view, it appears the second factor – “(ii)” above – took priority over the first - “(i)” – during Operation NORTHMOOR. The two strongest pieces of information that lead me to this conclusion are, first, the challenges that both SIOs had in obtaining data and digital products from the DSF to assist with their lines of enquiry, and, secondly, the lengthy delays in acquiring evidential statements from UKSF soldiers who were deployed on the three DDOs. This view is based on my review of the documents which I have been provided, and those involved may be able to provide a greater understanding.
104. In his statement Colonel CAIRNS makes it clear that his (RMP) staff have policing powers and will adopt processes that are in line with Home Office Police Forces. He declares that he is confident that his staff and their investigations will be effective as his investigators are properly trained to the highest standards, and I comment on the skills and experience of those involved later at paragraphs 346 to 379.. In my view, whilst this is a fundamental requirement for any investigator conducting or leading an investigation into allegations of murder, of equal importance is proven investigative experience in matters of high of complexity and seriousness⁵³.
105. Captain WRIGHT records his requirement for staffing and resources at the outset in 2014 and throughout his tenure as SIO⁵⁴. He makes clear that to thoroughly investigate this declared ‘critical incident’, appropriate resources will be required. He states, at this early stage, that if the request is not supported then it will have a *“negative impact on the ability to provide an effective and prompt investigation”*. He also highlights the need for the staff to be experienced and appropriately skilled in order to be deployed on such a complicated investigation⁵⁵. Captain WRIGHT records his expectation that his team will acquire a large volume of digital and hard copy evidence, such as computer data, videos, imagery, interviews and witness accounts. He states clearly that appropriate support will be required to allow him and his team to secure, examine and analyse these products. I discuss Captain WRIGHT’s request for a forensic data handling capability (*‘FDHC’*) later in my report at paragraph 114.
106. Upon his appointment as GOLD Commander, Lieutenant Colonel McALLISTER receives external advice and assistance from the NCA and Greater Manchester Police (*“GMP”*)⁵⁶. Captain WRIGHT records this good practice in his policy file⁵⁷. DCS WILLIAMSON (NCA) and a MERT from GMP were appointed as advisors⁵⁸. This request and activity is in line with national best practice as advised by the Murder Investigation Manual.
107. In line with the Murder Investigation Manual and best practice, at the outset of the investigation Captain WRIGHT instructed that a Major Incident Room (MIR) would be stood up to support the investigation, utilising HOLMES⁵⁹. This would allow the best method of

⁵³ MOD-201-0001012-A

⁵⁴ RMP-221-0000461-A; RMP-221-0000462-A; RMP-221-0000497-A; RMP-221-0000508-A; RMP-221-0000489-A

⁵⁵ RMP-221-0000495-A

⁵⁶ RMP-221-0000386-A

⁵⁷ RMP-221-0000386-A; RMP-221-0000398-A

⁵⁸ RMP-221-0000393-A

⁵⁹ RMP-221-0000394-A

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recording, storing and managing the vast amount of documentation that was likely to be acquired throughout the investigation.

108. Captain WRIGHT also records at this early stage his intention to establish contact with the victims and to try and identify any witnesses to further his investigation⁶⁰. He records that he intends (*'SIO or his Deputy only'*) to make contact with Leigh Day Solicitors as they are representing many of those who have made complaints. Captain WRIGHT records his attempts (through Leigh Day Solicitors) to make contact with and obtain witness statements from Mr BANG and Mr SAIFULLAH⁶¹. Due to the difficulties in physically meeting either, Captain WRIGHT considers alternative means to obtain their accounts. He takes advice from national experts and the Service Prosecuting Authority to ensure that the agreed methodology would be in an evidential format and acceptable in any legal proceedings⁶².
109. Captain WRIGHT records that he will run two policy files: one for 'generic NORTHMOOR' issues; a second more sensitive file for Operation TYBURN, noting that four individuals were killed during this operation⁶³. This is again recognised as good practice in such complicated and complex investigations. Captain WRIGHT records his consideration regarding '*lawfulness*' of alleged activity and categorisation of any suspect.
110. Once the incident has been identified, Captain WRIGHT considers whether the scene can be visited⁶⁴, as required and directed by the Murder Investigation Manual. He recognises, however, the unique challenges of the investigation and considers alternatives. If a scene visit is unachievable, Captain WRIGHT directs that the fact must be recorded "*and a reconstruction of the scene is to be considered, either in some physical form or by means of full motion video, photography, satellite imagery or geo-mapping*"⁶⁵. In his rationale for this decision, Captain WRIGHT recognises that the "*scene of the offence under report is key to understanding what allegedly took place*". I support Captain WRIGHT's intention, however, whilst I know that the scene was not visited, I have been unable to find any such reconstruction of the scene of Objective TYBURN as per his decision log.
111. Captain WRIGHT attempts to establish the cause of death of the four individuals, considers methods of appealing for witnesses, and intends to recover any items seized at the time of the shootings for forensic considerations⁶⁶. This includes an attempt to recover grenades that were recorded as being in the possession of two of the individuals killed on the operation. In my view, these actions are again in line with a sound murder/unlawful killing investigation.
112. It is also clear that in January 2015, Captain WRIGHT continued to try and identify key witnesses to the alleged activity. Reassuringly, he demonstrates that he is aware of and considers the status of any witnesses or suspects at this time. He decides that two soldiers

⁶⁰ RMP-221-0000396-A; RMP-221-0000397-A

⁶¹ RMP-221-0000485-A

⁶² RMP-221-0000506-A; RMP-221-0000517-A

⁶³ RMP-221-0000463-A; RMP-221-0000465-A

⁶⁴ RMP-221-0000466-A ; RMP-221-0000467-A ; RMP-221-0000468-A

⁶⁵ RMP-221-0000466-A

⁶⁶ RMP-221-0000468-A; RMP-221-0000469-A; RMP-221-0000473-A

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who appear to be deployed on the operation, but towards the back of the deployment, should be seen, interviewed and treated as 'significant witnesses'⁶⁷.

113. At this time, Brigadier WARREN, PM(A), is informed by [REDACTED] N1466 about the concerns that he raised with [REDACTED] N1802 relating to DDOs, particularly the number of weapons recovered and the number of individuals killed⁶⁸. Brigadier WARREN was also informed about [REDACTED] Compartment A within which is [REDACTED] N1799's note⁶⁹. This is not handed to RMP investigators until some months later in June 2015⁷⁰.
114. As per guidance within the Murder Investigation Manual, Captain. WRIGHT creates a forensic strategy to help focus his investigation⁷¹ and throughout the investigation, CAPTAIN WRIGHT requests that he is supported in this endeavour with the creation of a FDHC⁷². He is supported in this request by Lieutenant Colonel McALLISTER, as GOLD Commander who raises the issue with more senior personnel within the Military. There is no doubt, that Operation NORTHMOOR will come into possession of a vast amount of data, in varying formats and the need for an efficient system to record, examine and analyse these products forensically, in my view is a sound and sensible proposition. However, in February 2017 CAPTAIN WRIGHT records, that any further work to establish a FDHC will be stopped, as directed by the PM(A), at this time Brigadier NEAL. CAPTAIN WRIGHT records that this decision follows the PM(A) accepting all of the Independent Review Team's (IRT), recommendations at that time. I discuss this issue later at paragraphs 208 onwards. It is clear in his log, that CAPTAIN WRIGHT disagrees with this decision as he records in his rationale: *"REASON: This is PM(A)'s decision. For me, there remains a requirement for this system in particular to analyse in a forensic manner, the data I intend to recover from [REDACTED] ITS1 and other data repositories. I have articulated the requirement in detail to Gold. I await his direction."*⁷³ Records show that over £7 million may have been spent on the work to create a FDHC and I believe, a senior officer would require a full explanation to justify this spend, alongside the decision to stop it, without any usage⁷⁴.
115. I have already highlighted the importance of GOLD support on these types of investigations. Captain WRIGHT records⁷⁵, however, that *"GOLD has not convened a meeting yet in relation to this critical incident"*. Captain. WRIGHT requests that a meeting should be formed and the frequency of future meetings be determined by GOLD⁷⁶.
116. A GOLD structure is implemented and Lieutenant Colonel McALLISTER is appointed GOLD. The GOLD Group meetings that appear to have taken place in 2014 and 2015 are sporadic and few in number. I understand that GOLD meetings (initially referred to as Strategic Command

⁶⁷ RMP-221-0000507-A

⁶⁸ RMP-221-0000534-A; RMP-221-0000535-A; RMP-221-0000536-A

⁶⁹ RMP-221-0001998-A

⁷⁰ MOD-198-0001448-A

⁷¹ RMP-221-0000488-A

⁷² RMP-221-0000436; RMP-221-0000439-A

⁷³ RMP-221-0000865-A

⁷⁴ RMP-221-0000238-A

⁷⁵ RMP-221-0001998-A

⁷⁶ RMP-221-0000409-A

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meetings) took place on 18/07/14⁷⁷, 18/08/14⁷⁸, 29/08/14⁷⁹ and 06/11/14⁸⁰. Within the recorded minutes of these meetings, their content is extremely limited and it is difficult to find any strategic direction being recorded. These meetings are chaired by Lieutenant Colonel McALLISTER. The initial meetings do record the need for a Terms of Reference⁸¹ for the GOLD meetings and they also show early and continuing concerns regarding the scale of Operation NORTHMOOR, the need for appropriate resources, staffing, IT support, and the consideration to use and gain support from external agencies⁸².

117. The meetings in 2014 are followed up with two further GOLD meetings in 2015 on 08/09⁸³ and 13/10⁸⁴, and three more in 2016 on 19/01⁸⁵, 06/06⁸⁶ and 13/12⁸⁷. The 10-month period between the last meeting in 2014 and the first in September 2015 is surprising as GOLD Groups should be held on a regular basis to monitor activity, give support, and, if necessary, direct the investigation.
118. The meeting on 08/09/15 provides a fuller set of recorded minutes⁸⁸. DCS WILLIAMSON (NCA) and Mr BOTTOMLEY (IRT/GMP) are recorded as having attended. Data material and its recovery continues to be discussed, as is the delay in moving the operational base for Operation NORTHMOOR to RAF St Mawgan and its effect on the investigation. The minutes record, *'GOLD meetings will now be held on a regular monthly basis in order to allow key personalities to meet and discuss important strategic level issues and provide updates on progress'*. This highlights the need for more timely and structured GOLD command meetings to direct, steer and support the ongoing investigation. In my experience, this requirement is fundamental to the success of complex investigations. GOLD groups must oversee, support and ensure the pace of the investigation is in line with the Murder Investigation Manual. The GOLD Commander is fundamental to the successful implementation of this requirement. Regular GOLD meetings and full records of the decisions and direction made at these meetings are a basic requirement. In my view, GOLD meetings and the leadership of the GOLD Commander are critical to the success of Operation NORTHMOOR. As I state at paragraph 123, it is my view that Lieutenant Colonel McALLISTER has failed as the GOLD Commander and his lack of leadership contributed to the lack of progress and success of Operation NORTHMOOR during his period of command. The GOLD group records show, in my view, that strategic leadership was missing and not in line with the approved, tried and tested, GOLD Command structure, detailed in the Murder Manual 2006.

⁷⁷ RMP-221-0006318-A

⁷⁸ RMP-221-0000317-A

⁷⁹ RMP-221-0000320-A

⁸⁰ RMP-221-0000322-A

⁸¹ RMP-221-0000316-A

⁸² RMP-221-0000320-A; RMP-221-0000317-A; RMP-221-0000322-A

⁸³ RMP-221-0001814-A

⁸⁴ RMP-221-0001816-A

⁸⁵ RMP-221-0000339-A

⁸⁶ RMP-221-0001823-A

⁸⁷ RMP-221-0005786-A

⁸⁸ RMP-221-0001814-A

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119. As per this direction, the next GOLD Group takes place on 13/10/15⁸⁹ and a fuller set of recorded minutes are available. The meeting is chaired by GOLD, Lieutenant Colonel McALLISTER, and attendees include Captain WRIGHT, Mr BOTTOMLEY (IRT), and DCS WILLIAMSON (NCA). Issues raised include the protocol between DSF and RMP, ongoing considerations regarding the preservation and recovery of data and material, resourcing, staffing, and operating location.
120. The recent direction to hold monthly GOLD Groups appears to have waived, as the next GOLD Group meeting is held on 19/01/16⁹⁰. The minutes return to a more limited format, but of note within the record, is that RAF St Mawgan will be *'operational'* from 15/02/16. The record also shows that Mr BOTTOMLEY (IRT) and DCS WILLIAMSON (NCA) were not present.
121. Disappointingly, the drift regarding the regularity of the GOLD Group meetings increases, with the next GOLD Group recorded as taking place on 06/06/16, some 6 months after the last⁹¹. Once again, I find this a surprising and disappointing omission by GOLD. However, Mr BOTTOMLEY (IRT) and DCS WILLIAMSON (NCA) are in attendance and, once more, the record is a fuller account. The minutes record that, *'since inception NORTHMOOR has been running at 50% capacity'*, that Team 1 investigations would be the priority and that *'the NORTHMOOR team has been directed that the deployment would focus on Team 1 investigations solely'*.
122. I have already documented the role and responsibilities of the GOLD Commander, as per the Murder Investigation Manual. I have also highlighted the need for good and accurate record keeping to be maintained, particularly by those in key positions in such investigations. It is therefore disappointing that Captain WRIGHT records, in his Decision Log dated 30/08/16, that *'GOLD has elected not keep a policy book since his appointment'*⁹².
123. In my view, the GOLD Commander, Lieutenant Colonel McALLISTER, and his command structure and meetings had not achieved the requirements of a GOLD commander at this stage of the investigation. In my view, whether it be the need for giving clear strategic direction, ensuring provision of appropriate accommodation in a timely manner, ensuring adequate staffing and other resources, or his personal involvement in securing vital evidence stored in sensitive areas, GOLD has fallen far short. Based on the information provided to me, I consider that his leadership was way below the approved national standard (Murder Investigation Manual) and requirement for a GOLD Commander, which I have described at paragraphs 45 to 48. His lack of record-keeping reinforces this view⁹³.
124. An (un-authored) email relating entirely to Operation NORTHMOOR was sent to Lieutenant Colonel McALLISTER on 06/07/16⁹⁴ whose content suggests that it was authored by a member of GMP. The document outlines a request by Operation NORTHMOOR for support and assistance from the GMP, but alarmingly it includes a number of concerns regarding the investigation at that time. These include, *"not all GOLD meetings have been minuted... the*

⁸⁹ RMP-221-0000330-A

⁹⁰ RMP-221-0000339-A

⁹¹ RMP-221-0000685-A

⁹² RMP-221-0001668-A

⁹³ RMP-221-0000836-A

⁹⁴ RMP-221-0000379-A

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newly appointed OIOC [Officer in Overall Command], Major Ward, was inexperienced in his role... there was confusion between the role of the NCA advisor and the GMT review team... and consideration of a further review of the strategic management of the investigation; in particular the status of the GOLD Commander, which sometimes seems to present as a risk of collapsing into an SIO decision making role.'

125. My reading and assessment of the documents provided to me cause me to agree with the concerns raised by this unidentified author in July 2016, and which were also identified and recorded by DCS WILLIAMSON in his report (Version 7⁹⁵), that I comment further upon at paragraph 165.
126. Due to the breadth of Operation NORTHMOOR, the GOLD structure is further supported when the initial appointment of an OIOC, morphed into the position of a dedicated SILVER Commander and supportive SILVER meetings. In policing terms, whilst a GOLD Commander and GOLD meetings are advised and used for the more complex and complicated murder investigations, to assist and support the SIO, in my experience a SILVER Commander and structure is not routinely used. In policing terms, a GOLD, SILVER and BRONZE structure is more routinely used for Major incidents such a demonstrations, public order events or large scale operations. Operation NORTHMOOR is wide-ranging and at times had at least three separate SIOs leading three investigation teams. I can see and understand the decision to appoint a SILVER structure of support in these circumstances.
127. The role of SILVER routinely includes the responsibility of interpreting the strategic direction set by GOLD, then developing plans to implement this strategy by coordinating resources and their activity. SILVER would be required to set up regular SILVER meetings, chaired by SILVER, with the meeting having an agenda and recorded minutes. The agenda should include working strategies, plans, logistics, resources and any external/partnership considerations. All of this activity must be aimed at delivering the strategic aims of the GOLD Commander. With regards to Operation NORTHMOOR and the responsibilities of Captain WRIGHT, it would be interesting to ask both Captain WRIGHT (SIO) and Major COX (SILVER) if the structure worked, and whether there was any confusion regarding roles and responsibilities.
128. I found no documents that suggest any SILVER meetings took place in 2014 or 2015, with the first SILVER meeting recorded as taking place on 05/01/16⁹⁶. There appears then to be a seven month break until the next SILVER meeting on 30/08/16⁹⁷. After this meeting, and until 18/11/18, SILVER meetings are held regularly, almost on a monthly basis, and on some occasions even more frequently.
129. I believe that the SILVER structure, once fully operating from 30/08/16, does indicate that SILVER is supporting the GOLD Strategy and trying to address issues including resources, accommodation, investigative barriers or constraints, to try and progress Operation NORTHMOOR. Consistent themes include concerns around data recovery, vetting of NORTHMOOR staff, deployment to Afghanistan, and the effect of these on the effectiveness of the investigation.

⁹⁵ RMP-221-0005377-A

⁹⁶ RMP-221-0000135-A

⁹⁷ RMP-221-0000136-A

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130. Once in place, the SILVER meetings should play an important role in assisting Captain WRIGHT and Team 1. The SILVER group also supported the wider remit of NORTHMOOR, carried out by other investigation teams. As well as trying to assist with progressing actions and enquires, the meetings should have supported a wider sense of 'team' to those deployed on this challenging investigation.
131. From my reading, I understand that following fatal shootings on approved operations and in certain circumstances, then a set of actions should be followed. Where civilians are killed, certain documentation must follow as a matter of course⁹⁸. OPSUMs and Storyboards are always generated, whilst SIR documents are generated following fatal shootings if the criteria are met (*e.g.*, civilian casualties, issues around rules of engagement, or public interest). The document I have referenced above states that the main purpose of an SIR is to inform the RMP. Captain WRIGHT requested that the SIR was recovered with regards to Objective TYBURN⁹⁹.
132. If my understanding of the above is correct, then I would have assumed that a SIR would have been created in February 2011 with regards Objective TYBURN. Captain WRIGHT's decision log appears to support this position. I have not found any information that shows an SIR was sent to the RMP in 2011, as per the instruction within the Litigation document as its 'main purpose.' My finding appears to be confirmed by Major COX who records in his policy file of October 2017 a requirement for a person in authority to provide a statement confirming that no SIR exists in relation to Objective TYBURN¹⁰⁰.
133. Throughout his decision logs, one can see that Captain WRIGHT, from the outset and throughout his role as the SIO, makes attempts to identify and recover independent evidence to assist in his desire to establish what happened during Objective TYBURN. This includes decisions¹⁰¹ where he attempts to secure and preserve all relevant passive data acquired during Objective TYBURN. Captain WRIGHT records elements of passive data as '*low level tactical recordings by voice (radio comms), helmet/body mounted cameras, any visual recordings whether by ISTAR assets or other means such as interrogation sessions. This list is not exhaustive.*' As well, as identifying what material may be available, Captain WRIGHT also records his concerns with regards the ability to physically obtain some of the material, particularly data held by the Directorate of Special Forces (DSF), with delays in appropriate vetting and [redacted] clearance of RMP staff recorded as some of the barriers. Various decision logs are of relevance¹⁰².
134. Some 12 months into the investigation, CAPTAIN WRIGHT is still struggling to identify and recover all data and material that may be relevant to his investigation. On 24/04/15 he records his concern as follows: "*I am still unclear where key data / material sits. I must establish whether there are other repositories of potential evidence. Currently I know that the following*

⁹⁸ Bundle of key litigation documents for the Haddon-Cave Inquiry

⁹⁹ RMP-221-0000470-A

¹⁰⁰ RMP-221-0000945-A

¹⁰¹ RMP-221-0000480-A

¹⁰² RMP-221-0000480-A; RMP-221-0000418-A; RMP-221-0000428-A; RMP-221-0000438-A; RMP-221-0000472-A; RMP-221-0000496-A; RMP-221-0000501-A; RMP-221-0000520-A

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are where I can expect to recover evidence: SFHQ(A) Server - IT System 1 - Hard Copy Documents. In addition, there may be more - UKSF3, or whether their data is held on the ITS1 system.¹⁰³ Two further decision logs¹⁰⁴ record his ongoing concerns regarding clearance of his staff, to review the material once identified and secured.

135. The concerns regarding data identification and recovery remain a constant theme throughout the life of Operation NORTHMOOR¹⁰⁵. The lack of independent, supporting evidence, that such a product could have provided, has in my view hindered the ability of investigators to get to understand the complete picture and the events that took place during Objectives 1 and 2 and TYBURN.
136. It is clear through his decision logs that complications arise when he requests material from the DSF. This request is made due to the fact that members of UKSF were the soldiers deployed on Objective TYBURN. Whilst accepting the sensitivity of the data and the need to safeguard operational intelligence, tactics and individual anonymity, it must, in my view, be right that Captain WRIGHT is afforded and provided with relevant data and product in an evidential and reliable format. In furtherance of this aim, Captain WRIGHT meets with DSF staff¹⁰⁶ and is offered the services of a Subject Matter Expert to assist in this task¹⁰⁷.
137. Captain WRIGHT requests support from GOLD in this endeavour. In my view, the recovery of the material would provide strong and independent evidence of activity during the operation and be vital in the search for the truth. It is right, in my view, that Captain WRIGHT had this task as one of his Main Lines of Enquiry (“MLOE”). In January 2015 the support of GOLD seems to have been successful as Captain WRIGHT records that ‘GOLD has met with N1466 and agreed that RMP will be able to copy both the SFHQ(A) server and the current server held by that department’¹⁰⁸. CAPTAIN WRIGHT then records how his team will be/are appropriately vetted and would carry out the searches.
138. To further underline the importance of working with the DSF, to identify and secure key and relevant evidence, GOLD acquired the support of a ‘Special Forces Liaison Officer’. Whilst Captain WRIGHT agreed to this offer, he also recorded that the role will have to be managed carefully so as to not interfere with the independence of the investigation. Whilst this role would need careful management, on balance, I think it is the right decision to afford the investigation a better understanding of DSF practise and procedure, and therefore afford the investigation team the best chance of identifying and securing important evidence. To deal with any conflict or concern, Captain WRIGHT stated that he will manage the interaction with the liaison officer¹⁰⁹.

¹⁰³ RMP-221-0000538-A

¹⁰⁴ RMP-221-0000511-A; RMP-221-000520-A

¹⁰⁵ RMP-221-0000772-A

¹⁰⁶ RMP-221-0000259-A

¹⁰⁷ RMP-221-0000509-A

¹⁰⁸ RMP-221-0000430-A

¹⁰⁹ RMP-221-0000431-A

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139. The first advising report¹¹⁰ from DCS WILLIAMSON, NCA (then Detective Superintendent), is dated 02/05/2014 in which his role is described as Regional Advisor and PIP4 to support SIO WRIGHT. This appointment follows the request by Lieutenant Colonel McALLISTER as GOLD referred to previously. DCS Williamson met with CAPTAIN WRIGHT and others, and was briefed with regards to Operation NORTHMOOR. As a result of this and subsequent briefings and meetings the initial report is compiled and presented to SIO WRIGHT.

“Terms of Reference were agreed as follows:

- 1) NCA Regional Adviser to provide support and advice to the Senior Investigating Officer;*
- 2) NCA Regional Adviser to offer investigative suggestions including the identification of experts, and access to specialists or areas of expertise that may realistically support and enhance the investigation;*
- 3) NCA Regional Adviser to provide access to good practice to inform decision making and investigative strategies. In addition the NCA Regional Adviser has been appointed as PIP 4 to the investigation by the NCA following a request made by the Homicide Working Group. The following additional terms of reference are set for this role:*
- 4) To mentor and advise the SIO;*
- 5) To quality assure the SIO investigation structure ensuring it is 'fit for purpose to deliver the critical aims'*
- 6) To quality assure the investigation strategy in liaison with SIO and MIR staff;*
- 7) To act as link to GOLD Commander;*
- 8) To act as link to the Greater Manchester Police Major Crime Review Team.”*

140. The appointment of DCS WILLIAMSON aligns with the previous decision by PM(A), Brigadier WARREN, when he decided that the RMP would lead the investigation but receive external expert advice. The national programme for accrediting and developing investigators, is managed by the College of Policing, and called the Professional Investigators Programme (PIP). The more experienced and qualified roles are allocated a higher PIP number. An SIO, must be PIP3 accredited and DCS WILLIAMSON is PIP4, so should have appropriate skills, qualifications and experience to act as advisor and mentor to Captain WRIGHT. In my view, this is a sound appointment, as the National Crime Agency (NCA) provide assistance and expertise as part of their remit.
141. DCS WILLIAMSON provides advice and guidance to Captain WRIGHT on numerous occasions and documents this through varying reports. Whilst DCS WILLIAMSON provides advice and access to best practice and methodology (including in relation to vulnerable witnesses and interviewing)¹¹¹ he regularly documents his concerns about progress, staffing and resources on Operation NORTHMOOR. From reading his reports, I believe he genuinely tried to help Operation NORTHMOOR. However, I feel he becomes frustrated with the lack of military response to his recommendations, particularly resourcing, accommodation, data recovery and staffing. DCS WILLIAMSON supports Captain WRIGHT’s covert strategy, which, as I state later at paragraph 196, is not the course of investigation that I would have taken. I believe it was the wrong course to pursue.

¹¹⁰ RMP-221-0000703-A

¹¹¹ RMP-221-0000707-A & RMP-221-0000714-A

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142. His first report includes the investigative parameters set, that a Command structure is in place, the importance of MLOE, other investigative considerations and that Operation NORTHMOOR has been declared both, a critical incident and categorised as Category A+ investigation. At this early stage the report highlights the need for timely and appropriate resources to be made available to the SIO to ensure a prompt and effective investigation:

*"It is considered essential that the agreed resources are brought on line and made available to the SIO as a matter of urgency or that any justified delay is appropriately recorded."*¹¹²

143. A second report is provided by DCS WILLIAMSON dated 23/05/14¹¹³. The ToRs remain unchanged and advice is given to the SIO which includes the need for him to provide greater clarity on his objectives. DCS WILLIAMSON also advised on the role and requirement of a GOLD Commander, including the need for GOLD Group meetings.
144. In his third report¹¹⁴, dated 30/06/14, DCS WILLIAMSON again highlights the importance of a GOLD Group structure to be in place, stating such a structure is 'imperative' to ensure that the investigation is progressing in an efficient, effective and timely manner. DCS WILLIAMSON highlights once again the ongoing concern with regards to insufficient resources being provided to the investigation team. His report also mentions the independent review meeting that has taken place with GMP on 26/06/2014 and the fact that the SIO has now proposed a new investigative structure that will incorporate 3 teams. In this structure, Team 1 will investigate 'cases involving allegations of Unlawful Killing'.
145. DCS WILLIAMSON provides version 4¹¹⁵ of his report on 21/07/14. He notes that Lieutenant Colonel McALLISTER is appointed as GOLD and that each of the 3 investigation teams will be led by an SIO. The new structure will now be supported by an Officer in Overall Command (OIOC), with Major WARD appointed to this role. In his conclusion, DCS Williamson, in my view, expresses some concern about the timeliness and progress of the investigation thus far, recording the need for 'urgency' and 'a need to prepare detailed investigation plans', noting that the investigation has been running since March 2014.
146. His concerns develop and are strongly noted in version 5¹¹⁶, dated 26/09/14, where he records:

"Resource Management - In accordance with discussions and GOLD instructions of 18/07 2014 Captain WRIGHT submitted a revised resource requirement for Operation NORTHMOOR. It is disappointing to see that resource management remains a key issue impacting upon ability to conduct prompt and effective progress of this investigation. I endorse my previous suggestions as well as the GMP MCRT recommendation 'That resource management for Operation NORTHMOOR is subject of urgent consideration to support the OIOC and SIOs to respond to the GOLD direction. GOLD is progressing staffing requests but is himself subject of constraints.'"

¹¹² RMP-221-000703-A p. 6

¹¹³ RMP-221-0000704-A

¹¹⁴ RMP-221-0002074-A p. 103

¹¹⁵ RMP-221-0005377-A

¹¹⁶ RMP-221-0005377-A

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147. DCS WILLIAMSON also records that accommodation for NORTHMOOR is still unresolved, the location for the MIR to set up is still to be confirmed, and that the IT needed has not yet been achieved and therefore is not fully operational. The report details an extensive list of investigative suggestions and reminds the SIO of the importance to record strategies and decisions. In my view, all of the issues raised in version 5 will be impacting negatively on Operation NORTHMOOR and its ability to carry out a comprehensive and timely investigation.
148. When the PM(A) decided that the RMP would investigate NORTHMOOR he was also clear that advice and guidance would be sought from experienced, external agencies. At an early stage, as well as support from the NCA, GMP provided staff to conduct an independent review from their Major Enquiry Review Team (MERT). This team presented two reports dated 15/08/14¹¹⁷ and 29/08/14¹¹⁸ following briefings, meetings and examination of documentation.
149. In the reports the MERT made a number of recommendations, which in the main supported the findings and concerns of DCS WILLIAMSON. These related to the importance of creating and running a GOLD Command Structure, supported by appropriate meetings that would be formally minuted. The structure would need clear terms of reference for GOLD and the OIOC and the importance of SIO decision logs was reinforced. The findings also raised concerns about the resourcing and accommodation support for Operation NORTHMOOR. The MERT also suggested, that in line with good practice, NORTHMOOR should consider the creation of an Independent Panel to provide some assistance and advice relating to the activity of the investigation team.
150. Whilst I feel there may be some duplication at this time between the MERT and the support being given by DCS WILLIAMSON, I have not found any document that shows any detrimental impact on the investigation. As I have detailed at paragraph 49, correctly applied reviews of complex investigations are good practice and an independent review at the commencement of this investigation is, in my view, a sound and sensible approach. Both the MERT and DCS WILLIAMSON identified key areas of concern that needed addressing to ensure a thorough and comprehensive investigation could follow. These recommendations and advice should, in my view, have sharpened the focus of both the GOLD Commander and his SIO.
151. DCS WILLIAMSON's next report¹¹⁹, version 6, is provided some five months later dated 18/02/15. In my view, his previous concerns are repeated and recorded more forcefully in this version. He states clearly that progress on Operation NORTHMOOR is being severely frustrated and what the impact of this may be:

"In addition to comments made by the NCA PIP4 in previous reports, it is again disappointing that the additional staff have yet to be deployed to Operation NORTHMOOR... It is frustrating that further delay has been encountered... I have no option but to again strongly recommend to the Ministry of Defence that accommodation and resourcing is quickly resolved. It can be foreseen that unless these critical issues are resolved

¹¹⁷ RMP-221-0000712-A

¹¹⁸ RMP-221-0000320-A

¹¹⁹ RMP-221-0005377-A

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quickly, the UK will suffer reputational damage in its inability to deliver on ECHR and CPIA requirements for a diligent, expeditious and effective investigation."

152. DCS WILLIAMSON concludes, *"there is an urgent need to progress strategic accommodation and resourcing issues as well as tactical investigative plans"*.
153. On 17/04/15, Captain WRIGHT opens a [REDACTED] classified [REDACTED] policy file. The vast majority of the decisions within it relate to the information provided by [REDACTED] N1466 [REDACTED] and subsequent activity by Captain WRIGHT and his team. Captain WRIGHT also gives consideration to the operating protocol between the RMP and UKSF, but records on 30/07/15 that [REDACTED] N1466 [REDACTED] will be interviewed outside of these regulations¹²⁰.
154. In April 2015, information was presented to the PM(A) that raised concerns about the number of Enemy Killed in Action ("EKIA") and the number of weapons recovered during operations carried out by [REDACTED] SU1 [REDACTED]. These concerns were raised by [REDACTED] N1466 [REDACTED] and others, in 2011, informing [REDACTED] N1802 [REDACTED] at that time¹²¹. [REDACTED] N1466 [REDACTED] recorded his concerns in a witness statement¹²² to Captain WRIGHT dated 30/06/15. Captain WRIGHT recorded a number of decision logs in April 2015 detailing his thoughts on how to obtain supporting evidence to corroborate [REDACTED] N1466 [REDACTED] account¹²³.
155. In his account¹²⁴, [REDACTED] N1466 [REDACTED] details how information was passed to [REDACTED] N1802 [REDACTED] and was subsequently referred to as [REDACTED] Compartment A [REDACTED]. For completeness, this is in the information that was raised in 2011 which suggested that that unlawful killing was taking place in Afghanistan. Captain WRIGHT records¹²⁵ the fact that he must recover the document and seek to record evidence from its author.
156. [REDACTED] N1466 [REDACTED] also described the post incident reporting procedure, relating to DDOs by UKSF. He states that such reporting should be *'commonplace'* and that the commander of the operation should record the *'essence'* of the operation and detail *'what took place and what the outcomes were'*. These reports, he states, were particularly required *'if fatalities occurred'*. [REDACTED] N1466 [REDACTED] lists some of the documents he would expect to be compiled as *"SINCREP (Serious Incident Reports); SIR (Shooting Incident Review); Storyboards (a pictorial depiction of events, usually containing photographs taken at the scene); results of SSE, recovered weapons and materiel, as well as deceased persons"*.
157. [REDACTED] N1466 [REDACTED] states that he believed that there were obvious examples of activity being carried out by members of UKSF that were *"questionable"*. [REDACTED] N1466 [REDACTED] states that he reported these concerns to [REDACTED] N1802 [REDACTED] and that it was for him to direct what the response should be. [REDACTED] N1466 [REDACTED] states, that as a result of the concerns raised, [REDACTED]

¹²⁰ RMP-221-0000572-A

¹²¹ MOD-198-0001587-A; MOD-198-0001588-A; [REDACTED] RMP-221-0002469-A [REDACTED]

¹²² MOD-198-0003561-A

¹²³ RMP-221-0000529-A; RMP-221-0000530-A; RMP-221-0000532-A; RMP-221-0000533-A; RMP-221-0000630-

A

¹²⁴ MOD-198-0003561-A

¹²⁵ RMP-221-0000535-A

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N1802 directed that a 'Tactics, Techniques, and Procedures' ("TTP") review would take place. N1466 provided witness statements detailing his concerns to Operation NORTHMOOR.

158. A critical document to support N1466's version of events is N1799's typed account from 2011. From my reading of the documents provided, I find it surprising and disappointing that this key document is not given to investigators until June 2015, some 16 months after Operation NORTHMOOR commenced its investigation¹²⁶. In my view, senior staff within the military and the DSF must have been aware of Operation NORTHMOOR, and at least some aware of N1799's document and its significance. Colonel ROTCHELL highlights the importance of the UKSF's duty to assist an investigation and, in my view, this document should have been handed to investigators at the earliest opportunity. I do not believe that this was the case.
159. N1466 had previously detailed how he had asked for legal advice in 2011 from N2108 with regards to a s. 113 referral. In a policy file dated 12/06/15¹²⁷, Captain WRIGHT considers how to approach N2108 and assess his suitability as a potential witness. Captain WRIGHT is directed by GOLD, Lieutenant Colonel McALLISTER, that he must not approach N2108. A further policy file¹²⁸ belonging to Captain WRIGHT details how Lieutenant Colonel McALLISTER gave further direction that *'he would speak to N2108 first as there were existing relationships that needed to be managed.'*
160. I find this decision by GOLD to be highly unusual. N2108 could be a key witness to the activity and decisions made in 2011 that led to no referral being made to the RMP. I have explained previously the effect which I believe this decision had on Operation NORTHMOOR. I would have expected N2108 to be seen as a potential witness by Captain WRIGHT, whilst in the company of another member of his team. Lieutenant Colonel McALLISTER would be able to clarify why he made this decision.
161. Similarly, Captain WRIGHT records a policy file¹²⁹ relating to a separate direction from Lieutenant Colonel McALLISTER that I find unusual. Captain WRIGHT records *'GOLD has directed that he will conduct the interview with N1802 and when queried on who else he would wish to conduct the interview, he refused to tell me'*. Lieutenant Colonel McALLISTER would be able to explain his rationale for this direction, but based on my examination of the documentation I query his decision making. N1802 may be a key witness in the investigation being conducted by Operation NORTHMOOR and, in my view, he should have been seen in the same way that I have described for N2108 to ensure the integrity of the investigation and to protect any forthcoming account provided by N1802

¹²⁶ Witness Statement of Colonel Robert Hunter Morris, dated 6th November 2020, para 60 (Bundle of key litigation documents for the Haddon-Cave Inquiry)

¹²⁷ RMP-221-0000550-A

¹²⁸ RMP-221-0005956-A

¹²⁹ RMP-221-0000625-A

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162. In addition, a highly important line of enquiry for Captain WRIGHT at the outset was to quickly identify those involved, deployed or with knowledge of the DDOs relating Objectives [REDACTED] 1 [REDACTED] 2 and TYBURN¹³⁰. This line of enquiry is crucial at the earliest of stage of any investigation. It appears that Captain WRIGHT is only given this information in March 2016 along with a nominal roll of personnel deployed on these operations by DSF¹³¹. This is some two years after Operation NORTHMOOR commenced and is, in my view, unacceptable. Captain WRIGHT or others could provide clarity regarding the rationale for such a delay.
163. On 12/06/15 in his recorded considerations relating to approaching witnesses, Captain WRIGHT records that the enquiry is not progressing in a manner commensurate with a murder investigation¹³². The apparent lack of urgency and importance in the slow provision of [REDACTED] N1799 record¹³³ and the nominal rolls of the soldiers deployed on the relevant operations, in my view, adds weight to Captain WRIGHT's recorded concerns.
164. Later this month, Captain WRIGHT met with [REDACTED] N1799 who confirmed that he was the author of the note recovered from [REDACTED] Compartment A and that the soldier he met on the training course, who referenced the fact that UKSF were killing all fighting aged males, he knew as [REDACTED] N1201¹³⁴. [REDACTED] N1201 is subsequently identified as [REDACTED] N1201 by Op NORTHMOOR investigators¹³⁵.
165. In his next report, version 7, dated 18/07/15, DCS WILLIAMSON again raises concerns relating to NORTHMOOR. The style of this report is different to his previous submissions, with very clear direction recorded within his recommendations on any action required, timing and impact if not redressed. One example includes the requirement to hold GOLD Group meetings. He records that the last GOLD Group meeting was in December 2014, commenting that the 'lack of regular structured GOLD meetings is unhelpful' and that this should be rectified immediately.
166. However, as recorded in an Executive Summary¹³⁶, full resourcing was not achieved until much later. The location of RAF St Mawgan was eventually selected because it could accommodate the number of staff on the team, provided the necessary [REDACTED] environment, and that "*only minor technical works were required for the location to be ready to host the NORTHMOOR team for an extended period of time*". However, NORTHMOOR did not start to relocate to St Mawgan until February 2016 and were not established until August 2016. This is some 29 months after NORTHMOOR was commissioned in March 2014. In my view, the lack of appropriate resourcing throughout this period is of serious concern and directly compromised the competence of the investigation.

BACKGROUND TO EVENTS 2016 -2019

¹³⁰ RMP-221-0000465-A

¹³¹ RMP-221-0000657-A

¹³² RMP-221-0000548-A

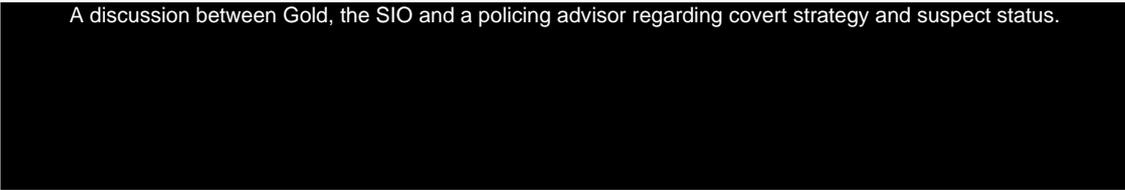
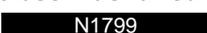
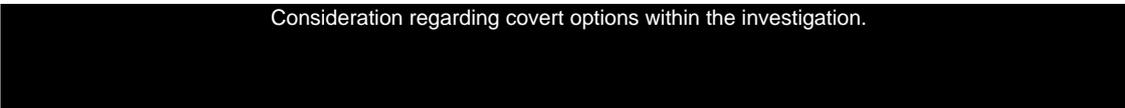
¹³³ RMP-221-0001998-A

¹³⁴ [REDACTED] RMP-221-0000259-A

¹³⁵ RMP-221-0000628-A

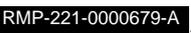
¹³⁶ MOD-198-0003685-A, paragraphs 14-15

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167.  A discussion between Gold, the SIO and a policing advisor regarding covert strategy and suspect status.
168. 'Suspect' is defined in the Police and Criminal Evidence Act 1984 within its Code of Practice¹⁴². This definition applies to any investigation that is carried out by any law enforcement agency. Paragraph 10.1 states:
- 'A person whom there are grounds to suspect of an offence (see note 10A), must be cautioned before any questions about an offence... are put to them.'
169. Note 10 A states:
- 'There must be some reasonable, objective grounds for the suspicion, based on known facts or information which are relevant to the likelihood the offence has been committed and the person to be questioned committed it.'
170. It is clear that Captain WRIGHT considers these decisions carefully. He documents the fact that he is investigating a crime, recording that  is 'a suspect in conspiracy to murder',¹⁴³ and that  'is a suspect for murder.'¹⁴⁴ It is worth reminding the reader that the PM(A), GOLD Commander, and Captain WRIGHT have previously recorded this investigation as a 'Category A+' murder investigation.
171. With regards to  Captain WRIGHT includes in his rationale for suspect declaration the fact that he has been identified as the person on the training course, leading to the record created by  (which is stored in the   and that he was operationally deployed on Objective TYBURN. Captain WRIGHT considers whether or not to arrest following his decision to classify  as a suspect. In my experience, this is the logical sequence of events in that records show that Captain WRIGHT is investigating an allegation of crime and now has identified a suspect for the offence he is investigating. Arrest is a course of conduct I would expect him to consider at this time.
172.  Consideration regarding covert options within the investigation.

¹³⁷ RMP-221-0000580-A

¹³⁸ Witness Statement of Colonel Robert Hunter Morris, dated 6th November 2020, para 63 (Bundle of key litigation documents for the Haddon-Cave Inquiry); RMP-221-0000646-A

¹³⁹ ; 

¹⁴⁰ RMP-221-0000197-A; RMP-221-0000679-A

¹⁴¹ RMP-221-0006056-A; RMP-221-0006086-A

¹⁴² Police and Criminal Evidence Act 1984, Code C, Version 2014

¹⁴³ RMP-221-0000646-A

¹⁴⁴ RMP-221-0000679-A

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- [REDACTED]
173. Captain WRIGHT's decision logs also, in my view, demonstrate similar consideration relating to [REDACTED] N1141 being declared a suspect¹⁴⁶. Captain WRIGHT records that [REDACTED] N1141 was operationally deployed commanding activity in relation to Objective TYBURN and that he was responsible for its *'conduct and outcome.'* Captain WRIGHT's decision log¹⁴⁷ shows once again that he considered the arrest of [REDACTED] N1141 together with [REDACTED] N1201. His consideration of the option to arrest is again something that I would expect to see at this time.
174. Captain WRIGHT decides¹⁴⁸ once more not to arrest either individual at this time in favour of continuing to develop intelligence in support of his covert strategy. Within his rationale he records that he is unable to recover relevant data from the [REDACTED] SFHQ (A) server and from [REDACTED] ITS1 and that the evidence available that relates to both suspects is *'sparse... so any interview after caution not be meaningful.'* He continues that he believes that any *'arrest may alert others and destroy evidence/influence others.'* As a result of declaring both [REDACTED] N1201 and [REDACTED] N1141 as suspects, any subsequent interview by the investigating team would be conducted under caution with both suspects being afforded legal advice, support and any other agreed action documented within the UKSF and RMP protocol.
175. I consider that having declared both [REDACTED] N1201 and [REDACTED] N1141 as suspects, Captain WRIGHT now has only two options to progress Operation NORTHMOOR. He has to arrest both individuals and then interview them, or pause any arrest in favour of a covert strategy [REDACTED] Details of covert strategy. From the documents I have seen, it is my view that Captain WRIGHT has thought this through carefully and chosen a legitimate course of conduct.
176. However, as I have stated later at paragraph 196, this is not the line of investigation that I would have followed at this time.
177. These decisions were made in February and May 2016 which, in my view, is a considerable time after the investigation was commenced in March 2014. The GOLD Commander, Lieutenant Colonel McALLISTER, and Captain WRIGHT would be able to explain more fully this period of time.
178. On 01/04/16, Captain WRIGHT emailed the GOLD Commander to formally request support that covert activity was to commence¹⁴⁹. [REDACTED] Details of covert strategy
[REDACTED]

¹⁴⁵ RMP-221-0000646-A

¹⁴⁶ RMP-221-0000679-A; RMP-221-0000680-A; RMP-221-0006087-A

¹⁴⁷ RMP-221-0000680-A

¹⁴⁸ RMP-221-0000680-A

¹⁴⁹ RMP-221-0000197-A

¹⁵⁰ RMP-221-0000200-A

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179. In July 2016, the PM(A) changed with Brigadier WARREN being replaced by Brigadier NEAL. Brigadier NEAL also appointed a new GOLD Commander, replacing Lieutenant Colonel McALLISTER with Lieutenant Colonel HARVEY in September 2016¹⁵³. The Executive Summary¹⁵⁴ records that Lieutenant Colonel McALLISTER left “*prematurely and unexpectedly through illness*”. See also RMP-221-0001684-A.
180. Brigadier NEAL requested that Sir Jon MURPHY and Mark ELLISON QC are engaged as strategic advisors to him and Operation NORTHMOOR¹⁵⁵. Brigadier NEAL also directed that, at this time, no operational covert activity would take place and that he wanted to take further advice on the strategy.¹⁵⁶
181. A review was carried out by an Independent Review Team, (*‘the IRT’*) from Merseyside Police, but not until January 2017. I have found no explanation for this six month delay, but understand that no covert activity was carried out during this period. Brigadier NEAL and Captain WRIGHT would be able to explain more fully why no activity took place, when this was the investigative strategy for Operation NORTHMOOR at that time.
182. However, the review requested by Brigadier NEAL was carried out by experienced police investigators from Merseyside Police. The IRT conducted a review into the activities of Team 1 (led by Captain WRIGHT) in January and February 2017. They presented a report to the PM(A), detailing their findings and recommendations (see paragraph 212 of this report), which were endorsed and accepted by Brigadier NEAL¹⁵⁷.
183. As part of their review, the IRT were afforded a presentation by Captain WRIGHT. Their report¹⁵⁸ indicates that Captain WRIGHT briefed them fully on the nature of the investigation, the background and facts of the case and his intention to progress the investigation under a covert strategy. I would expect such a presentation to be provided to an independent review team, and I would expect this to be delivered by the SIO or the SIO and the GOLD Commander.

¹⁵¹ RMP-221-0000210-A

¹⁵² RMP-221-0000736-A

¹⁵³ RMP-221-0001690-A

¹⁵⁴ MOD-198-0003685-A, para 30

¹⁵⁵ RMP-221-0001686-A

¹⁵⁶ RMP-221-0001651-A; RMP-221-0002046-A; RMP-221-0001667-A; RMP-221-0001660-A; RMP-221-0001680-A; RMP-221-0000209-A; RMP-221-0000762-A

¹⁵⁷ RMP-221-0000223-A; RMP-221-0000222-A; RMP-221-0000740-A RMP-221-0000740-A; Witness Statement of Colonel Robert Hunter Morris, dated 6th November 2020, (Bundle of key litigation documents for the Haddon-Cave Inquiry)

¹⁵⁸ RMP-221-0000740-A

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From the documentation that I have seen, Captain WRIGHT appears to have delivered a full briefing, as I would expect, and he would be able to add more detail to this observation. The timing of the review, in my view, is also appropriate, as a new PM(A), Brigadier NEAL, and GOLD Commander, Lieutenant Colonel HARVEY, had just been appointed. In my experience, this practice should be routine on major investigations, following changes of staff at this critical level.

184. The IRT presented their findings and their recommendations suggesting a different direction for the investigation, to move away from a covert to a more overt investigative strategy. These recommendations were accepted by the PM(A), Brigadier NEAL.
185. Covert policing rightly has strict rules and regulations that govern such activity. The Independent Office of Surveillance Commissioners oversees and regulates this activity nationally. The two primary pieces of legislation are the Regulation of Investigatory Powers Act 2000 (RIPA) and the Police Act 1997. The first act generally relates to surveillance activity (both directed and intrusive) and the later allows police/law enforcement to trespass on private land or premises to carry out surveillance activity. The more intrusive the activity the higher level of authority required from the policing/law enforcement body, or by the Office of Surveillance Commissioners. To help law enforcement carry out this type of activity, the Home Office published the 'Covert Surveillance and Property Interference, Code of Practice, and the relevant publication at the time was the December 2014 edition. I would expect Captain WRIGHT and others involved in this strategy to be aware of and compliant with the version of this document at that time.
186. The Code of Practice details Directed Surveillance as:
- “Covert surveillance that is not intrusive and is carried out in relation to a specific investigation or operation in such a manner as is likely to result in the obtaining of private information about any person”. It further details Intrusive Surveillance as ‘covert surveillance that is carried out in relation to anything taking place on residential premises or in any private vehicle (and that involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device)’.*
187. In my experience, there are three main relevant considerations for an Authorising Officer deciding whether to authorise Intrusive and Directed surveillance: (1) if serious crime is being prevented or detected; (2) if the activity proposed is proportionate in its aims; and (3) if the activity is necessary to achieve the intended objectives of the covert deployment. These three considerations would in due course be examined by the Office of Surveillance Commissioners, either at inspection or, as in this case, prior to use in cases of more intrusive tactics.
188. I can understand the decision of the IRT where they find there is, at best, limited evidence to reasonably justify the covert strategy, and that there was a lack of actionable intelligence and that information at that time was both 'untested and untried'. Their report went further regarding the evidential and intelligence picture against [REDACTED] N1141 [REDACTED] and [REDACTED] N1201 [REDACTED] stating that *“it remains at this current time of a poor quality and cannot support the contention that criminal offences have taken place”*. The review found that the 'suspect' status applied to both soldiers was flawed [REDACTED] Details of covert strategy [REDACTED]

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- [REDACTED]
189. What is clear at the time of this report is that no evidential statement had been provided by either Mr BANG or Mr SAIFULLAH and therefore nothing they had said, at that stage, could be presented to any court. What is also clear at this time, is that there is no witness evidence to say that the individuals killed on the DDOs were killed unlawfully. The assertion that the killings could have been carried out lawfully in the theatre of combat, is a realistic proposition for the IRT to have considered. Their findings, on my reading, appear to be based on these facts and can be argued to be well thought through.
190. However, making decisions as an Authorising Officer, is often finely balanced and I believe there is an equal argument that would support ongoing covert activity. What is factual, is that a number of individuals were killed on these operations. Allegations have been made by Mr BANG and Mr SAIFULLAH to Leigh Day Solicitors that some of these killings were indeed murder. They have allowed their accounts to be recorded and forwarded to the MOD, stating that they were willing to provide witness statements. Operation NORTHMOOR was also now in possession of the [REDACTED] *Compartment A* [REDACTED] documentation¹⁵⁹ which, in some way, supports the allegations made through Leigh Day solicitors.
191. The author of the document, [REDACTED] N1799 [REDACTED] had met Captain WRIGHT on 29/06/15 and confirmed that he compiled the document. However, although acknowledging the account he gave previously, he refused to provide a witness statement. The soldier who allegedly told [REDACTED] N1799 [REDACTED] of this account had been identified as [REDACTED] N1201 [REDACTED] who at this time had not been interviewed by the RMP. Following the disclosure of the information by [REDACTED] N1799 [REDACTED] in 2011, [REDACTED] N1785 [REDACTED] and [REDACTED] N1466 [REDACTED] also described similar concerns relating to 11 incidents in total where the same UKSF sub-unit was deployed. Captain WRIGHT was also in possession of a witness statement from [REDACTED] N1466 [REDACTED] dated 30/06/15, where he states that he raised concerns to [REDACTED] N1802 [REDACTED] regarding the numbers of EKIA and the number of weapons recovered in 2011. [REDACTED] N1466 [REDACTED] records in his statement that he felt *'things were out of control'* and *'potential criminal activity as being a possible basis for the courses of action commented on and explained recommending that this warranted further investigation'*.¹⁶⁰
192. The criteria to be met by Captain WRIGHT for authority to be given and covert surveillance to be carried out in relation to Operation NORTHMOOR includes the fact that his team must be preventing or detecting serious crime. Captain WRIGHT has recorded that he is investigating an allegation of crime and that he has declared both [REDACTED] N1201 [REDACTED] and [REDACTED] N1141 [REDACTED] as suspects for the crimes of conspiracy to murder and murder respectively¹⁶¹. He is in possession of recorded information from Leigh Day solicitors, alleging murder, a witness statement from [REDACTED] N1466 [REDACTED] as above, the record produced by [REDACTED] N1799 [REDACTED] and the concerns raised by [REDACTED] N1785 [REDACTED] and [REDACTED] N2349 [REDACTED]. What is not in dispute is that a number of individuals have been killed and that these killings may have been unlawful, and therefore murder.

¹⁵⁹ RMP-221-0001998-A

¹⁶⁰ MOD-198-0003561-A

¹⁶¹ RMP-221-0006056-A; RMP-221-0006086-A

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193. However, another possible outcome, at this stage of the investigation, based on the information and tangible evidence Captain WRIGHT has in his possession, is that the actions of the soldiers were indeed lawful. Therefore, there is a possibility that no crime has been committed and ultimately no crime to detect. The IRT also came to this conclusion. The challenge for Captain WRIGHT is to try and prove if the killings were lawful or whether these individuals were murdered. I believe these facts do support the construction of a RIPA application that could have been supported by an Authorising Officer and, in due course, a Surveillance Commissioner.
194. I do not believe either decision was wrong. The facts take me to a fine balancing point, where I can see that both courses of action have merit and could stand scrutiny. The more unusual fact is why only [REDACTED] N1141 and [REDACTED] N1201 were afforded suspect status. If Captain WRIGHT was following the account that I have described, then I would have expected serious consideration to have been given to expanding the pool of those assigned 'suspect status'.
195. This takes me to a wider point. If the SIO, supported by the GOLD Commander, are in agreement that suspect status is afforded to those under investigation, then a covert strategy is only one consideration. A second consideration, with the investigation moving in this direction, is to consider whether any of the 'suspects' should be arrested in relation to the crime under investigation. Captain WRIGHT is clear in his decision making that he is investigating an allegation of crime and he records that [REDACTED] N1201 is a suspect for 'conspiracy to murder' and that [REDACTED] N1141 a suspect for 'murder'. As I have detailed at paragraphs 167 to 175, Captain WRIGHT considers and defers the arrest of both [REDACTED] N1141 [REDACTED] and [REDACTED] N1201 in preference to pursuing his covert strategy.
196. In my view, the decision to run a covert strategy and operation is not the course I would have chosen at the outset. I would not have declared those deployed on the operations as suspects at this stage and I would have followed a more overt operation, much as described by the IRT recommendations and treated the deployed soldiers as 'significant witnesses' and attempted to obtain their accounts of what happened as a high priority strategy. In my view, this would have afforded Captain WRIGHT and his team the greatest opportunity to search for the truth.
197. My thought process can be explained through the definitions of 'significant witnesses' and 'suspects.'
198. At paragraph 75 I describe a significant witness as either, 'those who may have been, or claim to have been, an eye-witness or witness to the immediate event in some other way or those who stand in a particular relationship to the victim or have a central position in the enquiry'.
199. At paragraph 168 I describe a 'suspect' as someone for whom, 'there must be some reasonable, objective grounds for the suspicion, based on known facts or information which are relevant to the likelihood the offence has been committed and the person to be questioned committed it.'

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200. In my view, there is a fine balance between these two definitions. I believe they present an escalating scale that should be applied by the investigator when considering their status in a particular investigation. During the Objective [REDACTED] 1 [REDACTED] 2 and TYBURN DDOs, it is not disputed that individuals were shot and killed. However, these were authorised military operations and when soldiers are deployed in such circumstances they can carry out lawful killing under their Rules of Engagement. This is unusual in murder investigations, which means that at this stage of the investigation there is at least a possibility that the killings were lawful. This would have caused me to see the soldiers as potential witnesses as they would be able to provide 'eye witness accounts to the immediate event'.
201. If any information was forthcoming during such interviews then there might have emerged 'objective grounds based on fact' to treat those individuals as suspects. I would see this as an escalation in their status and they would be afforded the additional safeguards in law. Although a fine balance, at this time I would have followed an overt investigation and treated the soldiers as significant witnesses.
202. A fair question that could be asked of the GOLD Commander and Captain WRIGHT relating to their covert strategy would be in respect of both the progress and timeliness of their activity. I believe that the period spent working on the covert strategy (approximately eight months) would have been more productively spent in a singularly focussed overt operation. More investigative ground could have been covered if Operation NORTHMOOR had been conducted in this overt manner at the outset. [REDACTED] N1141 [REDACTED] and [REDACTED] N1201 [REDACTED] could have been interviewed much earlier as 'significant witnesses' with all necessary safeguards in place as per the RMP and UKSF protocol.
203. If, during this process, new or further information had come to light, which elevated an individual to 'suspect' status, then the investigation team and Captain WRIGHT would have had to reassess their position. This would be entirely normal in my view. Captain WRIGHT could have then considered further or new lines of enquiry that he would then want to pursue and with new, or firmer evidence of criminal behaviour. This may have included covert activity.
204. However, throughout the documentation I have read, I cannot see that any covert surveillance activity actually took place. A decision log¹⁶² by Captain WRIGHT, dated 09/09/16, supports this view where he records that until instructed otherwise by PM(A), no applications for covert activity will be submitted and that the PM(A) was seeking support and advice from Sir Jon MURPHY, a former Chief Constable Merseyside Police, and Mark ELLISON QC.
205. On examining Captain WRIGHT's decision logs for 2014, 2015, 2016 and 2017, it is clear that he has ongoing and consistent concerns regarding: (1) the number of staff deployed on Operation NORTHMOOR; (2) the lack of a [REDACTED] dedicated location to effectively run the investigation; and, (3) the identification, seizure and examination of data and exhibits from various military databases. For example, not providing to the investigating team the data and information held on DSF databases regarding these operations, in my opinion will have hindered greatly the NORTHMOOR enquiries in line with a Category A+ murder investigation.

¹⁶² RMP-221-0000209-A

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206. As I have detailed previously, the Murder Investigation Manual records that this type of activity is key to achieving a successful outcome. Captain WRIGHT records clearly that these delays and the ongoing lack of support are having a detrimental effect on the efficiency and effectiveness of this investigation: *"I raised the above matters with PM(A) as NORTHMOOR is not progressing in line with its CAT A+ critical incident"*¹⁶³. Even accepting the need to protect operational tactics and individual anonymity, I do not consider this delay or lack of assistance is acceptable. Various documents relate¹⁶⁴.
207. The decision logs also show that Captain WRIGHT continued to run the investigation on parallel lines, with both covert and overt activity [REDACTED]. It included attempts to obtain evidence from potential witnesses, both within the military and amongst Afghanistan partners, and seeking the necessary authorities and support to proceed with covert deployments. Again, various documents relate¹⁶⁵.
208. It is also clear that he continued to be supported by and received advice on recommended practice from the NCA, particularly relating to acquiring best witness evidence¹⁶⁶. As I have stated previously, whilst I understand the two-pronged strategy being conducted in this manner, it is not the course of action that I would have chosen.
209. The appointments of Brigadier Neal as PM(A) and Lieutenant Colonel HARVEY as GOLD seem to have a direct effect on Operation NORTHMOOR. I have detailed previously, at paragraph 34, the important need for accurate record keeping on murder investigations. This is even more critical from those in key roles, including the SIO, GOLD Commander, and those strategically supporting or directing the investigation. In my view, this would apply to the PM(A) and I am surprised to find in Captain WRIGHT's policy file¹⁶⁷ that Brigadier NEAL did not keep a policy file himself, but recorded his decisions on separate A4 sheets of paper. In my view, and based on my experience, this is not good practice.
210. Following these new appointments, covert activity and actions relating to data recovery are paused¹⁶⁸ and a second independent review conducted by Merseyside Police (the IRT) commences, leading to their report in January 2017. All of the recommendations are fully accepted by Brigadier NEAL in February 2017. The investigative strategy is changed, leading

¹⁶³ RMP-221-0000670-A

¹⁶⁴ RMP-221-0000623-A; RMP-221-0000626-A; RMP-221-0000627-A; RMP-221-0000633-A; RMP-221-0000636-A; RMP-221-0000635-A; RMP-221-0000654-A; RMP-221-0000672-A; RMP-221-0000676-A; RMP-221-0000680-A; RMP-221-0001658-A; RMP-221-0001660-A; RMP-221-0001665-A; RMP-221-0001671-A; RMP-221-0001678-A; RMP-221-0001707-A; RMP-221-0000770-A; RMP-221-0000778-A; RMP-221-0000842-A; RMP-221-0000844-A; RMP-221-0000848-A; RMP-221-0000852-A; RMP-221-0000854-A; RMP-221-0000868-A; RMP-221-0000976-A

¹⁶⁵ RMP-221-0000621-A; RMP-221-0000622-A; RMP-221-0000623-A; RMP-221-0000628-A; RMP-221-0000641-A; RMP-221-0000659-A; RMP-221-0000662-A; RMP-221-0000668-A; RMP-221-0000689-A; RMP-221-0001708-A; RMP-221-0001709-A; RMP-221-0000779-A

¹⁶⁶ RMP-221-0000627-A; RMP-221-0000630-A

¹⁶⁷ RMP-221-0001664-A

¹⁶⁸ RMP-221-0000850-A

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to Operation NORTHMOOR being conducted in a purely overt manner. This change is reflected in Captain WRIGHT's decision log of 23/01/17¹⁶⁹.

211. If my understanding of the supportive structure in place to support Brigadier NEAL at this time is correct, then he is receiving independent support from the IRT from Merseyside Police, and from Sir Jon MURPHY and Mark ELLISON QC. In addition, the external support and guidance that has been in place to Operation NORTHMOOR since 2014, from the NCA, DCS WILLIAMSON, and the MERT team from Greater Manchester also appears to still be in place. To my reading, this appears to be a rather congested playing field at this time and runs the risk of conflicting advice being provided. However, I am sure either the PM(A), GOLD Commander, or either SIO (WRIGHT or COX) could enlighten this situation.
212. Concentrating on the review by the IRT, I believe that their recommendations change the entire focus of the operational strategy for Operation NORTHMOOR. The new PM(A), Brigadier NEAL, accepted entirely their recommendations, which included:

*“To obtain statements form Mr BANG and MR SAIFULLAH;
To recover data in support of the investigation
To remove the suspect status for [REDACTED] N1141 and [REDACTED] N1201
To continue to investigate all 11 DDOs
That no further covert activity should be pursued and
To obtain witness statements from the soldiers operation deployed on Objective TYBURN”¹⁷⁰*

213. From my reading of the SIO decision logs that follow, particularly from Captain WRIGHT, it appears to me that this change in direction caused some conflict, and possibly alienation of Captain WRIGHT as the SIO.
214. Looking at some of the decision logs of Major COX (when he was SIO) it also appears to me that the advice from the IRT, in the form of their recommendations, completely shapes and directs the investigation, instead of offering advice, guidance and areas for discussion amongst the investigation team after a review.
215. On the 25/01/17, Captain WRIGHT's decision log¹⁷¹ includes the following directions:

“I am to take no action in the recovery of [REDACTED] ITS1 until directed otherwise. I am to take no action in respect of DSF deleting potential evidence nor am I to pursue LOEs in pursuance of an offence of perverting the course of public justice. I am to take no action in respect of engagement with either suspects or witnesses in the [Objective TYBURN] matters.”

In his rationale, Captain WRIGHT begins to demonstrate in my view his frustration when he records, *“no detailed rationale behind these decisions... I articulated the risk to the loss of evidence and delay to progressing the investigation”*.

¹⁶⁹ RMP-221-0000864; RMP-221-0000865-A

¹⁷⁰ RMP-221-0000233-A

¹⁷¹ RMP-221-0000850-A

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216. It appears that this tension continues when, on 02/02/17, Captain WRIGHT records that following a meeting he held with GOLD, Lieutenant Colonel HARVEY, he was directed that *“no action be taken on any T1 matters at present and all activity cease”* until he (Lieutenant Colonel HARVEY) has held a meeting with Stephen KELL, Sir Jon MURPHY, and Colonel MORRIS on 07/02/17¹⁷². Captain WRIGHT concludes this decision log by stating, *“no action to be taken until GOLD directs otherwise.”* In a further decision log¹⁷³ of 23/02/17, Captain WRIGHT records that he was in attendance at the GOLD group where Brigadier NEAL accepted all of the recommendations put forward by the IRT. Captain WRIGHT records that *“no debate was had regarding the acceptance of the IRT recommendations”* and that GOLD would follow up on this acceptance with further direction for the investigation team.
217. If Captain WRIGHT’s record is accurate then I find it unusual that no debate or discussion took place in the GOLD group when such a profound change of direction for Operation NORTHMOOR is being considered.
218. Captain WRIGHT’s decision logs during this period appear to indicate that Brigadier NEAL as PM(A) is much closer to the investigation than his predecessor and is directing activity through GOLD for the SIO to implement the IRT recommendations. This is recorded clearly by Captain WRIGHT in March 2017¹⁷⁴ in that Lieutenant Colonel HARVEY (GOLD) directs ‘high priority’ actions to him. The rationale recorded by Captain WRIGHT for these lines of enquiry states, *“Rationale that PM(A) has directed it. No other detail provided. Greater clarity req’d as I am unclear on GOLD’s intent around these specific activities”* and, in a further in decision log¹⁷⁵, *“I am directed to... GOLD will not provide any fuller direction than that recorded”*.
219. Captain WRIGHT records on 08/03/17 a meeting which he has had with Lieutenant Colonel HARVEY as GOLD Commander¹⁷⁶. This record, in my view, suggests at least an awkwardness in their working relationship at this time.
220. It appears to me, considering the decision logs that follow, that the PM(A) and GOLD Commander are now directing much of the activity to be carried out by Captain WRIGHT, including interviewing witnesses, media engagement, data recovery and examination¹⁷⁷. This incorporates a pause on the direction given on 08/03/17 to commence witness interviews with UKSF personal that were involved in the DDOs being investigated by Operation NORTHMOOR¹⁷⁸. From the documents I have read, in my view Captain WRIGHT at this time is being isolated from important decision-making relating to the direction of the investigation for which he is the SIO. This is contrary to the guidance contained within the Murder

¹⁷² RMP-221-0000864-A

¹⁷³ RMP-221-0000864-A

¹⁷⁴ RMP-221-0000871-A

¹⁷⁵ RMP-221-0000873-A

¹⁷⁶ RMP-221-0000873-A

¹⁷⁷ RMP-221-0000967-A; RMP-221-0000874-A; RMP-221-0000875-A; RMP-221-0000876-A; RMP-221-0000971-A; RMP-221-0000972-A

¹⁷⁸ RMP-221-0000877-A

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Investigation Manual relating to the role and responsibilities of the 'officer in charge of an investigation', which is the SIO¹⁷⁹.

221. On 14/07/17, Captain WRIGHT records that this was his final day as the SIO on Operation NORTHMOOR. He records¹⁸⁰ that he has briefed and 'handed over' to the SILVER Commander, Major COX.
222. In my view, the roles and responsibilities of PM(A), GOLD and the SIO seem to be blurring at this time. This is based on the documentation provided to me. I am sure that Brigadier NEAL, Lieutenant Colonel HARVEY, and Captain WRIGHT and Major COX would be able to add their own perspectives on this position.
223. On 23/02/17, Major COX records a decision log¹⁸¹ completed as SIO on the same day that the PM(A), Brigadier NEAL, accepted all of the IRT recommendations. Major COX records the following: *"SIO – I will now implement IRT recs for Team 1 [...] investigation direction and strategy will be focussed on these recommendation"*. In his rationale, Major COX records, *"PM(A) has accepted them all and directed the activity to comply"*.
224. Major COX's position is reinforced by Lieutenant Colonel HARVEY, as GOLD Commander, in a Strategic Direction note dated 06/03/17. This note follows the GOLD Group on 23/02/17 where the IRT findings and recommendations were presented and accepted. Lieutenant Colonel HARVEY records that *"Op N/M... not established tangible evidence to support the allegation of unlawful killing, nor any corroboration to justify covert... confirmed by IRT"*. His record continues that the IRT conclude that the investigation strategy and focus must change. In his summary point, Lieutenant Colonel HARVEY records, *"Team 1, Op NM are to focus on the recommendations of the IRT."*
225. In my view, this strong adherence to the recommendations is further evidenced through a DDO Strategy document dated 21/03/17. Once more this document is fully in line with the direction from GOLD to fully implement the IRT recommendations¹⁸².
226. This position is again strengthened for the Operation NORTHMOOR investigating team by Major COX, as SIO, when he records a further decision log on 23/03/17. He records that the investigation will follow the direction set by GOLD and that this will be a change to current strategies. In his rationale, Major COX records: *"PM(A) accepted the IRT recommendations in Feb 17. This has been transferred into strategic direction which we must follow."*
227. In my view, the reliance on the IRT is very strong and, from the documents provided, I consider that they are directing rather than supporting or advising the investigation. The documents appear to demonstrate that all of their recommendations are adopted without any debate or challenge. This position is strengthened as documentation shows that their

¹⁷⁹ Murder Investigation Manual 2006, page 25, paragraph 1.3

¹⁸⁰ RMP-221-0000977-A

¹⁸¹ RMP-221-0002468-A

¹⁸² RMP-221- 0001772-A

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review period is extended towards the end of 2017 for a further review, report and recommendations. Whilst this review is underway, Major COX records that *"no direction on new LOE will be given by the SIO until after the review is complete"*¹⁸³. This review takes place and, once more, the PM(A) accepts the recommendations on 09/01/18. The influence of the IRT and the direction the investigation adopts following their recommendations, in my view, can clearly be seen in a decision log made by Major COX on 10/01/18, the day after these recommendations were accepted. He records that, following the PM(A)'s acceptance of the recommendations, *"Investigation will now move forward and in accordance with the IRT recommendations."*

228. At this time, Sir Jon MURPHY and Mark ELLISON QC are also acting as strategic advisors to the PM(A). They are present at many of the GOLD groups during this period and documents show that they are being briefed by the investigating team before GOLD meetings to allow them to provide advice to the PM(A). In my view, both the IRT and the strategic advisors at this time (Sir Jon MURPHY and Mark ELLISON QC) are providing advice that appears to directly influence the focus and direction of the investigation, leading ultimately to its closure in July 2019.
229. In my view, further decision logs by Major COX support my view¹⁸⁴. In these documents, Major COX records that Sir Jon MURPHY must be briefed before upcoming GOLD Groups in order that he can advise the PM(A). He also records that [REDACTED] N1799 and [REDACTED] N1201 [REDACTED] are to be interviewed once more. His rationale for this decision is recorded as follows: *"based on advice from Jon M, accepted by PM(A)"*. Major COX as the SIO appears, in my view, to simply receive and follow these instructions, as opposed to be leading the investigation, as the SIO should. A further document, referred to as an 'Assurance Review,' in August 2018, indicates once more a high level of influence by the IRT at this time. The document records that the IRT are reviewing operational progress against their recommendations and then suggesting further operational activity. These recommendations are accepted by the PM(A), with the GOLD commander and the SIO directing Operation NORTHMOOR investigating staff to implement them¹⁸⁵.
230. The Murder Investigation Manual states that a murder investigation must have a lead investigator. This person is the SIO. As I have detailed previously at paragraph 29, this role has responsibility to *'perform the role of officer in charge of an investigation'*¹⁸⁶. The GOLD Commander's role is also described clearly within the Murder Investigation Manual at page 79, paragraph 3.3.3, and detailed previously by me at paragraph 45 onwards of this report. The role of GOLD includes chairing the GOLD group and developing the GOLD strategy for the investigation to follow. From my reading of the documents, it appears that the IRT, the independent advisors, and the PM(A) are carrying out duties that the Murder Investigation Manual and I would expect to be performed by the SIO and the GOLD Commander.
231. My view is based on reading and examining the documents provided. Those involved at this time, Brigadier NEAL as PM(A), Lieutenant Colonel HARVEY as GOLD, SIOs Captain WRIGHT

¹⁸³ RMP-221-0000989-A

¹⁸⁴ RMP-221-0001019-A; RMP-221-0001020-A

¹⁸⁵ RMP-221-0000751-A

¹⁸⁶ Murder Investigation Manual 2006, page 26, paragraph 1.3.1

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and Major COX, the independent advisors, Sir Jon MURPHY and Mark ELLISON QC, and the IRT, would all be able to add greater depth and clarity to this position.

232. However, in line with this direction, and in compliance with the IRT direction, Major COX (as SIO) records a number of entries in 2017, 2018 and 2019 that show him directing activity¹⁸⁷. This overt activity includes interviewing UKSF staff deployed on the DDOs (including those relating to Objectives TYBURN, [REDACTED] 2 and [REDACTED] 1 the creation of a sequence of events document, considerations regarding interviewing strategies, continued attempts to recover and analyse data, forensic considerations, identification and interviewing further potential witnesses, and resourcing considerations. Various documents relate.¹⁸⁸
233. Major COX, as the SIO, carries out reviews of outstanding actions¹⁸⁹ and reports to GOLD and others, the investigative progress relating to the recommendations made by the IRT and accepted by PM(A) Brigadier NEAL¹⁹⁰. He also reviews all current MLOE¹⁹¹ and ensures engagement with Leigh Day solicitors¹⁹². Major COX's decision logs also demonstrate that the Brigadier NEAL is continuing to personally direct activity. In another, dated 12/01/18¹⁹³, he records, *"the investigation will now focus on the following elements as directed by PM(A) following the acceptance of the latest IRT report"*.
234. Further efforts were made to see [REDACTED] N1799 by NORTHMOOR investigators in an attempt to secure a witness statement in September 2018. [REDACTED] N1799 failed to attend this meeting and subsequently informed the investigators that he no longer wished to speak to them. On 26/10/18, Major COX records in his decision logs that [REDACTED] N1799 is no longer to be pursued as he has decided that he no longer supports the investigation¹⁹⁴. The reader is reminded that [REDACTED] N1799 was the author of Exhibit LGR/1A¹⁹⁵, based on a conversation he stated that he had with a colleague in 2011.
235. Following the IRT recommendations being accepted by Brigadier NEAL, and directed to the SIO by the GOLD Commander, Lieutenant Colonel HARVEY, the overt focus of the investigation gathered pace, as recorded in Major COX's decision logs. The identification and interviewing of the soldiers deployed on DDOs in respect of Objectives [REDACTED] 1 [REDACTED] 2

¹⁸⁷ RMP-221-0000881-A

¹⁸⁸ RMP-221-0003417-A; RMP-221-0000889-A; RMP-221-0000894-A; RMP-221-0000901-A; RMP-221-0000909-A; RMP-221-0000910-A; RMP-221-0000915-A; RMP-221-0000917-A; RMP-221-0004400-A; RMP-221-0000928-A; RMP-221-0000929-A; RMP-221-0000781-A; RMP-221-0000936-A; RMP-221-0000938-A; RMP-221-0000942-A; RMP-221-0000954-A; RMP-221-0000998-A; RMP-221-0000999-A; RMP-221-0001020-A; RMP-221-0001024-A; RMP-221-0001025-A; RMP-221-0001026-A; RMP-221-0001033-A; RMP-221-0001034-A; RMP-221-0001039-A; RMP-221-0001044-A; RMP-221-0001045-A; RMP-221-0001050-A; RMP-221-0001051-A; RMP-221-0001059-A; RMP-221-0001061-A; RMP-221-0001066-A; RMP-221-0004561-A; RMP-221-0000825-A; RMP-221-0000824-A; [REDACTED]; RMP-221-0000804-A; RMP-221-0000801-A

¹⁸⁹ RMP-221-0003434-A; RMP-221-0004725-A; RMP-221-0003574-A; RMP-221-0001002-A

¹⁹⁰ RMP-221-0000934-A; RMP-221-0000934-A; RMP-221-0001042-A

¹⁹¹ RMP-221-0000939-A

¹⁹² RMP-221-0000941-A

¹⁹³ RMP-221-0000996-A

¹⁹⁴ RMP-221-0001067-A

¹⁹⁵ RMP-221-0001998-A

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and TYBURN were priority actions. The Executive Summary¹⁹⁶ provides detail of the soldiers interviewed and provides a summary of their accounts. Common features from these interviews include the lack of recollection of incidents due to the large number of operations they were involved in during that period, and that *“remembering one specific Operation was difficult given the time that had elapsed”*. Some of the soldiers recalled that they had killed individuals whilst deployed on such operations and described their actions as lawful killings under the Rules of Engagement.

236. Progress against these actions and activity appears to be monitored through a number of ‘CEG Briefing’ documents beginning in June 2017¹⁹⁷ and run until July 2019¹⁹⁸. The documents are created regularly, almost on a monthly basis, and provide updates to the GOLD Groups regarding closed or ongoing enquiries. I have not been able to identify the author of these documents, but the content suggests that they are monitoring activity of Operation NORTHMOOR and recording progress to show the action is complete or remains ongoing.
237. Mr SAIFULLAH and MR BANG complained to Leigh Day solicitors that UKSF had murdered members of their family in Afghanistan. These allegations were provided to the MOD in September 2013 and both men, therefore, were potentially very important witnesses. The RMP made attempts to interview both Mr SAIFULLAH and Mr BANG and to obtain their accounts in evidential formats¹⁹⁹. Mr SAIFULLAH was interviewed in September 2017, some 4 years after his allegations were provided to the military²⁰⁰.
238. During his interview²⁰¹, Mr SAIFULLAH stated that on the night of the Objective TYBURN DDO (16/02/11), he was woken from his sleep by *“foreign forces”* - we know this to be UKSF from **SU1**. Mr SAIFULLAH continues to explain that, due to his young age, he was separated from other male members of his family and that he was outside of the building with female family members when he heard gunshots. After the UKSF had left the building, Mr SAIFULLAH described how he and the female family returned inside where they saw that four members of his family had been shot and killed. Mr SAIFULLAH stated that he did not witness the shootings and was unable to identify any members of the foreign forces deployed. He informed the interviewing officers that the female members of his family would be unwilling to speak to the RMP.
239. Mr BANG was never interviewed and records show this was due to his remote location in Afghanistan, his health, and the security threat being extremely high resulting in movement in Afghanistan being restricted. Other options were explored for interviewing Mr BANG, including Skype or another form of video interview, but after consultation with the SPA a decision was reached that such a method of interview would be unsound. Mr BANG was not interviewed and Major COX recorded that all lines of enquiry regarding Mr BANG had been exhausted²⁰².

¹⁹⁶ MOD-198-0003685-A

¹⁹⁷ RMP- 221- 0000071-A

¹⁹⁸ **RMP-221-0000132-A**

¹⁹⁹ RMP-221-0000913-A

²⁰⁰ MOD-198-0003685-A; **MOD-198-0000653-A**

²⁰¹ **MOD-198-0000653-A**

²⁰² MOD-198-0003685-A; RMP-221-0001017-A

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240. In line with the recommendations from the Independent Review, Objectives [REDACTED] 1 and [REDACTED] 2 required further investigation. The GOLD Commander, Lieutenant Colonel HARVEY, decided that these operations would be further investigated alongside Objective TYBURN²⁰³.
241. In relation to Objective TYBURN, over [REDACTED] NG soldiers from [REDACTED] SU1A were interviewed in 2017 and 2018, including [REDACTED] N1141 [REDACTED] N1201. Operation NORTHMOOR also conducted interviews with 'Support staff' personnel' from [REDACTED] 'UKSF2' and 'Attached Arms'. At least [REDACTED] NG additional staff were interviewed from these units and none could provide specific knowledge of, or had a recollection of any specific operation. Interviews were also conducted with individuals who formed part of the Afghan Partnering Unit, deployed alongside [REDACTED] SU1. It is worth recalling that these interviews were conducted some six or seven years after the operational deployments and three or four years after Operation NORTHMOOR commenced its investigation. Following these interviews, and consultation with the DSP, it was agreed: "*all reasonable and proportionate LOE [lines of enquiry] had been followed and the EST was not met.*"²⁰⁴
242. Objective [REDACTED] 1 was investigated by the NORTHMOOR team in the same manner, with numerous interviews taking place with those deployed or involved. Over [REDACTED] NG witnesses were interviewed, including [REDACTED] N1141. Following these enquires and the acquisition of their accounts, consultation between the investigators and the DSP again took place. The agreed position was: "*that all reasonable and proportionate LOE had been followed and the EST was not met.*"²⁰⁵
243. The investigating team carried out a further investigation relating to Objective [REDACTED] 2 again using the same methodology as conducted on Objectives TYBURN and [REDACTED] 1. The team interviewed in excess of [REDACTED] NG potential witnesses, including [REDACTED] N1141 [REDACTED] N1201. Following these enquiries, consultation was once again had with the DSP, with the outcome being "*that agreed that all reasonable and proportionate LOE had been followed and the EST was not met.*"²⁰⁶
244. Operation NORTHMOOR investigators also acquired operational documentation that included intelligence and an OPSUM for Objective TYBURN²⁰⁷. The documents appear to be dated in February 2011. The investigators seem to have used these documents when interviewing the soldiers deployed. The OPSUM²⁰⁸ provides details of how two of the individuals killed were as a result of them arming themselves with a grenade and an AK47 whilst they had been escorted back into the house to help with clearance. The document continues that due to the immediate threat to life posed by both individuals, they were engaged by the deployed soldiers and killed.

²⁰³ RMP-221-0000228-A; RMP-221-0000746-A

²⁰⁴ MOD-198-0003685-A, para 92

²⁰⁵ MOD-198-0003685-A, para 102

²⁰⁶ MOD-198-0003685-A, para 111

²⁰⁷ MOD-198-0000332-A; MOD-198-0000889-A; MOD-198-0000012-A

²⁰⁸ MOD-198-0000332-A

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245. Similarly, Operation NORTHMOOR acquired relevant operational documentation relating to Objective [REDACTED] 1 in the form of a SIR²⁰⁹ dated 18/05/2011. The document records the activity, how the soldiers came under fire, and that nine enemy were killed in action following the 'neutralisation of the threat'. It also records that "one or two of the EKIA may have been civilians." Within the SIR at 'Recommendations', DSF is invited to note: (1) 'The contents of the SIR relating to the use of force by [REDACTED] SU1 and the legal advice from [REDACTED] OF6 Operational Law Branch ([REDACTED] OF6 OLB) which advises that there are no grounds to suspect that a criminal act has or might have been committed by any member of [REDACTED] SU1 and, (2) to endorse the decision by Comd [REDACTED] SFHQ(A) that no further Service Police Investigation is required by signing off the letter found at Flag A.
246. Further papers²¹⁰ include a letter from [REDACTED] N1786 Comd [REDACTED] SFHQ(A), sent to [REDACTED] N1802 [REDACTED] DSF, recording his belief that the actions of the soldiers deployed in respect of Objective [REDACTED] 1 were "lawful and consequently no criminal offence has or may have been committed." [REDACTED] N1786 also details the fact he has considered the legal advice that has been provided by [REDACTED] N2135. [REDACTED] N1802 signs a document on 28/04/11 stating, "I concur with the legal advice given in Reference D that the use of force was lawful".
247. Mr SAIFULLAH was interviewed by Operation NORTHMOOR investigators in 2017²¹¹. The UKSF soldiers deployed on DDOs for Objectives [REDACTED] 1 [REDACTED] 2 and TYBURN were interviewed in 2018. These DDOs took place in Afghanistan in February 2011. Based on the records I have examined, the gap of some six or seven years between incidents and interviews is unacceptable. Timely interviews of witnesses afford better recollection of events and allow for fuller accounts to be obtained. In my experience, when long periods of time elapse between events being witnessed and an account being taken, this can have a detrimental effect on the quality of the information.
248. If in 2011 a referral had been made to the RMP regarding the concerns raised in [REDACTED] Compartment A [REDACTED] by [REDACTED] N1785 [REDACTED] N2349 and [REDACTED] N1466 [REDACTED] or if a different investigative strategy by GOLD and the SIO has been chosen in 2014, the UKSF soldiers deployed could have been seen much earlier as 'significant witnesses'. Either course, in my view, would have offered the investigators a stronger chance to obtain current witness accounts from those deployed, and a better chance to recover independent evidence in video or other data format. These missed opportunities hindered the efficiency, effectiveness, and thoroughness of how Operation NORTHMOOR was investigated.
249. On 23/04/18, Major COX records that he will brief the Deputy DSP on all NORTHMOOR investigations²¹². As recorded previously the DSP will make any final decision as to whether any criminal prosecution would take place.

²⁰⁹ MOD-198-0001326-A

²¹⁰ MOD-198-0001326-A

²¹¹ MOD-198-0000653-A

²¹² RMP-221-0004802-A; RMP-221-0001014-A

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250. On 10/05/18, Major COX records²¹³ that Sir Jon MURPHY will be briefed and updated on the current investigation status of the '10 DDOs on 17 May 18.' Major COX records his rationale for this decision as: *"Sir Jon should be briefed prior to the next GOLD Gp in order that he could provide advice on the future of the investigation and enable PM(A) to make decisions at a strategic level."*
251. Two further statements, dated 19/09/18 and 29/01/19, are taken from [REDACTED] N1466. He states that he believed the matters raised should have been referred to the RMP (SIB) because he had significant concerns that *"the actions of the call signs on the ground might not fall within the ROE, furthermore some of the EKIA were detainees"*²¹⁴. He further comments that, in hindsight, he wished that he had been clearer with [REDACTED] N1802 regarding his belief that the matters he raised should have been referred to the RMP/SIB²¹⁵.
252. On 19/09/18, [REDACTED] N1466 is presented²¹⁶ with a number of Executive Summaries and photographs relating to the 11 DDOs that he was concerned with²¹⁷. These include Objectives [REDACTED] 1 [REDACTED] 2 and TYBURN. On viewing these documents he describes in more detail his concerns relating to the number of weapons seized and the number of EKIA. He is particularly concerned with: (1) the tactic where a male has surrendered, is then sent back into a compound, re-armed himself, and is subsequently killed by UKSF; (2) the frequent use of a grenade as a weapon by males in these circumstances; and, (3) the positioning of deceased bodies and weapons in the photographs.
253. In concluding his second statement²¹⁸, [REDACTED] N1466 states, *"on being shown these photographs in exhibit NWS/14A²¹⁹ today, I have concluded that they reinforce, rather than contradict, the concerns I raised with DSF."*
254. The reader is reminded that these are the concerns recorded by [REDACTED] N1799 in 2011²²⁰ based on a conversation he had with another soldier on a training course.
255. Operation NORTHMOOR identified this 'other soldier' as [REDACTED] N1201²²¹. [REDACTED] N1201 was initially interviewed in August 2017 where he admitted to being at a training course at the same time as [REDACTED] N1799. He was not questioned about [REDACTED] Compartment A during this interview²²². However, he was interviewed by NORTHMOOR regarding this in March 2019 where he denied any knowledge of the conversation described by [REDACTED] N1799²²³.

²¹³ RMP-221-0004807-A

²¹⁴ MOD-198-0002038-A

²¹⁵ MOD-198-0002850-A

²¹⁶ MOD-198-0002850-A

²¹⁷ MOD-198-0003570-A

²¹⁸ MOD-198-0002850-A

²¹⁹ MOD-198-0003570-A

²²⁰ RMP-221-0001998-A

²²¹ RMP-221-0000628-A; MOD-198-0003685-A, para 52

²²² MOD-198-0003685-A, para 56

²²³ RMP- 221-0002455-A

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256. On 07/06/19 Major COX records that he will provide a further update to the Deputy DSP on all NORTHMOOR investigations²²⁴. In a decision log²²⁵ dated 16/07/19, he records the fact that Major COX will be forwarding a 'Form 3' for legal advice to DSP. In his rationale for this decision he records, "PM(A) is due to brief MinAF on 17 July 19, therefore Legal advice and agreement from the office of the DSP that the EST is not met must be obtained prior to this as directed by PM(A)."
257. Following this entry, Major COX records on 23/07/19 the fact that Leigh Day solicitors will be written to, together with 'victims letters' to inform them of the outcome of the investigation and that following consultation with DSP, it is agreed that the EST has not been met²²⁶.
258. Major COX appears to record his decisions consistently and in a timely manner. The areas he considers and then directs activity by his staff are in support of the GOLD strategy and, in my view, in line with the areas of enquiry an SIO should be considering when investigating such offences to an acceptable and established standard.
259. In my view, it is clear from witnesses spoken to by NORTHMOOR investigators ([REDACTED] N2349 [REDACTED] N1785) and [REDACTED] N1466) that in 2011, the concerns relating to the numbers of EKIA killed and weapons recovered was known. This position is strengthened by the existence and knowledge of the [REDACTED] Compartment A [REDACTED] document²²⁷. In my view, the position at that time was significant enough for a s. 113 AFA referral to be considered and for action to be taken by the 'Commanding Officer'. As I have recorded earlier in my report, if there is a possibility that a serious offence has been committed and that a reasonable person would think so, then the Commanding Officer must refer the circumstances to the Service Police (RMP) for their independent consideration and any subsequent action. I have not found any document to show that such a referral was made.
260. As I have reported earlier at paragraphs 72 to 80, I believe that the fact no referral was made to the Service Police in 2011 has hindered the overall effectiveness of the RMP investigation.

CLOSURE OF OPERATION NORTHMOOR

261. For this now purely overt phase of the operation, the investigation appears still to be supported by a GOLD Command structure. However, I could find no minutes for any GOLD Groups for 2017 and only one in December 2018²²⁸. The progress appears to be supported by regular SILVER Group meetings and monitored, as mentioned at paragraph 236 via CEG briefing notes. However, I find it unusual and disappointing that Lieutenant Colonel HARVEY,

²²⁴ RMP-221-0000796-A

²²⁵ RMP-221-0000791-A

²²⁶ RMP-221-0000788-A

²²⁷ RMP-221-0001998-A

²²⁸ RMP-221-0000189-A

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as the GOLD Commander, has not chaired these important strategic meetings for this period of time. In my view, this is a key responsibility for the GOLD Commander, allowing him to both direct and support his SIO, as required in the Murder Investigation Manual (see paragraph 46). In 2019, however, GOLD Groups are held on 11/03/19, 14/06/19 and 15/07/19. These meetings are minuted and have documented agendas for each²²⁹. There is one other GOLD Group ‘Speaking and Briefing Notes’ document²³⁰ which I have considered and, whilst undated, appears to relate to the GOLD Group that took place on 11/03/19.

262. Taking these meetings together, and supported by the activity recorded in the CEG briefing sheets, there continues to be a direction to complete outstanding lines of investigation relating to the identification and interview of witnesses present, or with knowledge of the DDOs in respect of Objectives TYBURN, [REDACTED] 2 and [REDACTED] 1. There appears, to me, a degree of urgency in the actions recorded and the documents point towards the intended conclusion of Operation NORTHMOOR.
263. The IRT continue to play an influential role at this time. On 12/04/19 they provide an ‘Assurance report’ detailing that Operation NORTHMOOR should start considering an ‘exit strategy’²³¹. The document records ‘the IRT are of the opinion that NM should now consider all aspects in connection with a suitable exit strategy’.
264. However, correctly in my view and experience, they also record that “enquiries still outstanding with [REDACTED] APU1 who may be able to provide evidence” relating to Objectives [REDACTED] 1 [REDACTED] 2 and TYBURN. In my view, this last entry is important as the PM(A), as the ultimate decision maker, would want to be satisfied that all MLOE are complete before deciding to close Operation NORTHMOOR.
265. On 06/06/2019, Major COX as SIO records that interviews of Afghan soldiers from the APU remain outstanding, reinforcing the position of the IRT that MLOE remain outstanding²³².
266. A CEG briefing document, dated 13/06/19 also records that APU witnesses are still outstanding and that other data is still being reviewed²³³.
267. In one document²³⁴, references are made to “an Executive Summary on the Op Ty investigation be written and circulated to advisors prior to the next GG to allow advice to be given to PM(A)” and that the “IRT was to be engaged about their future availability to conduct an progress/exit review.”
268. In my experience, references to both ‘Executive Summary’ and ‘Exit review’ are indications that closure of the investigation is actively being considered.

²²⁹ RMP-221-0000058-A; RMP-221-0000059-A; RMP-221-0000060-A; RMP-221-0000061-A; RMP-221-0000065-A; RMP-221-0000066-A

²³⁰ RMP-221-0000057-A

²³¹ RMP-221-0000755-A

²³² RMP -221-0000797-A

²³³ [REDACTED] MOD-198-0000131-A

²³⁴ RMP-221-0000057-A

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269. On 14/06/19, a GOLD Group is held and the records show that those present included Brigadier NEAL (PM(A)), Colonel MORRIS, Lieutenant Colonel HARVEY (GOLD), Sir Jon Murphy and Mark ELLISON QC. A document is prepared for the meeting, referred to as 'GOLD Group Speaking Notes'²³⁵.
270. This record shows that at the meeting the group will receive updates on remaining lines of enquiry relating to Objective TYBURN, and updates on the investigations into Objectives [REDACTED] 2 and [REDACTED] 1. The note also records: '*ID timetable for completion.*' The note continues and records three potential options for consideration:
- Suspend Op NM and wait for completion of APU LOE;*
 - Complete Op NM. Would require a robust justification with a LOE remaining;*
 - Continue Op NM and wait for completion of APU LOE.*
271. The record continues that there are potentially [REDACTED] Afghanistan witnesses within the APU that relate to the outstanding line of enquiry. It continues that these witnesses could not be accessed until September 2019 at the earliest, but that '*NM will see [REDACTED] of the [REDACTED] on 23/06/19*' onwards. The record also shows that there is '*1 UK Personnel*' outstanding in relation to Objectives [REDACTED] 2 and [REDACTED] 1.
272. At the conclusion of the document²³⁶, under the heading 'Next Steps', the following is recorded:
- 'The deployment and potential interviews of APU personnel will dictate next steps. Possible outcomes: No evidence is forthcoming – potential decision to close OP NM, Positive witness evidence – investigation continues, potential for EST to be met and referral. Additional information regarding matters not yet known to OPNM'*
273. A CEG briefing note dated 11/07/19²³⁷ shows that the interviews relating to the [REDACTED] potential witnesses from the APU remains ongoing and that investigators from Team 1 of Operation NORTHMOOR are still conducting enquires relating to the acquisition of potentially relevant data. The following is recorded: '*ongoing analysis and review of [REDACTED] HQ DSF data and viewing platform. LOE – identified and actions raised.*'
274. Attendees at these GOLD Group meetings include the PM(A), the GOLD Commander, [REDACTED] N6013, Sir Jon MURPHY, and Mark ELLISON QC, amongst others. Email documentation between Colonel MORRIS and [REDACTED] N6013 on 11/06/19²³⁸, and between Colonel MORRIS and Ben SAUNDERS²³⁹, indicate that the final decision on Operation NORTHMOOR is imminent. In his email to Ben Saunders, Colonel MORRIS records, "*the other date to be aware of is the handover of PM(A) from Dave Neal to Viv Buck which takes place on Fri 19 Jul.*"

²³⁵ RMP-221-0000060-A

²³⁶ RMP-221-0000060-A

²³⁷ RMP-221- 0000132-A

²³⁸ RMP-221-0000068-A

²³⁹ RMP-221-0000064-A

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275. On 15/07/19 the final GOLD Group for Operation NORTHMOOR takes place. The meeting once again has a documented agenda and recorded minutes²⁴⁰. At item 1 on the minutes, the record shows that the purpose of the meeting is to confirm that Objectives TYBURN, [REDACTED] 2 and [REDACTED] 1 are 'exhausted' and that the GOLD Group are content with the decision to close the investigation. Investigative updates are recorded as being given at the meeting, which includes at point 3, 'there is one British serviceman still to be spoken to, unavailable (deployed and uncontactable until at least Aug 19)'²⁴¹. At item 4 a draft closing statement is recorded, which reads: *Following a thorough and independent investigation lasting more than five years in which all proportionate lines of enquiry have been pursued and exhausted - including several overseas deployments to obtain witness statements - no evidence which could lead to any service person or veteran being referred for a decision to prosecute has been discovered. PM(A), following statutory consultation with the DSP has declared that the investigative stage of OP NM is now complete and a drawdown of the unit will begin which will take several months to complete. This decision has been assured by the OP NM independent advisors. (As with all investigations should any further information come to light in the future then Op NM could be reopened.)*
276. The next day, the SIO, Major COX, records in a decision log that following the GOLD Group meeting, the EST has not been met. He adds that he will consult, as required, with the DSP. It is also notable, in my view, that he records, "*it must be noted I have not had time to evaluate and review all the evidence from APU in person, due to the compressed timelines from PM(A).*"²⁴²
277. A final CEG briefing note follows this GOLD group meeting and is dated 18/07/19²⁴³. This document shows that [REDACTED] of the [REDACTED] APU witnesses were interviewed and that no positive, tangible evidence was obtained. The document records that '*all reasonable lines and proportionate LOE have now been thoroughly followed*' with regard to this outstanding line of enquiry. I note that the original figure of [REDACTED] potential witnesses had increased to [REDACTED]. The document also records that the GOLD Group of 15/07/19 decided that Operation NORTHMOOR will be closed whilst '*acknowledging that there is 1 outstanding SF individual that will be spoken to on his return.*'
278. From my experience, to close an operation of this scale I would expect to find a full closing report detailing the lines of enquiry that were considered, how they were completed, and indeed exhausted. This report would make reference to the GOLD Groups, detailing how and by whom the lines of enquiry were presented to the group, and then a full account recorded of any decisions made and the rationale for them. The record would stipulate who made each decision and who made the ultimate decision to close the investigation. I have read the Executive Summary document²⁴⁴ that explains, in part, the closure process; but as I have recorded previously (at paragraph 54), Operation NORTHMOOR would have benefitted greatly from a full and comprehensive overarching report, which would have included a bespoke closing report. The fact a closing report has not been created following such an enormous decision, I find surprising.

²⁴⁰ RMP-221-0000065-A; RMP-221-0000245-A; RMP-221-0000245-A; RMP-221-0001776-A

²⁴¹ RMP-221-0000245-A

²⁴² RMP-221-0000791-A

²⁴³ RMP-221-0000133-A

²⁴⁴ RMP-221-0000233-A

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279. I have not found any decision log, or other record, compiled by the PM(A), Brigadier NEAL, that details carefully and fully his decision and rationale for closing Operation NORTHMOOR. As I understand the situation on 15/07/19, based on the documents provided to me, he has made the decision to close the investigation when there are still significant lines of enquiry outstanding. The GOLD Group Speaking Notes²⁴⁵ presented to him at the GOLD Group on 14/06/19 recognised the significance of making such a decision in these circumstances, when they state, *'Complete Op NM. Would require a robust justification with a LOE remaining'*. I agree strongly with this comment and find it strange that Brigadier NEAL has not completed a detailed record of this decision together with a full explanation for his rationale. I can also find no document to show that he was advised to do so from either the IRT or his strategic advisers at that time.
280. If my understanding is correct, then there are three MLOE that are still outstanding at this time. The first is the large number of potential witnesses from the APU who were present or involved in the operations relating to Objectives [REDACTED] 1 [REDACTED] 2 and TYBURN. These individuals were soldiers in the APU and were deployed alongside UKSF. This must mean that some of their personnel must have been close to the activity on each of these operations. Operation NORTHMOOR identified that there were [REDACTED] soldiers of this type who could potentially provide key and significant witness accounts. Only [REDACTED] of these individuals had been seen at the time of the decision to close Operation NORTHMOOR. I note that the final CEG briefing note dated 18/07/19²⁴⁶ records that *'no positive, tangible evidence was obtained'* from these [REDACTED], but that [REDACTED] remain outstanding. If the RMP were able to contact and interview [REDACTED] of these soldiers then I would question, if the investigation was allowed to continue, whether the remaining [REDACTED] potential witnesses could have been seen. If this task was impossible to achieve for whatever reason then I would have expected to see it recorded in full detail by Brigadier NEAL when he decided to close Operation NORTHMOOR. I have not been provided with any such document.
281. The second MLOE that appears to be outstanding relates to the ongoing examination of data and viewing platform product that is recorded on the CEG briefing note dated 11/07/19 (referred to at paragraph 273)²⁴⁷. The document shows that there is *'ongoing analysis and review of [REDACTED] HQ [REDACTED] DSEF data and viewing platform. LOE – identified and actions raised'*. This is only 4 days before the decision is made to close Operation NORTHMOOR. Data recovery and provision to the Operation NORTHMOOR investigation team has been a constant issue throughout the investigation for the RMP which I have commented upon throughout my report. Such data or product could provide independent evidence of what took place on all three DDOs. I find it strange that Operation NORTHMOOR is closed with these enquiries ongoing without a detailed explanation by the PM(A) setting out the basis on which he believes them to be fruitless.
282. Finally, the third outstanding MLOE is the interview of a UKSF soldier who was deployed operationally on these objectives in 2011. The records show that he could be interviewed, sometime in August 2019 once his current operational deployment was complete. I do not

²⁴⁵ RMP-221-0000060-A

²⁴⁶ RMP- 221- 0000133-A

²⁴⁷ RMP-221- 0000132-A

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know why the investigation is closed in July 19 when the PM(A) could have delayed his decision until after the UKSF soldier had been interviewed.

283. With three MLOE remaining outstanding in July 2019, and based on my review of documents alone, I would not have made the decision to close Operation NORTHMOOR at this time. Of course, those involved in this significant decision will be able to clarify events leading to this decision and the rationale for it.
284. Operation NORTHMOOR is closed.

CROSSCUTTING THEMES

285. Throughout my review I have come across a number of themes and issues that I believe transcend the whole of Operation NORTHMOOR and indeed, in some instances, run from 2011 until 2019. In my view, these issue affect negatively the investigation as a whole and are set out below.

Linked Series Investigation

286. I wanted to comment on the possibility of Operation NORTHMOOR being investigated as a 'linked series'.²⁴⁸ The Murder Investigation Manual directs that the SIO, when assessing this possibility, that *'it is essential that any potential links with other homicide or non-fatal crimes are thoroughly and accurately explored and assessed'*²⁴⁹. The Murder Investigation Manual continues to give advice and to warn SIOs that *'failure to include a genuinely linked offence may prevent the discovery of information leading to a serial offender'*²⁵⁰. Captain WRIGHT considered his position, but decided not to link the investigation²⁵¹.
287. The Murder Investigation Manual states that *'a link occurs when one or more factors indicate that the same offender is responsible for more than one offence'*²⁵². Captain WRIGHT declared at least two of the soldiers deployed on the DDOs as 'suspects'²⁵³. The 11 operations that were identified of concern, including for Objectives **1** **2** and TYBURN, were all carried out by **SU1** **SU1A**, and therefore included many of the same personnel. Even if one adopts the position of treating these soldiers as 'significant witnesses', the fact that the same allegations were made, the same methodology of operational deployment is used, most of the same soldiers are deployed, and comparable concerns relating to the number of individuals killed and weapons recovered are raised, then in my view there is enough parallel information for the offences to be classified as a 'linked series'.
288. In my view, if a decision to link had been made,, then GOLD would then have considered: (1) that linked series occur very infrequently; (2) they pose wider and more significant challenges

²⁴⁸ Murder Investigation Manual, page 68, paragraph 2,6.5

²⁴⁹ *Ibid.*, page 68, paragraph 2.6.5.1

²⁵⁰ *Ibid.*, page 68, paragraph 2.6.5.1

²⁵¹ RMP-221-0000573-A

²⁵² page 68, paragraph 2.6.5.1

²⁵³ RMP-221-0000646-A; RMP-221-0000645-A

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for the SIO; (3) whether the SIO is sufficiently experienced for this wider role; and, (4) that the SIO should try and identify and speak to an SIO who has experience in investigating such offences previously. I have found no documentation to show that such considerations took place by GOLD or by any other senior officer. These offences were not declared a linked series, thus any patterns of behaviour or attitude common to these operations may not have been investigated to the deepest of levels. Captain WRIGHT, and subsequently Major COX, and both GOLD Commanders, may be able to provide more information, as my analysis is based solely on the documents I have been provided.

289. I have considered the view taken by DCS WILLIAMSON in his report number 8²⁵⁴ where he articulates his view on a linked series. He concludes that the decision to link should be deferred at this time. I disagree with this decision and would have linked the 11 DDOs based on the reasons I have set out above.

Pace and Urgency in acquiring key witness accounts.

290. Mr SAIFULLAH was interviewed by Operation NORTHMOOR investigators in 2017, despite them being aware of his potential as a key witness since 2014. Mr BANG was never interviewed.
291. The UKSF soldiers deployed against Objectives [REDACTED] 1, [REDACTED] 2, and TYBURN, were interviewed in 2017 and 2018 by investigators from Operation NORTHMOOR. These DDOs took place in Afghanistan in February 2011 and Operation NORTHMOOR commenced as an investigation in 2014. Details of the soldiers deployed on these operations were not provided to the investigating team until 2016. The gap between incident and interviews (six or seven years), or between investigation beginning and interview (three years), is unacceptable. Contemporary accounts from these witnesses were not obtained.

Reviews and Response to Recommendations

292. A number of reviews have taken place during the investigation of Operation NORTHMOOR from 2014 until its closure in 2019. The practice of carrying out reviews during murder investigations is recommended by the Murder Investigation Manual and in my experience is recognised nationally by those involved in such investigations as best practice. Whilst I have commented chronologically on these reviews throughout my report, the practise of reviewing runs through the whole period of my instruction. In my view, Operation NORTHMOOR has received both formal and informal reviews throughout. The two most formal reviews were conducted in 2014 by the Independent Review Team from Greater Manchester Police and in 2017 by the second Independent Review team from Merseyside Police. Both of these reviews led to a number of recommendations being provided via reports.
293. In addition to these formal reviews, Operation NORTHMOOR also received advice and guidance from the NCA on a regular basis from DCS WILLIAMSON. Whilst his remit was to support, advise, and mentor the SIO, Captain WRIGHT, he did this by providing documented reports. I have described these throughout my report (see paragraph 139 onwards). To arrive at many of his recommendations, particularly his concerns regarding the pace and strategic

²⁵⁴ RMP-221-0000726-A

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direction of the investigation, resourcing and accommodation, DCS WILLIAMSON, in my view, must have carried out some review activity alongside the SIO.

294. As I explained at paragraph 50, the Murder Investigation Manual encourages a review every 28 days if the murder remains unsolved. This did not happen throughout Operation NORTHMOOR. However, I would categorise the supportive work of DCS WILLIAMSON as covering some of this requirement during 2014 and 2015 when he regularly provided reports to Operations NORTHMOOR. He only provided one further report, dated 10/11/16, following the changes in appointments of the PM(A), GOLD Commander, and SIO, thus regular support appeared to cease.
295. I have found a common theme of slow response to many of the recommendations made. This applies to the pace and urgency of investigations, resourcing with an appropriate number of skilled staff, the provision of appropriate accommodation, and the timely provision of evidence, data or digital files.

Non-referral to the RMP in 2011.

296. In 2011, if a referral had been made to the RMP regarding the concerns raised in [REDACTED] [REDACTED] Compartment A [REDACTED] by [REDACTED] N1785 [REDACTED] N2349 [REDACTED] N1466 [REDACTED] and [REDACTED] N1799 [REDACTED] or if a different investigative strategy had been pursued by GOLD and the SIO (akin to the one chosen in 2016), the UKSF soldiers deployed could have been seen much earlier as 'significant witnesses'. In my view, either course would have offered the investigators a stronger chance to obtain current and fuller witness accounts from those deployed, and probably a better chance to recover independent evidence in video or other data format. These, in my view, are missed opportunities which I consider to have hindered the overall efficiency and effectiveness of Operation NORTHMOOR from 2014 - 2019.

OPERATION CESTRO

297. Operation CESTRO was a further investigation conducted by the RMP SIB team. This investigation related to allegation that four individuals were murdered during a DDO involving UKSF and soldiers for the APU. The operation took place in Loy Bagh, Afghanistan, on 18 October 2012. The RMP investigation into these allegations was instigated on 07/12/12 by the Force Provost Marshall in Afghanistan at that time, Lieutenant Colonel WARREN, following receipt of a letter of complaint from Public Interest Lawyers (PIL) on behalf of Mr NOORZAI, and a Guardian newspaper article alleging '*British Forces accused of killing four teenagers in Afghan operation.*'
298. At this early stage of the investigation, an SIO was appointed, with Captain KL WRIGHT carrying out this role (for clarity, this is a different person to the Captain WRIGHT referred to thus far within my report). Captain KL WRIGHT records her early decisions in both decision log format and in her investigative diary²⁵⁵. Her early decisions include: (1) the identification

²⁵⁵ Witness Statement of Morag Sheather, dated 14th December 2021, paras 26-27 (Bundle of key litigation documents for the Haddon-Cave Inquiry)

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and current location of soldiers involved in the operation; (2) to record a witness statement from the commander of the operation; (3) to recover all paperwork relevant to the operation (OPSUM, Storyboard, and FIR); (4) to establish and recover any recorded footage of the operation; and (5) to make contact with PIL to obtain copies of the complainant witness statements. In my view, these are MLOE correctly directed by the SIO at the earliest of stages of the investigation.

299. Captain KL WRIGHT also considered the possibility of both a scene visit and conducting house to house enquiries, if such activity was assessed as safe to do so.
300. Major SHEATHER is a former 'Officer Commanding of the Specialist Crime Teams' with the RMP, and from 2013 had responsibility for investigations relating to allegations of unlawful killings in Afghanistan. Part of the handover she received in December 2012/January 2013 included a review of Operation CESTRO. She records that between 07/12/12 and 10/12/12, following Captain KL WRIGHT's directions, most of the soldiers deployed on the ground during the operation on 18/10/12 had been interviewed and accounts obtained. These accounts and the recovered documentation, led to the identification of 'Soldier B' as the person who had shot and killed the four individuals during the operation. Captain REID replaced Captain KL WRIGHT as SIO in April 2013.
301. My review of the documentation²⁵⁶ also shows that during these early stages of the investigation, witness, crime scene, intelligence and forensic strategies and considerations were compiled and recorded. In addition, the investigative strategy shows that the proven method of 'Trace, Interview and Eliminate' was implemented to gather witness information in a timely and focussed manner. In my view, this activity is in line with national good practice.
302. Attempts in December were also made, as per Captain KL WRIGHT's directions, to identify and recover any footage of the operation. Major SHEATHER describes that this activity commenced in early December 2012²⁵⁷ but that footage was only normally kept for two to four weeks after the operation. She records that the footage had been overwritten and therefore, no footage was available. Whilst this is disappointing, Operation CESTRO did attempt to recover this information, in my view, in a timely way.
303. Following Captain KL WRIGHT's direction, relevant paperwork was recovered from the operation and in early December 2012 it was noted that a discrepancy had been discovered between the OPSUM, Storyboard, and FIR²⁵⁸. The discrepancy related to who fired shots and in what sequence they were fired during the operation. The OPSUM and Storyboard indicated that the 'insurgents' fired first and then the UKSF/**APF1** returned fire, whilst the FIR documents stated that 'CF [coalition forces, i.e. UKSF/**APF1**] were acting pre-emptively due to the imminent threat to their lives'. As soldier B had been identified as a person responsible for the shooting, Captain KL WRIGHT decided to pursue this matter with him in interview and in a further interview with Soldier A who was responsible for the creation and content of the

²⁵⁶ MOD-201-0001024-A; MOD-201-0000498-A; MOD-201-0000941-A

²⁵⁷ Witness Statement of Morag Sheather, dated 14th December 2021, para 33 (Bundle of key litigation documents for the Haddon-Cave Inquiry)

²⁵⁸ MOD-221-0000214-A

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documentation. In my view, this course of conduct planned by Captain KL WRIGHT was entirely appropriate.

304. The enquires conducted by Major SHEATHER's team included detailed forensic examinations to test the accounts given against the mechanisms and noise of the weaponry and against alleged bullet marks seen in photographs taken of the scene²⁵⁹. Once again, these attempts to use forensic science to try and establish the truth can only be seen, in my view, as good practice. Unfortunately, as detailed by Major SHEATHER, this line of enquiry did not further the investigation.
305. Major SHEATHER also details numerous attempts by herself and her team to acquire witness statements from the family of those killed on 18/10/2012. These attempts, in the main, are in consultation with PIL. Unfortunately, due to a variety of barriers that were recorded in her witness statement²⁶⁰, dated 14/12/21, the accounts from family members and friends were not achieved.
306. Soldier B was interviewed under caution on 27 February 2013²⁶¹. In April 2013, Major COX, supported by Captain REID, reviewed the investigation and many of the soldiers deployed on 18/10/2012 were re-interviewed and statements taken. Soldier A was included in this re-interviewing exercise²⁶². Lieutenant Colonel McALLISTER was now working within the RMP and following a debrief with him in December 2013 a decision was made to further interview Soldier B under caution for murder and to interview Soldier A under caution for neglect of duty²⁶³.
307. Following these interviews, and the acquisition of many witness accounts and statements, Major SHEATHER supervised the creation of subsequent referrals to the Director of Service Prosecutions (DSP) for Soldier B on 10 April 2014 and for Soldier A on 2 May 14, both relating to the operation on 18/10/2012. The document stated that the EST, had been met relating to offences of murder, neglect of duty and perverting the course of justice²⁶⁴.
308. On 5 March 2015, the SPA issued notices informing of their decision that, following their determinations, there was insufficient evidence to bring charges in any of the cases referred²⁶⁵.
309. In Operation CESTRO, it is clear the effect that timely investigations can have. I have already stated, in line with the Murder Investigation Manual, how important this factor is. Throughout Operation CESTRO, the early activity, particularly acquiring timely and current witness accounts, in my view added considerable weight to Major SHEATHER and the team

²⁵⁹ MOD-201-0001033-A; MOD-201-0001032-A

²⁶⁰ Witness Statement of Morag Sheather, dated 14th December 2021, paras 134-150 (Bundle of key litigation documents for the Haddon-Cave Inquiry)

²⁶¹ MOD-201-0000071-A

²⁶² MOD-201-0000969-A

²⁶³ Witness Statement of Morag Sheather, dated 14th December 2021, para 106 (Bundle of key litigation documents for the Haddon-Cave Inquiry)

²⁶⁴ MOD-201-0000448-A

²⁶⁵ Witness Statement of Morag Sheather, paragraph 210

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being in a position of stating the EST had been met and referrals made to the SPA for consideration. There are many areas of good practice seen throughout Operation CESTRO, yet I have found no documentation to suggest a GOLD Structure was implemented or indeed a GOLD Commander appointed. This, in my view, is not necessary on every serious investigation, but on murder investigations, when used effectively, they are key to helping the investigation to a successful outcome. Operation CESTRO was closed and the papers filed within Operation NORTHMOOR.

CONCLUSIONS AND FINDINGS

Topic One: Operation NORTHMOOR - Inception to July 2016

Question 1.1: Was the Operation NORTHMOOR investigative strategy and key decision-making at each stage adequate and in accordance with best practice and national standards?

310. Operation NORTHMOOR commenced its investigation on 31 March 2014. The focus of the investigation included allegations of EJKs by soldiers from UKSF. Operation NORTHMOOR investigated these allegations as a murder investigation, led for this period by Lieutenant Colonel McALLISTER as GOLD Commander, and Captain WRIGHT as his SIO. Team 1, from the RMP (SIB) carried out these investigations. Three operations concerning Objectives [REDACTED] ²⁶⁶, [REDACTED] ²⁶⁷, and TYBURN²⁶⁸ were carried out on 07/02/11, 09/02/11 and 16/02/11 respectively. I have focussed my review principally on these three operations.
311. Whilst the investigation commenced in March 2014, based on my review of documentation only, I believe there was an opportunity for the investigation to be conducted much earlier, shortly after the operations had been carried out in 2011. It is my belief that this 39 month period of inactivity between operations and investigation has had a massively negative effect on the competency and proficiency of the overall investigation. Senior personnel were aware of significant concerns in 2011 with regards to these operations and no referral was made to the Service Police (RMP), allowing for an investigation to be carried out at that time²⁶⁹. Therefore, in 2014, Lieutenant Colonel McALLISTER and Captain WRIGHT, in my view, started the investigation without the opportunity to carry out their investigation in a timely way and within current context. I have described the importance and impact of this decision in my report at paragraphs 70 to 80. At the most important of levels, Captain WRIGHT was not afforded the opportunity to obtain real time, contemporary, recollection of events, from key witnesses, he could not identify and seize crucial independent evidence, such a video recordings or other data, and he was unable to consider and apply a 'live' forensic strategy, which may have led to seizing firearms used, supported by other ballistic considerations. Finally, this missed opportunity, also stopped Captain WRIGHT considering speaking to the families of the deceased, with the possibility of exploring victim examination or an operational and forensic visit to the scene. Whilst some of these fundamental actions may

²⁶⁶ MOD-198-0002769-A

²⁶⁷ MOD-198-0001432-A

²⁶⁸ MOD-198-0000086-A

²⁶⁹ MOD-198-0001587-A; MOD-198-0001588-A; [REDACTED] RMP- 221-0002469-A

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have been impossible at the time due to operational risk, or cultural sensitivities, they were never afforded to the SIO and GOLD to explore. As I have described in my report, early control of the scene by the SIO, and the ability for the SIO or team to speak to key witnesses in a timely manner and explore early forensic opportunities are essential to the success of a murder investigation. These 'Golden Hour' principles were never afforded to Captain WRIGHT and his GOLD Commander and have, in my view, strongly impeded the efficiency and effectiveness of Operation NORTHMOOR.

312. Once the investigation commenced in 2014, I have seen evidence of good practice by Captain WRIGHT and his team. The national policing standards for this type of investigation were set then by the Murder Investigation Manual, as described and referenced throughout my report. These requirements were met in some regards. This included a structure that included a GOLD Commander, Lieutenant Colonel McALLISTER, and the immediate appointment of a SIO, Captain WRIGHT. However, whilst these appointments were in line with good practice, I have found concerns particularly with the role of GOLD and the supporting structure. I have documented my concerns regarding the distinct lack of GOLD Groups during this period and therefore the strategic support and direction provided by the GOLD Commander (paragraph 123). One area of consistent concern is the apparent lack of individual attention or support provided to numerous SIO requests to acquire data and other digital evidence to support Captain WRIGHT's investigative strategy²⁷⁰. From my reading, I consider GOLD could have been more forceful in this regard, demanding the provision of the material from other units and Senior Officers within the military. One particular area would be UKSF and the DSF. Whilst Captain WRIGHT records his concerns in this regard, and on at least on one occasion raises it with the PM(A)²⁷¹, in my view its significance means that it should have been raised continually with other senior officers, including GOLD, Chief of Staff to the PM(A), or again with the PM(A). It is my view that the RMP on behalf of the PM(A) were conducting a significantly high profile investigation that they declared to be both Category A+ and a critical incident²⁷². This is the highest category an investigation can be afforded. Lieutenant Colonel McALLISTER and Captain WRIGHT of course could add clarity to this area of concern.
313. Captain WRIGHT, in line with national best practice, kept a number of policy files, where he recorded his strategies, decisions and rationale. In this regard, I consider that he has complied with best practice. One of his key decisions for this period was to run a two pronged investigation with both covert and overt investigative strategies²⁷³. Whilst I can understand the rationale for this decision, it is not the investigative strategy that I would have adopted. However, whatever strategy was adopted, the amount of progress made on either element is disappointing. I have documented these concerns throughout my report, but by way of highlight, I could find very little evidence of actual operational progress under the covert strategy, [REDACTED] Details of covert strategy [REDACTED]. From an overt investigative position, I found that very few key, or significant witnesses had been interviewed or accounts obtained, and that very little crucial data, and digital exhibits had been recovered in evidential format relating to the DDOs. To progress these lines of enquiry in a timely manner, in my view, are fundamental to a successful investigation.

²⁷⁰ RMP-221-0001678-A; RMP-221-0001707-A; RMP-221-0000829-A; RMP-221-0000830-A; RMP-221-0000842-A; RMP-221-0000850-A

²⁷¹ [REDACTED] RMP-221-0000670-A

²⁷² MOD-198-0001442-A; RMP-221-0000670-A

²⁷³ RMP-221-0000566-A; RMP-221-0000195-A

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314. One of the key enablers for an investigation to move at the required pace is appropriate and timely resourcing. In my view, this applies to the number of staff dedicated to the investigation, the skill set and experience of those appointed, and a permanent and dedicated location to work from. As I have recorded, in my view, all of these elements were lacking and heavily damaged the capability of the investigation. The GOLD Commander, the SIO and others would be able to explain more fully how and why this was allowed to happen.

Question 1.2: Was the role and the part played by the advisors from the National Crime Agency and Greater Manchester Police appropriate?

315. The RMP were chosen to lead the investigation by the PM(A)²⁷⁴ with a requirement that external advice was requested to assist the investigation. At an early stage, support was obtained from both the NCA and an IRT²⁷⁵. These actions are in line with National Best Practice and, in my view, their experience was needed to assist such a complex and challenging investigation. As I detail in my report, a dedicated member of staff was appointed by the NCA, DCS WILLIAMSON, who provided a number of reports²⁷⁶, providing advice and guidance. He also provided specialist assistance and guidance on investigative activity, including witness, suspect and interviewing methodology. He records also his concerns regarding staffing levels, accommodation, and the progress of the investigation. The MERT from GMP carry out a similar function at the beginning of the investigation, providing advice on structure, set up and roles²⁷⁷. Both the NCA and the GMP/MERT point out that their respective roles needed clarity to avoid confusion and duplication. As I have stated previously, the MERTT recorded their concerns, and provided advice regarding the pace and direction of the investigation. My view is that both the GMP/MERT and the NCA advisory roles were appropriate in support of GOLD and the SIO. Much of their advice, regarding leadership, resources and staffing, appears to have been ignored, leading to them highlighting significant concerns regarding the progress of the investigation during this period²⁷⁸.

Question 1.3: In particular, did the strategy adequately consider whether the deaths that were being investigated formed part of a wider pattern of killings?

316. The documents I have examined show that at this early stage of the investigation, Operation NORTHMOOR was investigating wider allegations than only EJKs. In due course, Team 1 focussed on these investigations, whilst Team 2 focussed on the wider allegations of prisoner abuse and mistreatment. Like Team 1, I have focussed on the allegations of murder. In my report, I have commented on Objectives [REDACTED] 1 [REDACTED] 2 and TYBURN, and made reference to other operations that were of concern in 2011. The number in total was 11 operations. I have detailed how senior personnel raised these concerns and how a common feature included the fact that the same UKSF unit carried out all these operations. Whilst the documentation I have examined shows that this fact was considered²⁷⁹, I believe that more

²⁷⁴ MOD-198-0001442-A

²⁷⁵ RMP-221-0000386-A; RMP-221-0000398-A

²⁷⁶ [REDACTED] RMP-221-0000703-A [REDACTED] RMP-221-0000704-A; [REDACTED] RMP-221-0002074-A [REDACTED] RMP-221-0005377-A [REDACTED] RM-221-0005377-A [REDACTED] RMP-221-0005377-A [REDACTED] RMP-221-0000196-A; [REDACTED] RMP-221-0000726-A [REDACTED] RMP-221-0000736-A ; RMP-221-0000717-A

²⁷⁷ [REDACTED] RMP-221-0005377-A [REDACTED] RMP-221-0000716-A

²⁷⁸ E.g., RMP-221-0000379-A

²⁷⁹ RMP-221-0000573-A

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could and should have been done by GOLD and the SIO to classify these investigations as a 'linked series.' As I have explained at paragraph 286, if the SIO declares this fact, then it naturally focusses the investigation to explore in more detail the factors that would add weight or otherwise to any pattern of behaviour. From my examination of the documentation, it is my view that more attention should have been paid that this area.

317. Therefore, in summary, I found that the strategies adopted and implemented by GOLD and his SIO at this stage of the investigation had not progressed the enquiry at sufficient pace, or to the breadth or depth required for a Category A+ investigation. On the basis that accounts had not been obtained in an evidential format from key witnesses, that strong independent evidence had not been secured from data and video footage, and that not all suspects had been identified and interviewed, then it is my view that Operation NORTHMOOR could properly be seen as a failing investigation.

Topic Two: Operation NORTHMOOR investigative strategy – July 2016 onwards

Question 2.1: There was a change in the Operation NORTHMOOR investigative strategy in the months following July 2016. Was the revised strategy and key decision-making adequate and in accordance with best practice and national standards?

318. In 2016, the PM(A) was changed to Brigadier NEAL²⁸⁰ and the GOLD Commander was changed to Lieutenant Colonel HARVEY²⁸¹. In 2017, Major COX assumed the role of SIO from Captain WRIGHT²⁸². Shortly after his appointment, Brigadier NEAL acquired the support from Mark ELLISON QC and Sir Jon MURPHY, a retired and experienced Chief Constable²⁸³. The command structure remained in place, with Lieutenant Colonel HARVEY as GOLD holding more regular GOLD Group meetings in 2019. Mark ELLISON QC and Sir Jon MURPHY were present at many of these meetings in their advisory roles. Major COX as the newly appointed SIO kept policy books and recorded his decisions, activity, and rationale. All of the activity listed, in my view, is in line with good practice and national guidelines.
319. However, my examination of GOLD Group minutes show that whilst three meetings were held in the first six months of 2019, there were no GOLD Group meetings held in 2017 and 2018. I find this unusual at this stage of the investigation, as the role of GOLD in supporting and directing the SIO remains equally important throughout the investigation.
320. It is my view that these appointments, together with the review conducted by Merseyside Police Independent Review Team, have led to the investigation refocussing its strategy, and the pace of the investigation increasing. In fact, from the documentation I have read, I believe, that Brigadier NEAL adopted a closer and more personal involvement with the investigation, with some SIO logs recording the fact that the PM(A) has directed certain activity²⁸⁴. The covert strategy is closed and the investigation proceeds on a purely overt basis. The documentation shows that the PM(A) decided to progress in this manner after

²⁸⁰ RMP-221-0001653-A

²⁸¹ RMP-221-0001690-A

²⁸² RMP-221-0000977-A; RMP-221-0000977-A

²⁸³ Witness Statement of Colonel Robert Hunter Morris, dated 6th November 2020, para 36 (Bundle of key litigation documents for the Haddon-Cave Inquiry)

²⁸⁴ E.g., RMP-221-0000865-A

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adopting all of the recommendations in the review conducted by the Merseyside Police review team.

Question 2.2: Was the role and the part played by the Independent Review Team and Independent Advisory Group appropriate?

321. The Review team were instructed to carry out a review of NORTHMOOR following Brigadier NEAL's appointment as PM(A). Their reports²⁸⁵ make numerous recommendations that lead the PM(A) to direct a change of investigative strategy and the closure of the covert strategy. As I have explained in my report, (paragraph 183 to 200), whilst I understand the Review team's position on the covert strategy and planned activity, I do not agree with some of their rationale for closure. I believe an overt strategy at the outset would have been a better course of conduct for NORTHMOOR to follow. The PM(A) also takes advice at this time from strategic advisors, Sir Jon MURPHY, retired Chief Constable from Merseyside Police, and Mark ELLISON QC. The use of an independent review team and strategic advisors, in my experience, and supported by the Murder Investigation Manual, are national best practice with the purpose of a review being described as being *'to constructively evaluate the conduct of the investigation'*²⁸⁶.
322. However, as I have described at paragraphs 227 to 235, from the documents provided to me I consider that the IRT has been too influential in driving the operational direction of the investigation at this time. The SIO logs of Captain WRIGHT and Major COX, supported by a 'Strategic Direction Note', support this conclusion. It also shows, in my view that at this time there appears to be tension amongst the senior team - PM(A), GOLD, and the SIOs - leading to the possible alienation of Captain WRIGHT whilst he was still the SIO on Operation NORTHMOOR.
323. I comment on this tension at paragraphs 213 to 219 where, in his decision logs, Captain WRIGHT records concerns relating to the direction he is given following the IRT recommendations. These include that no further action is to be taken regarding data collection from [REDACTED] ITS1 [REDACTED] no action is to be taken regarding the DSF deleting potential evidence, and that no action is to be taken regarding witnesses or suspects relating to Objective TYBURN. Captain WRIGHT records, *"no detailed rationale behind these decisions... I articulated the risk to the loss of evidence and delay to progressing the investigation"*²⁸⁷.
324. Captain WRIGHT records that he was in attendance at the GOLD group where Brigadier NEAL accepted all of the recommendations suggested by the IRT. He records that *"no debate was had regarding the acceptance of the IRT recommendations."*²⁸⁸
325. Considering the decision logs of Major COX when he was SIO, it also appears that the advice from the IRT in the form of recommendations completely shape and direct the investigation as opposed to offering advice, guidance, and areas for discussion amongst the investigation team following a review.

²⁸⁵ RMP-221-0000740-A; RMP-221-0000228-A; RMP-221-0000751-A; RMP-221-0000755-A

²⁸⁶ Murder Investigation Manual 2006, pp. 83-87

²⁸⁷ RMP-221-0000864-A

²⁸⁸ RMP-221-0000864-A

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326. Major COX records on 23/02/17, *"I will implement the recommendations of the IRT... investigation direction and strategy will be focussed on these recommendations"*²⁸⁹. In the rationale section of the entry, Major COX records, *"PM(A) accepted the IRT recommendations on the [sic] at the GOLD meeting"*, and he directs that order must be followed. On 23/03/17²⁹⁰ he records the new direction for the investigation follows the fact that the: *"PM(A) accepted the IRT recommendations in Feb 17. This has been transferred into strategic direction which we must follow"*.
327. As I have stated at paragraph 224, this direction for the investigation is reinforced through a Strategic Direction note dated 06/03/17 and a DDO Strategy document dated 21/03/17²⁹¹. In my view, these documents align completely with an intention to fully implement the direction suggested by the IRT through their recommendations. In my view, the reliance on the IRT is too strong.
328. From the documents provided, it appears that the IRT are directing the investigation, rather than supporting and advising, as is the purpose of any review. The documents appear to demonstrate that all of their recommendations are adopted without any debate or challenge. This conclusion, in my view, is strengthened as their review period is extended and leads to a further report and recommendations. During this period, Major COX records that *"no direction on new LOE will be given by the SIO until after the review is complete"*²⁹². The PM(A) again fully accepts the IRT recommendations on 09/01/18 and the influence of the IRT is plain to see in Major COX decision logs, when he records the following day: *"Investigation will now move forward and in accordance with the IRT report recommendations"*²⁹³.
329. The investigation follows this direction and focusses on identifying key witnesses to the DDOs under investigation, as well as continuing to try and secure independent evidence from varying data sources. These enquires, it appears to me, are moving at a quicker pace and lead to all soldiers deployed on the operations being interviewed and accounts obtained. At this time, Sir Jon MURPHY and Mark ELLISON QC are acting as strategic advisors to the PM(A), Brigadier NEAL. They are present at many of the GOLD groups during this period and documents show that they are being briefed by the investigating team.
330. Decision logs²⁹⁴ by Major COX show that Sir Jon MURPHY is briefed before upcoming GOLD Groups in order that he can advise the PM(A). Major COX records that [REDACTED N1799] and [REDACTED N1201] are to be interviewed once more as a result of advice from Sir Jon MURPHY. This suggests to me that, much like the IRT, the PM(A) and the Northmoor Team appear over reliant on the advice being provided and is readily accepting their advice without any challenge. The Murder Investigation Manual is clear in that the strategic direction should be set by the GOLD Commander and the SIO should lead the investigation.²⁹⁵

²⁸⁹ RMP-221-0000881-A

²⁹⁰ RMP-221-0000884-A

²⁹¹ RMP-221-0001772-A

²⁹² RMP-221-0000989-A

²⁹³ RMP-221-0000991-A

²⁹⁴ RMP-221-0001019; RMP-221-0001020-A

²⁹⁵ Murder Investigation Manual 2006, pages 79 and 26

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331. From the documents I have read, the roles of the IRT, the strategic advisors, the PM(A), GOLD Commander, and the SIO have all become blurred at this time. The advice provided by both the strategic advisors and the IRT appear to have directly influenced the focus and direction of the investigation, which leads ultimately to its closure in July 2019. The direction and investigative strategy, in my view, should always remain the ultimate domain and responsibility of the lead investigating agency and, in this case, is the responsibility of the PM(A), GOLD Commander, and the SIO.
332. My view is based on reading and examining the documents provided. Those involved at this time, Brigadier NEAL as PM(A), Lieutenant Colonel HARVEY as GOLD, SIOs Captain WRIGHT and Major COX, the independent advisors, Sir Jon MURPHY and Mark ELLISON QC, and the IRT would all be able to add greater clarity and understanding.

Question 2.3: In particular, did the strategy adequately consider whether the deaths that were being investigated formed part of a wider pattern of killings?

333. During this period, the investigation continues to include the 11 operations that have been highlighted to be of concern, and which I have mentioned previously. However, in the same way that Captain WRIGHT did not declare them as a linked series, I have found nothing to show that Major COX or Lieutenant Colonel HARVEY, as GOLD, gave consideration to doing so. Therefore, I have seen nothing to suggest that NORTHMOOR adequately considered whether the deaths that were being investigated formed part of a wider pattern of killings²⁹⁶.

Topic Three: Operation NORTHMOOR – Decision to close the investigation

Question 3.1: Was the decision to close Operation NORTHMOOR, and the decision-making process leading to closure, reasonable and in accordance with best practice?

334. I refer the reader to paragraphs 261 to 284 of my report, some of which I repeat here for completeness. Operation NORTHMOOR was closed as an investigative enquiry on 15/07/19²⁹⁷. In my experience, for an investigation to be closed, the SIO and GOLD must be satisfied that all MLOE have been as fully completed as is possible, and that all avenues to extract evidence from witnesses and any suspects have been tested and tried extensively. In my view, GOLD and the SIO must also be satisfied that all forensic examinations and acquisition of any independent evidence must also have been fully explored. On examining Major COX's decision logs, it is clear that these tasks are allocated by him in line with the new strategy directed by the PM(A) and the GOLD Commander following implicitly the recommendations of the IRT. I have explained previously that I think the IRT were too influential and the role played by them was more directive than advisory and supportive.
335. The three GOLD Groups that are held in 2019 show that the outstanding lines of enquiry are being pursued and that updates are provided to the GOLD Group. It appears to me, that, as a result of these enquires, updates and discussion at the GOLD Groups, the decision is ultimately made by the PM(A) to close the investigation.

²⁹⁶ Also refer to paragraphs 286 to 289 above.

²⁹⁷ RMP-221-0000133-A

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336. As I have stated, to close such an investigation I would expect to find a full closing report, detailing the lines of enquiry that were considered, how they were completed and indeed exhausted. This report would detail how outstanding lines of enquiry were presented to the group, and how they were finalised or remained outstanding. It would also stipulate who made the key decisions and ultimately who made the decision to close the investigation.
337. I have not found any decision log, or other record, compiled by the PM(A), Brigadier NEAL that details carefully and fully his decision and rationale for closing Operation NORTHMOOR. If my understanding is correct, the PM(A) closes Operation NORTHMOOR when there are still significant lines of enquiry open and outstanding. The 'GOLD Group Speaking Notes'²⁹⁸ recognised the significance of doing this when they recorded, only three days before Operation NORTHMOOR was closed, the following: '*Complete Op NM. Would require a robust justification with a LOE remaining*'. I endorse this position strongly and repeat that I find it unusual that Brigadier NEAL has not completed a detailed record of this decision together with a full explanation for his rationale.
338. If I am correct, then at the time the PM(A) decides to close Operation NORTHMOOR, there are three MLOE that remain outstanding. These being, firstly, over [NG] potential witnesses from the APU who were present for or involved in some way in the operations relating to Objectives [1] [2] and TYBURN. These individuals were soldiers of the APU and were operationally deployed alongside UKSF. Operation NORTHMOOR interviewed [NG] of these soldiers, showing that the mechanics were in place to trace and interview such witnesses. Therefore, without seeing a detailed note or record of why this was deemed impossible or not necessary, I question, why the investigation was not allowed to continue, to get accounts from this high number of potential witnesses. Their accounts remain outstanding.
339. One such soldier from the APU, identified as N7058, was interviewed by Op NORTHMOOR investigators on 02/07/19 as part of this ongoing line of enquiry²⁹⁹. He states that when he was deployed alongside HM Forces on operations he witnessed an 'English/British' soldier shoot an enemy and then place an old AK47 weapon next to the shot person and then take a photograph. This account corresponds with some of the earlier concerns identified by [N1799] [N1785] and others (see paragraphs 58 to 63). The account provided in his interview is not enough for the investigators at that time to positively identify the exact operation to which N7058 was referring. The record shows that N7058 had no concerns relating to DDOs in February 2011, but the reader is reminded that concerns about these DDOs had been raised in 2011. At the conclusion of his interview, N7058 indicated that he may be able to provide further information at a later time. An 'Investigation Briefing Document' was prepared³⁰⁰ and shows that during the 48 hours that followed his interview, investigators tried to contact N7058 again, but had no success.
340. On 30/07/19, the GOLD Commander, Lieutenant Colonel HARVEY, emailed this Investigation Briefing Document to Colonel Scott MEREDITH for his consideration. Colonel MEREDITH replied to Lieutenant Colonel HARVEY on 08/08/19 directing that GOLD is to "*cease all active lines of enquiry into this incident*". In his rationale he includes that the intelligence is single

²⁹⁸ RMP-221-0000060-A

²⁹⁹ RMP-221-0001800-A

³⁰⁰ RMP-221-0001800-A

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strand, which at the conclusion of the interview N7058 indicated he may be able to provide more information, but that despite efforts by Operation NORTHMOOR staff, investigators had not been able to locate N7058. Both the report sent to Colonel MEREDITH by Lieutenant Colonel HARVEY and the reply are both dated after the decision to close the investigation on 15/07/19.

341. The account provided by N7058, taken alongside the fact that there are many other APU witnesses outstanding, in my view, adds weight to the position that Operation NORTHMOOR was closed prematurely.
342. Secondly, I believe that at the time of closure, there is a line of enquiry relating to the ongoing examination of data and viewing platform product that is recorded on the CEG briefing note dated, 11/07/19, and referred to at paragraph 281³⁰¹. The document shows that there is 'ongoing analysis and review of HQ data and viewing platform. LOE – identified and actions raised'. This is only four days before the decision is made to close Operation NORTHMOOR. I have explained throughout my report that data recovery and its provision to the Operation NORTHMOOR investigation team has been a constant issue and such data or product could provide independent evidence of what took place on any of the three operations (1 2 and TYBURN). I find it unusual to close an operation when this line of enquiry remains live.
343. Lastly, the third MLOE is the interview of a UKSF soldier who was deployed operationally on these objectives in 2011. The records show that he could be interviewed sometime in August 2019 once his current operational deployment was complete. I do not understand why the investigation is closed in July 2019 when the PM(A) could have delayed his decision to consider closure until after the UKSF soldier had been interviewed and an account provided.
344. With these three MLOE remaining outstanding in July 2019, and based on my review of documents only, I would not have made the decision to close Operation NORTHMOOR at this time, and therefore I believe that the decision taken by the PM(A), Brigadier NEAL, in July 2019 was the wrong decision. Of course, those involved in this significant decision, will be able to add more clarity to this decision and the rationale for it.
345. My conclusions are based solely on an examination of the documents provided to me. As I have detailed in my report, at this stage of the investigation, I have felt an urgency to the investigation. There is a comment in the GOLD Group papers of 11/06/19 that adds weight to this view when Colonel MORRIS informs Ben SAUNDERS that the current PM(A) will be leaving his post on the 19 July which is only four days after Operation NORTHMOOR is closed. As I have detailed, I also consider that the 'linked' element of the 11 objectives under investigation could have been explored more fully. Those involved would be able to add further detail and context to these issues, and may be able to explain why it appears to me that the investigation was closed in haste.

Topic Four: Operation NORTHMOOR Capability

³⁰¹ RMP-221- 0000132-A

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Question 4.1: Was Operation NORTHMOOR sufficiently staffed in terms of numbers, skills, training and experience?

Question 4.2: Did Operation NORTHMOOR have access to sufficient, suitable and timely equipment, premises, capabilities and specialist resources?

346. The two questions, in my view are closely connected and I will answer them together.
347. I have detailed within my report that appointment and placement of suitably skilled staff is a fundamental requirement for any serious investigation. The Murder Investigation Manual describes this fact very clearly. In my view, Operation NORTHMOOR was correctly categorised both as a critical incident and a Category A+ investigation³⁰². These two decisions demonstrate that the RMP correctly identified the challenges they would face with regards to the scale, complexity and difficulty of the investigation to come. I also believe that the 11 DDOs should have been considered as a 'linked series'³⁰³, which brings with it a higher level of challenge. In my view, Operation NORTHMOOR needed and deserved the right number of staff and resources from outset to its conclusion. In my view, they also needed the best and most skilled investigators, GOLD Commanders, and SIOs the military had.
348. In his statement³⁰⁴, Colonel ROTCHELL details that the RMP is generally split into two functions: GPD and SIB. He states the GPD could be considered as similar to uniform police officers in a Home Office Police Force, and that the SIB could be compared to a Criminal Investigation Department. He further describes that SIB staff investigate Serious and Complex Crime, and have additional specialist capability in Covert policing, Cyber and High Tech crime, Child Protection and Intelligence³⁰⁵. He does not list a dedicated major crime unit that specialises in murder investigations. By comparison, all Home Office Forces have a dedicated team that specialise in murder investigations, separate and distinct from a generic CID department. These dedicated murder investigation teams therefore build the breadth and depth of experience available in this challenging field.
349. Colonel ROTCHELL also describes the number of training courses which investigators have to complete to progress into SIB and that staff were able to broaden their accreditation by attending national police training courses³⁰⁶.
350. However, as I have described in my report, in my view, 'suitably skilled' has two important elements. Firstly the appointed individual must be qualified to fulfil the role. This would include training courses for varying investigative roles and responsibilities and, upon successful completion of many courses, the award of nationally recognised accreditation. The College of Policing Senior Investigators Course is one such example. From my reading, the staff deployed to the key roles in Operation NORTHMOOR appear to have achieved the necessary role qualification.

³⁰² MOD-198-0001442-A; RMP-221-0000382-A; RMP-221-0000670-A

³⁰³ RMP-221-0000573-A

³⁰⁴ Witness Statement of Colonel Kristian Rotchell, dated 18th August 2023, para 9

³⁰⁵ *Ibid.*, para 53

³⁰⁶ *Ibid.*, paras 70-78

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351. The second element of being 'suitably skilled', in my view, comprises individual investigative experience. This would incorporate both the amount of and type of serious crime an individual has investigated or led in investigating. In my view, such was the challenge presented by Operation NORTHMOOR that those appointing individuals to the crucial roles of GOLD Commander and SIO should have applied these elements to their decision making. In this regard, my review is document-based only and therefore my ability to consider 'experience' is limited. It may be that the PM (A), GOLD Commanders, and the SIOs could add weight to this issue collectively and help with their personal investigative and managerial experiences.
352. In addition to personal skills, the correct number of appropriately skilled staff deployed throughout such a difficult investigation is, in my view, also crucial to its success. As I have detailed within my report, this staffing requirement must be equally supported by wider resourcing and provision to include a stable and dedicated working environment and timely responses to legitimate requests. The resourcing of Operation NORTHMOOR in terms of dedicated staff and location, in my view, was very poor and not in line with the national requirements of a Category A+ investigation. Colonel ROTCHELL records that *"it was 2018 before all the required resources were in place."* The investigation started in March 2014 and it is a matter of record that the investigation was not fully and properly resourced correctly until some four years later. In my view, this is unacceptable.
353. Specifically Q 4.2 asks about 'specialist resources.' Captain WRIGHT and Team 1 leading the investigation into Objectives [REDACTED] 1 [REDACTED] 2 and TYBURN, were supported by Team 3 within the Operation NORTHMOOR structure. The terms of reference for Team 3 state that it was to provide 'specialist and investigative support to Team 1 and Team 2 and that the team is divided into smaller units that include: *the Major Incident Room (MIR), the Intelligence Cell (Int Cell), the Disclosure Cell, RAF Northolt Det and the Communication Information Systems (CIS) Cell*³⁰⁷.
354. Within their terms of references the staff are listed as follows: Team 3 comprises the following personnel: [REDACTED] (1) a Captain; [REDACTED] (2) a WO1; [REDACTED] (3) a WO2; [REDACTED] (4) a Staff Sergeant as Office Manager; [REDACTED] (5) a Staff Sergeant as Disclosure WO2; [REDACTED] (6) a Staff Sergeant as Intelligence DSIO; [REDACTED] (7) a Staff Sergeant as Lead Analyst; [REDACTED] (8) a Staff Sergeant as Exhibits Officer; [REDACTED] (9) MIR 23 personnel; (10) Disclosure Cell - 6 personnel; (11) Intelligence Cell - 21 personnel; (12) RAF Northolt Det - 6 personnel; (13) CIS Cell 7 personnel³⁰⁸.
355. Captain WRIGHT recorded that one of his MLOE was to recover data from DSF relating to Objectives [REDACTED] 1 [REDACTED] 2 and TYBURN. If my understanding of his decision logs are correct, then he intended to use the specialist resource within Team 3 to carry out this important task³⁰⁹.
356. This intention is re-enforced by Captain WRIGHT when he records: *'SP3C will lead with the physical recovery of this key evidence in respect of this case. Submission will be formulated*

³⁰⁷ [REDACTED] RMP-221-0002655-A

³⁰⁸ [REDACTED] RMP-221-0002591-A

³⁰⁹ [REDACTED] RMP-221-0000494-A; [REDACTED] RMP-221-0000544-A

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detailing what is to be done and shared with DSF. The requirement to meet with the System administrator/ network manager of the [Location Given] based data is urgent to determine the methodology for recovery. T3 (Team 3) should lead but conscious the SIO is out of office³¹⁰.

357. If my understanding of these decision logs are correct, then it appears that the SIO leading Team 3, Captain STRIBLING, appears to be absent at this time. The action from Captain WRIGHT is recorded as 'urgent.' It is difficult to form an opinion on the impact of this absence, but if replicated on a regular basis, it may have had a detrimental impact on the specialist support Captain WRIGHT was receiving and the ability of Operation NORTHMOOR to identify and recover this important data from DSF.
358. More widely, Operation NORTHMOOR was provided with support from external agencies, notably the National Crime Agency, Independent Review teams from both Greater Manchester Police and Merseyside Police, and covert support from [Home Office Police Force [REDACTED]]. In addition, specialist advice was also obtained, including support from Mark Ellison QC, Sir Jon Murphy and an Independent Advisory Group. All of this support, in my view is good practice.
359. However, in answer to the questions at 4.1 and 4.2, I believe, that for the entirety of the investigation, Operation NORTHMOOR was not provided, in an appropriate manner, with the necessary staffing and resources required.

Topic Five: Operation NORTHMOOR – Leadership and Command Structure

Question 5.1: Was the leadership of Operation NORTHMOOR and the RMP suitably experienced and skilled?

360. In answering this question, my comments in relation to Topic four are relevant with regards to experience and qualifications. The key roles at the leadership level that I would comment on, are three significantly important roles within Major investigations. These are the Chief Officer (in this case the PM(A), GOLD Commander, and the SIO. Operation NORTHMOOR had two PM(A)s - Brigadier WARREN (2014-2016) and Brigadier NEAL (2016-2019); two GOLD Commanders - Lieutenant Colonel McALLISTER (2014-2016) and Lieutenant Colonel HARVEY (2016- 2019); and two SIOs - Captain WRIGHT (2014 -2017) and Major COX (2017 -2019). Their qualifications, relevant to the roles performed are:
- a. *Brigadier WARREN - PM(A): Serious Crime Investigators Course 2011*
 - b. *Brigadier NEAL - PM(A): Investigation and Interviewing Courses 1994/5; Senior Investigators Course 2010; RIPA Authorising Officers Course 2014; and GOLD Public Order Course 2016*
 - c. *Lieutenant Colonel McALLISTER – GOLD Commander: Investigation, Interviewing & Intelligence courses 1987/88/93/95; Senior Investigators Development Programme 2002; Family Liaison Course 2005; Serious Crime Review Course (Forensic Science) 2008; RIPA Authorising Officers Course 2008; RIPA Authorising Officers Refresher Course 2011; PIP4 Strategic Management of Complex Cases 2014*

³¹⁰ RMP-221-0000544-A).

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- d. Lieutenant Colonel HARVEY – GOLD Commander: SIB Initial Investigators Course 1989
- e. Captain WRIGHT – SIO: Investigation and Interviewing courses 1995; RMP Specialist Investigation Course (1&2) 2002; CSI 2005; Senior Investigators Development Programme Feb 2014; Hydra SIO Development Course 2016; SIO Conference attendance 2014-17; Informal Holmes training (arranged by PIP 4 when MIR set up during Op NORTHMOOR)
- f. Major COX - SIO: Level 3 Investigators Course 2008; Senior Investigators Course 2012

361. As I have mentioned above at paragraphs 350 and 351, my view on ‘suitability and skilled’ is that it has two important elements, and that attained qualifications only partially answer the question. Holding the required qualification is essential but this must be enriched by operational and managerial experience.
362. However, from a Chief Officer point of view, Brigadier WARREN appears to have limited qualifications to perform the role of Chief Officer in a complex murder investigation. From the documents provide to me, he appears to only have attended the Serious Crime Investigators Course 2011.
363. Brigadier NEAL’s record shows that he has attended an investigation and interviewing course, albeit these are some time ago in 1994 and 1995. He is, however, a qualified SIO having completed the Senior Investigators Course in 2010, and in 2014 he qualified as a RIPA Authorising Officer. Brigadier NEAL’s record shows that he attended a GOLD Commander’s Public Order Course, but not that he has attended and attained a similar qualification, as a senior leader, in crime investigation (for example the PIP4 Strategic Management of Complex Cases).
364. From a GOLD Commanders perspective, Lieutenant Colonel McALLISTER’S record shows that he has attained many of the qualifications I would expect of someone fulfilling the role of GOLD Commander. These include the SIO programme, family liaison course, RIPA authorisation and refresher course, and the nationally accredited Strategic Management of Complex Cases course. The records provided to me only show that Lieutenant Colonel HARVEY attended an internal initial Investigators Course, many years ago in 1989. If this is his only relevant qualification, then I would question whether he was suitably qualified to perform the role of GOLD Commander on Operation NORTHMOOR.
365. The list provided above shows that both SIOs have attained the relevant and nationally required, key qualification to carry out the role of Senior Investigating Officer. However, I reiterate my concern based on the documents provided to me that Captain WRIGHT only attained this qualification in February 2014, a matter of weeks before Operation NORTHMOOR commenced. If this is correct, then Captain WRIGHT as a newly qualified SIO in 2014 was then appointed to be the lead investigator in Operation NORTHMOOR. This could be the first murder investigation that he has undertaken as a nationally qualified SIO.
366. The Murder Investigation Manual is very clear on the requirement for Chief Officers in such investigations when it states that Chief Officer responsibilities include: ‘*endorsing the appointment of the SIO, as it relates to that persons professional competence, training and experience.*’³¹¹ Both GOLD, Lieutenant Colonel McALLISTER, and the PM(A), Brigadier WARREN, therefore had responsibility for appointing an appropriately skilled individual to this role. If

³¹¹ Murder Investigation Manual 2006, page 81, paragraph 3.4

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Captain WRIGHT had only recently qualified as an SIO then, in my view, he should not have been appointed to a critical role as SIO in a Category A+ murder investigation. PM(A) and the GOLD Commander could add clarity to this decision.

367. At paragraph 96 I have commented on the risk of changing key personnel during such an important and difficult investigation. As a Chief Constable (Chief Officer), to allow these changes to take place, I would have to be absolutely assured that any changes would not have a detrimental effect on the investigation. To meet this assurance, I would expect detailed and considered handover meetings to take place and that these meetings were fully recorded. In Operation NORTHMOOR, I would also have expected deliberations to have included the possibility of a staggered and incremental change of staff in significant roles. I have found no documentation to show that this staged approach was considered, nor records of detailed handovers between PM(A)s and GOLD Commanders. Captain WRIGHT records that he conducted a handover process with Major COX.
368. I have been provided with a document titled 'Table Listing Roles and Personnel from Operation NORTHMOOR' by the Inquiry Legal Team to assist my understanding. This document details the changes in staff that I have commented upon regarding the roles of PM(A), GOLD Commander and SIO for Team 1 throughout Operation NORTHMOOR. However, what it also shows is that other important roles within Operation NORTHMOOR also had high numbers of changes on personnel. Throughout the investigation, there appears to have been five SILVER Commanders, and Investigation Teams 2 and 3 both appear to have been led by three SIOs. The importance of Operation NORTHMOOR was recognised at its outset when it was declared to be both a critical incident and a Category A+ murder investigation. I would not expect to see so many staff changes in these important roles during such an investigation as each change runs the risk of something being missed, forgotten or misunderstood.
369. Lieutenant Colonel McALLISTER also performed the role as OIOC during Operation CESTRO, which in the main was led by Major SHEATHER, whose relevant experience was:
- 28 years investigative experience, 9 years SIO and 15 years CSI. RIPA AO, Qualified Review Officer. Captain WRIGHT qualified SIO, CSI and DVI.*
370. As mentioned previously, these qualifications, in my view, only tell part of the story of competence and capability. Operational and organisational experience obtained by these individuals, during their service, will play a fundamental role in how well they perform and deliver in these important roles. I have described in paragraph 123 that, Lieutenant Colonel McALLISTER, GOLD Commander from 2014 – 2016, did not perform to relevant standard as defined in the Murder Investigation Manual in his role as Gold Commander. From documentation examined, Lieutenant Colonel Harvey, as GOLD Commander, appears in the main, to have implemented PM(A)'s strategic direction and assisted his SIO in delivering the outstanding actions. The PM(A) at this time, Brigadier NEAL, in my view, appears to be taking on, some of the role of the GOLD Commander. The ongoing concern regarding recovery of data and the timeliness of obtaining key witness statements, may have been progressed in a more acceptable way, if GOLD Commanders had personally driven either issue. I remind, the reader, my opinion on this fact, is based on a review of documentation only, and therefore, either or both officers may be able to add more context and detail to this issue.

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371. Captain WRIGHT does many things that are in line with best practice. He maintains decision logs and opens and records a number of strategies, in line with The Murder Investigation Manual, for example witness and forensic strategies. However, as recorded by both the NCA advisor, and the IRT reports, some of these strategies could have been clearer and more focussed. In addition, much of the activity, directed by CAPTAIN WRIGHT did not progress the investigation, in my view, in a timely manner, particularly concerning witnesses and data recovery. I have commented in more detail, previously within my report.
372. Major COX, in the main appears to again work in line with best practice, supporting the strategic direction and maintaining good and accurate records. However, I still believe, that once Operation NORTHMOOR, changed strategic direction in 2016, to an overt enquiry, I remain surprised that key witness statements were not taken from the UKSF deployed on against Objectives [REDACTED] 1 [REDACTED] 2 and TYBURN until 2018.
373. Taking Operation NORTHMOOR across the whole length of the investigation, from 2014 until 2019, I believe that the leadership at GOLD and SIO level could have been stronger and more determined.

5.2: Were the command structures adequate and in accordance with best practice and national standards, and did they function effectively?

374. Linked to the above, a successful investigation in my view depends on the GOLD Commander and the SIO implementing and supporting a GOLD Command structure. This is strongly advocated in the Murder Investigation Manual. I have described the importance of GOLD meetings and that accurate records must be kept to record the decisions taken in these meetings. Whilst Operation NORTHMOOR implemented a structure, in line with national best practice, in my view, the behaviours that followed were not in line with what is expected. Between 2014 and 2016, the GOLD Groups were sporadic and inconsistent, with poor record keeping. There were no GOLD Group meetings in 2017 and 2018, which I find surprising as GOLD should regularly be receiving updates and setting ongoing direction. In 2019, there were three GOLD Group meetings, with record keeping maintained. These meetings record the decision, made by the PM(A), to close Operation NORTHMOOR. The structure and activity in 2019 was, in my view, in line with national best practice. The structure before 2019, in my view, and based on my review of the documentation, fell short of national best practice and could have been operated more effectively.
375. In addition to the GOLD Command structure, Operation NORTHMOOR also had systems in place to monitor progress against the strategic direction provided. These systems included Mature Assessment Records, SILVER group meetings, CEG briefing documents and, for a short period from 2014-15, the appointment of an Officer in Overall Command.
376. The Mature Assessments commenced in 2014 with the last document dated 18/07/17. Their purpose is recorded as 'a document to formally record activity conducted to date and within the remit of Operation NORTHMOOR, identify lines of enquiry, and serve as a visible point to take stock of the investigation in order to focus on the set aims and objectives.'

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377. The Mature Assessments within the documents provided are dated 06/06/14, 20/06/14, 18/11/16, 10/02/17 and 18/11/17³¹². In my view, these documents record important information relating to the operation, but they are sporadic and their value is limited. They would have been better used as briefing documents in support of an efficient and effective GOLD group structure. I have already commented that the GOLD Group structure was not acceptable.
378. I have commented previously on the SILVER structure and, in the main, I think this process was sound (paragraph 129) and assisted in progressing Operation NORTHMOOR.
379. The importance of accurate, timely and full records are important to all of the structures I have mentioned above. In some areas these records are full and appropriate, including SILVER meetings, CEG briefing notes, and the SIO decision logs/policy files of both Captain WRIGHT and Major COX. However, the lack of records kept by Lieutenant Colonel McALLISTER is poor and I have also not seen detailed and lengthy records compiled by Lieutenant Colonel HARVEY when he was GOLD Commander. If they were both relying on the GOLD Group minutes to accurately record their decisions then, as previously stated, many of these minutes are not, in my view, at the required standard. I have mentioned previously at paragraph 209, that the practice that appears to have been adopted by Brigadier NEAL, as PM(A), of recording his decisions on separate A4 sheets of paper, is also, in my view, not acceptable (and do not appear in the documents provided to me in any event).

Topic Six: Operation CESTRO – Investigative Strategy

Question 6.1: Was the Operation CESTRO investigative strategy and key decision-making, adequate and in accordance with best practice and national standards?

380. I believe that Operation CESTRO, in the main, was carried out in a thorough, methodical and determined manner. The major difference between **Obj 1** **Obj 2** TYBURN, and CESTRO, is timeliness of the investigation. Operation CESTRO relates to a DDO which took place on 18/10/12. Following complaints and newspapers articles, the RMP commenced an investigation into allegations of murder. The investigation commences on 07/12/2012, only a number of weeks after the operation itself. The impact of this speedier response by investigators is clear to see, with a marked difference in the timely acquisition of witness statements from important witnesses and recovery of documented exhibits relating to the operation. This, in my view, has played a key role in allowing Major SHEATHER to create and present referral documents to the SPA. These referrals relate to the offences of murder, neglect of duty, and perverting the course of justice. This demonstrates the effect that early control, grip, and leadership can have on serious and complex investigations. The importance of this is clearly articulated in the Murder Investigation Manual and this investigation, in my view, delivered good practice through a timely investigation. Through my review of the documents, I have seen other areas of good practice and national compliance, including the early appointment of an SIO, good record keeping, and the adoption of investigative and other strategies. An outstanding issue is the apparent lack of a bespoke GOLD structure for this investigation. The appointment of a dedicated GOLD Commander and GOLD meetings allow for greater support for such an investigation and allow the team to consider wider

³¹² RMP-221-0003658-A; RMP-221-0003659-A; RMP-221-0000217-A; RMP-221-0005375-A RMP-221-0000217-A

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advice and guidance, for example from Independent Advisory Groups or external specialist advice. This structure in serious, complex and complicated investigations is seen as national best practice. Major SHEATHER may be able to add context to the position adopted on Operation CESTRO.

381. Overall, I believe that Operation CESTRO was a sound investigation.

Topic Seven: Other Enquiries - Strategy

Question 7.1: As far as you consider it necessary to refer to them, was the investigative strategy and key-decision making in the related investigations adequate and in accordance with best practice and national standards?

[This question was originally included in the letter of instruction but after further consideration, the Inquiry team has determined that it was no longer necessary for the expert to address this issue within his report and this will be reviewed at a later date].

SIGNED:.....

PRINTED NAME:.....

DATE:.....