



MOD-198-0002044-A

~~SECRET~~

<b>ELECTRONIC TRANSMISSION</b>	ACTION /	REG DATE 29/5/19	T 527		
<b>RECEIVERS INSTRUCTIONS</b>					
DOCUMENT TITLE: N2108 EMAILS RE TPS (SIBNMO24)		A Third Party Entity "a TPE" Interaction AND		IRN: <b>NORTHMOOR</b>	
REGISTER TO:	N2108	PRIORITY	LOW <input type="checkbox"/> MEDIUM <input type="checkbox"/> HIGH <input type="checkbox"/>		
CLASS CODE	INT IND	TAGGING	2011/SEN/FIOZ/TYG/Obj 9		
<b>DOCUMENT SUMMARY</b>					
<p>knelt with D1785</p> <p><del>SECRET</del></p>					
<b>FAST / URGENT ACTION REQUIRED</b> (If YES compile ACTION precis below)		YES <input type="checkbox"/> NO <input type="checkbox"/>	<b>RECEIVER</b>	<b>REGISTRATION INDEXER</b>	
			Signature KNIGHT 29/5/19	Signature KNIGHT 29/5/19	
FAST ACTIONS RAISED	/	URGENT ACTIONS	/	MIRSAP ACTIONS RAISED	
<b>DOCUMENT READING</b>		<b>DOCUMENT READER</b>		<b>DOCUMENT INDEXER</b>	
INSTRUCTIONS:					
		FOOTNOTES READY	<input type="checkbox"/>	CHART COMPLETE	<input type="checkbox"/>
		ACTIONS IDENTIFIED	<input type="checkbox"/>	ACTIONS RAISED	<input type="checkbox"/>
<b>QUALITY CONTROL</b>		READING COMPLETE	<input type="checkbox"/>	INDEXING COMPLETE <input type="checkbox"/>	
<b>MIR OFFICE MANAGER</b>		<b>DISCLOSURE OFFICER</b>		<b>SIO</b>	



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All

Introduction. I have spoken to a number of you about how to respond to a TPE's written document (DG Jul 11) relating to the Obj's TYBURN and Obj 9 operations in Feb and Mar 11. The general gist of the document is that a TPE are concerned that the house clearance TTP exposes civilians to risk by seeking to use them in military operations. They have requested:

- \* further engagement with UK authorities to 'better understand the steps taken in the preparation and planning of night raid operations;
- \* that we consider that various issues raised by them and conduct a review into use of the TTP;
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Requirements. I have also spoken to PJHQ and TFH both of whom were copied in to a TPE document. Comd TFH has confirmed that this is 'SF' business and does not intend to respond to a TPE. I think it is important to have PJHQ 'buy-in' given the fact that they have considerable experience in dealing with a TPE. I have spoken to Name Given (Hd Legal PJHQ) who broadly was supportive of a bland response letter and also shared my concerns that a TPE do not 'get it' in terms of the application of the TTP.

Name Given reserved his position as to how PJHQ should fit into this response to a TPE

Discussion of how PJHQ fits into this

. He will take J9 advice on this (although Hd POLAD is away this week) as to whether it is right for Comd ISAF 2 to respond. I will send PJHQ a copy of the draft letter and have asked them for their input in terms of the level of release. They may not respond/come back to us for a few days.

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- \* I have drafted a response which I enclose. This is very much a 'starter for 10'. I have assumed that Comd ISAF 2 will respond but see my comments above about PJHQ role in this (also do the NCC need to be aware?). Until PJHQ have responded and advised as to their view on best person to respond, nothing should perhaps go out yet.

- \* As a separate and distinct exercise, we conduct another internal review of the TTP to ensure that the TTP is watertight. A TPE make a number of valid points. I know the TTP has been reviewed since this time but would strongly advise that an internal UKSF exercise is carried out. Due to disclosure reasons/protection of TTPs I do not think it appropriate to share any of this detail with a TPE. Stuff we need to sort.

S01 Campaigns: COS is aware and has been briefed on the way ahead; DSF has not. Given his interest in the meetings with a TPE (he asked to see the meeting notes) I would suggest he needs a briefing note.

ACOS Pol: You indicated that the J9 PJHQ line was that they may have to MINSUB on this. Any advice/further clarity required as well as their view on who is best placed to respond.

COS SFHQ(A) Have you spoken to Comd ISAF 2? If appropriate is he content to respond?

All: pse feel free to change the draft. I will send to PJHQ for their views.

N2108

N2108

S01 Legal

Contact Details



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COS SFHQ(A)  
Contact Details

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Â \_\_\_\_\_ Â

From: SFHQ(UK) J1-SO1-LEGAL-S

Sent: 01

August 2011 16:40

To: SFHQ(A) - COMD-S; SFHQ(A) - COS-S; SFHQ(UK) - COMD-ACOS-POL-S;  
SFHQ(UK) - COMD-ACOS-OPS-S; SFHQ(UK) J35-CAMPAIGNS-SO1-S

CC:

SFHQ(UK) J35-CAMPAIGNS-SO2-A-S; SFHQ(UK) J35-CAMPAIGNS-SO2-B-S;  
SFHQ(UK) J9-POL-A-S

Subject: 20110801-a TPE Response-S

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N2108

S01 Legal

Contact Details

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N6881

Thanks for this.

Name Given

(Pol) and I have both spoken to our relevant oppos in PJHQ. I think they are going to hold off responding until after IIA126 has formally responded to a TPE. They will then consider whether to respond and if they decide to do so, will engage with HQ DSF as to the content of the response. I reinforced the point that DSF did not wish for substantive PJHQ engagement which they understand but are concerned about their pre-existing relationship with a TPE from a national perspective.

Let me know as/when ISAF 2 are going to engage.

Thanks

N2108

N2108

S01 Legal

Contact Details

From: SFHQ(A) COS-S

Sent: 09 August 2011 09:08

To: SFHQ(UK) J1-S01-LEGAL-S; SFHQ(UK) COMD-ACOS-OPS-S; SFHQ(UK) J35-CAMPAIGNS-S01-S

Cc: SFHQ(UK) J35-CAMPAIGNS-S02-A-S; SFHQ(UK) J35-CAMPAIGNS-S02-B-S; SFHQ(UK) J9-POL-A-S

Subject: RE: 20110801-a TPE Response-S

N2108

I have passed your draft to COM ISAF 2 who should be back in office today. Name Given has now taken over as CJ3 so we might get a more proactive response than we had before.

Yours,

N6881

COS SFHQ(A)

Contact Details

From: SFHQ(UK) J1-S01-LEGAL-S

Sent: 08 August 2011 17:22

To: SFHQ(A) COS-S; SFHQ(A) COMD-S; SFHQ(UK) COMD-ACOS-POL-S; SFHQ(UK) COMD-ACOS-OPS-S; SFHQ(UK) J35-CAMPAIGNS-S01-S

Cc: SFHQ(UK) J35-CAMPAIGNS-S02-A-S; SFHQ(UK) J35-CAMPAIGNS-S02-B-S; SFHQ(UK) J9-POL-A-S

Subject: RE: 20110801-a TPE Response-S

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DSF was briefed about this on Friday and was very keen that this is seen as SF business and feels strongly that Comd ISAF 2 should be seen to providing the response to a TPE (he was the action addressee of a TPE letter). He would rather PJHQ take a backwards step and are persuaded not to respond in any substantive way. However DSF stressed that because Comd ISAF 2 is a very broad construct SFHQ(A) should perhaps do the 'heavy lifting' and provide the detail of the response (DSF cautioned against well meaning desk officers within HQ ISAF deciding to respond on behalf of ISAF 2). COS DSF will be getting in touch with IIA126 within the next couple of days to reinforce the message.

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feel free to use this as the basis and to forward to IIA126.

He is also keen that the TTP undergoes a legal 'stress test' which we have previously discussed N2135 \* to do as below.

Name Given

- pse could you speak to J9 PJHQ and find out what their intentions are; if they plan to respond at length pse could you let me know/persuade them otherwise.

N2108

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S01 Legal

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Sent: 01 August 2011 18:08

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\* that we, in future, take [REDACTED] all reasonable steps [REDACTED] to protect civilians. Requirements. I have also spoken to PJHQ and TFH both of whom were copied in to [REDACTED] a TPE document [REDACTED]. Comd TFH has confirmed that this is 'SF' business and does not intend to respond to [REDACTED] a TPE [REDACTED]. I think it is important to have PJHQ 'buy-in' given the fact that they have considerable experience in dealing with [REDACTED] a TPE [REDACTED]. I have spoken to [REDACTED] Name Given [REDACTED] (Hd Legal PJHQ) who broadly was supportive of a bland response letter and also shared my concerns that [REDACTED] a TPE [REDACTED] do not 'get it' in terms of the application of the TTP.

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[REDACTED] Discussion of how PJHQ fits into this [REDACTED]

[REDACTED] [REDACTED]. He will take J9 advice on this (although Hd POLAD is away this week) as to whether it is right for Comd [REDACTED] ISAF 2 [REDACTED] to respond. I will send PJHQ a copy of the draft letter and have asked them for their input in terms of the level of release. They may not respond/come back to us for a few days.

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[REDACTED] N2108 [REDACTED]

[REDACTED] N2108 [REDACTED]

S01 Legal [REDACTED]

[REDACTED] Contact Details [REDACTED]



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N6881

Thanks for this. I take your point about a review but this term is perhaps a bit misleading - more of a legal health check/possible refinement in light of legal concerns. I am happy for you to task N2135 to get into this although I wouldn't mind in providing a degree of input into this.

The fact that IIA126 is away accords with the PJHQ timeline.

N2108

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S01 Legal

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Sent: 01 August 2011 18:08

To: SFHQ(UK) J1-S01-LEGAL-S; SFHQ(A) COMD-S; SFHQ(UK) COMD-ACOS-POL-S; SFHQ(UK) COMD-ACOS-OPS-S;

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\* that we consider that various issues raised by them and conduct a review into use of the TTP;



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\* that we, in future, take [REDACTED] all reasonable steps [REDACTED] to protect civilians. Requirements. I have also spoken to PJHQ and TFH both of whom were copied in to a TPE document [REDACTED]. Comd TFH has confirmed that this is 'SF' business and does not intend to respond to a TPE [REDACTED]. I think it is important to have PJHQ 'buy-in' given the fact that they have considerable experience in dealing with a TPE [REDACTED]. I have spoken to Name Given [REDACTED] (Hd Legal PJHQ) who broadly was supportive of a bland response letter and also shared my concerns that a TPE [REDACTED] do not 'get it' in terms of the application of the TTP.

Name Given [REDACTED] reserved his position as to how PJHQ should fit into this response to a TPE [REDACTED]

Discussion of how PJHQ fits into this [REDACTED]

He will take J9 advice on this (although Hd POLAD is away this week) as to whether it is right for Comd ISAF 2 [REDACTED] to respond. I will send PJHQ a copy of the draft letter and have asked them for their input in terms of the level of release. They may not respond/come back to us for a few days.

In terms of actions now:

\* I have drafted a response which I enclose. This is very much a 'starter for 10'. I have assumed that Comd ISAF 2 [REDACTED] will respond but see my comments above about PJHQ role in this (also do the NCC need to be aware?). Until PJHQ have responded and advised as to their view on best person to respond, nothing should perhaps go out yet.

\* As a separate and distinct exercise, we conduct another internal review of the TTP to ensure that the TTP is watertight. A TPE [REDACTED] make a number of valid points [REDACTED]. I know the TTP has been reviewed since this time but would strongly advise that an internal UKSF exercise is carried out. Due to disclosure reasons/protection of TTPs I do not think it appropriate to share any of this detail with a TPE [REDACTED]. Stuff we need to sort.

S01 Campaigns: COS is aware and has been briefed on the way ahead; DSF has not. Given his interest in the meetings with a TPE [REDACTED] (he asked to see the meeting notes) I would suggest he needs a briefing note.

ACOS Pol: You indicated that the J9 PJHQ line was that they may have to MINSUB on this. Any advice/further clarity required as well as their view on who is best placed to respond.

COS SFHQ(A) [REDACTED] Have you spoken to Comd ISAF 2 [REDACTED]? If appropriate is he content to respond?

All: pse feel free to change the draft. I will send to PJHQ for their views.

N2108 [REDACTED]

N2108 [REDACTED]

S01 Legal [REDACTED]

Contact Details [REDACTED]



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Name Given (for

D)

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DSF already has the hard

copy but I enclose a TPE document electronically as well as Flags A and

B.

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N2108

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N2108

S01 Legal

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Contact Details

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DRAFT LETTER TO [REDACTED] A TPE

Thank you for your letter of [REDACTED] DG Jul 11 and the concerns raised about certain UK force operations which occurred in Feb and Mar this year. Your letter raises some very important matters and we are pleased that you have flagged up a number of issues for both the UK Forces and ISAF to consider when planning and conducting future operations.

I have discussed this matter with the UK military Chain of Command as well as ISAF colleagues. I have also had a detailed correspondence with the Comd of the [REDACTED] Sub-Unit [REDACTED] who carried out both operations, representatives from whom you met on [REDACTED] May 11.

Following this meeting a review of the relevant procedure was conducted in light of the concerns raised by [REDACTED] a TPE [REDACTED]. We note that you have now raised specific concerns about the procedure and in light of these concerns [REDACTED] [REDACTED] we will be conducting a further review to refine the process. Further you will be aware that Comd ISAF will be shortly issuing a directive concerning the conduct of operations at night ('Night Raids Directive'). I am sure that this directive will provide greater clarity on the way in which such operations are to be conducted in the future, particularly with a view to enhancing the role of our Afghan partnering units in such operations. I am sure that the Directive will also provide comfort to [REDACTED] entities [REDACTED] such as [REDACTED] a TPE [REDACTED] that each nation contributing to the ISAF mission see [REDACTED] its obligations as being paramount [REDACTED] to the conduct of such operations.

I again thank you for your highly instructive comments which I welcome.



D1785

T527

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SFHQ(UK)

J1Legal/11/Obj Tyburn

DG May 11

DSF

Copy to:

COS ACOS Pol ACOS Ops SO1 J3/5 Campaigns

A Third Party Entity Complaint

OBJ TYBURN

Reference:

A. SFHQ(UK) J1Legal/11/Obj Tyburn dated DG May 11.

1. Introduction. Reference A detailed a TPE complaint about the SU1 deliberate detention operation (DDO) against Obj TYBURN. The arranged meeting with a TPE was held on DG May.

2. A TPE Meeting. SO2 Legal HQ DSF attended the meeting along with SO2 Consequence Management TFH, having been fully briefed on the Op by OC SU1 and agreed the level of detail that could be disclosed to a TPE. Rather annoyingly, just 24 hrs prior to the meeting, TFH revealed that a TPE had raised concerns almost a month earlier about another SFHQ(A) operation, Obj 9, where the same TTP had been utilised. It is not known why this 'complaint' had not been passed on to SFHQ(A). However SO2 Legal was able to speak to OC SU1 and come up with sufficient detail to deal with the complaint. The identity of the unit or the fact that the operation was a SF operation was not revealed to

a TPE

3. SO2 Legal's assessment is that the meeting went well and the two representatives from a TPE appeared genuinely grateful for the level of engagement. It was stressed to a TPE the high level of threat apparent on such operations and what had occurred on both operations. A TPE were curious about the 'call out' procedure adopted on both operations. It was explained that this was an incremental procedure to get inhabitants out of a compound with minimal threat to troops or risk to any detainees. They appeared interested (and positive about) the steps taken to elicit a positive compliant response from occupants of the compound. A TPE revealed that they had heard various stories in relation to the 'call out' which had filtered through generally through allegations regarding 'night raids'.

4. The other issue which they focused on, which was common to both Obj 9 and TYBURN was the TTP of sending a male inhabitant back into a house 'uncuffed'. The rationale behind the TTP was explained to a TPE and they appeared to understand its application and utility. However a TPE suggested that we may wish to review the TTP given the potential that it may allow the male under control to become a threat or even, in extremis, that it could allow the male to be deliberately 'directed' to pick up a weapon and then to be engaged, i.e a manufactured 'self defence' scenario.

5. Next Steps. A TPE indicated that they may have a few questions in due course. However the meeting appears to have gone well and although time will tell as to whether it will 'nip in the bud' both complaints without reference to the ISAF and national level, it would appear that a TPE are grateful when engagement is forthcoming at the lowest possible level.

SO1 Legal

There was no suggestion by a TPE that this was what had occurred in both cases rather a remark which they offered up as part of the wider discussion.



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201105 **DG** OBJTYBURN-S



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SFHQ(UK) J1Legal/11/Obj Tyburn

DG May 11

DSF

Copy to:

COS ACOS Pol ACOS Ops SO1 J3/5 Campaigns

A Third Party Entity Complaint

OBJ TYBURN

Reference:

A SFHQ(UK) J1Legal/11/Obj Tyburn dated DG May 11

1. Introduction. Reference A detailed a TPE complaint about the SU1 deliberate detention operation (DDO) against Obj TYBURN. The arranged meeting with a TPE was held on DG May 11.

2. A TPE Meeting. SO2 Legal HQ DSF attended the meeting along with SO2 Consequence Management TFH, having been fully briefed on the Op by OC SU1 and agreed the level of detail that could be disclosed to a TPE. Rather annoyingly, just 24 hrs prior to the meeting, TFH revealed that a TPE had raised concerns almost a month earlier about another SFHQ(A) operation, Obj 9, where the same TTP had been utilised. It is not known why this 'complaint' had not been passed on to SFHQ(A). However SO2 Legal was able to speak to OC SU1 and come up with sufficient detail to deal with the complaint. The identity of the unit or the fact that the operation was a SF operation was not revealed to a TPE.

3. SO2 Legal's assessment is that the meeting went well and the two representatives from a TPE appeared genuinely grateful for the level of engagement. It was attested to a TPE the high level of threat apparent on such operations and what had occurred on both operations. A TPE were curious about the 'call out process'. It was explained that this was an incremental procedure to get inhabitants out of a compound with minimal threat to troops or risk to any detainees. They appeared interested (and positive about) the steps taken to elicit a positive compliant response from occupants of the compound. A TPE revealed that they had heard various stories in relation to the 'call out' which had filtered through generally through allegations regarding 'night raids'.

4. The greater issue which they focused on which was common to both Obj 9 and TYBURN was the issue of sending a male inhabitant back into a house 'uncuffed' - the subject of the TTP review. The rationale behind the TTP was explained to a TPE and they appeared to understand its application and utility. However a TPE suggested that we may wish to review the TTP given the potential that it may allow the male under control to become a threat or even, in extremis, that it could allow the male to be deliberately 'directed' to pick up a weapon and then to be engaged, i.e a manufactured 'self defence' scenario.

5. A TPE indicated that they may have a few questions in due course. However the meeting appears to have gone well and although time will tell as to whether it will 'nip in the bud' both complaints without reference to the ISAF and national level, it would appear that a TPE are grateful when engagement is forthcoming at the lowest possible level.

SO1 Legal



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201105<sup>DG</sup>-OBJTYBURN-S



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SFHQ(UK) J1Legal/11/Obj Tyburn

DG Aug 11

DSF

Copy to:

COS ACOS Pol ACOS Ops S01 J3/5 Campaigns

A Third Party Entity Complaint

OBJ TYBURN AND OBJ

9

Reference:

A SFHQ(UK) J1Legal/11/Obj Tyburn dated DG May 11.

B SFHQ(UK) J1Legal/11/Obj Tyburn dated DG May 11.

ISSUE

1. A TPE document about the SU1 deliberate detention operations (DDO) against Obj TYBURN (16 Feb 11) and Obj 9 (13 Mar 11)

TIMING

2. Routine.

RECOMMENDATIONS

3. DSF is invited to note that:

a. A TPE has served a document on Comd ISAF 2 containing their findings into two SU1 operations;

b. They have indicated concerns about the 'house clearance' TTP whereby the occupants of compounds assist SU1 with house clearances and have indicated that it could potentially breach our obligations

c. A TPE have requested further information with respect to the adoption of the TTP and what safeguards are in place to protect civilians from the risks of military operations;

d. Discussions are ongoing with SFHQ(A), PJHQ and ISAF 2 as to what the appropriate should be.

BACKGROUND

4. Reference A, a copy of which can be found at Flag A, provides the factual background to SU1's SU1A UKSF1 DDO into Obj TYBURN which was the subject of a TPE's complaint in May 11. The operation involved the compound owner being asked to go back into the compound to assist in the clearance operation but upon entering the compound picked up a grenade and was engaged. Similarly in the DDO involving Obj 9 the same TTP was utilised.

5. A meeting was held between members of a TPE THF and SFHQ(A) on DG May 11 when they raised questions about both operations and the use of the 'house clearance TTP'. Reference B provides the detailed background of the meeting, a copy of which is enclosed at Flag B. DSF should read paras 2 to 4 which provides the detail of what was discussed during the meeting.

6. A TPE have now written to Comd ISAF 2 (with copies also been sent to Comd TFH and PJHQ) and raised concerns about the use of the TTP and suggested that it could breach UK's legal obligations to protect civilians and detainees

A copy of the document can be found at Flag C which DSF should read in full. They have also requested more clarity on a number of other areas such as whether there are additional safeguards in place to prevent the risk to the compound owner during



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the TTP and whether informed consent is obtained from them before they agree to go back into the compound. [REDACTED] A TPE [REDACTED] has also recommended that, in light of their comments, consideration is given as to whether a review of UK night raids procedures, especially with regard to the use of occupants in house search operations.

#### NEXT STEPS

7. HQ DSF have already engaged with [REDACTED] SFHQ(A) PJHQ and TFH. PJHQ have considerable experience of dealing with similar [REDACTED] documents [REDACTED] from [REDACTED] a TPE [REDACTED] and have indicated that they will respond to [REDACTED] a TPE [REDACTED] as the national operational HQ. Notwithstanding this there may be merit in a separate response coming from Comd [REDACTED] ISAF 2 [REDACTED] given that the other [REDACTED] ISAF 2 Sub-Units [REDACTED] utilise the same TTP (or variants of it). Comd [REDACTED] ISAF 2 [REDACTED] is currently away on leave and so his views are not yet known.

8. Similarly in terms of content of the response, it is proposed that any response should politely decline the request for further clarity on the house clearance TTP but point out that since the conduct of the operations in question, a comprehensive review of the TTP has been conducted. Further it is intended to assure [REDACTED] a TPE [REDACTED] that the conduct of night raids is to be subject of an ISAF Directive in due course. It has also been proposed by [REDACTED] SFHQ(A) [REDACTED] that a legal 'health-check' of the TTP in its current state is undertaken and that the results of this are fed back into J7 Trg for PDT purposes.

S01 Legal

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201108 DG- A TPE TYBURN/ [REDACTED] Obj 9 -S