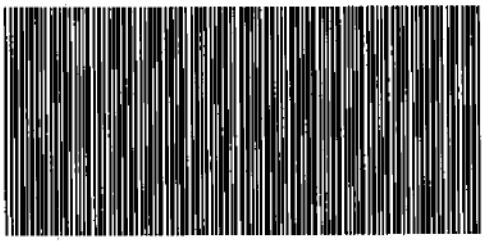
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RESTRICTED - INVESTIGATION

PM(A)/02/02

17 Mar 14

PM(RAF)

Copy to:

DJEP – Hd Public Inquiries
PJHQ – ACOS J3
DGALS - COS

Ops Dir – Hd [redacted] and Legal
PJHQ – ACOS J9

CLS – Hd CDC Div
MA/ACGS

AFGHAN DETAINEE ABUSE ALLEGATIONS INVESTIGATIONS

Issue

1. The investigation of all Afghan detainee abuse allegations.

Recommendation

2. PM (RAF) is requested to note that:

a. the requirement promptly to investigate allegations of abuse during UK detention in Afghanistan outweighs the risk of future legal challenge of investigative independence;

b. with your agreement, I have therefore declared the allegations a critical incident with a view to the immediate invoking of Gold, Silver and Bronze Commands in order to focus RMP resource allocation and prioritisation of RMP investigative activity; and,

c. in order to mitigate any risk associated with potential perceptual partiality, the RMP investigation into these allegations will be subject to a Major Case Review by a civilian policing agency from the outset.

Timing

3. Urgent. It is imperative that these allegations are promptly investigated. There is a significant risk that the freedom of movement to conduct investigative activity will become increasingly difficult ahead of the drawdown from Afghanistan during 2014.

Background

4. **Investigations into detainee abuse allegations in Afghanistan**. Broadly, there are three Service Police investigative processes currently active in respect to allegations the abuse of UK held, or formerly held, detainees:

a. **Op ISOPTIC** – RAFP (SIIB) initial analysis of allegations received from UK CPERS now transferred to Afghan National Detention Facility - Parwan (ANDF-P).

b. **Op ELSINORE** – RMP (SIB) initial analysis of allegations arising from the 72 claims made under cover of Leigh Day & Co's two pre-action protocol letters.

c. **62 PI SIB** - Investigations (into various allegations relating to detainees both pre and post arrival at the detention facilities).

5. While there is overlap between the three sets of allegations, the current 'stove-piped' approach to the Service Police investigative processes may lead to investigative opportunities being lost and

any wider systemic and organisational matters not being picked up and appropriately investigated or signposted to the chain of command or Centre, for consideration. It therefore makes sense for them to be grouped together, with one overarching investigative strategy.

6. **Legal advice.** PM(RAF) and PM(A) have reviewed the current investigative processes and, following a telephone meeting between DPM(Inv), RAF DPM, DJEP and CLS on 4 Mar 14, the RAFP agreed to present a proposal as to how the RAFP could take the totality of the investigations forward. In a loose minute dated 5 Mar 14, the RAFP proposed:

> *"..to conduct a further analysis of the 30 allegations (under the name Op ISOPTIC) in order to identify whether there is a clear justification for independent investigation as well as any significant overlap between other allegations which have been made under Op ELSINOR [sic] and those examined by 62 PI SIB."*

7. On 6 Mar 14, following a conference with TSol, DJEP and CLS and SO1 Legal HQ PM(A) regarding the Leigh Day & Co 72 Afghan claims (under the name Op ELSINORE). Counsel provided the following advice:

> *"On the basis of the their access to databases, resources, investigatory capabilities and remit, Leading Counsel noted that RMP were in effect the only organisation that could carry out an investigation on this scale.*
>
> *Counsel noted RMP concerns about their perceived independence and about prejudicing other investigations but advised that the Court would not be impressed with an explanation of this nature for a failure to progress investigations into the claims.*
>
> *In this context, Counsel advised that the RMP commence further investigation despite the risks. If reassurance would be provided by informing the College of Policing of concerns over independence and asking it to open a Major Case Review, this is what must be done."*

8. **Major Case Review.** Enquiries have been made were made with the College of Policing and various civilian policing agencies; and a number of civilian policing agencies have confirmed their willingness to support the investigation from the outset and undertake a Major Case Review of all matters under investigation. These arrangements will be formalised once the initial RMP Gold Group has convened. While this will not necessarily prevent a future legal challenge to the RMP investigation, it will mitigate risk and will demonstrate to any potential judicial forum that careful consideration has been given to any concerns about a perception of impartiality.

9. **Conclusion**. Having considered fully the RAFP proposal to undertake further analysis, the firm advice of Leading Counsel, availability of resources and my own exploration of strategies to reduce the risk of challenge to the independence of any RMP investigative activity, we have agreed that the overarching imperative at this stage is to conduct a prompt and effective investigation into the totality of the allegations and that the balance of risk lies with the RMP taking the lead.

Presentational

10. Whilst there has been no media interest in the Leigh Day & Co claims to-date, there has been media interest with regards to operational detention in Afghanistan more generally. Defensive lines and a handling strategy will need to be produced in consultation with DMC, PJHQ and DJEP.

PM(A)