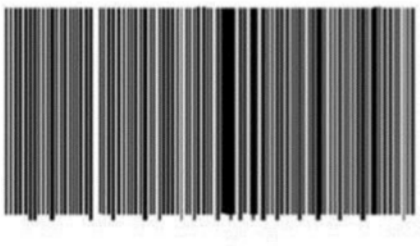
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RMP-221-0007033-A

PM(A)04/02/02/14

08 Aug 16

DCGS

OP NORTHMOOR MANNING CAP – RISK

References:

A. Meeting DCGS/AH Tech PM(A) of Wed 27 Jul 16.

1. **Issue**. Risks of a 'manning cap' of 25 Regular Forces being employed on Op NORTHMOOR.

2. **Recommendation**. DCGS is invited to note that a cap of 25 personnel within Op NORTHMOOR will:

a. Prevent the RMP from carrying out a **prompt** and **effective** investigation into the allegations;

b. Extend the duration of the Operation from a currently assessed 2-5 years, to a minimum of 15 years;

c. Significantly increase the RISK of civil litigation proceeding and either prejudicing the RMP investigation or the department settling potentially spurious claims against soldiers who might otherwise have been exonerated;

d. Lead to the withdrawal of external independent assurance from the National Crime Agency (NCA) and Greater Manchester Police (GMP);

e. Increase the RISK of the RMP investigation is perceived not to be free from 'improper interference by the Army chain of command';

f. Increase overall costs.

3. **Timing**. Routine

BACKGROUND

4. Op NORTHMOOR is resourced by 124 regular members of 1 MP Bde as 'authorised elsewhere' at RAF St Mawgan, Cornwall. The investigations is a direct result of allegations of murder and cruel, inhuman and degrading treatment made by Afghan Nationals, UK Solicitors and British and other ISAF servicemen during Op HERRICK. There are in excess of 600 allegations relating to 150 individuals. This does not included a further ten incidents consisting of 39 deaths which are being assessed to consider whether or not there are sufficient grounds for a full investigation. NCA and GMP have agreed that Op

NORTHMOOR is classed in national policy as a Category A+[1], the most serious and complex type of investigation.

5. **Investigation Structure.** The investigation is managed in accordance with the UK Police Approved Professional Practice (APP) and due to the volume of data (> 20 PB) being analysed and the number of witnesses/suspects it requires an automated process which is delivered by the Home Office Large Major Enquiry System (HOLMES). There are a minimum number of roles required in the Incident Room and this is then assessed against the volume of data. The more data, the more staff required or the slower the process. The current structures (depicted at Annex A) have been reviewed by NCA and GMP and have been found to be at the bare minimum levels required. A reduction of this nature would cause both organisations to withdraw support.

6. **Legal Position.** PM(A) has a statutory duty, owed to the Defence Council to ensure that investigations are free from improper interference. This is assessed to include exercising judgement in relation to the structure of the investigation in order to ensure a prompt and effective investigation.

7. **Data Recovery, Ingestion, Analysis and Security.** RMP have a legal duty to follow all reasonable lines of enquiry which has required the seizure of significant amounts of physical and electronic data. In order to analyse the data, it is first necessary to ingest it in a forensically safe manner but this must also meet the security requirements of JSP 440 and the other data owners[2].

8. **Disclosure.** The law requires that the Service Police reveal all material which is relevant to either the prosecution or defence to the Service Prosecuting Authority. By law this requires a dedicated Disclosure Officer and Case Officer to discharge these functions. A significant amount of data is at [a certain classification] and above and requires a separate dedicated National Security disclosure assessment process.

9. **Civil Litigation.** Currently all Afghan Civil litigation is stayed pending the RMP investigation and the outcome of Serdar Mohammed v MOD. In representing the MOD, the Government Legal Department (GLD) have so far managed to persuade the claimants and the Courts that the Service Police are meeting the requirements for a prompt, independent and effective investigation. Should this change, the courts may continue the civil proceedings opening MOD and individual servicemen to unnecessary litigation, whilst also compromising the criminal investigation.

10. **Manpower vs Infrastructure Costs.** Security requirements imposed on Op NORTHMOOR require significant capital outlay but have been mitigated by injecting human safeguards, saving over £1m[3]. A reduction in manning would cancel these mitigations and require additional capital investment to replace them.

11. **NCA and GMP Hidden Benefits.** NCA and GMP provide access to certain professionals free of charge as part of the UK National Police support structure. Any perception of improper interference

[1] Category A+ is defined within the Murder Investigation Manual 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'.
[2] This Includes [redacted], UK and [redacted].
[redacted] Gives an example of a Security Requirement Imposed on OP Northmoor

by a mandated cap will result in them withdrawing support. RMP would have to secure this specialist support from commercial sources and at further considerable cost.

12. **Lawfare Risks**. The state has a positive duty to investigate deaths at the hands of its agents. Failure by the Service Justice System to address these allegations risk alternative outcomes, such as;

a. Allegations of murder on Operations being investigated, charged and tried in the UK civil courts[4].

b. Under the Rome Statute, allegations of War Crimes not adequately pursued by domestic courts can be tried in the International Criminal Court.

13. **Future Operations**. UK relies on SoFA, MoU and Protocols with Host nations to deploy forces on the basis that we will investigate and, if appropriate, prosecute misconduct by our forces. This is to maintain discipline in the force and protect soldiers from cruel and unusual punishments; such as the death penalty and other punishments banned under UK law. Failure to deliver on this agreement will increase the risk of future Host Nations refusing to agree such arrangements.

14. **Outcomes**. To date Op NORTHMOOR has led to 2 allegations of murder made against UK forces being disproved and a number of more minor allegations being discontinued with the agreement of the SPA. This has resulted in the withdrawal of civil proceedings in these matters and the soldiers being exonerated.

[4] S9 Offences Against the Person Act 1861.

Annex A to
Op NORTHMOOR Manning
Dated: Aug 16

DRAFT