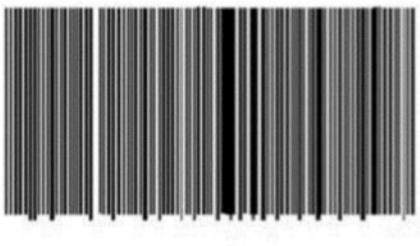
Prepared for OPEN publication in relation to the Independent Inquiry Relating to Afghanistan



RMP-221-0007043-A

Prepared for OPEN publication in relation to the Independent Inquiry Relating to Afghanistan

SofS

TO: Name Given, **DPS/SofS** **FROM:** N1836, **Army Sec**

26 June 2015

ArmySec/03/08 MS411

OP NORTHMOOR - INVESTIGATIONS INTO DETAINEE ABUSE ALLEGATIONS IN AFGHANISTAN

ISSUE

1. The scope, progress and resource implications of Royal Military Police (RMP) investigations into allegations of detainee abuse in Afghanistan.

RECOMMENDATION

2. That the Secretary of State **Notes**:

a. The RMP is currently investigating in excess of 250 allegations made by 141 Afghans of mistreatment, including five allegations of unlawful killing, under a single investigation named Op NORTHMOOR.

b. Leigh Day & Co (LDC) are representing 80 complainants. Their civil actions are stayed until 12 October 2015 when an application to stay them further will be made in order to allow the RMP to continue criminal inquiries.

c. The Investigation is projected to last at least five years and to require up to 145 personnel who will be found from existing RMP manpower.

d. A dedicated, major incident facility with specialist IT to store and process protectively marked material up to and including a certain classification will be established at RAF St Mawgan at an estimated cost of £9.5m.

TIMING

3. Routine.

BACKGROUND

4. On 26 March 2013, LDC sent the MOD pre-action protocol letters relating to 80 Afghan complainants who have made allegations of ill treatment by Armed Forces personnel. These have been stayed by the High Court until 12 October 2015. Allegations have also been made by 61 other Afghan complainants. The 141 individuals were all detained in Afghanistan and the ill treatment is alleged to have taken place from their point of capture through to release or hand over to the Afghan authorities. The allegations range from cultural insensitivity up to serious sexual assault and murder, including five allegations of unlawful killing at point of capture in a single incident. The allegations have been grouped together in a single investigation known as Op NORTHMOOR and are being investigated by the RMP. This will enable the identification of potential wider systemic and organisational failures. Although the RMP cannot predict what might emerge during investigations or the direction lines of inquiry might take, the investigations are likely to last at least five years. Some complainants will need to be interviewed in Kabul, and the RMP

are in discussion with PJHQ. It is not expected that this will have any impact on Op TORAL, but further advice will be provided if this changes.

Demonstration of Investigative Independence

5. The Armed Forces Act requires all allegations of criminal activity by Service Personnel to be investigated by the Service Police. Where allegations relate to unlawful killing or the infliction of cruel, inhuman or degrading treatment, investigations must comply with the European Convention on Human Rights (ECHR) if it applies. The independence of the RMP investigation of such allegations arising from Iraq, where the ECHR does apply, was the subject of legal challenge in the civil courts. Although independence of the Service Police was upheld, the court found that in certain respects there was an appearance of lack of independence. This was resolved by establishing Iraq Historic Allegations Team (IHAT). Similar challenges could be made against Op NORTHMOOR, but, in respect to the 80 civil claims, Leading Counsel advised that the RMP are the only organisation that can carry out an investigation on this scale. To mitigate concerns about perceived independence from the Chain of Command, advice and assistance is being provided by the National Crime Agency and the Greater Manchester Police in the form of both serving and retired officers. This does not guarantee success if RMP independence is challenged in Court, but provides significantly higher surety than before.

RESOURCE IMPLICATIONS

6. Manpower for Op NORTHMOOR is being generated from within existing 1 Military Police Brigade resources. 62 personnel are already permanently employed but this will rise to 145 when infrastructure becomes available (IHAT currently has 145). This comprises approximately 10% of the Brigade and will significantly impact on the resources available for lower priority investigations.

7. To meet the standards expected by the Courts, the investigation requires a dedicated facility and specialist IT to store and examine significant amounts of electronic data and protectively marked material including a certain classification RAF St Mawgan has been identified as the most suitable [redacted]. The costs, including the procurement of the IT, will be borne by the Army TLB, and is estimated at £9.5m, but is dependent on the outcome of the procurement process and subject to Value For Money scrutiny. Given the inevitable uncertainty resulting from lines of inquiry, already described, it cannot be predicted what additional resources, if any, Defence may have to provide during the course of the investigation. This and the preceding paragraph have been approved by Director Resources Army and the DIO.

PRESENTATION

8. Whilst there has been no media interest in the LDC claims to date, operational detention in Afghanistan, and the Marine A case has generated press coverage. Freedom of Information questions about IHAT have also touched on investigations under Op NORTHMOOR, and the arrival of the RMP at RAF St Mawgan will inevitably generate local interest. Key LTT are at Annex A. On balance we do not think Ministers would be expected to make a Written Ministerial Statement on this issue at present and such a Statement could intensify controversy over the Government's plans for the Human Rights Act.

[redacted]
Army Sec

Annex A to
ArmySec/03/08 MS411
Dated 26 June 2015

SUMMARY OF LINES TO TAKE

What are you investigating?

- Operation NORTHMOOR is an independent RMP – SIB led investigation examining in excess of 250 allegations of abuse and ill treatment made by 141 Afghan citizens against British Forces deployed in Afghanistan 2005 – 2013. The investigation is being conducted at the direction of the Provost Marshal (Army) following receipt of allegations made either directly to RMP, or via Solicitors acting on behalf of alleged victims.

- The investigation will follow the evidence without fear or favour. However, we are not prepared to speculate on where information from the public or our enquiries may take us. Any systemic issues will be promptly referred to the Systemic Work Group so that preventative action can be taken where necessary and appropriate.

Will this be affected by the Government's plans to scrap the Human Rights Act?

- No. Allegations of criminal activity by Service Personnel must be investigated as a matter of Service Law.

What is the investigation going to cost?

- The independent investigation is being conducted by the RMP within existing manpower totals. 62 personnel are permanently employed on Op NORTHMOOR, but this will rise to 145.

- Infrastructure costs and the procurement of specialist IT at an estimated total cost of £9.5m will come from the Army TLB budget.

Who is going to pay for the investigation?

- The cost of the investigation will come from within the Army budget.

Where is the investigation located?

- The investigation will be located at RAF St Mawgan as the most suitable facility with available space to accommodate the RMP investigators.

How can the RMP independently investigate the Army?

- The RMP has received legal advice that on the basis of their access to databases, resources, investigatory capabilities and remit, the RMP are in effect the only organisation that can carry out an investigation on this scale. To mitigate concerns about their perceived independence, the RMP have engaged the Major Enquiry Review Team of Greater Manchester Police as well as strategic advice and support from the National Crime Agency.

Wasn't IHAT established because the RMP aren't independent?

- The use of the RMP to investigate such allegations has previously been the subject of legal challenge in the civil courts on the grounds of independence. In the case of Iraq, this was upheld and led to the creation of IHAT. However, in the recent Al-Sweady Inquiry Report Executive Summary, the RMP was recognised as an independent body, and no challenge has been made against RMP independence in respect of Afghanistan.

Contact Details

Copy to:

PS/Min AF	MA/CNS	PJHQ ACOS J9
PS/Min DPV	MA/DCGS	CLS-CDC Hd Div
PS/Min Lords	MA/DCDS MSO	IHAT-HQ-DIR
PS/PUS	PS/DG Sec Pol	Special Advisors
MA/CDS	PS/CE DIO	Air Res Sec &CW-Hd
MA/VCDS	D Fin Planning	Army Dep Command Sec Secretariat
MA/CGS	D Res (A)	D Infra (A)
MA/CAS	PS/DJEP	PM(A)