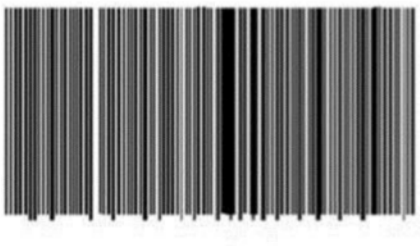
Prepared for OPEN publication in relation to the Independent Inquiry Relating to Afghanistan



RMP-221-0007051-A

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Handling Instruction: Investigative Material Limited Circulation

PM(A)/02/02

27 Mar 14

DJEP – Hd Public Inquiries

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OP NORTHMOOR – RISK AND RESOURCE

Reference:

A. PM(A)02/02 dated 17 Mar 14.
B. Hussein vs SSD [2014] EWCA Civ 1087 dated 31 Jul 14.

Issue

1. The current risk held by PM(A) in terms of challenges to the independence of RMP through Op NORTHMOOR and the resource requirements to investigate all allegations.

Recommendation

2. DJEP is requested to note that:

a. Op NORTHMOOR encompasses 140 individuals who have made claims ranging from unlawful killing to cultural insensitivity whilst in UK detention;

b. The recent report to RMP by CO JFIG of concerns raised by LJ L Jones in Hussein vs SSD relating to the conduct of interrogators in Op HERRICK will now be incorporated into Op NORTHMOOR;

c. That, whilst still at an early stage, it is assessed that one member of RMP and 13 members of MPS may be considered as suspects in the case;

d. The mitigation measures to preserve independence; and,

e. That in order to investigate this matter promptly and effectively, RMP will require an immediate uplift in infrastructure and technical resources.

Timing

3. **Urgent**. The risk reduction in FP within Afghanistan and the uncertainty in relation to access to witnesses becomes less clear as Operations close. The resources required to ensure an prompt and effective investigation are needed now.

Background

4. **Investigations into detainee abuse allegations in Afghanistan**. Reference A detailed the scope of Op NORTHMOOR and the reasons for investigation being conducted by RMP. On 26 Sep 14, Reference B was referred to RMP by CO JFIG under Sect 113(2) of the AFA 06 as he

considered that videos of interrogations in Afghanistan by UK Interrogators may have revealed offences under Schedule 2.

5. An initial review of the allegations in the judgement revealed synergies with some allegations within scope for Op NORTHMOOR and the decision has been taken to encompass these matters into the wider investigation. 13 separate interrogation sessions are currently under investigation.

6. **Resource.** A considerable amount of material relating to the investigation has already been recovered and assessed by there is much more to do. Technical and infrastructure resource are the current limitations to the investigation and whilst a project has been established the timelines (circa 6 – 12 months) are not acceptable to ensure a prompt investigation. Technical resources are being procured through existing PM(A) budget lines but as the is no clear understanding of the importance to progress this investigation, the investigation is being delayed identifying appropriate funding lines and stressing the importance of the requirement against other Army priorities. This needs drive from MOD to deliver more efficiently.

7. **RMP/MPS Risk.** The risk associated with RMP investigating these allegations was accepted as there was no clear alternative, the investigation opportunities were closing daily (and still are) and there was no clear evidence of RMP or MPS criminality at the outset. The risk profile has now changed. It is assessed that it is more likely than not that 1 member of RMP and 13 members of MPS may be interviewed as potential suspects through Op NORTHMOOR. This number may increase or decrease subject to recovery and analysis of evidence as the investigation progresses. None are for serious crime[1].

8. **Risk Mitigation.** The investigation is still being supervised by the National Crime Agency (NCA) at the strategic level and at the tactical level by the Greater Manchester Police Major Enquiry Review Team (MERT). This is to ensure that RMP are conducting the investigation promptly, effectively and that they are following all reasonable lines of enquiry thereby adding some surety to independence. All allegations are being investigated thoroughly and no investigation is discontinued until the NCA and MERT have provided their professional view on the decision. In addition no matter is discontinued until it has been assessed and agreed by the Director of Service Prosecutions. Whilst this does not guarantee that the courts will agree that it is independent, it provides significant additional surety than was available when the courts assessed the RMP involvement in Iraq investigations prior to the creation of IHAT. Where any RMP or MPS becomes subject to overt investigation consideration will be given to how this can be done to meet the needs of the Courts.

9. **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."*

10. 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.*

[1] Defined as Schedule 2 offences under AFA 06.

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."

11. **Conclusion**. RMP continue to investigate all allegations made by detainees in Afghanistan. There are likely to be further challenges in relation to independence but the mitigation currently being used provides greater surety than in Iraq cases. Resources need to be driven from MOD MB to ensure appropriate prioritisation in order to allow RMP to investigate promptly and effectively. It is still believed that RMP are the only organisation currently capable of delivering this investigation given the operational constraints.

Presentational

12. 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)