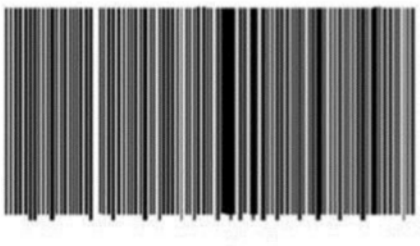
Prepared for OPEN publication in relation to the Independent Inquiry Relating to Afghanistan



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DPM(Inv)/02/05

01 Jun 15

DPM Inv

Copy to:

CO Spec Ops Regt RMP
OC Op NORTHMOOR

OP NORTHMOOR – PROGRESS AND CURRENT CHALLENGES

References:

A. PM(A)/02/05 dated 17 Mar 14.
B. DPM (Inv)/02/05 dated 17 Mar 14.
C. PM(A)/02/02 dated 27 Oct 14.
D. Meeting SPA/SO1Inv of Thu 28 May 15.
E. CEG RoD dated 1 Jun 15.

Issue

1. The current progress and challenges faced in Op NORTHMOOR.

Recommendation

2. It is recommended that PM(A) note:

a. That infrastructure indecision is directly impacting on the ability to investigate the allegations in a prompt and effective manner.

b. The progress made on investigations to-date;

and provide direction on:

c. The proposal from CO SIB Regt RMP to include all current detainee cases being investigated by SIB Regt within Op NORTHMOOR.

d. The SPA belief that all current and future death investigations should be included within Op NORTHMOOR ToRs.

Timing

3. **Urgent**. The ability to properly investigate is predicated on sufficient infrastructure and other resource. Prioritisation of investigative lines of enquiry will be effected by any decision to widen the current ToRs.

Background

4. **Infrastructure.** Reference A contained direction that Op NORTHMOOR be focussed upon the allegations made by persons within Op ISOPTIC and Op ELSINORE. Whilst it took some considerable time to conduct the UNDERSTAND element of the investigation, a detailed statement

of requirement was submitted to DIO in Sep 14. The key issue has always been the security of the PMM which would have to be gathered to undertake the investigation effectively; coupled with a location which could be occupied by the investigation team immediately. Options of a 'new build', temporary buildings and adapting existing real estate have all been explored. DIO identified RAF St Mawgan as a suitable site in mid-Mar 14. The DIO representative was of the view that this could be delivered earlier than any other COA but would require agreement by the Stn Comd. As at 1 Jun 15, the RAF CoC have failed to endorse or reject the proposal. Whilst S SAPT at DIO has intervened to try to move the decision forward, this has not yet yielded a response. This is the key link in the chain as without a location, the material cannot be gathered, the IT cannot be installed and the investigation manpower cannot be assigned. It has been in excess of 15 months since the inception of Op NORTHMOOR and over two years since some of the allegations were made to the MoD. Whilst understanding of the challenges faced in creating such a project, the National Crime Agency Regional Advisor, the Greater Manchester Police Review Team and the SPA Managing Prosecutor have now all commented on the lack of infrastructure causing significant delay in this investigation. As GOLD Commander, I concur that the delay in provision of suitable infrastructure is adversely affecting the promptness and effectiveness of the investigation.

Current Situation

5. **Progress**. The Op NORTHMOOR team has secured and preserved significant amounts of material of relevance to the investigation. In excess of 40 complainants have been interviewed in Afghanistan and more are planned for w/c 24 Jul 15. Clear links have been established with all organisations providing PMM, covering the movement and safeguarding of that material to protect National Security. Training has been provided to ensure that there are sufficient SQEP to undertake the investigation. The communications plan has been circulated through MOD and has been approved; with a MinSub drafted to ensure wider Ministerial understanding of the investigation. There is much more work to be undertaken but there is balance between effective activity and the ability to focus on the main lines of enquiry (MLOE). This can only be assessed when all information can be analysed in a detailed and methodical way.

6. **Op NORTHMOOR ToRs**. Reference B directed that the investigation focussed on:

a. The investigation of all criminal or non-criminal conduct that has been alleged by the complainants as outlined in Pre-Action Protocol by Leigh Day Solicitors (contained within Op ELSINORE).

b. The investigation of all criminal or non-criminal conduct that has been alleged by those detainees within Op ISTOPIC.

c. Establishing if any new information within a or b would require the re-examination of active investigations or those already concluded by 62 PI SIB or RAFP under the Tri-Service Investigation Policy (TSIP).

d. Determining if there are any systemic issues identified which may amount to criminal or non-criminal conduct offences.

e. Providing immediate advice to the CoC if by their investigations they discover a matter which could prevent an offence or systemic issue continuing.

7. These ToRs essentially exclude any investigation not encompassed with the complaints made through Leigh Day Solicitors or to the Detention Oversight Team by Detainees in Parwan (following the large block of transfers undertaken in 2013). This has been interpreted as allegations from 'Point of Capture through to transfer to other authority or release'. Reference C highlighted the risk to DJEP of RMP investigating the allegations and incorporated the concerns about the

treatment of those under interrogation in Afghanistan as raised by the Court of Appeal in Hussein vs SSD [2014] EWCA Civ 1087. This widening was seen as reasonable as all allegations were related to detainee treatment analogous to those already under investigation. This in itself required a review of the MLOE.

8. During reference D, Col J Johnston, AGC (ALS), the Managing Prosecutor for Op NORTHMOOR proffered that he was aware of a number of allegations relating to detainee abuse and other Op HERRICK activity which are currently being investigated by SIB Regt. He believed that all should be incorporated into Op NORTHMOOR. His reasoning was:

a. To fully understand the allegations SIB Regt must have access to all the same information as Op NORTHMOOR.

b. Some of the allegations involved deaths of UK service personnel and others, which should be investigated to the same standards being set during Op NORTHMOOR.

9. It is understood that at Reference E, CO SIB Regt has asked that all Op HERRICK cases be transferred to Op NORTHMOOR to increase investigational capability within the Regt in order to support current operations.

10. Having considered the positions of both CO SIB and the SPA it is assessed that this further widening of the ToRs would require a root and branch review of the Op NORTHMOOR structure and resourcing. Whilst this does not mean that additional resource would be required, it would require an adjustment to priorities and would inevitably lead to further delay in those less serious allegations. The investigation activity currently being undertaken by SIB Regt would halt and may not resume for some considerable period, certainly until the infrastructure and resources are in place to progress them.

Key Activity related to Decision

11. The following activities will need to be informed by the outcome of your decisions:

a. 15 Jun 15 - High Court stay on civil proceedings ends. It is not known if this will be extended.

b. NLT 19 Jun 15 - Brief on resource and MLOE for Op NORTHMOOR to DSP.

Presentational Issues

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

Electronically Signed

JD McAllister
Lt Col
SO1 Inv

Contact details