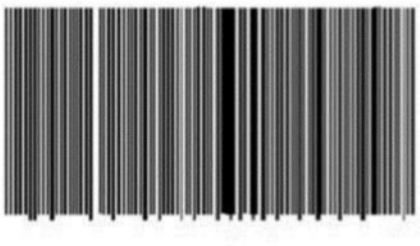
Prepared for OPEN publication in relation to the Independent Inquiry Relating to Afghanistan



RMP-221-0007057-A

SYSTEMIC ISSUES IDENTIFIED FROM SERVICE POLICE AND OTHER INVESTIGATIONS INTO MILITARY OPERATIONS OVERSEAS: July 2018

1. Background

1.1. The Ministry of Defence (MOD) is committed to a continuous process of review and improvement in all matters arising from operational activity, including ensuring that mechanisms are in place to prevent the recurrence of any incidents of wrongdoing. As part of this, it has put in place a robust process for identifying, reviewing, and correcting areas where its doctrine, policy or training has been insufficient to prevent practices or individual conduct that breach its obligations under domestic and/or international law. These shortcomings of procedure are commonly termed systemic issues. This is the fourth account of that work.

1.2. The first account, which was published in July 2014, dealt exclusively with systemic issues that had been identified through Service Police investigations or reviews of incidents that had occurred in UK-controlled detention facilities, or while in the custody of UK Forces, in Iraq. In all cases these systemic issues had been corrected through changes to doctrine, policy, training, or oversight arrangements.

1.3. Since then, MOD has expanded the scope of its systemic issues review processes. As well as continuing to review incidents in Iraq, including a number of non-detention cases, the Systemic Issues Working Group (SIWG) now also reviews incidents from Afghanistan. This is a necessary part of ensuring continuous improvement; it would be inefficient to correct systemic issues arising from one theatre if a lack of similar scrutiny elsewhere resulted in issues being missed.

1.4. This report covers the period 2016-2017, which has seen very significant developments with regard to the investigation of allegations of unlawful killing or ill-treatment of captured persons by UK Forces in Iraq and Afghanistan.

- The Iraq Historic Allegations Team (IHAT) closed on 30 June 2017, having completed or discontinued its investigations into 2,367 of the 3,629 allegations that it had received or identified. Service Police Legacy Investigations has completed or discontinued 86% of its inherited caseload in its first 12 months (as of 07 June 2018).
- In November 2017, the Office of The Prosecutor of the International Criminal Court stated in its annual report on preliminary examinations that – on the basis of the allegations it had received (which had also been submitted to the IHAT) – it had concluded that there was a reasonable basis to believe that UK Forces had committed war crimes in Iraq.
- The Royal Military Police's Operation Northmoor, which was established in 2014 to investigate a limited number of detention-related allegations from Afghanistan, has completed or discontinued over 90% of its caseload.

2. The SIWG

2.1. The SIWG is the principal MOD body responsible for identifying relevant systemic issues and ensuring that effective corrective action is taken. It does not possess its own investigative capabilities, and is largely reliant on the Service Police or judicial proceedings (e.g. public inquiries) to obtain the evidence necessary to determine what happened and why. However, the SIWG will make or commission appropriate enquiries (through subject-matter experts

across Defence) to ascertain how identified systemic issues could occur and how they have been, or should be, remedied.

2.2. The job of identifying potential systemic issues falls to the Review Group, a subset of the SIWG members who assess the available information, make inquiries of subject-matter experts, and present to the SIWG recommendations both as to the issues that the incidents reveal and any further actions that should be taken.

2.3. The SIWG is not constrained by the Review Group's recommendations: it can (and does) come to a different conclusion – either identifying an additional potential issue for the review group to track, or seeing a different underlying cause – and is able to direct the Review Group to obtain further information from subject-matter experts before deciding on the appropriate action.

3. New approach for 2016-17 reporting period

3.1. The purpose of the SIWG process is to assist the MOD to identify and learn lessons from previous situations. The very large number of cases that have been closed by the IHAT and by Operation Northmoor during the 2016-17 reporting period has caused the MOD to implement a different approach for cases involving less serious allegations of ill-treatment.

3.2. In previous reporting periods, the Review Group considered every case to confirm whether the evidence from the criminal investigation disclosed any systemic or potential systemic issues. Even where the systemic issues were ones that had been identified previously, the Review Group nevertheless still verified with the relevant subject-matter experts whether any changes to doctrine, training or oversight that had already been implemented would have prevented that specific manifestation. This approach remains appropriate for cases involving allegations of unlawful killing or of serious ill-treatment.

3.3. However, the vast majority of allegations of ill-treatment are comparatively less serious and only disclose evidence of issues that have previously been identified and remedied. Cataloguing every manifestation of these issues and assessing them against the changes implemented over the past 14 years would require very significant resources without contributing to the primary aim of learning lessons. Consequently, for cases of alleged minor ill-treatment, MOD has implemented a process that mirrors the "problem profiles" approach (under which cases that share common features, e.g. unit or location, are clustered and considered together), which the IHAT adopted to permit the effective investigation of such incidents. Accordingly, the Review Group has grouped such cases, to identify the systemic issues or potential issues disclosed within those cases taken as a group, and asked the relevant subject-matter experts to confirm that any remedial actions would prevent a recurrence of that broad issue rather than of each manifestation.

3.4. The other innovation during this reporting period is that, whereas previously the Review Group and SIWG have proceeded on the basis of evidence uncovered by Service Police investigations and the conclusions of judicial processes, with regard to low-level ill-treatment we have had to proceed without the benefit of this evidential basis. This is because most allegations of ill-treatment that the Service Police assessed in terms of severity as falling at

the lower end (ranging from very minor ill-treatment to assaults occasioning actual bodily harm) or middle (ill-treatment of medium severity and/or assault not reaching the threshold of grievous bodily harm) of the spectrum were discontinued without a full investigation. Consequently, the Review Group and SIWG have **not** formed any view as to whether the alleged ill-treatment actually occurred or even whether the allegations were accurately recorded. Rather, we have confined our enquiries to ascertaining – in respect of the clusters identified – whether current policy, training, and oversight are sufficient to prevent the behaviour described in the allegations from occurring on future operations, and if not what additional remedial action is required.

3.5. These changes to the methodology, and the rationale for them, were explained to the High Court in June 2017 and June 2018. The Court has raised no objection.

4. The Report

4.1. For the 2016-17 reporting period, the Review Group assessed allegations of low-level or medium-level ill-treatment from 557 Iraqis (of whom, 345 were allegedly captured in 2003) and 108 Afghans. From this analysis, it identified the following 12 clusters of allegations, in relation to which it recommended – and the SIWG agreed – that enquiries should be made of subject-matter experts to ascertain whether current policy, training and oversight would prevent them occurring on future operations:

- Theft/Destruction of Property
- Sexual Assault
- Solitary Confinement
- Forced Labour or Exercise
- Collective Punishment
- Sleep Deprivation
- Plasticuffs
- Religious Insensitivity
- Threatening Behaviour/Language
- Use of Dogs
- Assault at Point of Capture
- Assault in Detention

4.2. Following these further enquiries, the SIWG satisfied itself that eleven clusters did not disclose a current systemic issue. These clusters have accordingly been designated **Not Accepted (Not Systemic)**. The remaining cluster, Assault in Detention, has been designated **Noted (Resolved).**[1]

4.3. The basic facts of each case considered during the 2016-17 reporting period are set out in the table at Annex A. The table at Annex B shows the issues that the SIWG has considered since its creation in 2014. The individual case clusters are set out below.

5. ISSUES & ACTIONS:

[1] For an explanation of the categorisation used by the SIWG, see the introduction to the second and third annual reports.

SYSTEMIC ISSUES IDENTIFIED FROM SERVICE POLICE AND OTHER INVESTIGATIONS INTO MILITARY OPERATIONS OVERSEAS: July 2018

5.1. THEFT OR DESTRUCTION OF PROPERTY AT THE POINT OF CAPTURE

5.1.1. Of the 665 cases analysed, 281 (42%) involved allegations that UK Forces entered the captured person's home to detain them and, in the course of searching their person or residence, had damaged, destroyed, or stolen property. The proportion of cases in which such allegations occur is significantly higher for Iraq (271 of 557 cases, 49%) than for Afghanistan (10 of 108 cases, 9%).

5.1.2. The SIWG noted that, although destruction of property and theft have always been prohibited, policy and training have been enhanced since these alleged incidents.

5.1.3. Joint Doctrine Publication 1-10 (JDP 1-10),[2] which is the capstone policy for the treatment of captured persons (CPERS), sets out how captured persons are to be searched and how any property seized is to be managed. Specifically, Section 2 (Searches) to Chapter 7 (Point of Capture) includes the following provisions on procedures, processes, and training:

> ***706.*** *The chain of command is responsible for ensuring that our Armed Forces are instructed on the circumstances in which searches may be conducted, the procedures to be followed, and the mandatory standards of humane treatment to be afforded to all CPERS. Searches may be carried out prior to a suspect becoming a CPERS to determine whether or not to detain them; evidence discovered during a search may be useful, as well as identify their status such as a juvenile or member of a family group that has also been detained.*
>
> ***709.*** *Conduct of searches. When searching a suspect, CPERS or premises, vessels or vehicles, our Armed Forces should always adhere to theatre standing operating procedures and rules of engagement. In the unlikely event of no standing operating procedure being in force, our Armed Forces must apply the following minimum standards.*
>
> *a. The Service person conducting the search is to:*
> - *maintain a record of the search;*
> - *ensure the presence of a second Service person as a witness;*
> - *explain to those subjected to the search the reason for the search; and*
> - *issue a receipt for any property seized (Annex 7A).*
>
> *b. Our Armed Forces are to allow CPERS to retain property such as clothing, personal effects and religious items that do not represent a threat to security or the safety of the CPERS, or that do not have evidential value. …*
>
> *f. Service personnel conducting the search should:*
> - *remove weapons (including knives and anything capable of being used as a weapon), ammunition, associated improvised explosive device equipment, all communications equipment and IT, documents, maps and military equipment such as radios;*
> - *record the above items as belonging to the CPERS;*
> - *whenever possible, make weapons safe, and evacuate them with the CPERS;*

[2] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/455589/20150820-JDP_1_10_Ed_3_Ch_1_Secured.pdf

- *provide a receipt to the CPERS for all items removed (an example of a Property Receipt is at Annex 7A4); such items may be used for evidential or exploitation purposes; and*
- *prevent CPERS from destroying equipment or documents in their possession as these may be of interest to interrogators and J2.*

721. *The capturing unit must ensure property belonging to CPERS is properly accounted for, using the capture card at Annex 7B and a property receipt as shown at Annex 7A. This is to ensure that property can be exploited, preserved as evidence or returned to the owner as appropriate. The capturing unit should give consideration to the items which may be retained, and the items which may constitute evidence that could be used in a later investigation. They must secure and clearly label any evidence and property as near to the point of capture as possible to avoid loss or contamination, as shown above.*

722. *The capturing unit must ensure that all property seized and retained is documented and a receipt in triplicate prepared. They must provide the CPERS with the original receipt, store one copy with the property and retain the third with the CPERS documents.*

5.1.4. CPERS Battle Lesson 29 was introduced in July 2016, and an updated version issued in June 2017. Battle Lesson 29 details CPERS handling including searches and recording of handling and property:

6-190. Recording Search Finds. *If tactically viable, all items and equipment found must be recorded with a property receipt. All property, evidence and documentation must accompany the CPERS throughout the evacuation chain and be protected from being destroyed or damaged.*

6-191. *Property and evidence bags must be serial numbered to ensure that they can be associated with the individual CPERS throughout the CPERS evacuation chain. Serial numbers should consist of the ZAP number of the searcher and the number of the CPERS in chronological order in which the searches where conducted. This enables the identity of the searcher to be specified thus enabling future clarification of search finds. It is imperative that the number written on the bag is the same as recorded on the capture tag.*

5.1.5. The armed forces train against the requirements laid down in JDP 1-10 and CPERS Battle Lesson 29.

5.1.6. With regard to oversight and remedial action, the SIWG also noted that during the period 2003-2010 four soldiers had been convicted of burglary at Court Martial and sentenced to 45 days' imprisonment.

5.1.7. In light of the enhancements to policy and training, and of the evidence of disciplinary action in appropriate cases, the SIWG concluded that there is not currently a systemic issue around theft or destruction of property.

5.2. SEXUAL ASSAULT:

5.2.1. Of the 665 cases analysed, 34 (5%) involved allegations that UK Forces sexually assaulted captured persons whilst conducting body searches. The proportion of cases in

which such allegations occur is significantly lower for Iraq (21 of 557 cases, 3.7%) than for Afghanistan (13 of 108 cases, 12%).

5.2.2. The SIWG recalled that sexual assault is a serious criminal offence, and noted assurances from subject-matter experts that all reports of sexual assault are investigated by the Service Police and dealt with through the Service Justice System. However, the SIWG also observed that all the cases considered during the current reporting period had been categorised by the Service Police as being of medium or low severity.

5.2.3. The SIWG concluded – from this categorisation and from the wording of the allegations – that the complainants were not in fact claiming to have been sexually assaulted, but rather to have been subjected to intimate searches that were not culturally acceptable. The SIWG considers that these allegations disclosed a potential communication issue in which the process of the search was either not explained properly or the detainees did not understand the explanation.

5.2.4. JDP 1-10 was updated following publication of the Al-Sweady Inquiry report to include more detailed guidance on strip searches. The current edition prohibits both strip searches and intimate searches (the method for which is set out diagrammatically at Annex 7G to that publication) at the point of capture, and makes such searches at unit collection areas and detention facilities subject to safeguards:

> ***707. Strip searches.*** *Strip searches constitute removing CPERS clothing layers to the skin. Therefore, such a search should not be conducted at the point of capture, but may be required at semi-permanent locations such as a unit holding area or theatre CPERS facilities, where dedicated CPERS personnel will be operating. …*
>
> ***709. e.*** *Service personnel carrying out searches may request those subject to the search to open their mouths but they must not insert fingers or any other items into the mouth because this would constitute an intimate search. Intimate searches must not be carried out under any circumstances at the point of capture.*
>
> ***912. Intimate searches.*** *Intimate searches (of body cavities and orifices) must not be conducted unless they have been authorised by the Force Provost Marshal. The Force Provost Marshal, having received medical and legal advice, should stipulate in theatre orders what constitutes an intimate search and the circumstances in which intimate searches may be conducted. Where an intimate search has been authorised, commander medical must be informed. Intimate searches will only be carried out under appropriate supervision:*
>
> - *after the reason for the search has been explained to the CPERS;*
> - *by staff with appropriate medical competencies; and*
> - *within a suitably equipped medical facility*
>
> ***1011.*** *The principles for conducting searches, including intimate searches, are explained in Chapter 7, Section 2 and Chapter 9, Section 4. Commandants must issue a clear set of procedures that describe, in detail, the circumstances in which searches should be carried out, who may conduct searches, the methods to be used and their frequency. …*

> ***1012.*** *The type of search conducted will depend upon the circumstances. For example, when CPERS are moving in large numbers from their place of work back to their living accommodation, it is normal for staff to conduct security screening searches akin to those used at civilian airports. On other occasions, especially if there is reason to believe that CPERS may have something secreted about their person or when they are designated as high risk CPERS, staff will need to carry out a more detailed search. Guidance on intimate searches can be found in Chapter 9, Section 4.*

5.2.5. With regard to the requirement to explain the reason for searches to captured persons, SMEs have confirmed that an interpreter will always be present at detention facilities.

5.2.6. In relation to rub-down (body) searches of captured persons, CPERS Battle Lesson 29 also emphasises the need to respect the individual's personal dignity and religious or cultural sensitivities:

> ***6-183. Overarching Principle.*** *All searches must be conducted with due respect for the CPERS' dignity and religious or cultural sensitivities must be considered and, when tactically able, observed.*

5.2.7. At unit level, mandated annual military training is delivered and assessed by qualified instructors, usually from that unit. Records of this training – including pass or fail results – should be held at unit level and archived. Commanding Officers have a responsibility to ensure all their personnel are adequately trained. Soldiers may also be issued with a tactical aide memoire (TAM) to assist them with the process of searching.

5.2.8. In light of the enhancements to policy and training, the SIWG concluded that there is not currently a systemic issue around sexual assault.

5.3. SOLITARY CONFINEMENT:

5.3.1. Of the 665 cases analysed, 71 (10%) involved allegations that UK Forces placed CPERs in solitary confinement. The proportion of cases in which such allegations occur is similar for Iraq (58 of 557 cases, 10%) and for Afghanistan (13 of 108 cases, 12%).

5.3.2. The SIWG concluded – from this categorisation and from the wording of the allegations – that, with the exception of relatively short periods of solitary confinement while undergoing interrogation, the complainants were not in fact claiming to have been placed in solitary confinement, but did not in fact understand the reasons they were being temporarily held in a single cell. The SIWG considers that these allegations disclosed a potential communication issue in which the reasons for the detainee being held in a single cell was either not explained properly or the detainees did not understand the explanation.

5.3.3. Being held in a single cell for legitimate and justifiable reasons does not necessarily amount to solitary confinement. JDP 1-10 provides for various methods of segregation which does not amount to solitary confinement:

729. It is essential that from point of capture, the capturing unit segregate and provide separate accommodation for females, juveniles, children, rival groups and vulnerable CPERS. In any event, living conditions in segregated units should allow for sufficient meaningful human interaction. Further detail on such groups is at Chapter 2, Section 4.

730. Segregation of individuals should not result in solitary confinement. Whilst there is no universal definition of solitary confinement the United Nations Special Rapporteur on torture has assessed it as being any regime where an inmate (or detainee) is held in isolation from others, except guards, for at least 22 hours per day.

731. In addition, there is a legal requirement to accommodate and administer other categories of CPERS separately. It is acknowledged that resources, facilities and manpower may be limited at this stage of the CPERS handling process, but the capturing unit are to make every effort to categorise and segregate the following.

a. Prisoners of war. In international armed conflict, if our Armed Forces capture both prisoners of war and internees, they must clearly segregate these two categories. This is a legal requirement under the Geneva Conventions. Our Armed Forces should also segregate officers and senior non-commissioned officers who are prisoners of war from their subordinates to prevent them from organising escapes, sabotage or generally giving encouragement and moral support.
b. Detainees. Where possible our Armed Forces should separate criminal detainees from other CPERS to preserve evidence and for reasons of safety. Additionally, they should segregate detainees from each other to avoid contamination of evidence and prevent collusion. If segregation is impossible our Armed Forces must closely guard detainees to avoid conversation and contamination of evidence.
c. Internees. Where individuals are being interned for security reasons alongside prisoners of war and criminal detainees, our Armed Forces must ensure that they are accommodated and administered separately. In addition, where necessary to prevent collusion and contamination of evidence, they should separate internees from one another.

732. Influential leaders. Irrespective of the category into which they fall, our Armed Forces should segregate a CPERS who displays leadership influence, which could lead to security issues being encountered. This is common with any group of CPERS, with influential leaders in custody either passive or aggressive influence over the CPERS population. Influential CPERS must be reported upon through the appropriate J2 chain. Such segregation should be reviewed on a regular basis and, if the reason for such treatment no longer exists, the CPERS should be returned to the general CPERS population.

5.3.4. If a captured person was being disruptive at a Holding Facility and undermining discipline, then they could legitimately be removed from a compound and held in another Holding Facility under segregation, or moved to another part of the same Holding Facility, dependant on size and layout of the facility. The policy for discipline of captured persons – which would include segregation and confinement – would be articulated in the Holding Facility Standing Orders.

5.3.5. JDP 1-10 provides comprehensive guidance regarding disciplinary procedures and sanctions (for which records are to be retained for audit purposes) that may be awarded – these sanctions include the use of confinement –

1026. When reaching decisions on punishment, the commandant must at all times remember that the accused CPERS is not a UK national. The Geneva Conventions

provides specific direction on disciplinary sanctions which may be awarded to certain categories of CPERS.

Disciplinary sanctions

Prisoner of war
- *A fine which shall not exceed 50% of the advances of pay and working pay which the prisoner of war would otherwise receive under provisions of Articles 60 and 62 during a period of not more than 30 days.*
- *Discontinuance of privileges granted over and above the treatment provided for by the present Convention.*
- *Fatigue duties not exceeding two hours daily.*
- ***Confinement.***
- *The duration of a punishment shall not exceed 30 days, even if the prisoner of war is answerable for several acts at the same time.*
- *Time spent in confinement prior to a disciplinary hearing shall be deducted from the award pronounced.*
- *The period between pronouncing an award of disciplinary punishment and its execution shall not exceed one month.*
- *When a prisoner of war is awarded a further disciplinary punishment, a period of three days must elapse between the execution of the punishment if the duration of one of the awards is ten days or more.*

Internees
- *A fine not exceeding 50% of 30 days' pay.*
- *Withdrawal for up to 30 days of any privileges granted over and above the minimum provided for by the Convention.*
- *Fatigue duties for up to 30 days, not exceeding two hours per day and connected with the maintenance of the camp.*
- ***Confinement for not more than 30 days.***

5.3.6. With regard to the requirement to explain the reason for being held in a single cell, subject-matter experts confirmed that an interpreter will always be present at detention facilities.

5.3.7. The UK Courts have discussed the circumstances in which solitary confinement may breach Article 3 ECHR and have ruled that the duration necessary to reach that threshold is considerably longer than the periods alleged by these claimants:

"The criteria which determine whether solitary confinement violates article 3 of the Convention are now well established in case law of the European Court of Human Rights which has been endorsed by the Supreme Court. As stated by the European Court in Ahmad v United Kingdom[2013] 56 EHRR 1, para 209:
"whilst prolonged removal from association with others is undesirable, whether such a measure falls within the ambit of article 3 of the Convention depends on the particular conditions, the stringency of the measure, its duration, the objective pursued and its effects on the person concerned."
In applying these criteria, the European Court has never specified a period of time beyond which solitary confinement will attain the minimum level of severity necessary to infringe article 3. Cases in which violations have been found, however, have involved far longer periods than the period of 13 days during which Mr Al-Waheed was segregated from other prisoners. In Shahid v Scottish Ministers [2015] UKSC 58, [2016] AC 429, the Supreme Court held that segregation (albeit not complete) from other prisoners with a total duration of four years eight months did not violate article 3, although there was found to be a violation of the right to respect for private life

guaranteed by article 8. International reports referred to in the judgment of the Supreme Court at paras 78-80 express concern about the potentially harmful effects of (total) solitary confinement exceeding 14 or 15 days. Even by that standard, the period of Mr Al-Waheed's segregation was not excessive."[3]

5.3.8. Noting the wording of the allegations and the Court's ruling on solitary confinement, the SIWG considered that these claims appeared to point to a problem with the way in which the reasons for accommodating captured persons within single-occupancy cells or in solitary confinement were explained to them, rather than a to a problem with the policy of holding them in isolation. In light of the enhancements to policy and training, and specifically with the improvements to the information provided to captured persons, the SIWG concluded that there is not currently a systemic issue around solitary confinement.

5.4. FORCED LABOUR OR EXERCISE:

5.4.1. Of the 665 cases analysed, 63 (9%) involved allegations that UK Forces ordered captured persons to undertake forced labour or exercise. The only manifestations of this issue examined during the reporting period arose in Iraq. These claims were vague and most referenced nothing more than the captured person being asked to undertake routine tasks such as being asked to erect their own tents, or being required to walk to a collection point.

5.4.2. The 1949 Geneva Conventions and JDP 1-10 provide clear guidance on what labour captured persons may lawfully be asked to undertake -

> ***10D15.*** *Geneva Convention III allows the employment of prisoners of war in physical labour. The objective is, by providing physical and mental stimuli, to keep them in a sound state of physical and mental health.*
>
> ***10D16.*** *The Directorate of Operations will provide the requisite policy where the employment of prisoners of war is envisaged. It is unlikely that there will be wide opportunities for employing prisoners of war who are held in a CPERS holding facility located in theatre. Prisoners of war will be required to carry out work, however, where there is an opportunity for employment. Such employment must take into account their rank, sex, age and physical aptitude, as follows.*
> *a) Officers. Officers cannot be compelled to work but they may volunteer. The commandant will provide work of a suitable nature, if it is available.*
> *b) Warrant and non-commissioned officers. Warrant officers and non-commissioned officers will only be required to carry out work of a supervisory nature. They may volunteer for other types of work which they will be allowed to perform, if it is of a suitable nature.*
> *c) Other ranks prisoners of war. Other ranks will be required to carry out any work that is consistent with Geneva Convention III.*
> *d) Female prisoners of war. Female prisoners of war are to be considered for work in the same manner as male prisoners of war with the exception that:*
> - *they are only to be employed in supervising male prisoners of war who, prior to their capture, they could have commanded in the field – the same restriction applies to male prisoners of war supervising female prisoners of war's work if prior to capture, they could not have commanded them in the field; and*
> - *pregnant female prisoners of war are not to be employed on any work that might, directly or indirectly, endanger their health or that of their unborn child.*
>
> *e) Juveniles. May be employed in light work only.*

[3] *Alseran & Others v Ministry of Defence* [2017] EWHC 3289 (QB) (14 December 2017), at §683.

> ***10D19.*** *Unhealthy or dangerous work. Prisoners of war are not to be employed in work which is dangerous or presents a risk to health. Each specific task, rather than the industry as a whole, should be considered when making an assessment of the danger inherent in the work. Applying Health and Safety at Work Risk Assessments and providing appropriate training, safety equipment or protective clothing, can render an otherwise potentially dangerous task safe. Prisoners of war are not to be employed in the following circumstances, unless they are volunteers:*
> - *tasks requiring physical exertion beyond the normal capabilities of the average person;*
> - *involvement in dealing with explosives (for example, mine clearance);*
> - *using machinery which, without appropriate training or necessary skills or knowledge, is dangerous; or*
> - *work at dangerous heights.*

5.4.3. In order to protect their health and wellbeing, JDP 1-10 also provides for compulsory medical checks of captured persons to ensure fitness to undertake work:

> ***10D17.*** *Medical examinations. Medical staff are to examine all ranks of prisoners of war before they commence work and thereafter at least once a month. Medical staff are to grade prisoners of war as a result of these inspections as either:*
> - *fit for heavy work;*
> - *fit for light work; or*
> - *not permitted to work.*
>
> *In accordance with good medical practice, documentation of this examination is to be regarded as medical records and treated accordingly in terms of storage and confidentiality. Clearly, if there is a change in the medical condition of the CPERS, a further examination should be conducted to determine fitness for employability and the medical records updated accordingly.*

5.4.4. JDP 1-10 also sets out the minimum exercise rights afforded to captured persons:

> *211.n. Right to exercise. CPERS shall be allowed a minimum of two hours of exercise in the open air every 24 hours. For best interests, good governance and running the facilities, additional exercise should be considered.*

5.4.5. As stated, virtually all allegations of forced exercise reference captured persons being required to walk to collection points due to the unavailability of transport. The few allegations that reference group exercise as a form of punishment were considered under Collective Punishment.

5.4.6. Any allegations which reference group exercise as a form of punishment will be dealt with below at 5.5, Collective Punishment.

5.4.7. In light of the enhancements to doctrine, policy and training the SIWG concluded that there is not currently a systemic issue around forced labour or exercise

5.5. COLLECTIVE PUNISHMENT:

SYSTEMIC ISSUES IDENTIFIED FROM SERVICE POLICE AND OTHER INVESTIGATIONS INTO MILITARY OPERATIONS OVERSEAS: July 2018

5.5.1. Of the 665 cases analysed, 9 (8.3%) involved allegations that UK Forces implemented collective punishment upon captured persons. The proportion of cases in which such allegations occur is solely from Afghanistan.

5.5.2. Collective punishment is prohibited by the 1949 Geneva Conventions which is clearly referenced in JDP 1-10:

> *214. In accordance with the 1949 Geneva Conventions, the 1977 Additional Protocols, the 1998 International Criminal Court Statute the International Covenant on Civil and Political Rights and Customary International Law and the UK domestic law, the following are Prohibited Acts:*
> - *Violence to the life, health and physical or mental well-being of CPERS, in particular murder as well as cruel treatment and torture, mutilation or any form of corporal punishment*
> - ***Collective punishments***
> - *Taking hostages*
> - *Acts of terrorism*
> - *Slavery and the slave trade in all their forms*
> - *Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, sexual slavery, enforced prostitution, forced pregnancy, forced sterilisation and any other form of sexual violence*
>
> ***1027.*** *Disciplinary punishments will not be inhuman, brutal or dangerous to the health of CPERS. The Geneva Conventions impose specific restrictions in relation to sanctions or punishments. For all CPERS, the following are forbidden.*
> - *Collective punishment for individual acts.*

5.5.3. JDP 1-10 further references the prohibition of collective punishment in relation to the specific rules for sanctions that may be awarded to captured persons –

> *1027. Disciplinary punishments will not be inhuman, brutal or dangerous to the health of CPERS. The Geneva Conventions impose specific restrictions in relation to sanctions or punishments. For all CPERS, the following are forbidden.*
> - *Any form of torture or cruelty.*
> - ***Collective punishment for individual acts.***
> - *Corporal punishments.*
> - *Holding CPERS in a facility without daylight.*
> - *The duration of any single punishment exceeding a maximum of 30 consecutive days, even if the CPERS is convicted of several breaches of discipline, whether connected or not.*
> - *Failure to allow an interval of at least three days between the execution of any two punishments if the duration of one of them is ten days or more, when a further punishment is awarded.*
> - *A delay of more than one month between pronouncement and commencement of the sentence.*
> - *Punishment more than once for the same offence.*
> - *Different treatment of CPERS who have completed their sentence to CPERS of the same category. The only exception is the rule relating to special surveillance of CPERS who have attempted to escape.*
> - *Reduction of food and water as a punishment.*
> - *Use of restraints as a punishment.*
> - *Sensory deprivation as a punishment (for example, deprivation of sight or hearing).*
> - *In addition to the above, no prisoner of war may be deprived of their rank or prevented from wearing their badges; a prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to their rank.*

5.5.4. In light of the enhancements to doctrine, policy and training, the SIWG concluded that there is not currently a systemic issue around collective punishment.

5.6. SLEEP DEPRIVATION:

5.6.1. Of the 665 cases analysed, 147 (22%) involved allegations that UK Forces use sleep deprivation against captured persons. The proportion of cases in which such allegations occur is lower for Iraq (114 of 557 cases, 20%) than for Afghanistan (33 of 108 cases, 30%).

5.6.2. In 1972, following publication of the Parker Report, the Prime Minister gave an assurance to Parliament that five enhanced interrogation techniques (including sleep deprivation) would never again be used by UK Forces.[4]

5.6.3. Following intense scrutiny during the Baha Mousa Inquiry in 2010, the five techniques were redefined:

> *The five techniques are as follows.*
> *a) **Stress positions.** Any physical posture which a CPERS is deliberately required to maintain will be a stress position if it becomes painful, extremely uncomfortable or exhausting to maintain.*
> *b) **Hooding.** Placing a cover over a CPERS' head and face.*
> *c) **Subjection to noise.** Holding a CPERS in an area where there is unnecessary excessive noise.*
> *d) **Deprivation of sleep and rest.** Depriving a CPERS of the minimum requirement of sleep and rest.*
> *e) **Deprivation of food and water.** Depriving a CPERS of the minimum requirement of food and water.*
>
> *The five techniques, as redefined above, must never be used as:*
> - *an aid to tactical questioning or interrogation;*
> - *a form of punishment;*
> - *discriminatory conduct;*
> - *intimidation;*
> - *coercion; or*
> - *deliberate mistreatment.*

5.6.4. There is extensive policy and guidance on the prohibition of the use of sleep deprivation. JDP 1-10 has clear direction on sleep deprivation:

> ***211. g. Sleep and rest.** CPERS shall be given at least eight hours of rest per 24-hour period, during which there shall be an opportunity to sleep for a single undisturbed period of no less than four hours.*

5.6.5. The strict policy on the prohibition of sleep deprivation also applies during periods of interrogation and is closely monitored to ensure adherence to the policy, as JDP 1-10 states:

---

[4] https://api.parliament.uk/historic-hansard/commons/1972/mar/02/interrogation-techniques-parker

> ***221. g.*** *Disruption of sleep. It is prohibited to deliberately keep CPERS awake, even for short periods, merely because they may shortly face tactical questioning or interrogation. They may be woken to be tactically questioned or interrogated, if the questioning is ready to take place, provided that the minimum sleep requirement is respected. Aside from being woken for questioning, it is also recognised that operational circumstances may result in sleep being disrupted or delayed. Moreover, CPERS may need to be woken or disturbed for reasons of the CPERS' safety or the CPERS' welfare. It may be difficult to ensure CPERS receive the minimum sleep requirement during transfer between facilities. The discretion to wake a CPERS for immediate questioning is not to be abused by way of repeated or random waking of the CPERS with a view to disorientation. In addition, CPERS should not be regularly subjected to sleep disruption.*

5.6.6. These provisions regarding sleep have been carried across into the MOD's interrogation policy, which is reviewed biennially. The current version, which was reviewed in November 2016, includes at Annex A (Minimum Standards of Treatment) the following provisions:

> *2d.* ***Deprivation of Sleep and Rest****. Depriving a CPERS of the minimum requirement of sleep and rest. CPERS must receive a minimum of 8 hours sleep or rest per 24 hours, of which no less than 4 hours must be a continuous, undisturbed period.*

> *4f.* ***Sleep and Rest****. CPERS shall be given at least 8 hours of rest per 24 hour period (the 8 hour rule), during which there shall be an opportunity to sleep for a single undisturbed period of no less than 4 hours (the 4 hour rule), free from any restraint, sight or hearing deprivation. CPERS may be woken from sleep* ***only to undergo immediate interrogation*** *and provided that the 4 and 8 hours rules are still adhered to. The latitude to wake a CPERS from rest or sleep in order to conduct immediate interrogation is not to be exploited to cause disorientation. To this end, every possible effort must be made to hold a CPERS in a location free from noise, to permit the CPERS to sleep.*

5.6.7. In light of the enhancements to doctrine, policy and training, the SIWG concluded that there is not currently a systemic issue around sleep deprivation.

5.7. PLASTICUFFS:

5.7.1. Of the 665 cases analysed, 356 (53%) involved allegations that UK Forces misused plasticuffs. The cases in which such allegations occur are solely from Iraq.

5.7.2. Following publication of the report of the Baha Mousa Inquiry in 2010, the doctrine and training on the use of plasticuffs have been and enhanced. There is clear guidance in JDP 1-10 on the use of plasticuffs:

> ***221c.*** *Restraint equipment. Circumstances may also require using restraining equipment, for example plasticuffs, specifically issued for such purposes to personnel engaged in CPERS handling. These must only be applied to the hands in front of the body as shown and must in all circumstances allow for normal blood circulation.*

> ***Annex 8A:*** *If the use of restraints is specifically authorised, CPERS hands may be secured in front of them using plasticuffs or any other form of restraint that has been authorised by Provost Marshal (Army).*

5.7.3. This is reinforced in Military Annual Training Test 7 (which provides annual training on international humanitarian law, including the humane treatment of captured persons[5]) within CPERS Battle Lesson 29:

> *6.Plasticuffs should only be used to secure the hands to the front of the body and the decision to apply the plasticuffs must be recorded. To prevent injury to the CPERS, plasticuffs must be applied using the 'Rule of Thumb' ensuring that when applied, they are not too tight resulting discomfort and pain.*

5.7.4. In light of the enhancements to doctrine, policy and training following the Baha Mousa Inquiry, the SIWG concluded that there is not currently a systemic issue around the use of plasticuffs.

5.8. RELIGIOUS INSENSITIVITY:

5.8.1. Of the 665 cases analysed, 113 (17%) involved allegations that UK Forces acted insensitively towards captured persons' religious beliefs and practices. The proportion of cases in which such allegations occur is marginally higher for Iraq (98 of 557 cases, 17%) than for Afghanistan (15 of 108 cases, 14%). The majority of these claims reference insufficient facilities in order to pray, a failure to provide water to enable captured persons to wash prior to prayer, or the timings of meals conflicting with prayer times.

5.8.2. Subject-matter experts confirmed that operating practice today dictates that for medium- to large-scale Detention Facilities the requirement for religious practice would be considered in the design and build of the facility. JDP 1-10 provides clear guidance to commanders that captured persons must be allowed to undertake religious activity to observe their own faith/religion:

> ***1076. Religious activity.*** *The commandant is to permit CPERS to practice their religion or exercise their beliefs provided that this is carried out within the rules of holding facility discipline. Where possible, they are to provide a place of worship and allow chaplains and other spiritual leaders to minister to CPERS of the same religion or belief. Where there is no minister or religious leader, a lay CPERS may be appointed by the commandant to lead worship.*

5.8.3. All training covers the need for soldiers to treat all captured persons humanely, and with dignity. This is evidenced in CPERS Battle Lesson 29 which states –

> ***Basic Principles***
> *6-157. Explain: International Law lays down the minimum standards of treatment that are required when handling CPERS. All CPERS must be treated humanely at all times and are entitled to respect for their person, honour and religion.*

---

[5] https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-03-16/31271/

5.8.4. Subject-matter experts have confirmed that captured persons are allowed to observe their religious practice, but for justifiable operational and logistical reasons this may not be in purpose built surroundings (e.g. a Unit Holding Area could be a tent), and the provision of religious articles e.g. a prayer matt and Quran may not be available.

5.8.5. Based on the content of the allegations, the SIWG has noted that these claims appear to be the result of justifiable operational and logistical limitations in the facilities available at the time (e.g. shortages of water for ablutions in detention facilities that had not been purpose built). The SIWG concluded that there is not currently a systemic issue around religious insensitivity.

5.9. THREATENING BEHAVIOUR OR LANGUAGE

5.9.1. Of the 665 cases analysed, 339 (51%) involved allegations that UK Forces used threatening behaviour or language. The proportion of cases in which such allegations occur is significantly higher for Iraq (322 of 557 cases, 58%) than for Afghanistan (17 of 108 cases, 16%).

5.9.2. There is extensive policy, guidance and training on the behaviour expected of the UK Armed Forces in dealing with captured persons which is detailed in Military Annual Training Test 6 (Values and Standards), Military Annual Training Test 7 (Law of Armed Conflict), and CPERS Battle Lesson 29.

5.9.3. Following a specific recommendation within the 2016 Army Inspectorate's CPERS Review, the Headquarters Provost Marshal (Army) (HQ PM(A)) now visit Royal Military Academy Sandhurst (RMAS) Group and Army Recruiting and Training Division (ARTD) units to review and validate the delivery of captured persons training to all Officer Cadets and recruits in training. Recommendations are made within the HQ PM(A) validation reports as necessary, to improve delivery of captured persons training, and/or to ensure compliance with policy. Deviation from training policy at RMAS Group or ARTD units would receive criticism in the HQ PM(A) validation report, with a recommendation(s) to rectify the problem(s).

5.9.4. With regard to threats during tactical questioning and/or interrogation, the SIWG noted that the specific policies governing these activities are reviewed biennially. The current interrogation policy, which was reviewed in November 2016, provides:

> **27.** Where a CPERS is entitled to protection under Geneva Conventions III or IV, the interrogator must adhere to the protections which apply in addition to Common Article 3. Geneva Convention III Article 13 requires that PWs are '*protected against acts of violence or intimidation and against insults and public curiosity'*. Article 17 prohibits '*physical and mental torture and any form of coercion to secure information of any kind whatsoever from a PW. PWs who refuse to answer may not be threatened, insulted or exposed to any unpleasant or disadvantageous treatment of any kind'*. Article 27 of Geneva Convention IV requires that protected persons are '*treated humanely and protected against all acts of violence, threats, insults and public curiosity'*. Article 31 also '*prohibits the use of physical or moral coercion against protected persons in particular to obtain information from them*

or third parties'. These provisions do not prevent UK Armed Forces from conducting interrogation on PWs but they set strict limitations on its conduct; indeed it is recognised as entirely legitimate in customary international law and the Geneva Conventions for parties to a conflict to seek to collect military information from PWs.

5.9.5. Annex B (Authorised Approaches) to the interrogation policy provides further guidance:

1. **As a matter of policy and by law, UK Armed Forces will, as a minimum, treat all CPERS detained during international or non-international armed conflict or other military deployments in adherence to Common Article 3.** Additional protections are provided to entitled civilians by virtue of their protected status under Geneva Convention IV. Prisoners of War (PWs) are provided with additional protections under Geneva Convention III, the most pertinent article of which is Article 17:

> *No physical or mental torture, nor any other form of coercion, may be inflicted on Prisoners of War to secure from them information of any kind whatever. Prisoners of war who refuse to answer must not be threatened, insulted or exposed to unpleasant or disadvantageous treatment of any kind.*

2. All Approaches described in this Annex are compliant with this standard and are to be conducted in accordance with the prohibition against '*outrage upon personal dignity, humiliation, and degrading treatment'*. Despite being fully consistent with Geneva Convention III Art 17, MOD policy direction is that the Challenging Approach is not to be used against those personnel who qualify for PW status; thereby mitigating the risk of an interrogator inadvertently breaching this Geneva Convention. All other Approaches are authorised for use against PWs and are to be conducted in accordance with the prohibition in Art 17 against '*threats, insults, or unpleasant or disadvantageous treatment of any kind whatsoever'*.

9d. Interrogators and Interrogator Controllers must be cognisant that touching could be viewed as threatening, instilling a fear of violence and also ensure it does not risk being perceived as insulting or degrading.

5.9.6. In light of the enhancements to policy and training, the SIWG concluded that there is not currently a systemic issue around threatening language or behaviour.

5.10. USE OF DOGS:

5.10.1. Of the 665 cases analysed, 7 (1%) involved allegations that UK Forces inappropriately used military dogs. The proportion of cases in which such allegations occur is lower for Iraq (2 of 557 cases, 0.35%) than for Afghanistan (5 of 108 cases, 4.6%).

5.10.2. The content of these allegations does not refence the misuse of dogs, but express complaint at the presence of dogs in and around the holding facilities.

5.10.3. JDP 1-10 provides guidance on the use of Military Working Dogs:

> ***6B5. Dogs.*** *Wherever possible, the guard force is to be augmented with dogs and their handlers. The dogs should include at least* [NG tracker dogs] *. Deploying and using dogs is to be at the discretion of the CPERS holding facility commandant bearing in mind both the threat posed by the CPERS and the impact of using dogs on some religious and cultural groupings.*

5.10.4. In the experience of the subject-matter experts, Military Working Dogs are used at fixed locations i.e. large Holding Facilities or Prisoner of War Camps, as opposed to a Unit Holding Area (small scale) in a forward location. The training for dogs and their handlers is governed by the Royal Army Veterinary Corps (RAVC). The fact that dogs may be culturally unacceptable in some countries would not prevent their use if the security situation/Force Protection demanded this additional (escalatory) control measure.

5.10.5. Having assessed the allegations, the SIWG was satisfied that they do not relate to the misuse of dogs in theatre. The SIWG concluded that there is not currently a systemic issue around the use of dogs.

5.11. ASSAULT AT POINT OF CAPTURE

5.11.1. Of the 665 cases analysed, 474 (71%) involved allegations that UK Forces assaulted CPERs at the point of capture. The proportion of cases in which such allegations occur is significantly higher for Iraq (434 of 557 cases, 78%) than for Afghanistan (40 of 108 cases, 37%). These claims allege the use of violence at the point of capture by UK Armed Forces leading to injuries varying in severity from cuts and bruises to the breaking of teeth.

5.11.2. The SIWG noted that significant changes have been made to policy and training requirements and practises, particularly following a specific recommendation within the 2016 Army Inspectorate CPERS Review. Headquarters Provost Marshal (Army) (HQ PM(A)) now visit Royal Military Academy Sandhurst (RMAS) Group and Army Recruiting and Training Division (ARTD) units to review/validate the delivery of captured persons training to all Officer Cadets and recruits in training. Recommendations are made within the HQ PM(A) validation reports as necessary, to improve delivery of captured persons training, and/or to ensure compliance with policy. Deviation from training policy at RMAS Group or ARTD units would receive criticism in the HQ PM(A) validation report, with a recommendation(s) to rectify the problem(s).

5.11.3. There has been further development of training and policy guidance, including JDP 1-10 which applies to regular and special forces and provides clear strategic guidance on captured persons training requirements; Army Briefing Note 180/15 dated 11 December 2015, sets-out the mandatory captured persons training that units must carry-out; Military Annual Training Test 7instructs that force can only be used when it is justifiable in the circumstances, and then only the minimum amount of force necessary can be used to achieve the aim; and Battle Lesson 29 – CPERS Handling. Within captured persons training it is made abundantly clear to all soldiers and Officers that any breaches of doctrine/policy – e.g. breaching any of the five prohibited techniques, or carrying-out cruel, inhumane and degrading treatment or punishment of captured persons – would result in disciplinary action being taken against those responsible.

5.11.4. The SIWG also noted that the High Court has drawn a distinction between the levels of force used at point of capture compared to levels of force used in comparatively less dangerous situations when considering what level of force would amount to a violation of Article 3 ECHR:

> *"In the present case the context of Mr Alseran's capture and detention was a war. That context cannot excuse cruelty or brutality but account needs to be taken of the acute stress and constant danger under which soldiers are operating in combat conditions. In that context, kicks and blows inflicted on Mr Alseran at the time of his capture may have involved more violence than was strictly necessary to detain him. But the evidence does not justify a finding that the force used was motivated by any purpose other than to prevent his escape and protect the soldiers' safety. The treatment was not prolonged and there is no evidence that it caused any injury or intense suffering. In the circumstances I reject the claim that there was a breach of article 3."*[6]

5.11.5. The SIWG recalled that assault is a criminal offence, and noted assurances from subject-matter experts that all allegations of assault are reported to the Service Police and dealt with accordingly through the Service Justice System.

5.11.6. With regard to oversight and remedial action, the SIWG also noted that during the period 2003-2010 seven soldiers had been convicted of assault at Court Martial and given sentences ranging from a severe reprimand to Dismissal with Disgrace and imprisonment. During the same period, a further 12 allegations were investigated but did not result in prosecution.

5.11.7. In light of enhancements to doctrine, policy and training, and of the evidence of disciplinary action in appropriate cases, the SIWG concluded that there is not currently a systemic issue around assault at the point of capture.

6. Case cluster evidencing resolved systematic issues

6.1. ASSAULT IN DETENTION:

6.1.1. The case cluster from which the SIWG identified potential systemic issues which have since been resolved concerns allegations of assault in detention. Of the 665 cases analysed, 311 (47%) involved allegations that UK Forces placed CPERs in solitary confinement. The proportion of cases in which such allegations occur is significantly higher for Iraq (289 of 557 cases, 52%) than for Afghanistan (22 of 108 cases, 20%) These claims allege the use of violence by UK Armed Forces leading to injuries varying in severity from cuts and bruises to bowel, knee and head injuries.

6.1.2. As mentioned above at 5.11.4. the UK Courts have drawn a distinction between the levels of force used at point of capture compared to the level of force used in comparatively less dangerous situations. The Court found that, in some instances, the use of force against

[6] *Alseran & Others v Ministry of Defence* [2017] EWHC 3289 (QB) (14 December 2017), at §232.

captured persons in detention facilities or in transit has constituted inhuman and degrading treatment:

> *"By contrast, the incident at Al-Seeba in which soldiers deliberately ran over the backs of prisoners clearly crossed the threshold level of severity to amount to a breach of article 3. Those assaults involved the gratuitous infliction of pain and humiliation for the amusement of those who perpetrated them. They have caused Mr Alseran deep and long-lasting feelings of anger and mental anguish and were an affront to his dignity as a human being. I find that they constituted both inhuman and degrading treatment. They also constituted a clear breach of the Geneva Conventions, which require prisoners at all times to be humanely treated: see article 13 of Geneva III and article 27 of Geneva IV."*[7]

6.1.3. As is set out in 5.11. (assault at the point of capture), the SIWG noted that significant changes have been made to policy and training requirements and practises. Following a specific recommendation within the 2016 Army Inspectorate CPERS Review, Headquarters Provost Marshal (Army) (HQ PM(A)) now visit Royal Military Academy Sandhurst (RMAS) Group and Army Recruiting and Training Division (ARTD) units to review and validate the delivery of CPERS training to all Officer Cadets and recruits in training. Recommendations are made within the HQ PM(A) validation reports as necessary, to improve delivery of CPERS training, and/or to ensure compliance with policy. Deviation from training policy at RMAS Group or ARTD units would receive criticism in the HQ PM(A) validation report, with a recommendation(s) to rectify the problem(s).

6.1.4. In addition to this, further development of training and policy guidance has also been introduced since the date of the allegations. Within JDP 1-10, Chapter 2, 'Standards of Treatment' provides guidance in detail on all aspects of the treatment of CPERS and those in detention:

> ***201.*** *We must apply basic principles of humane treatment when dealing with all captured persons (CPERS), at all stages of the CPERS handling process, from point of capture to release or transfer.*
>
> ***203.*** *CPERS handling requires firm command, leadership and a strong commitment to treat individuals humanely. Commanders must ensure that all personnel under their command are fully aware of the obligations to treat CPERS humanely and of the prohibition on torture, cruel, inhuman or degrading treatment. These prohibitions must be stated in the operational directives and regulations and in the unit standing orders applicable to those responsible for CPERS.*

6.1.5. In addition, an Operational Detention Course is delivered exclusively by HQ PM(A) and must be undertaken by the nominated Battle Group Detention Officer, Unit Holding Area Officer, and Detention Sergeant.

6.1.6. As mentioned above at point 5.11.6., with regard to oversight and remedial action, the SIWG also noted that during the period 2003-2010 seven soldiers had been convicted of assault at Court Martial and given sentences ranging from a severe reprimand to Dismissal

---

[7] *Alseran & Others v Ministry of Defence* [2017] EWHC 3289 (QB) (14 December 2017), at 233

with Disgrace and imprisonment. A further 12 allegations were investigated but did not result in prosecution.

6.1.7. In light of the Court's findings, the SIWG considered that there was sufficient evidence to conclude that assaults in detention had occurred, and *may* have been systemic. Nevertheless, given the enhancements to doctrine, policy and training, and the evidence of disciplinary action in appropriate cases, the SIWG was satisfied that there is not currently a systemic issue around assaults in detention. **The SIWG therefore recorded this issue as Noted (Resolved).**