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Handling Instructions: Investigative Material Limited Circulation

MOD F102 BOOK 001
SER No. 274

Review of Operation Northmoor – Sensitive

The content of this report contains sensitive investigative information and propose tactics; limited distribution is advised.

SECRET

Handling Instructions: Investigative Material Limited Circulation

Contents

1. Introduction. Including -Terms of Reference.
2. Foundation of the Northmoor Investigation – Sensitive.
3. Presentation by SIO on 5/01/2017, including Main Lines of Enquiry.
4. IRT's Initial Response to SIO's Presentation
5. What is required in the immediate future and over the longer term?
6. Whether the current systems are viable for the prompt, effective and accountable investigation of allegations made to Op Northmoor, (e.g. balance of effort exchanging time against budget)
7. And if not, how Op Northmoor might better support and be supported for these objectives
8. Additional Issue.
9. Recommendations.

SECRET

Handling Instructions: Investigative Material Limited Circulation

1.0 Introduction

1.1 On 3rd January, 2017 Phillip Jones and Clifford Evans, the IRT travelled to Newquay and commenced the review at RAF ST Mawgan of the sensitive issues appertaining to Operation Northmoor.

1.2 Information relating to the security clearance process for two members of the IRT

1.3 A focused review, to a set terms of reference and short timescales, with a reliance on the information presented by the Senior Investigating Officer (SIO) and his team. It follows that it has not been possible to examine all available material.

1.4 The Terms of Reference in relation to the sensitive issues are as follows:-

- Robust evidence based analysis of Op Northmoor's organisation structure, working practices and its output.
- What is required in the immediate future and over the longer term
- Whether the current systems are viable for the prompt, effective and accountable investigation of allegations made to Op Northmoor. (e.g. balance of effort exchange time against budget)
- And, if not how Op Northmoor might better support and be supported for these objectives.
- Based upon all the evidence available, whether Team 1 matter merit further investigation

2.0 Foundation of the Northmoor Investigation-Sensitive

Details of Leigh Day Solicitors' proposed claim and clients allegations

SECRET

SECRET

Handling Instructions: Investigative Material Limited Circulation

3.0 Presentation by SIO on 5/01/2017, including the Main Lines of Enquiry

- 3.1 In the presence of Lt Col Harvey, WO2 Mark Dempster and the two members of the IRT a comprehensive presentation was delivered by the SIO Captain Jason Wright. The incremental progression of the enquiry from the initial claim made by Leigh Day and Co up to the current date was provided. Lt Col Harvey did not participate throughout, maintaining his position as a silent observer.
- 3.2 During the course of the presentation it became apparent that the objective of Op Tyburn (the claim outlined by Leigh Day and Co) was to capture and detain the deceased as outlined above at (iii) Saddam. The intelligence was to the effect that Saddam was a facilitator of IED component parts.
- 3.3 Key features highlighted by the SIO included the details outlined by Leigh DAY and Co and the corresponding planned operation carried out by SF forces and other attached personnel.
- 3.4 The SIO outlined his desire to obtain statements from both Bang and Saitullah. He also expressed a desire to engage with [REDACTED] APU1 and other supporting personnel who were at the scene of the incident. He appropriately explained he had no scene, no bodies and or associated forensic opportunities. He felt that this activity should be considered as a high priority action. **(See Recommendation 1)**
- 3.5 An additional significant action was the recovery of relevant Data Sets (i.e. existing Servers that may contain relevant incident material). The timescales outlined extend to the summer of 2018. This work is currently ongoing. However, the IRT consider it maybe prudent and more expeditious if the Northmoor enquiry team sought the consent of those that currently have custody of these data sets to allow relevant and appropriate enquiry to take place. At the present time the IRT consider there is no appropriate foundation to enable seizure. **(See Recommendation 2)**
- 3.6 The SIO outlined in detail his categorisation of two suspects, namely; [REDACTED] N1141 [REDACTED] who at the time was the Officer Commanding SF who carried out Op Tyburn and [REDACTED] N1201 [REDACTED] who was a member of the SF team. **(see Recommendation 3)**
- 3.7 He then outlined details of information which greatly extended the focus of this enquiry; this information was provided by [REDACTED] N1466 [REDACTED]. In essence it was proposed that the Tyburn incident under investigation was one of 11 similar events all carried out by the same SF team. The basis of this assertion was i). Enemy killed in action (EKIA) versus weapons statistics ii). The number of instances where the 'head of the family' were being invited to lead the compound clearance and where subsequently being engaged and killed. At this time there is no other specific intelligence or evidence available to corroborate this assertion. **(See Recommendation 4)**
- 3.8 Parallel to the information at 3.7 above the Commanding Officer of [REDACTED] UKSF3 [REDACTED] had been informed by a member of his staff that [REDACTED] an officer [REDACTED] by the name of [REDACTED] N1799 [REDACTED] had received information to the effect that 'Afghan males between the ages of 18-

SECRET

4

SECRET

Handling Instructions: Investigative Material Limited Circulation

50 where being unlawfully killed and weapons where being planted. The source of this information is believed to be [REDACTED] N1201 as mention in 3.6 above.

- 3.9 It was also noted that the information outlined at 3.7 was brought to the attention of the then [REDACTED] Director of Special Forces by [REDACTED] N1466 who had previously taken legal advice. [REDACTED] DSF caused a review to be undertaken surrounding Tactical Technique Procedures (TTP - a technique for securing the compound and bringing everybody together safely) [REDACTED] DSF also took legal advice and directed [REDACTED] N1466 to make enquiries. The legal advice outlined that the Service Police must be informed. This was not done at the time although it is apparent that we currently do not know the complete picture appertaining to [REDACTED] DSF's considerations and actions. At the time of this review the [REDACTED] Director of Special Forces has not been interviewed.
- 3.10 The SIO then outlined a meeting he had with [REDACTED] N1799 [REDACTED] N1799 recounted being present on a course with a friend called [REDACTED] N1201 who is a member of the SF, he confirmed the assertion outlined above at Para 3.8. [REDACTED] N1799 refused to cooperate further and provide a witness statement. He was fearful of future reprisals. He had no recollection of [REDACTED] N1201's surname and repeated that random weapons would be taken on operations and be planted at the scene. He declined to be drawn further.
- 3.11 The SIO outlined his strategy to apply covert tactics using RIPA 2000 authorisations [REDACTED] Details of Policing Tactic [REDACTED] (See Recommendation 5)

4.0 IRT Initial Response to SIO's Presentation.

- 4.1 The absence of a detailed complaint and associated witness statements and an over reliance on the Leigh Day claim has given rise to considerable doubt in the minds of the IRT that this incident cannot be confidently categorised as a crime at the current time. On 7th April, 2016 Mr Justice Leggatt in the High Court of Justice, Queen's Bench Division provided guidance as to the required constituents he considered needed to be present prior to undertaking investigation. Para 289 of his report is appended at 'A'. The IRT appreciate that this is a recent judgement but nevertheless consider it to be relevant in these circumstances.
- 4.2 At this time it was readily apparent that there is no evidence in relation to any individual who took part in the raid of Operation Tyburn or indeed any other alleged connected incidents.
- 4.3 Lengthy discussion took place in an effort to identify any actionable intelligence. This scrutiny appropriately categorised the available information as; judgement/statistics, third party disclosure, speculation, rumour and chit chat at various levels. This information is untested, untried and without provenance. It remains at this current time of a poor quality and cannot support the contention that criminal offences have taken place.
- 4.4 The IRT strongly assert that any proposed RIPA 2000 considerations are not considered viable at this time.
- 4.5 Until we are sure what specific roles each member of SF performed at the scene the IRT take the view that any suspect designation is incorrect. The suspect designations in connection with [REDACTED] N1141 and [REDACTED] N1201 are premature, without foundation and at this current time profoundly unhelpful to the progression of Operation Northmoor. Lengthy engagement has taken place with the SIO in an effort to resolve this significant issue. At the present time the SIO is open to reviewing this decision at an appropriate time
- 4.6 Subsequent enquiries have identified that the SIO has already prepared a computerised graphic reconstruction of the incident scene. He has also obtained nominal details of SF and supporting personnel that took part in Operation Tyburn. However at this point in time it is not clear what specific roles each member performed. A reliance on a post operative debrief completed by the Officer Commanding and live radio transmissions provide some insight. However, in the view of the IRT what actually took place at the scene can be greatly enhanced prior to any proposed interviews.
- 4.7 The IRT consider that there would be merit in obtaining an individual duty statement/report from each participant in Operation Tyburn, who is still in service (IRT consider that written requests to those who are no longer in service represents a significant risk that unwanted

SECRET

SECRET

Handling Instructions: Investigative Material Limited Circulation

media attention would arise. Sufficient information may be obtained by restricting this request as outlined). **(See Recommendation 6)**. These requests should simply require each individual to detail their specific role and what they did at the scene. The IRT are not suggesting that these duty statements/reports should be under the provisions of Sec9 of the Criminal Justice Act 1967 (witness statement) or indeed under caution. This step requires individuals to recollect and account for their own actions and not rely on the post operation generic report completed by the Commanding Officer. Compliance with these requests would provide the SIO with an opportunity to prepare bespoke interview packages for subsequent interview of all member participants. Continued use of the NCA Interview Coordination Service is strongly advised. Examples where clear benefits could currently be derived include the identification of who discharged their weapons, took photographs, the position of the Officer Commanding and indeed the role of [REDACTED] N1201 at the scene. Other significant activities at the scene may well emerge. This approach would add value to any subsequent direct personal interviews.

- 4.8 The IRT appreciate that this proposal is new ground, however considerable benefit is likely to be gained in determining what actually took place to assist in the proper reconstruction of the scene.
- 4.9 This same procedure could be applied as necessary to other scenes as and when significant discrepancies are identified. **(See Recommendation 7)**

5.0 What is required in the immediate future and over the longer term

5.1 The IRT support the main lines of enquiry and their continuance

5.2 A more detailed analysis of what took place at the scene is essential and will determine whether a criminal offence has taken place or not. Given the additional information/speculation from knowledgeable senior sources that this alleged criminal conduct was more widespread than Op Tyburn the IRT take the view that it would be prudent to continue the work of the SIO in relation to the alleged ten incidents. The focus should be to establish whether any significant discrepancies can be evidenced. Should that become the case the IRT suggest that the same process of seeking duty statements/reports from those involved should be sought. If this process is adopted and any suspicions confirmed it is likely that similar modus operandi (MO) would become apparent. The enquiry would then be established on a firmer foundation than exists presently. Conversely the absence of significant discrepancies or emergence of similar MO may well lead to a decision that no further action should be taken.

6.0 Whether the current systems are viable for the prompt, effective and accountable investigation of allegations made to Op Northmoor (e.g. balance of effort exchanging time against budget)

6.1 The back record conversion of the substantial Northmoor material onto a [REDACTED] suitable HOLMES account is underway. The IRT believe there would be considerable merit in only prioritising issues that relate to the current main lines of enquiry. Application of this decision should result a quicker alignment of the HOLMES Incident Room to the actual investigation. Consequently it follows that a large quantity of material could be legitimately left in its current format until the existing main lines of enquiry are exhausted. It would also be logical to establish a 'Sequence of Events' Category within the HOLMES account. Relevant consultation has taken place. **(See Recommendation 8)**

7.0 And if not, how Op Northmoor might better support and be supported for these objectives.

7.1 Application of the proposed simple investigative strategy to Op Tyburn and the ten other alleged offences should permit decisions as to resources, staffing and likely duration of the enquiry. The anticipated product sought from the Data Sets is believed to be available in the summer of 2018. The IRT do not believe it would be necessary to maintain a major incident room and staffing at the current levels between now and the summer of 2018.

SECRET

6

SECRET

Handling Instructions: Investigative Material Limited Circulation

- 7.2 The IRT have been hugely impressed with the strong team spirit evident amongst Northmoor's staff. There exists a real positive attitude which is focused towards resolving this complex and highly sensitive issue in a professional and balanced manner. Continuity of this positive team environment is essential going forward.
- 7.3 The SIO has been open, positive and willing to embrace new ideas after appropriate discussion and reflection. The IRT have been impressed with the SIO's approach and thoroughness to this enquiry. We are grateful to him for his time, support and availability.

8.0 Additional Issue

- 8.1 On 5th January, 2017, the IRT were advised by Sir Jonathan Murphy that when he was originally briefed on Operation Northmoor by an MOD official he was advised that there was evidence that the same weapon had been recovered at two different operational scenes. No reference to this significant aspect had been presented by the SIO during his presentation earlier that day. Consequently the IRT asked the SIO and his deputy whether they had knowledge of this evidence. The IRT were informed that no such evidence existed. Further discussion between the IRT and the SIO highlighted the need to provenance the source of this information. The IRT then requested Sir Jonathan Murphy to do this on their behalf.
- 8.2 On Thursday, 19th January, 2017 Sir Jonathan Murphy advised the IRT that the MOD official had attributed his knowledge of this aspect to a briefing given to him by the previous senior managers of Operation Northmoor.

9.0 Recommendations

1. High priority – that the planned visit to Afghanistan in an effort to obtain witness statements from both Bang and Saitullah and any other available evidence be progressed. Engagement with [REDACTED] APU1 personnel should also be sought with a view to gathering further relevant intelligence/evidence.
2. High Priority – Efforts to recover Data Sets proceed, by consent and not seizure, in an effort to identify relevant material.
3. The categorisation of suspect status currently applied to [REDACTED] N1141 and [REDACTED] N1201 [REDACTED] is removed.
4. That the ten similar events identified by [REDACTED] N1466 continue to be investigated in an effort to identify any evidential discrepancies.
5. At present no covert tactics requiring authorisation under the provisions of RIPA 2000 should be applied for.
6. An Individual duty statement/report should be sought from each participant in Operation Tyburn, who is still in service (see Para 4.7 risks associated with personnel no longer in service. Continued use of the NCA Interview Coordination Service is strongly advised).
7. An individual duty statement/report should be sought as necessary to other scenes as and when significant discrepancies have been identified.
8. That the back record conversion onto a [REDACTED] suitable HOLMES account be restricted to material relevant to the main lines of enquiry. A 'Sequence of Events' category is developed within the HOLMES account.