

INDEPENDENT INQUIRY RELATING TO AFGHANISTAN

SUMMARY OF N1466'S EVIDENCE HEARD DURING CONCERNS AND COMPLAINTS PART 2

WARNING: This evidence is subject to the Inquiry's Restriction Order dated 31 May 2024. The Chair granted anonymity to witnesses who gave evidence during this set of CLOSED hearings ('Concerns and Complaints Part 2') for the reasons set out in his Ruling dated 31 May 2024. The Chair's Restriction Order prohibits publication or dissemination of the identity of N1466, or any information which might lead to their identification, and prohibits publication or dissemination of other restricted information.

For the avoidance of doubt, where documents published by the Inquiry have been redacted and a gist or cipher placed over the redaction, or where square brackets are used in a transcript extract, this is because the Inquiry is restricting from publication or dissemination the underlying information in accordance with the Chair's Restriction Order.

N1466 was questioned by lead Counsel to the Inquiry, Oliver Glasgow KC in a CLOSED hearing in Summer 2024, over approximately two and a half days. The following is a summary of N1466's evidence and, where possible and relevant to do so, a transcript of sections of N1466's evidence, with sensitive terms redacted and replaced with a gist or cipher in square brackets.

N1466 was a senior member of the UK Special Forces ("UKSF"). Between 2010 and 2011, he was the Assistant Chief of Staff ("ACOS") for Operations in the Special Forces Headquarters. N1466 gave evidence about how he first became concerned about the conduct of UKSF on deployment in Afghanistan, and what steps he took to investigate those concerns and raise them with the Director of Special Forces ("DSF"), N1802. N1466 was also questioned about the contact that he had with the Royal Military Police ("RMP") that led to his first witness statement and then ultimately to the statement he made to the Inquiry in November 2023.

Preliminary Issues and Background

The Restriction Order was read at the outset of the hearing. The Chair noted:

'I have made clear that the security and wellbeing of witnesses and ensuring that they are in a safe and secure and non-threatening environment and that they feel able to give their best evidence about difficult and sensitive matters is something that I take most seriously and have given considerable thought to. As far as I am concerned, it is non-negotiable. I know everyone is sensitive to this and will co-operate fully to ensure that this is the case in relation to every witness.'

N1466 confirmed, subject to some minor corrections, his statement to the Inquiry dated 11 March 2024, and his statements to the Special Investigation Branch (“SIB”) of the RMP dated 30 June 2015 (MOD-198-0003561-A), 19 September 2018 (MOD-198-0002860-A) and 29 January 2019 (MOD-198-0002038-A).

CTI began by taking the witness through the key aspects of his military career, to assist and place in context the evidence to be given. This included sensitive identifying material and material that is operationally sensitive that is relevant to the evidence that followed, which cannot be gisted. This included details of when the witness joined UKAF and subsequently UKSF3, his experience such as in command roles on operations (including in Afghanistan), and joining HQ DSF. Over that period, N1466 was the ACOS Operations. N1466 explained that he subsequently returned to HQ DSF in 2014, having undertaken some roles out of UKSF.

CTI took N1466 through an overview of the concerns he had raised. N1466 explained that he decided to raise his concerns with the Provost Marshal (Army) (“PM(A)”) in January 2015 due to a combination of factors, as N1466 set out in paragraphs 75-78 of his Inquiry witness statement. N1466 did not make a formal report of his concerns between his approach to DSF in 2011 and when he spoke to PM(A) in 2015.

CTI asked N1466 questions about the reasons and timing for raising his concerns.

In response to a question from CTI as to why he had chosen not to say anything about his concerns before 2015, N1466 said that in 2011 he did raise his concerns with DSF at the time and he clearly presented him with evidence indicating there was a problem. The response was not what he expected and did not result in any notification to the Service Police, or representation to a higher authority. N1466 believed that there was a clear intent by DSF pulling the HQ around him to “*pretty much suppress that*”.

N1466 stated that “*It is a matter of great regret for me now, it has been quite stressful over the whole of this period that I didn't do the right thing at that time and go myself to SIB, but I ... went with the Headquarters' view. I didn't feel particularly supported by the legal advice that I was given at the time either...*”. In the time between 2011 and 2015, N1466 wrestled with the whole thing but, to a degree, he took some comfort from thinking that the matter would have been put to a close by the action that was taken. However, it was apparent when he came back to UKSF in 2014 that it had not stopped at all, in fact, it had carried on at least into 2013 and quite a few rotations of different Sub-Units through that role. He found that quite shocking, and that was why he took the approach of going to the PM(A).

As well as speaking to DSF in 2011, he also made other people in Headquarters aware. Even earlier, in February 2011, he spoke to the Commander SFHQ(A), N1786, after raising some initial concerns with N1802 and being told to discuss them with the in-theatre Commander.

CTI asked N1466 questions about the decision to approach PM(A).

N1466 approached the PM(A) directly, he did not see any point in going to anybody else within the UKSF Chain of Command (“CofC”). It seemed obvious that most people within UKSF knew there was an issue “*certainly the [Directors of Special Forces] did*”. N1466 had reason to deal with PM(A) anyway, so it seemed easier to go straight to them rather than make contact with the SIB.

N1466 confirmed he did not discuss his concerns with anyone else between his first meeting with the PM(A) and his interview with the SIB a few months later. It seemed to N1466 that there were quite a lot of people who wanted this suppressed; “*I'd witnessed that myself in Headquarters, so breaking out of the Headquarters and going to SIB was something I didn't want to be publicly known at the time...*”.

His concerns were that it would make it particularly difficult to conduct his duties and responsibilities within the team where typically he could be ostracised from it for going to SIB. In addition, if senior officers did not want him going to the SIB, then, if he did, that would have an impact on the way they would treat him at work and how they reported on him. In the quite competitive nature of senior levels in the UK military, the slightest impact on the annual appraisal, just a few word changes, would make the difference between promotion or being passed over and make the rest of your time static at that rank. N1466 explained: “*it was also a community I'd grown up in throughout my whole career [information relating to his career which cannot be gisted]... and you're part of a community that you've...grown up with. You know who everybody is. It's a very... tight-knit community. So...it is quite difficult to step outside of that in some ways. Even if you think, as I did, that it was absolutely the right thing to do, there's still that...pressure that you have to overcome; a conscious decision you have to make to step outside of that and actually break ranks and...put your hand up and be counted.*”

CTI asked N1466 about the nature of the concerns reported to PM(A).

The nature of the concerns N1466 took to the PM(A) and raised with the SIB were the reports in which there was a larger number of enemy killed in action (“EKIA”) compared to weapons found during the course of operations, and that individuals he believed were detainees were being shot and killed. In addition, he was concerned that the way the deliberate detention operations (“DDOs”) were being written up in the post-operational reporting was not credible. He had been concerned about these issues back in February 2011.

N1466 was also concerned about the failure, as he saw it, of the Chain of Command to report the allegations that were being raised. There was a number of people who were directly responsible for this before it even got to the Headquarters level. There were three reporting levels up to HQ DSF and issues of concern should not be getting to N1466's level without being observed at all the levels all the way up that Chain of Command.

Q So, in terms of the concern that you had about the failure to report the allegations, do we understand from what you have just said that it is not just a failure at the very top, it is a failure that appears within every rung of that Chain of Command?

A I would say so, yes, failure of leadership at every step of that ladder.

CTI explained that he would take N1466 through events, in the main, chronologically Role as ACOS Ops.

N1466 explained the structure in Headquarters of UKSF in 2011, including that there was the Director, N1802. Beneath him there was the Chief of Staff, N2252, and a number of Assistant Chiefs of Staff. Each ACOS had responsibility for a different field of work. N1466 oversaw all the operations that UKSF was conducting on behalf of DSF. It was not all about Afghanistan at that particular time. As well as conducting operations in Afghanistan, they also had the back-end of a deployment to Location Given (not Afghanistan) (“LG (not A)”) and other different areas in his portfolio of work. It was a very busy time, and UKSF “*were spinning a few plates is probably the best way of saying it*”.

N1466 suspected that Afghanistan took up less than 25 percent of his time. Part of the reason for that was the Afghan construct and campaign had a much higher level of investment in it in terms of command focus. There were more people out there, they had more command structure. They were working alongside Task Force Helmand, so there was a lot of governance and it was well-established. “*It was starting to run on rails and to a degree it should have been one of the operations that you didn't have to spend quite so much time on*”.

HQ DSF was spending quite a bit of time on things like detention issues because there were still problems around the detention pathway and the legality of handing detainees over to an Afghan system that was not using UK traditional standards. They were dealing with a lot of the strategic level questions in Afghanistan, but the lower-level operational task or delivery was pretty well established. In N1466's mind he was, therefore, particularly concerned about other parts of the world that were more dynamic at the time. However, despite this, N1466 felt very clear that he had responsibility to the DSF for making sure that those DDOs were running correctly, were effective and meeting the mission set. N1466 explained that there were two Chains of Command: one in Afghanistan (the coalition CofC) and parallel to that, the UK CofC which came back from Afghanistan via SFHQ(A) into the Ministry of Defence (“MOD”). This was not unusual.

The almost day-to-day monitoring of DDOs fell to N1788, an officer working for N1466 responsible for overseeing UKSF operations in Afghanistan. N1788 kept an Incident Tracker looking at incidents of concern. N1788 was the person within Headquarters who came to N1466 if he had any concerns over the way UKSF operations were being conducted. It was for N1466 to advise DSF on whether they thought the application of UKSF capability in Afghanistan was doing the right thing, and achieving what it was meant to be doing. SFHQ(A) would grade

themselves in that regard and the Sub-Units would write their post-operational reports. They had the information to make assessments on whether they were making progress or not. The downside to that was it was human nature to try and big up success and concentrate less on failures.

CTI asked N1466 questions about the post-operational DDO reports.

N1466 was a recipient of almost every single report that came in from UKSF operations globally, which included post-operational reports provided after DDOs. All these reports came in on the same day each week. This was what was called the R2: Reports and Returns, including reports from the other thematic areas N1466 was covering. N1466 would not look into the detail of every single one, because his role was more of the oversight of all of those reports, more at the strategic level. The staff officers beneath N1466 would drill into the detail of all the reports across all areas, and if they felt there was anything that was worthy of his attention or via him to DSF, they would flag it up to N1466.

A *...That's not to absolve myself of any responsibility, but bearing in mind the sheer amount of [activity] that was happening on a regular basis, they were able to give more of their time to each of those individual subject areas because it was their area and then they would report it to me and I would (inaudible). It was a...funnel of a vast amount of information being funnelled up towards one point of the Command Chain, which would be the Director because at the end of the day he is the Commander of UK Special Forces and we are his Staff Officers supporting him.*

Q *And in terms of your working relationship with N1788, how would you describe that, please?*

A *Very good I thought. I thought he was a very capable, really, really capable Staff Officer. He did have to spread himself a little bit across into some of the other areas... [sets out additional sensitive information which cannot be gisted]. So at times he was managing not just Afghanistan but also other campaigns and feeding that into me. So he had to spread himself a bit as well, but I thought yeah, very capable, very reliable, good guy, one of the best SO1s I had working for me at that time.*

Q *As far as you can assess, if he had identified a matter of concern, would he have felt comfortable in being able to bring it to your attention?*

A *Absolutely, yes.*

The details of what was happening in the various campaigns, in particular Afghanistan, was their day-to-day life, which they were always discussing. N1466 described the “*slight problem*” at that time was that N1788 and the rest of N1466’s team were located in another part of HQ DSF, so they had to take the time to have face-to-face discussions, otherwise they would just go off emails. N1466 would have preferred to have been with the staff, closer with his hand on the pulse, but it was the way that the Headquarters was structured.

He and N1788 talked all the time, they raised issues when appropriate and they would flag things up. N1466 would give direction and if he sought higher advice he would go to the Chief of Staff, or DSF.

CTI asked N1466 about the quality of the post-operational DDO reports.

A *...There was a time in around February of 2011 where I did, even in the... limited engagement with each part of the pack that I was doing, I did start to notice things that I was uncomfortable with in terms of the SINCREPs that were coming back after some of these operations and that was in two areas. It was in the ratio between the number of people killed and the number of weapons recovered; and then the other area was this increasing tendency in around January/February of 2011 that detainees who had willingly surrendered and come off target were being taken back onto target, into the compound and encouraged to help with the clearance.*

Now, that was a recognised TTP. It had been going for some time, at least a year and a half and it had never before caused any problems, but in, as I say, January/February 2011, suddenly these detainees started getting killed and that was clearly a problem. They were detainees. They were under our protection. Under the Law of Armed Conflict, they, they were afforded our protection and yet in the course of being used to help with the clearance they became fatalities; and the way that the SINCREPs were describing this, they were saying that they reached for a weapon while they were engaged in a clearance.

It is probably worth saying that the purpose of having them involved in clearance was there was always a concern that the insurgency might leave IEDs in some of these compounds, improvised explosive devices. So that, as the assault force went to clear through the compound ...they might self-detonate an IED and, and cause casualties in our force, which was an ever-present possibility because IEDs were commonplace in Afghanistan at that time.

So, to protect against that eventuality, it was decided at some point back in about I think [pre-2010] that detainees would be invited to go back in and help with the clearance and that way they would know if there was an IED in there and they...wouldn't, self-detonate on themselves. So that, that was a well-established TTP, but, as I say, in January and February we started seeing evidence that detainees were being killed during that process because allegedly they reached for a weapon during the process, and that was quite wrong for a number of reasons... as I said before, the Law of Armed Conflict...we had taken them as detainees and yet we were allowing them to put themselves in the position where they were...being killed.

In response to a question from the Chair, N1466 said that he knew the TTP was taught in pre-deployment training, but he did not know if it was recorded as a formal TTP. If it had been, it would have been held by the people who ran the pre-deployment training in UKSF1 for that particular Sub-Unit, or by Headquarters, SFHQ(A).

N1466 was asked whether in that TTP the local national would be accompanied by UKSF during the clearance.

A *Absolutely, yes. As I understood it, [it was taught that a Call Sign would accompany and maintain continuous eyes on that individual throughout the search process]. You really didn't want an uncontrolled potential insurgent running around inside that compound by themselves. It defeated the whole point. You, you wanted to see what they were doing and check that what they were doing was legitimate and effectively you were allowing them to do things like move curtains or move...in these mud walled compounds within Afghanistan pretty much every doorway didn't have a wooden door and we recognise that it would have a...blanket or a curtain...across it, so you wanted them to move that so you wouldn't trigger an IED, but then you wanted to go through so that you could do the search with them and looking for [N1466 explained what UKSF were searching for]. So, yes, you were effectively looking to search the compound but you were getting them to help do so and reduce that risk of IEDs. So they weren't set off on their own. [The Call Sign would accompany the individual closely to clear the building].*

CHAIR: And would they be handcuffed?

A *Well, this became a point in the TTP Review. I believe at this time they were not being handcuffed.*

MR GLASGOW KC: In terms of the degree of supervision that there was over anyone that assisted in the clearance or the search, would they be accompanied by one member of the [Sub-Unit] or would it be by more than one member?

A *They would be accompanied by [a Call Sign] because, as I say, in my understanding of it, it was, it was generally a [Call Sign] that went in [with] that detainee.*

N1466 said it was important that at all times the person was supervised for two reasons. Firstly, to know what they have touched, so that you can tell if there may be an IED hidden. Second, if they had unfettered access, they could be going for a weapon or trying to destroy or hide evidence “...so for a lot of reasons you just want to get control of the detainee when they go back on target, so you stay with them.”

CTI asked N1466 questions regarding paragraphs 9-12 of his IIA statement in which N1466 referred to a particular Director's Update Briefing (“DUB”).

N1466 initially noticed in early February 2011 his concerns that there were more EKIA than weapons, and detainees were ending up being killed during the course of the clearance process.

During a particular DUB, a member of the HQ read out the statistics of one particular DDO, Objective 1. N1466 cannot be sure when the brief would have happened precisely, because firstly he did not think any report would make it to the DUB on the same day it had been received and secondly, at some point during this period, the DUB moved to a day later in the week. The reason for this was the amount of reporting coming in from all areas meant DSF wanted more time to digest some of this material in written form before they had an update brief.

N1466 said that the ratio of weapons to bodies stood out, it was not the first time he had seen high ratios and there can be reasons for it. N1466 gave an example: in the process of using suppressive fire onto a building in combat, you may cause more casualties than the number of people who were firing back at you. However, “*...the problem started to be that this was happening again and again and again, so it is quite important -- and I must stress this -- that it is not a one-off incident*”.

It was a particular problem for UKSF because they spent a lot of time practising close quarter battle procedures within buildings and the standard is as high if not higher than police firearms. It was about being very careful with the application of force. It was a very, very high bar in terms of the discretion of target acquisition and engagement so that you did not cause unnecessary casualties.

Q And if we think of possible alternative scenarios that might provide an innocent explanation to the high ratio of dead persons versus weapons,...please help us whether they would be, could you conceive of circumstances where an individual armed with a weapon who is shot and killed, that that weapon is then picked up by somebody else who then uses the same weapon to try to engage enemy forces?

A ...it is possible but it is extremely unlikely. Their chance of survival is minuscule. If you've already engaged one individual and you've got them in your sight picture and then someone else goes up to pick up that rifle, you've got a, it only takes you a split second to move your aim onto that other person and it's going to take them seconds to pick that thing up and make it effective and fire back. The advantage is very, very heavily in favour of the [member of the assault force]. It would be pretty suicidal under those circumstances to pick up that weapon. And this did become implausible in reading some of these reports and I wasn't alone in that conclusion. I remember at a later point when...[N2444] did his table top review, we're talking about this and saying "It's just not credible", because you had instances of multiple people almost queuing up to pick up weapons and then get shot and it's brought out by the fact that none of these people who tried to do this ever came anywhere close to succeeding, they were all shot

dead straightaway. It's, it just isn't a realistic thing in my experience and, you know, I spent a fair amount of time in this (inaudible).

CTI asked N1466 about operational scenarios.

In particular, N1466 was asked about a scenario where in a relatively confined dark space which is full of dust, insurgents manage to shoot those with them who are not armed. N1466 said that he had undertaken this sort of operation in Location Given (not Afghanistan), and when gaining entry, it could create dust in a dark room.

A *However, from a defender's perspective, what they are presented with in a very, very dark room suddenly there is a lot of light because you've got [an open access point]... [N1466 went on to describe further details of the entry procedure that included weapons and equipment used by UKSF. He also described the movements of members of the Sub-Unit during the entry procedure as well as their potential vulnerabilities on entry. He referenced the impact of the relative light levels and visibility throughout the procedure, including in relation to targeting by UKSF.]...but that is part of why UKSF spent so much time training for this sort of scenario. This is...a constant part of your practice in [training] was to make the right target acquisitions in really difficult circumstances like that and, to my mind, that is part of the reason why UKSF are used in this role in counter-insurgency, because there is that need for a high level of target discretion in very difficult scenarios. So I think, yes, that sort of cross-fire type scenario is possible on both sides. It is possible for defenders potentially to shoot people in the way. But something that was very noticeable at that time is that, if you compared these statistics with previous [Sub-Unit] activity, these stood out. The circumstances hadn't changed, the environment hadn't changed. Those scenarios I've just described haven't changed, yet at this particular moment in time in the spring of 2011, we were getting these, these ratios and in some ways it was becoming more alarming because on the whole these operations were becoming less kinetic than they had been previously.*

N1466 explained that when carrying out these DDOs pre-2010, members of the assault force would often come under fire when approaching the compounds. However, more recently it seemed to UKSF that the insurgency was starting to realise that when they opposed DDOs, most of those resisting were killed. However, if they allowed themselves to be captured, after 96 hours they were just let go. This meant UKSF were increasingly getting less opposition on target, and more compounds were surrendering.

A *So, in some ways, these...EKIA...to weapons ratio should, if anything, have been going down and the...number...that were killed were on a downward trend and then they...started spiking back up again. So, so I can't put absolute figures on that, but it felt wrong. It felt wrong.*

CTI asked N1466 about the Update Briefing in February 2011 when Objective 1 was discussed.

In these meetings, N1466 would sit next to DSF on one side. COS, N2252, would sit on DSF's other side. When this objective and the 9:3 bodies to weapons ratio came up, N1466 seemed to remember turning to DSF. N1466 did not think he actually had to say anything, DSF knew what he was talking about because the ratio had just been read out. N1466 thought DSF must have known it was odd, and DSF told him to phone N1786, CO SFHQ(A), that same day. N1466 continued:

A I may have said something to [DSF] about those statistics, I may not have done, but what I'm trying to get across is that he was very clear. He knew exactly when I was looking at him and I think, I think Chief of Staff was...in that...conversation or an interaction as well because he was sat on the other side of the Director and he was very, very close.

N1466 was pretty sure there had not been any discussion between him and DSF about those statistics prior to that meeting in mid-February. N1466 could not remember whether he said anything to DSF, but he was about to, that was his intent. It was a long time ago, so N1466 could not recall exactly how far he got with actually speaking to DSF, but DSF recognised the issue and instructed N1466 to speak to N1786. What slightly surprised N1466 was that DSF wanted him to speak to N1786. In Command Chain terms, it should really have been DSF.

N1466 felt that it was pretty obvious why he needed to speak to N1786, it did not need saying. It was clear to N1466 that DSF knew there was a problem and wanted N1466 to speak to N1786 to find out what was going on. N1466 was not given any instructions as to what he should do after speaking to N1786, but N1466 thought he was required to make N1786 aware that there were problems under his command in Afghanistan.

N1466 spoke to N1786 later that day, and told him they were concerned about the EKIA ratios and the detainees getting shot. Before calling N1786, N1466 was pretty sure he also went back over some SINCREPs to get a bit more detail. In preparing for the phone call with N1786, N1466 became more alarmed, not less.

CTI asked N1466 questions about N1466's understanding of DSF's knowledge or suspicion of the EKIA ratios.

Q In terms of your ability to assess what [DSF] knew, if he did not say anything to you, what was it about the way he conducted himself that leads you to the conclusion you appear to have reached that he, [DSF], knew that there was something wrong?

A Because I turned to him at the point when that ratio was read out. It was clearly about that ratio and his acceptance that there was an issue and instruction was so

immediate...I hadn't even, I was hardly opening my mouth, as I recall. It's all a little bit vague, but he was straight onto it as "We need to do something about this" and "Talk to [N1786]". I'd worked for [DSF] for [time period] by that point. You...get to know the Commanding Officer you're working for and he knew. The other thing I would say about [DSF] was that he was meticulous in reading through the R2. He pretty much, the reason we shifted to having this Update Brief at some point over my time as ACOS Ops onto [a later day in the week] is because he wanted longer to go through the R2. There was so much [information] ... that it was taking longer to read [it] and it wasn't for the benefit of the staff who prepared the Update Briefing, it was for him to be onto it and he liked to scrutinise this [reporting] and then he would ask really challenging questions and make points to his staff during these Update Briefs. It was the way he worked and that sort of forensic analysis of the R2 I, I strongly believe that he would have seen some of this [material] and he was...getting concerned as well...

Q *Is there any chance that you misinterpreted what you believed to be ----*

A *I really don't believe that I misinterpreted that at all. It was pretty clear to me that he was both equally concerned by this and this was not news to him and that he wanted something done about it.*

N1466 could not now remember if he spoke to DSF about his conversation with N1786. N1786 did say he would look into it, but N1466 was not expecting him to come back and say they were killing people or expecting a complete denial in that telephone conversation. DSF was the Commander, and N1466 was the Staff Officer, so N1466 was saying that they were getting concerned about some of these operations, and can you please look into it. He did not really get into any more detail, it was pretty much a notification that there was an issue.

N1466 was asked about an email he sent to DSF in early April 2011 (MOD-198-0002062-A).

N1466 confirmed that he did not speak to DSF about this issue between the February meeting and sending this email. N1466 explained that when he wrote '*2 particular indicators that were fuelling our concern*', he meant the concern shared by N1466 and DSF. The two particular indicators he was referring to were the bodies vs weapons statistics and the number of instances where the '*head of the family*' was invited to lead the clearance of the compound and was subsequently engaged and killed.

CTI referred N1466 to the following sentences of the email:

'I explained that this issue was in hand; you had made it clear that [SUI] needed to exercise restraint in the use of lethal force on target ...'

And:

'I had spoken to [N1786] at your behest in [February] and you were likely to reinforce that message again during your current visit.'

N1466 could not remember exactly where ‘DSF made it clear that [SU1] needed to exercise restraint’ had come from. N1466 thought that it may be that DSF expressed it in some form of direction or email, but he could not remember. N1466 did know that when he wrote the email, DSF was on his way back from a visit to Afghanistan. There was a flash report that was sent from SFHQ(A) to HQ DSF on the things that the DSF had observed while he was in theatre. N1466 thought it could have been in that because that arrived before he sent the email.

Q ... Do you recall at any point after this email was sent whether DSF came to you to say “You are wrong in the way you have described my concerns. I hadn’t said at any point that [SU1] needed to exercise restraint in the use of lethal force and I don’t share your two particular indicators”?

A No, he...didn’t say that, no.

Q Can I just ask you this? If your assessment of him is correct that he had a “forensic” eye for detail, if you had set something out in a document to him that did not accord with his understanding or his recollection, would you have expected him to correct you?

A Absolutely, yes...

In response to a question from the Chair, N1466 said he became slightly alarmed and surprised after the conversation he had with N1786. It seemed to be news to N1786. He pretty much just said “*Oh right okay, I’ll look into it*”. N1466 found this a little bit odd because N1786 had a much narrower focus than they had, and yet they were picking these things up 2,000 miles away in Headquarters. This was his bread and butter so he should really have been all over it:

“...I would have expected him to have a better idea and more finger on the pulse, but the conversation I had with him didn’t reveal that. His, his response to the concerns that I expressed from the Headquarters in London was “Ah right, yeah, I’ll have a look into that”. It didn’t...come across as something that...he was fully aware of...or minded of. It did seem strange. That’s the only way I can describe it.”

N1466 was also pretty sure that in the flash report that arrived at the start of that week, there was a recollection of DSF saying something about the disparity between Partner Force 1 (“PF1”) doing a very similar job, and SU1’s statistics. N1466 thought that again indicated that that was something that the Director was starting to look into. There may have been other little bits or pieces like that which N1466 might have picked up between February and the production of the note on 7 April that led to him saying more about “*our concerns*”. N1466 thought that there was clearly more in here than just the nod and the sort of quick statement in their Ops Update back in February.

CTI asked N1466 about an email dated 4 April 2011 from N1788 to N2108, SO1 Legal (MOD-221-0005163-A).

CTI noted that the email referred to DSF mentioning a comparison between SFHQ(A)'s KIA stats and PF1 the week before. N1466 noted that he was copied in on this email so would have seen it. N1466 was also quite certain that he saw the report from Afghanistan in which SFHQ(A) said what DSF discussed when he was out in theatre. The email from N1788 probably contributed to what N1466 was saying about their shared concerns, but there may well have been other indicators.

N1786 did not give any particular explanation to N1466, but he certainly conveyed the sense that there was probably nothing to worry about. *"He didn't seem particularly alarmed about it. It didn't create a sense of defensiveness or alarm or panic or particular concern I would say."* If N1466 had been in that situation he would have been a little bit concerned. N1466 was representing DSF's concerns and he made it very clear that he was. N1786 did not think it was just N1466 calling him. N1786 was responsible and that phone call should have been it as far as N1466 was concerned.

N1466 would have expected there to be a response from N1786 to either him or straight to DSF. There was a lot of work that suddenly kicked in two days later. N1466 then provided sensitive information about other areas of UKSF work which cannot be gisted. Within the bandwidth they had, they got distracted, and the other work took over. N1466 did not recall going back to N1786, but N1786 knew he needed to work out if there was anything untoward going on and report to the SIB if he had suspicion of criminal wrongdoing.

CTI asked N1466 about whether N1786 had an obligation to make a report.

N1466 agreed that if N1786 did not have a suspicion of criminal wrongdoing, then there would be nothing for him to report to the SIB. At that moment they were just seeing statistics and N1466 thought there was a need for a little bit more than that. However, being told that the Director and the Headquarters above you are getting worried about things that are coming back in SINCREPs, as a Commander you would do your own internal investigation and you take a grip of the situation. N1466 has been in plenty of command positions and that is just what you do.

N1466 thought he had asked to receive an explanation in the phone conversation. N1466 did not send an email and did not provide a timeline in which N1786 was to report back that he could recall.

N1466 rarely spoke to N1786 on the phone.

N1466 had been in command positions a lot, and in expressing your command personality to your subordinates you would generally phone them yourself if there was a serious problem, so it did seem odd to N1466 at the time that DSF would ask his ACOS to phone N1786 rather than

do it himself, but N1466 did not raise this with DSF. The interaction was very short in a room full of people in the middle of an ongoing brief. N1466 thought DSF would not have wanted to make a big deal about it and stop the brief. It was a quick interaction but it was clear and you know your superior officer when you have worked with them for some time.

CTI asked N1466 about his working relationship with DSF.

Q Having worked for him for [some time], what was your working relationship with him like?

A There's a whole different thing about [N1802]. He's a very distinct personality. I wouldn't ever say I had a close working relationship with him. He was probably the hardest boss I've ever had to work for in some ways....he was quite a harsh character. As I said, very, very attention to detail, always seemed to me to be sure that someone was doing something wrong or letting him down in some way, shape or form and he held the Headquarters on a very, very tight reign and rode it very hard. He always wanted more detail than was available, be that in intelligence or in staff work and he, he openly admitted, I remember I went on a visit where we, we were talking to another [senior officer of the same rank as N1802] who he knew and there was talked about leadership styles and [N1802] said "Yes, well I believe in intimidation, that's my style" and to a degree it was. He, he would very quickly hold people to account in front of others and, and basically say they weren't good enough, they weren't intelligent enough and I found that actually in some cases quite...toxic in some areas...He did it in a brief once.

Just as an example, a young [junior rank] who had just joined the Headquarters who was in [a particular team], one of the bits that reported to me, and it was pretty much his second or third week in the job and he was giving his first ever brief to [someone of DSF's rank] ... and DSF stopped him halfway through and said "This is a load of rubbish, this is not what I need to know, I need to know this, this and this and you are giving me that and that". Now, to have done that in the right way might have been quite helpful, to have maybe told me and then let me deal with this [junior rank] and talk him through what [DSF] wanted, fair enough, but to stop the brief in front of the whole Headquarters and then rip apart a young [junior rank] in front of his peers and the whole team seemed cruel...

So I don't want to character assassinate him, but he had a very, very close attention to detail. He was very forensic, very, very detailed, really tight on trying to make the Headquarters the best Headquarters it could be and he did keep us on our toes. To be fair it was a very tightly run Headquarters, but it wasn't fun, it wasn't a good environment to be in. There was this slight sense of...everyone on edge and he...wouldn't let things lie. If he felt they weren't good enough, he was very irate, which in itself is not too bad, it's just the way he did it.

After a while of getting used to how he worked, I adapted what I was able to do as a Senior Staff Officer to make sure that I anticipated and knew what he wanted...because it was the best way to get things done and it saved an awful lot of work for my team. So I tried to understand him, how he worked, what he wanted, how his articulat...interests were going to take him next became a really important thing to try and help to (a) make the Headquarters do what it was trying to do but also (b) prevent the staff getting run absolutely ragged, because they would....he would quite happily have everybody there 24/7 working all the time.

There would be days where N1466 would not see DSF at all, and other days where he spent a lot of time with him. Straight after the April email to DSF, N1466 did go in and see him about the concerns. The chronology was that N1466 had this interaction with DSF in the February meeting, then N1466 spoke to N1786. Later in February, HQ DSF got distracted by other international events which cannot be gisted, that took the focus from DSF elsewhere. N1466 explained that there was a whole range of other operational issues being dealt with at home and across the globe, so the bandwidth available to talk about Afghanistan was quite limited.

CTI asked N1466 about events after he made the call to N1786.

In particular, CTI directed N1466 to his first witness statement to the RMP (MOD-198-0003561-A), and the penultimate paragraph on page 3:

'In the following months I maintained [close] observance of the post incident reporting in Afghanistan and in particular the numbers of EKIA compared to the number of weapons recovered. The numbers continued, in my mind, to be disproportionate which just increased my concern that perhaps things were out of control.'

N1466 thought that, knowing what was going on in that time period, the amount of time and effort he could have spent on it was limited. In February and March they were busy with other urgent work: "...certainly it was not something the Director was focused on at this time because there were so many other issues he was getting beaten up by MOD over and this was more background than front of attention". N1466 thought that coming to the beginning of April it was starting to calm down a bit and he probably did manage to focus more time back on it.

CTI referred again to the penultimate paragraph on page 3 of N1466's RMP statement:

'The numbers continued, in my mind, to be disproportionate which just increased my concern that perhaps things were out of control.'

N1466 believed this to be a correct reflection, which was true of the generic period but the comment needed to be understood in the chronology and context of when that sentiment was recorded. At the end of March, N1466 met N1785 at a social function and they both expressed

their concerns to each other. On the following Monday, 4 April 2011, N1466 asked two of his Ops team, N1788 and N2444, to go back through all the SINCREPs, and analyse how many times the EKIA ratio had been too high, or times where the detainee had gone back in and got shot. At the end of that work, which was reported back on in the evening of the 7 April 2011, “*it was absolutely crystal clear*”.

N1466 explained that he was trying to describe a growing boiling pot scenario. There was a separate big work distraction, and then they returned to this and it was still bad. They then did a proper table top analysis and it was “*really, really bad*”. N1466 went to the Director on 8 April 2011. N1466 was therefore not quite sure that where it says in the paragraph of his RMP statement he ‘*maintained close observance*’, was really true because they were just too busy.

CTI asked N1466 about his email to DSF dated 7 April 2011 (MOD-198-0002062-A).

CTI referred N1466 back to his 7 April email to DSF, and his recording in that email of ‘*a period of relative restraint*’ occurring between the call to N1786 and 7 April 2011.

N1466 was not sure that he really knew that, because they had not been looking closely enough at the time when they were distracted with other work. There was a few days in the middle of that March week where other work was just getting so bad that N1466 and some of the staff were sleeping in camp beds in the changing rooms because they did not have time to get back to their accommodation.

CTI referred N1466 back to his evidence about meeting N1785 at the social function. He thought this had occurred on Friday 1 April 2011. N1785 raised with N1466, rather than N1466 raising it with him, that N1785 had been approached by one of his subordinates who was disturbed by some of the accounts given to him by fellow officers at UKSF1’s UK location. N1466 then told N1785 about HQ DSF’s concerns and that he had had a conversation with N1786. “*These two things were aligning and it just doubled the weight of gravitas of the concerns. It is like triangulation. You, you get this confirmation of a problem*”.

CTI asked N1466 about his conversation with N1785.

CTI directed N1466 to the paragraphs of his 7 April email to DSF which set out his account of the conversation with N1785 (MOD-198-0002062-A).

Q In terms of your conversation with [N1785], do you still have a clear recollection today of that conversation with him?

A Not crystal clear I’m afraid. It was a long time ago. I do remember one aspect of it, which was that I did say to [N1785] “Now, we have noticed things, I’ve spoken to [DSF], who directed me to speak to [N1786]” and I remember [N1785] agreeing that it was odd that I spoke to [N1786] and not [DSF] and I vaguely remember, and I think it was me, suggesting to [N1785] that because nothing had been in writing at the time

and it was this odd thing about the phone call and me making the phone call, that it would be more impactful and persuasive if we both committed something to writing. So, at that meeting, I encouraged him to write a note and I said that I would write an email and we tried to make sure that they would arrive in time for the Director coming back from Afghanistan that following week. That becomes important in some ways in that, on the Monday, I asked [N1788] and [N2444] to do this work on statistics.

N1466 asked N1788 and N2444 to carry out the Table Top Review on Monday 4 April 2011, and the results did not get to him until late the following Thursday evening, so N1466 had to write the email to DSF without the benefit of it. N1466 explained that he sent the email to DSF Thursday morning because it had to arrive when he got back, he did not want it to be late, he did not want their respective correspondence not to arrive at the same time. The result was N1466 felt he was perhaps less convinced and convincing in this email than he would have liked to have been.

N1466 explained that he said in the email '*You might suspect SNCO bar-talk and perhaps some residual bitterness over the [UKSF3] loss of the [SU1] role ...*' because he needed to show DSF he had thought about the other potential factors and issues. It was part of the way DSF liked to work. He liked to make sure that his staff gave him a full appreciation of all the potential factors or issues and then make a clear recommendation. "*So, to a degree, I'm... laying out the fact that yes, there is the possibility that this is just the senior NCOs, but it's just a possibility that because...the year before the [SU1] role had transferred from [UKSF3] to [UKSF1], but I don't think that's the case. That's the way I'm trying to put that...*".

CTI asked N1466 if there was any residual bitterness felt by UKSF3 at their replacement by UKSF1 in Afghanistan.

N1466 explained that when another location and Afghanistan were both running full scale in parallel, Afghanistan was solely a UKSF3 operation and the other location was solely a UKSF1 operation and the two were very separate. As the other location closed down, there was no point keeping the two separate. The role that UKSF3 really took on was mentoring the Afghan force which was "*a less sexy role*" and some people, particularly some senior non-commissioned officers ("NCOs"), felt like they lost out. However, N1466 knew N1785 was very strong in saying the long-term future of Afghanistan was about our ability to build a partner force that could take over from us so that we could transition.

"So, what I am trying to say... is yes, there was some bitterness but it was absolutely not universal across the whole unit. Some of the, I would suggest, slightly more cerebral characters would get the fact that there is something in that, that the bigger, longer term effort is the one that really matters and that [SU1] is really just a sticking plaster to hold back the insurgency long enough to build the time for transition. But I knew at the time that [DSF] would see that as an issue that this is just sour grapes by [UKSF3]

and I wanted to address that in this email, because otherwise he would just come back at me and say “This is just sour grapes”. It genuinely wasn’t. I really don’t believe it was, certainly not on [N1785’s] part and this was [an individual] who had been [at UKSF1] and I still to this day believe he was telling the truth about what he heard...there. So, so, you know, the last thing I wanted was for this to be dismissed as a two group rivalry because I really didn’t believe it was.”

N1466’s recollection was that the individual who took his concerns to N1785 had met with people he knew from training. This was not a scenario of a bitter and twisted someone with an axe to grind. “*...the manner of it was not he is dobbying anybody in, he just can’t believe this is going on and he certainly wasn’t coming from a position of trying to put another unit down. That was not how it was put to me anyway*”.

CTI asked N1466 why in the email to DSF he had emphasised the word ‘*is*’ with italics in the following sentence: ‘*...if there is anything more than rumour behind it then elements of UKSF have strayed into indefensible ethical and legal behaviour.*’

N1466 said that he could not say why he emphasised that word, but he thought he was trying to come across as balanced. However, he knew that part of the reason for putting it in writing was because he was pretty convinced there was something going on. There was a wariness in the military of what was known as the “*long screwdriver*” effect – which describes sitting back in the UK and making judgments about things that are happening in theatre. “*It’s something that culturally we are always averse to and we are taught to be averse to because you are not in the heat of it and you don’t really understand what is going on.*” It was something he could not 100% prove at this stage. To be absolutely definitive at this stage was a risky thing to do, to throw these accusations about without having as much evidence as you can together. N1466 finished by saying “*... I really can’t specifically say why I put that in italics at this stage...14 years later. Sorry*”.

CTI asked questions about the content of the email to DSF.

CTI referred N1466 to paragraph 5 of the email in which N1466 referred to N1788’s opinion on the TTP being used (MOD-198-0002062-A). N1466 was asked when he spoke to N1788 and who else he had spoken to. N1466 thought that after speaking to N1785 the matter was clearly on his mind over the weekend and he came into work on the Monday wanting to talk to his staff about it. N1466 was quite sure he spoke to N1803, ACOS Policy as well as N2108, N1788 and N2444.

N1466 had done similar operations as a Sub-unit Commander in LG (not A), and he had been on multiple tours in Afghanistan and had never heard of this happening. N1788 had recently finished a tour in Afghanistan, during which he held a command appointment and was doing

these same operations, so N1788 saying they used the TTP all the time with no issues like they were seeing now reaffirmed to N1466 his conviction that something was really wrong.

N1466 was asked whether writing '*There could be a deliberate [Taliban] tactic to conceal weapons for the 'clearance' phase ... but it would seem to be unnecessary given general [Taliban] understanding of the limitations of our detention/exploitation regime*' was a reference to the 96 hour detention period. N1466 agreed it was partly that, and a lot more that went with it. They were really struggling to ensure that detainees they were convinced were part of the insurgency were successfully prosecuted and ended up in long term detention in Afghan custody. The insurgents knew that so it did not make sense for them to fight in the compounds when they would get shot.

CTI asked questions about the conclusion of the email.

CTI referred N1466 to the way he signed off the email to the Director. N1466 agreed there was a juxtaposition in his mind between what N1785 told N1466 had been reported to him and what N1466 had observed in the reporting from Afghanistan. N1466 had not raised the matter again with N1786 since N1785 raised his concerns the week before.

CTI asked N1466 what he meant with his final sign off:

'... my instinct is that this merits deeper investigation, hopefully to put minds at rest ... and make a clear statement to [UKSF] or at worst case to put a stop to criminal behaviour.'

A *... I'm in that latter camp "to put a stop to criminal behaviour". For me, this looks criminal but all the way through this I'm...trying not to be too definitive on something that I'm commenting on from 2,000 miles away from a warm comfortable Ops Room. So, for me the "merits deeper investigation" bit is really important and the "criminal behaviour" piece, knowing [N1802], you flag that up. He's got to take that seriously because "to put a stop to criminal behaviour" draws you into a need for an SIR, the need for really a referral to SIB....The bar is pretty low and it's following allegations or circumstances that might, might lead you to believe...so...I think there's enough here to trigger a referral to Service Police. In hindsight, as I've said a few times now, having more evidence would have been really useful. I probably should have put it even more strongly than I did in this email in hindsight, but for me at the time of writing this, even making those suggestions there that criminal behaviour, even mentioning... "deeper investigation", that should be enough to say to DSF "There are real concerns here; this should be referred" bearing in mind that [N1785] at the same time was sending a note which details the allegations...double whammy...what more is required really? It seemed pretty clear to me anyway that...it should merit external investigation.*

N1466 confirmed that there absolutely was a significance to recording this in writing rather than via a meeting with DSF. N1466 did not think they gave the initial concerns back in February enough gravitas. A letter coming in and an email coming in at the same time from N1785 would perhaps raise this to the level they felt it deserved, which was that this was quite serious.

CTI asked N1466 about the RMP note of a discussion with N1466 in 2018 (MOD-198-0000829-A).

N1466 said this note was an accurate reflection. Maybe over time he had forgotten other things he might have said to DSF, but certainly it was to do with the February interaction and the phone call to N1786.

N1466 stated that there was no response from DSF to his email of 7 April because by then he had already scheduled a meeting with N1802's outer office for the next morning, 8 April, as early as he could get it in, to address these concerns with N1802 in person. N1466 was pretty sure he took N1803 and N2108 with him; N1803 because she was a senior civil servant who worked at Headquarters on behalf of the MOD, so looking after the departmental interests, and N2108 who was the SO1 Legal because N1466 thought this had clear legal implications. DSF had just arrived back, having not spoken to anyone else in Headquarters and N1466 was at his door the next morning to raise concerns.

Q At the time you went to see him on the morning of the 8th, were you now armed with the table top analysis ----

A Absolutely.

Q -- that [N2444] and [N1788] had carried out?

A Absolutely and I had the example SINCREPs with me and I read through pretty much the conclusions that [N2444] had come to, which were then articulated to me by [N1788] in an email. I made it very clear that I was...even more concerned. I didn't mention the email because the other two hadn't seen it, I don't think, but I remember being more concerned because of the [findings] than I was when I wrote the email because, as you've probably seen from that synopsis by [N2444], it was really startlingly bad; and this was a level of detail that I just wouldn't have seen in the day to day working at Headquarters because it required going in...not to the R2. The R2 came from [SFHQ(A)], okay, as the overarching Headquarters in Afghanistan. Bearing in mind that there were different Sub-Units underneath that, that all got placed into one report. These things were the individual SINCREPs that were written by the [Sub-Unit] immediately after assault, so they had a high level of detail and it is the narratives that are quite important as well...which again is at a level of detail below the standard R2 that we went through on the Monday.

That's quite important, because when [N2444] brought all this [material] out and started showing the narratives on each of the SINCREPs and all of the statistics which sometimes again don't make...into the main R2 that comes up to Headquarters, it's...SO2, SO1...level of detail here which in some cases is the first time I've seen this and, when you put all [those facts] together, it's really shocking.

The material that N2444 and N1788 pulled together did not include any photographs from the operations themselves. The conclusions N1466 reached were therefore premised solely on the write-ups contained within the reports. N1466 could not say that the SINCREPs that N2444 showed him did not have photographs on the back of them, they might have done, but they did not look at them and did not need to as the statistics and narratives were alarming enough. N2444 laid out all these SINCREPs on the table, N1788 was there along with N1466 and they went through them all. It was the conclusion from the statistics and some of the narratives, because the narratives did not read very well.

CTI asked N1466 questions about the Table Top Review.

CTI referred N1466 to two documents: 1) The paragraph of his first witness statement to the RMP which related to N1466 tasking N1788 to conduct the Table Top Review (MOD-198-0003561-A), and 2) the email from N2444 to N1788 (MOD-198-0002046-A) in which N2444 set out his analysis of the Table Top Review.

N1466 could not remember perfectly, but he suspected that he asked them to look at the OPSUMs within that Sub-Unit's tenure, and that period would almost, but not quite, match the period that SU1A was in theatre. N1466 thought that it would be logical, in hindsight, that this was what he would have asked them to do.

N1466 had the individual OPSUMS to look at before he went and spoke to DSF. To the best of his knowledge, N1466 recalled that after he got the email from N2444, he called N1788 and, he thought, N2444 into his office. Both of them were definitely there for one of the two briefs at the book ends of this work, either at the start of it or at the end of it. They had a meeting in his office and laid out the OPSUMs on the table spread out. N1466 remembered N1788 or N2444 picking them up and referring to them. The information was there and N1466 was pretty sure they were left with him, he was quite certain he had them in hand when he saw the Director the next morning. It was literally a table top review. It was N1788 as one of N1466's SO1s who was leading the explanation.

CTI referred N1466 to further paragraphs of N2444's email to N1788 (MOD-198-0002046-A). N1466 agreed that N2444 must have meant to refer to December 2010, not 2011. N1466 agreed that the statistics N2444 provided dealt with the use of the TTP in which an Afghan male is sent back in to help with the clearance, and that N2444 had identified the number of times that the number of EKIA exceeded the number of detainees.

N2444's email referred to an Incident Tracker starting in September 2010 to monitor the activity of SFHQ(A) '*because "incidents" had become more frequent*'. This chimed with N1466's memory. There were an increasing number of problems that were either picked up by Task Force Helmand or were reported or where SIRs had to be produced. There was one particular one in September 2010, one particular incident, which triggered an SIB investigation under Operation Pavo. That caused them a degree of discomfort and they needed to fulfil their responsibilities as Headquarters to be able to keep tabs on all these issues. Each one of them needed to have some degree of staff work associated with it.

N1466 referred to Annex D of the Op B Directive, which stated that '*J35 Campaigns will record and track the incidents as they are reported from theatre.*' N1466 thought this was redrafted in November to reflect the fact that, because there was so much happening, they needed to keep a track of it and they instigated this tracker. Headquarters, which included N1466, instigated the Incident Tracker. DSF would have known about it, but N1466 did not know if DSF had to sanction it.

In response to a question from the Chair as to what was understood at the time to be an "*incident*", N1466 said it was very, very difficult to define what a serious incident was. They took a fairly inclusive view because they did not want to miss anything that could be important. For example, an allegation of stealing money off target would be included. An EKIA occurring on a DDO would not automatically be included.

A *There were so many operations where people were being killed that that would pretty much be a record of almost all the operations, I would say; whereas this was really supposed to pick out the ones that had caused some sort of concern or ----*

CHAIR: Which might have consequences.

A *Might have consequences, Sir, yes, and it might be because an Afghan had complained or it might be because we were concerned, but it was, it was down to the consequence and actually a lot of the operations would have fallen between it and not appeared on the Incident Tracker because they would just be seen to be run-of-the-mill operations, despite...lives having been killed on those operations.*

CTI asked N1466 about his understanding of the Afghan Partner Unit's ("APU") concerns.

CTI referred to N2444's last two paragraphs (MOD-198-0002046-A), which refer to Objective TURTON and QG as having both resulted in the APU suspending operational support.

N1466 knew at the time that the APU were not happy. He believed he would have been aware of the APU suspending operational support prior to N2444's email. In 2011 N1466 thought it was for short suspension periods, but in about 2013, suspension was for weeks if not months.

N1466's email to DSF on 7 April referred to the APU having withdrawn support for the Sub-Unit the weekend just before N1466's e-mail.

CTI then referred N1466 to the email he received from N1788 (MOD-198-0002046-A) which largely provided a very similar description of SU1A stats/OPSUMs to that which was provided to N1788 by N2444. N1466 believed he received the email from N1788 on the 7 April 2011. He was pretty certain he spoke to these individuals that evening, and that he had received the email by the time they had their conversation. In fact, he thought he asked them to come in because it was clearly quite serious. N1466 was not sure why the metrics used would be "*inherently pre-disposed to a negative interpretation*". There were examples where more EKIA vs weapons vs detainees happened, but they should be occasional one-off incidents. N1466 explained that:

"... the process of pulling this all statistically together for me raised more concern than seeing them as individual examples where you could presuppose an explanation. We're naturally inclined to think that our people are doing the best job they possibly can and that they're doing everything right and I think on a case by case example your tendency, your natural tendency is usually to give people the benefit of the doubt, but when you see the number of times these things are recurring, for me that was a very strong alarm bell ringing... pulling this all into one page... really brings home how much of a problem we had" ..

CTI noted that the last sentence of N2444's email did not make it into N1788's email to N1466:

'... whilst one could always commission more detailed and historic statistical research, in my view there is enough here to convince me that we are getting some things wrong right now.'

A *...there is another question behind this, which is why as a busy Staff Officer with very little time and a lot on his plate, taking this email and rewriting it into his own email when he could simply have put a cover email on the top of it and said "Here is the work that [N2444] has done", there are one or two slight differences as you probably noticed that he is talking about. [N2444] is talking about 10 incidents and [N1788] talks about eleven.*

Q *Yes.*

A *But that would just be in a case of the covering email of saying "By the way, we've actually done a quick check and it's actually 11 and not 10", but rewriting the whole email and cutting and pasting it into a new email without having the other one behind it is a deliberate act which would take quite a lot of time and...it is slightly surprising... there is a little bit perhaps of unit dynamics here, in that perhaps N2444 as [a UKSF3] officer [having been appointed to a command role more recently], hasn't been on the ground and N1788, UKSF1 Officer has been out in Afghanistan...recently and feels a natural inclination to try and maybe put a little bit more balance into this because he,*

having [held a command appointment]...feels a bit for the Sub-Unit and is therefore trying to temper it down slightly and make it maybe slightly less alarmist because he's, he's more...I don't know, attuned to the unit and do you see what I'm saying? There might be a bit of that, but it's a lot of effort to go to cut and paste that out and put in another email and put in your ... I mean, the other explanation is that maybe he is... wanting to...make it...more his email...because I'd given him the task, but it's a lot of effort to go to do that.

CHAIR: It certainly shows a degree of care, does it not, on his part?

A *It does, Sir, yes.*

CTI asked N1466 about the meeting to discuss the Table Top Review.

N1466 was pretty sure N2444 was at the meeting where they discussed the results.

A *I, I thought we all agreed there was something wrong here....[N1788] said, and I remember distinctly at the time and it's come through in some of the emails, that "This never happened in my time, we used this TTP all the time and this never happened". And he also said these stats were quite high... there was something wrong with these EKIA stats. So, you know, there was no doubt in my mind that both these officers thought that this was wrong. Regardless of whether [N1788] has maybe slightly toned it down to try and make it more balanced in this email here, in the discussions it was pretty clear, and the discussions, we went into the full left and right of arc here.*

We... talked about the best case scenario of how this could possibly have been happening, which...wasn't anything nefarious and we were struggling to do that to be perfectly honest with you, but we also looked at what the worst case scenario was of what this could be in terms of criminal behaviour and there were, for example, at this meeting when we put these documents on the table top, discussions of the fact of how many times it was a pistol or grenade, and the reason it was brought out by one of those two -- I can't remember -- was because a pistol or a grenade could be concealed more easily in the chest rig of [a soldier]. That's quite important. An AK clearly you have got to sling over your back, but a pistol or a grenade you can have on your person. The reason we went down that conversation was because we were looking at the left and right of arc. We were saying "Right, what's the best case scenario here" and we talked about why...it might be a change in the anti of the Taliban, perhaps...a change in the way they were going about business and we...discussed that and it was quite tough to do that because it doesn't kind of make sense.

Then the other end of the discussion was "Well, okay what's the bad thing here? What could be going wrong here?" and there was talk about criminality and we're talking about frustrations in the [Sub-Unit] and we were talking about the possibility of drop weapons and, as I say, the size of the weapon was part of this discussion: how many

times it was an AK, how many times it was a grenade, how many times it was a pistol and what was happening? You can shove a pistol anywhere and you can shove a grenade anywhere where it won't be seen, but you stand out like a sore thumb if you've got your own weapon and you're carrying an AK47 over your back. That was part of that discussion. And both those guys were involved, I'm pretty sure, as I say, one end or the other end in talking about these sorts of things and my impression was that they, they were worried by this.

Q In terms of the conversation that included reference to the possibility of weapons having been carried by [a soldier], secreted within their webbing and then dropped and, for example, the use of a pistol or a grenade, was this something that for the first time you discussed in this particular meeting or was it something that had been either considered by you or discussed with others before?

A To my knowledge, that was the first time we talked about it, but, as I say, I'm pretty sure it was myself and [N1788] and [N2444], but bear in mind that when I was asking for this work to be done I was trying to explain why it was being done and what the concerns were and we were having a discussion around that too, so I am unable to pin down exactly which end of the book end. I strongly suspect it was at the right-hand end because we, we clearly wanted the work to be done and then to talk about it, so I think it was at this end of the conversation.

CTI asked N1466 whether he recalled having a conversation with N1788 and N2444 about dropped weapons, such as pistols and grenades.

N1466 definitely remembered having that conversation. Before they had even got to this point, he was leaning towards the criminal side of things. He could not reconcile it into the other end, although he would have liked to. N1466 could not remember now who first voiced the possibility that small weapons might have been carried by soldiers and dropped, although he knew that it was not him. He thought it might have been N2444 but he was not 100 % sure. It seemed a realistic possibility to N1466. Challenging a UKSF1 Sub-Unit when you are a single individual is impossible odds and he could not see many people would want to do that with a grenade. N1466 explained that there was a delay before a grenade goes off, and it was a very, very easy thing to conceal. It kind of pointed towards a conclusion that there was something bad here by the very fact of the nature it was a grenade. When that suggestion was made “*This is all about drops*”, *that it kind of rung true somehow.*”

The Chair asked about the seconds delay on grenades. N1466 explained that it would depend on the type of grenade, but if it was one of their grenades, it would be about three seconds. It certainly gave people the ability to get out and take cover. So, the chances of really taking people down were very, very slim. It is not a very certain weapon to take on a UKSF1 Sub-Unit with. If someone drops a grenade and you were not aware of it, then you were in trouble, but,

if you know it is there, you could simply get out of the way. It could be that someone without his training and prepared to martyr themselves might see a grenade as a way to conceal an explosive device to take down people beside him. However, in N1466's opinion, Afghan insurgents had known warfare for a long time and were pretty experienced in using weaponry, so probably knew the limitations and the benefits of weapons better than most.

CTI asked N1466 questions about the conclusion of the Table Top Review and obtaining legal advice.

Having had the discussion with one or both of N1788 or N2444, N1466 agreed that he was now armed with the statistical data he wanted to have. N1466 may be a little bit flaky on exact details, but he was 100 percent absolutely sure of the sentiment of those two in the meeting having serious concerns about it. N1466 did discuss with N2444 and N1788 what he thought should happen next. He said that he would be taking this to the Director the next morning.

Part of the problem with going to the Director at this stage was the whole aspect of legal advice. N1466 thought it was notable, though he did not really understand why or what it really meant, that N1788 sent the neat copy of what N2444 had said to N2108 and then took the time to recraft N2444's email into another email that he sent to N1466. N1466 was in quite a rush to get hold of this and the first person it was sent to was N2108. N1466 was not sure N1788 knew when he would send the email to the Director, but N1466 was quite keen to have the information as soon as possible. In terms of the next step, the only thing undermining his confidence in going to the Director was the legal advice from N2108.

CTI referred N1466 to N1788's email to N2108 with N2444's work (MOD-198-0002046-A). The email read: '*FYI - probably needs a bit of balance...*'. N1466 agreed that there may be some value in checking with the legal advisor ("LEGAD") as to whether N2444's assessment was correct. However, he thought the Armed Forces Act was pretty clear, if you have circumstances which indicate that there 'might have' been criminal behaviour, then you are to refer it to the Service Police. For N1466 this was very much 'might have' territory. In addition, in a lot of ways, N1466 thought N2444 was being very balanced. The only balance that N1788 seemed to introduce in sending it on to N1466 is to remove that very last statement '*In my view there is enough here to convince me that we are getting some things wrong right now.*'

CTI referred N1466 to the advice N2108 provided entitled '*Initial Legal Thoughts*' (MOD-221-0007250-A). N1466 had asked N2108 for legal advice on this issue. N1466 wanted to be absolutely sure on what they should be recommending to DSF. As DSF was not back in the office until the following Friday, N1466 probably put a timeline on it of Thursday.

N1466 saw this advice as a sort of safety check to make sure he was not getting it wrong. "*I think most of us in the military are pretty comfortable with what the law says on this sort of thing*".

N1466 believed he told N2108 he needed advice on DSF's obligations with regards to reports to the Service Police. N2108 knew what information was going to be presented to DSF on the Friday because N1466 spoke to him about what they had seen in terms of trends and in terms of the phone conversation in the February and what N1785 had reported on the Friday. N1466 was not aware at the time that there was a compartment built around N1785's information, so he probably should not have been briefing N2108 on it.

A *I can't remember exactly what I said to N2108, but...the whole point was I was alarmed by what I heard and I wouldn't have just said I had a really alarming conversation at the dinner. I'm pretty certain I would have said "This is what [N1785] said to me on Friday evening". So, yes, I think I would have relayed...that there was this allegation by one of the officers that people had confessed to a Sub-Unit policy of killing fighting aged males on target regardless of threat.*

Q *And did it include the two principal concerns that you had had prior to that, namely (1) that the number of weapons versus EKIA was not a statistic that was an attractive one and (2) that the Afghan male head of household was being used for the clearance phase*

A *Absolutely.*

Q *-- but still (inaudible)?*

A *Yes, it was. I wanted to make it clear to [N2108] what the concerns were and that was at the heart of it.*

Q *Prior to your conversation with [N2108] seeking his advice, was he already aware of the concerns that you had or was this all news to him at this point?*

A *I can't be totally sure of this, but I know I wasn't the only person...who was noticing things and I know that when I did have that interaction with [N1802] in February, that that did not go unnoticed. I know, for example, that the Chief of Staff was sat next to us on the, was it, 14 February in that Directors Update Meeting...*

It was 14 years ago, but N1466 thought that he would have asked for the advice in writing. He would be surprised if N2108 would have written a long email like he did if N1466 had not asked, given how busy they all were.

Q *And were you expecting there to be options or were you expecting there to be a definitive answer?*

A *My instinct looking at what we looked at, at that time we had an allegation, a quite serious allegation which had a degree of credibility to it made to a CO and the CO thought it was serious enough and we had circumstance that we were seeing in a whole raft of statistics that pointed in a really bad way. Seeing the bar as pretty low in my understanding of the [Armed Forces Act], that was enough,... but I... wanted to check with [N2108] and so I was really looking for -- sorry long answer... to your question -- but I was really looking for the latter. I was really looking for quite a definitive*

statement from him that said “Yes, [N1466], you’re right, this is not good and this warrants referral” because that, that was the instinct. That was the real gut feeling but he is the legal expert at Headquarters. That’s his job. It is to provide that advice within the Headquarters ultimately to DSF because it’s DSF’s Headquarters and he is his legal advisor. I’m also trying to pre-warn him, I guess, because I want him in with me when we briefed [DSF] the next day. So, to... grab him on a Friday morning and say “[N2108] come in with me, we’re going to see the [Director]”, this gives him the sort of chance to...get his bit of the jigsaw together so that we’re all going in.

I had a similar sort of conversation with [N1803], where I...outlined again without all the evidence because we didn’t get that until the Thursday evening, but I think by the time I actually had that from [N2108], from [N1788] and [N2444], and [N1803] had probably gone, but there was certainly a conversation on Monday with [N1803] where “This is what the problem is and this is what we’re going to do about it and we’re going to speak to the [Director].

CTI asked N1466 further questions about the legal advice.

CTI referred to N1466 to the first paragraph of N2108’s legal advice (MOD-198-0002062-A):

‘We have spoken about when there is an obligation on a [Commanding Officer] to report matters to the Service Police to investigate allegations.’

N1466 agreed that N2108 did not set out in his legal advice any of the other matters that N1466 told the Inquiry they spoke about. N1466 was pretty sure that he spoke to N2108 on Monday 4 April, with a deadline of the Friday. In response to CTI’s question as to whether N1466 hoped for something more definitive than ‘*initial musings*’, N1466 said “... so where was the time for this to mature into something a bit more definitive? There wasn’t any time. So, yes, I would have expected something more definitive because we were going to go and brief the Director the next morning.”

N1466 did not have time to ask N2108 to provide further clarification or a more definitive answer. As this was coming in, N1466 was also getting the Table Top Review brief from maybe not N1788, but N2444. By the time that had finished most people had left work. He would have liked to because it was not a very satisfactory answer. The same sentiment came out the next morning with the Director and N1466 was quite troubled by that.

CHAIR: ... The email is received at 17.53. Do you recall when you spoke to him, how much in advance, how much time he had?

A *I’m pretty sure, Sir, it would have been Monday the 4th. If you can imagine the weekend, Sir, between the 1st and the 4th, it was not a... relaxing weekend. You are...sat on this information, which is deeply concerning and quite explosive and it’s...going through your head the whole time; and the way to offload that is to get the right people into*

your office on the Monday and deal with it and I wouldn't have sat on that any longer. Almost certainly it was the Monday that I got these people together and went through it, Sir.

The paragraph on '*The Law*' accorded with N1466's understanding at the time of the duty that applied to a Commanding Officer. In the third paragraph of the legal advice, N1466 understood the term '*second hand account*' by N2108 was referring to the account of the officer, N1799, who reported to his Commanding Officer. The '*written records*' was that account captured in writing, which was then the basis for N1785 to write to the Director. That document was, as N1466 understood it, locked in a safe because it was sensitive. The reference to '*written record*' could have also referred to the SINCREPs that had been considered by himself, N2444 and N1788 but N1466 saw that more in the '*circumstances*' bracket, and he was thinking that this was '*second hand accounts*', which was the allegation as he saw it, so you had both.

N2108's assessment that '*taken in isolation*' each operation did not meet the statutory criteria did not accord with N1466's assessment. N1466 would have said that some of these operations by themselves just standalone would possibly pass the bar. N1466 did not express that view to N2108.

Q Was your assessment of when "taken together" there were "circumstances that [might allow] a reasonable person [to] consider that service offences may have been committed"?

A Absolutely. So, if I refer back to my previous answer that is at a certain level of...security or certainty, but when you look at the whole thing together, it pushes it right, ...in my view. I think I articulated that before the break, that actually when you pull these statistics together it is particularly alarming.

Q It would seem that [N2108]'s assessment is that, on their own, it is arguable that each operation does not clear the very low bar, but when taken together, it is arguable that in fact they do clear that very low bar.

A Yes.

Q Is that how you understood him to be expressing himself?

A Yes.

CTI referred N1466 to paragraph 5 of the advice, in which N2108 referred to the current TTP.

N1466 had not discussed the TTP with N2108 at all. To N1466, the TTP was not the issue and he would not have asked N2108 for advice on TTPs because he was a LEGAD with no experience of these operations. N1466 wanted an assessment of their legal responsibilities, not the efficacy of the TTP.

Q ... Had you discussed with N2108 the concerns that you had about how the TTP was being used?

A No, I hadn't really discussed the TTP with [N2108] at all. To my mind, it wasn't really the issue here and certainly I, I hadn't asked him for his advice on TTPs because I'm not being disrespectful but [N2108] was a LEGAD and had no experience of carrying out these operations, wasn't even trained as basic infantry and I think his ability to have commented on the TTP was probably quite limited and it's not his field. Really what I was after from [N2108] was his assessment of or about responsibilities with regard to the law and not the efficacy of the TTP, which I don't think I would have gone to him for. N1788, who had been doing these operations ... before himself on the ground in Afghanistan...would be the person I would go to for the efficacy of the TTP.

[N2108] I was after the legal advice and, to my mind, there is a kind of inflection point somewhere below the paragraph that starts with "Assessment" and before the paragraph that goes into "My assessment based on the OPSUMs". It is a complete change in the whole direction and purpose of this email, in that when he is talking about the assessment there is some of the right stuff in here: "put it all together, it looks really bad". He also talks about "similar trends and suspicion developing over the credibility of the accounts given in the OPSUMs", so there is a...suggestion in there that the OPSUMs are not accurate. It also then, if you put that together with the fact that SIRs are written by the people who do the operation, then you start to think "Well actually the SIRs are probably a bit dodgy", which would make the judgment on whether you should recommend or not and you've got a whole load of problems there. But then he just flicks from that point straight into "Well, it must be about the TTPs" and then the rest of that next paragraph, "My assessment" paragraph is all about there being a problem with the TTP.

I couldn't at the time, and I still can't, get my head round how you can go from that paragraph to that paragraph in a constant flow when there is a clear break in the logic and the two don't match and it seems so very odd and I think this is really important because, as you know, we then end up doing a TTP Review and...where did that come from?"

N1466 did not raise his concern over the break in logic between these paragraphs with N2108. The email came in quite late, when he was in a meeting with N1788 and, he thought, N2444. When he came out N2108 had gone, and the next morning they were in with DSF first thing so there was no time to do so.

A ... It seemed to make a conclusion cumulatively there is a problem, there is an issue around the credibility of the OPSUMs, but how can you jump from that to the problem around the TTPs? I struggled with it then and I struggle with it now and unfortunately

this same logic is then presented to [N1802] the next day and, and we go into a TTP Review.

Q Presented by whom?

A This logic was presented to [N1802] by [N2108] the next day in the meeting that I've scheduled in [DSF's] office with [N1803] and [N2108].

Q Did you challenge the logic during that meeting?

A ... I can't remember challenging the logic. It was a difficult meeting because...I opened the meeting by saying to [DSF], “[DSF], I think we have a problem here” and I presented the statistics and the summary not word for word but based on what I'd been given by my team that they saw. I made it very clear to [DSF], and okay I can't remember the exact words that I used, but that in my opinion this was an indication that there was malpractice going on in Afghanistan.

I then looked for [N2108] to do his piece and I don't know whether [N1803] spoke or not, I can't remember that bit, but I remember exactly the same sort of thing in [N2108's], well in fact I think he probably did less on this first bit and he spoke more about the TTPs. I thought... ‘This is not what your part of this is, you are talking to [DSF] about the TTPs when really we need the legal advice of “[DSF], you really want to be talking to the Service Police about this because it breaches the bar for AFA and we need to do something”. I almost feel that the fact that that wasn't put across in that way may have been material to the subsequent steps....

Q Can I check with you whether you are sure that [N2108] was in that meeting with DSF, because in your statement to the SIB in June of 2015... what is recorded there in the last paragraph is:

“N2108 provided me with legal advice ... I cannot recall if [N2108] was involved in the conversation I had with [N1802] or if he provided direct advice to [N1802].”

A ...well I even remember again the sentiment of coming out of that meeting and being really disappointed and I think I was really disappointed about [N2108's] advice. I could be wrong, but I don't think I am, but the problem with the statement I wrote here in 2015 was that I didn't have any access to any other material here. I didn't have that copy of that email. I didn't have much of the...contextual [material]. Looking through all the disclosure and seeing all the more detail...brings the context and the memories into slightly sharper focus.

Q There is not a note, is there, of the meeting that you had with DSF on the 8th?

A Oh no, there was no note, there was no record of anything. When you took something into [DSF], you could kick off the meeting, but he pretty much took charge of it. So, us three being stood in the room I think in front of [DSF], once the opening salvo went and I said my piece and then handed over to [N2108], my ability to sort of shape the

meeting was probably quite limited compared to what [DSF] wanted to do and I think there was let us say the four of us and then, as I say, I recall [DSF] coming back and saying what he wanted to do.

Q *Did you ----*

A *I mean, perhaps I should have in the meeting challenged, but again it comes back to the command staff, [DSF] and the way that Headquarters worked and...we were all quite timid in some ways.*

Q *Obviously, you had had an opportunity to read the legal advice the night before, so the Thursday evening when you received it. There is the meeting that you had arranged for the Friday morning first thing. Did you not have a chance to speak with [N2108] before going into that meeting ----*

A *No.*

Q *-- to check what was going to be said?*

A *No, because it really was first thing and so people are arriving into their office and going straight into the meeting.*

Q *Did you not think to send an email back to [N2108] overnight saying “[N2108], I’m not sure I understand this” or “We need a clearer direction from you”?*

A *No, no.*

CTI asked N1466 about the style of other legal advice he had received from N2108.

N1466 received legal advice from N2108 which would generally give recommendations, not just lay out options without getting to a firm conclusion.

Q *So in terms of this particular piece of advice, with regards to thoughts or ‘initial musings’, were you surprised that it did not give a clear recommendation as to what should happen?*

A *I was because the whole purpose of asking for the advice - and this was made clear to him at the start of the week - was because we needed to go and talk to the Director on Friday and our role as staff within our Headquarters was to advise [DSF] on what action he was to take as the Commander. So, so, yes, it should have been...more clear and, yes, I didn’t speak to [N2108] between what ended up being a very long evening, bearing in mind that this is an email, so I would get to it when everything else is done and then have a meeting with [N2444] or with [N1788] and [N2444] or whoever and then you start working through your inbox and you get to the very end of it and it’s quite late at night and then the next morning people arrive and we’re straight into a meeting with [N1802].*

So,...no, there wasn’t unfortunately a chance to pick this apart, but, as I say, I may be flaky on details with this amount of time afterwards, but I do remember the sentiment and I remember being frustrated and disappointed by both that note and also the way that the meeting went the next day and certain aspects of that just seemed inconsistent.

It wasn't conclusive. The attention to the TTP was...inappropriate from that vector, i.e., this is not what I was asking for here. I had [N1788] who was an expert in the TTP to talk to about that and it didn't answer the exam question.

CTI directed N1466 to the last sentence of N2108's email.

A *... I was very concerned that the TTP was being deliberately employed to, was being weaponised basically, but as an excuse to, to force an engagement and to engage people they suspect of being Taliban as a way...of killing them. Seen from my perspective, that was all about the intent, not about the TTP. The TTP was just a means of doing it. The criminal intent behind was to kill and, when you put that together with the suggestion in the approach that was made to [N1785], that was the suggestion there as well, which was that they are deliberately seeking to engage fighting aged males on target regardless of whether they pose a threat. So that's the intent and then the TTP is just an excuse. So, so focusing on the TTP and trying to work back isn't really getting to the root of the problem. The root of the problem is the intent, not the mechanism... When you put it together with the point he raises about the credibility of the OPSUMs, it leads you more towards that being real than otherwise and it casts doubt on the value of looking at the TTP. What was looking at the TTP doing if the intent is there to kill people?*

CTI referred N1466 to the sign off paragraph to N2108's email, beginning 'Caution'. N1466 was pretty sure he did provide information to N2108 of what N1785 had said to N1466. He would have relayed to N2108 what he knew, which was the gist of the conversation. N1466 thought that, to a degree, it was fair of N2108 to refer to the conversation as 'bar chat', but it should not detract from the seriousness of the conversation. N1466 did not know it at the time but he did have access to the compartment, he was just never read-in and he did not see it. He did not ask N1785 for a copy as he did not feel it was necessary, but he had heard the gist and understood the main points that were coming across from it.

CTI asked N1466 for his opinions on aspects of the legal advice provided by N2108.

Q *Did you agree with [N2108's] assessment that the "OPSUMs ... cannot be relied upon ... as the 'definitive account'"?*

A *I think if you're the [Sub-Unit] Commander and you're signing off on that as an account of what you do, that's quite a serious step. I have been a [Sub-Unit] Commander. I've signed off on OPSUMs. I've generally been quite happy that they are what they purport to be. The day after an operation, that's generally where you're spending quite a lot of your time recording what happened and making sure that any after actions are dealt with. So it's not like you're under any time pressure in the day after the operation. I, in my experience, would always see that as quite an important*

record and I would give it due attention and take it seriously as I would have thought most Sub-Unit Commanders would do. You certainly wouldn't just say "Right Ops Staff you write that up" and walk away from it. You would take a degree of diligence, I think, to make sure it was an accurate record of what happened. We are talking not about the small, minutiae of details about this or that, but we are talking about quite serious problematic statements within some of those OPSUMs such as,...having had this particular bravo being shot, another one then picks up the weapon and engages and then another one picks up...this is not the sort of [issue] that you can get slightly wrong in the slight interpretation by Ops Room staff. This is pretty clear statements that would very wrong to (inaudible) signed off that report...So it's not a marginal error. These are quite important statements.

CTI referred N1466 to paragraph 25 of his IIA witness statement. N1466 confirmed that '*abundant circumstantial evidence*' referred to the combination of so many more people killed than weapons recovered, and the repeated incidents of detainees taking what seemed to be a very unlikely course of action in effectively committing suicide really for no particular gain. "*I don't think you need to be Special Forces -- to see that that looks wrong*". When N1466 went into the meeting with DSF in the morning, he was pretty clear this had to be referred to the Service Police. That was his feeling on the matter at the time.

Q Did you actually express that view to [N1802]?

A I don't believe I actually said "[DSF], I think you are to refer this to Service Police." As I saw it, my thinking was to put across my concern that this was malign activity and my opening statement I think was something like "[DSF], I believe we have a problem in Afghanistan" and then laid out the findings from the desk top review and to tell him exactly how many times we had high kill to weapon ratios and how many times detainees have been killed on target. I believe I may have talked about our duties to detainees.

...So, yes, I'm pretty clear that I put across to [N1802] that I thought there was a problem, outline why I thought there was a problem and indicated quite clearly to him that...there was a strong potential of criminal behaviour here. I didn't make the recommendation of SIB because I thought that was the job of the LEGAD and N2108 was in the room with me....

There was no discussion of what "*the right of arc, the bad bit might look like*". There was an immediate switch by DSF to asking N1466 to send out N1788 to conduct a TTP Review. "*...I'm going to write, I'm going to dictate to you the terms of reference for it and this is how it's gonna go.*"

There was no mention of the possibility of criminal activity ever again in that meeting and, either in the meeting or shortly afterwards, there was a word by word dictation of the Terms of

Reference for the TTP Review. “*That lack of discussion, the lack of balance, the failure to ever talk about possible criminal activity and going straight into the next step of the TTP review felt very wrong.*”

CTI asked N1466 about his recollection of the meeting with DSF.

Q Was that not your ideal moment to say “Director, can I make my position very clear here”?

A You could argue that it was, absolutely, and I do get that and...if I think about my time again, I might have done, but I will be very clear at this point: I had already made it very clear what I thought to [N1802]. I have absolutely no doubt in my mind that he knew where I was at with this. I had made it perfectly clear in my opening statements to him and the way that I laid out the evidence from the desk top review the day before where I was coming from. He knew that and yet he went straight into this discussion about the TTP.

If N1466 had fought against that, it would have made a very heated discussion and probably a quick put down from DSF. It would also have been very detrimental to the way N1466 interacted with DSF for the remainder of his time in a very small, close Headquarters. N1466 did not think it would have made a difference if he had pressed the point,

“... I don’t think he would have turned round because I pressed the point. He wasn’t that sort of individual and he knew what he wanted to achieve. So, I could have thrown a big rock in a pond and splashed myself, but it wouldn’t have made a difference to his decision or the outcome.”

CTI referred N1466 to paragraph 34 of his IIA statement about the fact that DSF intended the TTP Review to be a warning shot across the bows to encourage a change of behaviour.

Q Why was it that you reached that conclusion about [DSF]’s decision?

A Because [N1802] was naturally inclined towards people doing the wrong thing and letting him down. He was very astute. He had a very good sense of the tactical realities on the ground and a very forensic approach to life. I just didn’t believe that he could see any other plausible explanation for what he was seeing in the statistics other than the conclusion that I had reached and I believe that [N1788] and [N2444] had reached, which was that this was clearly, this was clearly something that was going wrong on the ground. So...he was too sharp, too astute.

I also believe that he knew back in February that things were wrong when he turned to me and said “Yes, phone [N1786]”. I got the sense that he didn’t want it to be written down. He hadn’t made the phone conversation himself or asked me to write an email.

He very specifically wanted a phone call. All those things pointed, in my view, to the fact that he knew what this was about.

I also believe that, because of the events that started around [another country], we had had a lot of quite difficult interactions with the rest of Whitehall over that particular operation and it hadn't really...gone well and caused us a lot of damage, So to have another incident like this on his watch in his time so quickly after the other one personally,...I'm only supposing this, this is my opinion, it's not necessarily backed up by fact, was that unfortunately whilst he might have been more inclined otherwise to have acted on this, he wanted to bring this to a close but in a controlled way which limited the spread of the damage outside the Headquarters and to deal with it discretely, and I can only say that from my judgment. I, as I say, do not have any direct evidence. I'm not a mind reader and I can't tell you for certain, but I did know [DSF] quite well and that was how it looked to me.

CTI began the second day of evidence by taking N1466 to the second paragraph on page 2 of his second RMP witness statement (MOD-198-0002850-A).

N1466 believed that N2444 had decided which objectives of concern were selected when going through the OPSUMs for his Table Top Review. N1466 clarified that there was a tendency to conflate this with the TTP Review, but this was not the same. The 'TTP Review' was the subsequent activity which involved a visit to Afghanistan. N1466 agreed there appeared to be a conflation of the two separate processes in his RMP statement.

N1466 believed that he asked N1788 to look back through SU1A's tour. N1466 would have focused on the ratios of dead to weapons and the detainees taken back on target. He asked N1788 to look at any such instances and to bring them together so that they had a sense of how many there were and what they looked like. When they reached the next stage of N1802 commissioning the in-theatre TTP review, N1466 thought N1788 used the same criteria to select the particular operations he felt should be the subject of scrutiny. N1466 did not think the parameters changed that much and this fed into the conflation of the two reviews.

CTI referred N1466 to paragraph 3 on page 2 of his second RMP statement.

N1466 intended the Table Top Review to show DSF there was a problem. He wanted to highlight this relatively quickly, and have it ready for when the DSF came back from his visit on the Friday. To do it properly would have taken weeks which they did not have. It was a light touch review, to highlight the problem and then to initiate a proper job. There was no time or space to get into anything more than the most obvious problem.

Q Is that because [N1802] had a forensic eye for detail and, if you were to turn up with theory rather than substance, you might get short shrift?

A *It was part of his nature that he, he did want people to arrive properly prepared and he would expect to have a degree of evidence behind decision making. He didn't like to make decisions on the basis of whims. The only sort of instinct he would trust was his own and you needed to provide evidence. It was an evidence based approach to... start with, but that didn't just apply to this subject, it applied to all (inaudible).*

N1466 had tried to think of ways that this was plausibly an insurgent deliberate tactic versus the worst case scenario, which was that it was being weaponised to deal with the palpable frustrations that they knew the SU1 had over its ability to conduct what it saw as its mission. The more he looked at it, he could not put it in the former camp and it ended up being increasingly probable in his mind that it was in the latter camp.

Q *When you expressed the view that you were concerned that the TTP might be being weaponised, are we talking about conduct that steps outside the bounds of lawful conduct?*

A *Yes, we are. I will be clear we are talking about war crimes... we are talking about taking detainees back on target and executing them with, with a pretence, the pretence being that they conducted violence against the, the forces. I'm being very blunt there, but that was, that was what I felt at the time.*

Q *In terms of your belief that war crimes might be being committed, again can I ask, is that a belief that you had reached before the legal musings and before the table top review, or is it difficult to unpick your thought processes now some nearly 15 years on?*

A *No, I, I will describe it as a...developing conviction...where your level of certainty in something starts off being a worry and then grows in amplitude and ... probability/confidence over time. So, it's not like an on/off switch. It's like a dial-up the tone on the, you start off with a bit of a nagging worry and the more you look into things, the more that dial turns up and it gets to a point where it's quite loud. And I would say that journey didn't just stop at this point here, if you imagine that time between 2011 and 2014/15, particularly on the bit where I'm coming back into the Headquarters and you start to again see things and pick up on things and you get access to documents again and you get access to information that you haven't seen for three years, all the way along that journey, the dial goes up and up and up....But it is more realistic to say it like that than to say it was just like a switch where there is suddenly a lightbulb moment. It is more an unease that grows and grows and grows and the more information you get, the more it builds up in your mind that there's a problem here.*

As an experienced soldier who had been on these sorts of operations in Location Given (not Afghanistan) and Afghanistan, those sorts of accounts did not seem plausible to N1466. The weapons versus EKIA ratio, the use of the TTP with the male of the household as well as instances of people picking up weapons and getting shot or someone else picking up the weapon

and getting shot. *“It just did not strike me as credible. It didn’t match any of my experience. It didn’t seem credible. It rang alarm bells.”*

Whilst N1466 felt DSF’s reaction at the February meeting was that DSF shared this view, N1466 also had a sense that the DSF would not be inclined to contact the Service Police. N1466 said this was because of a longstanding cultural norm within UKSF and because DSF asked N1466 to phone N1786 rather than do it himself or send an email. *“...there was perhaps a reluctance for this to be done through any sort of right channels. It was being controlled. It was being controlled in a way that I think indicated a desire to keep it low profile.”* The conversation with N1802 was *“quick, sharp, short and no real follow-up from him, certainly not that day and, if you want to do this properly, that wouldn’t be your...approach”* and *“there were other indications as well on other subjects... earlier than this which indicated to me that there were certain ways he liked to keep things closed down and internal and controlled.”*

CTI referred N1466 back to his discussion with N1785 at an event on Friday 1 April, where they had the discussion about an allegation of murder.

Q So just going back to the incremental increase ... By the time you therefore have on your mind at least the question of the OPSUMs, the write-ups, the weapons versus EKIA statistics of a male household member finally meeting his end in circumstances which do not appear to you at least to ring true, we then recognise of course distraction by other events where you get yourself to [Location] on Friday 1 April, where you had the discussion with [N1785] about what appears to be an allegation of murder.

A Yes. It just chimed with everything that we had been seeing. It just was the other half of the pattern reflected back to us in a way which...lent real credibility to the concerns. If you like, the dial at that stage went up several notches because it seemed pretty obvious that this was a completely independent source confirming the right-hand end of the concern scale, which is that this was murder.

CTI asked N1466 about the background to and the conduct of the meeting with DSF.

Whilst the outcome of the Table Top Review had heightened rather than allayed his concern, the legal advice to N1466 from N2108 did not change where N1466 was on the dial. N2108’s advice was not going to have any bearing on the seriousness of the problem that they were facing in Afghanistan, in N1466’s opinion *“it was blatantly obvious without the need for legal advice”*.

On Friday 8 April, N1466 cannot recall what time N2108 or N1803 came in, but they pretty much grabbed each other and just went straight into DSF’s office. N1466 thought that the whole piece of the legal advice was not absolutely necessary because the DSF, as a very senior officer, knew what the score was, but it might have helped if the advice had been much clearer and left less opportunity for that ambiguity to be interpreted in a certain way.

A *... we had a legal adviser and we had a policy adviser and we had an ops adviser and my understanding of how I thought this was gonna run, bearing in mind that I'd called it, was that I was going to talk through the problem and outline the circumstances and then the three of us in the room, [N2108] then gives the legal "so what" and between all of us, and [N1803] I don't think had a designated role in this, but she clearly represents the department and departmental interest as a sort of senior civil servant in the Headquarters...*

That's really why the three of us were there. So...I know I was pretty clear on the problem and I regret that I don't think I would have said "[DSF], you need to refer this matter to the SIB". That, to my mind, is what [N2108's] part of this conversation should have been.

N1466 called the meeting well before N2108 sent his legal advice email. N1466 thought he did see the “warning signs” in the email that N2108 was not going to be that clear. In hindsight, N1466 thought that maybe should have been his cue to not just say “*this is the problem...this could be criminal behaviour*” but to tell him what he needed to do. However, N1466 described that as “*...quite a necky thing anyway telling [DSF] that he needs to do something he blatantly knows himself, but that is more on the legal side.*” It was 13 years ago, and N1466 cannot remember exactly, but he did not think he went that far. N1466 expressed regrets to the SIB in 2018 that he did not make it clear to DSF that the issue should have been taken to the Service Police. That was still how he felt about it now: “*When you look back on it, on those people who died unnecessarily from that point onwards, there were two toddlers shot in their bed next to their parents, you know, all that would not...necessarily have come to pass if that had been stopped.*”

Q *... I do want to press you just a little bit on any obligation that there might be for you and I appreciate that this may be difficult, but as ACOS Ops with oversight of the activity that was taking place during these DDOs in Afghanistan, would you not be the best placed person to say “Director, my advice to you, based on my knowledge of these DDOs, is that you should be referring the matter to the SIB”?*

A *That's a fair comment, but at the same time it assumes that [DSF] is an unthinking ... ignorant unable to make his own mind up. He was a highly intelligent, experienced [extremely senior] SF Officer. He knew perfectly well, as well as I did. He had the same ability to analyse as I did and he knew what the circumstances I was putting forward to him meant. Not only that, but he was clearly cognisant back in February that there were things going wrong. So,...we're not starting from complete scratch here with somebody who is completely oblivious or unknowing of this. This is an extremely, as I say, capable, intelligent, astute individual who would have known exactly what was happening. He also would have known, as I did, his responsibilities under AFA. None of this needed saying to a degree, but I still wish I had done,...but at the same time he*

absolutely knew what his responsibilities were. He absolutely knew what was happening here. It was blatantly clear from the statistics and the patterns that there was something wrong here and that it wasn't, I believe he knew it wasn't...a problem with the TTP...

CTI referred N1466 to the SIB notes that followed the discussion N1466 had with them in October 2018 (MOD-198-0003917-A).

The notes record N1466 describing the DSF's decision to conduct a TTP Review as a 'cop out'. N1466 did not believe those were his exact words, notwithstanding they were in inverted commas in the notes, but the sentiment was the same, "*...that there was one path and there was another path and there was the taking of a certain path, the less (in this case) damaging for him personally and for...his reputation and the reputation of DSF, the less damaging path*".

N1466 stood by his comment to the SIB that the TTP Review was a "*thinly veiled coded message*" from the DSF to the Sub-Units to stop their activities.

A *... if you get a visitation directed by DSF to your Headquarters on any operation designed to look at what you're doing, that's a statement. It's a statement saying that you're doing something wrong and so it would have been pretty clear.*

There's a flipside to that of course, which is that if you see something is being termed a TTP when...you're clearly doing something way more serious, then that could be interpreted as almost like "nudge, nudge, wink, wink, you know we know what you're up to", but it's being wrapped up a little bit or maybe less obvious, but the point is that it's definitely a message one way or another to the [Sub-Unit] and I think from, again I'm slightly getting in here to...mind reading for somebody else, but in my opinion, knowing the individual...over the period that I worked for him, that's what he was doing.

Q *At any point did you have any discussion with [N1802] in which he explained to you his reasons behind a review rather than an investigation?*

A *No.*

Q *So when you talk about "mind reading", on the one hand it might be inferring and attributing a belief to his actions based on your knowledge of him; on the other hand, it might be speculation by you.*

A *I've got to be honest, it is to a degree speculation, but I would say it's informed speculation on the basis of working with him very, very closely over quite a time period.*

N1466 explained that when he started working with the DSF, the first drafts of the most important paperwork submitted for his approval would come back covered in red ink. By the time N1466 had finished working with the DSF, the paperwork would come back with one single change. To get to there, required an understanding of the DSF's intent, how he worked

and what he wanted. So by this stage, he was reasonably confident in his ability to understand what was going on in DSF's head.

CTI asked N1466 further questions about the meeting with DSF.

At the Friday meeting with DSF there was no mention of criminality. It was all focused on what was wrong with the TTP.

"The contrast between that Thursday evening meeting and the meeting the next morning was that there was no talk about the right-hand side of things. No, there was absolutely no mention by [the Director] of anything to do with criminality. It was all focused on what's wrong with the TTP. Therefore, he said "Right, we are going to do a TTP Review" and it's almost like the analysis I tried to make of [N2108's] musings. Everything in the first two paragraphs doesn't match the final paragraph, which is about TTPs: if you are worried about the credibility of the OPSUMs, if you are worried ---why is it a TTP problem? So going straight into that as a solution...to do a TTP Review seemed to me to be completely missing the point or, and not necessarily accidentally missing the point, and this is if you want to send a message to the [Sub-Unit] on the ground out in theatre that,... "We're looking at you", send out a TTP Review, which then comes back to this bit of the...warning shot across the bows or the coded message or however you want to say it, because otherwise it doesn't make sense, there's no reason for a TTP Review." A TTP Review would look both at what had been happening, why there were so many detainee casualties, and then make recommendations as to how to stop those casualties occurring in the future.

Q If that is right, in one sense might a TTP Review be the starting point of a more formal investigation? One analyses what has happened and if one uncovers things that have gone wrong that might amount to criminal wrongdoing, that could then provide the information that leads on to a more formal investigation?

A Well, I would never call it a TTP Review if that's what you intended to do, because you're heading straight to the conclusion that the TTP is at fault, which is not allowing you to consider the possibility that other things are happening, because if the TTP isn't the issue, it's the people with the deliberate intent to try and kill fighting aged males on target regardless of whether they...pose a threat, which was the...allegation, then it's not about the TTP. When you go straight to TTP, you're almost sending a message "There's nothing else, it's the TTP". It seems to me that you're leaping too far forward into a particular thing to almost avoid conversations around the other aspects of what might be happening.

CTI asked N1466 for his assistance on the relationship between the SF ethos and culture, and the decision to take a TTP Review rather than a more wide-ranging investigation.

N1466 explained that there is a longstanding belief, within UKSF, but particularly within UKSF1 that matters such as this are dealt with internally.

When N1466 went through training for Special Forces, there was a process in which officers trying to join UKSF were given problems to present in front of a large audience of Special Forces personnel. One of the problems was around a moral dilemma, for example what was the right answer to witnessing a murder being committed by someone under their command. When one of the Training Providers was asked by one of the officer candidates how to answer the moral problem, he was told that UKSF1 tend to deal with things themselves, they do not go outside and bring in other organisations. When one trainee said he would have called a police investigation, he said he got ripped apart. He was told in front of senior officers from UKSF by a Sub-Unit leader that the right answer was to deal with it internally. N1466 went back to Officers Week as a Sub-Unit (Minus) Commander and Sub-Unit Commander and saw the same pattern. Playing devil's advocate in the audience was encouraged, but N1466 believed they created a problem for those going through the process and those in the audience watching, who did not quite know what was going on and which line they should follow. It created a moral ambiguity. N1466 made quite a strong point about this in 2015, and he believed it had been changed since, but it went on for quite a long time.

N1466 provided further examples of DSF dealing with an embarrassing issues internally.

N1466 described an incident in Location Given (not A) where mistakes were made by the soldiers involved that were hugely damaging for UKSF. Following that incident, N1466 prepared a note on what went wrong, and what they needed to do to fix it. However, the instruction from the DSF was that the matter was not to go outside Headquarters which took N1466 aback as it was a serious incident. N1466 gave these examples to highlight the culture of trying to keep things internal. N1466 thought DSF had huge embarrassment around that particular incident and did not want that exacerbated by airing their "*dirty washing*".

CTI asked N1466 questions regarding the culture of dealing with embarrassing issues internally.

Q Just coming back to the question of the reluctance to "dob in", as you have said, or to "report on" the activities of UKSF outside of [UKSF], can you assist with why it might be that there is this culture or ethos against welcoming outside interests and a critical gaze when something might be done by UKSF?

A ... what I'm gonna express is not my own views, but it is things that I have heard said, including quite recently by quite senior members of UKSF, which is that [UKSF] is necessarily at the front end, the sharp end of quite a lot of new, emerging and complex problem sets and that as a result it is quite often deployed at short notice to do things on behalf of HMG which are difficult, complicated and where there isn't an established policy or legal framework and, as a result, you are...on the front edge of what your

nation expects you to do and, in order to achieve things and try and pursue the UK national interest and deliver the strategic incomes that you have been sent out to do and all this good stuff that we like to think that UKSF is good at doing.

In order to do that, your people end up having to be put in really difficult situations and take difficult risks and make decisions on the fly and do things that are really pointy and hard and difficult, and you need a bit of freedom to know that you can do that and take those risks and make those judgments and, if you get it wrong, you're not gonna be crucified for it.

The problem with that approach is yes, I can understand that and I can see the need for a little bit of latitude when you're put on the spot and you're making hard decisions in a very, very tough context and you haven't got time...and there isn't a framework and what you're doing is novel and new and contentious, yeah, I get all of that, if you take that principle and you allow it to grow and grow and grow and be unchecked -- and by the way the self-regulation doesn't always work because it generally doesn't, it's problematic -- you end up with the situation where people just get this idea that they can do what the hell they want and it doesn't matter and there is no accountability. I'm not saying it's necessarily binary, it's more again a...sliding scale, but if you're self-regulating, it's problematic and it's a lot harder to self-regulate when the tendency is that you slide down the slope than actually to have a degree of external governance which holds you to account.

So, as I say, I'm not trying to express my own opinion on that. I'm just trying to say that that is, I think, and I've heard it very, very recently, a perspective of why... people are reluctant to have external scrutiny and there's always this thing of "You don't understand, you're not there" or "It's different when you're on the ground" and again I...get that. It is very different when you're...there, but, once again, these particular instances were not in the heat of battle in hard contact. That had been years before in Afghanistan. By this stage it was starting to become less and less kinetic. So, again, that heat of the battle, dust in your eyes, all that sort of stuff, yeah, but these guys had surrendered and you've taken them off target" and it's not...heat of the battle stuff...

Asked by CTI whether his description about culture and ethos is spread through UKSF, or limited to particular facets, N1466 stated that he “*has a lot of time for UKSF1 and there's a very very good bunch of individuals there*”, but the culture is more prevalent within UKSF1. “[UKSF3] ... is a little bit more conventional in the way it does business. The role of officers, for example, is much more along traditional lines within [UKSF3] than it is in [UKSF1]. It's much stronger, the role of the officer. It was always my concern...that we didn't lose some of what I thought was a much stronger aspect in that regard and it has been since. I wouldn't say that the other elements of UKSF are totally immune to it and I think there are aspects of culture and ethos that do bleed across and I think it's difficult.”

N1466 provided examples of wrongdoing within UKSF not being investigated.

N1466 gave two examples of this. The first concerned a major fraud investigation around UKSF1's allowances. UKSF3 guys working under UKSF1 were allowed them in cases when they were not entitled to it, and technically that is fraud, but it was seen by the UKSF3 lads as "*Hey we're getting all this money, why don't we get this when we're back in UKSF3?*" The second example concerned book writing, which used to be a huge thing in UKSF1. During his time in UKSF3, there were hardly any books written by UKSF3 personnel, but that has now changed. There's always this sort of danger that the bad aspects of culture spread and it is a worry. CTI asked whether N1466 shone a light on UKSF1 to a greater extent than UKSF3 because he was a member of UKSF3 and the natural rivalry. N1466 accepted that would be a fair allegation but asked the Inquiry to ask other people for their views. N1466 explained that there is a difference in the history between the organisations and why he believed UKSF1 was more independent. N1466 believed that over time UKSF3 would take on some of the traits and some of the same negatives as well as the positives.

N1466 said that there was clearly a competitive rivalry between the units and between the Sub-Units. UKSF1 may well allege UKSF3 have low level professionalism or that they are not so capable, however that would just be normal rivalry. There are a lot of people who have very good friends on both sides of the camp. N1466 said that he had a lot of time for UKSF1 as an institution. "... *If you look at its history, it's a very proud [unit] and it's done some amazing things over time and I will take my hat off to that. I don't think this reflects well on them, but this is hopefully a momentary blip in history.*"

N1466 was asked about his perception of inter-unit rivalry within UKSF.

N1466 disputed that the rivalry between units had an influence on the conclusions and judgements he reached about the conduct of UKSF1, because the statistics and the circumstances stood for themselves:

A ... *It is not something that was made up by [UKSF3]. So, in this particular instance, I do not think that inter unit rivalry has any real bearing on this other than perhaps it's easier for people who are not in [UKSF1] to call it out. It strikes me that there is some perverse logic in this scenario that loyalty to the [unit] means that you do not do something about something like this that's bubbling away, that loyalty to the [unit] means you shut it down, you keep it in-house and you try and pretend it's not happening. That's not loyalty to a [unit] from my perspective. Loyalty to a [unit] is recognising that you've got a problem and actually doing something meaningful and effective and immediate to put it right...*

N1466 described it “*like surgery. It’s gonna cause immediate hurt, but it’s better in the long term to cut the cancer out than to try and pretend that it’s not happening*”. He said that if there was any aspect of the inter-unit dynamics at play, it was that being an outsider can be like a valuable friend saying “*Come on mate, you really need to do something about that because you’re looking really ill*”. Inside the close-knit club it can be hard to break ranks. “*...when...the whole flock is going in the same direction, it’s quite hard that you jump out of that flock and say “Hey we’re just about to run off a cliff”.*”

CTI asked N1466 if there were other occasions when he had concerns about the activities of UKSF which he had not reported to the Service Police.

N1466 gave an example of when he became aware of UKSF1 using public money (for food rations) to buy large quantities of beer. Whilst a small thing, it was technically criminal. N1466 and one of his subordinates were more conventional and this was uncomfortable to them. N1466 did not report the incident: but “*You let little things go...and where does it stop?*”

Other incidences he heard second hand involved a UKSF1 Sub-Unit operation in another country, where UKSF3 soldiers attached to the UKSF1 Sub-Unit had found the leader of the enemy forces in his room. Subsequently, the UKSF1 guys engaged on the same operation tried to persuade some of the guys in UKSF3 to shoot the leader of the enemy forces. The whole thing came to a stop, but that was reported to N1466 by somebody who was in that Sub-Unit (Minus) on the ground. The Extra Judicial Killing (“EJK”) did not actually happen, but it showed a tendency for those instances. There are lots of other examples available, but that is probably the most significant one.

N1466 was asked what concerns he might have about making a report to the Service Police.

Q If you were to report matters to an outside agency, whether it was the Service police or the civilian police, what concern, if any, might you have about the way you would be treated thereafter?

A Within the community, within UKSF?

Q Yes.

A Well, yes, you would be in with a high degree of risking ostracising. Clearly there’s this impact on potential promotion etc., if you’ve upset somebody above you. The people who leave [UKSF] and go and work outside, there’s a high probability you will be working with some of the same people outside. ... So it’s not just a community that finishes inside [UKSF], it’s a community outside [UKSF] as well. It’s much bigger than that. There is potentially a security threat... so there are definitely implications....

CTI referred N1466 back to the last sentence of his 7 April 2011 email to DSF (MOD-198-0002062-A).

N1466 agreed that ‘*make a clear statement to [UKSF]*’, was possibly what the DSF was hoping to do with the TTP Review. N1466 is pretty sure what he was saying there was not “*send a veiled coded message to a particular Sub-Unit*”. When he was writing that 13 years ago, it was more about making it very clear to the whole of UKSF what was right and what was wrong. Where the line of acceptable behaviour was, what professionalism meant, what being an elite, highly trained and competent unit or group meant. N1466 confirmed that ‘UKSF’ meant all of the units and all the attached elements.

A ... *I'm still a bystander, I'm still 2000 miles away, so... "If this is criminal behaviour, put a stop to it" is probably a better way of saying that...*

The Chair noted that N1466 said at the beginning of the sentence that ‘*this merits deeper investigation*’, which would have these effects. N1466 agreed.

CTI directed N1466 to a note made by Captain Wright of his conversation with N1466 in April 2015 (MOD-198-0001448-A).

The first time N1466 had ever seen this record was in the preparation for this Inquiry. N1466 did ‘*communicate his concerns both verbally and in writing*’ but cannot definitely say he ever said to the DSF that the issue ‘*should be referred to the Service Police for investigation*’. N1466 said that there were lots of errors throughout the whole document: the Table Top Review and the TTP Review are conflated, and it suggested that N1466 went to N1802 after ‘*individuals travelling to theatre*’ which was not the case. The note also says ‘*Concurrently, CO [UKSF3] conducted a similar review ...*’ which he did not. N1466 cannot say whether the errors relate to confusion in his mind when describing the events to Captain Wright, or confusion in Captain Wright’s mind as to what it was N1466 had told him. Either way this came about, it was certainly clarified before his statement to the SIB was recorded.

CTI took N1466 to his RMP witness statement that he signed in 2015 (MOD-198-0003561-A), and was after this record of the conversation in April. N1466 agreed that there was nothing in the statement to suggest that in-keeping with the note of Captain Wright, he had made it clear ‘*both verbally and in writing*’ that N1802 should refer matters to the Service Police.

CTI referred N1466 to parts of his first witness statement to the RMP, and to an email sent by N1466 to N1788 on 8 April 2011 (MOD-198-0003417-A), in particular, the direction from DSF to conduct a TTP Review and the Terms of Reference (“TOR” for it.

N1466 clarified that in terms of the chronology, after the meeting with the DSF first thing on the Friday and by 2.45pm, a draft TOR had been prepared, “*a remarkably fast turnaround, particularly given everything else that was going on at the time...*”.

Q You then record “[N1786 first name]”, presumably [N1786]?

A Yes.

Q [N1786], I was tasked to write TORs from DSF to [N1788]. In fact, [N1788] is supporting your review, so these are effectively your TORs.”

A Yes, that, that followed a conversation that I believe happened between DSF and [N1786] somewhere between the meeting I had with the Director and this conversation, in which I believe to the best of my recollection there will have been some appeal to the Director made by [N1786] to basically say “Look, I’m out here, I’m the guy in theatre...is someone coming marking my homework or am I conducting this review?” The (inaudible) of all of this was that I was told to then, rather than write a set of TORs for [N1788], it seemed more appropriate that those TORs should be written to [N1786]...I think, by this stage I’m not sure I was able to engage with the Director. I said I was going to talk to the Chief of Staff, but I think that’s roughly how it happened. But basically it was...a switch from sending one of the SO1s from the Headquarters to do a TTP Review to being [N1786], CO of [SFHQ(A)], marking his own homework really I’m afraid, but, but that was a shift and that was made that morning and there was definitely a conversation between [N1786] and DSF I wasn’t privy to, but, but in which that came about.

...

A So, strictly speaking, this is a reasonable degree of separation, in that...there’s a number of Sub-Units under his command and this is only one of them and it’s commanded by [rank given] who is two ranks below him. In normal circumstances, you would probably think that’s all right, to a degree, as a first step.

Q And were these “normal circumstances”?

A ... no...

Q So, as we can see, you sent the Terms of Reference to [N1788], you indicate to [N1786] that you have been tasked by the DSF to send these to [N1788] and that he is supporting the review.

This is the section addressed to [N1786]? So, when you say “I know DSF has spoken to you”, is that a reference to DSF speaking to [N1786]?

A Absolutely, yes.

N1466 clarified that the TOR were dictated to him by DSF. N1466 then typed them up and then the DSF edited that document making “word-by-word changes”.

A ... In one or two cases in my time ... in Headquarters in that job, there would be documents that would be written word for word, i.e., I’d be dictated to, “This is what I want”, probably no more than a handful in the whole [time]. That was quite exceptional to be told exactly what to write, very, very rare, because it was just that generally you just didn’t have time, the amount of correspondence going out of

Headquarters. So this was, what I'm trying to get across is the gravity of this. This is a very, very important thing for [N1802] or it wouldn't have happened that way.

N1466 explained that it was the most serious and important document that they produced during that two year period that had that degree of scrutiny and that degree of care and attention.

CTI referred N1466 to the Terms of Reference (MOD-198-0002062-A), addressed to N1788.

Q ... the words that “there have been several instances in which [SUI] have been forced to engage and kill”, did that accord with your interpretation of the OPSUMs that you had considered over the last few months and indeed was part of the table top review?

A ... no. I think as I’ve described before, my instinct was that actually...this was deliberate activity...to force an engagement.

Q So in fact the “forced” is the very reverse. Rather than being “forced” to engage, they have “forced” an individual, on your understanding, into a position in which that happened.

A Into a situation where they can engage them.

The consequences as set out in the three bullet points of the TOR did not address those consequences N1466 thought followed from the incorrect use of the TTP. It seemed to N1466 that he and N1788 were the two people who had raised the problem and the DSF made them part of the circumstance. N1466 considered that they were now bound into the problem, N1466 generating the TOR and N1788 going out on a TTP review.

Q Might it be the very opposite? Might it be that [N1802] had recognised that you and [N1788] had real concerns about what was happening and therefore he had sought to involve the two individuals who would cast a critical eye over what was taking place?

A Well, possibly, but then why not allow me to pre-write my own version of this and not call it a TTP Review, call it an investigation and allow me free rein to say what I would like to have said, which is that,...even if we are not going to involve the SIB we should be looking at these activities: “You are to go out to theatre and come back and report to me as DSF as to why you think this is criminal behaviour or whether you think there is a problem with the TTP”. Clearly the whole premise of this note is that there is a problem with the TTP. This is jumping straight to the, the left-hand side of the spectrum of possibilities and making it very clear that’s all you’re to look at and, for me, the dictation of this so quickly after the meeting, it was instant,...it was almost already in his head what he was gonna say here and there’s no time for reflection. He doesn’t even ask to see the material I’d taken into the office, which was all the SINCERPs, but he doesn’t need to see it. Straight to this...push this out, “You’re to

write this, [N1788] you're to go out". I'm making a leap here, but that's how I felt at the time."

It felt to N1466 that they were being made to be instrumental in what was effectively not the right answer. He was depressed in writing this and remembered that sentiment.

CTI asked further questions about the preparation of the TOR.

At no point during the dictation process did N1466 suggest to the DSF that the TOR should be amended so that a more wide-ranging investigation might take place. It would not have made any difference other than there would be quite clear consequences.

"the...pattern that happened if you get on the wrong side of [N1802] is you would probably move on from your job faster than expected...there would be certain...ways of toning down your, your performance. Rather than "exceedingly good" or "very good" or "Excellent" or anything like that, you just take it down a few notches and you just put something and it is pretty clear...in there that you're taking this down a few steps and anybody who has looked at loads of these [annual appraisals] knows that that's a coded signal for "You're not very good" and then you basically start to flat line."

It had promotion and money implications. The biggest thing from N1466's perspective was then you are not seen as being as professionally competent and you are not rated the same way by the rest of your organisation.

"...So what I'm trying to get out is that it's not moral cowardice, but at the same time...if that's pointless, why do it? And if you have got another few months of...work in this Headquarters, you have got to weigh up why you're doing that and is it going to make a difference and, in this case, I didn't believe it was going to make the slightest bit of difference. He knew what he wanted to do. He'd seen the evidence. I was absolutely sure he knew what he was doing, absolutely sure he was very, very clear about what was going on and this is what he was gonna do and I can try and be a speed bump in that process, but I will just get squashed and the outcome would be the same. But the one thing that I remember doing is tinkering around at the very end of this document and, again, I can't be absolutely certain after 13 years, but I'm pretty sure I...tried to get something else in that last paragraph."

CTI asked N1466 about the parameters of the TOR.

N1466 agreed that the TOR appeared at first blush to ensure a balance between what the Sub-Unit could achieve and ensuring that the Sub-Unit was protected, rather than considering appropriate protection for detainees. There was no mention of safeguarding detainees or

adhering to their responsibilities under the Geneva Conventions. It was absent from that sentence. It did not anywhere address criminality, as far as N1466 could see, other than the last paragraph.

"...there is an absolute premise throughout this whole document, which was very clear, that the problem is the TTP and there is absolutely no examination of possibility criminality within this here."

CTI asked N1466 about the construction of the final sentence of the TOR.

N1466 wrote the last sentence beginning '*However...*' so that the document in some way referred to the possibility that criminal behaviour had taken place. The TOR had this sentence in when it was signed off or "*released*" by DSF, he did not take it out. However, N1466 thought that it would be very difficult to take it out of the draft because what it said was clearly the right thing to do. "*It's almost like a little bit of "chicken" here in terms of putting that in and then sort of saying "Well, are you really going to leave that line in?"*"

N1466 agreed that it was inevitable that DSF would have noted the additional sentence N1466 included. N1466 thought that it would have been a very uncomfortable thing to do under these circumstances to take out a line which was completely legitimate. Scrubbing that line out would be a symbolic and significant thing to do.

Q ... if [N1788] had reached the view that there may have been a criminal offence, he is of course not within the chain of command...

A He is not and I think the AFA is quite specific on this, but, but I think most military officers would say "Okay, that's a little bit prescriptive". You know, they are there. They are certainly the designated people and they are the people who, because they're in command, but, but surely isn't there a kind of -- I mean, I'm arguing this with myself here because I didn't go to SIB at this particular moment in time, but, when I did go to SIB, I wasn't in a command position.... But, according to all the values and standards that we profess to in the UK military, as officers, as holders of the Queen's Commission (or King's Commission now), surely we have a responsibility through officership to call out this sort of [problem]?

So, yes...the AFA specifies Commanders, but I don't think most officers would feel that they are completely bound by that. I certainly don't and I have obviously had a lot of time to reflect over this, but...we're officers. We...hold a Commission. I know it's a bit of an old fashioned term and it has a...deep history behind it, but actually we're there to make the right call and...therefore I wouldn't be too hung up personally on command, but it is...specified that way in the AFA.

DSF did not ask N1466 why he had added the last sentence. N1466 said that it was not a huge deal, it was just an extra sentence, “*...but it was significant to me...and the way that evolved into the next version it mattered even more...*”.

CTI referred N1466 to MOD-198-0003417-A, and the reply from N1786 to N1466 at 16:09 on 8 April 2011.

N1466 agreed that N1786 made a number of suggestions for potential amendments to the Terms of Reference. N1466's response to N1786 on 11 April at 11.47am contained the revised Terms of Reference making alterations to reflect the changes suggested by N1786.

Q Were you happy to make those changes?

A I don't remember exactly my sentiment on that. I don't think many of them were particularly important or monumental. I, I think the “head-of-household” one (and I don't know whether this was my sentiment at the time or more recently) is actually a little bit disingenuous. In the TTP report that came back, it did say that generally the TTP was that the person who was selected to go in was the owner of the property. [N1788]’s understanding of the TTP was that it was the head of household. He was very clear on that when we were doing our table top review, but it was of course possible that things had changed slightly in theatre in the time since [N1788] had left, which was a few months before. So ----

Q So proposals such as the ones made by [N1786] might reflect a more current view from theatre?

A A more current view, yes. ... the difficulty I guess there as well though is in that last bit about the [APU1] response and what exactly they are or are not concerned about. ... there is this point from [N1786] that it goes much wider than those particular operations.

I hadn't noticed it until you showed us the documents yesterday, but somewhere between [N2444's] email on the findings from the table top review and [N1788's], that also had a degree of dilution of the importance of the specific operations in upsetting the APU. On [N2444's] version, he's very specific about two operations and he actually says why the APU were upset. On one case he says “familial connections” and the other one he says something along the lines that it was “an old man who was relatively unarmed”, or something, that it was “only a pistol”. When [N1788] has then communicated that to me...he just talks about APU...concerns in general. He doesn't make it specific to operations.

N1466 felt it was almost as if they were trying take the APU concerns away from the specifics of operational detail. N1466 understood there may have been wider reasons why the APU did not want to serve, but that was an addition to and not instead of. N1466 thought that the

importance of these specific operations and upsetting the Afghans was a very important factual piece.

CTI asked further questions about the formulation of the TOR.

N1466 agreed the revised wording to paragraph 10 was a much clearer statement than it was in the original draft. Initially N1466 thought the footnote reference to the law was likely his addition as a cut and paste from the legal advice email, but it could have been from N2108, N1466 asking him to add it in. Either way he was almost 100% sure that this was at his doing. N1466 remembers this was really important to him and he was trying to beef it up as much as possible. N1466 was trying to keep the door open to this triggering a proper investigation. This second version would still have gone through the DSF who still made changes, but he did not take out this addition.

N1466 referred to the revised paragraph 8 and 10 of the TOR.

N1466 highlighted that the revised paragraph 8 of the Terms of Reference had a requirement to check with HQ before discussing the matter outside the UKSF/APU1 Command Chain. N1466 thought it came to the same point about keeping this internal and preventing any external scrutiny. It was a clear control measure to ensure that it did not go to Task Force Helmand, it did not go to RC South and it did not go to any other part of the forces out in Afghanistan. It was kept in-house. N1466 agreed that it was possible the purpose of the paragraph was to ensure material that should only be seen by UKSF was not disseminated to a wider audience who might not have the appropriate clearance. However, there were other parts of the structure in Afghanistan that did have access to the OPSUMs and operational staff work. A lot of their work was staffed through ISAF 2¹ Headquarters. So N1466 would not say that it is not the case, but it is certainly not that black and white.

CTI referred N1466 to paragraph 35 of his IIA witness statement, which referred to the 8 April email from N1466 to N1788 and N1786 attaching the first draft of the Terms of Reference (MOD-198-0003482-A).

N1466 did not know why this had changed to “*a few word by word changes*” when his original statement referred to “*word by word changes*”. There were some problems with transcription because this was not a photocopy. There were lots of typos and things that they came across when they looked at the last version.

CTI questioned whether N1466 could have said to the DSF that it was not appropriate to involve himself in the TTP Review without saying he did not believe in it. N1466 said that the DSF would have known N1466 did not believe in it because of the nature of his approach to the DSF on Friday 8 April. N1466 had brought the problem in Afghanistan to the DSF’s

¹ Formerly gisted as Partner Force 2 or PF2.

attention. N1466 thought the DSF knew what he was doing, trying to do it in an “*in-house, quiet, subtle, discreet*” way. For N1466 to protest would have been futile and facile. It would have resulted in being out of favour. If he genuinely thought he could have made a difference maybe he might have done. However, “*this was a deliberate decision by [the Director]...to go down this line and I'm trying to be a speed bump and it wasn't going to change the outcome.*”

CTI referred N1466 to an exchange of emails between N1788 and N1786 on 8 April (MOD-198-0003482-A).

N1466 agreed that it must have been the case that before the Terms of Reference were sent out, he had had discussions with N1788 and N2252, and N1788 was having discussions with N1786.

N1466 agreed that it appeared N1788 was suggesting to N1786 that rather than him coming out to do a review, he was in effect acting in support of N1786’s review. N1466 had thought that the change to N1788 supporting the review was as a result of N1786’s conversation with DSF sometime after N1466’s meeting with DSF and before the release of the TOR. However, the email might suggest that actually N1788 was pushing back via N1786 to say that. N1466 did not know where N1786’s conversation with DSF fitted alongside this. It might be before or after this email exchange, but somewhere between the two N1466 did not think N1788 wanted to own it and N1786 kind of did because it was his command. For N1466, this email slightly confused the issue as to who was pushing who, on who owned it and who was supporting.

Q But if one thinks for a moment about a review that is being conducted into activities that you regard as criminal, how do you feel about the proposal that one of the investigators [into the TTP] would share a flight with the officer commanding the [Sub-Unit] that is being critically examined?

A Yes... that doesn't suggest impartiality and distinct scrutiny, but at the same time we're past that now. This is no longer. It hasn't got any elements of criminal investigation to it at all. They've all been taken out. There is nothing in the TTPs and there is nothing in what [N1802] said that he wants that indicates any sort of concern about criminal behaviour. He's asked for a TTP Review and that's all that [N1788] knows that he's being sent out to do.

Q Save of course there is that paragraph 10 ----

A Yes.

Q -- in either versions for the 8th or 11th April, which invites the reporting of any criminal matters.

A Yes, but that stands out against the rest of the document, doesn't it, as a slight oddity? In both cases, that last paragraph doesn't fit the rest of the document because the rest of the document doesn't mention the possibility of criminal behaviour. It doesn't ask him to look at it. It doesn't ask him to report on it. It doesn't say anything in the

recommendations to do with it. It's...a bit of an afterthought that's just been sneaked in.

N1466 was pretty sure that N1788 and N1141 would have held command appointments at the same time. They were around the mess together, they probably went through the same training. These guys were close. They would be with each other all the way through their careers at this point, so N1466 thought it was almost not wanting to poke around behind his friend's back, it was rude and set the wrong tone. However, N1466 would also come back to the fact this was a TTP Review and not a proper investigation. So you could say N1788 was being overly sensitive about poking around, given it was not about criminal behaviour but a TTP Review.

CTI referred N1466 to the email exchange between N1786 and N1788 on 8 April at 15:02 (MOD-198-0003482-A).

N1466 did not know what the comments in the email were about. He was not privy to this email chain, and he did not know who N1189 was. He may have been the Sub-Unit Second in Command or one of the ops staff in SFHQ(A). He did not know. N1466 agreed that, at least in the mind of N1786, there appeared to be a distinction between his role and N1788's part in this.

N1466 believed the '*audit trail*' N1786 referred to could be either N1785 or N1466, or them both. N1466 agreed with CTI's suggestion that N1786 was interpreting that as inter-unit rivalry. The '*awkward RiP (relief in place)*' was because N1785 was about to come out and take over from him in theatre.

CTI asked N1466 about the OPSUMS and EXSUMMs for the DDOS that were the subject of the TTP Review.

N1466 confirmed that he had conducted a visit the year before. N1466 agreed that in terms of putting any limit on his ability to consider the documentation, they would need to have in mind his relatively historic experience of activity in Afghanistan.

N1466 believed the first time he saw the photographs in the file was when they were sent to him by the SIB. Generally, he would not have seen these photos at all. The reporting put up to Headquarters for the weekly reports was an oversight summary of all of the OPSUMS which would not include photographs as they were too low level of detail. Photos probably would be attached to the OPSUM when it was sent to Headquarters, but the Senior Chain of Command was looking at the overall summaries because otherwise they would be overwhelmed by an avalanche of reporting. Reporting was all summarised in a hierarchy so they got the level appropriate to them. This sort of thing would routinely be read at SO2 level, maybe SO1 level. It was not at N1466's level because he was trying to concentrate on the big themes and strategic interactions with key stakeholders.

CTI referred N1466 to his second RMP statement (MOD-198-0002850-A) and the six concerns he gave in regards the photographs he had been shown.

N1466 had identified misgivings to the RMP about the position of the bodies in the photographs on Objective 6. N1466 did not recall seeing, but accepted he must have been shown, the photographs for Objective 6 by the SIB as he referred to them in his witness statement. However, at the hearing he could not recall that objective in as much detail as Objectives 1 or 2.

N1466's concern was that the photographs did not match the narrative.

A ... *Quite clearly the narrative talks about as they moved towards the target area, two men were seen moving around the guesthouse. Well, this character doesn't look like he's been moving around the guesthouse. He looks like he's in bed. He's got a blanket over him and he certainly doesn't look like he's running around or engaging anybody with a grenade or about to engage anyone. You don't engage people with a grenade from a lying position and from under a blanket generally, I would suggest. So it doesn't seem to match the narrative at all.*

And I would say similarly with the position of the AK, although it's a little bit difficult with a weapon because, you know, if you hit somebody with a high velocity round from close up, they're likely to get thrown around a bit and the weapon could end up anywhere, but overall there's quite a lot of these photographs where the weapon just seems to be laid down on one side of the person. It's a difficult conclusion to make and I'm not going to put too much emphasis on it, but quite often in these photographs it doesn't look right.

N1466 acknowledged the possibility that the position of the weapon was to have a photograph of the deceased with the weapon that they were armed with, and it had been moved simply into camera shot for convenience. However, another way of doing that would be to take a photograph from a slightly different angle and include the weapon in it. N1466 stated: "*I mean, you shouldn't really be moving [items] around when you are taking these...photographs...it's just good procedure that you don't move anything, you just take a picture of the scene as is and get a proper capture.*"

N1466 explained that in all of those operations the weapons were subsequently collected together and photographed in more detail. That was part of a set procedure called Sensitive Site Exploitation ("SSE") which was a set sequence. He knew this because it was the same when he was doing operations in Location Given (not A). It was part of the Pre-Deployment Training. Photographs were taken without disturbing a thing because it was part of the evidential process.

CTI referred N1466 to Objective 1 which resulted in nine EKIA and asked N1466 what it was about the position of those killed, or the manner of their deaths which had caused N1466 to have misgivings.

N1466 stated that there were a number of things which were quite difficult to ascertain. N1466 explained why he thought the occupants would be aware of military approaching. N1466 questioned whether, if you were an insurgent who wanted to take on UKSF, you would stay in one place, as opposed to dispersing and taking up fire positions around the whole compound. It appeared that they were all killed in one room as a starting point.

N1466 presumed from the material that there was only one entrance to the building. UKSF entered via that entrance so the occupants would have had no way of exiting the building. The narrative recorded by UKSF read that '*they were engaged from the [building] and returned fire...on entry, [UKSF] were further engaged by a number of [bravos] and returned fire. Both engagements resulted in 9 EKIA*'. N1466 noted that a number of the occupants must still have been alive inside the building after the first engagement as UKSF were subsequently engaged on entry. He also noted that nine people were killed and there were only three AK47s recovered. The most generous interpretation of this is that, when UKSF supposedly came under fire from the entry point, they returned fire into the entry point and they were not particularly accurate. UKSF might have killed a few occupants at that point but the firers were still alive as they engaged UKSF on entry. At this point, UKSF must have killed the firers. The six people who could not have had weapons must have been killed by the return of fire when UKSF were engaged at the entry point.

CTI asked N1466 about the possibility that fratricide was the cause of the deaths. N1466 believed they had this discussion in the ops room, and nobody could recall instances of fratricide amongst the Afghans in this way. The only thing he could try and see as a driver of that "*would be if the Taliban amongst a group of Afghans were worried that the others were going to...point towards them, but by doing that they are only highlighting who they are anyway. There doesn't seem to be a motive for doing that and it was not anything they had ever heard of and it did not seem to be logical.*"

N1466 was asked if it could be accidental, rather than deliberate. N1466 stated that there was only one entry point in the room facing outwards. The EKIA would be trying just to fire out of that entry point, so he did not see why they would start to engage with people in the room. It would be not particularly plausible that that would happen.

N1466 said that, trying to be as objective as possible, when people are hit with high velocity bullets from nearby they can get thrown around a bit, but these guys were all lying around inside the room. It did not appear as if they have just come from being in a fire position and there were a lot of head shots. N1466 stated: "*you could argue that, if enough bullets were fired in, then some of them would be in the head and some of them would be in other parts of the body. I'm trying to be very objective here, but in these photographs you're not seeing many,*

even where you've got the whole body, you're not seeing many other bullet wounds other than head shots and if you're outside a building and you're just putting suppressing fire in through that [entry point] because you've just had fire coming from within it, you're not going to be getting head shots. You're firing into a little [entry point], a little aperture where it is dark inside, you've just [details of entry procedure] and there's dust everywhere and you're not going to get any head shots. You're going to be putting suppressing fire in through that [entry point] and the bullets are going to go where they go... so it's not absolute but it's, it's quite difficult for me to reconcile these photos with [the] narrative or...the EKIA to weapons ratio with the narrative. It's not particularly easy".

CTI asked N1466 about the next misgiving he had identified to the RMP: ‘the sparsity of weapons ... and [the] position of the weapons’.

N1466 explained that in the photos for Objective 6 there seemed to be a grenade where the pin was removed. It had been primed and thrown and not gone off.

“It probably happens more with old weaponry that's been left around for a long time because the explosive degrades over time, but it seems to happen an awful lot in some of these photographs and some of these accounts, more than I would ever have experienced.”

In terms of Objective 6, N1466 questioned what EKIA 1 was doing under a blanket when he was supposed to be posing a threat running around the compound, and why he would try to prime a grenade in those circumstances. It did not look right.

In other photographs the AK47s had a folding stock folded up underneath. Most people would pull the stock out because it just gives a greater degree of accuracy, a greater chance of shooting somebody. N1466 agreed it could reflect panic in the moment, but did not think it was because of a lack of training. In some cases, the sling was wrapped around in a way that obscures some of the key operating parts of the AK47. It was not something N1466 would do, or something that he thought most Afghans would have done.

N1466 did not think it particularly suspicious that the grenade was next to the body, if the person was shot part way through priming it. If a grenade did not go off and it should have done, then a person would be very wary of just walking into the room even minutes afterwards, in case it had a slow burn. It was a very dangerous thing if you knocked it or touched it. Ideally it would be blown up where it was, but if it is next to a body that poses a problem. N1466 did not know what the TTPs were at the time when this sort of thing happened. N1466 could not tell from the photograph whether the grenade had been primed although it looked that way from the way it had lost its lever, if it had one. In response to a CTI question about the danger to the photographer taking a photograph of it, N1466 said that there was a degree of risk, which could be managed with good time delay, *“it comes down to the person taking the photograph and how ballsy they feel”*, but the photographer would be wary of it.

CTI asked N1466 about the photographs that were taken and whether a weapon may have been moved to make sure it was safe.

N1466 explained that different people would react in different ways and the TTPs would be used by different Call Signs as to what they do. If you were unsure if someone was dead, you would not want to run past and leave a weapon next to them. However, in quite a lot of cases, people would know that that person was dead and they would not even bother to move any weapons.

N1466 explained that “*when someone is shot at close range, they are going to get thrown backwards and the weapon could end up potentially going anywhere. It falls out of their hands and it can spin round and it can do all sorts of things, but the thing with a weapon that is lying in this sort of parallel state almost like (inaudible), it happened so many times to be honest it was almost like a regular thing and that’s the problem...*”.

N1466 did not think the weapon had been moved to make it safer to proceed into the next rooms without getting shot by a wounded person behind them. The weapon was still within arm’s reach.

It was also not the drill to move the weapon to ensure it was in the first photograph. The first stage of the drill was to take a photograph of the scene to preserve the evidence. The second stage, was to put something on that particular character which recorded who they were, where they fit into the whole picture and why.

N1466 was asked about his operational experience of the use of grenades.

N1466 explained that a grenade was more likely to be thrown from one room into another but you would not throw the grenade in your room unless you were happy to bear the consequences of it going off.

CTI asked N1466 about photographs of Objective 1 and the placement of weaponry.

In one of the photographs, N1466 noted that the stock of the AK47 was folded, and the weapon was laid absolutely parallel to the body. N1466 explained that “*if you threw 20 AKs down randomly across the floor, they would all land in different positions*”.

That was the thing that struck N1466 - quite a lot of them seemed to be laid down parallel. However, N1466 did not want to over-emphasise this point because there was a slight degree of randomness to it.

The third DDO that N1466 had identified to the RMP as relevant to the question of weapons and their positional number was Objective 2.

First of all, there were not many weapons, which was addressed in the narrative describing that one of these individuals inside the guesthouse had shot the others. However, the weapons that were there were lying parallel to the body, which seemed to be a recurring theme. N1466 said that it was “*...like throwing a number of sticks on the floor. Where do they end up? It's a difficult conclusion to draw, but there does seem to be a high incidence where they just seem to be put down parallel to the body and then with almost all of them the stocks are up. Again, that for me isn't right.*”

N1466 also did not believe this was a case of insurgents panicking in the dark. This was a country where they had known conflict for years and years, and most adult males who had an AK47 knew how to use it.

The first thing that really struck N1466 about this DDO was: where was the man who went out of the room and was seen by the lead Call Sign in the narrative as described? All the casualties were inside the room. Second, that “[i]t was “*a long burst of automatic fire*”, not lots of bursts, one single long burst presumably from one weapon. All these guys on the floor have head shots. I couldn't see any other body shots at all. That's not easy, but there is no evidence of anyone being shot anywhere other than the head. How does a long burst of AK47 fire result in every single member of that room getting a head shot? That is...just not feasible. No one can control a long burst of AK47 fire and put a hole in everyone's head. It...is just not realistic. It is not plausible and not true.”

There was no talk about suppressing fire, or about staying outside of that building and hosing down the inside from outside. It did not come up anywhere and it did not fit into the particular scenario. N1466 did not believe these deaths were caused by individuals caught in the cross-fire.

“*...Either what they're saying is that long bursts of AK from one of the guys inside killed the others. Why are they all hit in the head? There is no other explanation and either way you read it, that does not chime with that and I'd put an absolute level of certainty on this, far, far more than the position of the weapons, as I said before. That really to me stood out as being wrong and it doesn't matter how recently you've been to theatre. That makes no difference. That's wrong.*”

N1466 was asked about his experience of operations in Afghanistan.

In other operations that N1466 witnessed when he was in Afghanistan, he noted that the first response when insurgents heard a helicopter was they would all grab their AK47s and then run out and they take up fire positions if they intended to engage the assault force as they are arriving.

“*...And that's why when you see all these bodies in one room you're kind of thinking, you know, are they really insurgents? Did they really intend to start fighting? Why, if they intended to fight, would they all stand in the same room and wait for the*

helicopters to come to them? ...if you wanted to do this you would start, I would have thought, dispersing into a few rooms so you've got a better chance of taking someone down rather than all waiting in one room. I might be missing something, but it really just doesn't feel right based on the experience I had in Afghanistan and elsewhere and, if I was one of them, it wouldn't be what I would do and I don't recognise it, but, as you said, I haven't been to Afghanistan at this stage for [several years] and maybe behaviour had changed, but I don't see it as that."

CTI referred N1466 to a photo from Objective 1.

N1466 was asked about his sixth concern expressed to the RMP that there were a number of cases in which EKIA were found in male accommodation rooms and not elsewhere. N1466 explained that where the helicopters landed on the objective and the insurgents had notice UKSF were coming, it did not make military sense to all stay in one room if you wanted to take on the assault force.

N1466 explained that the guest room or guest house in some of these photos were not what people may think they were. "...[T]here is a tendency when people read something like a guest house to think of a nice little terraced house in Brighton with curtains...and a toilet roll cover, but these are just literally just a bare room with a load of mats on the floor and it all ties into Afghan culture and Pashtunwali and I think it's called Momastia, I can't remember it now, but there [is an] obligation. It's not even discretionary, it's an obligation that someone comes to you and you offer them hospitality. So it literally is a bare room with mats on the floor. The significance of this though is that they are used a lot in these provinces in Afghanistan as waypoints, where if you are on your way from somewhere to somewhere else, you stop over. You knock on the door and you get put up in the guest house until the guest house was full... But there is no discretion on the part of the householder whether or not you accept people. You accept people. It's just done."

A lot of people who travelled into Afghanistan would stop off at these compounds. At the time, UKSF relied on intelligence to target individual suspected insurgents in DDOs. That intelligence may not have been current nor reflected who was actually in the compound at the time the DDO was carried out. N1466 explained that this meant for DDOs there was a degree of chance as to whether the person targeted would still be there when the Sub-Unit arrived and it should have informed the degree of discretion with which operations were conducted.

For several years the insurgency had known of methods by which UKSF targeted suspected insurgents in Afghanistan. As a consequence, the suspected insurgents were starting to take counter measures so as to avoid being targeted. Equally, UKSF was aware of these counter measures, an awareness which is well documented in post-operational reports and should have informed the way in which UKSF were conducting DDOs. At the time, it was very difficult for the UK Sub-Unit to identify individuals detained on target. So as a Sub-Unit, even in N1466's

time, they had to be very cautious and not make an assumption the person they were going after would still be there. You did not have certainty that you were going to find what you were looking for.

N1466 commented on photographs he was shown relating to Objective 2.

N1466 recalled a particular initial photograph which had a weapon sling wrapped round the pistol grip area in a way which would pretty much render that weapon difficult to use. It was a lesser point than pondering head shots, but it still struck him as wrong. *"When you put all these things together and maybe I've got, I've got some sort of assumption bias from looking at these photographs because I'm already suspicious, but I think even if I didn't, even if I was given these clean as in from nothing, "Please have a look at these photographs" and I didn't have any concerns, I would still find a lot of this stuff really difficult."*

CTI referred N1466 to a photograph described as 'Taliban issued jackets'.

N1466 had identified in his most recent statement to the Inquiry photographs of two different green jackets lying out on the ground, which a DDO Executive Summary described as '*[Taliban] jackets*' and which the Sub-Unit OC's comments paragraph described as '*centrally issued*' jackets. N1466 would not have drawn this conclusion and he felt that the OC in that Objective, N1141, was trying to make the point that those killed were insurgents because they had centrally issued jackets. N1466 explained that he had not had the opportunity to look at these things really closely but to him they did not actually look like the same jacket.

"... But there is also another problem with this, in that the insurgents were taking great lengths to merge amongst the population. It's what you do as an insurgent. You don't put a big flag up and say "Here I am". What you do is you hide yourself amongst the population and you will have a game plan and you might plant an IED etc., you might even open fire on people, but you want to pass unnoticed around the and merge into the population. You don't deliberately flag yourself up by wearing some sort of issued bit of uniform.

... there are various stages in an insurgency and I guess once you, you get to the latter stage of an insurgency when you're transitioning almost into a conventional force, if you follow sort of Maoist doctrine or various other, then you might go regular and present yourself as a regular force, but that wasn't happening at this point in time and there would be no reason to. It doesn't make sense to. That...is just odd...It doesn't look right. It doesn't sound right and I don't think I'd be alone in saying that. It just isn't a thing that anyone else has ever come across."

CTI asked N1466 about the process of the Table Top Review.

N1466 said that N2444 did most of the work on the Table Top Review and that they were really focusing on statistics at that stage and not a detailed examination. If they had time to do a more detailed study then they would have ideally got to this level of detail, but that was not what N1466 had asked.

The time when that sort of detailed work might have been made was almost day by day as the OPSUMs came in. This was quite a low level of detail and N1466 was focused on strategic issues. He would have expected the SO2 and the SO1s maybe to have just picked through these things in a little bit more detail than he did.

N1466 noted that N1788 was responsible for the Incident Tracker. The Campaigns Team had responsibility to maintain the homeland end of the propriety and a good governance pathway of keeping the Tracker going and keeping an eye over the operations. In N1466's view, that might imply a degree of responsibility to look at these things with a bit more detail.

CTI asked N1466 about the product of the TTP Review, the final report dated 20 April 2011 and sent to DSF (MOD-198-0002063-A).

The report started by identifying that, as a result of the Afghan response to the TTP, Afghans have been shot and killed. It had then identified that this had led to concern amongst APU1 and had resulted in local national complaints. N1466 agreed that it would appear that the introduction to the report identified that it was either the response, or arguably the fault of the local nationals to the TTP, that local nationals had been killed as a result.

N1466 stated that it seemed there was another part of the implications of this that was missing. They were taking detainees and the detainees were getting killed. It was drummed into them at various stages of training, anything to do with the Law of Armed Conflict, that once they take a detainee, the detainee was under their protection. It was completely absent of a concern at this point. N1466 thought it was a small but significant point.

CTI referred N1466 to paragraph 8 of the Report termed '*The Insurgent Response*:

'A key factor in the changing impact of the callout and clearance TTP lies in the apparent change in the response of the detained bravo selected to re-enter the compound.'

N1466 agreed the premise of the document was that the fault lies with the response of the male to the TTP rather than the way in which the TTP itself was being used. It was all the way through the document. That was not to say the authors were not trying to adjust the TTP to take account of that, but it was all based on the premise the insurgents were undertaking the suicidal approach to being taken back on target.

N1466 agreed that the way it has been put in paragraph 10(a), the question of custody and a duty of care appeared to be significantly attached only in the minds of the APU rather than in

the minds of the Sub-Unit, as if there was no responsibility on UK forces to adhere to their own very well known, well-rehearsed and well-taught Law of Armed Conflict.

CTI then referred N1466 back to the '*Recommendations of the Review*' at paragraph 3 of the document which identified specific and general recommendations that might be put in place to improve the use of the current TTP and to return it to the state in which it was originally devised. This included recommending not only closer involvement of the Afghan Partner Unit in what was happening on target, but also '*... refraining from using bravos to assist in the search ... unless there is a compelling reason to do so*' and '*ensuring that [any] bravo selected for re-entry ... is correctly restrained*'.

N1466 agreed that once correctly restrained, it might make it harder for that individual to reach somewhere to pick up a grenade, to prime it and throw it or to handle an AK47 with or without the stock in place.

N1466 stated that the first two recommendations were about the positioning of APU1 personnel and the use of APU1, and would make no difference to an outcome. If an insurgent was determined to martyr themselves to bring down the perception they would do it whoever was watching. So he did not think these first two recommendations were significant. Similarly, recommendations (7) and (8), using APU1 elements to conduct follow-up clearance or conducting SSE, would not affect the outcome. SSE was conducted anyway. So only the four recommendations in the middle could make any difference in real practical outcome terms.

For N1466 paragraph 8 was depressing reading. The whole premise on which the explanation of what was going on was based in these targets was some sort of mass suicidal initiative by the insurgents. This paragraph was really important to N1466 because they were almost discounting in the sentence: '*Consultation on this issue of [APU1], combined with ongoing [intelligence assessments] of the Afghan insurgency, suggests this is unlikely*' the premise by which this whole thing was being explained.

“...I remember thinking at the time when we were looking through these on the table top, suicidal activity in Afghanistan was taking place, so there were suicide bombers, but they were generally individuals who were prepared for it, carefully selected, carefully tutored, built up into this sort of state of fervour, usually through...leaders’ ...teaching of a few things and they were handled in a particular way and they were moved through these pipelines and manoeuvred to where they were going to be used and they were kept prepared all the way.

And there is plenty of other literature on this because it happens in all sorts of other areas where suicide bombers are being used. It’s not generally the case that you have suicidal individuals who are heads of households, members of families, etc., etc., and certainly not in my experience, although things might have changed by this stage, in Afghanistan. And [APU1] know this and that’s why this bit is in here and it doesn’t fit

with the intelligence assessments which also talk about these pathways, these chains of suicide preparation. So that last couple of sentences there to me is really important.

... Now, if we take this, this theory that somehow the insurgency has decided “It’s going to be an IO [Info Ops] related outcome that we’re going to discredit, (which is what it’s saying here), ISAF and the Government of Afghanistan amongst the locals and wider populous by forcing a kinetic engagement”, there are lots of problems with this. The first one is if the local populous know that person who’s committed this suicide and martyrdom is actually a Taliban, and most of the Afghans knew who was who generally, well it would be like “Well, he was Taliban”. So, so how come it’s a massive IO win that that Taliban then kills himself because it’s not really, because they’re Taliban.

The second thing is, if this was going to be a wide-scale, widespread tactic, how did the Taliban leadership communicate this to all these people in such a way that they told them “You’re all going to have it kill yourselves if you’re ever taken on target by an ISAF and you have to do it in this way, you know, and get a grenade or whatever and have a go at them” and yet we never picked that up in our intelligence and no one ever knew about it and it never came out in questioning and nobody ever found out about it, but it was there and it was widespread and it was on a huge scale and everyone on the insurgency knew about it, everyone on the insurgency drank the Kool Aid and said “Yeah, I’ll do that”. Really? Everybody who was picked to go into the household and got killed was Taliban, ... had drunk the Kool Aid...was going to do it and successfully pulled that off and it only happened in our [Sub-Unit] area and didn’t happen in [PF1] or any of the other [sub units] around. It only specifically happened in the [area of responsibility of SU1]. I’m sorry, no, no, it’s just, that is not a thing. It’s not even worth writing on paper. It is so implausible as to be ridiculous. I’m sorry to use the word “ridiculous” because it doesn’t really sit with the gravity of this.”

UKSF had been doing these operations for a period of time. “...It had never been a thing and yet suddenly in [SUIA’s] tour it suddenly becomes a thing and it just happens spontaneously because all these people individually come up with their own individual decision that they’re going to start doing this. I’m sorry I don’t buy that one either. It, it just doesn’t seem plausible to me. It could only be that someone made a conscious decision, which is what they’re suggesting here, a conscious insurgent tactic, and that doesn’t work for the reasons that I’ve just outlined. If you put all those things together, it just would have to line up so many implausible things in a row to make that a thing, a real possibility. It’s just not credible, I would suggest. That’s my, that’s my perspective and I would like to hear a compelling argument that really puts that another way”.

N1466 was asked a question by the Chair as to when the 96 hour release rule came in.

N1466 said that as far as he could recall, the 96 hour rule was in place pretty much from the start.

A *... It was a constant process of us trying to justify holding detainees for longer and there were specific exceptions that were granted with the right compelling evidence for us to keep detainees for longer than 96 hours, but there was quite a rigorous process in place for that and we had to apply for an extension in every case that we went beyond 96 hours. But, as far as I can recall, to the best of my knowledge, the 96 hour [rule was there] pretty much from the start and, as I say, it was towards the end that we tried to start stretching it, not the other way round. It didn't start much longer and then get shorter.*

The frustration for the Sub-Units was the fact that increasingly there were less kinetic engagements on target, it was more about detention. There was this really odd comparison being drawn between people who were on the target list and could be killed in a non-DDO, and people that they had been detained who were also on the target list but were then being released after 96 hours. The question, the challenge back from the Sub-Unit to HQ, was we have got them in a detention facility, they were still on the target list which means we can kill them, but we release them after 96 hours: "*It was a palpable frustration*".

As the Headquarters, they then had to raise that with Policy staff within MOD. The MOD response was that non-DDOs required a higher level of certainty over targeting than was required for DDOs. They basically came back and said, after release from detention, they would have to lose contact with that individual and give it a bit of space and reacquire them later. The Sub-Unit responded that it would be a lot of ISR and effort wasted.

...It...was a...legal policy/ethical problem area and it was giving the [Sub-Unit] the impression that...[killing a person] with [a non-DDO] was actually quite easy and quite effective and this whole detention process was really quite difficult and complicated and it was causing a great degree of frustration and, if I'm being completely honest with you, it...was a difficult, difficult problem. I can't deny that.

N1466 was asked questions about the recommendations contained in the TTP Review.

The Chair asked N1466 about the second recommendation and how, if Afghan Partner Unit individuals were not being used in the compound when detainees went back in, how were the detainees given instructions without Pashtu speakers being present. N1466 was not 100 % sure how they would have done this on this particular tour. In some cases, as he understood it, the Sub-Unit might have their own interpreter who might not be in the Afghan Partner Unit. He could not be absolutely precise on that. If the interpreter stayed outside the compound, it might just be hand gestures, they might just be pointing, he did not know.

N1466 stated that the problem in Afghanistan at this time was that they got very little out of questioning. *“Generally, the insurgents kept their [mouth] shut, and that was a marked difference from [Location Given (not A)].”* The local nationals were from a completely different culture and tended to talk quite a lot. Bearing in mind it was only, he thought, around 2009 maybe into 2010 that these UKSF1 Sub-Units came out from *[Location Given (not A)]* and came across to Afghanistan, they did see a marked difference in that response and it was part of the frustration.

N1466 agreed that the source of the frustration was exactly that, from SU1’s perspective, it made the DDOs almost a valueless exercise. The Sub-Unit was going out to conduct DDOs, putting themselves at risk to detain individuals, merely for them to say nothing for 96 hours before they were released.

CTI asked N1466 about the responses to this review, namely two documents directed for the attention of the Commander of SFHQ(A) written by DSF (MOD-198-0002063-A).

CTI explained that the first document, dated 28 April, was two pages long and had a ‘draft’ watermark stamped within the body of the note. The second document was only one page, but also had a ‘draft’ watermark running through the body of the document.

N1466 thought he could clarify which draft came first as generally N1802’s preference was for a single page wherever possible. For that reason, N1466 suggested the second version, which was a single page, would be the later version.

N1466 thought DSF was addressing this to N1786. He agreed that N1786 was an extremely experienced individual who would understand the Law of Armed Conflict and how it applied to detainees.

CTI directed N1466 to this part of the sign off:

‘There needs to be a cultural shift in the thinking of the [Sub-Units] here. Tempo and the pursuit of operational statistics must be tempered with an understanding of long-term effect, care of our strategic relationships and a consistent wariness of unintended consequences.’

N1466 thought this was definitely a signal from DSF to Commander SFHQ(A). The whole thing was a signal. N1466 explained that the context to this was that there was already at this time a live conversation going on around transition and draw-down. The planning for that was happening in the MOD. Alienating a partner force and putting them in a position where they were completely disillusioned and did not want to work with you was clearly totally counter to everything that was going on in terms of the strategic context here. They were trying to get the Afghans to a stage where they could look after themselves. They were trying to draw down and withdraw most of our UK troops from Afghanistan, and they needed these people to be in place.

“There is a big thing underlying here as to why haven’t [SU1] already been doing more of that? We’ve got the Afghans in the outer cordon and it’s been like that for the last five or six years and really over that timeframe we should have been getting them to do more and more and more so that, when we transition, they can do more of it for themselves and it hasn’t been happening and it’s a big problem.”

N1466 questioned the part of the document about ‘*tempo and the pursuit of operational statistics*’, as nothing they ever did was about operational statistics ever. It was an odd thing to put in there and it could have been part of the message of “*You’re chasing kills and you’re not actually looking at strategic outcomes and you need to change your whole mind set.*” N1466 stated:

“Nobody that I was aware of was ever asking us to kill a certain number of people, not in any single Mission Statement. It wasn’t in any single Directive. It wasn’t being pushed by Commander ISAF. We weren’t pushing it in Headquarters. There was no one saying “You must kill this number of people per month or you’re not achieving what you’re trying to achieve.”

What was important was that we were trying to create time and space in what we were doing for the real counter insurgency effort, which was the men and women out on the ground trying to help the Government of Afghanistan to impose law and order and security and progress. We were just buying time and space for them to do that by trying to keep the insurgency on the back foot. And you could do that with one or two hits on the right people or loads of hits on the right people, but that wasn’t important. It was the outcome which was important, which was keeping the insurgency suppressed enough to allow the other pieces of work to help. Unfortunately, I should suggest that it was probably almost having the opposite effect with some of the stuff that was going on at this time.”

At no point in this whole process did N1466 or, he believed, any of his staff in the Ops Team in HQ say that one Sub-Unit was doing a lot better than another because they had done more operations and killed more people. In N1466’s view, if that pursuit of statistics existed anywhere, then it was not in HQ DSF. It might have existed between Sub-Units competing against each other, but it was not their interest. They were interested in the effect not the statistics.

CTI asked questions about the second, shorter version of the response to the TTP Review.

CTI noted that the numbers had gone. It was slightly shorter in length and it began in much the same manner, but continued in its second paragraph in a different manner than before.

N1466 agreed that, unlike the other draft, the issue of the Law of Armed Conflict and the duty owed to detainees was front and centre in this memo. N1466 was almost certain this was the

later version. The numbers had been taken off, which was sensible to do in certain circumstances where you thought it was more of a note than a formal document. N1466 was not sure if this second document was the version that actually went out, but it was closer.

CTI noted the second draft had the same sign off as the first. N1466 agreed that the effect of both versions was to endorse the recommendations made by N1786, and to remind him of the significance of the obligation owed under the Law of Armed Conflict by SU1 to any detained local nationals.

N1466 noted some of the things he said about the strategic context came out in the third paragraph: '*I see three reasons why [APU1] elements must be better integrated ... our exit strategy and long term partners ...*'. This was starting to bring in the better reflection of what was happening at a strategic level in UK thinking at this point in time, which suggested to N1466 that this was a high level secondary document. N1466 could not remember the sequencing of who wrote what, but he thought this would have been prepared in the Ops Team. He could have been involved in that. It was definitely a step up from the one before in the staff chain and they would have been in that staff chain but he just did not know who wrote what.

CTI referred N1466 to a document sent on the 20 May 2011 from COS SFHQ(A) to Commander SU1, to look at the way the recommendations and response from the DSF was communicated to all those in the Chain of Command (MOD-198-0002063-A).

N1466 agreed that, in effect, the recommendations having gone up the line had come back down the line in much the same terms but as a direction.

N1466 thought that the handover period between N1786 and N1785 as Commander SFHQ(A) accounted for the 22 day delay between receiving a direction from DSF and implementing it with a direction internally. He also thought there was another explanation, referenced at the end of the first paragraph: '*This will be done during your tenure as OC SU1...*'. N1466 thought this happened around the transition period from SU1A under N1141 to SU1D under N2267. N1466 stated it was almost like this was a clean sheet, the outgoing Commanders saying "*Actually you do this because I'm on my way out the door*".

N1466 made one further observation on the note from CO SFHQ(A) about priority targets in context, that there were parts written word for word from the Director's note to N1786:

'It would take much to convince me that any individual [priority target] was worth the refusal of the Afghan Partner [Unit] ...'.

It was not a big deal, but it was slightly odd "*It's not really command philosophy or the command personality if he is basically borrowing your own words from the previous Commander.*" N1466 did not think it was really imposing your own individuality in what was quite an important command relationship on quite an important subject.

CTI then referred N1466 to an email from Chief of Staff SFHQ(A), N889, on 27 May sent to N1141 and to N2267 (MOD-198-0002063-A).

N1466 agreed that this showed how DSF's direction as set out was now being put in place. When COS SFHQ(A) talked about issuing further D&G (direction and guidance), this must have been even more detail than the 20 May note, which was also D&G. However, N1466 remembered thinking at the time that this was all missing the point because it clearly bore no real relevance to the problem that they had. It was just doing something to make it look like they were doing something and he was pretty detached from this, although he was sure he was involved in the staff work.

CHAIR: Your point is that this was all window dressing?

A *This was all window dressing, absolutely that, Sir. ...I remember thinking at the time...this is a waste of time, this is a waste of effort and this is no better than toilet paper really to be honest what we are doing here. It was just trying to be seen doing something because of the problem that has been raised.*

CTI referred N1466 to the post operational report that was written up on behalf of SU1D by N2267, and the headline recommendation 2(a).

Q *It might be thought that in putting those figures as the very first headline that statistics or metrics are one of the first features that N2267 wishes to draw to the attention of HQ DSF.*

A *I think to be honest there is a tendency to do this. I think if you look back through some of the other operational reports you will also see that. I think it's probably worth putting in context that these [Sub-Unit] Commanders, their time on operations is probably their most important time in the spotlight. It's the time that they are going to get the most powerful annual appraisal reports, the ones that count the most when you put them in a pack along with all the other ones and, when people are in grading boards where you sit round and you see everyone's...OJAR packs [annual appraisals], you take notice of an operational report. So they are, if you like, very conscious that they are being really scrutinised in how well they've done and they're looking for some way to...make themselves look good.*

As ACOS Ops, N1466 would not be interested in the number of operations conducted. The number of targets removed from the battlefield was more important, as was the identity of those targets. For N1466, the bit that was really important was what effect they were having in support of counter insurgency.

CTI referred N1466 back to the product of the TTP Review.

Q Is that [Report from the TTP Review] a document that you saw in April there or thereabouts?

A I am sure I would have seen that, yes. Forgive me, but I remember, again, detail I'm a little flaky on but sentiment I am clear on and I remember the sentiment at this time was just being kind of dispirited and to a degree almost detached from the staff work here. I might have been engaged in it and I might have had to, you know, I'd been told I had to turn something into something, but, as I said before, it was, it was a charade. It was going for a dance. It was dispiriting and distasteful is probably about the best way that I can describe it. I know that probably doesn't answer your question, but, yes, I was aware of it, but I would not have been sort of engaged on it as a valid piece of work because it wasn't a valid piece of work in my opinion.

In response to CTI's question whether there was not the possibility of taking this opinion to DSF, or someone else, N1466 said that, as to taking it to DSF, "*it was not a culture of open challenge*". N1466 did not seriously believe it would have achieved anything "*...other than make a really awkward relationship and shorten my time in the headquarters and then see me career side-lined and go off into the wilderness...*". N1466 explained that this was not an external document, it never went outside of HQ as far as he knew so there was not a natural opportunity to raise this with anybody else. The thing he kept coming back to, was whether he should have gone to the SIB. He explained in the hearing that he was not 100% convinced it would have worked as Northmoor did not achieve the right outcome in his view. There was a tendency for issues involving UKSF1 in particular not to ever result in outcomes. However he regretted not having tried: "*If we had got this right we could have stopped it in February 2011. It should have stopped in 2011.*"

N1466 went on to say:

"...Me trying to argue the case with the Director, who has clearly in my view made a conscious decision that he is going to suppress this, cover this up and do a little fake exercise to make it look like he's done something, that's a charade, but it was obvious that it was a charade and it was obviously his attempt to do it in his way and send this warning shot and,...at the time I thought that probably was going to stop things and it wasn't the right way to deal with it, but it was his decision that he wanted to do it and there was no way that I was going to...be able to sort of change that perspective because he'd clearly come to that decision and so the order would stay simply without changing the outcome..."

But, going to SIB and launching an investigation when this was all still fresh, you know, there's probably a lot more evidence around that...could have been investigated more thoroughly might have made a difference at the time and, yes, I'm sorry that I didn't do that."

CTI referred N1466 to the fourth bullet point of page 45 of the Witness Statement Plan that was created for the taking of his second witness statement (MOD-198-0000829-A):

'Did the TTP review satisfy your concerns? If so how did it appease your concerns? If not why?'

CTI noted what was written by the SIB in relation to this was 'Not covered as witness did not want on statement or did not know.' N1466 was asked if he could help interpreting this.

A *I can't really because I, I thought in that first statement some of these things were actually in there. My concerns that I remember early on in this were I was still in UKSF Chain of Command at this stage....Therefore, I was a little bit cautious as to how this was going to be handled and where this information was going to go. I was also a little bit concerned as a whistle-blower, which effectively I thought I was.*

I had just gone to SIB and said there were these problems back in 2011 etc., etc., that there was a...security issue there, there might be career implications, etc., etc. So all I remember at the time expressing in terms of concerns is how was this going to be dealt with? What's the wrap around this? How is the information gonna ... I mean now it's everywhere, but at the time it...felt like...there was still the possibility to deal with this in a way which dealt properly with it and took it to SIB but in some ways provided a little bit of kind of a wrap around it, but that was my only concern that I remember at the time raising.

CTI asked N1466 about complaints from a Third Party Entity ("TPE"). N1466 was referred to an email sent to him from N2108 in May 2011 (MOD-198-0002062-A).

This email enclosed a copy of a draft note to DSF regarding a TPE's complaint about Objective TYBURN, that a man was killed after being detained. N1466 emailed back to confirm he was happy with the note and that it could go to DSF.

CTI referred N1466 to the section of N2108's email headed 'Next Steps':

'The aspiration is to deal with the complaint informally at the lowest level without it being raised unnecessarily to the ISAF level.'

After setting out there was to be a meeting in May, N2108 wrote:

'[SFHQ(A)] will send a member of the J5 team as well [as] the [UKSF Lawyer] in order to provide sufficient detail to rebut the allegation.'

N1466 said that it was not just N2108 who was saying this. DSF was all over it, he was very energised about it. He wanted to control this and N2108 knew that. DSF was trying to keep it at the lowest possible level. Normally, N1466 would own and send a lot of staff work. He would

do a few checks, maybe amend it a little bit then send it up. In this case, N1466 did not touch it.

CTI noted that DSF wrote back to N2108 asking to know when the meeting was scheduled and not just the outcome of it. N1466 thought that DSF wanted to know when the meeting was going to be because he wanted to put control measures in place. N1466 recalled there was quite explicit instructions about how this was going to be staffed.

“What I’m trying to put across is that this was something that the Director took a very close interest in from the very outset; and when I say from the very outset, I think the whole genesis of this was an ops brief in which it was briefed into the Headquarters that [a TPE] meeting was going to happen out in theatre. It...rang alarm bells...”

CTI referred N1466 to an email dated May 2011 sent by N910, S02 Legal, to N2108, N889 and N1141, which was a note of the meeting with a TPE (MOD-198-0000328-A).

N1466 was pretty sure N910 was deployed specifically at N1802’s instructions to go out there and be at the meeting. N1466 agreed that a TPE was inviting UKSF to first review the TTP and, second, to have at least an eye to the possibility that it might be being “misdirected deliberately” to create a scenario in which somebody was being engaged under a pretence of self-defence. This was something like 14 days after a TTP Review had been conducted but that was not mentioned anywhere.

CTI referred N1466 to an email exchange between N2108 and N1466 in May 2011 (MOD-198-0000328-A).

N1466 explained that this exchange was about managing DSF. N2108 was asking if he had to do a note of the meeting, and N1466 was saying if you brief DSF, you might not have to. At this stage, N1466 was “going along with it.” The DSF wanted control, and N910 was sent out to do that. It was depressing.

CTI referred N1466 to an email from N2108 to a number of individuals, including N1466, referring to a subsequent TPE document from July 2011 relating to two objectives, Objective TYBURN and Objective 9 (MOD-198-0002044-A).

“The general gist of the [document] is that a [TPE] is concerned that the house clearance TTP could contravene [applicable law]... in that it exposes civilians to risk by seeking to use them in military operations.”

“I have drafted a response which I enclose. This is very much a ‘starter for 10’...”

“As a separate and distinct exercise, we conduct another internal review of the TTP to ensure that the TTP is watertight. [A TPE] make a number of valid points and it is difficult to challenge their analysis of the relevant law. I know the TTP has been

reviewed since this time but would strongly advise that an internal UKSF exercise is carried out.”

N1466 highlighted the small paragraph that started with ‘SOI Campaigns’:

“COS is aware and has been briefed on the way ahead: DSF has not. Given his interest in the meetings with [a TPE] (he asked to see the meeting notes) I would suggest he needs a briefing note.”

N1466 stated this was something which from the very outset attracted the Director’s attention. To N1466’s mind, when he had had the one bit of exposure which was the Table Top Review, here was another bit of an indication that there were problems here and it was almost like firefighting: ‘*you have got to put out the fire here*’. N1802 leaned into this very heavily and he took a very, very close personal interest in it. N1466 thought that was important.

CTI asked N1466 about the responses to N2108’s email.

Firstly, the response from SFHQ(A)’s Chief of Staff (MOD-198-0002044-A). N1466 did not know about the ‘*further internal review last month*’ mentioned in that email. It did not ring any bells.

N2108’s reply to COS SFHQ(A) was dated a week later on 8 August. N1466 agreed that it would seem DSF wanted the letter to be sent by Commander ISAF 2, but the content of that letter to in fact be drafted by SFHQ(A). N1466 believed the Commander ISAF 2 at that time was IIA126, a well-known associate of N1802, so DSF was keeping it in-house, not allowing it to “*spin up*”. N1466 stated that the command of ISAF 2 was a multinational headquarters so it had lots of different staff. DSF was trying to ensure that this was handled by UK personnel and indeed, UKSF personnel and SFHQ(A) themselves wherever possible.

CTI referred to the last paragraph of this note from N2108 which asked N889 and one of N1803’s subordinates to speak to the policy area in HQ and find out what their intentions were, and if they planned to respond at length: ‘*could you let me know/persuade them otherwise*’. N1466 said this was the same type of control measures. They did not want this going into Permanent Joint Headquarters (“PJHQ”) which was a non-SF organisation. It might get out of control and N1466 thought this was relevant.

CTI referred N1466 to email exchanges between DSF, N1466 and N2108 (MOD-198-0003884-A).

As a result of the SIR for Objective 1, in an email to N2108, DSF raised concerns that the SIR was conducted by OC SU1A and that the witness statements were formulaic and seemed to derive from a common draft. DSF also wrote that he saw some merit in the SIR including views from the APU.

N2108 then emailed N1466 asking for his views on SO1 Legal's draft response to DSF. In the covering email to N1466, he wrote that DSF '*makes some very valid points about the shortcomings of the current SIR System*' and that it was clear DSF wanted more independence in the process.

"...Regarding witness statements there is a tendency for them to be bland, lack detail, etc. When legal advice is provided by the [UKSF Lawyer] he will often send back for rescrubbing and more clarity: although the pace of the ops causes the process to be extended even more...."

N1466 did not remember exactly what was said, as it was 13 years ago, but he thought DSF's involvement in this process, and his concerns were the right sort of scrutiny. Everything that was raised was a fair accusation. OCs should not have been writing their own SIRs. It was marking their own homework. The whole system was set up to fail. So on the face of it, this was a useful, good bit of interjection by DSF.

"The fault with this, from my perspective, is that this is coming in, where does this conversation come in, May 2011, a month and a half after having gone into the Director with a whole load of [evidence] that said "This is nothing to do with the TTP, there is clearly something seriously wrong going on here" and in that context a month after that evidence being provided to DSF, this no longer, to my mind, fits in that really helpful, useful, appropriate bucket. It...makes it look like you're focusing on a tiny little bit of process when the whole thing has gone fundamentally wrong and you're caught in the middle of it. It's...polishing the apple a little bit. So, I don't want to speculate too much, but is this really about a concern about the big underlying issues, or is this trying to make the process look a little bit more fit for purpose in retrospect of knowing there is something bigger going on? I know that's a leap of faith, but in my personal opinion, and I've said this several times during...my appearance here, I'm pretty sure that [N1802] knew in February there was something bad going on, so this is...a little bit little late and doesn't...fit the sequence of what's happening here. This is an email he sends later in May of that year... That's what bothers me about this.

You will see all these other bits about control and making sure nothing gets out and making sure the right people deal with the situation and nobody else is allowed to talk to [a TPE] and, in all of that context, this doesn't come across as someone who is actually trying to get this copy right in my view. Maybe trying to stop recurrence. Maybe this is another lever on how to make sure that the [Sub-Unit] don't get out of hand again is that you put more governance at the lower level...That would be fair enough, but, but otherwise it's...a bit like a tiny bit of a sticking plaster on a[n]... arterial bleed..."

CTI directed N1466 to other incidents mentioned in the last bullet point of Captain Wright's notes of the meeting with N1466 on 17 April 2015 (MOD-198-0001448-A).

[N1466] went on to detail other incidents to which [you] had not been privy to personally but had gleaned from others ...'

'An unofficial policy of 'bleeding in' new members of the SF on operations ...'

N1466 thought he had heard that from more than one person. He can remember one person whom he can definitely attribute that information to.

'... complaints made by [APU] regarding the conduct and actions of UKSF ...'

Right back in 2011, N1466 was already aware of issues with the Afghan Partner Units, so in generic terms that was not second hand. It was mentioned in some of the reports. There were some specific aspects about the APU which he was not privy to in 2011 but had heard about since then. In particular, there were two instances that were relayed to him.

One was that an Afghan Partner Unit soldier on the way back from an operation with SU1A somewhere in the south had pulled a grenade out of his webbing and threatened to pull it in the back of an air asset because he was so unhappy with what he had just witnessed. Some of his mates had to jump on him, got him down on the floor and they took it off him and the incident was closed, but that was reported to N1466 in 2014 on his return to HQ DSF.

The other instance which related to this was that the OC of the Sub-Unit in APU1, so that was the UKSF Sub-Unit working with the Afghan Partner Unit in their base where they were doing their training and they were also conducting other operations, some (inaudible) operations from their base, that was where if you like the main body of APU1 were, were living and held. That is where they do all their training and one Sub-Unit at a time was then loaned to work with SU1 in a different location.

As N1466 understood it, the OC of the UKSF Sub-Unit working with APU1, training and conducting other operations, was in the office of the Afghan CO of APU1. An Afghan burst into the room quite animated and clearly agitated and pulled a pistol from its holster and pointed it at the UKSF OC and turned to the Afghan CO and said something along the lines of '*These guys are all murdering our people*'. It was quite a shocking incident to have taken place and that was relayed to N1466 by the officer in question who had the pistol pulled on him.

N1466 understood that these two incidences were part of the evidence that came out somewhere around 2015.

CTI then asked N1466 if there was anything further in relation to rivalry.

"I think my sense was that at times this was very much tried to be portrayed as rivalry and I felt that was really inappropriate and it was a bit of a smoke screen and I felt it

was very much missing the point and it just didn't chime with the evidence. This was evidence-based as much as it was on rumours. When you look at all the [evidence] that was coming across in reporting...and all the anomalies we've already talked about, to have this portrayed as cap badge rivalries seemed to me to be a real attempt to try and offset any concern about this and mislabel it and try and diminish it and it felt to me that that was very wrong. In itself it was very divisive."

CTI asked N1466 about the reference in the same bullet point of Captain Wright's notes to 'trophy weapons being obtained and potentially not being submitted through the ... forensic chain'.

N1466 explained that there was a senior NCO, whom he recalled telling him they thought they had seen the same weapon on two different raids. Some of these weapons were quite old, and they will have particular distinctive marks. In some cases the AKs might have painted stocks or they might have some sort of decoration or some sort of little memento or something put on them. N1466 thought it was some sort of notch or scratch on the grip of the pistol. N1466 cannot recall the person's name, but it was his view that he had seen the same weapon with the same distinguishing features. The person was not able to provide evidence for this, but it stuck in N1466's mind because it clearly fit into the dropped weapon theory.

CTI noted that N1466 had said that in his discussion with N1788, they had considered the possibility of weapons being dropped. N1466 did not know if that phrase had been used by them for the first time at the point or not. He did not know when that phrase would have entered his lexicon particularly.

CTI asked N1466 about the content of Captain Wright's notebook.

The last of the pieces of information that N1466 had gleaned and mentioned in Captain Wright's note was '*third hand accounts of alleged murder*'. There were definitely people who effectively told him that people were murdered, in other cases the allegation as reported to him was people believed murder had taken place.

Most of this came in late 2014 and so these were the last two or three notches on the dial. When N1466 came back into UKSF, the dial went back up, because he was picking up all these things and realising it had not stopped. It was not just one tiny element, it was multiple Sub-Units. The whole thing was getting bigger and bigger. They really did fail back in 2011 because they did not stop it, it did not go away and that was a big part of why he went to the SIB in January 2015. If there was any doubt it was all gone by this stage.

CTI referred N1466 to the SIB note of a meeting that took place with N1466 in October 2018 (MOD-198-0000829-A).

In that note, N1466 discussed a particular officer, N1789. N1466 asked to make two corrections to this paragraph. It was not a conversation between N1802 and IIA119 and N1466 did not believe he ever said that. It was between N2274 who was DSF at the time after N1802 and before IIA119 and it was the handover between the two of them.

The second point was that N1466 was made privy to information about an allegation against N1789 for which he had been investigated but a lie or lies had been told to cover up the incident.

Subsequently, N1466 was present at a handover meeting during which he heard N2274 and IIA119 discussing the suitability of N1789 for a promotion. The subject of that conversation included reference to the fact that there were questions about his conduct on operations but N1466 did not know whether it related to the same questionable conduct for which he had been told he had been investigated. It might be one incident or more than one. N1466 did know that it was the personnel section of the handover brief between the former and incoming DSF. It was a brief on who was who and who was going into what job, who was getting promoted to what. Both Directors were present, and he thought probably ACOS Personnel. It was N2274 who said N1789 was suitable for promotion by all reporting. A senior officer also gave really good reports about him, expected it to be him, however N2274 said it could not be N1789 because of actions in Afghanistan.

N1789's tour as a Sub-Unit OC in Afghanistan was before N2274 was Director, but he indicated that he knew N1789 had done something quite some time ago and therefore could not be promoted. There were no instantly obvious candidates so it ended up being someone who did not really have the requisite time in rank to be considered for that role.

"To sum up from me, my perspective was...this is not just one Director that has known about this, this is...other Directors and [N2274] clearly knew there was a problem in Afghanistan. Now, that was before his time, but then it had been his time and by this stage I was starting to realise that actually [things] had been happening during N2274's time as well that [were] untoward and..." "Oh Jesus, this is even more...where do you go with this?" So...it's not just one individual [DSF], it's...other [DSFs] who know and [IIA119] is...inheriting it and at some point after this and bearing in mind it's only a day handover and then [N2274] [underlying] problems and culture...here?" and this is absolutely almost exactly what I said and he was really quite angry and said "What is your angle on this, [N1466]?" or something to those effects and "Where are you coming from on this?" and...it was almost coming across as some sort of [inter-unit] thing again and it was...very much suppressing and we didn't...go over it, we didn't even talk about any cultural programme or any sort of means to try to address this underlying problem.

Again, I just walked off down the corridor and thought "What can we do?" and I don't remember exactly where this happened with regards to going to SIB. I'm not even sure

if it was before or after, but it was just another one of these things that just goes, you know, "This is, this is impossible to in any way try and address with [UKSF] because [UKSF] just doesn't want to help itself, there is no appetite anywhere here to do something about this".

CTI asked N1466 about any further interaction with N1785.

N1466 did speak to N1785 clearly at the time in 2011 and from that point onward he knew N1466 had similar concerns. N1466 could not say that N1785 was in any particular position to do anything about it really. He spent quite a lot of time out of UKSF after that. N1466 knew he was aware of it, but he did not want to take this to him. Once the SIB investigation was underway and Operation Northmoor was underway N1466 thought that was the right process. It seemed to him that there was so much evidence here that Northmoor would come out with the right thing, i.e. Northmoor would conclude that there was wrongdoing here and to deal with it. He thought he had done his best there, albeit late, and so he did not think there was any reason to go to N1785. N1466 was also at this stage trying to manage his profile, having gone to Northmoor. In addition, this was a live investigation and he did not think it appropriate to discuss it with anybody else.

N1466 was then afforded the opportunity to provide any further thoughts or comments to the Inquiry.

"Some of my precise detail given the lapse of time, might not be absolutely smack on, but I am pretty confident that the main themes and my main sentiments are absolutely, absolutely the truth and I am therefore absolutely confident.

I am also very conscious that some people out there will want to portray me as or this whole scenario as me against [UKSF] as if I have got some sort of axe to grind or some sort of problem with [UKSF] I would just like to put across now that nothing, nothing is further from the truth. [As someone with a long military career], I am fiercely loyal, fiercely loyal to UKSF, all of it, every unit in UKSF. I talked yesterday about loyalty and I believe that loyalty is about doing the right thing, not necessarily the easy thing.

It's a long path to get into UKSF and it's not easy and it's a long path through UKSF and it is not easy; and people take that path to a degree for different reasons, but I know that I took it in order to be both the best and most professional officer I could and also to make a difference, to make the best difference that I could. I know I am not alone in that. I know a lot of my colleagues -- and that's colleagues at all ranks and in all units -- did the same and they joined UKSF for the right reasons and for the right motivations and we didn't join UKSF for this sort of behaviour, you know, toddlers to get shot in their beds or random killing. It's not special, it's not elite, it's not what we stand for and most of us I don't believe would either wish to condone it or to cover it up. As I said before, it's not loyalty to your organisation to stand by and to watch it go down a sewer.

I would also like to take this moment if possible just to put across that there should not be any lingering pretence out there that in some way or manner the end justifies the means. Even if you subscribe to some sort of idea that most of the people who were killed were Taliban fighters, which I do not by the way, some of them might have been, but I certainly don't think they all were and and Imran and Bilal, at one and an half and three, certainly were not.

But even if you did have that sort of subscription, at the tactical level, this kind of frenzy of activity was not making any real difference. Again, as I said, it is difficult to measure counter-insurgency in statistical terms, but I think the fact that in 2011 we had 46 UK casualties and in 2012 we had 44 UK casualties suggests that we were not breaking the back of the insurgency; we were not writing it down; we were not smashing it. At the very, very best we were holding it back a little bit and I think the spike in activity around this point in time had no tactical effect that made any difference.

At the operational level, it made it harder for conventional forces because we were turning areas of Helmand and Nimruz against ISAF and against the Government. So as well as not helping those conventional forces, I personally believe that this is a stain against their sacrifice and their service; and bearing in mind here that we lost 400 plus people over the whole period here, a lot of whom gave their lives trying their very, very best to do the right thing, I take that quite seriously.

At the strategic level, this activity was undermining the Government of Afghanistan and, when you have Provincial Governors and you have the President going to ISAF to complain about the activity of ISAF forces and ultimately getting nowhere with that, you are not helping with their sense of authority and how they are seen by their population as being in control of their country. That goes against every aspect of counter-insurgency doctrine that we apply, where we are there to support the Government in question, not to undermine them or make them look ineffective or incapable of governing their own country.

On top of that, we lost the partner force that we were supposed to be working with, who we were supposed to transition to, that we were supposed to leave behind. We lost them. They were disillusioned, dispirited and lost confidence in us. That can only be strategic failure as well. We were there in Afghanistan to bring law and order and human security and justice. We failed.

Right now and beyond Afghanistan we are facing off against despotic autocracies. It seems to me fairly obvious that we should not sink to their level. We should not lose what defines us as a nation, which is our values and our open democracy and our adherence to the rule of law. It is therefore extremely and hugely significant to me that we have this Inquiry, because this is what sets us apart and you won't see an equivalent happening in Moscow or in Tehran or Beijing. This is the difference, which is why I feel

it is really important to speak to it and why I will lose no sleep at all over the statements I have made.

So sooner or later in life I believe we all have to decide what we stand for. UKSF units, not least [UKSF1], stand out for their proud history; the courageous and extraordinary feats made by truly remarkable people. The activity that we have discussed in the last few days does not fit with that and somehow the amount of kills and the amount of trigger time have become the metric by which people judge themselves. Personally, I believe that our forebears will look back on that with shame.

Now, this can be a temporary and brief lapse, and I believe that is only the case if we take the right action to address the underlying issues; and you can only undertake the right action if you start with an acknowledgment that we have a problem. We cannot do that with internal solutions which have patently failed, and denial is not an option here. So, again, I will not lose any sleep over anything I have said in this account.

Now, surely all that I've said up till now must be a statement of the bleeding obvious. It shouldn't need saying. It shouldn't need saying by any member of UK Armed Forces past or present, but apparently it is not. There are a large number of people within UKSF and within the attached organisations who at some level must have seen something or heard something or have some knowledge and yet I'm not getting a sense here that there is a wave of people coming forward. Some of these people are almost certainly still serving. [Individuals] of that time will now be the [more senior individuals] of now. Many of them, again, will be good, professional individuals who were carried along by this culture of misplaced loyalty.

I would just like to say that I believe it is time to decide what you stand for. It's up to you but ultimately for your unit, for [UKSF], for the UK Armed Forces and for the country and for your own sense of self, I believe there is only one right thing to do.

The one thing I will lose sleep over... is that, had I done things differently back in 2011 and not left it until 2015, would that [have made] a difference, but that's for me to decide and that's for me to worry about."

Evidence concluded.